

 FERNDALE POLICE DEPARTMENT	Conducted Electrical Weapon (Taser)		
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	Distribution: All Department Personnel		Standard: 3.3.1 g

1.0 PURPOSE

To direct and control the use of Conducted Electrical Weapon (CEW) by employees of the Ferndale Police Department. The purpose of the CEW is to provide members with a safe and effective control option. CEW's provide for the temporary control of subjects while providing a degree of safety for both the officer and the subject. The Ferndale Police Department will use the Taser as their CEW. The use of a CEW is considered a use of force and, as such, must comply with the departmental Response to Resistance Policy and Procedure.

2.0 POLICY

The department issued CEW is a tool that can provide a means by which an officer can defend themselves or another from injury and a means of controlling offenders when an officer is facing resistance in the form of active aggression. Whenever an officer uses a CEW for control, it should always be with the intent to temporarily disable an offender and never with the intent of creating permanent injury.

3.0 OBJECTIVELY REASONABLE USE OF FORCE (MLEAC 3.3.1 a)

The United States Supreme Court has ruled that an officer's use of force will be judged in light of an objectively reasonable standard. This reasonableness shall be determined by balancing the nature and quality of the intrusions with the countervailing governmental interests. The standard takes into consideration: a) the severity of the crime, b) whether the suspect poses an immediate threat to the safety of officers or others, and c) whether the suspect is actively resisting arrest or attempting to evade arrest by flight (Graham "Three Part Test"). This reasonableness shall be judged on the scene and at the moment the force is used, rather than from 20/20 hindsight, and will take into consideration the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain, and rapidly evolving.¹

4.0 DUTY TO INTERVENE (MLEAC 3.3.1 b)

It is the obligation of each officer to intervene when witnessing another officer utilizing force that is inappropriate or excessive and to report this incident to their commanding officer. The Department's highest priority is the protection of human life. In all aspects of their conduct, Department members shall act with the foremost regard for the preservation of human life and the safety of all persons involved.

5.0 APPLICATION

This order constitutes departmental policy and is not intended to enlarge the employee's or department's civil liability in any way. It should not be construed as the creation of a higher legal standard of safety or care in an evidentiary sense with respect to third-party claims insofar as the employee's legal duty is imposed by law. Violations of this directive, if substantiated, can only form the basis for intradepartmental administrative sanctions.

1

Graham v Connor, 109 S.Ct. 1865 (1989)

6.0 Definitions (MLEAC 3.3.1 c; 3.3.2 b-d)

CONTROL: An officer's response to neutralize the unlawful actions of a subject, or to protect the subject from injuring him/herself or others.

RESPONSE TO RESISTANCE/FORCE: The attempt to establish control through physical means in the presence of resistance given the totality of circumstances. All force is a means of control; however, control can at times be achieved without the use of physical force.

RESISTANCE: A subject's conduct or actions to prevent an officer's attempts to establish control.²

PASSIVE RESISTANCE: Non-compliance to Officer's lawful verbal direction but offering no actively resistive movement.²

ACTIVE RESISTANCE – A subject's physical actions intended to prevent an officer from placing the subject in custody and taking control. (breaking the officer's grip, pulling and pushing but not intending to injure the officer)²

ASSAULTIVE /ACTIVE AGGRESSION - A subject's physical actions/assaults against the officer or another person with less than deadly force (e.g., advancing, challenging, punching, kicking, grabbing, wrestling, etc.).²

6.0 TRAINING

An officer shall carry the CEW only if they have received departmental training from a manufacturer's certified instructor. The training will be done annually. The approved CEW shall only be carried by trained, on-duty, sworn personnel.

7.0 BRANDISHING

At no time shall an officer unnecessarily brandish or use the CEW as an intimidation device, unless the officer is attempting to prevent or deter the further escalation of force.

8.0 ELEVATED CEW APPLICATION RISK FACTORS

8.1 The following factors, when reasonably apparent to involved officers, require elevated justification of CEW application. The risks of foreseeable direct or secondary injuries are elevated; thus, officer's justification(s) for CEW application are also elevated.

- 8.1.1 Presence of flammable liquids/fumes or explosive environments.
- 8.1.2 Elevated positions.
- 8.1.3 Person operating moving vehicle or machinery.
- 8.1.4 Person running away (fleeing).
- 8.1.5 Pregnant female.
- 8.1.6 Swimming pool or other body of water.
- 8.1.7 Intentional CEW application to sensitive area.
- 8.1.8 Frail or infirm individual.
- 8.1.9 Non-standard repeated CEW applications.

8.10 A contributing factor to serious injury or death is the level of a subject's exhaustion. Studies recommend that, when an officer believes that control of a subject will be necessary and met with resistance, deployment of the CEW should be considered early on in the event so that the person has not reached a level of exhaustion prior to the CEW's use.

9.0 DEPLOYMENT CONSIDERATIONS (MLEAC 3.3.1 g)

9.1. The decision to use the CEW is based on criteria similar to those an officer uses when deciding whether to deploy other less lethal force options. The decision must be made dependent on the actions of the subject(s) and/or threat facing the officer(s), and the totality of the circumstances surrounding the incident. The use of the CEW must be objectively reasonable.

9.2 The CEW is not meant to be used in place of deadly force.

9.3 The CEW should not be used without lethal force backup in those situations where there is substantial threat towards the officer(s) or others present.

9.4 Prior to utilizing the CEW, officers shall take into consideration:

9.4.1 The subject's action.

9.4.2 Multiple subjects and the number of officers present.

9.4.3 The skill and/or strength level (ability to resist) of the subject(s).

9.4.4 The ability of the officer to gain physical control of the subject.

9.4.5 The age of the subject.

10.0 ISSUANCE AND RECORDING CEW

10.1 All sworn departmental personnel shall carry and use only CEW's approved and issued by the department.

10.2 Officers may use only department issued CEW cartridges.

10.3 A log of CEW deployments shall be kept.

10.4 The CEW should be carried and deployed from the offhand side of the individual officer in department approved holster.

11.0 USE OF CEW (MLEAC 3.3.1 g)

The CEW should only be used when it is appropriate for the situation.

11.1 The use of an CEW is considered use of force and, as such, must comply with the departmental Response to Resistance guidelines. (Article 4)

11.2 Any use of an CEW device that is deemed unreasonable shall subject the officer to disciplinary action.

11.3 When possible, avoid intentionally targeting the CEW at sensitive areas of the body such as the head, throat, chest, or known pre-existing injury areas without legal justifications.

11.4 The preferred target areas are the lower center mass (below the chest) for the front and below the neck for back shots.

11.5 The CEW may be used in situations in which a subject is threatening themselves, an officer, or another person and other methods of controlling the subject are not reasonable or could cause injury to the officer, the subject, or others. Examples of those situations include, but are not limited to:

- 11.5.1 To stop potentially dangerous behavior
- 11.5.2 To protect an officer or other person from injury or death.
- 11.5.3 To protect a subject from injuring themselves.
- 11.5.4 To maintain order within a facility.
- 11.5.5 Situations that require gaining/maintaining control of a subject or situation.

11.6 The CEW may be used when factors indicate that the officer, offender, or others would be endangered by the use of other force alternatives or equal force options that may be ineffective due to the danger existing to the officer, subject, or other.

11.7 For optimal deployment results, the back of the human body below the neck is the preferred location for CEW impact.

11.8 When an officer has to deploy an CEW to the front of a subject, the body's center of mass below the sternum, above and just below the waistline, should be the primary target area.

11.9 The neck, head, and face should not be targeted unless deadly force or the appropriate level of force can be justified.

11.10 If the preferred target areas are not accessible due to heavy clothing, the legs are an effective target area.

11.11 Upon deploying the CEW, the officer shall energize the subject as few times and for as little duration as necessary to accomplish the legitimate operational objective.

11.12 The subject, when possible, should be controlled/cuffed under power to reduce the number and durations of CEW deployments.

11.13 The CEW shall not be used for punitively or for purpose of coercion.

11.14 Any repeated application of the CEW must be justified and the criteria used to justify re- deployment shall be clearly documented in the officer's report.

11.15 The deploying officer should announce in a loud, clear, and commanding voice their intent to deploy an CEW. This informs other officers as well as warns the subject. This announcement should be made if it would not endanger any civilians, officers, or the subject.

11.16 The CEW has the ability to ignite flammable liquids and gases. It should not be deployed where flammables are obviously or suspected to be located.

11.17 Proper consideration and care should be taken when deploying the CEW on subjects who are in an elevated position or in other circumstances in which a fall may cause substantial injury or death.

12.0 RESPONSIBILITIES AFTER DEPLOYMENT

12.1 Immediate action should be taken to care for the injured, to apprehend any suspects, and to protect the crime scene.

12.2 Once the subject is restrained or has complied, the CEW should be turned off.

12.3 Make sure the subject's injuries are appropriately treated and check for secondary injuries.

12.4 CEW probes should be removed at the earliest opportunity. These probes shall only be removed by trained personnel or medical personnel.

12.4.1 Officers removing probes will be wearing gloves to protect from blood borne pathogens.

12.4.2 Once the probes are removed, they will be placed back in the cartridge (area where wires were) with the barb placed in first.

12.4.3 If possible do not break the wire. Wrap the wire around the cartridge.

12.4.4 Place the cartridge in a heat-sealed bag, tag as evidence, and place a Bio-Hazard tag on it.

12.5 CEW probes located in sensitive areas such as the head, neck, face, groin, or breast (females) shall be removed by medical personnel.

12.6 Officers shall check the probes to ensure they are intact. If they are not intact, the subject will be taken to the hospital for removal.

12.7 Medical contact may be made to further assess the condition of the subject.

12.8 Medical treatment will not be refused for a subject requesting it.

12.9 Photographs will be taken of the subject's injuries. Photographs will be taken of the area that the probes made contact or may have made contact with.

13.0 REPORTING

13.1 Any use, or attempted use, of the Taser against a subject shall be immediately reported to a supervisor.

13.1.1 Officers will complete a department "Taser Use Form" and submit it to a supervisor.

13.1.2 Officers will photograph, with the department's camera, the area of the body struck by the Taser probes.

13.1.3 The supervisor will document the serial number of the Taser, the cartridge, and download the Taser for evidentiary purposes. The information will be attached to the police report and forwarded to the captain.

14.0 PROHIBITIONS

14.1 Officers shall not use the Taser for the following circumstances.

14.1.1 Against "Passive Resistance"

14.1.2 Against a subject already in custody unless physical resistance has to be overcome.

- 14.1.3 To threaten or attempt to gain information from a subject.
- 14.1.4 To wake up an intoxicated person.
- 14.1.5 Against a deadly weapon where there is no lethal back-up.
- 14.1.6 If a chemical agent has been used on an offender, the Taser should not be used unless extreme circumstances exist.
- 14.1.7 The CEW shall not be used in a punitive or coercive manner; nor shall it be used to dislodge, retrieve, or prevent the ingestion of contraband.
- 14.1.8 The CEW cartridge will not be removed and the subject “drive-stunned”

14.2 The CEW will not be deployed simultaneously with a duty handgun. Example: Officer deploys the CEW and then decides to deploy their duty handgun and has both pointed towards the threat.

14.2.1 This doesn't prevent the officers from simultaneously transitioning from their CEW to handgun or vice versa. Example: Officer is in the process of holsters the CEW while simultaneously drawing their duty handgun.

15.0 OTHER CONSIDERATIONS

15.1 When practicable, avoid using a CEW on a person in the following circumstance unless the situation justifies a higher risk:

- 15.1.1 Children.
- 15.1.2 Seniors.
- 15.1.3 Restrained subjects.
- 15.1.4 Passive subjects being seized.

16.0 MAINTENANCE

16.1 Failure to maintain a Taser as instructed may cause the Taser to malfunction or fail to function properly, increasing the risk of death or serious injuries. To reduce these risk, follow the recommended maintenance procedures.

- 16.1.1 Safely perform a spark test prior to each shift. Testing helps verify that the Taser is functioning properly. Spark testing will be done in a safe location and completed as trained.
- 16.1.2 Avoid using a damaged cartridge.
- 16.1.3 Update the Taser's software. The Taser x26 is updated with their Digital Power Magazine DPM (battery). When the Taser is updating a “P” will be shown on the Central Information Display (CID). Do not remove the DPM or activate the Taser until updating is completed.
- 16.1.4 If a Taser or cartridge is damaged or not functioning properly it will be taken out of service.



Dennis M. Emmi
Chief of Police