



INTERIM ORDER

SUBJECT: USE OF CONDUCTED ELECTRICAL WEAPONS (CEW)		
DATE ISSUED:	REFERENCE:	NUMBER:
05-31-16	**P.G. 221-08, *P.G. 212-117 P.G. 221-13 AND P.G. 216-22	41

1. In order to ensure uniformed members of the service comply with the Department’s policy regarding the use of Conducted Electrical Weapons (CEW), a new procedure has been established.

2. Therefore, effective 0001 hours, June 1, 2016, in order to provide for the control, accountability, issuance, use of and the investigation of the use of Conducted Electrical Weapons (CEW), new Patrol Guide procedure 221-08, “Use of Conducted Electrical Weapons (CEW)” will be complied with:

PURPOSE To inform members of the service (MOS) of circumstances under which a Conducted Electrical Weapon (CEW) may be intentionally used and to record instances when a Conducted Electrical Weapon has been used.

SCOPE A Conducted Electrical Weapon (CEW) can be an effective means of subduing aggressive suspects and emotionally disturbed persons (EDPs). A CEW is classified as a less lethal device and is intended to augment and provide a greater margin of safety for MOS who might otherwise be forced to physically subdue a dangerous subject. The use of a CEW is classified as a significant intermediate use of force option such as O.C. pepper spray or impact techniques.

A CEW should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. It will often reduce the potential for injuries to members and suspects that may result from physical restraint and should be regarded as a possible alternative to such force and restraint, where practical. It is prohibited to use a CEW in situations that do not require the use of physical force.

DEFINITIONS CONDUCTED ELECTRICAL WEAPON (CEW) - A hand held device as manufactured by TASER International Inc. designed to use replaceable cartridges that propel two darts on wires and/or direct contact to conduct energy that affects the sensory and/or motor functions of the central nervous system.

TASER - TASER International Inc.

ACTIVATE (ACTIVATION) – To arm the CEW by releasing the safety. When the safety switch is shifted up the laser and LED illuminators turn on (depending on illumination status), the Central Information Display (CID) will show the calculated percentage of battery life for five seconds and then show two dots. The X26 safety displays a red “F” when activated and will discharge when the trigger is depressed.

**DEFINITIONS
(continued)**

LASER WARNING – Pointing and placing the laser dot of an activated CEW on a subject in order to attempt to achieve voluntary compliance. When feasible, issue a verbal warning, consistent with personal safety, to the intended subject in conjunction with a laser warning.

DISCHARGE – To activate a CEW, depress the trigger and cause an electric current to flow. Discharge will result in arcing (no cartridge is present) or darts being fired (cartridge is present).

WARNING ARC – The activation and discharge of a CEW with the cartridge removed that displays a visible and audible arcing of electricity between the front electrodes of the CEW to the intended subject in order to attempt to achieve voluntary compliance. When feasible, issue a verbal warning, consistent with personal safety, to the intended subject in conjunction with a warning arc.

CARTRIDGE – Refers to a replaceable cartridge manufactured by TASER International, Inc. specifically for use with a TASER CEW.

DARTS – Barbed probes designed to penetrate the skin that are connected to conductive wires leading back to the cartridge attached to the CEW.

PROBE MODE/DEPLOYMENT – Primary mode of use that utilizes compressed nitrogen gas to propel two darts on conductive wires from a cartridge attached to the front of the CEW.

DRIVE STUN – When the front electrodes on the CEW, or an expended cartridge attached to the front of the CEW, are brought into immediate, direct, or close proximity contact with a subject's body or clothing. The Drive stun mode may be used to supplement the effectiveness of a close probe spread (Three Point Contact), or to complete the circuit in the event of a single probe contact, or as a countermeasure to gain separation between officers and the subject so that officers can consider another force option. Drive stun mode should not be the primary method of use unless exceptional circumstances exist.

ACTIVE RESISTING – Includes physically evasive movements to defeat a member of the service's attempt at control, including bracing, tensing, pushing, or verbally signalling an intention to avoid or prevent being taken into or retained in custody.

ACTIVE AGGRESSION – Threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent.

PASSIVE RESISTANCE – Minimal physical action to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands motionless and/or a subject going limp when being taken into custody.

PROCEDURE To provide for control, accountability, issuance, use, and investigation of the use of Conducted Electrical Weapons (CEWs):

- COMMANDING OFFICER**
1. Designate a secure area under the control of the desk officer or appropriate supervisor for the storage of all CEWs, cartridges, holsters, and digital power magazines (DPMs) assigned to command.
 2. Ensure availability, operability, and distribution of CEWs assigned to the command on all tours. All CEWs must be readily available behind the desk area.
 3. Ensure that all supervisors performing patrol duties in the command are trained in the use of CEWs.
 - a. ONLY authorized uniformed members of the service will be assigned to carry CEWs.

NOTE *When requesting a replacement or loaner of a CEW, replacement DPM, or holsters, commanding officers are required to prepare and deliver a report on **Typed Letterhead** with item(s) needing replacement, to the Commanding Officer, Firearms and Tactics Section.*

*When requesting replacement cartridges, commanding officers shall prepare and deliver a report on **Typed Letterhead** to the Commanding Officer, Firearms and Tactics Section and shall attach a copy of the related **THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)**.*

- DESK OFFICER/ UNIT SUPERVISOR**
4. Account for all CEWs and cartridges assigned to the command at the commencement of each tour.
 - a. Make a Command Log entry, include serial numbers.
 - b. Commands that do not maintain a Command Log will account for CEWs and cartridges in an appropriate Department log.
 - c. Notify commanding officer if any CEW is found inoperable or defective.
 5. Assign CEWs to authorized uniformed members of the service at the commencement of each tour in priority order as follows:
 - a. One operable CEW should be maintained at the desk
 - b. One operable CEW should be assigned to each uniformed and plainclothes supervisor performing patrol duty.
 6. Assign any additional CEWs on each tour to authorized uniformed members of the service assigned to patrol.
 - a. Preference will be given first to the field training officers then the neighborhood coordination officers.
 7. Indicate rank, name, shield number/tax number, as applicable, of assigned member(s) in the Command Log.
 - a. Make entry on roll call, identifying member(s) assigned a CEW for tour.
 - b. Place notation "CEW" next to the name of member(s) assigned a CEW.

**AUTHORIZED
UNIFORMED
MEMBER OF
THE SERVICE**

8. Be responsible for CEW while in your custody and control.
9. Carry CEW only when trained by the Firearms and Tactics Section.
 - a. CEW must be carried on the support side (non-shooting side), in a Department approved holster, attached to gunbelt.
 - b. Emergency Service Unit and uniformed personnel, performing duty in civilian attire, will carry CEW in a holster approved by Commanding Officer, Firearms and Tactics Section and Commanding Officer, Special Operations Division, as appropriate.

NOTE

Only CEWs authorized by the Commanding Officer, Firearms and Tactics Section will be carried by members of the service. Carrying or use of any other unauthorized CEW may result in disciplinary action.

10. Conduct a mandatory spark test prior to the start of tour to ensure the operability of the CEW.

NOTE

Cartridges must be removed and secured away from the CEW prior to conducting a spark test. Accidental discharges resulting in injuries may occur if a cartridge is left attached to the CEW while conducting a spark test.

*Members are reminded that the time, date, temperature, duration and remaining battery strength of the last 2000 discharges are recorded in the CEW's internal memory. Therefore, whenever a CEW is discharged (including a spark test to ensure operability or an accidental discharge), such discharge must be recorded in the member's **ACTIVITY LOG (PD112-145)**, Command Log or other appropriate Department record.*

11. Inform desk officer/immediate supervisor if the CEW does not operate subsequent to battery replacement, is inoperable, or requires repair or replacement.
12. Make **ACTIVITY LOG** entry and include:
 - a. Results of inspection
 - b. Serial number of CEW
 - c. Name of desk officer/supervisor notified if CEW is inoperable.
13. Return CEW to desk officer upon completion of tour.

USE OF CONDUCTED ELECTRICAL WEAPON (CEW)

**AUTHORIZED
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14. Assess situation and determine if the use of a CEW would be appropriate.
15. Consider the totality of the circumstances when deciding the reasonable amount of force necessary to overcome resistance when effecting an arrest or when taking a mentally ill or emotionally disturbed person into custody. Some factors to consider when determining the appropriate use of force include, but are not limited to:
 - a. The nature and severity of the crime/circumstances
 - b. Actions taken by the subject
 - c. Duration of the action

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- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject's violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

NOTE

CEWs should only be used against persons who are actively resisting, exhibiting active aggression or to prevent individuals from physically injuring themselves or other person(s) actually present. Members of the service are reminded of the availability of Emergency Service Unit.

- 16. Issue, if possible, an appropriate verbal warning, consistent with personal safety, to the intended subject and other members of the service present prior to discharging the CEW.
 - a. The verbal warning may be used in conjunction with laser/arc warnings in order to gain voluntary compliance and prevent the need to use force.

NOTE

The recommended point of aim is lower center mass for frontal discharges (below the chest) and below the neck area for discharges at a suspect's back. Avoid discharging at an individual's head, neck, and chest, if possible. When practical, discharge the CEW at the subject's back. The CEW should not be intentionally aimed at an individual's groin.

Members should not intentionally discharge two CEWs simultaneously on a subject.

Fleeing should not be the sole justification for using a CEW against a subject. Members should consider the severity of the offense, the subject's threat level to others, and the risk of serious injury to the subject before deciding to use a CEW on a fleeing subject.

Members should use a CEW for one standard cycle (five seconds) while constantly assessing the situation to determine if subsequent cycles are necessary. Members should consider that exposure to the CEW for longer than fifteen seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. All applications must be independently justifiable, and the risks should be weighed against other force options.

A CEW should never be used in CARTRIDGE or DRIVE STUN mode on a rear-cuffed prisoner.

It is strictly prohibited to use the CEW on persons as a form of coercion or punishment and on persons who passively resist (e.g., going limp, offering no active physical resistance).

The CEW should generally not be used on children, the elderly, obviously pregnant females, the frail, against subjects operating or riding on any moving device or vehicle (e.g., motorists, bicyclists, skateboarders) where the subject may fall while it is in motion or in situations where the subject may fall from an elevated surface.

The CEW should not be used when combustible gases or flammable liquids are present.

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(continued)**

17. Restrain individual, and secure CEW.
 - a. Effect arrest of criminal suspect against whom CEW was used.
 - b. Comply with *P.G. 210-13, "Release of Prisoner – General Procedure,"* if arrested person did not commit the crime or no crime was committed.
 - c. Comply with *P.G. 221-13, "Mentally Ill or Emotionally Disturbed Persons,"* when appropriate.
18. Request response of FDNY Emergency Medical Service (EMS), if person received a CEW discharge.
 - a. Any person who has been struck by a CEW dart or who has had a CEW used on him or her in drive stun mode must be examined at a medical facility.
19. Render reasonable aid as necessary.
20. Break the CEW cartridge wire by hand approximately four to six inches from the dart, taking into account the circumstances including the status of the subject.
 - a. Any dart that has penetrated the skin of any person will only be removed by medical personnel.

NOTE

If a CEW was discharged and the darts did not make any contact with the subject (e.g., skin, clothing, etc.), the wire connecting the dart to the cartridge may be broken by hand. The dart portion shall be disposed of in a "sharps" container and the spent cartridge may be disposed of in the trash and not invoiced. An investigation will still be conducted by the investigating supervisor regarding the use of the CEW.

21. Safeguard CEW cartridge.

NOTE

Spent CEW cartridges used by Emergency Service Unit personnel will be safeguarded and invoiced, when appropriate, by the command of record for the subject on whom the CEW was used.

22. Notify immediate supervisor of any discharge or drive stun.

NOTE

As per P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action," when there is an incident that involves the discharge of a Conducted Electrical Weapon, the immediate supervisor/investigating supervisor must be in the rank of lieutenant or above. Only Emergency Service Unit personnel will have their discharges documented by their immediate supervisor (rank of Sergeant or above).

**IMMEDIATE
SUPERVISOR**

23. Review facts and circumstances surrounding incident.
24. Notify desk officer, precinct of occurrence.
25. Assign member of the service to ride in body of ambulance with prisoner or aided.
26. Direct member of the service to take photographs of points of contact on subject's body resulting from CEW darts or drive stun.

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THE SERVICE**

27. Inform hospital staff that a CEW has been used on the individual.
 - a. Record name of person notified in **ACTIVITY LOG**.
28. Photograph points of contact on subject's body resulting from CEW darts or drive stun.
 - a. Photos should be taken in a manner to maintain the subject's privacy, when appropriate (e.g., behind curtain, private room, etc.).
29. Prepare **ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-150)** and **MEDICAL TREATMENT OF PRISONER (PD244-150)** in arrest situations.
30. Complete **AIDED REPORT WORKSHEET (PD304-152b)** in non-arrest situations.
31. Prepare **PROPERTY CLERK INVOICE WORKSHEET (PD521-141a)**.
 - a. Cartridge used will be placed in a Plastic Security Envelope and delivered to desk officer, include photographs, when applicable.
 - b. Ensure **PROPERTY CLERK INVOICE** number is documented in appropriate Department forms prepared.

NOTE

Darts will not be vouchered but should be disposed of in a "sharps" container by medical personnel. Members of the service should refrain from handling a dart that has been removed from a subject, as it is a contaminated sharp.

**IMMEDIATE
SUPERVISOR**

32. Perform duties of the "immediate supervisor" as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action."*
33. Notify Firearms and Tactics Section:
 - a. Obtain "FTS CEW Log Number"
 - b. Enter "FTS CEW Log Number" and name of person notified in Telephone Record.
34. Deliver copies of reports prepared in connection with CEW usage to desk officer.

DESK OFFICER

35. Make required command log entries and notifications as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action."*

**INVESTIGATING
SUPERVISOR**

36. Conduct investigation and prepare and forward report(s) as per *P.G. 221-03, "Reporting and Investigation of Force Incident or Injury to Persons During Police Action."*
 - a. Forward additional copy of report(s) to Commanding Officer, Firearm and Tactics Section (DIRECT)

NOTE

If during the course of the investigation data from the CEW is required to be uploaded, the Borough Investigations Unit will be notified.

COMMANDING OFFICER, FIREARMS AND TACTICS SECTION 37. Maintain a log /database for CEW usage.
38. Query FORMS – T.R.I. application to analyze the use of CEWs.
39. Compile data regarding use and effectiveness of CEWs used by members of the Department.
40. Compile a list of CEW usage on a monthly basis and forward a report on usage to the First Deputy Commissioner (through channels).

FIRST DEPUTY COMMISSIONER 41. Incorporate relevant information into tactical training.
42. Review adequacy of investigations and appropriateness of CEW usage.

ADDITIONAL DATA *CEWs will only be used by authorized uniformed members of the service. Additionally, all supervisors performing patrol duties are to carry a CEW, if available. CEWs should be carried in an authorized holster attached to the belt of members of the service performing patrol duty in uniform and should be available for use by members of the service performing patrol duty in civilian attire. Authorized users will ensure that a secondary authorized cartridge is carried in the pouch affixed to the holster.*

If a CEW has been seized for investigative purposes, it is the responsibility of the investigative unit to ensure a notification is made to the Commanding Officer, Firearms and Tactics Section. Commands which have had a CEW seized for investigative purposes will be responsible for retrieving the CEW upon the conclusion of the investigation.

RELATED PROCEDURES *Prisoners Requiring Medical/Psychiatric Treatment (P.G. 210-04)*
Release of Prisoner – General Procedure (P.G. 210-13)
Aided Cases - General Procedure (P.G. 216-01)
Mentally Ill or Emotionally Disturbed Persons (P.G. 221-13)
Invoicing Property – General Procedure (P.G. 218-01)
Required Equipment (P.G. 204-09)
Reporting and Investigation of Force Incident or Injury to Persons During Police Action (P.G. 221-03)
Force Guidelines (P.G. 221-01)

FORMS AND REPORT *ACTIVITY LOG (PD112-145)*
PROPERTY CLERK INVOICE WORKSHEET (PD521-141A)
AIDED REPORT WORKSHEET (PD304-152B)
ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD255-159)
MEDICAL TREATMENT OF PRISONER (PD244-159)
THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154)
T.R.I. INCIDENT – INVESTIGATING SUPERVISOR’S ASSESSMENT REPORT (PD370-154A)
Typed Letterhead

3. Effective 0001 hours, June 1, 2016, Patrol Guide 221-13, “Mentally Ill or Emotional Disturbed Persons” is amended as follows:

- a. **REVISE** “ADDITIONAL DATA” statement, under heading “**USE OF NON-LETHAL DEVICES TO ASSIST IN RESTRAINING EMOTIONALLY DISTURBED PERSONS,**” on page “5” to read:

**“ADDITIONAL
DATA**

**USE OF NON-LETHAL DEVICES TO ASSIST IN RESTRAINING
EMOTIONALLY DISTURBED PERSONS**

Authorized uniformed members of the service may use a conducted energy weapon (CEW) to assist in restraining emotionally disturbed persons, if necessary.

Authorized uniformed members of the service will be guided by Patrol Guide 221-08, ‘Use of Conducted Electrical Weapons (CEW),’ when a CEW has been utilized.

THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT WORKSHEET (PD370-154A) will be prepared whenever a less lethal device is used by a uniformed member of the service in the performance of duty.”

- b. **REVISE** “RELATED PROCEDURES,” on page “5” to read:

**“RELATED
PROCEDURES**

Unusual Occurrence Reports (P.G. 212-09)

Hostage/Barricaded Person(s) (P.G. 221-14)

Unlawful Evictions (P.G. 214-12)

Aided Cases General Procedure (P.G. 216-01)

Mental Health Removal Orders (P.G. 216-06)

Use of Conducted Electrical Weapons (CEW) (P.G. 221-08)”

- c. **REVISE** “FORMS AND REPORTS,” on page “5” to read:

**“FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)

AIDED REPORT WORKSHEET (PD304-152b)

**THREAT, RESISTANCE OR INJURY (T.R.I.) INCIDENT
WORKSHEET (PD370-154)**

UNUSUAL OCCURRENCE REPORT (PD370-152)”

4. Effective 0001 hours, June 1, 2016, Patrol Guide 216-22, “Mobile Crisis Outreach Teams and Assertive Community Treatment Teams” is amended as follows:

- a. **REVISE** “FORMS AND REPORTS,” on page “2” to read:

**“FORMS AND
REPORTS**

ACTIVITY LOG (PD112-145)

AIDED REPORT WORKSHEET (PD304-152b)

**Application for Involuntary Admission on Certificate of a Director of
Community Services or Designee (OMH Form 475)**

**Mobile Crisis Outreach Team Authorization for Transport (OMH
Form 482)”**

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5. Effective 0001 hours, June 1, 2016, Patrol Guide 212-117, “Conducted Energy Devices (CED)” is OBSOLETE and hereby **REVOKED**.

6. Effective 0001 hours, June 1, 2016, **REVISE** references to Patrol Guide 212-117, “Conducted Energy Devices (CED)” wherever they appear in the Department Manual to read:

“Patrol Guide 221-08, ‘Use of Conducted Electrical Weapons (CEW)’ ”

7. Effective 0001 hours, June 1, 2016, Department form “**LESS LETHAL/RESCUE EQUIPMENT USE REPORT (PD320-151)**” is hereby **REVOKED**.

8. Effective 0001 hours, June 1, 2016, this Interim Order will be incorporated into the On-Line Patrol Guide.

9. Any provisions of the Department Manual or any other Department directive in conflict with the contents of this Order are suspended.

BY DIRECTION OF THE POLICE COMMISSIONER

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