

## P.G. 212-117 Use Of Conducted Energy Devices (CED)

Date Effective: 08-01-13

### PURPOSE

To inform members of the service of circumstances under which a Conducted Energy Device (CED) may be intentionally used and to record instances when a Conducted Energy Device has been used. CEDs will only be used by authorized uniformed members of the service. Additionally, all patrol supervisors and platoon commanders performing patrol duty assigned to the Patrol Services, Housing and Transit Bureaus will be required to carry a CED in a Department issued holster as authorized.

### SCOPE

A Conducted Energy Device (CED) can be an effective means of subduing suspects and emotionally disturbed persons (EDP's) in a safe manner. A CED is classified as a less lethal device and is intended to augment and provide a greater margin of safety for officers who might otherwise be forced to physically subdue a dangerous subject. The use of a CED is within the range of use of less lethal devices such as pepper spray or a baton on the force continuum due to its effectiveness at a distance and at close range.

A CED should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present. In many cases, a CED will reduce or eliminate the need for deadly physical force. 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 CED in situations that do not require the use of physical force.

### DEFINITIONS

CONDUCTED ENERGY DEVICE (CED) - a device primarily designed to disrupt a subject's central nervous system by means of using electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's motor responses.

ACTIVATE (ACTIVATION) - To cause the CED to arm by releasing the safety, thereby causing the CED laser sight to operate.

CARTRIDGE - a replaceable cartridge which discharges two darts on connecting wires sending a high voltage/low current signal into a subject.

DARTS - probes that are discharged from a CED and are designed to penetrate the skin; wires are attached to the probes leading back to the CED.

DISCHARGE - To activate a CED, 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).

TOUCH STUN - To use the CED and discharge the device in a manner such that the hand-held unit makes direct contact with an intended subject's body. Touch stun mode should only be used in exceptional circumstances and not as a

primary method of use. Therefore, when touch stun mode is used, an investigation will be conducted by the commanding officer/duty captain to determine if the CED was properly used.

**AUTHORIZED UNIFORMED MEMBER OF THE SERVICE** - A uniformed member of the service who has received authorized Department training in the use of the CED.

**INVESTIGATING SUPERVISOR** - As used in this procedure will be as follows:

a. The next highest ranking supervisor in the chain of command of the member who discharged the CED,

b. The commanding officer/duty captain for instances of touch stun incidents, when CED is used on a person in police custody or an accidental discharge of a CED has occurred resulting in an injury to any person.

**NOTE:** If the investigating supervisor is from a command other than Patrol Services Bureau, Housing Bureau or Transit Bureau and is not available, the investigating supervisor will be the next higher ranking supervisor from the Patrol Services Bureau. (e.g., If a sergeant assigned to a Highway Unit discharges a CED and a lieutenant is unavailable from that Unit to investigate the discharge, a PSB lieutenant or duty captain will conduct the investigation.)

#### **PROCEDURE**

To provide for control, accountability, issuance, use and investigation of the use of Conducted Energy Devices (CEDs):

#### **COMMANDING OFFICER**

1. Designate a secure area under the control of the desk officer or appropriate supervisor for the storage of CEDs and cartridges.
2. Ensure availability, operability, and distribution of CEDs assigned to the command on all tours.
3. Ensure that all supervisors performing patrol duties in the command are trained in the use of CEDs.
  - a. ONLY authorized uniformed members of the service will be assigned to carry CEDs.

**NOTE:** When requesting a replacement or loaner of a CED, replacement of batteries, chargers, or holsters, commanding officers are required to prepare and deliver a 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 Typed Letterhead to the Commanding Officer, Firearms and Tactics Section and shall attach a copy of the related LESS LETHAL/RESCUE EQUIPMENT USE REPORT (PD 320-151).

#### **DESK OFFICER/UNITSUPERVISOR**

4. Account for all CEDs 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 CEDs and cartridges in an appropriate Department log.

5. Assign CEDs to authorized uniformed members of the service on each tour taking into account the following:

a. At least one operable CED must be assigned to a patrol supervisor and/or platoon commander performing patrol duty at all times.

b. One operable CED must be maintained at the desk.

NOTE: If available, additional CEDs may be assigned to other authorized uniformed members of the service throughout the tour as determined by the commanding officer.

6. 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 CED for tour.

b. Place notation "CED" next to the name of member(s) assigned a CED.

7. Ensure CEDs, without cartridge attached, are connected to charger, if appropriate, while unassigned.

8. Notify commanding officer when CED is inoperable.

AUTHORIZED UNIFORMED MEMBER OF THE SERVICE/ PATROL SUPERVISOR/ PLATOON COMMANDER

9. Carry CED only when trained by the Firearms and Tactics Section.

a. CED must be carried on the non-shooting side, in a Department approved holster, attached to gunbelt, and secured to person.

b. Emergency Services Unit and uniformed personnel, performing duty in civilian attire, will carry CED in a holster approved by Commanding Officer, Firearms and Tactics Section and Commanding Officer, Special Operations Division, as appropriate.

NOTE: Only conducted energy devices authorized by the Commanding Officer, Firearms and Tactics Section will be carried by members of the service. Carrying or use of any other unauthorized conducted energy device may result in disciplinary action.

10. Inspect CED to ensure operability.

a. Point CED in safe direction

b. Remove cartridge from CED

c. Release the safety (place safety in "off" position)

d. Ensure the laser is visible and that the battery status light indicates device is energized

- e. Conduct spark test
- f. Replace battery if either laser is not visible, battery status light does not operate or if spark test results confirm a weak battery
- g. Re-inspect CED unit after battery pack is replaced
- h. Engage safety
- i. Attach cartridge to CED.

NOTE: Cartridges must be removed and secured away from the CED prior to conducting an inspection. Accidental discharges resulting in injuries may occur if a cartridge is left attached to the CED while conducting an inspection.

Members are reminded that each discharge is registered on the CED's internal memory that records the date and time of each discharge. Therefore, whenever a CED 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), INVESTIGATOR'S DAILY ACTIVITY REPORT (PD439-156), Command Log or other appropriate Department record.

11. Inform desk officer/supervisor if the CED does not operate subsequent to battery replacement, is inoperable, or requires repair/replacement.

12. Make ACTIVITY LOG entry and include:

- a. Results of inspection
- b. Serial number of CED
- c. Name of desk officer/supervisor notified if CED is inoperable.

13. Return CED to desk officer upon completion of tour.

USE OF CONDUCTED ENERGY DEVICE (CED)

14. Assess situation and determine if the use of a CED would be appropriate.

15. Consider the totality of the circumstances when deciding the minimum amount of force necessary to overcome resistance when effecting an arrest or when taking mentally ill or an emotionally disturbed person into custody. Some factors to consider when determining the appropriate use of force include but are not limited to:

- a. officer/subject size disparity
- b. officer/subject strength disparity
- c. officer/subject age disparity
- d. officer's perception of the subject's willingness to resist
- e. officer's perception of the immediate threat to the subject, members of the service and bystanders
- f. suspect's violent history, if known

g. officer's location is a hostile environment

h. officer's perception of the subject being under the influence of a stimulant/narcotic which would effect pain tolerance and violence.

NOTE: CEDs should only be used against persons who are actively physically resisting, exhibiting active physical 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 an appropriate warning, consistent with personal safety, to the intended subject and other members of the service present prior to discharging the CED.

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 CED at the subject's back. The CED should not be intentionally aimed at an individual's groin.

Members will not discharge two CED's simultaneously on a subject.

When a CED is used against a subject it shall be for one standard discharge cycle and the member using the CED must then reassess the situation. Only the minimum number of cycles necessary to place the subject in custody shall be used. In no situation will more than three standard discharge cycles be used against any subject. Members are reminded of other appropriate force options should the CED fail.

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

When possible, the CED should 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 subject may fall while it is in motion or in situations where the subject may fall from an elevated surface.

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

17. Restrain individual, and secure CED.

a. Effect arrest of criminal suspect against whom CED 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. 216-05](#), "Mentally Ill or Emotionally Disturbed Persons," when appropriate.

18. Request response of FDNY Emergency Medical Service (EMS), if person received a CED discharge.

a. Any person who has been struck by a CED dart or who has had a CED used on

him or her in touch stun mode must be examined at a medical facility.

19. Render reasonable aid as necessary.

20. Break the CED 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.

21. Safeguard CED cartridge.

NOTE: If a CED 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 vouchered. An investigation will still be conducted by the investigating supervisor regarding the use of the CED.

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

DESK OFFICER/PATROLSUPERVISOR/PLATOONCOMMANDER/UNIT SUPERVISOR

22. Request response of investigating supervisor.

23. Identify witnesses and record names in ACTIVITY LOG, INVESTIGATOR'S DAILY ACTIVITY REPORT or Command Log as appropriate.

24. Assign member of the service to ride in body of ambulance with prisoner or aided.

25. Direct member of the service to take photographs of points of contact on subject's body resulting from CED darts or touch stun.

ASSIGNED UNIFORMED MEMBER OF THE SERVICE

26. Inform hospital staff that a CED has been used on the individual.

a. Record name of person notified in ACTIVITY LOG.

27. Photograph points of contact on subject's body resulting from CED darts or touch stun.

a. Photos should be taken in a manner to maintain the subject's privacy, when appropriate (e.g., behind curtain, private room, etc.).

28. Prepare ON LINE BOOKING SYSTEM ARREST WORKSHEET (PD244-150) and MEDICAL TREATMENT OF PRISONER (PD244-150) in arrest situations.

29. Complete AIDED REPORT WORKSHEET (PD304-152b) in non-arrest situations.

30. 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.

INVESTIGATING SUPERVISOR

31. Conduct investigation regarding use of CED.

32. Notify Firearms and Tactics Section:

a. Obtain "FTS CED Log Number"

b. Enter "FTS CED Log Number" and name of person notified in Telephone Record.

33. Prepare LESS LETHAL/RESCUE EQUIPMENT USE REPORT.

a. Prepare REPORT when probes are discharged regardless of whether probes made contact with subject.

b. Enter "FTS CED Log Number" on REPORT

c. Deliver REPORT to commanding officer.

34. Deliver copies of other reports prepared in connection with CED usage to commanding officer.

COMMANDING OFFICER/ DUTY CAPTAIN

35. Conduct investigation when required to act as investigating supervisor.

36. Prepare a Typed Letterhead with results of investigation and include recommendations (e.g., recommend disciplinary action, retraining, use was within guidelines, etc.) when:

a. CED is used in touch stun mode only

b. Used on a person in police custody

c. Accidental discharge of a CED has resulted in an injury to any person.

37. Attach copy of Typed Letterhead, if prepared, to the completed LESS LETHAL/RESCUE EQUIPMENT USE REPORT.

38. Distribute copies of Typed Letterhead, when prepared, and attached LESS LETHAL/RESCUE EQUIPMENT USE REPORT to the following:

a. Chief of Department (THROUGH CHANNELS)

b. Chief, Internal Affairs Bureau

c. Bureau Chief concerned

d. Commanding Officer, Firearm and Tactics Section (DIRECT)

e. Commanding Officer concerned.

COMMANDING OFFICER, FIREARMS AND TACTICS SECTION

39. Maintain a log /database for CED usage.

40. Maintain copies of LESS LETHAL/RESCUE EQUIPMENT USE REPORTS in a binder and input data into database.

41. Maintain a database of information regarding LESS LETHAL/RESCUE EQUIPMENT USE REPORTS.

42. Compile data regarding use and effectiveness of CEDs used by members of the Department.

43. Compile a list of CED usage on a monthly basis and forward to the Chief of Department.

44. Incorporate relevant information into tactical training.

COMMANDING OFFICER, INVESTIGATION REVIEW SECTION

45. Review adequacy of investigations and appropriateness of CED usage.

ADDITIONAL DATA

If a CED 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 CED seized for investigative purposes will be responsible for retrieving the CED 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. 216-05](#))

Invoicing Property - General Procedure ([P.G. 218-01](#))

Required Equipment ([P.G. 204-09](#))

Use of Force ([P.G. 203-11](#))

Deadly Physical Force ([P.G. 203-12](#))

FORMS AND REPORTS

PROPERTY CLERK INVOICE WORKSHEET (PD521-141A)

AIDED REPORT WORKSHEET (PD 304-152B)

LESS LETHAL/RESCUE EQUIPMENT USE REPORT (PD 320-151)

ON-LINE BOOKING SYSTEM ARREST WORKSHEET (PD 255-159)

MEDICAL TREATMENT OF PRISONER (PD 244-159)

ACTIVITY LOG (PD112-145)

INVESTIGATOR'S DAILY ACTIVITY REPORT (PD439-156)

Typed Letterhead