

BOULDER COUNTY SHERIFF'S OFFICE POLICY AND PROCEDURES MANUAL

SUBJECT: Conductive Energy Devices

NUMBER: 514

EFFECTIVE: August 6, 2020

SUPERSEDES: August 14, 2018

POLICY:

It is the policy of the Boulder County Sheriff's Office to use the level of force that is objectively reasonable and necessary to effect an arrest, or to control or subdue a violent or potentially violent person, and any person resisting arrest or attempting to escape. Conductive Energy Devices (CED) have proven to be effective in providing deputies with an option that reduces the risks to the deputy and to the subject in these violent or potentially violent situations. Therefore, deputies trained in the use of a CED are authorized to utilize this device in appropriate circumstances.

DEFINITIONS:

Conductive Energy Devices (CED): This term currently refers to a device designed to disrupt a person's central nervous system by means of conducting battery powered electrical energy from the device to the person with sufficient power to cause uncontrollable muscle contractions and override a person's voluntary or directed motor responses.

Non-Lethal Force: Force that is not inherently likely to cause death or cause great bodily injury to a person.

Non-Lethal Weapon/Device: A weapon or device that is armed and/or equipped to deliver a level of force to a person that is not intended to cause death or cause serious bodily injury. Instead, the force delivered is intended to overcome resistance and aggression by causing temporary pain, discomfort and/or incapacitation.

Resistance: A refusal to comply with instructions accompanied by a physical action that is intended to injure, thwart a lawful arrest, or to interfere or overcome an attempt by a deputy to lawfully subdue the resisting individual or another person; or, through word or body posture, a demonstrated intention or willingness to cause or to attempt to cause injury to another person. Resistance should not be understood as a binary state, with resistance being either completely passive or active. Rather, it runs the gamut from the purely passive protestor who simply refuses to stand, to the individual who is physically assaulting an officer.

Active Aggression/Assault: An active attempt to inflict bodily injury against another person or a deputy. An assault against a deputy or other peace officer is considered an elevated risk because of the possibility that the person committing the assault may get possession of one of the deputy's/officer's weapons and use it against another person.

Active Resistance: A refusal to comply with instructions accompanied by physical

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action that is intended to injure, thwart a lawful arrest, or to interfere or overcome an attempt by a deputy to lawfully subdue the resisting individual or another person.

Defensive Resistance: Refusal to comply with instructions accompanied by resistance that does not yet rise to the level of active resistance but through word, or body posture, a person demonstrates an intention or willingness to cause or to attempt to cause injury to another person.

Passive Resistance: For purposes of Sheriff's policies, this term refers to a type of resistance encountered by deputies where a person refuses to comply with instructions but does not offer any type of physical resistance outside of having their body go limp, stiffening their body or refusing to move. The term also refers to resistance by nonviolent methods to a government, an occupying power, or specific laws, as in refusing to comply, demonstrating in protest, or fasting.

Verbal Non-Compliance: An individual ignores instructions and/or refuses to comply with instructions but does not offer or imply any type of physical resistance.

Restraint Devices: Any device, when applied, that secures or restrains the movement of a subject. *Examples of restraint devices include, but are not limited to handcuffs, leg irons, zip-tie or other temporary cuffing system, RIPP restraints, soft restraints, and restraint chairs.*

PROCEDURE:

- I. Use of Force Considerations
 - A. This policy must be viewed and applied in alignment with the Use of Force policy (#502).
 - B. Prior to utilizing a conductive energy device, deputies, in carrying out their duties, shall apply nonviolent means, when possible, before resorting to the use of physical force. A deputy may only use physical force only if nonviolent means would be ineffective in effecting an arrest, preventing an escape, or preventing an imminent threat of serious bodily injury or death to the peace officer or another person. (§ 18-1-707(1), C.R.S.)
- II. Training Requirement
 - A. A deputy is authorized to carry and use the CED upon successful completion of the Boulder County Sheriff's Office 6-hour training program and/or the manufacturer's certification course.
 1. All personnel authorized to carry a CED are required to receive a minimum

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of two hours of annual refresher training.

a. The training may take many forms including, but not limited to: briefing, in-service, or law enforcement agency sponsored training. Topics that must be covered during training include:

- 1) The care and carrying of the device;
- 2) The appropriate use of the device, including scenario discussions; and,
- 3) The inappropriate use of the device, including scenario discussions.

B. A person is eligible for authorization to be a CED instructor upon successful completion of a manufacturer's and/or state certified CED instructors' course.

II. Authorized Devices

A. Nothing in this policy is intended to restrict the lawful ownership and lawful use of a CED by a sheriff's employee.

B. Personally owned CED's are not approved for use on-duty.

C. Deputies authorized to carry a CED for on-duty use are only authorized to carry a Boulder County Sheriff's Office issued CED.

1. Deputies must receive written permission from their division chief to carry a department issued CED off-duty.

D. Deputies who use a CED while off-duty within Boulder County's jurisdiction are considered to be acting under the color of their authority as a deputy sheriff and are on-duty from the beginning of the incident requiring the use of the device.

1. Off-duty use of a CED by a sheriff's employee who is not a deputy or that occurs in a jurisdiction outside of Boulder County is subject to applicable local laws.

III. Device Readiness

A. The device is to be carried by authorized personnel in an approved holster on the support side of the body.

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- B. The device is to be carried fully armed with the safety “on” in preparation for immediate use when authorized and appropriate.
- C. Personnel authorized to carry the CED are to be issued at least one spare cartridge as a back-up.

IV. Authorized Use

- A. The Conductive Energy Device is a non-lethal device that is intended for use against a person in situations that meet the criteria within the continuum of force for use of other types of non-lethal chemical or impact weapons. Deputies are authorized to use a CED's in a manner that is consistent with their CED training in situations that include, but are not limited to, the following:
 - 1. Defending against any type of assault;
 - 2. Preventing the use or threatened use of any type of weapon against the deputy or another;
 - 3. Overcoming *active* or *defensive* resistance,
 - 4. Disarming a person threatening suicide,
 - 5. In the jail, when and to the extent a jail deputy reasonable believes it necessary to maintain order and discipline, including when an inmate attempts to escape.
 - 6. Holding/jail cell extraction or subduing a violent inmate: The use of a CED to facilitate the removal of an inmate from a holding/jail cell or to subdue a violent inmate is authorized when a jail deputy reasonably believes it is necessary to maintain order and discipline and:
 - a. The inmate is engaged in active or defensive resistance; or
 - b. The inmate is engaged in any type of physical or sexual assault against another; and,
 - c. When the deputy reasonably believes that the likely risk of injury to the inmate or deputy is higher if other means are used to extract or subdue the inmate than is the risk of injury created by using the CED.

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- B. A deputy's authorized use of a CED is limited in the following circumstances:
1. Fleeing subjects: The use of a CED on a person fleeing on foot from a deputy or other peace officer is only authorized when:
 - a. The deputy reasonably believes the person fleeing poses a danger to himself or others if not apprehended immediately; and,
 - b. The deputy reasonably believes that the potential risk of serious injury to the person who may possibly be incapacitated as a result of the use of a CED is no higher than the risk of injury posed by other reasonable use of force options available to the deputy.
 2. Multiple exposures: Personnel should consider that exposure to a CED for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury.
- C. In situations where time and circumstances allow, and it is a tactically sound option, deputies are to attempt to gain a person's compliance by announcing their intent to use the CED and then demonstrate its use by activating the electrical arch between the touch prongs prior to actually touching the person with the prongs or firing the probes at the person.

V. Prohibited Use

- A. Personnel are prohibited from using a CED on a person in the following situations:
1. The person is restrained and immobilized, in whole or part, in a restraint chair, on a pram, or in another similar manner or device.
 2. The person is in restraints, other than those listed in §V.A.1., and is only offering verbal non-compliance or passive resistance, except as described in paragraph 3, below.
 3. Overcoming *passive* resistance:

In the vast majority of circumstances where an individual is offering only passive resistance deputies are not authorized to use a CED to gain the person's compliance. However, there may be rare situations encountered by deputies where it becomes clear that the safest way to overcome the person's resistance is by using the CED. In those instances, deputies must have supervisory authorization before using the CED to be exempted from this paragraph (V.A.3.).

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- a. Before using a CED, deputies must first take steps to determine whether the person's resistance is due to a medical condition, i.e., the person is suffering a seizure or is in diabetic shock.
 - b. Deputies must attempt to gain the person's cooperation or compliance using other techniques. These techniques include, but are not limited to, the following:
 - 1) Verbal commands,
 - 2) Use of hand/arm restraint or compliance methods,
 - 3) Applying low levels of physical force to the person while implementing a coordinated effort of multiple officers,
 - 4) Use of pepper spray.
 - c. The authorizing supervisor must be able to list and describe the specific factors that led him or her to conclude that the use of the CED on the individual was a safer alternative to other available and practical options.
3. The person is fleeing and the deputy does not have sufficient information to believe that the person is a danger to themselves or others.
 4. The deputy is in a moving vehicle and the subject is outside of that vehicle.
 5. The subject is in a moving vehicle.
 6. The subject is using, or in contact with, flammable liquids or vapors.
 7. The person may fall from a height when exposed to the CED that is likely to cause serious injury to that person or another.
 8. The deputy should reasonably believe the person is pregnant.
 9. In any form when the sole intent is to frighten or to cause pain to the person as punishment or for amusement.
 10. In a training situation, on any person who is not a Colorado peace officer and has not expressly given permission for its use on him/her.

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11. In a training situation on any inmate. Employees are not authorized to request that an inmate participate in the demonstration of a CED.

VII. Medical Evaluation and Treatment

- A. As soon as practical after the prongs or probes of a CED have come in contact with a person and electrical current has been discharged in, or on that person, on-scene personnel are to evaluate the person's medical condition and treat for injuries or other medical conditions.
- B. Upon completion of the on-scene evaluation, personnel have a number of options for dealing with the medical needs of the subject. The specific option chosen is dependent on the seriousness of injuries or other medical needs of the subject. The options include:
 1. Remove probes and administer medical treatment to entry points, if needed, in a manner consistent with training. Transport to the jail and notify a jail nurse of the use of the CED.
 - a. Upon arrival at the Jail, jail medical personnel will respond to the Intake Garage and assess the individual and their medical condition. Depending upon signs, symptoms and possible injury as a result of the application of a CED, jail medical personnel may require a medical clearance be obtained from an emergency room physician prior to the Jail accepting them into custody.
 - b. In the event of a CED application on an in-custody inmate within the Jail, jail medical personnel will assess that individual for the same associated symptoms as outlined in § VI.B.1.a. If deemed necessary by jail medical personnel, the individual will be transported to a hospital to obtain a medical clearance from an emergency room physician.
 2. Request that an ambulance respond to the scene and have paramedics evaluate and treat injuries or other medical conditions.
 3. Transport the subject to the hospital for evaluation and treatment of injuries or other medical conditions.
 - a. The subject's medical condition determines whether the subject is transported by ambulance or public safety vehicle to the medical facility.

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- C. Medical clearance at a hospital is mandatory when:
 - 1. The subject was struck in the eyes, head, genitals or, when a female, the breasts.
 - 2. The subject appears to be in unusual physical stress or has not fully recovered within 10 minutes of CED exposure.
 - 4. The subject falls into one of the following classes:
 - a. A juvenile under the age of 16, or
 - b. The subject has a pre-existing medical condition known to officers that may increase the subject's vulnerability, including pregnancy, or
 - c. The subject is elderly.
 - 4. The subject has been exposed to a prolonged application of greater than 15 seconds.
 - 5. The subject is under the influence of drugs and/or is exhibiting symptoms associated with excited delirium.

VII. Reporting Requirement

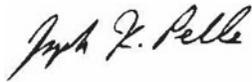
- A. Personnel who use or attempt to use a CED in any non-training situation are required to complete a use-of-force form when required by current sheriff's office policies and procedures governing use-of-force reporting.
 - 1. In situations where a CED is applied, either through drive-stun or probe application, the CED is to be submitted to the divisional employee designated by the affected division's chief for data interrogation.
 - a. The designee downloads the data from the CED documenting the frequency and duration of its use to the appropriate computer or other applicable storage device.
 - b. This designee is responsible for ensuring the information from the download is secure and retrievable and stored in a manner that preserves the information for an indefinite period of time.
 - c. The designee is responsible for documenting the downloaded

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information in a report and providing the investigating supervisor with the information downloaded from the CED.

2. When a CED is applied through probe application, the cartridge, including probes and wires, and AFIDs, shall be collected as-is (e.g. wires are not intentionally separated from the cartridge, etc.) and is submitted as evidence.

By Order of the Sheriff,



Joseph K. Pelle

8/6/2020

Date

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