

## **CONDUCTED ELECTRICAL WEAPON (CEW)**

### **AUTHORITY**

#### **California Code Section(s):**

Penal Code Sections 835a

#### **Related Probation Department Policies:**

IV10 Employee Conduct

IV33 Safety, Uncooperative Clientele, and Threats

#### **Related Probation Officer Procedures:**

E3 Arrest of Juveniles and Adults

F2 Use of Force

F6 Arming: Request, Authorization, and Training Procedures

F7 Arming: Firearms/Ammunition Storage and Maintenance

### **INTRODUCTION**

A CEW is an intermediate level of force and is to be used by armed probation officers in accordance with Probation Department Procedure F2, Use of Force. The DPO shall use only department-issued CEW and CEW cartridges. The TASER Model X2 is the only Probation Department authorized CEW. A DPO may carry a CEW only if specifically authorized by the Chief Probation Officer (CPO), and the CPO has the authority to revoke the authorization to carry a CEW at any time, with or without cause. Further, the DPO must complete the department approved training prior to being issued a CEW and must subsequently demonstrate his/her proficiency on an annual basis.

### **GENERAL GUIDELINES**

A DPO shall follow the below guidelines:

1. The CEW shall be carried in a department approved holster secured on a department approved duty belt on the support side only (non-gun side) or worn on a department approved tactical vest.
2. A DPO carrying a CEW shall ensure the CEW battery is at a minimum of twenty (20) percent charge prior to conducting enforcement activities. Should the level of the battery be below twenty (20) percent, it is to be given for replacement to the designated department armory officer in the South Lake Tahoe field office, or a firearms instructor in the Shingle Springs field office.
3. A DPO shall be responsible for ensuring the CEW is properly maintained and in good working order at all times.
4. The DPO shall conduct a five (5) second spark test every time he/she leaves the work site.

### **CONSIDERATIONS FOR USE**

As the force used must be justifiable, appropriate, and in accordance with laws pertaining to the "objective reasonable standard," factors to consider prior to CEW deployment, as used by the Courts in determining reasonableness, are as follows:

1. Is the offender deemed an immediate threat to the DPO(s) or others?
2. Is the offender actively resisting?
3. Did the DPO make split second decisions during a situation that is tense, uncertain, and rapidly evolving?
4. How serious is the offense?
5. Is the offender attempting to escape or evade arrest?

As with any law enforcement equipment, the CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when the DPO can safely approach the offender within the operational range of the CEW. Although the CEW is generally effective in controlling most offenders, it may fail. The DPO should be aware of this potential and be prepared to utilize other force options or disengage if necessary.

### APPLICATION OF THE CEW

The DPO shall also consider the following when applying the CEW:

1. A DPO should not deploy both a firearm and a CEW at the same time.
2. A verbal warning of the intended use of the CEW shall precede its actual use unless it would otherwise endanger the safety of the officer or another or when due to the circumstances it is not practical. The purpose of the warning is to:
  - Provide the offender a reasonable opportunity to comply, and to
  - Provide other officers, offenders, and/or individuals with a warning that a CEW may be deployed.
3. If, after a verbal warning, an offender does not comply with a DPO's lawful orders and it appears both reasonable and practical under the circumstances, the DPO may conduct a warning ARC (a visual, luminous electrical discharge), and/or display the laser in a further attempt to gain compliance. When possible the aiming laser should not be directed into the eyes of an offender as it may permanently impair vision.
4. Due to rapidly evolving conditions during a use of force situation in which an officer may not be afforded the time to transition the level of force, the DPO deploying the CEW, if feasible, should be supported by at least one DPO or law enforcement officer capable of providing immediate lethal force cover.
5. Additional deployment considerations should be given to the following individuals who may be at an elevated risk when deploying the CEW:
  - Pregnant women.
  - Elderly individuals.
  - Individuals with known health problems.
  - Offenders who are handcuffed or otherwise restrained.
  - Individuals who have been recently sprayed with a chemical agent or who are in close proximity to known flammable or explosive gases, vapors or liquids.
  - Passively resisting offenders.
  - Individuals whose position or activity may result in significant collateral injury. These may include persons:
    - In elevated positions (e.g., roof, tree, ladder, ledge or stairs).
    - Operating or riding on motor vehicles, machinery or other conveyances (e.g., vehicle, motorcycle, motorized scooter or bicycle).
    - Located in, or very close to, bodies of water.
6. As the application of the CEW in the "Drive Stun" mode (direct contact without darts) relies primarily on pain compliance and requires close proximity to the offender, additional caution should be exercised and the controlling effects may be limited.
7. A DPO should attempt to target the lower center of mass on the front of an offender and the center of mass on the back of an offender. A DPO should avoid intentionally targeting sensitive areas such as the head, neck, face, and groin of an offender. Should a probe strike a sensitive area, as soon as it is practical and safe to do so, officers will request appropriate medical treatment, closely monitor the condition of the offender, and provide first aid when necessary and safe to do so until examined by medical personnel.

8. The CEW may be deployed on a potentially dangerous animal, such as a dog, if the animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective. If a CEW is deployed on an animal, the DPO should remain as far away from the animal as possible. Further, the owner of the animal shall be notified as soon as it is practical and if it is possible to do so. If the owner cannot be contacted or located, the DPO shall contact the El Dorado County Animal Services for notification.

#### MULTIPLE APPLICATIONS OF THE CEW

If the first application of the CEW appears to be ineffective in gaining control of a subject, and if circumstances allow, the DPO should consider the following prior to an additional application of the CEW:

- Whether the probes or darts are making proper contact,
- Whether the application of the CEW is interfering with the ability of the offender to comply, and
- Whether verbal commands, other force options, or tactics may be more effective.

The above, however, should not preclude an officer from deploying multiple, reasonable applications of the CEW at an offender if deemed justifiable due to the level of resistance from an offender. Each CEW cycle or deployment will be evaluated as a separate incident of force used.

#### POST DEPLOYMENT

1. To minimize the threat of injury to either the DPO or the offender, the DPO will secure the subject with mechanical restraints as soon as it is reasonably safe to do so. A DPO is to use caution so that any restraint device or technique does not impair the breathing of the offender.
2. As soon as possible the DPO shall request medical personnel to respond to the scene and render necessary first aid to the offender as soon as safe to do so. The DPO should NOT attempt to remove the CEW probes imbedded in the skin of the offender. Used CEW probes are a sharp biohazard and Universal Precautions should be used.
3. Absent extenuating circumstances or unavailability, only qualified medical personnel, including fire personnel, an EMT or paramedics, should remove the CEW probes from an offender's body.
4. The DPO will photograph the areas of the probe strikes or points of contact, when possible. However, personally sensitive areas, such as the groin, breasts, or buttocks, will not be photographed. All photographs of probe strikes will be entered into evidence.
5. Any offender who has been struck by CEW probes, or who has been subjected to the electric discharge of the device, shall be medically cleared by the DPO prior to transportation to a detention facility.
6. If any individual not subject to arrest refuses medical attention, such refusal will be documented in the Incident Report and should be witnessed by another peace officer and/or medical personnel.

#### REPORT OF USE

1. After using the CEW, the DPO shall verbally notify his/her supervisor as soon as practical and generally within one hour after a deployment. An appropriate entry shall be made in PRIORS and a written Incident Report shall be completed by the DPO whenever

a CEW is deployed. The Incident Report shall be submitted to the supervisor prior to the end of the next business day, with a copy provided to the lead CEW instructor. Further, the Incident Report shall be forwarded to the Chief Probation Officer via the chain of command.

2. The Incident Report shall contain a full description of the incident, including the following information:
  - Name(s) of probation officer(s) present.
  - Name(s) of offender(s) present, if applicable.
  - Name(s) of other person(s) present, if applicable.
  - Effectiveness of CEW on offender(s), including intended target area, probe location(s), distance from offender, and additional injuries.
  - Assistance provided to offender(s), and any first aid given, including effects of first aid.
  - Assistance provided to any other person(s) present, and any first aid given, including effects of first aid.
  - The CEW cartridge's serial number.
3. Accidental discharges of a CEW cartridge, although rare, can occur at no fault of the officer; however, should this happen, the DPO shall document the accidental discharge in an Unusual Event Report (form #287) and forward to his/her supervisor no later than the end of the next business day.
4. The DPO who deployed the CEW shall present the CEW to the lead CEW instructor for data download and inspection. The lead CEW instructor shall return the CEW to the DPO after inspection.

#### STOLEN OR LOST CEW

If the DPO believes his/her assigned CEW has been lost or stolen, the DPO shall:

1. File a report with the appropriate law enforcement agency immediately upon discovery that his/her CEW is missing or stolen.
2. Immediately report a lost or stolen CEW to his/her supervisor, who will notify the division manager.
3. The DPO will submit an Unusual Event Report to his/her supervisor by the end of the business day. The report will be submitted to the division manager.

#### MAINTENANCE AND STORAGE

1. The on board CEW memory of each DPO's CEW will be downloaded through the data port and saved into the Evidence.com database by a CEW instructor on a monthly basis. Evidence.com is a database provided by TASER to store and retrieve downloaded data. The DPO who is assigned a CEW is responsible for ensuring the CEW is given to a designated instructor at the first of every month, but no later than the fifth of each month. The designated CEW instructor shall return the CEW to the DPO immediately.
2. The DPO shall store the CEW in his/her designated gun locker with the power in the off position. When not in use, the DPO shall follow the same storage procedure as a firearm outlined in DPO Procedures section F7, Arming: Firearms/Ammunition Storage and Maintenance.
3. A DPO is not authorized to carry a department issued CEW while off-duty. However, if the DPO has taken his/her safety equipment home including the CEW, the DPO shall ensure the CEW is secured and stored in the same manner as a firearm, as outlined in DPO Procedures section F7, Arming: Firearms/Ammunition Storage and Maintenance.

SUSPENSION / REVOCATION

Improper or negligent use of a CEW may result in department sanctions, including disciplinary action, and may result in civil or criminal sanctions.

Authorization to carry a CEW may be temporarily suspended by a SDPO, DCPO, firearms instructor, or CEW instructor. The division manager will be notified of any temporary suspension as soon as possible, but within forty-eight (48) hours.