



TASER

P r o t e c t L i f e

Annual TASER® Electronic Control Device (“ECD”) User Recertification PowerPoint®

Version 17 Released February 2011

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- ECD Smart Use Guidelines and Legal Update
- Tactical Consideration Update
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ECD Smart Use Guidelines and Legal Update *



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Recognition of Important Role of ECD to Protect

“We explicitly ‘recognize[d] the important role controlled electric devices like the [TASER X26 ECD] can play in law enforcement” to “help protect police officers, bystanders, and suspects alike.””

** (Bryan, 9th Circuit, 11/30/10)*



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Risk Benefit Standard

4th Amendment Risk/Benefit Force Standard:
“[I]n judging whether [officer’s] actions were reasonable, we must consider the risk of bodily harm that [officer’s] actions posed to [suspect] in light of the threat to the public that [officer] was trying to eliminate.”

(*Scott v. Harris*, 550 U.S. 372, 383 (2008))



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“Quantum of ECD Force”

To use ECD in probe mode:

Officer must reasonably perceive subject to be:

- An immediate threat of harm/injury or
- Fleeing or flight risk from serious offense
- Consider necessity of warning

Be aware of foreseeable risks of secondary injury, especially falls from heights or on hard surfaces



Considerations to Avoid ECD Excessive Force Liability

Force decision must reasonably consider (as time and circumstances reasonably permit):

- Officer's objective for using force
- Officer's reasonable perceptions of the subject's actions or behaviors the officer is attempting to stop or control
- Foreseeable risks of injuries or harm to subject resulting from force to be used
- Foreseeable secondary risks of injury



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Considerations to Avoid ECD Excessive Force Liability

- ECD use must comport with current law
- ECD use is within Agency Policy/Training
- Use ECD only to accomplish lawful law enforcement objectives
- Use window of opportunity to restrain
- Do not use an ECD for punishment



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Considerations to Avoid ECD Excessive Force Liability

- Justify and document every use or application of force, including:
 - each ECD trigger pull or 5 second discharge
 - fully document subject's threats or behaviors
- Avoid multiple, repeated, prolonged, or continuous ECD exposures unless necessary to counter reasonably perceived threat(s) and is justifiable—document your justification

Considerations to Avoid ECD Excessive Force Liability

- Know your objectives for using force
- Avoid using ECD on elevated risk population member, unless necessary and justifiable
- Avoid intentionally targeting sensitive areas when possible
- Do not use pain compliance if circumstances dictate that pain is ineffective



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Considerations to Avoid ECD Excessive Force Liability

- Using force for compliance (when feasible):
 - Must give a warning
 - Must give adequate time for volitional compliance
 - Verify person is capable of complying
 - Avoid conflicting commands
- Prepare clear, complete, unambiguous reports



(Usually) Not a Problem ...

If officer is justified in using force and:

- the person “***is an immediate threat***” to officer or others, or
- the person is trying to flee from serious offense (and the officer would be justified in tackling the person),

then reasonable ECD use is *usually* legally justified.

The challenge: to make the best force decisions coupled with excellent reporting



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Beaver v. City of Federal Way,

1. The use of an ECD involves the application of force.

(Each use of force on a person that is a seizure is the application of force and must be objectively reasonable.)

2. Each ECD application involves an additional use of force.

(This is true of any use of force.)



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Beaver v. City of Federal Way,

3. Multiple ECD applications cannot be justified solely on the grounds that a suspect fails to comply with a command,

absent other indications that the suspect is an ***immediate threat or about to flee.***

This is particularly true when more than one officer is present to assist in controlling a situation.



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Beaver v. City of Federal Way,

- 4. Any decision to apply multiple ECD applications must take into consideration whether a suspect is capable of complying with officers' commands.**



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Multiple ECD Applications

Is the suspect capable of complying with commands?

- any decision to apply multiple ECD applications to gain volitional compliance must consider whether suspect is capable of complying with commands.
 - Physically? (*Beaver*)
 - Mentally (intoxication, schizophrenic, etc.)?
 - Emotionally? (*Buckley, Brown*)
 - Conflicting commands? (*Beaver, Releford*)



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Tactical Considerations



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Arcing Distance

Factors that may reduce the arcing (jumping) distance:

- 25 foot & 35 foot cartridges
 - Thinner wire insulation
 - Longer wires = more resistance
- Wires touch
- Wires fall on conductive surface such as concrete or wet grass



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Preferred Target Zone Rear (when possible)

- Below neck (blue zone)
 - Large muscles
 - Avoid head



Preferred Target Zone Front (when possible)

Lower torso (blue zone)

- More effective
 - Split hemisphere
 - Larger Muscles
- Reduces risk of hitting sensitive body areas – Refer to warnings
- Increases dart-to-heart safety margin distance *
- Do not intentionally target genitals



Deployment Distance Considerations

Deployments from 0-7 feet (0-2 meters):

- Higher hit probability
- Limited probe spread = lower amount of muscle mass affected
- Short reactionary distance
- Consider targeting the waist area to “split the hemispheres”



Controlling/Cuffing Under Power

- You can go hands on with the subject during the 5-second cycle without feeling the effects of the NMI
 - Electricity generally follows the path of least resistance
 - Do not place hands on or between probes



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Controlling/Cuffing Under Power

- Move in and control the subject while the TASER ECD is cycling and the subject is incapacitated
- EDPs, focused, intoxicated, deaf, excited delirium individuals, etc may not comply with verbal commands



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Controlling/Cuffing Under Power

- Use each TASER ECD cycle as a “window of opportunity” to attempt to establish control or cuff while the subject is affected by the TASER ECD cycle
- The need for multiple cycles may be avoided by controlling/cuffing under power if contact officers are available



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Trigger

Continuous Discharge

- Remember if you hold the trigger back the ECD will continue to discharge after the 5 second cycle until you release the trigger
(as long as the battery charge is sufficient to support discharge).
- Holding the trigger back may result in inappropriate continuous or prolonged ECD discharges and allegations of excessive force or elevated subject injury



Avoid Extended, Repeated or Prolonged TASER ECD Applications Where Practicable

- Avoid extended, repeated, or prolonged ECD applications where practical
- The application of the ECD is a physically stressful event
- Attempt to minimize the physical and psychological stress to the subject



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Avoid Extended, Repeated or Prolonged TASER ECD Applications Where Practicable

- Only apply the number of cycles reasonably necessary to capture, control or restrain the subject
- Human studies have shown that ECD applications do not impair normal breathing patterns
- If circumstances require extended duration or repeated discharges, the operator should carefully observe the subject and provide breaks in the ECD stimulation when practicable



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One Probe Hit With (three-point) Drive-Stun Follow up

- If only one probe impacts the subject, a drive stun with the cartridge still attached can act as the second probe and complete the circuit, thus may cause NMI



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Injuries From Falls

- NMI frequently causes people to fall
- Falls, even from ground level, can cause serious injuries
- Consider the environment and the likelihood of a fall related injury



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Contingencies

- No weapon system will operate or be effective all of the time
- An ECD or cartridge may not fire or be effective
- Be prepared to transition to other options



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TASER ECDs Are Not Risk Free



WARNING

Electronic Control Device

- Can temporarily incapacitate target.
- Can cause injury.
- Obey warnings, instructions and all laws.
- Comply with current training materials and requirements.
- See www.TASER.com.

Carefully review, analyze, and consider
all current TASER ECD Warnings