



Policy Number: 303 – Conducted Energy Weapons
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Approved By: Denis Otterness, Chief of Police

304.1 PURPOSE AND SCOPE

This policy provides guidelines for sworn members of the Montana State University Billings Police Department (Department) regarding the issuance and use of the Conducted Energy Weapons (CEW).

304.2 POLICY

The CEW is used to control a violent or potentially violent individual. The appropriate use of such a device may result in fewer serious injuries to officers and suspects.

304.3 CARRYING CONDUCTED ENERGY WEAPONS (CEW'S)

Only officers who have successfully completed department-approved training may be issued and carry a CEW.

CEW's are issued for use during an officer's duty assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the CEW and cartridges that have been issued by the Department.

Uniformed officers are required to carry a CEW. CEW's shall be carried in an approved holster.

Non-uniformed officers may secure a CEW in the driver's compartment of their vehicles.

Officers carrying the CEW should perform a spark test prior to every shift.

All CEW's shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

Whenever practicable, officers should carry two or more cartridges on their person when carrying a CEW.

Officers shall be responsible for ensuring that the issued CEW is properly maintained and in good working order.

Officers should not hold a handgun and a CEW at the same time.

304.4 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of a CEW should precede its application, unless it would otherwise endanger the safety of officers or others, or when it is not practicable due to the circumstances. The purpose of the warning is to:

- a. Provide the individual with a reasonable opportunity to voluntarily comply.
- b. Provide other officers and individuals with a warning that the CEW may be deployed.

If, after a verbal warning, an individual fails to voluntarily comply with an officer's lawful orders and it appears both reasonable and feasible under the circumstances, the officer may, but is not required to, display the energy arc or the laser in a further attempt to gain compliance prior to the application of the CEW. The aiming laser should not be intentionally directed into anyone's eyes.

The fact that a verbal or other warning was given or the reasons it was not given shall be documented by the officer deploying the CEW in the related report.

304.5 USE OF THE CONDUCTED ENERGY WEAPONS (CEW)

The CEW has limitations and restrictions requiring consideration before its use. The CEW should only be used when its operator can safely approach the subject within the operational range of the device. Although the CEW is effective in controlling most individuals, officers should be aware that the device may not achieve the intended results and be prepared with other options.

304.5.1 APPLICATION OF THE CEW

The CEW may be used in any of the following circumstances, when the circumstances perceived by the officer at the time indicate that such application is reasonably necessary to control a person:

- a. The subject is assaultive or actively resisting.
- b. The subject has demonstrated, by words or action, an intention to be assaultive or to actively resist, and reasonably appears to present the potential to harm officers, him/herself or others.
- c. Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the CEW to apprehend an individual.
- d. The CEW shall not be used to psychologically torment, to elicit statements or to punish any individual.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the CEW on certain individuals should be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the officer, the subject or others, and the officer

reasonably believes that the need to control the individual outweighs the risk of using the device. This includes:

- a. Individuals who are known to be pregnant.
- b. Elderly individuals or obvious juveniles.
- c. Individuals with obviously low body mass.
- d. Individuals who are handcuffed or otherwise restrained.
- e. Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any known combustible vapor or flammable material, including alcohol-based oleoresin capsicum (OC) spray.
- f. Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles).

Because the application of the CEW in the drive-stun mode (i.e., direct contact without probes) relies primarily on pain compliance, the use of the drive-stun mode should be limited to supplementing the probe-mode to complete the energy circuit, or as a distraction technique to gain separation between officers and the subject, thereby giving officers time and distance to consider other force options or actions.

304.5.3 TARGETING CONSIDERATIONS

The preferred targeting areas include the individual's back or front lower-center mass. The head, neck, chest and groin should be avoided when reasonably practicable. If the dynamics of a situation or officer safety do not permit the officer to limit the application of the CEW probes to a precise target area, officers should monitor the condition of the subject if one or more probes strikes the head, neck, chest or groin until the subject is examined by paramedics or other medical personnel.

304.5.4 MULTIPLE APPLICATIONS OF THE CEW

Officers should apply the CEW for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Officers should not intentionally apply more than one CEW at a time against a single individual.

If the first application of the CEW appears to be ineffective in gaining control of an individual, the officer should evaluate the situation and consider certain factors before additional applications of the CEW, including:

- a. Whether it is reasonable to believe that the need to control the individual outweighs the potentially increased risk posed by multiple applications.
- b. Whether the probes are making proper contact.
- c. Whether the individual has the ability and has been given a reasonable opportunity to comply.
- d. Whether verbal commands or other options or tactics may be more effective.

304.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Officers should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the CEW. As soon as practicable, officers shall notify a supervisor any time the CEW has been discharged. Confetti tags should be collected and the expended cartridge, along with both probes and wire, should be submitted into evidence. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

304.5.6 DANGEROUS ANIMALS

The CEW may be deployed against an animal as part of a plan to deal with 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.

304.5.7 TASER® CAM™

The TASER CAM is activated any time the safety is in the off position. The safety should be in the safe position unless the officer intends to use the device. Because the TASER CAM memory is limited, the video and audio data should be downloaded frequently and retained in accordance with the established records retention schedule.

304.5.8 OFF-DUTY CONSIDERATIONS

Officers are not authorized to carry department CEW's while off-duty. Officers shall ensure that CEW's are secured while in their homes, vehicles or any other area under their control, in a manner that will keep the device inaccessible to others.

304.6 DOCUMENTATION

Officers shall document all CEW discharges in the related arrest/crime reports and the Conducted Energy Weapons (CEW) Report Form. Notification shall also be made to a supervisor in compliance with Department Policy 300 - Response to Aggression and Resistance. Unintentional discharges, pointing the device at a person, laser activation and arcing the device, other than for testing purposes, will also be documented on the CEW Report Form.

304.6.1 CONDUCTED ENERGY WEAPONS (CEW) REPORT FORM

Items that shall be included in the Conducted Energy Weapons Report Form are:

- a. The Model and Serial Number of the CEW, Cartridge Type and Cartridge Serial Number.
- b. Date, time, address, and location of the incident.
- c. Whether any display, laser or arc deterred a subject and gained compliance.
- d. The number of cartridges fired, CEW cycles/activations applied, and the duration between activations.
- e. The approximate range at which the CEW was used.

- f. The type of mode used (probe or drive-stun).
- g. Location of any probe impact.
- h. Approximate distance between probes.
- i. Location of contact in drive-stun mode.
- j. Description of where missed probes went.
- k. Whether medical care was provided to the subject.
- l. Whether the subject sustained any injuries.
- m. Whether any officers sustained injuries.
- n. Age, sex, height, weight and race of subject.
- o. Any known or suspected drug use, intoxication or other medical problems.

The Chief of Police, or their designee, should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Chief of Police, or their designee, should also conduct audits of data downloads and reconcile CEW Use Report Forms with recorded activations.

304.6.2 REPORTS

The officer should include the following in the arrest/crime report:

- a. Identification of all personnel firing CEW's.
- b. Identification of all witnesses.
- c. Medical care provided to the subject.
- d. Observations of the subject's physical and physiological actions.
- e. Any known or suspected drug use, intoxication or other medical problems.
- f. Photographs of probe sites should be taken and preserved as evidence.
- g. All witnesses should be interviewed and the interviews documented.

304.7 MEDICAL TREATMENT

Consistent with local medical protocols and absent extenuating circumstances, only appropriate medical personnel should remove CEW probes from a person's body. Used CEW probes shall be treated as a sharps biohazard, similar to a used hypodermic needle, and handled appropriately. Universal precautions should be taken.

All persons who have been struck by CEW probes or who have been subjected to the energy discharge of the device or who sustained direct exposure of the laser to the eyes shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- a. The person is suspected of being under the influence of controlled substances and/or alcohol.
- b. The person may be pregnant.
- c. The person reasonably appears to be in need of medical attention.
- d. The CEW probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- e. The person requests medical treatment.

Any individual exhibiting signs of distress or who is exposed to multiple or prolonged applications (i.e., more than 15 seconds) shall be transported to a medical facility for examination or medically evaluated prior to booking. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included, if possible.

The transporting officer shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the CEW.

304.8 SUPERVISOR RESPONSIBILITIES

When possible, supervisors should respond to calls when they reasonably believe there is a likelihood a CEW may be used. A supervisor, when available, should respond to all incidents where the CEW was activated.

A supervisor shall review each incident where a person has been exposed to an activation of a CEW. The device's onboard memory should be downloaded through the data port by a supervisor or Department CEW instructor and saved with the related arrest/crime report. Photographs of probe sites should be taken and witnesses interviewed.

304.9 REPLACEMENT OF CARTRIDGES

Officers are individually responsible for obtaining replacement CEW cartridges. The Department CEW instructor(s) shall maintain, control and record the inventory of CEW cartridges.

304.10 TRAINING

Personnel who are authorized to carry a CEW shall be permitted to do so only after successfully completing the initial Department-approved training. Any personnel who have not carried a CEW as a part of their assignments for a period of six months or more shall be recertified by a qualified Conducted Energy Weapons (CEW) instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued a CEW should occur every year. A reassessment of an officer's knowledge and/or practical skills may be required at any time, if deemed appropriate, by the Chief of Police. All training and proficiency for CEW's will be documented in the officer's training files.

The Department CEW instructor(s) are responsible for ensuring that all members who carry CEW's have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of CEW's during training could result in injuries and shall not be mandatory for certification.

Department CEW instructor(s) should ensure that all training includes:

- a. A review of this policy.
- b. A review of Department Policy #300 – Response to Aggression and Resistance.
- c. Performing weak-hand draws or cross-draws to reduce the possibility of unintentionally drawing and firing a firearm.
- d. Target area considerations, to include techniques or options to reduce the unintentional application of probes near the head, neck, chest and groin.
- e. Handcuffing a subject during the application of the CEW and transitioning to other force options.
- f. De-escalation techniques.
- g. Restraint techniques that do not impair respiration following the application of the CEW.