

NIAGARA FALLS POLICE DEPARTMENT

GENERAL ORDER

EFFECTIVE DATE: 09/03/2013	SUBJECT: USE OF FORCE; NON-DEADLY WEAPONS – ELECTRONIC CONTROLLED WEAPONS (ECW)	Number 122.40 (NYSLEAP A-20-6, T-32-4)
RESCINDS: 06/05/2012	DETENTION CENTER GUIDELINES FOR USE OF ELECTRONIC CONTROLLED WEAPONS (ECW)	Number of pages 13

I. Purpose:

To provide members of the Niagara Falls Police Department with guidelines and procedures for the deployment and use of an electronic controlled weapon.

II. Policy:

It is the policy of the Niagara Falls Police Department that officers shall use the least amount of force necessary to accomplish their lawful objectives while safeguarding their own lives and the lives of others. Consistent with this policy, the Department authorizes the use of electronic controlled weapons by officers certified in their use as an incapacitating weapon to control a subject exhibiting active resistance to a lawful arrest, or to otherwise control a combative, uncooperative person when verbal commands and persuasion have been ineffective in inducing cooperation; or to prevent a subject from harming himself/herself or others. An electronic controlled weapon is never to be used on a passive subject, or as a pain-inflicting device to ensure compliance or punitively for purposes of coercion, or in an unjustified manner.

III. Definitions:

A. Definitions:

1. **Active Resistance:** Physically evasive movements to defeat an officer's attempt at control or custody, including bracing, tensing, pulling away, or pushing.
2. **Air Cartridge:** A removable plastic cartridge containing two probes, wire, and compressed nitrogen charge, and up to 40 small After Firing Identification Dots (AFID) tags. The AFID's have the individual unit's serial number printed on them which identifies which unit was fired.
3. **Authorized Weapons:** All weapons approved, authorized and issued to officers who have been trained and met required proficiency

standards by the Niagara Falls Police Department Firearms Training Unit, including firearms, impact weapons, chemical agents, and electronic controlled weapons.

4. Cartridge Deployment: Activation of the ECW with an unfired cartridge causing probes to come in contact with subject body allowing transmission of electro-muscular disruption (EMD) pulses.
5. Command Presence: An officer projecting the appearance of being in control both of self and the situation in a manner that actually helps create such control.
6. Deadly Physical Force: Force which, under the circumstances in which it is used, can reasonably be expected to cause death or serious physical injury.
7. De-escalation of Force: A conscious reduction in the level of force used in response to a perception of decrease in the level of resistance or compliance.
8. Detention Area: The police lockup, located in the basement at 1925 Main Street, Niagara Falls, New York 14302. The lockup is intended to temporary hold arrestees who have not been arraigned or an inmate who has been arraigned and is awaiting transport to another facility.
9. Detention Control Area: The enclosed, locked, and secured command center within the Detention Area.
10. Detention Control Officer: NFPD member assigned to the Detention Control Area. The Detention Control Officer operates all locking systems within the Detention Area and monitors such area by video surveillance.
11. Drive Stun Backup: Activation of the ECW with or without a cartridge in place in which the ECW is driven into the suspect's body. The preferred areas of drive stun activation are pressure points and other targets specified in ECW User Certification.
12. Electronic Controlled Weapon: NFPD currently issues and deploys an electronic controlled weapon known as a Taser®, which is a non-deadly weapon that utilizes compressed nitrogen to shoot probes several feet toward a suspect. The probes are connected to the weapon by high voltage, insulated wires. When the probes make contact with the target, the ECW transmits an electrical pulse along the wires and into the body of the target. The ECW affects the

sensory and motor nervous system causing electro-muscular disruption. The ECW is made of plastic and has an integral laser sight and low level illuminator.

13. Escort Officer: A police officer assigned to escort inmates between areas of the entire police facility.
14. Excited Delirium: A condition that manifests as a combination of **delirium, psychomotor agitation, anxiety, hallucinations**, speech disturbances, **disorientation**, violent and bizarre behavior, **insensitivity to pain**, elevated **body temperature**, and superhuman strength. It is sometimes associated with the use of physical control measures, including police restraint and electronic controlled weapons.
15. Female Jailor: A female police officer assigned to work inside of the female secured detention area.
16. Force: To compel by physical means; physical contact or action beyond mere restraint. Any physical strike or instrumental contact with a person, any intentional attempted physical strike or instrumental contact that does not take effect, or any significant physical contact that restricts the movement of a person, including: aiming a firearm, discharging a firearm, use of chemical agents, use of impact weapons, use of an electronic controlled weapon, acquiring a target with an electronic controlled weapon, the taking of a subject to the ground, and any physical contact that includes control techniques. The escorting or handcuffing of a person with minimal or no resistance shall not constitute the use of force. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to affect an arrest or protect the officer or other person.
17. Hard Hand Control: Impact oriented techniques that include knee strikes, elbow strikes, punches, and kicks. Control strikes are used to subdue a subject and include strikes to pressure points such as: the common peroneal nerve (side of the leg), radial nerve (top of the forearm), or brachial plexus origin (side of neck).
18. Harm: Injury inflicted upon a person, whether visible or not.
19. Imminent Threat: An officer's reasonable perception of impending death, danger, or serious injury from any action or outcome which may occur during an encounter.
20. Inmate: A person being held in the detention area.

21. Male Jailors: A male police officer assigned to work inside of the male secured detention area.
22. Non-Deadly force: Any use of force not intended to cause, nor likely to cause, death or serious bodily harm.
23. Objective Reasonableness: A balance between the rights of the person being arrested and the government interests that allows the use of force. Facts and circumstances make up what is objectively reasonable.
24. Passive Resistance: Physical actions that do not prevent the officer's attempt to control, for example, a person who does not cooperate with commands, but does not take action to prevent being taken into custody.
25. Physical Injury: Impairment of physical condition or substantial pain.
26. Probes: Small metal cylinders with a barbed point. The probes are used to transmit the electro-muscular disruption pulses into the target's body by insulated conductive wires.
27. Reportable use of force: All force used above non-resistant compliant handcuffing with the exception of drawing a firearm at low ready position. While it does not include unresisted (cooperative) handcuffing, it does include handcuffing individuals to objects.
28. Resisted Handcuffing: When a person actively resists being placed in handcuffs and the officers must use "soft hand controls" to gain compliance by forcibly moving the subject's wrists or arms, or to physically maneuver the subject's body so the handcuffs can be applied. The "resistance" may range from an active struggle to a person simply "locking" his/her arms to prevent compliant handcuffing. Conversely, "unresisted (cooperative) handcuffing" occurs whenever the subject complies with the officer's verbal commands and/or unresistingly allows the officers to position their arms in order to apply handcuffs, or the subject positions their arm as commanded for the application of handcuffs.
29. Serious Physical Injury: Physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.
30. Soft Hand Control: The use of physical strength and skill in defensive tactics to control arrestees that are reluctant to be taken into custody

and offer some degree of physical resistance. Such techniques are not impact oriented and include pain compliance pressure points, takedowns, joint locks, and simply grabbing a subject. Touching or escort holds may be appropriate for use against levels of passive physical resistance.

31. Supervisor: A supervisor includes a Lieutenant who is assigned responsibility for supervising officers.
32. Tactical Communication/Verbal Commands: Communication consisting of verbal dialogue, requests, instructions, and commands.
33. Weapon: Any instrument, article or substance, including a vehicle, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or other serious bodily injury.

IV. Procedures:

A. Use of Force Standards Regarding Electronic Controlled Weapons:

1. The use of an ECW involves the application of force.
2. Each application of an ECW involves an additional use of force.
3. Multiple applications of an ECW cannot be justified solely on the grounds that a subject fails to comply with a command, absent other indications that the subject is about to flee, or poses an immediate threat to an officer.
4. Any decision to apply multiple applications of an ECW must take into consideration whether a subject is capable of complying with the officers' commands.
5. The Electronic Controlled Weapon is not intended to replace the use of firearms when deadly physical force is necessary, but rather to provide a non-deadly alternative within the guidelines of the Niagara Falls PD Use of Force Policy.

B. Situations where electronic controlled weapons may be used:

1. When an officer reasonably believes that the subject will become, or is actively resisting the officer or others; and to use other options may place the officer or others at risk. As with all use of force incidents; the decision to use a particular tool or technique will be evaluated in conjunction with General Order A-20, Use of Force.

2. To stop a dangerous animal.

C. Deployment of electronic controlled weapons:

1. Authorized officers will only carry a Department issued ECW.
2. The holster will be carried on the duty belt on the side opposite the duty firearm. Non-uniformed officers will use an approved holster on the side opposite the duty firearm.
3. Officers shall not in any way alter or modify these weapons.
4. An electronic controlled weapon should not be pointed at any individual unless the officer reasonably believes it will be necessary to use the device.
5. For maximum effect, the electronic controlled weapon targeting area should split the belt line in the front or target the full back of a subject. The head, face, breast or genitalia should be avoided if possible.
6. When deploying an electronic controlled weapon, officers should under normal circumstances use it for one standard cycle (a five second burst of current) and then evaluate the situation while using verbal commands. Should an aggressive subject not comply with the commands of the deploying officer, he/she may deliver a subsequent five-second cycle as reasonably necessary and re-evaluate the situation before delivering another cycle. Alternate methods to subdue the subject should be considered, including soft hands techniques or handcuffing under power.
7. Each five second deployment cycle shall be considered a separate use of force for purposes of reporting.
8. When possible, an officer who deploys an electronic controlled weapon will give a verbal warning prior to deployment, unless to do so would place any other person at risk. This verbal warning will fulfill these purposes:
 - a. Give an aggressive subject a final warning that his/her actions are dictating use of the device.
 - b. Warn other officers and bystanders that the electronic controlled weapon is about to be deployed.
9. The deploying officer will then direct the actions of any assisting officer(s) on the scene in handcuffing the subject. The conducted

energy device will not deliver its charge to a second person unless that person places his/her hand or a body part in between the two probes. The electronic controlled weapon should not be used on handcuffed subjects unless they are actively resisting or exhibiting active resistance and other control options would place the officer or others in imminent danger.

10. No more than one officer should deploy an electronic controlled weapon against a single individual at the same time.
11. Assisting officers shall approach the subject with caution so as not to break the wires connecting the probes to the electronic controlled weapon.
12. Following an electronic controlled weapon deployment, officers shall use a restraint technique that does not impair respiration.
13. The electronic controlled weapon “probe mode” should be the primary setting option with the “drive stun” mode generally used as a secondary option.

D. Prohibited Use: The ECW shall not be used:

1. Against a subject who is passively resisting the lawful commands of the officer.
2. Against a female who the officer knows, or reasonably believes, is visibly pregnant, unless deadly force is the only other option.
3. Against a person who the officer knows, or reasonably believes, to be under the age of ten (10) or over the age of seventy (70), due to the potential for falling when incapacitated, unless the encounter rises to a deadly force situation
4. Against a person who is at an elevated location where a fall may cause substantial injury or death.
5. Against handcuffed persons unless they are actively resisting or exhibiting aggression, and/or to prevent individuals from harming themselves or others.
6. Against an operator in physical control of a vehicle in motion, including automobiles, trucks, motorcycles, ATVs, bicycles, and scooters, unless exigent circumstances exist .

7. Against a subject who is in close proximity to a flammable gas or liquid. (i.e. a meth lab, where gasoline is stored, alcohol based OC Spray, etc.).
8. To rouse unconscious, impaired, or intoxicated individuals.
9. To terminate a foot chase.
10. For horse play or clowning around, or in an unprofessional manner.
11. To experiment on a person or allow a person to experience the ECW, even if the person requests it, when the ECW's use would not otherwise be allowed under this policy. This ECW experience does not apply to voluntary ECW training exposures or ECW demonstrations as authorized by the Department.
12. For illegal purposes (e.g. illegal coercion, torture, etc.). Note: It is the policy of the Niagara Falls Police Department that officers who use excessive force will be subject to discipline, possible criminal prosecution, and/ or civil liability.

E. Additional considerations regarding electronic controlled weapons deployment:

(Note: Although not strictly prohibited, officers should give additional consideration to the unique circumstances involved prior to applying an electronic controlled weapon in any of the following situations. There must be compelling reasons for deployment which can be clearly articulated, such as, given the circumstances, the use of deadly force was the only alternative.)

1. Officer should not deploy an electronic controlled weapon when the officer cannot approach the subject within its effective range.
2. Multiple electronic controlled weapon deployments against an individual may increase the likelihood of serious injury where the individual is suffering from other symptoms such as cocaine intoxication or exhaustion. Officers are encouraged to minimize the successive number of discharges against an individual where possible.
3. Deployment should not take place toward persons in wheelchairs.
4. Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability which would increase the danger to that person by using an electronic controlled

weapon. (i.e. A person at the scene tells an officer that the subject has a heart condition.)

5. ECW's shall not be deployed against individuals with known neuromuscular disorders such as multiple sclerosis, muscular dystrophy or epilepsy.
6. Use of the Drive/Contact Stun is discouraged except in situations where the deployment of the "Probes" is not possible and the immediate application of the "Drive/Contact Stun" will control a subject displaying active resistance. Multiple "Drive Stuns" are discouraged and must be justified and articulated on the Use of Force form. If initial application is ineffective, officer will reassess situation and consider other available options.

V. De-escalation:

- A. When reasonable and safe under the totality of circumstances, officers must use advisements, warnings, verbal persuasion, and other tactics. Additionally, under the totality of the circumstances, an officer should de-escalate force, including, when reasonable and safe, disengaging to a position that is tactically more secure or allows an officer greater distance, if to do so will reduce the immediacy of the threat and allow more time for the officer to call for backup or to consider or deploy a greater variety of force options.

VI. Post deployment procedures:

- A. Probes, AFIDs and cartridge packs used against individuals will be recovered and submitted as evidence.
- B. Skin Penetrating Probes:
 1. Officers should remove the probes as trained and inspect them to ensure the entire probe has been removed. Removal of broken probes should be done by medical personnel.
 2. In the event that a probe is broken off in the skin or the probe is not fully intact, the subject will be transported to a hospital.
 3. Only hospital personnel are to remove probes embedded in sensitive tissue areas such as the head, neck, throat, face, genitalia or female breast.
 4. Probes will be packaged in accordance with existing procedures for the storage and handling of bio-hazard materials. Probes which may be contaminated shall be clearly indicated as such on their package.

5. Probes which have not penetrated skin will be packaged to ensure the safety of persons later handling the evidence packages.

C. Packaging:

1. All probes taken in accordance with this policy shall be packaged in accordance with the training received pertaining to the collection of the probes. When placed in temporary storage, the compartment containing the probes should be clearly marked as containing a potential hazard.
2. Spent cartridges and a representative AFID sample from the spent cartridge will be packaged as evidence and may be placed in the same larger envelope as the spent probes. If practical, photos shall be taken of probe impact areas that result in an injury.

VII. Medical Treatment:

- A. Ensure the suspect's injuries or complaints of injury (if any) are appropriately treated by medical personnel. Monitor the suspect for signs of "excited delirium".
- B. Medical treatment shall be obtained for any suspect that has received an electronic controlled weapon discharge.

VIII. Supervisor's Responsibility:

- A. Supervisory personnel shall respond to the scene of deployment and review the incident for consistency with policy and training.
- B. Supervisory shall ensure appropriate medical care is provided and review Use of Force Report prior to submittal.
- C. Supervisor will oversee proper collection of evidence, including spent probes, cartridges and AFID samples.
- D. Supervisor will ensure Crime Scene Unit personnel are notified, when necessary.
- E. Supervisors shall ensure that photographs of the affected area shall be taken following the removal of darts from the subject to document any injury. Where the drive stun method has been used, photographs are extremely important due to the increased potential for this method to cause scarring.

IX. Reporting:

- A. With the exception of training, all deployments of electronic controlled weapons shall be documented on a Use of Force Report and reviewed by the on-scene Supervisor.
- B. After review by the Supervisor, a copy of the Use of Force Report shall be forwarded to the Office of Professional Standards and the Superintendent of Police.
- C. Aiming the device's dot or an arc display is considered a use of force.
- D. Jail personnel shall be notified of intake prisoners who have been exposed to an electronic controlled weapon.
- E. The Office of Professional Standards shall be notified of deployments through the Use of Force report in order to download video and other information from the device.
- F. The device shall be stored and locked after deployment until all pertinent data can be retrieved by OPS.

X. Office of Professional Standards (OPS):

- A. Once notified of an ECW deployment, OPS will retrieve the ECW from the evidence locker. OPS will review, download and store video and audio files from the ECW camera and conduct further investigation and review the incident.

XI. Training

- A. Certified instructors are the only authorized persons to instruct on electronic controlled weapons.
- B. Only officers who have been trained by a certified instructor may employ an electronic controlled weapon. Officers are required to be re-certified annually. Officers who fail to qualify/show proficiency will be provided with remedial training according to the lesson plan. The Firearms Training Unit will maintain records to ensure that officers receive the training at the appropriate times.

XII. Maintenance of ECW devices:

- A. Testing and maintenance of electronic controlled weapons will be consistent with the manufacturer's specifications and conducted by properly trained armorers.
- B. Officers shall check the electronic controlled weapons at the start of their tour of duty to ensure that the weapon has a functional charge.

XIII. Use of ECW's; City Jail Detention Area

- A. Electronic Controlled Weapons are authorized in this area because the Detention Area is physically separated and remote from the police facility. This separation can cause a delayed and ineffective response, in the event an officer in the Detention Area needs assistance or the safety and good order of the facility is jeopardized.
- B. Storage and Deployment of the ECW:
 - 1. An electronic controlled weapon is authorized to be stored inside the Detention Control Area, in a locked box, which is secured to the wall.
 - 2. The Detention Control Officer will maintain the key to the locked box.
 - 3. The ECW shall be deployed only by a qualified and certified Jailer or Escort Officer in the event it is needed maintain the safety and security of the facility.
 - 4. The Detention Control Officer may deploy the ECW for use inside the Detention Control Area or in other parts of the Detention Area only in extreme emergency situations when the officer is authorized to leave the Detention Area to provide assistance in the Detention Control Area.
 - 5. The officer who is requesting the ECW from the Detention Control Officer shall receive the ECW only through the secured drawer outside of the Detention Control Area.
- C. Detention Area Use
 - 1. Officers should attempt to gain compliance by verbal persuasion and commands prior to the deployment of an ECW. The ECW may be deployed to incapacitate a subject who refuses to comply with officer's orders and is jeopardizing the safety and security of the facility. The ECW shall be deployed in the Detention Area only after officers have exhausted the all appropriate methods described in the use of force continuum.
 - 2. Under no circumstances shall the ECW be deployed when the subject no longer constitutes a threat or has complied with the officer's instructions.
 - 3. Only ECW's with a camera will be stored in the Detention Control Area to be issued for use in the Detention Area.
 - 4. Lengthy continuous applications of the ECW are prohibited, unless there is probable cause to believe that continuous application is

necessary to protect the safety of responding officers, other inmates or security of the facility.

D. Reporting Use:

1. Any officer who deploys the ECW is subject to the same reporting procedures as non-detention deployment, including completion of a Use of Force Report and Incident Report.
2. All ECW deployments shall be noted on the Booking Control Officers Log book and the Jailors Log book. Supplemental reports shall be submitted by all other officers involved.

E. Supervisor Response:

1. A supervisor shall be notified as soon as practicable and he/she shall immediately respond to the area of the incident and ensure that all NFPD policies pertaining to ECW deployment, medical treatment, reporting, and evidence collection are followed.
2. The supervisor who responds to the area when the ECW has been deployed will secure the ECW that was used and place it in an evidence locker. Once the ECW has been secured the corresponding reports will be forwarded to the Niagara Falls Police Department Office of Professional Standards.

F. Medical Considerations:

1. Any inmate subject to an ECW discharge shall be transported to a hospital by ambulance and evaluated by medical personnel before returning to the lock up.