

# ORANGE COUNTY SHERIFF'S OFFICE

## GENERAL ORDER



<b>Effective Date:</b> May 29, 2010	<input checked="" type="checkbox"/> <b>Rescinds</b> – G.O. 8.1.8 (June 19, 2009) <input type="checkbox"/> <b>Amends</b>	<b>Number:</b> 8.1.8
<b>SUBJECT:</b> ELECTRONIC CONTROL DEVICES		<b>Print Date:</b>
<b>Distribution:</b> ALL SWORN PERSONNEL	<b>CALEA Standards:</b> 1.3.6, 1.3.9, 1.3.10, 1.3.11 <b>CFA Standards:</b>	

This order consists of the following:

1. Purpose
2. Policy
3. Definitions
4. Procedures

### 1. Purpose

The purpose of this policy is to provide deputies with guidance and direction on the use of electronic control devices.

### 2. Policy

It is the policy of the agency that personnel performing official duties shall comply with applicable law, and specifically Fourth Amendment standards, by using a level of force that is reasonable in light of the surrounding facts and circumstances. Electronic control devices (ECD) have been proven effective and are authorized for use in appropriate circumstances by trained personnel.

### 3. Definitions

- A. Electronic Control Device (ECD) - A device designed to disrupt a subject's sensory nervous and motor nervous systems by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses. This does not include the R.E.A.C.T. Belt System.
- B. A.F.I.D. (Anti Felon Identification Device) – confetti like pieces of paper that are expelled from the cartridge when fired. Each "aphid" contains an alpha numeric identifier unique to the specific cartridge used.
- C. Active Physical Resistance - slight to moderate physical harm: a subject makes physically evasive movements to defeat a deputy's attempt at control. This may be in the form of bracing or tensing, attempts to push/pull away or not allowing the deputy to get close to him/her.
- D. Aggressive Physical Resistance – moderate physical harm: a subject makes overt, hostile, attacking movements which may cause injury, but are not likely to cause death or great bodily harm to the deputy or others.

- E. Securing Under Power – A technique used to secure a subject during the activation cycle, as instructed through training.

#### 4. **Procedures**

##### A. Authorized Users

1. Only those who have satisfactorily completed the agency's approved training course shall be authorized to carry an ECD. Agency members will be given annual retraining by Training on the use of an ECD. The ECD is approved for use both on-duty and during enforcement related off-duty.
2. Deputies may carry their personally owned ECD and accompanying equipment with approval from the Training Section Commander. All personally owned ECD's and equipment shall comply with this policy. An approved equipment list will be available through Training. Cartridges will be issued at Material/Control & Supply for on duty use. The deputy will be responsible for all cost associated with personally owned repairs and damage to the ECD or equipment. All repairs to an ECD shall be completed by an authorized vendor.

##### B. Device Readiness

1. The device shall be carried by authorized deputies in an approved holster on the non-dominant side of the body. Those authorized to use the device and assigned outside of uniformed patrol duties may utilize other department-approved holsters, and carry the weapon consistent with department training.
2. The device shall be carried fully armed with the safety on in preparation for immediate use when authorized.
3. Deputies approved to use the device shall be issued a minimum of one spare cartridge as a back up in case of cartridge failure or the need for reapplication. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
4. Only agency-approved battery power sources shall be used in the ECD.
5. When carrying an ECD, deputies shall conduct a pre-operation test (spark test) of the ECD prior to the start of each shift. If a deputy believes the ECD is not operating properly, the deputy shall promptly notify Training and arrange for an inspection by an approved ECD instructor.

##### C. Deployment

1. Subject to the conditions below, the ECD may be used when level 4 (Active Physical Resistance) or higher resistance is encountered. The justifications are the same officer/subject factors that exist in any other force decision.
  - a. The ECD may be deployed in the case of a sudden attack or when a subject is actively resisting.
    1. ECD deployment may increase the risk of death or serious

injury in certain circumstances, such as loss of balance, falls, change in momentum, drowning, or loss of control of any mode of transportation, conveyance or machinery.

2. Absent exigent and articulable circumstances justifying ECD deployment, deputies should not deploy an ECD:
  - a. in elementary schools;
  - b. on young children;
  - c. on the elderly;
  - d. on females reasonably believed to be pregnant;
  - e. on individuals with apparent physical disabilities impairing their mobility;
  - f. on individuals who may fall from an elevated position causing substantial injury or death (e.g., rooftop, overpass, high above ground level); and
  - g. individuals in water.

Deputies should evaluate and consider other options such as verbal commands, hands on techniques, OC spray, etc.

- b. A subject's flight should not be the sole justification for ECD deployment. Additional factors must be considered.
  1. Additional factors that must be considered when making use of force decisions include:
    - a. Subject Factors:
      1. Seriousness of crime committed by subject.
      2. Size, age, and weight of subject.
      3. Apparent physical ability of subject.
      4. Number of subjects present who are involved, or who may become involved.
      5. Weapons possessed by or available to the subject.
      6. Known history of violence by subject.
      7. Presence of innocent or potential victims in the area.
      8. Whether the subject can be recaptured at a later time.
      9. Whether evidence is likely to be destroyed.
      10. Indicators of attack exhibited by the subject such as but not limited to; verbalization of a hostile/aggressive intent, hostile/aggressive posturing, muscular tensing of the body, etc.
    - b. Deputy Factors:
      1. Size, physical ability, and defensive tactics expertise of the deputy.
      2. Number of deputies present or available.
      3. Immediate reaction in the case of sudden attack.
      4. Weapons or restraint devices available to the deputy.

5. Legal requirements.
    6. Agency policy.
    7. Environment.
  - c. The above listed subject and deputy factors are not all inclusive. Any and all determining factors must be properly articulated by the deputy(s) employing physical force.
2. The ECD should not be intentionally aimed at a person's head, neck or groin. The primary target shall be the subject's back, when practical. If the primary target is not available, the secondary target area is front, lower, center mass. Frontal applications of ECD's have been found to be more effective when the probes are targeted at the lower torso engaging the balancing muscles of the pelvic or thigh region. (Diagram of preferred ECD areas in blue is referenced at the end of this directive.)
3. The ECD shall not be used in a punitive or reckless manner. Some examples are:
  - a. Using or threatening to use the ECD during an interrogation.
  - b. Using the ECD to awaken a person.
  - c. Using the ECD as a "Prod."
4. The ECD shall not be used for extracting evidence or contraband.
5. Deployment of the ECD is authorized on handcuffed, or otherwise secured subjects who present a Level 5 (Aggressive Physical Resistance) or higher, unless exigent circumstances exist.
6. The ECD should not be used in any environment where potentially flammable, volatile, or explosive material (gasoline, natural gas, propane, flammable chemical sprays, etc.) are present.
7. The ECD shall not be used against subjects in physical control of a motor vehicle in motion (i.e.: vehicles, motorcycles, scooters, boats, bicycles) unless exigent and articulable circumstances exist.
8. In preparation of deployment, the ECD shall be pointed in a safe direction, taken off safe, and then aimed. Absent exigent circumstances:
  - a. A verbal warning shall be given unless doing so would place an individual at risk;
  - b. only one deputy at a time shall deploy an ECD against a subject;
  - c. if present, a second deputy shall provide cover; and
  - d. the ECD may be used in a "drive stun" mode as a secondary option. (This involves pressing the unit against an appropriate area, with or without the cartridge, based on training.)
9. Deputies will continually assess submission/compliance and breathing ability before applying additional cycles of the ECD. Deputies shall attempt to

secure the subject under power as soon as practical. Deputies should apply restraint techniques consistent with General Order 8.1.3 and subjects should be closely monitored for signs or complaints of distress indicating asphyxia.

10. The ECD shall be pointed at the ground in a safe direction with the safety on during administrative handling procedures.
11. No changes, alterations, modifications or substitutions shall be made to the ECD. All repairs to an ECD shall be completed by an authorized vendor.
12. Uniform deputies issued an ECD shall carry the ECD when engaged in any uniform assignment.

D. Excited Delirium

Excited delirium is a medical emergency that requires prompt medical treatment in a hospital emergency department. Due to the extreme state of mental and physiological excitement, deployment of an ECD may be needed to gain control of a subject with suspected excited delirium. In this scenario the deputy shall request emergency medical services (EMS) prior to deployment if circumstances permit. Once control of the subject is achieved, expeditious transport to a hospital emergency department shall be provided by EMS. Deputies should refer to Training Bulletin 95-11 for additional information about excited delirium.

E. Nothing in this order shall prevent a deputy from utilizing any readily available object or empty hand technique as a weapon in circumstances or situations where the actions of a subject constitute Level 6 Resistance that could result in great bodily injury, permanent disability, permanent disfigurement or death to the deputy or others.

F. The ECD should not be used in situations where deputies may need immediate Level 6 Force (building searches, felony stops, armed encounters). Deputies should keep in mind the limitations as well as the capabilities of their issued ECD.

G. After a deputy uses an ECD, the deputy should:

1. Handcuff the subject to minimize the threat of injury to either the deputy or the subject.
2. Remove the ECD probes at the earliest opportunity. The ECD probes shall be removed in accordance with agency approved training. ECD probes that have struck the face, groin, female breasts, or male nipple area must be removed by properly trained medical personnel. When probes are located in these areas the deputy shall request EMS for transport to a hospital emergency department.
3. Ensure the ECD evidence is handled in accordance with General Order 10.1.1, Evidentiary Property. The following shall be collected and packaged separately as evidence:
  - a. cartridges and at least one AFID, if possible;

- b. probes and wires;

ECD probes that have struck a person's body shall be considered a biological hazard and packaged appropriately.

4. Request emergency medical services to provide medical treatment and transport if the subject shows signs of injury, complains of a medical emergency, or requests medical treatment after the deployment.
5. Document all injuries in the incident report.
6. Photograph all significant injuries and impact points, if possible. Photographic evidence shall be handled consistent with agency policy.

#### H. Reporting and Accountability

Deputies shall notify their supervisor as soon as practical after each intentional or unintentional discharge, with the exception of function pre-operation spark tests conducted at the beginning of a shift and training exercises. A supervisor is only required to respond to unintentional discharges involving a deputy/suspect confrontation or when a deputy or third party is contacted by the ECD. For all other unintentional discharges, the deputy's supervisor is not required to respond, but shall ensure the deputy completes the Defensive Tactics/K-9 Form and forwards it to the supervisor by the end of the deputy's shift. The supervisor has discretion to allow additional time for completion of the Defensive Tactics/K-9 Form.

In use of force situations involving a deputy/suspect confrontation, a supervisor shall respond to the scene of every discharge and conduct a review of the deployment to ensure compliance with agency policy. If the supervisor is unable to respond to the scene, or concludes that personnel should leave the scene due to operational or safety concerns, the supervisor shall document the reasons which made it impractical to respond or obtain witness statements. The supervisory review should include:

1. speaking with the involved deputy;
2. speaking with the suspect to ascertain any medical needs;
3. ensuring witness statements (verbal or written) are obtained and/or reviewed;
4. ensuring photographs are taken of significant injuries and impact points, if possible;
5. ensuring ECD evidence (cartridges, probes and wires, and AFIDs) is collected; and
6. reviewing the information and the ECD data once obtained.

If the supervisor has reason to believe that a violation of agency policy has occurred that could result in discipline, the supervisor shall adhere to General Order 5.1.2.

The responding supervisor shall ensure that the Defensive Tactics/K-9 Form is completed and forwarded through the deputy's chain of command for review. The Defensive Tactics/K-9 Form, including all documentation obtained during the supervisor's review, shall be forwarded to Professional Standards and a copy sent to Training.

I. Downloading Data

The data port on the ECD stores the time and date the ECD was deployed and helps improve the accuracy of incident documentation.

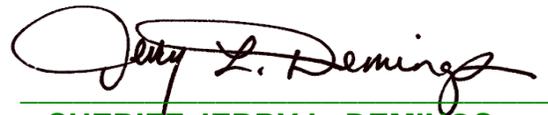
1. Within three business days, excluding holidays and weekends, following an ECD deployment, a deputy shall report to Material Control/Supply to obtain a new cartridge, if necessary, and so the information from the data port can be downloaded and forwarded to the deputy's supervisor for review. The supervisor has discretion to allow additional time for the deputy to report to Material Control/Supply, but the reasons shall be documented in the Defensive Tactics/K-9 Form. The deputy's supervisor shall ensure the data download from the ECD is received, reviewed and attached to the Use of Force/K9 Report Form.
2. At a minimum, each deputy's ECD data information will be downloaded during their annual inventory at Material Control/Supply. Professional Standards personnel are authorized to conduct random audits of employees' ECD data information. ECD data information stored on a reserve deputy's personal ECD will be downloaded during their annual inventory and is subject to random audit by Professional Standards personnel. Additionally, Material Control/Supply shall download from the data port information from an ECD prior to any factory repairs/maintenance.
3. Only personnel assigned to Professional Standards or Material Control/Supply may download the information from the data port.
4. Supervisors or managers may request a download at any time. Any deputy issued such an order will immediately respond to this request as instructed by the supervisor.
5. Training shall prepare an annual report on the product reliability, recommended training needs and/or policy modifications related to the uses of force, which will include a section on the use of the ECD.

J. Random Audits

Performing random audits of information/data downloaded from a deputy's ECD and comparing it with the Defensive Tactics/K-9 Form improves accountability.

1. Every quarter, Professional Standards shall randomly select 5% of the deputies who are assigned an ECD.
2. Professional Standards shall perform an audit consisting of the following:
  - a. directing the deputy to report to Material Control/Supply to download the ECD data; and

- b. reviewing the ECD data for:
  1. activations inconsistent with daily spark tests or previously documented use of force incidents;
  2. activations lasting ten seconds or longer in duration; or
  3. three or more consecutive activations with minimal time between the activations.
3. Professional Standards shall ensure the activations are consistent with agency policy and recommend or take appropriate action if any deficiencies are identified (i.e. additional training, counseling, or investigation).



**SHERIFF JERRY L. DEMINGS**

**DIAGRAM - PREFERRED ECD AREAS IN BLUE**

