

# OGDEN CITY POLICE

## Office of the Chief

### Policy No: 03A

Subject Electronic Control Device (ECD)	Effective Date February 1, 2018
Department Police	Replaces Policy Dated May, 2014
Division All Police Personnel	Review Date June 2022
Authorized Signature 	

**NOTE: This rule or regulation is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by this agency, and then only in a non-judicial administrative setting.**

#### I. PURPOSE

When properly applied in accordance with this policy, the Electronic Control Device (ECD) is considered a less-lethal control device intended to control a violent, or potentially violent, individual and, thereby, more likely minimize the risk of serious injury to the individual and officers. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects when compared with the use of other forms or methods of the application of lawful force.

#### II. POLICY

All Officers, Community Service Officers, Reserve Officers, and other employees, as authorized by the Chief of Police, who have completed the Department approved training and certification course, may be issued an Electronic Control Device (ECD) for use.

Officers will only use the ECD's and cartridges that have been issued by the Department. Any use of the Electronic Control Device requires previous initial certification and annual recertification as required by Policy 3, Use of Force.

### III. CARRYING OF ELECTRONIC CONTROL DEVICE (ECD)

- A. When the ECD is carried as part of an Officer's equipment, the ECD should be carried on the side opposite the duty weapon.
- B. All ECD devices will be clearly and distinctly colored to differentiate them from the duty weapon and any other device.
- C. Whenever practical, Officers should carry a minimum of two ECD cartridges on their person or have them immediately available.
- D. Officers will be responsible for ensuring their issued ECD is properly maintained and in good working order at all times.

### IV. VERBAL AND VISUAL WARNINGS

- A. A verbal warning of the intended use of the ECD will precede its application unless it would otherwise endanger the safety of Officers, or when it is not practicable due to the circumstances. The purpose of the warning is for the following:
  - 1. Provide the individual with a reasonable opportunity to voluntarily comply.
  - 2. Provide other officers and individuals with a warning that an ECD may be deployed.
- B. If, after a verbal warning, an individual is unwilling to voluntarily comply with an Officer's lawful order and it appears both reasonable and practical under the circumstances, the Officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded in the ECD) or the laser in a further attempt to gain compliance prior to the application of the ECD. The aiming of the ECD laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision. Such actions are not considered to be a deployment of the ECD but will be documented in the Officer's report.
- C. The fact that a verbal and/or other warning was given, or the reasons it was not given, will be documented in the report by the Officer deploying the ECD. Wherever possible, the deployment of the ECD will be recorded on the Officer's body-worn camera.

## V. USE OF THE ELECTRONIC CONTROL DEVICE (ECD)

As with any law enforcement equipment, the ECD has limitations and restrictions requiring consideration before its use. The ECD should only be used when its operator can safely approach the subject within the operational range of the ECD. Although the ECD is generally effective in controlling most individuals, Officers should be alert to this potential for failure and be prepared with other options. **Officers of the Ogden Police Department will not deploy ECDs when the use of Deadly Force is clearly called for.**

## VI. APPLICATION OF THE ECD

The application of the ECD is likely to cause intense, but momentary, pain. As such, officers should carefully consider and balance the totality of circumstances available prior to using the ECD. Officers will adhere to Ogden Police Policy #3, Use of Force, factors used to determine the reasonableness of force.

If time permits, Officers will consider and balance the totality of circumstances available prior to using the ECD.

Policy 3, Use of Force, factors to be considered:

- A. The subject is exhibiting active resistance or active aggression. The subject, by words or actions, has demonstrated an intent to be violent or the suspect flees, pulls, or pushes away from the Officer but does not strike at or attempt to injure the Officer. The suspect stiffens his/her body (arms, legs, back) making searching or handcuffing the suspect more difficult. It also includes the suspect's use of non-compliant language, including derogatory terms and profanity. The subject strikes, assaults, or prepares to strike or assault any Officer or other person, including himself or herself. This could include spitting on the Officer. The subject exhibits any other violent, or potentially violent, behavior and the Officer reasonably believes the deployment of the ECD complies with policy. When practical, the Officer should give a verbal warning of the intended use of the ECD followed by a reasonable opportunity for the person to voluntarily comply.
- B. Absent meeting the conditions set forth in (A) or (B) above, mere flight from pursuing Officers will not serve as good cause for the use of the ECD device to apprehend an individual.

## VI. SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the ECD should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, 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 ECD device:

- A. Obviously pregnant females.
- B. Elderly individuals or obvious juveniles.
- C. Individuals who are handcuffed or otherwise restrained.
- D. Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any flammable material.
- E. Individuals whose position or activity may result in secondary injuries, such as a person who:
  - 1. Could fall and suffer impact injury to the head or other area.
  - 2. Is on an elevated or unstable surface.
  - 3. Is less able to catch or protect self in a fall.
  - 4. Could fall on a sharp object.
  - 5. Is running, in motion, or moving under momentum.
  - 6. Is operating or riding in, or on, any mode of transportation, conveyance, or machinery.
  - 7. Is located in water, mud, or marsh environment if the ability to move is restricted.

The application of the ECD in the drive stun mode (i.e. Direct contact without probes) relies primarily on pain compliance and requires close proximity to the subject, so additional caution should be exercised. The application in drive stun mode should be limited to brief applications in which pain compliance would reasonably appear necessary to achieve control.

## VII. TARGETING CONSIDERATIONS (ECD)

While manufacturers have generally recommended that reasonable efforts should be made to target lower center mass and avoid intentionally targeting the head, neck/throat, chest, and groin, it is recognized that the dynamics of each situation and the need for Officer safety may not permit the Officer to limit the application of the ECD probes to a precise target area. As such, Officers should take prompt and ongoing care to monitor the condition of the subject if one or more probes strike the head, neck/throat, chest or groin until he/she is released to the care of paramedics or other medical personnel.

## VIII. MULTIPLE APPLICATIONS (ECD)

If the first application of the ECD appears to be ineffective in gaining control of an individual and if circumstances allow, the Officer should consider the following before additional applications of the ECD:

- A. Whether the probes or darts are making proper contact.
- B. Whether the application of the ECD is interfering with the ability of the individual to comply.
- C. Whether verbal commands, other options or tactics may be more effective.

This, however, will not preclude any Officer from deploying multiple reasonable applications of the ECD on an individual with an assessment of the effectiveness after each application. The Officer must be justified in each application as a stand-alone use of the ECD.

#### IX. REPORT OF USE (ECD)

All Electronic Control Device discharges and drive stuns will be documented by the discharging Officer. The Officer will notify his/her supervisor as soon as practical, having the supervisor respond to the scene of the incident. Negligent discharges will also be reported.

Supervisors will complete a department After Action Report in compliance with Policy #3, Use of Force. The report shall contain the ECD and applicable ECD cartridge serial numbers and an explanation of the circumstances surrounding the discharge.

#### X. MEDICAL TREATMENT

Absent extenuating circumstances or unavailability, only qualified personnel, including certified paramedics, emergency medical technicians (EMT), or qualified ECD-trained Officers should carefully remove ECD probes from a person's body, unless the probes have struck an area that, by training, requires a physician to evaluate the removal. Used ECD probes will be considered a sharps biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly, and proper disposal will occur.

All persons who have been struck by ECD probes or who have been subjected to the electric discharge will be medically assessed prior to booking.

Persons who exhibit extreme agitation, violent irrational behavior accompanied

by profuse sweating, extraordinary strength beyond their physical characteristics, imperviousness to pain (sometimes referred to as "excited delirium") or who require a protracted physical encounter with multiple officers to be brought under control, may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter will be medically cleared prior to booking.

If any individual refuses medical attention, such a refusal will be fully documented in related reports and, whenever practical, should be witnessed by another Officer and/or medical personnel. If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

The transporting Officer will inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the ECD.

## XI. USE OF ECD ON ANIMALS

As with deployment against humans, the use of an ECD on an animal will most likely cause intense, but momentary pain. As such, officers should carefully consider and balance the totality of circumstances available prior to using the ECD against any animal. Officers will adhere to Ogden Police Policy #3, factors used to determine the reasonableness of force.

A. In general, an officer may deploy an ECD against any animal when:

1. The animal is attacking any officer, another party, or another animal.
2. The animal, by actions, has demonstrated an intention to attack, or appears to be preparing to attack, or has attacked any officer, another party, or another animal. (Example: A dog who has bared its teeth and is growling at an officer.)

B. Special considerations:

1. All ECD uses against an animal will be documented by the officer deploying the ECD, to include the effectiveness of the ECD on the animal and the disposition of the animal involved. The officer will notify his/her supervisor as soon as practical, having the supervisor respond to the scene of the incident.
2. Supervisors will complete a Department After Action Report in compliance with Policy #3, Use of Force.

3. If, after the deployment of the ECD on an animal, the animal requires medical attention, an Animal Control officer (if available) will be notified and summoned to the scene.
  
4. In all cases of aggressive/attacking animals, an Animal Control officer (if available) will be notified and summoned to the scene. If none are available, a detailed report will be forwarded to Animal Control for follow-up investigation.