

## Conducted Energy Device

### 308.1 PURPOSE AND SCOPE

This policy provides guidelines for the issuance and use of Electro-muscular-disruption-technology-device (EMDT)s. This policy does not apply to the KCSO Corrections Division. Corrections Officers should consult the Kitsap County Sheriff's Office Custody Manual Conducted Energy Device policy.

#### 308.1.1 DEFINITIONS

Definitions related to this policy include (Washington State Office of the Attorney General Model Use of Force Policy):

**Conducted energy device** - A portable device that fires darts/electrodes that transmit an electrical charge or current intended to temporarily immobilize a person (e.g., EMDT).

### 308.2 POLICY

The EMDT is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury. The appropriate use of such a device should result in fewer serious injuries to deputies and suspects.

### 308.3 ISSUANCE AND CARRYING EMDTS

Only members who have successfully completed office-approved training and have demonstrated satisfactory skill and proficiency may be issued and carry the EMDT.

EMDTs are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the office's inventory.

Deputies shall only use the EMDT and cartridges that have been issued by the Office. Members who have been issued the EMDT shall wear the device in an approved holster on their person or secure the EMDT in the driver's compartment of their vehicle.

Members carrying the EMDT should perform a spark test on the unit prior to every shift.

When carrying while in uniform, deputies shall carry the EMDT in a weak-side holster on the side opposite the duty weapon.

- (a) All EMDTs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, deputies should carry two or more cartridges on their person when carrying the EMDT.
- (c) Deputies shall be responsible for ensuring that their issued EMDT is properly maintained and in good working order.
- (d) Deputies should not hold both a firearm and the EMDT at the same time.

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### **308.4 VERBAL AND VISUAL WARNINGS**

A verbal warning of the intended use of the EMDT should precede its application, unless it would otherwise endanger the safety of deputies 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 deputies and individuals with a warning that the EMDT may be deployed.

If, after a verbal warning, an individual is unwilling to voluntarily comply with a deputy's lawful orders and it appears both reasonable and feasible under the circumstances, the deputy may, but is not required to, display the electrical arc (provided that a cartridge has not been loaded into the device), or the laser in a further attempt to gain compliance prior to the application of the EMDT. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

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

### **308.5 USE OF THE EMDT**

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

#### **308.5.1 APPLICATION OF THE EMDT**

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

- (a) The subject is violent or is physically resisting.
- (b) The subject has demonstrated, by words or action, an intention to be violent or to physically resist, and reasonably appears to present the potential to harm deputies, themselves, or others.

Mere flight from a pursuing deputy, without other known circumstances or factors, is not good cause for the use of the EMDT to apprehend an individual.

#### **308.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS**

The use of the EMDT on certain individuals should generally be avoided unless the totality of the circumstances indicates that other available options reasonably appear ineffective or would present a greater danger to the deputy, the subject, or others, and the deputy reasonably believes that the need to control the individual outweighs the risk of using the device. This includes (Washington State Office of the Attorney General Model Use of Force Policy):

- (a) Individuals who are known to be pregnant.
- (b) Elderly individuals or obvious juveniles.

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- (c) Individuals with obviously low body mass.
- (d) Individuals who are handcuffed or otherwise restrained.
- (e) In any environment where a deputy knows or has reason to believe that a potentially flammable, volatile, or explosive material is present that might be ignited by an open spark, including but not limited to OC spray with a volatile propellant, gasoline, natural gas, or propane.
- (f) Individuals who are situated on an elevated surface (e.g., a ledge, scaffold, near a precipice) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
- (g) Operators in physical control of vehicles in motion, including automobiles, trucks, motorcycles, all-terrain vehicles, bicycles, and scooters unless deadly force is justified.

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

The EMDT shall not be used to psychologically torment, elicit statements, or to punish any individual.

#### 308.5.3 TARGETING CONSIDERATIONS

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest and groin. If the dynamics of a situation or officer safety do not permit the deputy to limit the application of the EMDT probes to a precise target area, deputies 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.

#### 308.5.4 MULTIPLE APPLICATIONS OF THE EMDT

Deputies should apply the EMDT for only one standard cycle and then evaluate the situation before applying any subsequent cycles. Multiple applications of the EMDT against a single individual are generally not recommended and should be avoided unless the deputy reasonably believes that the need to control the individual outweighs the potentially increased risk posed by multiple applications.

If the first application of the EMDT appears to be ineffective in gaining control of an individual, the deputy should consider certain factors before additional applications of the EMDT, including:

- (a) Whether the probes are making proper contact.
- (b) Whether the individual has the ability and has been given a reasonable opportunity to comply.
- (c) Whether verbal commands, other options or tactics may be more effective.

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Deputies should generally not intentionally apply more than one EMDT at a time against a single subject.

### 308.5.5 ACTIONS FOLLOWING DEPLOYMENTS

Deputies shall notify a supervisor of all EMDT discharges. When practical, confetti tags, the expended cartridge and the wire should be collected submitted into evidence. The probes should be considered as "Sharps" and disposed of properly. In cases where the use of force results in a serious injury or death, a supervisor should be consulted about whether or not to retain the probes. The cartridge serial number should be noted and documented on the evidence paperwork.

### 308.5.6 DANGEROUS ANIMALS

The EMDT 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.

### 308.5.7 OFF-DUTY CONSIDERATIONS

Deputies are not authorized to carry department EMDTs while off-duty, unless acting in a law enforcement capacity. Any exceptions must be approved by a Division Chief in writing

Deputies shall ensure that EMDTs 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.

## **308.6 DOCUMENTATION**

Deputies shall document all EMDT discharges in the related arrest/crime report and the KCSO Use of Force Report Form. Notification shall also be made to a supervisor in compliance with the Use of Force Policy. Unintentional discharges, pointing the device at a person, laser activation and arcing the device will also be documented on the report form.

### 308.6.1 USE OF FORCE REPORT FORM REVIEW

Items that shall be included in the EMDT report form are:

- (a) The type and brand of EMDT and cartridge and cartridge serial number.
- (b) Date, time and location of the incident.
- (c) Whether any display, laser or arc deterred a subject and gained compliance.
- (d) The number of EMDT activations, the duration of each cycle, the duration between activations, and (as best as can be determined) the duration that the subject received applications.
- (e) The range at which the EMDT was used.
- (f) The type of mode used (probe or drive-stun).
- (g) Location of any probe impact.
- (h) Location of contact in drive-stun mode.

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- (i) Description of where missed probes went.
- (j) Whether medical care was provided to the subject.
- (k) Whether the subject sustained any injuries.
- (l) Whether any deputies sustained any injuries.

The OPS Supervisor in coordination with the Taser Instructors should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The OPS Supervisor should also conduct audits of data downloads and reconcile EMDT report forms with recorded activations. EMDT information and statistics, with identifying information removed, should periodically be made available to the public.

### 308.6.2 REPORTS

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

- (a) Identification of all personnel firing EMDTs
- (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

### 308.7 MEDICAL TREATMENT

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel or deputies trained in such a procedure should remove EMDT probes from a person's body. Deputies shall not remove probes from areas that include the head, neck, groin or female breast area. Used EMDT 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 EMDT probes or who have been subjected to the electric discharge of the device 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 EMDT probes are lodged in a sensitive area (e.g., groin, female breast, head, face, neck).
- (e) The person requests medical treatment.

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Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics and imperviousness to pain (sometimes called 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 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 deputy 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 deputy shall inform any person providing medical care or receiving custody that the individual has been subjected to the application of the EMDT.

### **308.8 SUPERVISOR RESPONSIBILITIES**

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

A supervisor should review each incident where a person has been exposed to an activation of the EMDT. The device's onboard memory should be downloaded through the data port by a supervisor or Taser Instructor and attached/saved with the related use of force report. Photographs of probe sites should be taken and witnesses interviewed.

### **308.9 TRAINING**

Personnel who are authorized to carry the EMDT shall be permitted to do so only after successfully completing the initial office-approved training and demonstrating satisfactory skill and proficiency. Any personnel who have not carried the EMDT as a part of their assignment for a period of twelve months or more shall be recertified by a office-approved EMDT instructor prior to again carrying or using the device.

Proficiency training for personnel who have been issued EMDTs should occur every two years. A reassessment of a deputy's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Officer. All training and proficiency for EMDTs will be documented in the deputy's training file.

Command staff, supervisors, and investigators should receive EMDT training as appropriate for the investigations they conduct and review.

Deputies who do not carry EMDTs should receive training that is sufficient to familiarize them with the device and with working with deputies who use the device.

The Training Officer is responsible for ensuring that all members who carry EMDTs have received initial and biennial proficiency training. Periodic audits should be used for verification.

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Application of EMDTs during training could result in injury to personnel and should not be mandatory for certification.

The Training Officer should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (c) Performing opposite-hand 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 EMDT and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the EMDT.