

Conducted Energy Device

304.1 PURPOSE AND SCOPE

Best Practice NYSLEAP - 8.4 - 20.6

This policy provides guidelines for the issuance and use of the ECW.

304.1.1 DEFINITIONS

Agency Content

Electronic Control Weapon (ECW): An ECW is a less-lethal weapon designed primarily to discharge electrical charges into a subject that will cause involuntary muscle contractions and override the subject's voluntary motor responses. Currently the ECW by Axon is the ECW issued and carried by officers of the Auburn Police Department.

Neuro-Muscular Incapacitation (NMI): Stimulation of a person's sensory nervous system and motor nervous system that results in uncontrolled muscle contractions by means of overriding their nervous system.

Probe Delivery : Pulling the trigger to release the probes from the cartridge to make contact with the subject and achieve neuromuscular incapacitation.

Drive Stun: Refers to the pressing of an active ECW device onto the body of the subject with the probe cartridge attached or removed. The drive stun affects the sensory nervous system producing pain compliance. The driver stun may also be used as a follow up to a probe deployment when the probe deployment has not achieved neuromuscular incapacitation.

Spark Test : A demonstration of the ECW to ensure the device is in working condition.

ECW Deployment: The intentional firing of the ECW utilizing probe delivery or in the drive Stun mode making direct contact with a person. The purpose of the deployment is to gain compliance of the subject through NMI or pain compliance.

304.2 POLICY

Best Practice MODIFIED NYSLEAP - 8.4 - 20.6

The purpose of this policy is to establish policies and procedures for the use of Electronic Control Weapons (ECW's) by officers of the Auburn Police Department. These operational guidelines balance the recognition that ECW's are an appropriate tool for Officers who must resort to the use of force in carrying out their legitimate duties, while fostering a responsible and accountable use of ECW's.

It is the policy of the Auburn Police Department that sworn officers carry and use only the Axon ECW's, currently issued by the Department, and that the use of such ECW shall be within the limits established by Article 35 of the New York State Penal Law and consistent with the training and policies provided them by the Auburn Police Department. Any use of force must be consistent with *Graham v Connor* in determining whether the force used is objectively reasonable. *Graham v Connor* established the following factors: the severity of the crime involved, does the subject

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pose an immediate threat to the safety of the officer or others, is the subject actively resisting or attempting to evade arrest by flight. The use of force or any less lethal weapon is considered and must be necessary to achieve a legitimate police objective.

Officers must always consider the totality of the circumstances when applying these guidelines. This policy recognizes that in certain situations, exigent circumstances may outweigh a specific guideline. In such situations, however, the officer must be able to articulate an objectively reasonable justification for acting outside of this policy and/or the officer's training.

It is the policy of the Auburn Police Department to use only that level of physical force which is reasonably necessary based on the totality of the circumstances, to control or otherwise subdue violent or potentially violent individuals.

304.3 ISSUANCE AND CARRYING ELECTRONIC CONTROL WEAPONS

Best Practice **MODIFIED** **NYSLEAP - 8.4 - 20.6, 32.4, 41.3**

Only members who have successfully completed department-approved training may be issued and may carry the Electronic Control Weapon.

Electronic Control Weapons are issued for use during a member's current assignment. Those leaving a particular assignment may be required to return the device to the department inventory.

Officers shall only use the Electronic Control Weapon and cartridges that have been issued by the Department. Uniformed and non-uniformed officers who have been issued the Electronic Control Weapon shall wear the device in an approved holster.

Members carrying the Electronic Control Weapon should perform a spark test prior to every shift.

When carried, officers shall carry the Electronic Control Weapon in a weak-side holster on the side opposite the duty weapon.

- (a) All Electronic Control Weapons shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Officers shall be responsible for ensuring that the issued Electronic Control Weapon is properly maintained and in good working order.
- (c) Officers should not hold a firearm and the Electronic Control Weapon at the same time.

[Weapon Readiness](#)

[Care and Maintenance](#)

304.4 VERBAL AND VISUAL WARNINGS

Best Practice **NYSLEAP - 8.4 - 20.6**

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A verbal warning of the intended use of the Electronic Control Weapon should 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 to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that the Electronic Control Weapon 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 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 Electronic Control Weapon. 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 Electronic Control Weapon in the related report.

304.5 USE OF THE ELECTRONIC CONTROL WEAPON

Best Practice MODIFIED NYSLEAP - 8.4 - 20.6

The Electronic Control Weapon has limitations and restrictions requiring consideration before its use. The Electronic Control Weapon should only be used when its operator can safely approach the subject within the operational range of the device. Although the Electronic Control Weapon 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.

[Use of the ECW](#)

[ECW Prohibitions](#)

304.5.1 APPLICATION OF THE ELECTRONIC CONTROL WEAPON

Best Practice MODIFIED NYSLEAP - 8.4 - 20.6

The Electronic Control Weapon 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 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 officers, him/herself or others.

Mere flight from a pursuing officer, without other known circumstances or factors, is not good cause for the use of the Electronic Control Weapon to apprehend an individual. The Electronic Control Weapon shall not be used to psychologically torment, to elicit statements or to punish any individual.

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Members are not required to use the ECW in situations where there is a use or threatened imminent use of deadly physical force against them or a third person. The ECW does not replace the members firearm and should not be used alone in deadly physical force situations unless it is the only option available. In deadly physical force situations, the member should only utilize the ECW if other members are present and provide lethal cover by means of the department issued handgun, shotgun or rifle. Factors that may be taken into account when considering use of the ECW in deadly physical force situations with lethal cover include, but not limited to:

- (a) The amount of time the member has to react to a threat.
- (b) The member's relative proximity to the person posing the threat.
- (c) The member's ability to isolate the person posing the threat.
- (d) The limitations of the ECW, and the manner in which it is being deployed.
- (e) The belief that the application is likely to be successful.

304.5.2 SPECIAL DEPLOYMENT CONSIDERATIONS

Best Practice MODIFIED NYSLEAP - 8.4 - 20.6

The use of the Electronic Control Weapon 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).

The device may also be used in the drive stun mode. This can be done when the cartridge is attached or removed and the unit is pressed firmly onto an appropriate area such as the abdominal region, hips or legs. Drive stuns shall only be used when the Officer feels, based on the totality of the circumstances, he/she is justified. It is important to note that when the device is used without deploying the probes, it is:

- (a) Primarily a pain compliance tool due to the lack of probe spread.
- (b) Minimally effective compared to conventional cartridge-type deployments.
- (c) More likely to leave marks on the subject's skin.

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- (d) Subject to the same deployment (use) guidelines and restrictions as those of the cartridge deployments.

304.5.3 TARGETING CONSIDERATIONS

Best Practice NYSLEAP - 8.4 - 20.6

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 Electronic Control Weapon 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 ELECTRONIC CONTROL WEAPON

Best Practice NYSLEAP - 8.4 - 20.6

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

If the first application of the Electronic Control Weapon 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 Electronic Control Weapon, 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

Best Practice **MODIFIED** NYSLEAP - 8.4 - 20.6

Officers should take appropriate actions to control and restrain the individual to minimize the need for longer or multiple exposures to the Electronic Control Weapon. As soon as practicable, officers shall notify a supervisor any time the Electronic Control Weapon has been discharged. AFID's 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.

[Post-Deployment and Aftercare](#)

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304.5.6 DANGEROUS ANIMALS

Best Practice

The Electronic Control Weapon 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 OFF-DUTY CONSIDERATIONS

Best Practice

Officers are not authorized to carry department Electronic Control Weapons while off-duty.

Officers shall ensure that Electronic Control Weapons 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

Best Practice **MODIFIED**

Officers shall document all Electronic Control Weapon discharges in the related case/DAR reports. 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, other than for testing purposes, will also be documented on the report form.

304.6.1 CASE/DAR REPORT

Best Practice **MODIFIED**

Items that shall be included in the case/DAR report are:

- (a) The type and brand of Electronic Control Weapon 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 estimated number of Electronic Control Weapon activations, the estimated 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 Electronic Control Weapon 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.
- (i) Whether medical care was provided to the subject.
- (j) Whether the subject sustained any injuries.
- (k) Whether any officers sustained any injuries.
- (l) Identification of all personnel firing [EMDTdevice]s.
- (m) Identification of all witnesses.

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- (n) Medical care provided to the subject.
- (o) Observations of the subject's physical and physiological actions.
- (p) Any known or suspected drug use, intoxication or other medical problems.

The Training and Planning Administrator should periodically analyze the report forms to identify trends, including deterrence and effectiveness. The Taser training staff should also conduct audits of data downloads and reconcile case/DAR reports with recorded activations. Electronic Control Weapon information and statistics, with identifying information removed, should periodically be made available to the public.

304.7 MEDICAL TREATMENT

Best Practice **MODIFIED** NYSLEAP - 8.4 - 20.6

Consistent with local medical personnel protocols and absent extenuating circumstances, only appropriate medical personnel and trained officers should remove Electronic Control Weapon probes from a person's body. Used Electronic Control Weapon 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 Electronic Control Weapon probes or who have been subjected to the electric 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 Electronic Control Weapon 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 Electronic Control Weapon (see the Medical Aid and Response Policy).

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304.8 SUPERVISOR RESPONSIBILITIES

Best Practice **MODIFIED** NYSLEAP - 8.4 - 20.6, 40.2

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

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

304.9 TRAINING

Best Practice NYSLEAP - 8.4 - 20.6, 32.4

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

Proficiency training for personnel who have been issued Electronic Control Weapons 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 Training and Planning Administrator. All training and proficiency for Electronic Control Weapons will be documented in the officer's training files.

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

Officers who do not carry Electronic Control Weapons should receive training that is sufficient to familiarize them with the device and with working with officers who use the device.

The Training and Planning Administrator is responsible for ensuring that all members who carry Electronic Control Weapons have received initial and annual proficiency training. Periodic audits should be used for verification.

Application of Electronic Control Weapons during training could result in injuries and should not be mandatory for certification.

The Training and Planning Administrator should ensure that all training includes:

- (a) A review of this policy.
- (b) A review of the Use of Force Policy.
- (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.

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- (e) Handcuffing a subject during the application of the Electronic Control Weapon and transitioning to other force options.
- (f) De-escalation techniques.
- (g) Restraint techniques that do not impair respiration following the application of the Electronic Control Weapon.