



## CITY OF PORTLAND, OREGON



### Bureau of Police

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## EXECUTIVE ORDER

**DATE:** December 4, 2014

**TO:** All Bureau Members

**RE:** Directive 1051.00, Electronic Control Weapon System

**ACTION:** Revision of 1051.00, effective December 4, 2014

### 1051.00, Electronic Control Weapon System

#### Refer:

- ORS § 161.015 (7), Physical Injury, Defined
- Directive 335.00, Discipline Process
- Directive 630.45, Emergency Medical Custody Transports
- Directive 635.10, Crowd Management/Crowd Control
- Directive 660.10, Property and Evidence Procedure
- Directive 850.20, Mental Health Crisis Response
- Directive 940.00, After Action Reports
- Directive 1010.00, Use of Force
- Training Application (Training)
- After Action Report (CHO)

#### Definitions:

- **Active Aggression:** A threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is about to happen unless intervention occurs.
- **Drive Stun:** The process of applying energy to a subject through the terminal on a cartridge or Electronic Control Weapon (ECW).
- **Electronic Control Weapon (ECW):** A less lethal weapon system that delivers electrical energy designed to temporarily immobilize a person rather than injure him or her.
- **Probe Cartridge:** A device that contains two (2) probes connected to light gauge wire that is propelled and attaches to the subject upon activation of the ECW.
- **Immediate Cover:** A member who stands ready to deploy additional control if needed (i.e., the ECW is ineffective or it fails to function properly).
- **Electronic Control Weapon (ECW) Cycle:** Occurs when there is any reason to believe a trigger pull of the ECW delivers energy to a person for a duration of up to five (5) seconds. When the operator of the ECW overrides the automatic five (5) second shut down by continually commanding energy delivery, each additional five (5)

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seconds or fraction thereof, is a unique cycle and requires justification by the operator. For example, an application ended by an operator after one (1) second is one (1) cycle. A subsequent, two (2) second application is a second cycle. An application that lasts six (6) seconds is two (2) cycles.

**Policy:**

1. The Portland Police Bureau respects the value and sanctity of human life and recognizes the inherent dignity of every person.
2. The Portland Police Bureau recognizes that duty may require members to use force.
3. It is the intention of the Bureau to accomplish its mission as effectively as possible with as little reliance on force as practical.
4. The Bureau is dedicated to providing the training, resources, and management that help members safely and effectively resolve confrontations through the application of de-escalation tools and lower levels of force.
5. An Electronic Control Weapon is a device intended to control a violent or potentially violent individual, to avoid use of deadly force, or increased levels of physical force. The appropriate use of such a device should result in fewer serious injuries to members and suspects.

**Procedure:**

1. The use of an Electronic Control Weapon (ECW) is governed by the Bureau's Application of Force policy (refer to Directive 1010.00, Use of Force) in conjunction with the additional guidelines outlined in this policy.
  - 1.1. When reasonable under the circumstances members are authorized to use an ECW in the following situations:
    - 1.1.1. In response to active aggression.
    - 1.1.2. To prevent suicide when reasonable in light of available options.
    - 1.1.3. To avoid the use of a higher level of force.
    - 1.1.4. To prevent flight from custody when the member has articulable reason to believe:
      - 1.1.4.1. The subject presents an immediate threat of physical injury to the public, members, or the subject, or the escape of the subject presents a significant danger to the public, members, or the subject.
  - 1.2. Only members trained and certified according to the requirements in this directive are authorized to carry an ECW.
  - 1.3. Members are authorized to carry only Bureau issued ECWs and cartridges.
  - 1.4. Carrying the ECW is mandatory for officers and sergeants in uniform assignments. Exceptions to this may be made by the member's Assistant Chief. Other units or divisions will be issued an ECW at the discretion of Responsibility Unit Manager.
  - 1.5. Members deploying an ECW operationally, if feasible, should be supported by at least one (1) member capable of providing immediate cover.
  - 1.6. Unless it would present a danger to the member or others, members shall issue a warning appropriate to the subject prior to deploying their ECW.
  - 1.7. When it is feasible and tactically sound to do so members will make an effort to handcuff or otherwise control a subject during and between ECW cycles.
  - 1.8. After an ECW cycle the member shall reevaluate the situation to determine if subsequent cycles are necessary, including waiting for a reasonable amount of time to allow the subject to comply with the

warning. Members shall describe and explain the reasonableness of each ECW cycle in their use of force reports.

- 1.9. Members should evaluate their force options and give consideration to other force options if an ECW is not effective after two (2) cycles on the same person.
2. Prohibited use of the ECW:
  - 2.1. Members will not use an ECW on the following persons unless the person is armed with a dangerous or deadly weapon, or is about to commit suicide, or is in the act of causing harm to themselves or others:
    - 2.1.1. Children who are known to be, or are obviously under the age of twelve (12).
    - 2.1.2. Persons who are known to be, or are obviously older than sixty (60) years of age.
    - 2.1.3. A woman who is known to be, or is obviously pregnant.
    - 2.1.4. A person who is known to be, or is obviously medically fragile.
  - 2.2. Members will not use of ECWs for pain compliance against those a reasonable officer would believe are suffering from mental illness or emotional crisis except in exigent circumstances and then only to avoid the use of a higher level of force.
  - 2.3. Members will not use an ECW to threaten or coerce a person except for the purpose of managing a potential or actual physical confrontation.
  - 2.4. Members will not use an ECW when there is a significantly heightened risk of secondary injury to the subject or others unless the member reasonably believes the threat or danger posed by the subject outweighs the risk of injury that might occur as a result of loss of control or an uncontrolled fall under the circumstances. Examples of significantly heightened risk include situations where the subject is running, biking, skateboarding, in an elevated position, or standing in or near a body of water.
  - 2.5. Members will not use an ECW on a handcuffed or otherwise restrained subject (for example a subject being held to the ground by multiple members), unless the subject is actively engaged in behavior that creates a substantial risk of injury to the subject, member, or others, and no other reasonable force options are available.
  - 2.6. Members should obtain, when time permits, supervisory authorization before deploying an ECW on a handcuffed suspect.
  - 2.7. Members will not use an ECW for interrogation or torture.
  - 2.8. Members will not use an ECW at demonstrations or protests without the permission of the Incident Commander.
  - 2.9. Members will not use an ECW for purposes other than as directed in this policy and training.
  - 2.10. Members will not intentionally aim an ECW at the head, face, or to target sensitive areas (e.g. genitalia).
  - 2.11. Members will not intentionally activate more than one (1) ECW at a time against a subject if the initial deployment was effective unless to avoid the use of a higher level of force.
  - 2.12. Members will not use an ECW on subjects who are known to have come in contact with flammables or those in areas where flammables are present.
3. Training and Certification:
  - 3.1. The Training Division is responsible for the training, certification, and recertification of members in the proper use and deployment of the ECW.

- 3.1.1. To obtain certification, members must complete the ECW Basic Operator's Course as conducted by Training.
    - 3.1.2. To maintain certification, members must attend refresher training as mandated by Training (see Training Division Standard Operating Procedures for current requirements).
  - 3.2. The Training Division and Professional Standards Division must provide notice to the Chief of Police of any proposed changes to ECW certification rules or Standard Operating Procedures.
4. Conditions and behaviors requiring medical treatment after deployment:
  - 4.1. When members deploy the ECW on a person in a prohibited category or on a person suffering or perceived to be suffering from excited delirium (before, during, or after deployment), members must summon Emergency Medical Services to the scene. Members will ensure that Emergency Medical Services examines such person at the scene and transports the person to a hospital unless the person is not in custody, is determined by Emergency Medical Services to be mentally competent, and refuses examination and transport.
  - 4.2. When an ECW is deployed in probe mode:
    - 4.2.1. If the probes are embedded in the skin, Emergency Medical Services will be summoned to remove the probes and provide medical treatment if necessary.
    - 4.2.2. Portland Fire and Rescue will be the first responder to deployments that require only the removal of probes and no other medical treatment, other than removal and treatment of the wound caused by the ECW probes. To ensure a response from Portland Fire and Rescue only, members must advise the Bureau of Emergency Communications only Portland Fire and Rescue is needed to remove the ECW probes.
    - 4.2.3. If the ECW is deployed outside of Portland Fire and Rescue's response area and medical treatment is mandated by this Directive, or other injury, the fire department or emergency medical services with jurisdiction will be summoned.
  - 4.3. If the ECW is deployed on a person in drive stun mode Emergency Medical Services personnel do not need to be summoned to the scene unless medical treatment is otherwise necessary.
5. Actions following the use of an ECW:
  - 5.1. After an ECW deployment the deploying member will immediately notify an on-duty supervisor and the supervisor will respond to the scene. Members and supervisors will comply with Directive 940.00, After Action Reports.
  - 5.2. If possible, members will photograph the areas of probe strikes, regardless if the probes penetrated the person's skin, left visible marks, or only penetrated the person's clothing, before and after probe removal, as well as any marks, or lack of marks, left by drive stun. Consent should be obtained before photographing personally sensitive areas. All photographs of probe strikes will be placed into evidence in accordance with Directive 660.10, Property and Evidence Procedure.
  - 5.3. Reporting of Use:
    - 5.3.1. Members using an ECW on a person will, in accordance with Directive 1010.00, Use of Force, complete the appropriate police reports documenting the circumstances of the ECW deployment prior to the end of shift unless otherwise excused by a supervisor. The report shall document:
      - 5.3.1.1. The specific circumstances leading to the use of the ECW.
      - 5.3.1.2. All warnings given to members and the subject. If no warnings were given members will document their justification for not giving a warning.
      - 5.3.1.3. The distance from which the ECW was used.
      - 5.3.1.4. The serial numbers of all cartridges expended.
      - 5.3.1.5. The serial number of the ECW used.
      - 5.3.1.6. The name and DPSST number of a member designated as immediate cover, if applicable or present.

- 5.3.1.7. The name and DPSST number of the notified and/or reporting supervisor.
- 5.3.1.8. That Emergency Medical Services responded, and the results of any medical evaluation. If Emergency Medical Services are not summoned, members will document the reason why.
- 5.3.1.9. Any evidence of injury or illness (notations should be in the appropriate box on the face sheet of the report).
- 5.3.1.10. Any complaints of injury or illness (notations should be in the appropriate box on the face sheet of the report).

5.4. Members will complete a Force Data Collection Report section of the General Offense Report or its equivalent in future systems.

5.5. Members will notify a supervisor to initiate the after-action investigation process as required by Directive 940.00, After Action Reports.

6. Negligent Discharge:

6.1. An on-duty supervisor will respond and assume investigative responsibility for all negligent or unintentional discharges, except at Bureau authorized training events. In those circumstances, Training will have responsibility for investigation and reporting.

7. Responsibility, Accountability, and Control:

7.1. Member Responsibilities:

7.1.1. Members carrying the ECW will check the battery level at the beginning of each shift and ensure that the battery charge meets or exceeds recommended levels outlined by Training.

7.1.2. Members will perform, at a minimum, weekly spark tests following proper protocol as outlined by Training.

7.2. Supervisor Responsibilities:

7.2.1. Supervisors shall ensure that all pertinent information is documented in the appropriate reports and that all appropriate evidence is collected following the use of the ECW. The supervisor will also respond to the scene and complete an After Action Report in accordance with Directive 940.00. If the supervisor has reasonable cause to believe that the ECW use was excessive or outside of policy the supervisor will immediately notify the Professional Standards Division.

7.3. Responsibility Unit Manager Responsibilities:

7.3.1. Responsibility Unit Managers are responsible for the security of the ECW and associated equipment assigned to their Responsibility Unit.

7.4. Training Manager Responsibilities:

7.4.1. The Training Manager is responsible for the following:

7.4.1.1. Procurement, maintenance, and issuance of the ECW and cartridges.

7.4.1.2. The training, certification, and recertification of members in the use of the ECW.

**History:**

- Originating Directive Effective: 01/30/03
- First Revision Effective: 12/03/03
- Second Revision Effective: 06/01/05
- Third Revision Effective: 01/26/07
- Fourth Revision Effective: 11/05/07
- Fifth Revision Effective: 01/07/09
- Sixth Revision Effective: 01/01/14
- Seventh Revision Effective: 12/04/14
- Next Review Date: 12/04/15

- Review By: Chief's Office

Sincerely,

*Michael Reese*

MICHAEL REESE

Chief of Police

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