SUBJECT: USE OF LESS LETHAL FORCE: THE ELECTRONIC CONTROL WEAPON (ECW)

1. PURPOSE

   A. The purpose of this policy is to provide guidance and direction on the use of the Electronic Control Weapon (ECW) in the context of the Use of Force Decision Chart.

2. POLICY

   A. It is the policy of the Philadelphia Police Department to use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest.

   B. The amount of force, the continued use of any force, and the type of police equipment utilized, all depends upon the situation being faced by the officer. However, once the threat has been overcome, or a subject is in secured custody, it is an officer’s responsibility to de-escalate and immediately address any injuries the suspect may have sustained.

   C. Subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances, including but not limited to alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers. Officers should be mindful of this when making use of force decisions.

   D. The use of an Electronic Control Weapon (ECW) is authorized when the offender is physically aggressive or assaultive and there is an immediate likelihood that they may injure themselves or others.

   E. Officers are prohibited from carrying a department issued ECW off-duty as an alternative weapon.
3. DEFINITIONS

A. **Arcing**: Pulling the trigger to activate an ECW that does not have an air cartridge installed. This may be done while the ECW is in contact with a subject (i.e., Drive Stun mode) or in a non-contact situation, such as, to test the ECW (i.e., Spark Test).

B. **Activation or Activating**: The act of pulling the trigger of an ECW, either intentionally or accidentally, causing it to arc or to discharge probes.

C. **Air Cartridge**: Replaceable cartridge for the ECW which uses, compressed nitrogen to fire two barbed probes with thin connecting wires sending an electrical charge into the subject.

D. **Confetti Tags**: Small identifying cards expelled from an ECW air cartridge when probes are discharged. Each confetti tag contains a serial number unique to the specific air cartridge used. Confetti tags are also referred to as “Anti-Felon Identification” (AFID) tags.

E. **Cycle**: The time during which electrical impulses are emitted from the ECW following activation. In most ECWs, a standard cycle is five (5) seconds for each trigger pull. The duration of a cycle may be shortened by turning the ECW off. The duration of the cycle may be extended in certain models by continuing to pull the trigger.

F. **Display**: Drawing or exhibiting the ECW as part of a warning tactic, typically accompanied by appropriate verbalization.

G. **Drive Stun**: A secondary function of an ECW. Drive Stun is possible when the ECW air cartridge has been expended or removed from the ECW or when the probes are deployed at close range with minimal spread. This action requires pulling the trigger and placing the ECW in direct contact with a subject, causing the electrical charge to directly enter the subject. Drive stun is frequently used as a non-incapacitating compliance technique. It may also be used to incapacitate a subject where at least one probe is attached to the subject’s body and the ECW contact will complete the circuit.

H. **Duration**: The aggregate time that the ECW is activated. The duration of activation may differ from the duration of time that a subject is exposed to an electrical charge from an ECW.
I. **Electronic Control Weapon (ECW):** A weapon primarily designed to discharge a chain of small electrical charges into the subject sufficient to cause uncontrolled muscle contractions and override the subject’s voluntary motor responses.

J. **Laser Painting:** The act of unholstering and pointing an ECW at a subject and turning on the ECW’s laser aiming dot to show the device is aimed at the subject.

K. **Objectively Reasonable:** Is a Fourth Amendment standard whereby an officer’s belief that they must protect themselves or others from death or serious bodily injury is compared and weighed against what a reasonable or rational officer would have believed under similar circumstances. This determination is made by reviewing all relevant facts and circumstances of each particular case, including, but not limited to, (1) the severity of the crime at issue, (2) whether the suspect poses an immediate threat to the safety of the officers or others, (3) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

L. **Probes:** Small projectiles with wires contained in an ECW air cartridge. When the ECW is activated, probes are expelled from the ECW and penetrate the subject’s clothing and/or skin, allowing for the application of the electrical charge.

M. **Probe Mode:** The primary setting on an ECW that allows the system’s propulsion system to deploy two small probes that are attached to the ECW by insulated wires at distance up to 25 feet.

N. **Resistance:** Is an act by an individual that opposes an officer’s lawful commands. There are two types of resistance.

1. **Active Resistance:** Is defined as the use of physical force to defy an officer’s lawful arrest or attempt to gain control of a situation that requires police action.

2. **Passive Resistance:** Is defying an officer’s lawful order without the use of physical force. Behaviors may include not moving, going limp, locking of arms or tightening of the body.
O. **Serious Bodily Injury**: Bodily injury, which creates a substantial risk of death, or which causes serious, permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

P. **Spark Test**: A spark test is accomplished by pointing the ECW in a safe direction, removing the air cartridge, turning the power on, pulling the trigger, then turning the unit off as soon as the spark is seen.

Q. **Use of Force Decision Chart**: The following diagram illustrates the amount of force an officer should use based on the suspect’s behavior and threat. It is the suspect’s behavior that places the officer and/or others in danger. The suspect’s threat is the primary factor in choosing a force option. However, the officer should also consider the totality of the circumstances to include, but not limited to, a suspect’s altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons.

4. **USE OF FORCE**

A. **GOAL**: To always attempt to de-escalate and use sound tactics in any situation where force may become necessary. In the event force becomes unavoidable, use only the minimal amount of force necessary to overcome an immediate threat or to effectuate an arrest.

   The amount of force, the continued use of any force, and the type of police equipment utilized, all depends upon the situation being faced by the officer. However, once the threat has been overcome, or a subject is secured in custody, it is an officer’s responsibility to de-escalate and immediately address any injuries the suspect may have sustained.

B. **USE OF FORCE DECISION CHART**: The following diagram illustrates the amount of force an officer should use based on the suspect’s behavior and threat. It is the suspect’s behavior that places the officer and/or others in danger. The suspect’s threat is the primary factor in choosing a force option. However, the officer should also consider the totality of the circumstances to include, but not limited to, a suspect’s altered state due to alcohol or drugs, mental impairment, medical conditions, or the proximity of weapons.
USE OF FORCE DECISION CHART

DEADLY FORCE
Officer Options: Firearm
Offender Behavior: Objectively reasonable belief that there is an immediate threat of death or serious bodily injury

LESS LETHAL FORCE
Officer Options: Electronic Control Weapon (ECW), ASP/Baton
Offender Threat: Physically Aggressive or Assaultive behavior with immediate likelihood of injury to self or others

MODERATE/LIMITED FORCE
Officer Options: Physical Control Holds, OC Spray
Offender Threat: Resisting and Non-Compliant

NO FORCE
(Use of Force Report not required)
Officer Options: Verbal Commands, Officer Presence
Offender Threat: Obedient, Compliant, Non-Aggressive

Use the option that represents the minimal amount of force necessary to reduce the immediate threat.
3. The following are examples of how to interpret the Use of Force Decision Chart. These examples are for illustrative purposes and not intended as an exhaustive list.

A. No force is required or authorized when the offender is compliant non-aggressive and responds to verbal commands. Officers may need to handcuff such offenders but this is not considered use of force. No use of force report is required under these circumstances.

B. Moderate/limited use of force may be required when the offender is non-compliant and is resisting the officer’s commands. Such behaviors may include pushing or pulling away, locking arms, or tightening of the body. Force including control holds, and OC Spray is authorized under these circumstances. Verbal aggression by itself does not warrant the use of force.

**EXCEPTION:** Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting officer’s commands, OC Spray SHALL NOT BE USED to overcome the resistance. Rather, officers will disengage and contact a supervisor. If necessary, additional officers will be used to overcome the resistance.

C. The use of the Electronic Control Weapon (ECW) and/or ASP/Baton is authorized when the offender is physically aggressive or assaultive and there is a immediate likelihood that they may injure themselves or others. Such behaviors may include punching, kicking, grabbing, or approaching with a clenched fist.

**EXCEPTION:** Protestors/Demonstrators that are exercising their Constitutional Rights of Free Speech or Assembly and are non-compliant and passively resisting officer’s commands, ECW SHALL NOT BE USED to overcome the resistance. Rather, officers will disengage and contact a supervisor. If necessary, additional officers will be used to overcome the resistance.

D. Deadly force is authorized when the officer has objectively reasonable belief that they must protect themselves or another person from the immediate threat of death or serious bodily injury.

E. An officer may address an offender’s immediate threat with any option to the level of threat or lower. For example, an officer may use their ASP/Baton, OC Spray, or ECW on an offender displaying assaultive behavior with a likelihood of injury to themselves or others. They cannot use an ECW on an offender who is only non-compliant.

**NOTE:** The mere handcuffing of a compliant individual is not considered force.
5. **PROCEDURE**

A. **Authorized Users, Training and Equipment**

1. Only those officers and supervisors who have successfully completed the approved, basic ECW training shall be authorized to carry an ECW.

2. Officers and supervisors who are issued an ECW **MUST** carry it on their duty Belt, opposite side of their firearm, while on-duty.

3. To continue carrying an ECW, all personnel initially authorized to carry an ECW must undergo recertification training annually. Any personnel who fails to undergo recertification training and/or qualification shall be prohibited from carrying an ECW until such time that recertification training and/or qualification are completed.

**NOTE:** Officers that have successfully completed the Crisis Intervention Training (CIT) will be issued an ECW. These officers are responsible for the safe handling and storage of this equipment while off duty. The protocols of this Directive shall apply equally to any off duty actions.

4. Only Departmentally issued ECWs shall be carried by authorized personnel. The use of privately owned ECWs, holsters or other related equipment is strictly prohibited.

B. **Device Readiness**

1. The ECW will be carried in a Department issued holster on the side of the body opposite the service handgun.

**NOTE:** The grip of the ECW shall be a bright color.

2. The ECW will be carried fully armed with the safety on in preparation for immediate use.

3. The ECW will be set in “Probe Mode” as the primary setting option with “Drive Stun Mode” used as a secondary option.

4. Officers/Supervisors will be issued one spare air cartridge as a backup. The spare air cartridge will be stored and carried in a manner consistent with training and will be replaced consistent with the manufacturer’s expiration requirements.
5. The ECWs energy level will be checked and a spark test done prior to taking the ECW out on patrol. Point the ECW in a safe direction prior to spark test. This is accomplished by first removing the air cartridge, turning the power switch on, pulling the trigger, then turning the unit off as soon as a spark is seen. A visible spark between the electrodes at the front of the ECW will show the unit is functioning properly.

a. All spark tests WILL be noted on the Patrol Log (75-158).

***************CAUTION***************
BE SURE TO REMOVE TASER AIR CARTRIDGE
PRIOR TO BEGINNING SPARK TEST

6. The battery indicator on the Taser model **M26 Taser®** may blink or be a steady red, depending on the age of the unit. This indicator in and of itself does not ensure that the components of the ECW are performing properly. It only indicates the unit has power. If there is no red LED visible, then return the unit to Firearms Training Unit for evaluation and replacement of batteries if required.

7. The battery indicator on the Taser model **X26 Taser®** is visible on the central information display. This indicator in and of itself does not guarantee that the components of the Taser are performing properly. When the display indicates less than twenty (20) firings remaining, return the unit to the Firearms Training Unit.

C. Activating the ECW

1. The ECW shall only be activated against persons who are physically aggressive or assaultive and there is an immediate likelihood that they may injure themselves or others.

2. A verbal warning shall be given to a person prior to activating the ECW unless to do so would place any other person at risk.

3. Personnel should not intentionally activate more than one (1) ECW simultaneously against a person.

4. Personnel may activate an ECW against an aggressive animal, but only if doing so will not unnecessarily jeopardize the safety of the officer or civilians present.

5. Whenever an ECW is about to be used, it is the responsibility of the activating officer to make sure other officers on the scene understand that the ECW is being activated by announcing “TASER” several times before being discharging.

6. Personnel should not intentionally target sensitive areas (e.g., head, neck, genitalia).
7. When activating an ECW, personnel should use it for one (1) standard cycle (a standard cycle is five (5) seconds) and should evaluate the situation to determine if subsequent cycles are necessary. Personnel should consider that exposure to multiple activations, continuous cycling and exposure to the ECW longer than fifteen (15) seconds may increase the risk of death or serious injury. Any subsequent activation should be independently justifiable and should be weighed against other force options. Under no circumstances are officers authorized to administer more than THREE (3) CYCLES against a person.

8. To minimize the number of cycles needed to overcome resistance and bring the subject under control and once it is announced that an ECW is being activated, all officers on scene should attempt to secure the subject while incapacitated by ECW power or immediately thereafter. All Officers on scene must also be prepared for an ECW to be ineffective and immediately transition to other force options if necessary.

NOTE: In determining the need for additional energy cycles, officers must be aware that an energized subject may not be able to respond to commands during or immediately following exposure.

9. Drive Stun is a secondary function of an ECW. Personnel must be aware that using an ECW in Drive Stun is OFTEN INEFFECTIVE in INCAPACITATING a subject. However, it may be used to effectively incapacitate a subject where at least one probe is attached to the subject’s body and the ECW contact will complete the circuit (i.e., provide the second electrical contact to a subject) by creating uncontrolled muscle contractions and overriding the subject’s voluntary motor responses.

10. The ECW SHALL NOT be used in the following manner:

a. Against a suspect exhibiting passive behavior or non-compliance.

b. Against an unarmed suspect attempting to elude capture by fleeing that is wanted for a non-violent misdemeanor, summary, or traffic offense.

c. For the dispersal of non-violent persons, disorderly crowds, or in situations where people are peacefully exercising their Constitutional Rights of Free Speech or Assembly.

d. At random or as a threat to gain compliance or information.

e. In any environment where an officer reasonably believes that a flammable, volatile, or explosive material is present, including but not limited to gasoline, natural gas, propane or alcohol based Oleoresin Capsicum (O.C.) spray.
f. Against any elderly/frail persons, young children, or any women who appear pregnant or where officers receive information that the women are or may be pregnant.

g. Against a subject when in an elevated position where a fall may cause substantial injury or death.

h. Against a subject in physical control of a vehicle in motion to include automobiles, trucks, motorcycles, ATVs, bicycles and scooters.

i. On handcuffed persons unless necessary to prevent the individual from inflicting serious bodily injury to themselves or others.

j. Against a subject where officers receive information that the subject has any heart ailments, conditions or has a pacemaker.

k. Against an individual who attempts to ingest or is suspected to have ingested narcotics or other evidence at which time they will be transported to the nearest hospital.

l. When officers are in close contact with the suspect.

D. Post-Deployment

1. A supervisor will respond once notified of an ECW discharge and ensure:

   a. All Post Deployment steps are completed.

   b. When possible, the Confetti Tags will be recovered and placed on the property receipt.

2. Following an ECW activation, officers should use a restraint that does not impair breathing.

3. All individuals who are exposed to an ECW activation shall be transported to a medical facility for treatment. If the prongs are attached to the skin of the individual, cut off the wires between the cartridge and the prongs, leaving a twelve (12)-inch lead, prior to transportation. The ECW prongs should be treated as a biohazard risk.

4. If not incapacitated, the officer/supervisor firing the device will accompany the victim to the hospital. Prepare a separate 75-48 for the hospital case. Retrieve two (2) prongs from the hospital and place them inside cartridge holes and tape over and note: “Prongs are included”. The cartridge and prongs will be placed on a property receipt and submitted as evidence.
5. Investigating Units will ensure that the area on the individual affected by the ECW is photographed. The use of the ECW will be noted on the Investigation Report (75-49). All body-worn cameras (BWC) and other video footage of the incident is recovered and processed as evidence.

E. Reporting/Notifications

1. Any officer or supervisor that activates an ECW toward a person (intentionally or unintentionally) shall notify Police Radio and complete a Use of Force report (75-632).

NOTE: Accidental discharges not hitting a person will be reported to Internal Affairs through the notification screen on the Police Intranet Homepage. The Use of Force report is not necessary.

2. The responding supervisor shall conduct an initial review of the ECW activation and ensure a Use of Force Report is completed as appropriate. An officer may review video from a BWC that captured the incident prior to completing their Use of Force Report.

3. After medical treatment, if the suspect is being arrested, the activating officer/supervisor shall ensure that the ORS is notified that the suspect was exposed to an ECW activation. This information will be inserted into the Detainee Medical Checklist. In the event the activating officer/supervisor is incapacitated, the responding supervisor shall ensure the proper notification is made to the ORS and on the Detainee Medical Checklist. The ORS shall monitor suspects who have been exposed to an ECW activation every fifteen (15) minutes for any possible medical emergencies.

4. After medical treatment, if an individual is exposed to an ECW activation and transported to a Crisis Response Center (CRC), the activating officer/supervisor shall notify a CRC supervisor that the individual was exposed to an ECW activation. The name of the supervisor and the time of notification will be inserted on the Use of Force Report. In the event the activating officer/supervisor is incapacitated, the responding supervisor shall ensure the proper notification is made and the information is inserted into the Use of Force Report.

5. Any officer/supervisor that activates an ECW either intentionally or accidentally shall report to the Range no more than five (5) days after the incident for a replacement air cartridge and for range personnel to download the ECW’s data.

6. The responding supervisor will notify the ORS of the ECW activation so that a Use of Force Notification (on the Intranet Homepage) can be made to Internal Affairs prior to the end of the involved officer’s tour of duty.
F. Investigations

1. All Use of Force Reports involving the activation of an ECW shall be reviewed by Internal Affairs. All Use of Force reports involving the activation of the ECW shall contain the approximate number of activations used against the subject (probe and drive stun).

2. Internal Affairs shall initiate an internal investigation when any of the following factors are involved:
   a. A person experiences death or serious bodily injury;
   b. A person experiences prolonged ECW activation (longer than fifteen seconds);
   c. The ECW appears to have been used in a punitive or abusive manner;
   d. There appears to be a substantial deviation from training; and
   e. A person in an at-risk category has been exposed to an ECW activation (i.e., elderly/frail persons, young children, or any women who appear pregnant or where officers receive information that the women are or may be pregnant).

3. When reviewing downloaded ECW data, supervisors and investigators should be aware that the total time of discharge registered on the ECW may not reflect the actual duration of ECW activation on a subject.

4. View any BWC or other video footage that captured the incident.

G. Auditing

1. All Department ECWs will be subjected to periodic and random data downloading by Internal Affairs. The data obtained will be reconciled with existing Use of Force Reports to ensure accountability between the cycles recorded and those documented in such reports and occurring in pre-shift testing.

2. Periodic and random audits shall be conducted to ensure all officers/supervisors who carry ECWs have attended initial and recertification training.

3. ECWs will be downloaded during mandated firearms requalification and ECW recertification. The reports will be forwarded to Internal Affairs for review.
H. Lost or Stolen ECWs

1. Lost or stolen ECWs and/or air cartridges shall be immediately reported on a memorandum, to the pertinent district/unit Commanding Officer, fully explaining the circumstances. The memorandum, 75-48 and 75-49, will be submitted to the Commanding Officer, Firearms Training Unit and Police Finance.

2. After the Commanding Officer reviews and signs the memorandum, the officer/supervisor will report to the Police Academy, Firearms Training Unit, between the hours of 8:00 am and 4:00 pm, with a copy of the memorandum and the Investigation Report (75-49), to obtain a replacement device for a lost/stolen ECW.

3. When the Commanding Officer determines negligence has occurred, the officer/supervisor will be subject to disciplinary action and/or required to pay for its replacement.

I. Revocation of Certification/Privilege to Carry an ECW

1. The issuance and authority to carry a ECW is a privilege granted to specially trained officers/supervisors and is not to be construed as standard issued equipment. As such, the Department reserves the right to revoke this privilege. Any such revocation shall not prevent or limit the Department from invoking any disciplinary charges, penalties or other remedies available.

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BY COMMAND OF THE POLICE COMMISSIONER

PLEAC – Conforms to the standards according to the Pennsylvania Law Enforcement Accreditation Commission