

Buncombe County Sheriff's Office

	Policy Number: 405	Effective Date: August 31 st , 2020
Subject/Title: CONDUCTED ENERGY DEVICES		
Rescinds: Prior policy 3.25 with an original effective date of December 4 th , 2006 at 9 pages and a last modification date of March 15 th , 2018 at 10 pages (document retains 9 pages in header.)		
Approved: Sheriff Quentin Miller		

405.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to employees of the Buncombe County Sheriff's Office regarding conducted energy devices (CEDs.) This policy also addresses certification with CEDs and CED issuance, use, and training.

Issues related to the use of force are also addressed in the Use of Force policy.

405.2 POLICY STATEMENT

The work of law enforcement officers in the United States and North Carolina, both in responding to calls for service and engaging in community policing and other enforcement action, involves inherent risk. Unfortunately, the risks posed to deputies employed by the Buncombe County Sheriff's Office include risk of personal harm and even death when these employees encounter individuals who are or may be violent, and/or are well-armed. These same individuals also pose risks of serious harm to members of the public who may or may not have been involved in the incident giving rise to a law enforcement response.

The work of detention officers also involves inherent risk to these officers who are assigned to maintain order and provide care for individuals in a group detention setting. Many, though certainly not all, incarcerated individuals have prior histories of violence and at least some portion of these individuals continue to engage in violent behavior within the setting of the detention facility. These individuals also pose risks of harm up to and including death not only to detention personnel but to other inmates who are not engaged in violent behavior.

To lessen the risk of injury to BCSO personnel, to innocent bystanders, and the individuals engaged in violent behavior themselves, the Buncombe County Sheriff's Office issues less-lethal CEDs to employees. These CEDs may be used by BCSO personnel subject to the guidelines in this policy, when reasonably necessary to

counter, combat, or detain individuals engaged in violent or resistive behavior. Repeated scientific studies demonstrate that while CEDs may pose a small risk of harm when used on some individuals, the use of CEDs as a less-lethal weapon in volatile encounters has significantly lessened injuries to all involved parties.

405.3 RANGE MASTER/TASER ADMINISTRATOR

As described in the Firearms policy, the Sheriff or the Sheriff's designee shall select one deputy to serve as the Range Master. The Range Master may also select assistant Range Masters as necessary to fulfill the Range Master's duties. The selection of assistant Range Masters, if necessary, shall be in coordination with the Section Supervisor over the Training Section. These individuals may be the primary instructor/s for CEDs, in which case the primary instructor may be designated as the Taser Administrator.

In addition to the responsibilities set out in the Firearms policy, the Range Master or the Taser Administrator if designated is responsible for the following regarding CEDs:

1. Providing sufficient certification opportunities for BCSO personnel authorized to carry CEDs.
2. Conducting CED certifications.
3. Providing training regarding the use of CEDs, subject to the supervision of the Section Supervisor over Training, and as resources allow.
4. Reporting to the Office of Professional Standards all personnel who are authorized to carry or deploy CEDs while on-duty who have not maintained their certification/qualification.
5. Issuing CEDs, cartridges, and related equipment.
6. Coordinating repair and replacement of CEDs.
7. Completing other responsibilities as outlined in individual job descriptions.

405.4 CED CERTIFICATION, ISSUANCE, AND MAINTENANCE

405.4.1 CED CERTIFICATION

Deputies and detention officers shall complete certification with each CED they are required to carry on-duty, subject to the requirements set by the Range Master or Taser

Administrator. Deputies and detention officers shall not carry any CED on-duty if they have not first successfully been certified in its use.

Deputies and detention officers who fail certification based on performance shall be provided with remedial training subject to the following restrictions:

1. They may not access the CED/s on which they failed to qualify until they have obtained certification.
2. They shall take Compensatory Time, Annual Leave, or Banked Holiday time off pending successful certification.
3. Those who repeatedly fail certification shall be referred to the Office of Professional Standards and may be removed from assignment/s.
4. Those who fail to obtain certification may be subject to other action, including disciplinary action.

Deputies and detention officers who fail to obtain certification within the necessary time but for reasons unrelated to performance shall notify their immediate supervisors on or before the date certification is required. Examples of failing to obtain certification for reasons unrelated to performance may include being out on approved extended absence during the certification period, or being ill or injured during the certification period (see also the Sick Leave policy.)

405.4.2 ISSUED CEDS AND RELATED EQUIPMENT

CEDs, including TASERs, are issued to deputies and detention officers based on their assignments. In some cases, CEDs including TASERs, may instead be assigned to a location, such as a specific controlled access area of the detention facility.

All office-issued CEDs and related equipment remain the property of the Office unless otherwise approved by the Sheriff or the Sheriff's designee in writing.

Deputies and detention officers will also be issued cartridges and holsters, and may only use cartridges and holsters issued by the Office.

405.4.3 MAINTENANCE

Personnel issued or assigned TASERs shall conduct a spark test (without the cartridge) at the beginning of their shift. Personnel assigned to a location where a TASER is located, for example in a secure section of the detention facility, are responsible for spark testing at the beginning of the shift unless another employee assigned to the same location on the same shift has already done so.

All other CEDs should be tested following the manufacturer's instructions.

Personnel should immediately report to a supervisor any CED which fails a spark test, that requires cartridges, or which otherwise appears to be less than fully functional.

405.4.4 STORAGE

Deputies and detention officers shall lock and secure all CEDs and related equipment, including cartridges, in a way that does not allow children or unauthorized adults to access them. Deputies should be aware that the negligent storage of CEDs including TASERs can result in civil and criminal liability, as well as the loss of law enforcement and detention officer certification.

405.4.5 HOLSTERING OF TASERs

Deputies who carry firearms and TASERs shall carry a TASER only in a support-side holster. This holster may allow for cross-drawing, i.e., drawing the TASER with the dominant hand, but the TASER must be located sufficiently to the support-side of the body to avoid confusion between the deputy's firearm and the deputy's TASER. Deputies should not hold both a firearm and a TASER at the same time.

405.5 TASER DEPLOYMENT

405.5.1 WARNINGS

Deputies and detention officers should generally provide a verbal warning to an individual before deploying their TASERs unless providing a verbal warning would be reasonably likely to endanger the employee or a third party, or it is otherwise impracticable to give a warning. When given, a warning should allow the individual a reasonable opportunity to comply voluntarily.

The type of warning or warnings given, or the reason/s a warning was not given, should be included in all relevant reports.

405.5.2 DEPLOYMENT

Deputies may deploy TASERs against individuals in circumstances where they reasonably perceive that deploying a less-lethal weapon is reasonably necessary. Examples in which TASER deployment may be appropriate include when a person is assaultive or combative, or when a person otherwise reasonably appears to the deputy to pose a risk of danger or harm to the deputy, to others, or themselves.

Detention officers should deploy TASERs consistent with their training.

405.5.3 DEVICE AND DEPLOYMENT LIMITATIONS

Deputies and detention officers should consider the limitations of TASER devices, including but not limited to, that TASERs may not be effective in controlling all

individuals and that TASERs are unlikely to be effective when deployed outside of their operational ranges.

Deputies and detention officers should also consider limitations that may be present in the given situation, for example, if a suspect is wearing heavy winter clothing. These types of situational factors may interfere with deployment to preferred targeting areas. Targeting of the head, neck, chest, and groin should be avoided when reasonably practicable. However, when situational factors result in deputies being unable to limit deployment of the probes to one of these areas, deputies should continuously monitor the individual for signs of distress pending medical or EMS evaluation.

405.5.4 DEPLOYMENT CONSIDERATIONS

Deputies and detention officers should consider that TASERs may present increased risks of harm to certain individuals. These individuals include:

1. The elderly and infirm.
2. Individuals who are pregnant.
3. Small children and other individuals with low body mass.
4. Individuals with mental or physical illness or disease.
5. Individuals who are restrained, including those who are handcuffed and/or shackled.
6. Individuals who are likely to be injured due to their physical position or activity, e.g., individuals positioned at the top of a flight of stairs, individuals operating machinery, individuals who are near and/or have been sprayed with a flammable liquid or vapor including alcohol-based OC spray.

Deputies and detention officers who know or reasonably perceive that an individual falls into one of the increased risk categories should only deploy a TASER when both of the following are true:

1. All of the circumstances reasonably appearing to the deputy or detention officer at the time indicate that the use of other available less-lethal and non-lethal options would be ineffective, or would be reasonably likely to create a greater risk of danger to the deputy, the subject, or the public; and,
2. The need to bring the individual under control reasonably outweighs the risk of harm to the individual.

405.5.5 DEPLOYMENT RESTRICTIONS

Deputies and detention officers should not use TASERs as apprehension devices when the need to apprehend an individual is based on the individual's flight alone.

Deputies and detention officers should not use CEDs, including TASERs in an abusive manner. Examples of using a TASER in an abusive manner may include, but are not limited to, using a TASER as punishment for an individual engaging in passive

resistance only and using a TASER as an interrogation tool to gain information from a suspect.

Deputies and detention officers should not knowingly deploy more than one TASER against a single individual at the same time.

405.5.6 DRIVE STUN MODE AND MULTIPLE DEPLOYMENTS

Use of a TASER in drive stun mode is defined as deploying a TASER directly to an individual as opposed to deploying a TASER to an individual by using the TASER probes.

Deputies and detention officers should not use a TASER in drive stun mode unless it is necessary to supplement probe mode to complete the circuit, or the use of drive stun mode becomes necessary to create physical distance between the employee and an individual. In both of these situations, deputies and detention officers should limit the use of drive stun mode to only that which is necessary to create distance between themselves and the individual. Once a sufficient amount of distance has been created, deputies and/or detention officers should reassess and take action as appropriate.

Repeated applications of a TASER may increase the risk of harm to an individual, however, a single application of a TASER may also be ineffective for a variety of reasons. Because of this, deputies and detention should begin by only applying a TASER for one standard cycle. If after the first cycle it reasonably appears to the deputy or detention officer that the TASER has been ineffective in controlling the individual, the deputy or detention officer should reassess the individual's behavior. The deputy or detention officer should also consider the following in determining whether it is reasonable to believe the need to control the individual outweighs the potentially increased risk of harm from multiple applications:

1. Does the individual reasonably appear to have had an opportunity to comply, e.g., does the individual appear to have been startled or surprised by the application of the device despite having been given a verbal warning?
2. Does the individual reasonably appear to have been able to comply, e.g., is the individual experiencing a medical or mental health emergency, does the movement or lack thereof of the individual reveal a previously unapparent physical or mental disability?
3. Do the probes reasonably appear to have made proper contact?
4. Do other options such as verbal commands or use of other tactics reasonably appear to be more effective?

405.5.7 DISCHARGE AT ANIMALS

Deputies should develop reasonable contingency plans for confining or otherwise incapacitating an animal when they have sufficient advance notice to do so. Reasonable contingency plans may include calling for an animal control officer or deploying a fire

extinguisher. Deputies may, however, use a conducted energy device against an animal if a contingency plan fails, becomes impractical, or in the absence of a contingency plan when an animal reasonably appears to pose an imminent threat to human safety and alternative methods are not reasonably available or would likely be ineffective to stop the animal.

Deputies may not, however, euthanize or attempt to euthanize animals that are injured unless it is reasonably apparent the animal will not survive and is suffering.

Deputies who deploy their firearms in this manner should notify communications immediately to report the deployment. (See also the Animal Control policy.)

405.6 DEPUTY POST-DEPLOYMENT RESPONSIBILITIES

As soon as reasonably practicable deputies should notify communications and the appropriate supervisor/s of any TASER deployment.

405.6.1 EVIDENCE PACKAGING

The cartridge serial number of any expended cartridge should be included in all related written reports.

The expended cartridge itself should be packaged as evidence along with all probes and wires. Biohazard packaging should be used as necessary.

405.6.2 REPORTING

Personnel who discharge a CED in any situation except for a training exercise shall make an oral report to their supervisor as soon as possible. This oral report is required whether or not the CED was discharged intentionally or unintentionally, or was discharged on or off duty.

Personnel shall follow this oral report with a written report which must be completed and provided to their supervisor before the end of shift if the discharge occurred while on duty. If the discharge occurred while off-duty, personnel shall complete this written report before beginning their next shift. A deployment includes targeting with a TASER which also requires a use of force report be completed. (See also the Use of Force policy.)

If the discharge involves injury or death to another person, reports and statements shall be made as outlined in the Deputy-Involved Shootings and Deaths policy and/or the Use of Force policy, as applicable.

405.6.3 MEDICAL AID

Deputies shall call for EMS transport to a medical facility for individuals exhibiting signs of distress.

Deputies shall also call for EMS transport to a medical facility for individuals who have been exposed to prolonged applications or multiple applications. A prolonged application is defined as an application equal to or longer than fifteen (15) seconds.

Deputies should also ensure that individuals falling into one of these three categories, e.g., signs of distress, prolonged application, or multiple applications, are medically evaluated before presentation to the magistrate.

If an individual refuses medical attention, deputies shall document that refusal in all related reports, including interview reports and recordings, where present. Refusals should also be witnessed by medical personnel and by another deputy or other law enforcement officer. (See also the Medical Aid policy.)

405.7 SUPERVISOR RESPONSIBILITIES

The deployment and/or application of a CED, including a TASER is considered a use of force and supervisors should respond to all incidents as described in the Use of Force policy.

Supervisors should ensure, where applicable, that witnesses are interviewed and any relevant photographs are taken, i.e., of the scene and probe sites.

Supervisors should ensure, where applicable, that the CED's onboard memory is downloaded and saved. Supervisors may seek assistance from the Range Master or Range Master's designee in completing this task.

405.8 TRAINING

Deputies and detention officers are not authorized to carry or deploy CEDs including TASERs unless they have been approved by their Division Commander and the Range Master assigned to CEDs, and have successfully completed an Office-approved training and certification program. Deputies and detention officers are not authorized to carry any Office-issued CED off-duty unless they are engaged in secondary work through the Office.

BCSO deputies and detention officers who have not been required to carry a CED for any period of more than one year should be recertified before carrying or deploying the device. Deputies and detention officers who have not been required to carry a TASER for any period of more than one year should also be recertified before carrying or deploying the device.

Annual proficiency training is required for all deputies and detention officers who have been issued TASERs. Bi-annual proficiency training is required for all other CEDs. Reassessments may also occur at any time deemed appropriate by the Section Head over Training.

All BCSO personnel who work with or near deputies or detention officers in an environment where CEDs are present must complete basic familiarity training on a triennial basis.

Exposure to a CED in any form including as a drive stun or regular application is not mandatory for certification.

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