

KAUAI POLICE DEPARTMENT

GENERAL ORDER	DATE OF ISSUE	EFFECTIVE DATE	NO.
	September 1, 2006	Immediately	2006-1
REFERENCE		RESCINDS: 2003-4	

INDEX AS: USE OF FORCE

I. PURPOSE

To establish guidelines and policies for the use of force by members of the Kauai Police Department..

II. POLICY

The Kauai Police Department recognizes and respects the value of all individual human life. It is the policy of this Department that officers shall use only that force which appears reasonably necessary to effectively bring an incident under control, while at the same time protecting the lives of officers and members of the public.

III. AUTHORIZATION

Members of the Kauai Police Department shall avoid using any form of weaponless self-defense method or self-defense weapon (as outlined in this General Order or any other Department Directive) without first receiving training in the proper techniques and use of such weaponless self-defense methods or self-defense weapons from an authorized Department instructor.

IV. DEFINITIONS

A. Deadly Force:

Any use of force that is likely to result in death or serious bodily injury.

B. Non-Deadly Force:

Any use of force other than that which is considered deadly force, including but not limited to Officer Presence, Verbal Commands, Empty Hand Control, and Intermediate Weapons.

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C. Imminent Danger:

Impending, foreseeable, about to occur danger. A dangerous event about to happen.

D. Use of Force Continuum:

The Use of Force Continuum is a guideline for meeting the opposing threat with the amount of force needed to neutralize the immediate threat.

Level 1

Officer Presence/Verbal Commands:

A majority of situations can be resolved by use of communication skills or verbal direction. Often, the mere presence of an officer and proper verbal direction will be sufficient to de-escalate and bring the situation to conclusion.

Level 2

Empty Hand Control Techniques:

1. Soft Empty Hand Control:

This level is designed to control low levels of resistance.

2. Hard Empty Hand Control:

This level is designed to respond to higher levels of resistance or active aggression.

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Level 3

Intermediate Empty Hand Control:

This level employs the use of the Department approved Lateral Vascular Neck Restraint to control subjects when deadly force is not justified, but when lower levels of empty hand control techniques are insufficient.

Intermediate Weapons:

This level employs the use of department approved tools to control subjects when deadly force is not justified, but empty hand control techniques are insufficient. The approved tools are, but not limited to:

1. Department issued Oleoresin Capsicum or Capsaicinoid (OC)
2. Department Approved Baton
3. Less Lethal Munitions

Level 4

Deadly Force:

Any force that is likely to result in death or serious bodily injury.

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V. PROCEDURE

A. Parameter for Use of Non-Deadly Force:

Officers shall assess the incident to determine what level of force may best be used to de-escalate the incident and bring it under control. *The level of force used may be at any level. It shall be dependant upon the officer's perception of the resistance and danger of that resistance.*

Officers are authorized to use Department approved non-deadly force techniques and issued equipment under the following circumstances:

1. To protect themselves or others from physical harm; or
2. To restrain or subdue a resistant individual; or
3. To bring an unlawful situation safely and effectively under control.

B. Parameter for Use of Deadly Force:

Officers may discharge firearms in the performance of their duties:

1. When they reasonably believe that the use of a firearm creates no substantial risk of injury to innocent person(s); and
2. When necessary in the defense of their own lives or the defense of another persons life; or

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3. To capture or prevent the escape of a felon when the officer reasonably believes that the fleeing felon poses an **imminent danger** of death or serious bodily injury to the officer or to another person;
or
4. When killing a dangerous animal when other disposition is not practical; killing a seriously injured animal with supervisor approval; or
5. During approved departmental training classes, target practice, or competitive sporting events at an approved range.

Prohibited Use of Firearm:

1. Except for inspections, maintenance, authorized public display, or training, officers shall not display or draw their firearms unless a situation exists in which displaying or drawing the firearm is for the safety of the officer or another person.
2. Firearms shall not be discharged as a warning shot.
3. Firearms shall not be pointed toward anyone unless the officer feels an imminent threat of serious bodily injury or death to self or another from that person(s).
4. Officers shall avoid discharging their firearms from a moving vehicle, or at a moving vehicle unless the vehicle or its occupant(s) pose an imminent danger of death or serious bodily injury to the officer or another person.

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VI. DISPLAYING OF FIREARM

Whenever an officer's firearm is visible to the public, the officer's police badge shall also be visible unless circumstances at that time do not permit the officer to display his/her police badge.

VII. REPORTING USE OF FORCE

In any incident where force is used by Kauai Police Department personnel in performance of their duties, and the subject or the officer(s) involved may have incurred injury, a special report separate from the original offense report shall be submitted on form KPD 519, "Use of Force Report".

A. Reporting Use of Non-Deadly Force Where Subject May Have Incurred Injury:

1. The on duty supervisor shall be notified of the incident as soon as possible. If necessary, the on duty supervisor shall make further notifications in accordance with the notification protocol at police dispatch.
2. The incident report and the Use of Force Report shall be submitted to the supervisor before the end of shift. A copy of both reports shall be forwarded to the Chief of Police via Chain of Command.

B. Reporting Use of Deadly Force:

1. **Discharge of firearm** (outside a firing range where no personal injury or death is incurred):
 - a. Officers shall follow the Use of Non-Deadly Force guidelines above; and

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- b. The officer's immediate supervisor shall conduct a thorough investigation of all circumstances involved in the discharge of the firearm, and submit a detailed report via Chain of Command to the Chief of Police.
- c. If a violation of any Department policy is found, appropriate disciplinary action shall be taken.
- d. If the discharge was accidental and/or in violation of any Department policy, in addition to and/or as part of any disciplinary action, the officer shall take a retraining class in the proper handling and use of a firearm(s) as soon as practical.

2. Deadly Force Used Resulting in Death or Injury:

- a. Officers shall immediately secure the scene and notify the on duty supervisor. The on duty supervisor shall make necessary notifications as soon as possible based on the notification protocol at dispatch.
- b. The Investigative Services Bureau and the Prosecutors Office shall be notified immediately. The Commander of ISB shall be responsible for the assignment, supervision, proper investigation, and referral of all reports to the Prosecutor's Office.
- c. Officer(s) involved in the incident should be removed from the scene as soon as possible.

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- d. The assigned internal investigator shall conduct a thorough investigation of all circumstances involved in the incident, and submit a detailed report to the Chief of Police.

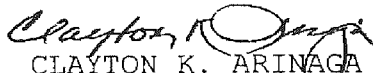
If any violation of Department policy is found, the matter shall be referred for appropriate disciplinary action.

- e. When an officer(s) use of force results in death or serious bodily injury, a Police Chaplain may be requested to respond.
- f. All use of force incidents resulting in death or serious bodily injury to a person shall be investigated in accordance with current Departmental Critical Incident Protocol.

VIII. DEPARTMENTAL RESPONSE

- A. When an officer(s) use of force results in death or serious bodily injury to a person, the officer(s) shall be placed on Administrative Leave for a minimum of three (3) days, and the officer(s) shall complete a critical incident debriefing via a certified professional.
- B. The Department shall conduct both an Administrative and Criminal Investigation of any incident in which an officers Use of Force action or discharged firearm results in death or serious bodily injury to a person.

All Department personnel shall strictly adhere to all of the provisions of this General Order.


CLAYTON K. ARINAGA
Acting Chief of Police

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GENERAL ORDER	DATE OF ISSUE 11/8/2010	EFFECTIVE DATE Immediately	NO. 2010-15
REFERENCE CALEA Standard 1.3.4, 1.3.5, 1.3.6, 1.3.9, 1.3.10, 1.3.11, 1.3.12		RESCINDS: GENERAL ORDER 2009-01	
INDEX AS: ELECTRONIC CONTROL DEVICE			

I. PURPOSE:

The purpose of this policy is to provide officers with guidance and direction in the use of Electronic Control Device (ECD). The ECD is considered an intermediate weapon in the use of force continuum.

II. DEFINITIONS:

- A. 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 imminent.
- B. Actively Resisting: Physically forcible movements threatening the safety of the Officer and rising above the level of defensive resistance or mere non-submission.
- C. Air Cartridge: A replaceable cartridge for the electric gun which uses compressed nitrogen to fire two probes attached to connecting wires that send an electrical current into a subject.
- D. Display: The electric gun is removed from its holster and/or is activated to demonstrate its ability to discharge electricity.
- E. Drive Stun: A contact application of the electric gun when it is pressed into the body or a subject and activated.
- F. Electronic Control Device (ECD): A non-lethal electric gun (also known as a conducted energy device) designed to incapacitate by discharging an electric current into a subject that disrupts the ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction.

The TASER® Electronic Control Device is currently the only electric gun authorized for use by the department

TASER is a registered trademark of Taser International, Inc.

- G. Neuromuscular Incapacitation (NMI): TASER technology uses electrical impulses to cause stimulation that affects the sensory and motor nerves. Neuromuscular

Incapacitation (NMI) occurs when a device is able to cause involuntary stimulation of both the sensory nerves and the motor nerves. It is not dependent on pain and is effective on subjects with a high level of pain tolerance.

- H. Passive Resistance: Physical actions that do not rise to the level of a threat to the safety of an officer.
- I. 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.
- J. Spark Test: To test the operation of the electric gun. The air cartridge is removed from the electric gun and activated between one and five seconds. An electrical arc emitted from the electric gun indicates that it is operating properly.
- K. Substantial Bodily Injury: means bodily injury which causes:
 - (1) A major avulsion, laceration, or penetration of the skin;
 - (2) A burn of at least second degree severity;
 - (3) A bone fracture;
 - (4) A serious concussion; or
 - (5) A tearing, rupture, or corrosive damage to the esophagus, viscera, or other internal organs.
- L. Taser Cam: The Taser Cam is an audio-video recording device integrated into a rechargeable Taser X26C power supply.

III. AUTHORITY:

Hawaii Revised Statutes, §134.16, Restriction on possession, sale, gift, or delivery of electric guns, (c) states that "This section shall not apply to law enforcement officers of county police and sheriff departments of this State, or vendors providing electric guns to those entities; provided that electric guns shall at all times remain in the custody and control of the county police or sheriff departments" and (d) states that "The county police and sheriff departments of this State shall maintain records regarding every electric gun in their custody and control. Such records shall report every instance of usage of the electric guns; in particular, records shall be maintained in a similar manner for those of discharging of firearms. The county police and sheriff departments shall annually report to the legislature regarding these records twenty days before the beginning of each session."

IV. TRAINING AND CERTIFICATION:

- A. Only Officers who have successfully completed Departmental training in the use of the ECD and Use of Force policy are authorized to carry and use the ECD.

- B. Training shall consist of at least sixteen hours of training in the use, handling, and appropriate deployment of the ECD. Training shall address physical competency, device retention, changes in agency policy (if any), technology changes and reviews of local and national trends in ECD use.
- C. Training protocols should emphasize that multiple activations and continuous cycling of the ECD appear to increase the risk of death or serious injury and should be avoided where prudent.
- D. [REDACTED]
- E. Once trained, officers must successfully complete annual retraining.
- F. Only certified instructors shall be authorized to provide instruction on the ECD.
- G. Supervisors and command staff shall receive ECD awareness training so they can make educated decisions about the administrative investigations they review.
- H. The training curriculum shall be developed by the Administrative & Technical Bureau and shall integrate current ECD warnings, instructions, and information provided to law enforcement by Taser International, Inc.
- I. Once certified, instructors must successfully complete biennial recertification training.

V. ASSIGNMENT OF TASERS:

- A. The Research & Development Section shall coordinate the assignment of the ECD and ECD accessories to officers authorized to carry and use the Taser.
- B. The Research & Development Section shall establish a uniform format for reports used to monitor ECD assignment.
 - 1. The report shall identify each officer assigned an ECD, related equipment, and accessories.
 - a. The report shall be updated as necessary.
 - b. Each Bureau Commander shall be provided with a copy of the most current list of officers assigned an ECD, related equipment, and accessories.

VI. AUTHORIZED EQUIPMENT:

- A. Officers are authorized to carry and use only the department-issued ECD and related equipment such as batteries, accessories, cartridges and holsters.

VII. STORAGE, CARRYING, AND HANDLING OF THE TASER:

- A. The ECD device shall be secured at all times, except:
 - 1. To perform authorized testing;
 - 2. During inspections or maintenance;
 - 3. While participating in authorized training;
 - 4. While transferring the device to another officer or exchanging of the device; or,
 - 5. When deployment is imminent.
- B. Officers shall carry the ECD in a department-issued holster with the safety engaged. The ECD shall be worn on the opposite side of the duty firearm.
- C. Officers should avoid dropping the ECD.
- D. Officers should avoid exposing the ECD cartridges to significant moisture, dust, dirt or lint.
- E. Officers shall carry the ECD replacement cartridges in Department approved cases.

VIII. USE OF THE X26 TASER:

- A. General Maintenance Guidelines:
 - 1. All testing and/or inspection of the ECD shall be performed during work hours, in a safe location, outside the view of any members of the public, unless specifically authorized by a Bureau Commander.
 - 2. Officers should avoid pointing the laser beam at the eye(s) of a person or animal.
 - 3. Officers shall not attempt to open, modify, or tamper with the ECD or cartridges.
- B. Visual Inspection:
 - 1. Officers shall, at the beginning of each shift, inspect the ECD for damage and cleanliness and replace the power source and/or cartridges when required.

C. Function Test:

1. The operational performance of the ECD shall be checked at the beginning of each shift by performing a spark test. Any deficiencies shall be immediately reported to the immediate supervisor.
 - a. The spark test shall be performed outside the view of the public.
 - b. The air cartridge shall be removed from the ECD. A visual inspection of the weapon shall be conducted to assure that the air cartridge has been properly removed. The weapon shall be pointed in a safe direction before disengaging the safety switch. The Central Information Display shall be observed to determine the remaining battery life. Officers shall then activate the weapon between one and five seconds and stop the activation by re-engaging the safety switch.
 - c. An immediate, loud and uninterrupted spark being emitted during the one to five second function test should be observed.
 - d. The spark test shall not constitute a deployment of the ECD and is not subject to deployment reporting procedures.
 - e. The ECD shall not be utilized for duty with less than 20% battery life.
 - f. The ECD shall not be utilized for duty when a diminished or intermittent spark is being emitted during the function test.
 - g. The Research & Development Section shall be contacted for a replacement ECD or repairs.

D. [REDACTED]

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. All deployments of the ECD shall conform to the principles outlined in

KPD's training and certification program and be consistent with GENERAL ORDER 06-01 (or current), USE OF FORCE.

5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. [REDACTED]
 - e. [REDACTED]
10. [REDACTED]
 - a. [REDACTED]
 - b. [REDACTED]
 - c. [REDACTED]
 - d. [REDACTED]

e. [REDACTED]

11. [REDACTED]

12. [REDACTED]

13. [REDACTED]

14. Officers should be aware that there is a higher risk of sudden death in people under the influence of drugs and/or symptoms associated with excited delirium and take this into account when deploying the ECD against an individual who appears to be under the influence of drugs or displays symptoms associated with excited delirium.

15. [REDACTED]

16. [REDACTED]

E. [REDACTED]

1. [REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

3. [REDACTED]

[REDACTED]

1. [REDACTED]

a. [REDACTED]

b. [REDACTED]

F. [REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

IX. RESPONSIBILITIES:

A. Training Section responsibilities:

1. Coordinate and provide training and certification for officers in the proper use of the ECD.
2. Maintain training and certification records of all departmental personnel.

B. Research & Development Responsibilities:

1. Maintain a record of the department's inventory and issuance of the ECD and related equipment.
2. Issue ECD and related equipment/supplies such as cartridges, holsters, and biohazard containers.
3. Submit an annual report to the legislature regarding every ECD in the Department's custody and control and every instance of usage of the ECD.
4. All other duties as may become necessary for the department's ECD program.

5. Maintenance, service, and/or replacement of any ECD.

C.

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7.

D.

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3.

4.

a.

1.

2.

a. [REDACTED]

3. [REDACTED]

4. [REDACTED]

5. [REDACTED]

6. [REDACTED]

E. [REDACTED]

1. [REDACTED]

2. [REDACTED]

3. [REDACTED]

4. [REDACTED]

X. PROBE REMOVAL AND MEDICAL TREATMENT:

- A. When reasonably possible, only officers who have received proper training in the removal of probes or qualified medical personnel shall remove the probes from a person.
- B. When probes penetrate sensitive areas of a subject such as the face, head, genitals, or female breasts, the subject shall be transported to an emergency medical facility for treatment and removal of the probes.
- C. The officer who is assigned to this case shall recover the probes from the hospital personnel who removed the probes and shall submit the probes into evidence following proper chain of custody procedures.
- D. Officers shall use biohazard precautions when handling ECD probes removed from a

person. The expended probes shall be handled in a manner similar to handling contaminated needles and sharps.

- E. An individual exposed to an application of the ECD shall be transported to a medical facility for examination by a physician.
- F. If any individual refuses to be examined by a physician, this shall be noted on the medical facility's patient report by hospital personnel.
- G. All persons in custody who have been exposed to an application of the ECD shall be monitored regularly while in police custody even if they have received medical care.

XI. ACCIDENTAL DISCHARGE:

- A. Whenever an ECD cartridge is expended unintentionally in any situation other than during Department-sanctioned training, the deploying officer shall immediately notify his or her supervisor.
- B. The deploying officer shall complete and submit a memorandum to their Bureau Commander documenting the accidental discharge of the ECD cartridge. The expended probes, cartridges, and wires shall be placed in an envelope or other suitable container and submitted along with the memorandum. The supervisor shall ensure that copies of the memorandum and expended probes, cartridges, and wires are forwarded to the Internal Affairs Unit.

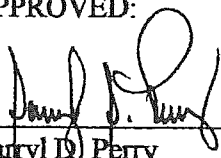
XII. ECD DATA:

- A. The ECD data consists of two types of digital files (firing data and video data captured by the ECD recording system).
- B. The designated supervisor shall submit the associated unaltered digital files (firing data log and video files captured by the ECD) into evidence for cases where a ECD is deployed.
- C. The designated supervisor shall perform the data download of the ECD. The officer shall view the data on the optical media to ensure that the data is complete before being submitted into evidence by the supervisor.
- D. Data shall be downloaded from the ECD using the software provided by the manufacturer and recorded onto non-rewriteable optical media (e.g. CD-R, DVD-R). The media shall be finalized (no additional data can be written to the media) and marked for identification.

1. Care shall be exercised when marking and packaging the media to ensure against damage and degradation. Optical discs shall be marked directly on the label side of the disc with a non-solvent based felt-tip permanent marker. Ballpoint pens or other hard-tipped writing instruments shall not be used.
 2. If multiple ECD are deployed during the same incident, each ECD's data shall be recorded onto separate media.
- E. Additionally, the firing data log shall be printed and submitted as an attachment to the Use of ECD Report.
- F. ECD data files are official police records and shall be secured and handled appropriately. Reproduction and/or release of ECD data files is strictly prohibited unless approved in writing by the Chief of Police. This does not apply to release of ECD data files as part of an official criminal proceeding.
- G. If no data is recorded during a deployment of the ECD or if there is a failure in the data downloads process, an explanation shall be provided in the Use of ECD Report.

EMPLOYEES OF THE KAUAI POLICE DEPARTMENT SHALL ADHERE TO THE PROVISIONS OF THIS DIRECTIVE.

APPROVED:


Darryl D. Perry
Chief of Police

11-10-2010

Date