

FLORIDA HIGHWAY PATROL POLICY MANUAL

	SUBJECT CONDUCTED ELECTRICAL WEAPON	POLICY NUMBER 10.05
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10.05.01 PURPOSE

The purpose of this policy is to establish guidelines for Florida Highway Patrol members on the use, carrying, certification and reporting requirements as they relate to the Division approved Conducted Electrical Weapon (CEW).

10.05.02 AUTHORITY

Chapter 776, Florida Statutes

Chapter 790, Florida Statutes

10.05.03 POLICY

Members of the Florida Highway Patrol performing official duties shall seek to employ only the force they reasonably believe to be necessary to successfully overcome physical resistance, prevent escapes, and effect arrests.

Members' actions must be objectively reasonable in light of the facts and circumstances known to the member at the time they used force, without regard to their underlying intent or motivation. Such actions must also comply with FHP Policy 10.01 Use of Control. Claims that members used excessive force are analyzed under the Fourth Amendment's objective reasonableness standard announced by the U.S. Supreme Court in *Graham v. Connor*, 490 U.S. 386 1989.

Members must consider the following factors to determine objective reasonableness when deploying a CEW: (a) the severity of the crime at issue; (b) whether the suspect poses an immediate threat to the safety of the member or others; and (c) whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

10.05.04 DEFINITIONS

- A. **AFIDs (Anti-Felon Identification)** – Confetti-like pieces of paper that are expelled from the cartridge when fired. Excluding those from training cartridges, each anti-felon identification (AFID) tag contains an alphanumeric identifier unique to the cartridge used.

- B. **ARC DISPLAY** – A sustained press of the ARC switch for longer than half a second, which initiates an electrical arc across both bays without deploying any cartridge(s).
- C. **AUTOMATIC SHUT-DOWN PERFORMANCE POWER MAGAZINE (APPM)** – The Performance Power Magazine (PPM) battery pack is a lithium energy cell power supply system for the CEW. The APPM is a modified battery pack that shuts down the output of the CEW after 5-seconds and contains a built-in speaker that alerts the user to the impending shut down.
- An X2 CEW equipped with the APPM battery pack is limited to 5-second discharges and provides an audible beeping alert for the last 2-seconds of a trigger-initiated cycle before automatically shutting down the cycle. After 5-seconds' deployment duration, the energy burst will stop even if the trigger switch is held continuously.
- D. **CARTRIDGE** – A replaceable cartridge for the CEW, which uses compressed nitrogen to fire two (2) barbed probes on thin connecting wires conducting the energy in a subject.
- E. **CEW ARMORER** – The FHP Academy Staff member appointed by the Chief Training Officer authorized to conduct limited maintenance and repairs on the CEW. The Chief Training Officer will appoint a CEW Armorer and Assistant CEW Armorer. The CEW Armorer and Assistant CEW Armorer are required to successfully complete the manufacturer's armorer course.
- F. **CEW INSTRUCTOR** – A member who is a certified instructor, and additionally holds a current instructor certification from the CEW manufacturer.
- G. **CEW STATEWIDE COORDINATOR** – The FHP Academy Staff member appointed by the Chief Training Officer to oversee training and related issues concerning the approved CEW.
- H. **CONDUCTED ELECTRICAL WEAPON (CEW)** – A device designed to disrupt a subject's motor and sensory nervous system by deploying battery-powered electrical energy sufficient to cause Neuro-Muscular Incapacitation (NMI) and override voluntary motor responses. The TASER X-2 System is the primary Conducted Electrical Weapon authorized for use by the Florida Highway Patrol. The TASER X-26 System is authorized for Florida Highway Patrol Auxiliary use.
- I. **DEPLOYMENT** – The intentional or unintentional discharge of the CEW at or toward a subject using either probes or drive stun mode. Deployment does not include testing, training or display of the CEW.
- J. **DRIVE STUN MODE** – A manner in which the CEW is deployed involving pressing the unit against a subject, with or without the cartridge.
- K. **EXCITED DELIRIUM** – A state of extreme mental and physiological excitement, characterized by exceptional agitation and hyperactivity, overheating, excessive

tearing of the eyes, hostility, superhuman strength, aggression, acute paranoia, and endurance without apparent fatigue.

- L. **PROBE** – A metal dart that is propelled from the cartridge.
- M. **SPARK TEST** – A function test activation conducted to verify that the CEW's core electronics are working properly.
- N. **SUBJECT RESISTANCE LEVELS** –
 - 1. **PASSIVE RESISTANCE** – A subject's verbal and/or physical refusal to comply with a member's lawful direction causing the member to use physical techniques to establish control. Examples include the subject refuses to move at the member's direction; the subject peacefully protests at a political event in a public location; and the subject refuses to take his hands out of his pockets or from behind his back.
 - 2. **ACTIVE RESISTANCE** – A subject's use of physically evasive movements directed toward the member, such as bracing, tensing, pushing or pulling, to prevent the member from establishing control over the subject. Examples include a subject physically anchors himself to a person or object to prevent himself from being removed, the subject braces or pulls away from the member when the member grips the subject's arm, or the subject attempts to run when the member touches or attempts to grab the subject's arm or shoulder.
 - 3. **AGGRESSIVE RESISTANCE** – A subject's attacking movements toward a member that may cause injury but are not likely to cause death or great bodily harm to the member or others. Examples include a subject balls up his fist and approaches the member, the subject pushes the member back as the member tries to take the subject into custody, or the subject grabs any part of the member's body.
 - 4. **DEADLY FORCE RESISTANCE** – A subject's hostile, attacking movements with or without a weapon that create a reasonable perception by the member that the subject intends to cause and has the capability of causing death or great bodily to the member or others.

10.05.05 PROCEDURES

A. TRAINING

Official CEW user training described herein may only be provided by current certified CEW instructors. At a minimum, each training segment (e.g., initial, recertification) must include the manufacturer's specific curriculum, be no less in duration than the number of hours recommended by the manufacturer (where applicable) or required by the agency lesson plan, whichever is greater, and

include all objectives outlined in the FHP Academy approved lesson plan for the respective session.

Any member assigned to carry a CEW must successfully complete the agency-approved CEW training prior to being issued the CEW.

1. At a minimum, training will include the following:
 - a. Initial basic certification for the use of a CEW shall consist of at least eight (8) hours, manufacturer's curriculum and device proficiency demonstration. All recruits shall be required to take the basic certification training for the CEW.
 - b. Recertification training shall be conducted annually, consist of at least four (4) hours, manufacturer's curriculum and device proficiency demonstration. All members issued a CEW shall be required to take the recertification training for the CEW.
2. When available, CEWs may be issued to members who have successfully completed required training. However, members who normally do not carry CEWs may also attend training for educational benefit.
3. During CEW training, members may volunteer to be exposed to the effects of the CEW. This is a voluntary exposure and members shall not be precluded from carrying the device based solely on their declination to submit to the effects of the device.
4. Members who are unable to demonstrate the required proficiency with issued CEWs will receive remedial training as outlined in FHP Policy 26.05. These members will be required to surrender the CEW to a supervisor or CEW instructor. The CEW will be transferred to the member's respective troop Office Operations Consultant, who shall maintain possession of the CEW until the member has satisfactorily completed the remedial training and demonstrated proficiency.
5. The CEW instructor must ensure a first-aid or trauma kit is present at every training session where students may volunteer to be exposed to the effects of the CEW.
6. Troop Office Operations Consultants shall maintain a record of each CEW issued in their respective troop for official use to include:
 - a. Serial number
 - b. DHSMV property number
 - c. Cartridge identification number/expiration dates
 - d. Any other information deemed necessary by the Division

NOTE: This section does not exempt custodian delegates and inventory appointees from performing their duties as outlined in the DHSMV Property Procedures Manual.

7. Whenever a member transfers to another Troop, the CEW is to remain with the member and will become part of the inventory and record of the newly assigned troop.

B. DEVICE READINESS

1. The CEW will be carried in an approved holster on the member's duty belt, on the side of the body opposite of the service handgun, in the cross-draw configuration. Deviation from this method of carry for uniformed members must be approved (collectively as a unit or individually) in writing by their respective Chief. Members who are assigned plain-clothes duties may utilize other Division approved holsters as deemed necessary.
2. Members issued CEWs are required to carry the CEW at all times while in uniform.
3. When normally carried on duty, the device shall be carried with unfired cartridge(s) loaded in the cartridge bay, with the safety on, in preparation for immediate use.
4. Members authorized to use the device shall be issued a minimum of two (2) cartridges. The cartridges shall be stored, carried and replaced in a manner consistent with training and manufacturer recommendations (e.g., replaced by expiration date).
5. Department issued CEW Automatic Shutdown Performance Power Magazines battery pack should be replaced when the capacity drops to 20% or less. The depleted CEW Automatic Shutdown Performance Power Magazine should be provided to the Troop CEW Instructor for training purposes.
6. Members carrying a CEW on duty will conduct a full cycle spark test at the beginning of each shift in accordance with training. This will be performed in a safe manner and location to ensure there are no injuries to personnel or damage to equipment. The spark test shall not be conducted, as much as possible, within public view.

On the TASER X2, the ARC switch should be used to perform the spark test. Pulling the trigger will deploy a loaded unfired cartridge. It is recommended to perform the function test with cartridges installed to reduce stress on the CEW components.

7. No unauthorized changes, alterations, modifications or substitutions shall be made to the CEW. All repairs to the CEW or accessories shall be performed by the Division CEW Armorer (or Assistant CEW Armorer) who has received the manufacturer's certification.

- a. In the event the CEW malfunctions or is in need of repair, members shall notify their supervisor. The device shall be immediately taken out of service and returned to the Training Academy via Troop Office Operations Consultant, for repair, disposal, or replacement. The Division CEW Armorer shall notify the Fleet and Property Management Section and Fixed Assets of any CEW replacement or disposal.
 - b. If possible, prior to any CEW being repaired or put out of service, a final download of the data shall be made for record purposes.
8. CEWs shall be inspected semi-annually by a certified CEW instructor to ensure that they are functioning and properly maintained in accordance with the manufacturer's recommendations.
 - a. As part of the semi-annual inspection, device function test, use, and activation information shall be downloaded by a CEW instructor (or other member authorized by the Troop Commander) and available for agency review to verify reporting information regarding CEW deployments. The semi-annual cycles will be January through June, and July through December.
 - b. Data found revealing a pattern of member's non-compliance of function testing, or use inconsistent with required reports submitted or training rosters shall be immediately reported to the Troop Commander and reviewed by a supervisor.
9. CEWs and cartridges shall be stored securely while members are not working in an official capacity. Examples include the CEW being secured in the locked trunk or storage vault of the member's assigned vehicle, or inside their residence when the member is off-duty.

C. DEPLOYMENT

1. The use of a CEW is authorized and may be an appropriate response in the case of sudden attack, or when "active resistance" or greater is offered by a subject who is about to be taken into custody for any reason.
2. Section 943.1717(1), Florida Statutes requires that a member's decision to deploy the CEW must involve a custodial situation when the subject is actively, physically resisting.
3. Each deployment of a CEW against a subject must be objectively reasonable.
4. Fleeing from a consensual encounter with a member cannot be the sole reason for deployment of the CEW.
5. The use of a CEW on a handcuffed subject is generally prohibited, unless the subject presents Aggressive Resistance or higher.

6. Special consideration should be taken in the following situations. The CEW may only be used if the use would be objectively reasonable, and the situation justifies the increased risk:
 - a. If the subject is holding a firearm or dangerous weapon (i.e., knife, razor) due to the involuntary muscle contractions that may occur, a subject could discharge a firearm or move a knife uncontrollably, etc.
 - b. Individuals in physical control of a vehicle in motion (e.g., motor vehicles, motorcycles, ATVs, scooters, boats, bicycles).
 - c. Individuals in water with a reasonable risk of drowning
7. The CEW is considered one of several types of intermediate control devices. Members **shall not** deploy the device in the following situations:
 - a. In a punitive or coercive manner
 - b. Subjects who present only passive resistance
 - c. For only verbal defiance or belligerence
 - d. In an environment where the member knows that a potentially flammable, volatile, or explosive material is present (e.g., flammable chemical sprays, gasoline, natural gas, or propane)
 - e. In any environment where the subject's potential fall would reasonably result in death (e.g., an elevated location such as a rooftop or building ledge), unless the use of deadly force is justified.
 - f. The CEW will not be exhibited in a playful manner. Horseplay is prohibited and will not be tolerated. Members who violate this provision are subject to disciplinary action.
8. Higher Risk Populations. As in all uses of control, certain individuals may be more susceptible to injury. Members should be aware of the greater potential for serious injury when deploying a CEW on:
 - a. Young children
 - b. The elderly
 - c. Persons of small build regardless of age
 - d. Women who are obviously pregnant
 - e. Persons in obvious severely ill health

- f. Persons with actual or perceived mental illness. In situations where the subject does not pose an immediate threat, members should not immediately resort to the CEW without first attempting to use negotiation, commands, or physical skills. Extra consideration should be taken to prevent any unnecessary use of the CEW.
9. In preparation for firing, the CEW shall be pointed in a safe direction, taken off safety, and then aimed.
10. Preferred Target Areas. The preferred target areas are below the neck area for back shots, and the lower center mass (below chest) for front shots. The preferred target areas increase dart-to-heart distance and reduce cardiac risks. Back shots are preferable to front shots when practicable. Non-preferred target zones are NOT prohibited, rather they should be avoided when practical.
11. Avoid sensitive areas. When practical, avoid intentionally targeting the CEW on sensitive areas of the body such as the face, eyes, head, throat, chest area (area of the heart), breast, groin, genitals, or known pre-existing injury areas.
12. When reasonable, members preparing to fire the device should announce a verbal warning such as, "TASER TASER" to warn the violator, and to alert other officers at the scene of the impending deployment.
13. The subject should be secured and handcuffed (i.e., secured under power) as soon as practical while disabled by the CEW to minimize the number of deployment cycles. In determining the need for additional energy cycles, members should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
14. Upon deployment, the member shall use the least number of cycles objectively reasonable to accomplish lawful objectives and not longer than necessary to accomplish compliance.
 - a. When practical, the member deploying the CEW should attempt to secure additional backup to assist with taking the subject into custody.
 - b. Avoid simultaneous CEW exposures. Generally, no more than one (1) member at a time should deploy the CEW at a single subject at the same time.
 - c. Any member's CEW application (multiple applications or continuous) in actual contact on a single subject should be limited to a maximum duration of fifteen (15) seconds total (no more than three 5-second cycles in contact with the subject), except in extreme, rare justifiable situations.

15. The CEW may also be used in certain circumstances in “drive stun” mode. Using the “drive stun” mode involves pressing the unit against a subject, with or without the cartridge. It is important to remember drive stun mode:
 - a. Is painful, but generally does not achieve incapacitation.
 - b. May not be effective on emotionally disturbed persons or others who may not respond to pain due to mind-body disconnect.
 - c. Is minimally effective compared to conventional cartridge-type probe deployments.
 - d. Often results in multiple discharges and is likely to leave numerous signature marks on the subject’s skin; avoid using repeated drive stuns if compliance is not achieved.
 - e. Is subject to the same deployment (use) guidelines and restrictions as those of the CEW in cartridge deployments.
9. The CEW shall be pointed in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.
10. A CEW may be used on animals in circumstances where the use of such device is necessary for the safety of the member, the public, or the animal. However, members should be aware of the possibility of an aggressive response from the animal after deployment.

D. POST DEPLOYMENT/AFTERCARE

1. The CEW probes may be removed from the subject after they are properly restrained following procedures outlined in training. Probes may only be removed by certified CEW “users” or EMS personnel. Universal precautions (latex, nitrile exam gloves, etc.) shall be utilized when removing the probes.
 - a. Same gender members should be utilized to remove probes whenever practicable.
 - b. The used probes will be treated as biohazard material and will be handled in a manner consistent with training and FHP Policy 21.01, Infectious Disease.
2. Members shall summon medical assistance in any of the following situations:
 - a. The subject requests medical attention

- b. The CEW probes were deployed in a sensitive area (e.g., face, head, female breast or groin.)
 - c. The members are having difficulty removing the probes
 - d. Subject does not appear to recover properly after deployment
 - e. Subject has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to the CEW exposure (Excited Delirium).
3. Photographs of the affected area shall be taken after the probes are removed. Photographs, probes, cartridges, wire leads, and AFIDs (where practicable) shall be submitted as evidence and shall be entered into the Evidence/Property function prior to the end of shift.
 4. Post Deployment Data Download. The CEW stores the date, time, duration of each activation, battery life of the CEW, improves the accuracy of incident documentation and helps determine whether the device is functioning properly. A CEW instructor or authorized supervisor will be required to download CEW data anytime it is deployed (including unintentional deployments).

E. REPORTING REQUIREMENTS

1. Subsequent to any CEW deployment, the deploying member shall ensure a supervisor is immediately notified.
2. Members shall follow all reporting requirements outlined in FHP Policy 10.01 subsequent to a CEW deployment. Reports are required under every condition in which the CEW is deployed, regardless of whether the intended target was struck or not. Reports which are required include:
 - a. Arrest Report (HSMV 60005) or Offense Report (HSMV 60009)
 - b. CEW User Report (HSMV 61230)
 - c. Copy of the originating document (e.g., crash report, citation, written warning, faulty equipment notice, assist other agency, CIP, DUI, etc.)
3. A Supervisory Use of Control Report (HSMV 60215) shall be completed any time a CEW is deployed, as defined in this policy. The Supervisor Use of Control Report should not be completed for unintentional deployments.
 - a. All CEW related reports will be completed and forwarded up through the chain of command to the Office of Professional Compliance.

- b. A copy will be sent to the CEW Statewide Coordinator at the FHP Training Academy.
 - c. The supervisor providing oversight of the deployment must also ensure arrangements have been initiated for the member to have the CEW data downloaded within three (3) business days, excluding holidays and weekends, following the deployment (including unintentional deployments). If the data is not immediately available, the Use of Control Report should proceed, and be supplemented with the CEW data download information when it becomes available.
4. All unintentional deployments shall be documented on an Offense Report; however, a Supervisory Use of Control Report should not be completed for unintentional deployments.
- a. Members are reminded that all deployed probes present a potential sharps and/or bio-hazardous contamination possibility because of exposed probes. Use caution when handling the exposed probes.
 - b. Simply because the discharge of a CEW cartridge has been deemed "accidental," members shall continue to take all proper biohazard precautions outlined in their CEW training and as highlighted in FHP Policy 21.01.
 - c. When possible, probes should be carefully collected, placed inside the spent cartridges and disposed of. In cases where the probes present a contaminated biohazard, the collected probes should be placed inside the spent cartridge, and must be placed in a red biohazard bag and properly disposed of in a designated bio-hazardous receptacle.