

## **Police Commissioner's Special Order**



Number: SO 20-29

Date: June 11, 2020

Post/Mention: Indefinite

**SUBJECT: RULE 303B – USE OF LESS LETHAL FORCE – CONDUCTED  
ELECTRICAL WEAPON (TASER)**

Rule 303B, Use of Less Lethal Force – Conducted Electrical Weapon (Taser), is hereby amended superseding all previous rules, special orders, memos and directives on this subject and is effective immediately.

Commanding Officers shall ensure that this order and the attached Rule are posted on Department bulletin boards.

William G. Gross  
Police Commissioner

**USE OF LESS LETHAL FORCE –  
CONDUCTED ELECTRICAL WEAPON (TASER)**

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**Statement on Use of Force:**

The Boston Police Department is committed to de-escalating incidents to negate the need for the use of force. When force is necessary the Boston Police Department is committed to using only the amount of force that is reasonably necessary to overcome the resistance offered. The Boston Police Department is equally committed to preventing unnecessary force, ensuring accountability and transparency, and building trust with our community. The Boston Police Department respects the inherent life, liberty, dignity, and worth of all individuals by preserving human life, and minimizing physical harm and the reliance on use of force.

**De-escalation:** Prior to using physical, non-deadly and/or deadly force, all Boston police officers, when possible and feasible, will use proper de-escalation techniques to decrease the likelihood that officers will need to utilize use of force, and to minimize the level of force required. This includes using effective communication techniques to engage with individuals who are not compliant with orders by establishing rapport, asking questions and providing advice to defuse conflict and achieve voluntary compliance before resorting to force options.

Where feasible, police officers will try to determine whether an individual's failure to comply with an order is the result of one the following factors:

- Medical conditions
- Mental impairment
- Developmental disability
- Physical limitation
- Language barrier
- Drug interaction
- Behavioral crisis, or
- Other factors beyond the individual's control

When feasible, after evaluating whether the individual's failure to comply with an order is based on one of the factor's listed above, the police officer may then determine whether physical force, and what level of physical force, is necessary and appropriate to resolve the situation in a safe manner.

When feasible and safe, officers should give verbal warnings when use of force is going to be used. In some cases there may not be an opportunity to give verbal commands or warnings.

If the situation is not an arrestable offense, and the manner cannot be resolved safely, the officer may disengage.

**See Special Order 20-2 Street Outreach Unit and Referral Procedures. The Street Outreach Unit is a resource available to support all officers when dealing with individuals suffering from substance use disorder, mental health and/or homelessness.**

**Duty to Intervene: Police officers are reminded of Rule 113 Public Integrity Policy, Sec. 5 Canon of Ethics, Number Nine.**

**Canon Nine: Police officers shall use only that amount of force reasonably necessary to achieve their lawful purpose. Excessive or unauthorized force is never justified and every officer not only has an affirmative duty to intervene to prevent such violence, but also to report any such instances that may come to their attention.**

## Sec. 1 GENERAL CONSIDERATIONS

The Department has adopted the less-lethal force philosophy to assist in the de-escalation of potentially violent situations. The less-lethal force philosophy shall not preclude the use of deadly force. Less-Lethal Force Philosophy is a concept of planning and force application that meets operational objectives, with less potential for causing death or serious physical injury than the use of deadly force.

## Sec. 2 DEFINITIONS

Sec. 2.1 Conducted Electrical Weapons (CEW): A category of devices that discharge electrical energy and are intended to be used as a means to control, capture, or gain compliance through temporary application of the electrical energy.

Sec. 2.2 Taser Control Manager: A Taser instructor appointed to administer the Taser program.

## Sec. 3 TRAINING AND QUALIFICATION

Sec. 3.1. Training Program. Training on CEW shall:

1. Be approved by the Police Commissioner;
2. Be consistent with Manufacturer recommendations, 501 CMR 8.00, as well as any laws and regulations that may be adopted relative to Conducted Electrical Weapons;
3. Be consistent with the Massachusetts Police Training Committee (MPTC) curriculum;
4. Be consistent with the Department Use of Force Policy, Less Lethal Force Philosophy; and
5. Adopt the lesson plan established by Taser International Inc. for use of the Taser International Inc. brand CEW. If Taser International Inc. releases a new training module or other instruction, all officers shall receive the updated training by a certified instructor.

Sec. 3.2. Training Frequency. Officers selected to be authorized to carry and use a CEW shall receive initial and annual training that meets or exceeds the approved training standards of Taser International Inc.

Sec. 3.3. Taser Instructor Training. Instructors must have completed the Taser International Inc. instructor certification program and must be certified by the MPTC. Instructors shall ensure that their certification is current prior to providing any course of instruction.

Sec. 3.4. Failure to attend annual training. Any Officer who fails to attend and satisfactorily complete annual training for CEWs, shall not carry or use a CEW until completion of the required course of instruction. Personnel trained in the use of this weapon will be held accountable for proficiency and trained in compliance with Department policy and Massachusetts Law in the use of such weapon.

Sec. 3.5. Training Monitoring / Compliance. The Special Operations Division shall track certification of officers in order to ensure that there are no lapses in certification and will advise the respective commands and the Bureau of Field Services (BFS) when officers are out of compliance.

#### Sec. 4 ISSUANCE OF CEW

Only Boston Police Officers who have been designated by their immediate command, and approved by the Commissioner may be authorized to carry or use a CEW.

#### Sec. 5 AUTHORIZATION, USE, AND STORAGE OF CEW

Only patrol officers and supervisors assigned to the Special Operations Division SWAT Team shall be authorized to carry and use a CEW while acting in the discharge of his / her official duties. M.G.L. c. 140 § 131J. Accordingly, when not on duty or acting in an official capacity, the CEW shall be stored in a Department facility or within a secure locked compartment in a Department vehicle.

#### Sec. 6 TESTING AND CARRYING CEW

Sec. 6.1. Testing Prior to CEW Use: A spark test should be conducted as follows prior to any shift or operation during which the CEW will be carried:

1. Proceed to the designated area;
2. Remove CEW from holster and point in a safe direction;
3. Turn safety switch up, to the armed position, activating the flashlight and/or red laser light;
4. Depress arc switch until arc is heard; and
5. Return safety switch to the "safe" position and holster.

Sec. 6.2. CEW Failure / Malfunction: If the CEW fails to arc it shall be turned into the CEW control manager for repair or replacement.

Sec. 6.3. CEW Carrying Protocol: The CEW will be carried in an approved, issued holster on the support/weak side (opposite the firearm side) of the body. The CEW shall be carried fully armed in preparation for immediate use. The CEW will be pointed in a safe direction (typically toward the ground) with the safety engaged during loading, unloading, or when handled in any circumstance other than an operational deployment or authorized testing or training. Officers shall safeguard CEWs to the same extent as firearms to prevent unauthorized access.

#### Sec. 7 OPERATIONAL DEPLOYMENT, LEVELS OF DEPLOYMENT MODES

Sec. 7.1. CEW Deployment Levels / Modes. The levels and modes of deployment of the CEW reference the Use of Force Model currently in use by the Boston Police Department

1. Power on CEW- the CEW is turned on activating the light and/or laser beam. Note that turning on the CEW, by itself, is not considered a use of force.
2. Spark Activation- the CEW is activated and the arc switch is depressed, activating the electrical arc (perceived active resistant subject actions or perceived volatile threat).
3. Drive Stun- There is direct contact of the CEW against the suspect's body. This can be done with the cartridge in place, using the arc switch. It is a pain compliance technique, which may be used on an actively resisting suspect. It is comparable to the use of OC in the use of force model. In this mode it does not act as an electro-muscular disruptor (perceived active resistant subject actions and/or perceived volatile threat).
4. Full Deployment- The trigger is pressed and the probes are deployed from the cartridge. The probes "hit" the suspect, sending electrical energy typically sufficient to cause electro-muscular disruption. A full deployment is an impact technique and may be used on a suspect whom the officer perceives as engaging in "assaultive, bodily harm," which

may include a suspect preparing to assault, currently assaulting, or who has assaulted an officer or another person. A full deployment is comparable to the use of the baton in the use of force model (perceived assaultive subject actions with potential and/or perceived harmful threat).

5. Lethal Deployment- Intentionally firing the CEW at the head or neck is a lethal force countermeasure in response to a lethal threat. CEWs are not a substitute for lethal force. Officers are not expected to respond to a lethal threat with a CEW. A CEW should only be used in response to a lethal force threat under exigent circumstances (perceived assaultive subject actions with potential for bodily harm or death and/or a perceived lethal threat).

#### Sec. 7.2. Permitted Uses:

Qualified and authorized officers are permitted to use a CEW in a variety of circumstances, consistent with the officer's training. Each situation is subject to variables that will require the consideration of applicable rules, in conjunction with training and experience as part of a process of applying the best judgment under the circumstances. CEWs are specifically permitted:

1. In "drive stun" mode to overcome active resistance when that level of resistance is likely to result in injuries to the Officer, the subject or other person. If the resistance becomes assaultive, "full deployment" may be used.
2. To incapacitate a person who poses an immediate threat of physical injury to himself or others. This may or may not involve an emotionally disturbed person and may or may not involve the physical possession of a weapon by the subject.
3. When an officer is engaged in a physical confrontation with a combative individual and attempts to control the subject when lower levels of force have been ineffective.
4. Against aggressive animals posing a threat of physical injury to the Officers or others.
5. To display the CEW laser and "test arc" in an attempt to gain compliance of a subject who is actively resisting, assaultive and/or from whom the officer reasonably anticipates violence.
6. During authorized training and related events.

Sec. 7.3. Lethal Force Situation. When an officer deploys a CEW under conditions where there is a possibility that the encounter could rapidly become a lethal force situation, a second officer should be designated as "lethal cover," and should be appropriately armed and positioned to employ deadly force if required.

#### Sec. 8 DEPLOYMENT OF CEW

Sec. 8.1. Instances of Deployment. Deployment of a CEW includes any time it is removed from the holster, the safety is turned off and:

1. A drive stun is delivered;
2. The trigger is squeezed and full probe deployment occurs; or
3. Any accidental deployment occurs (not including inspecting and testing).

Sec. 8.2. Verbal Warning Prior to Deployment. If feasible and safe, the deploying officer shall issue a verbal warning prior to full deployment. The officer may then use the CEW in a manner consistent with his/her training until the subject is subdued or secured.

Sec. 8.3. Duration of Deployment. A full five second cycle should be applied without interruption unless circumstances dictate otherwise. During this cycle officers should take the opportunity to control, handcuff or otherwise contain the suspect as quickly as possible. Subsequent cycles may be necessary if the suspect remains a threat. Officers should be aware that a suspect may not be able to respond to commands during or immediately after exposure to a CEW cycle. A CEW deployment should not exceed 15 seconds (3 cycles of 5 seconds each) and the fewest number of CEW cycles should be used to accomplish the objective.

Sec. 8.4. Preferred Deployment Target Areas. The preferred target areas include the back, lower abdomen and thighs. Officers shall not intentionally aim at the head or neck unless the encounter justifies a lethal force response and exigent circumstances preclude standard lethal force options.

## Sec. 9 RESTRICTED USE AND SUSCEPTIBLE POPULATIONS

Sec. 9.1. Restricted Uses. Officers shall not use a CEW:

1. In an environment where the incapacitation of the suspect is reasonably likely to result in death or serious injury to the suspect or others;
2. By intentionally aiming the laser light at a person's eyes; or
3. On persons who are handcuffed unless there are significant extenuating circumstances and the suspect cannot be controlled by other means;

Sec. 9.2. Vulnerable Subjects. Officers should remain aware of the greater potential for injury when using a CEW on certain categories of people. CEWs should not be used on the following people unless they pose an imminent threat of serious bodily harm to themselves or others:

1. Children;
2. The elderly;
3. Women believed to be pregnant;
4. Persons believed to be equipped with a pacemaker; or
5. Persons with known or obvious serious physical health problems, including cardiac or neuromuscular (multiple sclerosis, muscular dystrophy, epilepsy) diseases.

Sec. 9.3. Restricted Circumstances. Unless lethal force is justified, officers are prohibited from deploying a CEW on a person in the following circumstances:

1. Where a person is susceptible to severe falls;
2. When a person is driving a motor vehicle;
3. When a person is riding bicycle;
4. When a person is in or adjacent to a body of water;
5. When a person is climbing or jumping to or from a fence, wall or other elevated structure; or
6. When a person is in an environment where combustible material (flammable liquid, gasoline, propane etc.) is present and in close proximity to the person.

## Sec. 10 DEPLOYMENT OF A CEW ON AGGRESSIVE ANIMALS

A CEW can be effective on aggressive animals when necessary to protect officers, other persons, or other animals from the actions of an aggressive animal. The CEW deployment will depend upon the circumstances, and shall be documented as a CEW deployment. Officers who deploy a CEW on an aggressive animal should consider how to control the animal as the incapacitating effect of the CEW dissipates.

## Sec. 11 MEDICAL EVALUATION

Boston EMS shall be called to evaluate the subject of a full deployment. The evaluation may occur on scene or at the district station if there is no obvious medical distress on scene, and evaluation at the station is not likely to delay the medical evaluation significantly. EMS personnel will be advised of the nature of the force used during the event, including the number of CEW cycles, the duration and if more than one CEW was used or if a barb may be broken with a portion remaining under the subject's skin.

Due to potential medical issues including excited delirium, post-deployment monitoring is crucial. EMS shall be requested immediately if one or more of the following conditions exist

1. Disorientation;
2. Hallucinations/delusions;
3. Intense paranoia;

4. Violent or bizarre behavior;
5. Elevated body temperature or diminished sensitivity to pain;
6. A CEW was used on a person classified as “vulnerable” in Sec 9.2;
7. More than one CEW was used on a person; or
8. The person was exposed to three or more cycles or 15 seconds or longer continuous exposure to a CEW.

#### Sec. 12 PROBE REMOVAL

Sec. 12.1. Officer Probe Removal. Probes may be removed after the subject is restrained and secured. Officers shall protect themselves and others from exposure to blood and shall not attempt to remove probes from an uncooperative subject. Probes shall be removed in accordance with training and with due consideration for universal precautions for biohazards, including securing the probes in an appropriate container.

Sec. 12.2. EMS Probe Removal. Officers shall not remove probes from the head, neck, groin, or female breasts. Officers will not attempt removal of probes that are deeply imbedded, or from persons who are combative, or where it appears the tip of the barded probe broke and remains under the skin. EMS shall be requested for removal of the probes in the above-referenced circumstances.

#### Sec. 13 POST DEPLOYMENT INVESTIGATION AND RESPONSIBILITIES

Sec. 13.1. Investigation of CEW Deployment. Any drive stun or full deployment of a CEW other than for training purposes shall be investigated by the Firearm Discharge Investigation Team pursuant to Rule 303. The Firearm Discharge Investigation Team has sole responsibility for investigating CEW deployments involving a member of the Department. Failure to cooperate with the investigation shall be grounds for disciplinary action. The foregoing does not prevent an officer from exercising their constitutionally protected rights to remain silent or to speak with legal counsel.

The District Commander of the District wherein a police officer discharges a CEW shall be responsible for assigning a Superior Officer to assist the Firearm Discharge Investigation Team in their investigation into the discharge.

In those incidents where the deployment of a CEW results in death, the District Attorney’s Office, pursuant to the terms of M.G.L. c. 38 s. 4, will assume control of the investigation. The statute reads, in part, “The district attorney or his law enforcement representative shall direct and control the investigation of the death and shall coordinate the investigation with the office of the chief medical examiner and the police department within whose jurisdiction the death occurred.” In all instances where a Boston Police Officer deploys a CEW resulting in injury, the District Attorney’s Office will be notified and his designee from the Boston Police Department will conduct an independent investigation to determine the facts of the case.

Sec. 13.2. Deploying Officer Responsibilities. The deploying officer shall:

1. Notify the Operations Division of a code 303B as soon as practicable after using a CEW and request a Patrol Supervisor, if there are no supervisors on scene;
2. Make a verbal report of the discharge to the supervisor; and
3. Complete a full written report of the deployment prior to the termination of the officer’s tour of duty, unless medical reasons dictate that the report be made at a later date.

Sec. 13.3. Patrol Supervisor's Responsibilities. The Patrol Supervisor shall:

1. Respond immediately to a reported deployment of CEW, code 303B, within the supervisor's District and assume command of the investigation pending the arrival of the District Commander and the Firearm Discharge Investigation Team;
2. Notify the Operations Division of the deployment of the CEW. In turn, the Operations Division shall be responsible for making all necessary notifications;
3. Initiate such preliminary steps as are necessary to conduct a thorough investigation and hold him/herself in readiness to assist the District Commander and the Firearm Discharge Investigation Team upon their arrival. In this respect, the Patrol Supervisor shall have the authority to order as many units to the scene of the CEW deployment as is deemed necessary or to take any other appropriate action to complete the task;
4. Establish an outside perimeter around the area of the incident;
5. Ensure that the scene is preserved pending arrival of the Firearm Discharge Investigation Team in a manner pursuant to Rule 309, Procedures for Handling Physical Evidence and Other Property Coming into Police Custody;
6. Take possession of the CEW which has been deployed and ensure that it is turned over to the Taser Control Manager as soon as practicable for data download; and
7. In the event that more than one officer is present at a CEW deployment, the Patrol Supervisor, as soon as circumstances allow, shall collect all CEWs belonging to the officers who were at the scene and store them until the Taser Control Manager can ascertain which have been deployed. CEWs determined not to have been deployed will then be returned to the police officers to whom they were issued as soon as possible.

Sec. 13.4. District Commander's Responsibilities. The District Commander shall:

1. Respond to the scene and assume overall command of the situation pending the arrival of the Firearm Discharge Investigation Team;
2. Assign a Superior Officer to assist the Firearm Discharge Investigation Team and ensure that any and all District resources are made available to complete the investigation. The District Commander will have the flexibility to assign any Superior Officer to fulfill this task; and
3. Ensure that full cooperation is extended to the Firearm Discharge Investigation Team, the Taser Control Manager, and any designated investigators from the District Attorney's Office.

Sec. 13.5. Commander, Homicide Unit's Responsibilities. The Commander, Homicide Unit shall:

1. Be responsible for ensuring that a Firearm Discharge Investigation Team is assigned to investigate all reported CEW deployments by Department personnel except deployments which occur during Department authorized or approved CEW training, or while lawfully engaged in target practice (unless a deployment occurring during of these three exceptions results in death, personal injury or property damage);
2. Have the flexibility and discretion to assign any investigators deemed appropriate as being members of the Firearm Discharge Investigation Team; and
3. Have ultimate responsibility for ensuring the thoroughness of any investigation regarding a CEW deployment.

Sec. 13.6. Firearm Discharge Team Responsibilities. The Firearm Discharge Team shall:

1. Respond to the scene as expeditiously as possible and immediately meet with the Patrol Supervisor and be briefed relative to the known facts surrounding the incident;
2. Notify the Operations Division that they are taking control of the scene and the investigation. Notifications must be done "on-air";



3. Allowed any resources they deem necessary to conduct a complete investigation;
4. Conduct an investigation to determine the facts of the incident;
5. Ensure that a thorough search is conducted at the scene;
6. Ensure that witnesses are identified, separated and interviewed;
7. Coordinate with any other simultaneous investigations;
8. Submit a preliminary report within five (5) days to the Commander, Homicide Unit, to the Commander of the District or Unit where the officer is assigned and to the Commander of the District or Unit where the deployment occurred, to the Bureau Chief of the appropriate command and to the Superintendent-in-Chief. The Superior Officer in Charge of the Firearm Investigation Discharge Team shall make a recommendation in the preliminary report, based upon an assessment of the facts known, as to the justification for the deployment of the CEW, whether or not the deployment of the CEW was accidental and whether or not it involved personal injury, death or damage to personal property. Pending the filing of the preliminary report, the deploying officer(s) will be assigned to administrative duties in their unit of assignment. However, if the preliminary investigation indicates that the CEW deployment was justified, the deploying officer may be restored to their regular duties, with the approval of their Commanding Officer, the Bureau Chief of the appropriate command, the Superintendent-in-Chief and the concurrence of the Police Commissioner;
9. Submit a comprehensive, detailed report, with recommendations, within thirty (30) days to the Commander of the Homicide Unit and the Superintendent-in-Chief. An extension may be granted to the thirty (30) day timeframe with the permission of the Superintendent-in-Chief.

Sec. 13.7. Disposition.

Upon receiving a report pertaining to a CEW deployment and investigation by the Firearm Discharge Investigation Team, the Superintendent-in-Chief may accept it or return the report with a request for further information or clarification. In every case, the authority and responsibility for final Departmental disposition of a CEW deployment incident rests solely with the Police Commissioner. Upon accepting a report and making a final disposition in a CEW deployment case, copies of the Police Commissioner's decision shall be sent to the appropriate District, Unit and Bureau Commanders.

Sec. 14 EVIDENCE COLLECTION

Sec. 14.1. Probe and Cartridge Collection. The probes and air cartridges shall be collected and submitted as evidence in accordance with department evidence collection, packaging and submission policies. The probes shall be handled as appropriate for a biohazard to safeguard against any contamination by bodily fluids, while preserving evidence.

Sec. 14.2. CEW Data Download. The CEW data download shall be performed as soon as practicable and a report prepared by the Taser Control Manager.

Sec 15. TASER CONTROL MANAGER DESIGNATION. The Police Commissioner shall designate a Taser Control Manager who shall:

1. Coordinate with Boston Police Special Operations SWAT Commander, or Boston Police Academy Staff for CEW users outside of Special Operations, to ensure basic certification, annual training, and recertification training, as well as maintenance of accurate records and notification of commanders of officers whose certifications are approaching expiration;
2. Receive, inspect and audit CEWs, and account for their issuance to authorized personnel and oversee maintenance of department CEWs and related equipment;
3. Develop and maintain a system to comply with all reporting requirements of M.G.L. c. 140 s. 131J and St. 2004, c. 170, section 2;

4. Assist the Firearm Discharge Investigation Team as requested in connection with investigations of a CEW deployment;
5. Identify training needs, equipment upgrades, and policy modification that should be considered as a result of the analysis; and
6. Monitor the overall CEW program to ensure compliance with all requirements of the Executive Office of Public Safety and Security, the Massachusetts Police Training Committee and Taser International Inc.

William G. Gross  
Police Commissioner