

CONDUCTED ENERGY DEVICE (CED) X26 EXPANDED COURSE OUTLINE

I. LEARNING NEED

Peace officers must recognize that they have the authority to use reasonable force to effect an arrest, to prevent escape, or to overcome resistance as authorized by the California Penal Code. For their safety, and for the safety and well-being of fellow officers, it is critical that peace officers know the laws governing the use of force.

LEARNING OBJECTIVES

- A. Discuss reasonable force as stated by law
 - 1. The amount of force and kind of force that is considered necessary and/or reasonable
 - 2. Explaining *Graham vs Connor*, case law, 1989
- B. Discuss the components of the Fourth Amendment standard for determining objective reasonableness as determined by the U.S. Supreme Court
 - 1. Judged from the perspective of a reasonable officer
 - 2. Observed through the eyes of the officer on scene at that time
 - 3. Based on facts/circumstances confronting the officer without regards to underlying intent or purpose
 - 4. Based on established law at that time
- C. Identify the circumstances set forth in the California Penal Code when a peace officer has the authority to use force
 - 1. Reasonable cause to believe the subject has committed a public offense
 - 2. Effect an arrest
 - 3. Prevent escape
 - 4. Overcome resistance
 - 5. May use force necessary to affect an arrest

II. LEARNING NEED

Peace officers must recognize that they have a range of force options available to them, which included the CED. However, in all cases the use of force must be reasonable compared to the threat, resistance, and other circumstances known to the officer at the time the force was used.

- A. Identify that the objective of using force is to overcome resistance to gain control of an individual and the situation
 - 1. Use force that is reasonable under the circumstances
 - 2. Use only the amount of force reasonable to overcome resistance and gain control of a subject
 - 3. Use only the amount and type of force allowed by agency policy

- B. Recognize force options, including the CED, and the amount of force peace officers may use based on the subject's resistance
 - 1. Cooperative
 - 2. Resistive (passive or active)
 - 3. Assaultive
 - 4. Life threatening
- C. Discuss the importance of effective communication when using the CED:
 - 1. Safety-reduces likelihood of physical confrontations
 - 2. Professionalism-public service, community relations, etc.
 - 3. Reduction of injuries
 - 4. Decreases public complaints, I.A. investigations and civil liability

III. LEARNING NEED

When a CED has been employed, peace officers' reports must include the critical information to ensure that the chronology, specifics of the events, and the people involved are properly documented.

LEARNING OBJECTIVES

- A. Describe why complete documentation of the use of force is critical to the peace officer and the peace officer's agency, to include:
 - 1. Justification for using force
 - 2. Relevant factors and detail

IV. LEARNING NEED

Peace officers must recognize the consequences of using unreasonable force, and their legal and ethical responsibilities to intervene if the force being used by another peace officer is inappropriate or unlawful.

LEARNING OBJECTIVES

- A. Explain the legal and administrative consequences associated with the use of unreasonable force
 - 1. Criminal action
 - 2. Civil rights violations
 - 3. Compensatory and punitive damages
 - 4. Administrative
 - 5. Moral impact
- B. Explain an agency's potential liability associated with the use of unreasonable force
 - 1. Liability under federal law
 - 2. Sued for negligent or inadequate training

3. Failure to supervise adequately
- C. Explain the consequences of an officer's failure to intervene when unreasonable force is used by another peace officer
 1. Criminal
 2. Civil
 3. Loss of credibility

DE-ESCALATION

- A. Definitions:
 1. SPD: Employing techniques to stabilize a situation, to decrease the likelihood of the need to use force, and to increase the likelihood of voluntary compliance.
 2. Lexipol and Force Science: A system-based approach for using opportunities, knowledge, skills and abilities to resolve problems with minimal force where possible—which means there has to be an opportunity for this to occur. This is NOT a magical formula.
- B. Use:
 1. Person in Crisis versus Non-Compliant Criminal Suspect
 - a. De-escalation most appropriate on person in crisis.
 - b. De-escalation can backfire on noncompliant criminal suspect.
 - c. Someone can be both.
 2. Conflict Communication versus Crisis Communications
 - a. Use Conflict Communication on criminal suspects.
 - b. Use Crisis Communication on those in a mental health crisis
 3. When safely possible, de-escalation techniques should be attempted.

V. LEARNING NEED

Peace officers, and authorized non-sworn personnel need to have an understanding of the technology associated with the X26.

LEARNING OBJECTIVES

- A. Describe the nomenclature and operation of the X26 and X26 cartridge:
 1. Identify the proper terminology associated with the X26
 2. Identify the proper terminology associated with the X26 cartridge
 3. Proper care and troubleshooting techniques

VI. LEARNING NEED

Peace officers, and authorized non-sworn personnel need to have an understanding of when a CED can be used and tactical considerations associated with the use of a CED.

LEARNING OBJECTIVES

A. Consideration for the use of the CED

1. The CED may be used when circumstances known to the individual officer at the time indicated that the application of the CED is reasonable to subdue or control:
 - a) A violent or physically resisting subject whose conduct rises to at least the level of active resistance. This includes threats or pre-indicators leading up to assaultive or resistive behavior where:
 - a. The subject has demonstrated, by words or action, an intention to be violent or physically resist, and reasonably appears to be present the potential harm to officers, themselves, or another person
 - b. The subject has indicated or physically demonstrated an intention to resist
 - c. The officer has given the subject a verbal warning of the intended use of the CED, followed by a reasonable opportunity to comply
 - d. Other available force options appear ineffective or would present a greater danger
 - b) A CED can only be deployed at a fleeing subject when the officer has considered:
 - a. The severity of the offense
 - b. The subject's threat level to others
 - c. The risk of serious injury to the subject
2. The CED may be deployed against a potentially aggressive animal, such as dog, if the animal reasonably appears to pose an immediate threat of serious bodily injury or death to a peace officer or to another person and alternative methods to deter or control the animal are not reasonably available or would likely be ineffective
3. The CED may be used to incapacitate a suicidal subject who can't be safely controlled through crisis intervention techniques or other available resources
4. Non-sworn personnel shall only use the CED in defense of themselves or another member of the department

B. Explain the tactical considerations of the use of a CED

1. Identify persons and locations where the use of the CED requires a threat of great bodily injury to themselves or others
 - a) Pregnant women
 - b) Elderly person
 - c) Juveniles
 - d) Visibly frail persons
 - e) Individuals who have been exposed to alcohol-based Oleoresin Capsicum
 - f) Individuals whose position or activity may result in falling from height, drowning or operating a vehicle
2. Consideration should be given to designating responsibilities as follows:
 - a) One officer to discharge the CED
 - b) One additional officer armed with a second CED, if available
 - c) Protection officer(s) prepared to deliver appropriate force cover option(s)

- d) Custody officer(s) who are given the responsibility to handcuff the subject
- e) Nothing prohibits a solo officer from discharging the CED without requesting or having the presence of additional officers
- 3. Unless it would otherwise endanger officer safety or is impractical due to the circumstances, a verbal announcement of the intended use of the CED shall precede the application of the CED in order to:
 - a) Provide the subject with a reasonable opportunity to comply
 - b) Provide other officers and subjects with a warning that a CED may be deployed
- 4. Peace officers shall avoid using the CED for more than a total of three five second cycles (15 seconds) unless:
 - a) The totality of the circumstances are such that a reasonable peace officer would conclude that each subsequent application of the CED, analyzed separately, is warranted by the imminent threat to peace officers or another person
- 5. CED deployment shall cease when the subject no longer represents an imminent risk of serious bodily injury or death to themselves, the peace officer, or another person.
- 6. The CED should not be used on a handcuffed person unless they are actively resisting or exhibiting active aggression and/or to prevent individuals from harming themselves or another person.
- 7. Circuit completion may be used to complete the circuit when probes do not have sufficient spread preventing NMI, or when one of the two probes do not make sufficient contact with the subject.
- 8. Peace officers shall not deploy the CED in drive stun mode, unless used in immediate defense of themselves or another person at imminent risk of serious bodily injury or death.
- 9. Use of the CED on passive subjects during incidents of passive resistance shall not be authorized.
- 10. A peace officer may display a CED's arc if the officer reasonably believes it will avert a potentially dangerous or injurious situation and the officer has ensured the CED cartridge has been removed
 - a) Use under these conditions shall be documented in a general offense report.

VII. LEARNING NEED

Peace officers, and authorized non-sworn personnel need to have an understanding and demonstrate the proper probe placement, aiming requirements, safe handling and storage of the CED.

LEARNING OBJECTIVES

- A. Peace officers and authorized non-sworn personnel to understand and demonstrate proper probe placement:
 - 1. Preferred target zones
 - a. Target the back when possible

- b. Avoid targeting the chest
 - c. Avoid targeting heart region
 - d. Avoid targeting the head, neck and groin
 - e. Avoid repeated or continuous exposures
- B. Peace officers and authorized non-sworn personnel to understand and demonstrate proper aiming requirements
 - 1. The X26 has a single laser, where generally, the top probe will impact. The second probe discharges at an approximate eight-degree downward angle. When deploying the CED considerations should be made for the following:
 - a. Splitting the beltline
 - b. Probe spread less than four inches relies upon pain compliance
 - c. Do not exceed 21 feet in distance, due to the cartridge length
- C. Peace officer and authorized non-sworn personnel need to understand and demonstrate safe handling of the CED.
 - 1. Always point the CED in a safe direction
 - 2. Do not point the laser in any subject's eyes
 - 3. Do not place your hand over the tip of the CED or in front of the blast doors on the cartridge
- D. Peace officer and authorized non-sworn personnel need to understand and demonstrate safe handling of the CED.
 - 4. Always point the CED in a safe direction
 - 5. Do not point the laser in any subject's eyes
 - 6. Do not place your hand over the tip of the CED or in front of the blast doors on the cartridge
- E. A police officers and authorized non-sworn personnel need to understand and demonstrate a proper pre-shift inspection.
 - 1. Remove the cartridges
 - a) Inspect cartridges for any damage.
 - b) Check the expiration date on the cartridges
 - 2. Point the CED in a safe direction
 - 3. Active the CED, stating "taser, taser, taser"
 - a) Ensuring the CED cycles for 5 seconds
 - b) Ensuring there are no fault icons on the CID
 - 4. Reinsert the taser cartridges.
- F. Peace officers and authorized non-sworn personnel must store their CED properly when not on their person.
 - 1. The CED shall be secured when left unattended in a police facility
 - 2. CEDs shall be secured while in their homes, vehicles, or any other area under their control, in a manner that will keep the CED inaccessible to another person.

VIII. LEARNING NEED

Peace officers, and authorized non-sworn personnel need to have an understanding and demonstrate the importance of controlling/handcuffing under power and the after-force care requirements.

LEARNING OBJECTIVES

- A. Peace officers, and authorized non-sworn personnel need to have an understanding and demonstrate the importance of controlling/handcuffing while the subject is under power of the CED
 - 1. The 5 second window is an opportunity to control/handcuff
 - a) Reduces the need for repeated or extended exposures
 - b) Avoid place any body part between the two probes
 - 2. Avoid any pressure on the neck and/or head area
- B. Peace officers, and authorized non-sworn personnel have a duty to provide after force care on the subject who has been exposed to the CED
 - 1. Once handcuffed, placed the subject in a position of comfort
 - a) Ensuring the subject is conscious, breathing
 - 2. Active emergency medical personnel
 - a) When applicable treat any injuries within the scope of training
 - 3. Be aware of a monitor the subject for signs of medical distress, such as excited delirium pursuant to GO 522.02 (Emergency Medical Care for Individuals Under Police Care or Control).
 - 4. Ensure the subject is treated and medically cleared at a medical facility

IX. LEARNING NEED

Peace officers, and authorized non-sworn personnel need to demonstrate and have an understanding on CED retention and possible lethal force implications.

LEARNING OBJECTIVES

- A. It is imperative that police officers and non-sworn personnel need to have the abilities to retain their weapon if someone attempts to disarm them of it
 - 1. Hands on learning activity to demonstrate the techniques
- B. Peace officers and non-sworn personnel need to understand the potential lethal force implications if the CED is taken from them
 - 1. Not an automatic lethal force situation if CED is taken
 - 2. Must consider the facts given to the officer at the time of the event
 - 3. Must fall within the guidelines of:
 - a) 835a of the California Penal Code
 - b) Graham vs Connor
 - c) Department Policy
 - 4. Other factors to be considered
 - a) Has the cartridge(s) been fired?
 - b) Availability of more than one cartridge located on the CED
 - c) Distance between subject and officers
- C. Identify the legal standard for the use of deadly force
 - 1. Life threatening crime
 - 2. Life threatening escape
 - 3. Give warning when feasible
- D. Identify the factors required to establish sufficiency of fear for the use of deadly force

1. The circumstances must be sufficient to excite the fears of a reasonable person in like circumstance
 2. The person must not act under the influence of fear alone
 3. The decision to use lethal force must be made to save oneself or another from great bodily injury or death
- E. Recognize facts an officer should consider when determining whether or not to use deadly force
1. Threat to life
 2. Immediacy of threat
 3. Type of crime/suspect
 4. Suspect's and weapons capabilities
 5. Location and background
 6. The officers present capabilities

X. LEARNING NEED

- A. Non-sworn personnel must have an understanding of limitation of where they may wear their CED while in public.

1. Per penal code 626.10(a)(1) only a duty appointed peace officer shall bring a CED onto any public or private school providing instruction in kindergarten through university level

XI. LEARNING NEED

It is imperative not that only peace officers, and authorized non-sworn personnel have an understanding of the department general orders (GO) dictating the departments practices and use of the CED.

- A. Peace officers, and authorized non-sworn personnel need to have an understanding and working knowledge of the department CED GO
- B. Peace officers, and authorized non-sworn personnel need to have an understanding and working knowledge of the department Use of Force GO.
- C. Peace officers, and authorized non-sworn personnel need to have an understanding and working knowledge of the department Emergency Medical Care for Individuals under Police Care or Control GO.