

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
ARIZONA CODE OF JUDICIAL) Administrative Order
ADMINISTRATION § 6-208:) No. 2014 - 35
USE OF CONDUCTED)
ELECTRICAL WEAPONS)
_____)

The above-captioned provision having come before the Arizona Judicial Council on March 20, 2014, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration.

Dated this 2nd day of April, 2014.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION

Part 6: Probation

Chapter 2: Adult Services

Section 6-208: Use of Conducted Electrical Weapons

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

“Administrative director” means both the administrative director of the Administrative Office of the Courts or the director’s designee.

“Certified Conducted Electrical Weapon instructor” means an individual trained and certified in accordance with manufacturer standards and approved by the Administrative Office of the Courts.

“Conducted Electrical Weapon” means a device using propelled wires that transmit electrical pulses to override the central nervous system and control the skeletal muscles, causing immediate incapacitation.

“Officer” means both adult probation and surveillance officers.

“On duty” means the time period during which the officer performs probation duties or functioning at the direction of the probation department.

B. Applicability. An officer of a probation department with the authority of a peace officer pursuant to A.R.S. §§ 12-253, 13-916, and Arizona Code of Judicial Administration (ACJA) § 6-105.01, may carry and use a Conducted Electrical Weapon (CEW) while on duty and while performing warrants duties or planned arrests and if authorized by the chief probation officer and under the conditions specified in this code section.

C. Purpose. This code section establishes the protocol for the use of CEWs and governs the administration and authority of an officer to use a CEW for purposes of arrest and officer safety while on duty.

D. General Policy.

1. The chief probation officer may designate an officer to carry a CEW if the officer meets the following criteria:
 - a. Be authorized to carry a firearm, pursuant to ACJA § 6-113;
 - b. Carry the department issued firearm while carrying the CEW;
 - c. Has completed CEW training based on the CEW manufacturer specifications and delivered by a certified CEW instructor; and

- d. Be assigned to a specialized warrant unit or be on special assignment to perform warrant duties or conduct planned arrests.
2. The chief probation officer shall determine when an officer authorized to carry a CEW is restricted from carrying the CEW in the performance of certain duties.
3. The chief probation officer may require certain job assignments are staffed by an authorized CEW officer.
4. The chief probation officer shall not order an officer to carry a CEW.
5. Officers shall not carry a non-department issued CEW on their person, at their job location or in their vehicle, while on official business except with prior approval and authorization of the chief probation officer.
6. Authorized officers shall carry their CEW in a department-issued holster, which will be carried on their duty belt on the opposite side of the officer's department issued firearm or on a tactical vest.

E. Request for Authorization to Carry CEW.

1. An officer seeking authorization to carry a CEW or attend CEW training shall submit a written request to the chief probation officer.
2. The chief probation officer shall confirm and document, prior to granting authorization, that the requesting officer is:
 - a. Authorized to carry a firearm pursuant to ACJA § 6-113;
 - b. In compliance with the required CEW training; and
 - c. Assigned to a specialized warrant or arrest unit or on special assignment to perform warrant duties or conduct planned arrests.

F. Required CEW Training and Instructor Certification.

1. CEW training shall be delivered by a certified CEW instructor using only the Administrative Office of the Courts (AOC) approved CEW manufacturer's curriculum.
2. An officer may become a certified CEW instructor by:
 - a. Completing CEW manufacturer's instructor training course.
 - b. Submitting a written endorsement from their chief probation officer to become certified as an instructor.

- c. Receiving written confirmation from the AOC that the officer meets all certified CEW instructor criteria.
- d. Maintaining CEW manufacturer's criteria for instructor recertification.

G. Procedures for Authorization, Denial, Temporary Suspension or Revocation.

1. The chief probation officer shall deny, revoke or temporarily suspend authorization to carry a CEW if an officer meets any of the conditions specified in ACJA § 6-113(G).
2. The chief probation officer shall approve or disapprove the request to carry a CEW in writing within 30 days after the officer satisfactorily completes all requirements stated in subsection (E)(2).
3. The chief probation officer shall provide written reasons for denial, temporary suspension, or revocation to the officer and a copy of the approval, denial, temporary suspension, or revocation shall be kept on file.
4. The chief probation officer or designee shall place the original request and the approval or reasons for denial, temporary suspension, or revocation in the officer's personnel file and provide copies to the officer, and to the officer's supervisor.
5. All screening and testing records shall be maintained in the officer's personnel file and remain confidential as required by law.
6. The presiding judge shall hear all appeals to the denial, temporary suspension, or revocation and the judicial decision is final and not appealable.
7. An officer may submit a written request to the chief probation officer for reinstatement after one year. The officer shall clearly state the reasons for reinstatement of the authorization. The presiding judge or judicial designee shall hear all appeals to the denial of reinstatement.

H. Authorization.

1. An officer granted authorization to carry a CEW shall acknowledge and sign an authorization document indicating the officer understands the terms and conditions of this code and any department policy regarding CEW use. This includes all laws relating to the use of force.
2. An authorized CEW officer failing to comply with regulations and limitations is subject to disciplinary action and loss of CEW authorization.
3. An authorized CEW officer shall successfully complete regular re-qualification and participate in all required practice sessions.

I. Restrictions for Carrying CEWs. An authorized CEW officer is prohibited from carrying a department issued CEW under the following conditions:

1. While in a condition resulting from the use of alcohol or medication where the officer's motor skills, reflexes, or judgment could be adversely affected or while displaying evidence of mental or emotional instability;
2. While injured or in a physical condition causing inability to use a CEW properly, for example, broken hand or an eye injury causing uncorrected impaired vision. This is not intended to limit an authorized officer's ability to defend oneself during the incident or others when injuries are incurred in a life-threatening situation;
3. While on disciplinary or investigative suspension;
4. While on leave, short term or extended, with or without pay, or other periods of unpaid absence from the department;
5. When the chief probation officer, or designee directs, the officer not to carry a CEW;
6. When the chief probation officer revokes the authorization to carry; and
7. When engaged in official travel out of state unless written permission is obtained from the chief probation officer.

J. Authority to Unholster, Draw and Display CEW. An authorized CEW officer shall only draw their CEW from its holster, or display it in public, under the following conditions:

1. In compliance with department policy regarding CEW concealment or exposure;
2. The circumstances surrounding the incident create a reasonable belief that it may become necessary to use the CEW in the performance of warrant and arrest duties;
3. When a law enforcement officer requests assistance from an officer;
4. For spark testing, maintenance, inspection and training purposes; and
5. When using the CEW in an approved training course, practice session or qualification with a certified CEW instructor.

K. Responses to Discharges and CEW Involved Incidents. Departments shall respond to discharges and CEW involved incidents according to the following criteria:

1. All deployments of a CEW whether intentional or unintentional, shall require an administrative review. All deployments resulting in an injury other than superficial puncture wounds from the device probes shall require an internal investigation and use of force review.

- a. Departments shall report Injuries requiring internal investigation to the AOC within 72 hours.
 - b. The chief probation officer shall have the authority to administer any discipline or remedial measures according to local personnel procedures.
 - c. The improper use of a CEW may result in sanctions, criminal, or civil action.
 - d. The chief probation officer shall ensure that when the officer's CEW is held as part of an investigation, a replacement CEW is issued as soon as is reasonable unless authorization to carry a CEW has been revoked or temporarily suspended.
2. Each department shall have and train officers on policies and procedures for the internal administrative investigation and responses of all CEW discharges or CEW involved incidents.

L. Notification. Notification shall follow the guidelines set forth in ACJA § 6-112(F), Use of Force.

M. Authorized CEW and Holster.

1. An authorized CEW officer may only carry and use a CEW approved by the AOC.
2. The chief probation officer shall ensure a database of each CEW serial number is maintained with the probation department.
3. The department shall maintain records of all CEWs carried by officers on duty.
4. Only technicians authorized by the AOC approved manufacturer shall make adjustments to a CEW.
5. All safety devices manufactured into the CEW shall be intact and functioning at all times.
6. The chief probation officer shall approve CEW holsters based on guidelines issued by the AOC.
7. An authorized CEW officer shall complete CEW training using an approved CEW holster.

N. CEW Safety and Storage.

1. An authorized CEW officer shall observe and practice CEW safety according to department regulations.
2. An authorized CEW officer shall ensure that the CEW is stored in a designated safe and locked place that is not accessible to unauthorized persons when not carrying the CEW.

- a. An officer shall not keep a CEW in the office overnight unless secured in a department approved storage unit.
 - b. An officer shall not store a CEW overnight in any vehicle.
 - c. An officer shall ensure that a CEW is kept in a secure and safe place where the CEW is not accessible to other individuals.
 - d. An on-duty officer who decides not to carry a CEW into a residence or public building, shall temporarily store the CEW in a locked automobile trunk or glove compartment.
 - (1) An officer shall ensure that the automobile is locked if the CEW is stored in a glove compartment or if the trunk is accessible through the passenger area.
 - (2) An officer shall exercise care that the placement of the CEW in the glove compartment or trunk is not observed by the public.
 - (3) The chief probation officer may approve alternative arrangements, such as secure lock boxes under the seat.
 - e. An officer shall follow facility procedures for CEW safekeeping and temporary storage at all correctional and court facilities.
3. An officer shall notify their supervisor of any unauthorized use, handling or discharge of a department issued CEW no later than the close of the next business day.
 4. An officer failing to comply with the safety and storage regulations may be subject to disciplinary action, which may include the loss of authorization to carry a CEW.

O. Stolen or Lost CEW.

1. An authorized CEW officer shall immediately file a report with local law enforcement upon discovery that a CEW is missing.
2. An authorized CEW officer shall immediately report a stolen or lost CEW to a supervisor, who will in turn notify the chief probation officer.
3. An authorized CEW officer shall provide a written report to the supervisor no later than the close of that business day. The supervisor shall review the report and forward it to the chief probation officer. Upon review the chief probation officer shall forward the report to an AOC probation safety specialist.
4. The chief probation officer shall discipline an officer who is found negligent in the loss of their department issued CEW. The discipline shall minimally consist of a letter of reprimand and may include the loss of authorization to carry a CEW.

5. An officer shall reimburse the county or state in the event that a probation department CEW and related equipment is lost or damaged through negligence.

P. CEW Care and Maintenance.

1. An authorized CEW officer shall be responsible for spark testing in accordance with CEW manufacturer's specifications and inspection of their issued CEW.
2. The department shall retain ownership of all CEWs purchased and provided to an officer.
3. An authorized CEW officer shall return the CEW to the department upon request.
4. An authorized CEW officer shall present the CEW to a certified CEW instructor for inspection upon the instructor's request.