

## 1. INTRODUCTION

- 1.1 Peace officers are under a legal obligation and thereby possess the authority to preserve the peace, order, and safety of the community. This duty entails the protection of life and property, the apprehension of offenders, and the investigation of alleged offences. Therefore, it is reasonable that peace officers should have the authority to use reasonable force in meeting these obligations.
- 1.2 Whenever force is used by any person in Canada it shall be used in compliance with the *Criminal Code* of Canada and the Canadian Charter of Rights and Freedoms. Section 25 of the *Criminal Code* of Canada provides the legal authority to use force.
- 1.3 Section 25 of the *Criminal Code* of Canada states: Everyone who is required or authorized by law to do anything in the administration or enforcement of the law as a peace officer is, if he acts on reasonable grounds, justified in doing what he is required or authorized to do and in using as much force as is necessary for that purpose.
- 1.4 The *Nova Scotia Police Act*, the *Correctional Services Act*, and the *Court Security Act* state that the Minister of Justice (the Minister) is the constituted authority for the administration of justice within the Province and nothing contained in these *Acts* shall be construed to change or alter this responsibility. The Minister has the general supervision and management of the *Acts* and regulations for these agencies.
- 1.5 The Minister of Justice endorses the Conducted Energy Weapon (CEW) as an intermediate weapon option within the National Use of Force Framework (RCMP Incident Management/Intervention model) for peace officers to consider for the resolution of certain confrontational situations.
- 1.6 The primary purpose for deploying the CEW is to save human lives and reduce injury to individuals, police officers and the general public.

## 2. USE OF CONDUCTED ENERGY WEAPON

### Application

- 2.1 These guidelines for the Use of CEWs shall apply to all Provincial and Municipal Law Enforcement agencies, Correctional Services and Sheriff Services. The RCMP will meet or exceed Nova Scotia CEW guidelines.

## **Approved Weapons**

- 2.2 Only CEWs approved by the Nova Scotia Department of Justice shall be used within the Province.

## **Written Policy**

- 2.3 All agencies with an inventory of CEWs and which deploy these intermediate weapons operationally shall have comprehensive, written policy that supports appropriate CEW usage, including: training, re-qualification, deployment, storage, reporting, documentation, data downloading and testing of CEW devices.

## **Policy Review**

- 2.4 Policies and procedures shall be reviewed as required and no less than annually with revisions and updating as necessary, particularly regarding new research findings, legal changes or manufacturer product notifications.

## **Deployment**

- 2.5 CEWs are an approved, less-lethal intermediate weapon.
- 2.6 Whenever possible, the police agency shall collect subject and environmental risk information prior to dispatching a police unit and provide that information to the member(s) dispatched to the incident as soon as possible.
- 2.7 Whenever possible, in high risk medical situations, including Autonomic Hyperarousal State (AHS), request EHS (Emergency Health Services) prior to CEW deployment.
- 2.7.1 Any person exposed to CEW probe mode shall be evaluated by EHS (i.e., qualified medical personnel) as soon as possible.
- 2.8 Operationally, CEWs will only be deployed in the execution of officer duty and will be based upon the officer's perception of the threat and the officer's perception of the subject's ability to carry out that threat. The use of the CEW must be objectively reasonable in light of the totality of circumstances, including relevant environmental factors, subject factors, and officer factors.
- 2.9 CEWs will only be deployed if the officer believes that the behaviour of the subject is consistent with aggressive or violent resistance or presents an

active threat that may cause bodily harm or serious injury to the peace officer involved, to the subject or member of the public.

- 2.10 CEWs are not to be used without due consideration being given to de-escalation or other force options in diffusing the situation.

### **Persons with Mental Illness (PMI)**

- 2.11 While de-escalation and reasonable force options are factors to be considered in all use of force situations, an officer, when presented with a subject displaying indications of mental illness, must in these cases give particular consideration to and reasonably believe that:

- 2.11.1 No other force option, including de-escalation and/or crisis intervention technique, has been, or will be, effective in eliminating the risk of bodily harm or serious injury.

### **Other High Risk Situations**

- 2.12 When an officer reasonably believes that a subject presents signs/symptoms of Autonomic Hyperarousal State (AHS), and having given due consideration to 2.11.1, determines the situation dictates that the officer gain immediate physical control of the subject in order to reduce the health risks associated with a struggle, the following tactical options are recommended:

- CEW deployment
- overwhelming force

These situations are considered a high risk medical emergency and, as such, EHS should be dispatched, if not already done so, in accordance with Section 2.7.1. Officers will monitor the subject's physiological condition/response including breathing during and following restraint until relieved by EHS.

- 2.13 CEW operators should be aware of high risk situations, and where possible, CEW use should be avoided in the following:

2.13.1 on handcuffed subjects;

2.13.2 on pregnant women, elderly persons, young children, or visibly frail persons;

- 2.13.3 on sensitive areas of the body (i.e., head, throat, genitals);
- 2.13.4 on a subject in control of a moving vehicle, bicycle or other conveyance; and
- 2.13.5 on a subject in an elevated or otherwise precarious environment (including flammable environments).

### **Prohibited Weapon**

- 2.14 Nova Scotia identifies the approved CEW as a prohibited weapon as defined under Section 84 (Part 3 Prohibited Weapons) of the *Criminal Code of Canada*.

### **Training and Re-certification**

- 2.15 All police agencies deploying CEWs will ensure all sworn officers successfully complete provincially-approved CEW user training and re-certification programs. Provincially approved CEW training will include a supervisory component.
- 2.16 All correctional and sheriff officers identified as CEW operators and/or supervisors will successfully complete provincially-approved initial training and re-certification programs.
- 2.17 Correctional and sheriff officers who are not CEW operators shall receive provincially-approved awareness training with respect to CEWs.
- 2.18 All agencies deploying CEWs will ensure that qualified officers are re-certified every twenty-four (24) months, at a minimum.

### **Reporting**

- 2.19 The Province of Nova Scotia mandates the reporting of all use of force incidents on the Subject Behaviour Officer Response (SBOR) form, including every incident involving the use of CEW.
- 2.20 All agencies shall have written policy requiring officers to notify their immediate supervisor and submit a Subject Behaviour/Officer Response (SBOR) report as soon as possible when they deploy a CEW in presentation mode, contact mode or probe mode.
- 2.21 All agencies shall have written policy requiring the submission of a report to the Department of Justice when any of the following occur:

- 2.21.1 in the event of an injury;
  - 2.21.2 drawing and displaying a CEW;
  - 2.21.3 use of the CEW in contact stun mode;
  - 2.21.4 use of the CEW in probe mode; and
  - 2.21.5 accidental discharge (during training or operations), other than into a designated loading station.
- 2.22 All agencies will forward completed, SBOR reports to Department of Justice monthly. All personal information (*FOIPOP/Privacy Act*) will be removed prior to sending to Department of Justice.
- 2.23 The Department of Justice will review and report on the use of CEW within the Province of Nova Scotia at year end. This report will be made accessible to the public.

## Testing

- 2.24 All CEWs in an agency's inventory shall be submitted for output testing at a testing facility that meets approved national guidelines. Only those devices that test within the manufacturer's specified operating parameter range shall be used for training or operational purposes. All CEW testing results will be forwarded to Department of Justice, Public Safety and Security Division, Manager of Use of Force for review, storage and reporting purposes. Data downloading will be completed by Agencies prior to CEWs being sent for testing.
- 2.24.1 Output testing shall be conducted in accordance with the following schedule:
    - 2.24.1a Agencies will have CEWs tested after two years of being accepted into inventory and every two years thereafter;
    - 2.241b All CEWs involved in incidents resulting in serious injury or death will be tested.
- 2.25 All Agencies will ensure CEWs within their inventories are tested to the specifications contained in the approved national CEW testing protocol.

### **3. STANDARD OPERATING PROCEDURES**

- 3.1 All CEWs will be logged in and out on a daily basis and this process will be monitored and audited by qualified supervisors. Serial numbers will also be recorded.
- 3.2 All agencies shall develop specific standard operating procedures dealing with a comprehensive range of matters relevant to CEWs, including:
  - 3.2.1 Tactical options for the use of CEWs including issuance of verbal warnings and use of de-escalation techniques, including in situations involving persons with mental illness (PMIs) where appropriate;
  - 3.2.2 Safe handling procedures for CEWs in accordance with approved training and manufacturers' recommendations;
  - 3.2.3 Appointment, qualifications and responsibilities of a CEW program coordinator [or equivalent position];
  - 3.2.4 Procedures pertaining to post-CEW deployment including data download; and
  - 3.2.5 Procedures ensuring that probes not retained for evidentiary purposes are treated as hazardous waste with proper disposal.
- 3.3 All agencies shall have written policy that directs a member and/or a CEW Program Coordinator to perform and record pre-shift CEW maintenance that includes, at a minimum:
  - 3.3.1 Check electrical contacts on the weapon and the cartridge for damage and/or obstructions;
  - 3.3.2 Check expiration date of cartridges;
  - 3.3.3 Check central information display and confirm battery charge; and
  - 3.3.4 Conduct a spark test in accordance with manufacturers' instructions.
- 3.4 All agencies shall have written policy that directs a CEW Program Coordinator to:

- 3.4.1 Review and act on any changes to police agency policy or updated manufacturer product information that would directly affect the maintenance and/or use of the device; and
  - 3.4.2 Maintain a serial number specific record of maintenance activities for the device and record any findings and/or member actions specific to that device.
- 3.5 All agencies will have policy that strictly limits the use of cycling of CEWs. Multiple or extended cyclings should be avoided unless a single deployment is ineffective in eliminating the risk or in allowing the officer(s) to gain physical control of the subject.

#### **4. REFERENCES**

The following references are included as relevant to these provincial guidelines dealing with CEWs:

- 4.1 *Criminal Code of Canada*
- 4.2 *Nova Scotia Police Act*
- 4.3 *Nova Scotia Correctional Services Act*
- 4.4 *Nova Scotia Court Security Act*
- 4.5 Canadian Association of Chiefs of Police (2000) National Use of Force Framework
- 4.6 National Guidelines for CEW Usage
- 4.7 National CEW testing Protocol