

501 CMR 8.00: STANDARDS FOR THE USE OF ELECTRONIC CONTROL WEAPONS IN THE COMMONWEALTH

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8.01: Purpose

The purpose of 501 CMR 8.00 is to establish rules and regulations governing lawful possession, minimum safety and quality standards, safe storage, education and safety training requirements, and law enforcement training in the use of electronic control weapons in the Commonwealth.

8.02: Statutory Authorization

501 CMR 8.00 is promulgated pursuant to M.G.L. c. 140, § 131J, requiring the Secretary of Public Safety and Security to promulgate rules and regulations governing electronic control weapons in the Commonwealth and the training of law enforcement on the appropriate use of such weapons.

8.03: Definitions

Authorized Law Enforcement Agency (Authorized Agency). A state, county, municipal or district law enforcement agency including, but not limited to:

- (a) a city, town or district police department, the office of environmental law enforcement, the University of Massachusetts police department, the department of the state police, the Massachusetts Port Authority police department, also known as the Port of Boston Authority police department, and the Massachusetts Bay Transportation Authority police department;
- (b) a sheriff's department in its performance of police duties and functions;
- (c) a public or private college, university or other educational institution or hospital police department;
- (d) a humane society police department in M.G.L. c. 22C, § 57; or
- (e) any other law enforcement agency subject to the Massachusetts Peace Officer Standards and Training (POST) Commission certification requirements.

Authorized Law Enforcement Officer (Authorized Officer). Any officer of a law enforcement agency, including the head of the agency; a special state police officer appointed pursuant to M.G.L. c. 22C, § 57, 58 or 63; a special sheriff appointed pursuant to M.G.L. c. 37, § 4, performing police duties and functions; a deputy sheriff appointed pursuant to M.G.L. c. 37, § 3 performing police duties and functions; a constable executing an arrest for any reason; any other special, reserve, or intermittent police officer; or any other law enforcement agency subject to the POST Commission certification requirements. Authorized Law Enforcement Officer (Authorized Officer) does not include state or county correctional officers designated to special operations or tactical teams within a state or county correctional facility.

Civilian. Any individual who is not an authorized law enforcement officer as defined in 501 CMR 8.03.

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Electronic Control Weapon (ECW)/Conducted Energy Devices. A stun gun as defined in M.G.L. c. 140, § 121, or any portable device or weapon, regardless of whether it passes an electrical shock by means of a dart or projectile *via* a wire lead, from which an electrical current, impulse, wave or beam that is designed to incapacitate temporarily by causing neuromuscular incapacitation or pain so that an officer can regain and maintain control of the subject.

8.04: General Requirements for the Use of Electronic Control Weapons by Officers of Authorized Law Enforcement Agencies

- (1) Any authorized agency permitting the use of electronic control weapons by the agency's officers in the performance of their official duties shall have the following written policies:
 - (a) A use of force policy consistent with 550 CMR 6.00: *Use of Force by Law Enforcement Officers* and 555 CMR 6.00: *Use of Force by Law Enforcement Officers*; and
 - (b) An electronic control weapons policy.
- (2) Authorized agencies shall maintain a record acknowledging receipt and review of each policy listed in 501 CMR 8.04(1) by every authorized officer possessing or using electronic control weapons in the performance of their official duties.
- (3) All electronic control weapons used by officers of authorized agencies in the performance of their official duties shall include a mechanism for tracking the number of times the electronic control weapon has been discharged.
- (4) Authorized agencies shall comply with all reporting requirements set forth in St. 2004, c. 170, § 2. Authorized agencies shall comply with all rules, regulations, and policies established by the POST Commission including, but not limited to, any and all law enforcement agency certification requirements

8.05: Minimum Safety and Quality Standards for the Use of Electronic Control Weapons by Authorized Law Enforcement Officers

- (1) In order to use an electronic control weapon in the performance of their official duties, an authorized officer must:
 - (a) Be currently certified by the POST Commission;
 - (b) Be employed as an authorized officer by an authorized law enforcement agency;
 - (c) Have reviewed the authorized agency's use of force and electronic control weapons policies and acknowledged such in writing;
 - (d) Have successfully completed a defensive tactics training course approved by the MPTC or approved by the Colonel of the Massachusetts State Police (MSP) including, but not limited to, the MPTC or the MSP basic recruit training that incorporates defensive tactics in the curriculum; and
 - (e) Be authorized by the officer's authorized agency to carry a firearm in the performance of the officer's official duties and have successfully completed both use of force training and firearms training as approved by the MPTC or the Colonel of the MSP.
- (2) Except for training purposes, an authorized officer shall not use or carry an electronic control weapon in the performance of their official duties until successfully completing an approved MPTC training program or a training program approved by the Colonel of the MSP pursuant to 550 CMR 6.04(5) for the use of electronic control weapons.
- (3) If not carried or under the control of the owner or other lawfully authorized user, electronic control weapons shall be secured in a locked container in accordance with M.G.L. c. 140, § 131L.

8.06: Education and Training Programs on the Use of Electronic Control Weapons by Authorized Officers

- (1) Only training programs certified by the MPTC or the Colonel of the MSP may be approved by the Secretary of Public Safety and Security as meeting electronic control weapon training requirements. Those programs must contain, at a minimum, the following components:

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- (a) Not less than six hours of training;
- (b) A review of the mechanics of an electronic control weapon;
- (c) Illustration of the medical issues involved with the use of an electronic control weapon including, but not limited to, information regarding the effects of electronic control weapons on individuals with pre-existing medical and other conditions and information on and a demonstration regarding the removal of probes from an individual after an electronic control weapon has been discharged;
- (d) Segments on weapon proficiency for trainees, including a demonstration on the accurate discharge of an electronic control weapon, practice discharge of an electronic control weapon by trainees, exercises wherein the trainee practices transitioning to and from an electronic control weapon, and scenario exercises involving electronic control weapons;
- (e) A segment on the use of an electronic control weapon as a force option and an overview of the authorized agency's policies and the electronic control weapon's relation to other weapons, tools, and tactics within the authorized agency's use of force policy; and
- (f) Testing to demonstrate knowledge of protocols, use, and effects of electronic control weapons.

(2) All authorized officers who have successfully completed the authorized training program pursuant to 501 CMR 8.06(1) must then complete an annual requalification training program of no less than four hours consisting of:

- (a) A review of the authorized agency's use of force policy and other policies and procedures related to electronic control authorized weapons;
- (b) Updates regarding the electronic control weapon;
- (c) Testing to demonstrate knowledge of policies, protocols, use, and effects of electronic control weapons; and
- (d) A demonstration of proficiency with the electronic control weapon.

8.07: Certification Requirements for Training Instructors

(1) Training instructors for any approved training program for authorized agencies on the use of electronic control weapons must be certified by the MPTC. Training instructors for the MSP must be certified by the Colonel of the MSP. At a minimum, the instructor must:

- (a) Attend the instructor training program provided by the manufacturer(s) of the electronic control weapon(s) to be used by the authorized agency, which must consist of no less than 16 hours of instruction covering training on the use of electronic control weapons; and
- (b) Complete all training required by the MPTC or the Colonel of the MSP to obtain and maintain instructor certification.

8.08: General Requirements for Civilian Use and Possession of Electronic Control Weapons

(1) Civilians are required to hold a validly issued license to carry firearms (LTC) pursuant to M.G.L. c. 140, § 131 before using or possessing an electronic control weapon.

(2) Prohibited persons, as defined in M.G.L. c. 140 § 131, shall not use or possess electronic control weapons.

(3) If not in the immediate control or possession of a lawful owner or other lawfully authorized user, electronic control weapons shall be secured in a locked container in accordance with M.G.L. c. 140, § 131L.

8.09: Severability Clause

If any article, section, subsection, sentence, clause or phrase of 501 CMR 8.00 is for any reason held to be unconstitutional, contrary to statute, in excess of the authority of the Secretary of Public Safety and Security or otherwise inoperative, such decision shall not affect the validity of any other article, section, subsection, sentence, clause or phrase of 501 CMR 8.00.

REGULATORY AUTHORITY

501 CMR 8.00: M.G.L. c. 140, § 131J