

Appendix 1: Standard Operating Procedures



Electro Muscular Incapacitation Devices



Standard Operating Procedures

1. Electro Muscular Incapacitation Devices

Introduction

An Electro Muscular Incapacitation device (EMI) is a less lethal, conducted energy weapon. This weapon utilises an electrical discharge to disrupt the body's ability to communicate messages from the brain to the muscles. The device causes incapacitation through motor skill dysfunction.

Approved Devices

The only EMI device currently approved for use by the New Zealand Police is the "Taser" X26. It is a single shot, laser sighted device whose application can be achieved through:

- Discharging of an approved air cartridge at the subject. (The EMI device delivers an electrical current to the subject by means of probes attached to insulated wires),
- Direct application to the subject. (The EMI device delivers electrical current to the subject by means of contacts contained on the device).

The optimum operating distance is between 2 - 5 metres. The maximum range is the length of the wires that carry the current and attach the probes to the device.

Effects

An EMI device relies upon physiological effects other than pain to achieve its objective. It delivers a sequence of high voltage low amperage, short duration pulses over a five-second cycle. The effects of application of the device are likely to be instantaneous incapacitation of the subject, which renders them incapable of continuing any activity. The likely result is that the subject will immediately collapse to the ground. The effect of incapacitation will only remain as long as the electrical charge is being activated. There is no known long term after effects to exposure.

2. Possession and Legal Implications

Possession

An EMI device is a restricted weapon, as specified under Paragraph 8 of the Arms (Restricted Weapons and Specially Dangerous Airguns) Order, 1984. Sworn members of the Police have statutory authority to be in possession of and carry restricted weapons in the course of their duty, by virtue of Section 3, Arms Act.

Legal Implications (Use of force)

The use of an EMI device is a use of force and as such, its use must be reasonable, proportionate, and necessary in the circumstances. The relevant sections of the Crimes Act, 1961 relating to Police use of force are:

- Section 31(Arrest by constable pursuant to statutory powers),
- Section 32 (Arrest by a constable of a person believed to have committed an offence),

- Section 39 (Force used in executing process or arrest),
- Section 40 (Preventing escape or rescue),
- Section 41 (Prevention of suicide in certain cases),
- Section 48 (Self defence and defence of another),
- Section 62 (Excess of force).

Accountability

Members are individually, criminally responsible, by virtue of Section 62 of the Crimes Act 1961, for the use of any excess force during the course of their duties. Members may also be subject to internal disciplinary action for any excess use of force.

- **An overriding principle guiding the use of an EMI device is that it can only be used in situations within and beyond the Assaultive range, as outlined in the Tactical Options Framework.**
- **Under no circumstances is the device to be used to induce compliance with an uncooperative but otherwise non-aggressive person.**

3. Use

Tactical Options Framework

EMI devices represent an intermediate option in relation to the Tactical Options Framework. As such, an EMI device is one of a number of tactical options available to a member when their Perceived Cumulative Assessment of a situation is that the subject's behaviour is within or beyond the Assaultive range. Use of the EMI device must be in accordance with the:

- Tactical Options Framework,
- Standard Operating Procedures, and
- Approved Training.

General Guidelines

When considering the use of an EMI device the member must have an honest belief that the subject, by age, size, apparent physical ability, threats made, or a combination of these, is capable of carrying out the threat posed (Perceived Cumulative Assessment). In this circumstance, Police members may only use an EMI device to:

- Defend themselves, or others, if they fear physical injury to themselves, or others, and they can not reasonably protect themselves, or others, less forcefully, or
- Arrest an offender if they believe on reasonable grounds that the offender poses a threat of physical injury and the arrest cannot be effected less forcefully, or
- Resolve an incident where a person is acting in a manner likely to physically injure themselves and the incident cannot be resolved less forcefully, or
- Prevent the escape of an offender if they believe on reasonable grounds that the offender poses a threat of physical injury to any person, and the escape cannot be prevented less forcefully, or
- Deter attacking animals.

Use Against Armed Subjects

Caution should be exercised in using an EMI device when a subject is armed with a blunt edged weapon, or knife, to ensure a safe reactionary distance is maintained. Use of the EMI device against a subject armed with a firearm should not normally be considered; Police firearms remain the most appropriate tactical response for such situations. However, it is recognised that circumstances may exist within such situations where the use of an EMI device may be appropriate when deployed with or in support of conventional firearms.

4. Restrictions

The use of EMI device is restricted in the following circumstances:

Crowd Situations

As a single shot weapon, the EMI device is best suited to application against individuals.

- In crowd situations, consideration must be given to the potential to inflame the situation before an EMI device is utilised.
- The EMI device is not to be carried by members rostered for duty at demonstrations.

Flammability

Due to its design, an EMI device could provide a source of ignition, as such, it shall not be used in situations where:

- A subject has, or is believed to have, doused themselves with any accelerant, or
- The proximity of accelerants or flammable liquids or vapours may present a risk of ignition (e.g. clandestine labs, petrol stations, etc.),
- It is believed that the subject is in possession of explosives.

Passive Resistance

An EMI device must be used in a manner that is consistent with the Tactical Options Framework and must not to be used against people offering Passive Resistance.

Pregnant Females

Except as a last resort, an EMI device should not be used against females who are known to be, or who are believed to be, pregnant.

Elevated Positions

Consideration and care should be taken when using an EMI device on subjects who are in an elevated position. An EMI device must not to be used in circumstances where a subsequent fall may result in a risk of substantial injury, or death to the subject.

Water

Consideration and care should be taken when using an EMI device on subjects who are in or near a body of water. They are not to be used in circumstances or situations where there is a risk of the subject drowning.

5. Security

Storage

When an EMI device is not on issue, the device and associated equipment are to be stored in the supplied locked container within the confines of Police premises, or other such secure place, as approved by the District EMI device Coordinator.

- EMI devices and associated equipment are to be stored separate from ammunition, pyrotechnics, and flammable substances.
- EMI devices, when not on issue, are to be stored in the unload state; that is, without air cartridges attached and with the safety engaged.
- In order to maintain the system clock, and avoid the potential for data corruption, the EMI device must be stored with the DPM (Digital Power Magazine) inserted at all times.

Records of Issue and Use

- An individual register, which is identified by the Serial number of the device concerned, shall be maintained for each EMI device.
- Each time a device is issued, the details of date, time, and member shall be noted in the front of the register, along with serial number of air cartridges.
- Each time a device is returned the details of date, time, and member shall be noted in the front of the register, along with reasons for any deficiencies, if applicable.
- Each time an EMI device is activated by Discharge, Drive Stun, Arcing or pre operational spark testing, details of the member involved, date, time, and duration, along with the number of activations, shall be logged chronologically in the rear of the register. When applicable, serial numbers of discharged air cartridges are to be included in the log.

Audit

- EMI device registers shall be audited monthly as part of routine, station internal control checks to ensure registers have been completed correctly. Monthly audits shall confirm the presence of EMI devices and associated equipment.
- The District EMI device Coordinator shall audit records of discharges monthly by comparing records of device download data with the respective log contained in the device register.
- Any discrepancies between the download data and the log must immediately be reported to the EMI device Project Manager, OOC.
- Any discrepancies between the download data and the log must be investigated and the result reported on behalf of the respective District Commander to the EMI device Project Manager, OOC.

6. Issue

When issued EMI devices are not to be worn or displayed as a matter of course during routine duties. They are to remain secured in the supplied locked container, within the patrol vehicle or other such location accessible to the member. EMI devices will only be issued to sworn members, selected by the District Commander and approved by the National Manager: Professional Standards. These members must:

- Hold a current NZ Police First Aid certification,
- Hold a current NZ Police EMI device operators or instructors certification,
- Hold a current SSTT certification,
- Have a minimum of two years of relevant Police service.

7. Pre Operational Checks

Prior to commencing duty, members signing out an EMI device will carry out the following pre operational check of the device to ensure it is serviceable.

- Ensure the weapon is unloaded and safety is applied.
- Using the illumination selector, test the function and operation of laser and flashlight.
- Using a safe direction, place the safety in the fire position; the device should not discharge.
- Check that the remaining battery life on the CID exceeds 20%; the XDPM must be replaced if the percentage is less than 20%.
- Pull the trigger to discharge the weapon and carry out a spark test for approximately 1 second, while checking for visible spark and rapid spark rate.
- Place safety in the "SAFE" position.
- Utilise a safe direction and load the device while ensuring hands are clear of the air cartridge blast doors.
- Secure the device in the authorised holster.
- Secure the device holster and associated equipment in the supplied locked container.

8. Carriage

EMI devices are only to be carried on occasions where a member's perceived cumulative assessment of a situation is that its carriage is necessary, in that it is possible or likely that the member may encounter a situation in or beyond the Assaultive range as specified by the tactical Options Framework.

When carried qualified members shall ensure that:

- Authority to carry has first been gained from an NCO or in situations where this is impracticable notify Comms of the intention to carry and,
- The device is carried in an approved holster on the non master side of the body and,
- The device is in the load state; that is, with the safety applied and an air cartridge fitted, and
- Reserve air cartridges for the device are carried on the base of the XDPM, in the approved cartridge holder, or within the approved holster.

9. Warnings Prior to Deployment and Discharge

To encourage peaceful compliance and to warn others nearby, a verbal warning must be given in conjunction with the deployment of an EMI device. Unless impractical or unsafe to do so the following verbal warnings are to be given:

- In conjunction with Presentation, Laser Painting, and Arcing, "TASER 50 000 VOLTS",
- In conjunction with Discharge or Stun Drive, "TASER, TASER, TASER".

10. Deployment

An EMI device may be deployed operationally to affect the required purpose in the following ways:

- **Presentation** – Drawing and presenting the device at a subject as a visual deterrent, in conjunction with a verbal warning.
- **Laser Painting** – Applying the laser, sighting system of the device on a subject as a visual deterrent, in conjunction with a verbal warning.

The laser sight must not intentionally be aimed at the eyes of the subject.

- **Arcing** – Activating the device without an air cartridge fitted as a visual deterrent, in conjunction with a verbal warning.
- **Discharge** – Firing probes over a distance from an air cartridge attached to the device, or subsequent applications of electrical current via probes, which are in contact with the subject, in conjunction with a verbal warning.

The centre mass area of the body should be the target area when discharging an EMI device, particularly the centre mass of the back area.

The head, face, neck and groin area should not be targeted unless the appropriate level of force can be justified.

Subsequent applications of the device should be avoided and as such must be reasonable, proportionate, and necessary in the circumstances.

Once the subject is restrained or has complied the EMI device should be turned off.

- **Drive stun** - Firing the device with or without the air cartridge attached while the device is applied to the body of the subject, in conjunction with a verbal warning.

This method utilizes pain compliance. *The head, face, neck, and groin area should not be targeted unless the appropriate level of force can be justified.*

Subsequent applications of the device should be avoided and as such must be reasonable, proportionate, and necessary in the circumstances.

Once the subject is restrained or has complied the EMI device should be turned off.

11. Aftercare

Where a person is exposed to the application of an EMI device in the operational environment, it is the responsibility of the deploying member to ensure that the individual is constantly monitored and provided with the appropriate level of aftercare. Where a staff member is exposed to Taser in a controlled training environment it is the responsibility of the deploying member to ensure that the individual is appropriately monitored with aftercare being provided or facilitated if required.

First Aid

Normal First Aid procedures, as per NZ Police Training, must be adopted and appropriate measures, including CPR where applicable, should be instigated. Injuries should be looked for, assessed and dealt with appropriately

Immediate medical assistance must be sought if the subject's safety is perceived to be at risk at any stage.

Medical Attention

A medical practitioner must examine all people who are exposed to the application of an EMI device (except those people who are exposed in a controlled training environment) as soon as is practicable. Medical advice will be sought for persons who are exposed to Taser in a controlled training environment, if it is deemed desirable or necessary in the circumstances of the case.

Research suggests that persons most likely to be at greatest risk from any harmful effects of an EMI device, although not attributable to the device itself, are those suffering from the effects of alcohol, drugs, who have been struggling violently or exhibiting bizarre behaviour (Excited Delirium).

Medical attention must be provided immediately if:

- The subject does not recover within a reasonable time,
- The subject complains of a medical condition,
- The subject asks for medical attention,
- The member is informed, or believes, that the subject has a cardiac pacemaker or other implanted medical device,
- In the member's opinion, the subject appears to be suffering from a medical condition pre-existing or otherwise (e.g. exhibiting symptoms associated with Excited Delirium, or symptoms associated with a mental health issue).

Restraint

Where a person is subjected to the application of an EMI device every effort must be made, where practicable and safe to do so, to restrain them whilst they are incapacitated by the initial cycle of the device.

Subjects restrained in the prone position are at risk of induced positional asphyxia, (caused when the position of the body interferes with normal respiration). It is recommended that the subject be placed lying on their side or sitting at the earliest possible opportunity.

Members must ensure that:

- Once the subject is under control they are not left restrained, or transported restrained, in a manner in which the position of the body interferes with normal respiration (e.g. lying face down with the hands cuffed behind the back).

Reassurance

Recovery from the effects of an EMI device should be almost instantaneous. When the subject has been restrained after the application of the EMI device it is important for that member to:

- Provide verbal reassurance as to the temporary effect of EMI devices and,
- Instruct the subject to breathe normally to aid recovery.

Probe Removal

It is recommended that EMI device probes be removed with the consent of the subject at the earliest opportunity. However, if a subject insists that the EMI device probes attached to their body be removed by medical personnel, police shall leave the probes in place, taking care to minimize discomfort to the subject, and shall facilitate that request at the earliest opportunity.

It is acknowledged (and overseas research indicates) that in some situations subjects may instinctively remove probes of their own accord. Police should endeavor to appropriately restrain the subject while they are incapacitated to reduce the chance of this occurring.

Probes should only be removed by EMI device qualified personnel or medical personnel in accordance with the following restrictions and recommendations:

- Medical personnel should remove probes lodged in bone tissue, or located in sensitive areas such as the head, face, neck, groin, or that are difficult to remove, or in the case of female subjects, that have lodged in the breast area.
- If police make the assessment that the probes should be removed by a medical practitioner and a subject does not want to wait for medical personnel to remove the probes, police should do their best to persuade the subject of the need for medical personnel to remove the probes given their location, and should provide reassurance to calm the subject.
- Only female EMI device qualified personnel or medical personnel can remove probes (apart from those clearly stuck only in clothing) provide aftercare, and take necessary evidential photographs of the injuries caused by the probes where the subject is a female.
- Prior to removing probes, the attached cables should be broken or cut to avoid trailing wires. Care should be taken during this process to avoid discomfort to the subject.
- Gloves must be worn during probe removal keeping in mind blood borne pathogen concerns.
- Once probes have been removed, they must be inspected to ensure the entire probe and probe barb have been removed. If a probe or probe barb has broken off (has been damaged) the subject shall be provided with the appropriate medical attention to facilitate removal of the object.
- First aid shall be provided to the subject following the removal of a probe in the form of an antiseptic wipe and an appropriate dressing being applied to the affected site.
- Removed probes shall be secured as evidence within the applicable container and stored in a sealed biohazard bag. These should be disposed of as a biohazard on file closure.
- Photographs shall be taken of the probe impact sites, and any other related injuries, for evidential purposes.

Custody

Where a person is detained in custody after the application of an EMI device the relevant charge sheet shall be endorsed to reflect that the prisoner shall be:

- Subject to a Health and Safety Management Plan for a Person in Custody (POL705),
- Constantly monitored until examined by a medical practitioner,
- Monitored according to the medical practitioners advice, and
- Issued with an information leaflet describing EMI devices, modes of operation, and effects.

12. Bill Of Rights and Caution

When the use of an EMI device leads to an arrest the arresting member must ensure that the Bill of Rights and Caution are given immediately following the arrest.

- The Bill of Rights and Caution must then be repeated after the person has sufficiently recovered from the effects of the EMI device, and when they are capable of understanding the statement.
- Any admission made while under the effects of an EMI device may result in the court determining such an admission to be unfair and inadmissible.

13. Post Incident Procedures

Reporting

Whenever an EMI device is deployed by a member against another person, other than in training, the member involved must ensure that a supervisor is notified as soon as practical. The supervisor is to:

- Attend the scene as soon as possible and ensure that proper aftercare and, where applicable, any appropriate medical attention has been provided,
- Preserve and photograph the scene where it is believed this may be necessary or relevant for subsequent enquiries,
- Ensure that all evidence, including discharged air cartridges, wires, probes and sufficient (4-5) AFID tags, are recovered from the scene and secured appropriately,
- Investigate the incident to determine whether the use of the EMI device was in accordance with the Standard Operating Procedures,
- Ensure the member, or members, involved submits a Tactical Options report prior to finishing duty,
- Ensure the member completes the details of all instances of Arcing, Discharge and Drive Stun in the log in the rear of the EMI device register,
- Submit a covering report outlining the incident, and including appropriate recommendations for the information of the District EMI device Coordinator, prior to finishing duty.

Tactical Options Report

A Tactical Options report is to be completed in all cases where an EMI device is deployed against another person, other than in training. This includes Presentation, Laser Painting, Arcing, Discharging and Drive stun. The Tactical Options Report shall be:

- Submitted to the supervisor,
- Copied and filed with the District EMI device Coordinator and,
- Copied and attached to any arrest or other relevant file.

Post Incident Information Packs

Post incident information packs are to be accessible to all members who carry an EMI device in the course of their duty. Each pack shall contain:

- A copy of these Standard Operating Procedures
- Guide for supervisors/ Operators
- Police exhibit form (POL 268)
- A large Zip Lock exhibit Bag
- Exhibit labels
- Three evidence security bags
- Small Bio Hazard bag (For recovered probes)
- Plastic Container (For recovered probes)
- Two pair surgical gloves (For use in removing probes)
- Antiseptic Wipes (For use on Subject)
- Adhesive dressings (For use on subject)
- Information leaflet for subject
- Information leaflet for medical personnel
- Information leaflet for hospitals

14. District EMI Device Coordinators

District Commanders are to appoint a District EMI device Coordinator. The District EMI device Coordinator is to be responsible for:

- Media liaison in relation to District EMI device deployments, if required,
- Monthly download of District EMI devices and audit of registers to ensure details of downloaded usage and records of use correspond,
- *Immediately reporting any discrepancies between the download data and the log to the EMI device Project Manager, OOC,*
- Investigating any discrepancies between the download data and the log and reporting the result on behalf of the respective District Commander to the EMI device Project Manager, OOC,
- *Downloading information from District EMI devices at any time that information may be required for an enquiry surrounding the use, or alleged misuse, of an EMI device,*
- Maintaining records of EMI devices, Tactical Options reports, and associated documents for the purpose of internal control and audit purposes, and statistical information gathering and analysis by the Project Manager, OOC,
- Obtaining further information, where necessary, from members involved in EMI device incidents, regarding EMI device effectiveness, medical effects, and modifications to training and or policy that may be necessary,
- Supplying details of known incidents where an EMI device would have been effective, but was unavailable for deployment, to the EMI device Project Manager, OOC,
- Recommendations to the EMI device Project Manager, OOC regarding changes to policy and or training in respect to EMI devices,
- Maintaining and distributing sufficient stocks of Air Cartridges within the district for use on EMI devices along with records of same,
- Maintaining and distributing sufficient stocks of XDPM's (Digital Power Magazines) within the district for use on EMI devices along with records of it,
- Organising the return of damaged, faulty, or corrupted EMI devices to the Police National Armoury for repair or replacement.

15. Distribution and Repair

The Police National Armoury shall be responsible for the distribution, maintenance, and repair of EMI devices, and associated equipment, as directed by the National Manager Operations. The Police National Armoury shall:

- Maintain a national register detailing serial number and location of all EMI devices possessed by the New Zealand Police,
- Receive and quality assess all EMI devices imported by the New Zealand Police and ensure they are calibrated,
- Download and maintain records of discharge of individual EMI devices at factory or the armoury prior to distribution,
- Liaise with the supplier of EMI devices on behalf of the New Zealand Police for the purposes of repair and replacement,
- Maintain sufficient stocks of EMI devices, Air Cartridges and Digital Power Magazines for distribution to District EMI device Coordinators to cover instances of repair or replacement.

16. Transportation and Dispatch

EMI devices are designated restricted weapons and air cartridges contain non-flammable pressurised nitrogen. The following General Instructions, as regards to firearms in the following circumstances, are to be applied to EMI devices and related equipment.

- General Instruction F165: Recording dispatch and receipt.
- General Instruction F166: Transportation.
- General Instruction F060A: Carriage on commercial aircraft by Personal Protection officers.
- General Instruction F060B: Police emergencies requiring carriage in a commercial aircraft being used exclusively for the Police, or in a Defence Force aircraft.
- General Instruction F60C: Carriage on a commercial aircraft for administrative purposes.

17. Training and certification

- Staff Safety Tactical Training is responsible for training and certification of EMI device instructors and operators.
- Members must complete the authorised New Zealand Police EMI device certification course prior to being issued with a device.
- EMI device initial operator training shall be conducted by a NZ Police qualified EMI device instructor and will consist of 8 hours training.
- Operator recertification shall be conducted annually as determined by the National Manager: Training and Professional Development.
- EMI device initial instructor training shall be conducted by a NZ Police SSTT recognised EMI device master instructor and will consist of 16 hours training.
- Instructor recertification shall be conducted biennially as determined by the National Manager: Training and Professional Development.

18. Administration

- The National Manager: Operations has administrative responsibility for the Standard Operating Procedures entitled “Electro Muscular Incapacitation (EMI) Devices”.