



# Electronic Control Weapons in Georgia: Review and Recommendations

Submitted by the Ad Hoc Committee  
on Electronic Control Weapons

Adopted by the Georgia Association of Chiefs of Police  
Executive Board

June 20, 2005

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**JAMES D. CHADWICK, CHIEF OF POLICE**

June 6, 2005

Chief Lou Dekmar, President  
Georgia Association of Chiefs of Police  
3500 Duluth Park Lane, Suite 700  
Duluth GA 30096

Dear President Dekmar:

In November of 2004 you appointed an Ad-Hoc Committee "to facilitate consistent uniform guidelines for Georgia's law enforcement agencies and to provide limited legal guidelines" concerning the use of electronic control weapons. The charge of the committee was to: "develop a model policy for the use of electronic weapons (tasers); determine where the use of electronic weapons falls on the use of force continuum; and complete a 'white paper' on the research concerning the known medical and physical effects of electronic weapons."

On behalf of the committee, as chairman, I am pleased to present to you the attached "white paper" and several appendices. This work product represents many hours of effort by committee members. I believe that a careful review of these materials fulfills your charge to the committee.

However, please bear in mind the committee's work represents a snapshot in time concerning the issues and is based on current available research. While we have examined many news articles and research articles, as well as policies by departments throughout the world, it should not be perceived that additional research should not be done. To the contrary, we believe that additional research should and must be continued.

Electronic control weapons represent only a small portion of the overall issues surrounding the use of force. Law enforcement executives should bear this in mind as they formulate policy for their individual agencies. On the other hand, the committee believes this attached information provides them with a strong basis to make an informed decision whether to deploy electronic control weapons. Additionally, chiefs may want to obtain a copy of Police Executive Research Forum's most recent publication *Chief Concerns: Exploring the Challenges of Police Use of Force* available at [www.policeforum.org](http://www.policeforum.org).

The committee also asks you and the Georgia Association of Chiefs of Police to consider the following recommendations that extend beyond the scope of this committee's purpose. Many of these recommendations will require changes in Georgia law, additional funding to the different

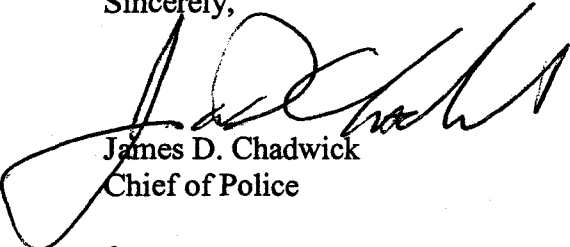
agencies, and a considerable commitment by GACP. However, the committee feels these recommendations are critical to the future of Georgia's law enforcement officers.

1. The Georgia Bureau of Investigation continue its analysis of in-custody deaths involving police contact and provide information to Georgia's law enforcement community, on an annual basis, to be used to identify additional training needs/trends.
2. The Georgia Peace Officers Standards and Training Council (POST) should be appropriated the necessary funding to establish a certification requirement for all peace officers in the state that elect to carry and use an electronic control weapon of any type. The non-complying officers and agency heads should receive sanction, should they be found to use the electronic control weapon without certification.
3. The Georgia Public Safety Training Center continue the development of a standardized lesson plan approved by POST, which would meet the requirement of POST certification with an electronic control weapon. The Georgia General Assembly should appropriate the necessary funding to make this training available statewide for all officers to receive initial and recertification training. (Most of the work on the lesson plan has already been completed.)
4. Use of force reporting should be collected in a centralized database similar to the Uniform Crime Reporting System. This would require a standardized format of use of force reporting.
5. The Georgia legislators should enact laws that regulate the sale of electronic control weapons to non-law enforcement officers/agencies.

In conclusion, due to the fact that some suspects do not acquiesce during their arrest and police are forced to subdue recalcitrant individuals, the use of force is a necessary element of police work. The focus of any use of force should not be on the tools used, but upon the officer's reasonableness and justification of the force.

It is the committee's conclusion that based on current known research, the benefits of electronic control weapons outweigh the risks.

Sincerely,



James D. Chadwick  
Chief of Police

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cc: GACP Executive Board  
Frank Rotondo, GACP Executive Dir.  
Ad-Hoc Taser Committee Members

## Ad Hoc Committee on Electronic Control Weapons

### Ad Hoc Committee Chairman

Chief James Chadwick, Dalton Police Department

### Ad Hoc Committee Members

Butch Beach, Georgia Public Safety Training Center

Corporal Damon Cavender, Gwinnett County Police Department

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Chief Dan Flynn, Savannah-Chatham Metro Police Department

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Chief Steve Parks, Chattanooga Police Department, Tennessee

Chief Richard Pennington, Atlanta Police Department

Executive Director Frank V. Rotondo, Georgia Association of Chiefs of Police

Dr. Kris Sperry, Chief Medical Examiner for the State of Georgia,  
Georgia Bureau of Investigation

## I. Introduction: Formation and Purpose of the Ad Hoc Committee

In November 2004, the Georgia Association of Chiefs of Police President Louis M. Dekmar formed an Ad Hoc Committee (“Committee”) to evaluate the use of the electronic control weapons<sup>1</sup> by law enforcement in Georgia. The formation of this committee was in response to the continuing dialogue between the public and law enforcement, as reported by the media, regarding the use of electronic control weapons by police to gain control over individuals who are either resisting police custody or refusing to comply with orders by detention facility personnel. The Committee is comprised of law enforcement professionals, academic advisers, attorneys, and physicians.

The purpose of this paper is to review the information regarding electronic control weapons from a legal, medical and law enforcement perspective and make recommendations for their use. This review will focus specifically on law enforcement’s use of electronic control weapons in Georgia; deaths occurring after use of electronic control weapons in Georgia; and legal and policy considerations regarding the use of electronic control weapons.<sup>2</sup> At the conclusion of the paper, the Committee will make recommendations to the Georgia law enforcement community for the use of electronic control weapons based upon this review.

## II. Use by Law Enforcement in Georgia

Electronic control weapons in their current form have been available since 1999.<sup>3</sup> The most commonly used electronic control weapons are manufactured by Taser International.<sup>4</sup> The Taser M26,<sup>5</sup> a model distributed by Taser International, is a “Conducted Energy Weapon that uses propelled wire to conduct energy to a remote target, thereby controlling and overriding the body’s central nervous system.”<sup>6</sup> Usually the electronic control weapon is a 50,000-volt, 26-watt system that uses nitrogen

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<sup>1</sup> Electronic control weapons are known by many names including electronic control devices, electro-muscular disruption technology, and Tasers. The term Taser is a brand name for the electronic control weapon manufactured by Taser International, which is the most commonly used electronic control weapon. The Committee is choosing to use the term “electronic control weapon” because it is used by the International Association of Chiefs of Police in their Concept Paper and Model Policy.

<sup>2</sup> While not addressed specifically in this paper, the Committee found nothing in the national literature that contradicts the information gleaned from the Committee’s examination of Georgia cases and data.

<sup>3</sup> Electronic control weapons have been available since 1974. The original versions were “50,000-volt, seven-watt stun systems that were classified as a firearm due to the fact that it used gunpowder to fire probes.” IACP National Law Enforcement Policy Center, *Electro-Muscular Control Weapons: Concepts and Issues Paper* (hereinafter “IACP Concept Paper” -- there are three versions of the IACP Concept Paper, accordingly citations will identify which version is being cited) Rev. Jan. 2005 at 2. The current electronic control weapons use nitrogen cartridges to fire the probes rather than gunpowder.

<sup>4</sup> IACP Concept Paper, Rev. May 2004 at 2.

<sup>5</sup> There are other devices currently on the market and this paper is in no way an endorsement of any particular electronic control weapon.

<sup>6</sup> *Draper v. Reynolds*, 369 F.3d 1270, 1273 (11<sup>th</sup> Cir. 2004).

cartridges to fire probes into the targeted subject.<sup>7</sup> The electronic control weapon's effects on an individual are as follows:

- (1) Falling immediately to the ground;
- (2) Freezing in place (involuntary muscle contractions) during the discharge of current;
- (3) Yelling, screaming, or being silent;
- (4) Feeling dazed for several seconds or minutes;
- (5) Temporary tingling sensation;
- (6) Lack of any memory or sensation of pain;
- (7) Slight signature marks that resemble surface burns on the skin that may appear red or blister;
- (8) Eye injury from probe contact; [and]
- (9) Secondary injuries caused by falling.<sup>8</sup>

The electronic control weapon is a nondeadly weapon<sup>9</sup> that permits officers to gain control over suspects or detainees with less risk of injury to the suspects, detainees or officers. The other nondeadly weapons available to law enforcement include oleoresin capsicum (OC) or pepper spray and the baton. There are other more specialized nondeadly weapons including (1) specialty impact munitions such as rubber bullets and bean bag rounds; (2) chemical munitions such as tear gas; and (3) distraction devices. These weapons, however, are usually only available to specialized units such as SWAT teams and not to the street officer.

Many in law enforcement favor the use of the electronic control weapon because it allows the officer to gain control over suspects without having to use hand-to-hand restraint techniques, OC spray or the baton. In an interview with the media, LaGrange Police Department Chief Lou Dekmar explained that: "The reason we use the Tasers is it prevents us from having to rely on physical contact when we have to take someone into custody."<sup>10</sup> Chief Sue Rahr of the King County Sheriff's Department in Washington stated that, "The tools are safe and give officers better options than wrestling or fighting someone with a baton or a nightstick."<sup>11</sup>

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<sup>7</sup> IACP Concept Paper, Rev. May 2004 at 2.

<sup>8</sup> IACP Concept Paper, Rev. May 2004 at 2.

<sup>9</sup> The Committee is deliberately describing the electronic control weapon as a nondeadly weapon and not as a "less-lethal" weapon. The electronic control weapon properly deployed is nondeadly force because it is "extremely unlikely to cause death or serious injury." The term "less-lethal" implies that the weapon is "lethal, just less so." Randy Means, *Electronic Control Weapons: Liability Issues*, THE POLICE CHIEF, Feb. 2005 at 10, 11. For these reasons, it will be referred to throughout this paper as a nondeadly weapon.

<sup>10</sup> Weitzner, Katie, *Georgia Medical Examiner's Office Rules Gray's Cause of Death NOT Taser*, WRBL-TV CBS Ch 3 (Nov. 11, 2004), as reprinted at [www.police1.com/plice-products/less-lethal/articles](http://www.police1.com/plice-products/less-lethal/articles). Chief Dekmar was interviewed about the use of a Taser by a LaGrange Police Department officer, which is discussed in detail in Section IV of this paper.

<sup>11</sup> Cat Le, Phuong and Hector Castro, *Is 'non-lethal' Taser deadly?* SEATTLE POST-INTELLIGENCER REPORTERS, Dec. 1 2004.

Stories like this one reported in the *Atlanta Journal-Constitution* regarding the use of an electronic control weapon most likely correlate with the increasing use of the electronic control weapons by law enforcement agencies.

The maximum-security inmate fought through six shots of pepper spray and sprinted toward Gwinnett sheriff's Capt. Carl Sims. Sims pulled his weapon, an electroshock gun called a Taser.

One shot, and the prisoner fell, immobilized.

"I thought that he had me, but the Taser dropped him instantly," Sims said. "We have never had a problem with that inmate again."<sup>12</sup>

Not all media coverage about the use of electronic control weapons is positive. In late 2004, Amnesty International issued a report entitled "Excessive and lethal force? Amnesty International report on Taser abuse." It recommended the suspension of the "use of Tasers and other electro-shock weapons pending a rigorous, independent and impartial inquiry into their use and effects."<sup>13</sup> Since the release of this report, the *Arizona Republic* has also done a story on the Taser, which is basically a list of deaths that have occurred after the use of an electronic control weapon.<sup>14</sup> There have been numerous stories in the media both for and against the use of electronic control weapons.

There have been six deaths in Georgia that occurred after the use of an electronic control weapon. As a result, there was a bill proposed by a legislator calling for a moratorium on electronic control weapon use in Georgia. The bill did not make it out of committee.

The House of Representatives Committee has favorably reported on a resolution sponsored by Representatives Brooks of the 63<sup>rd</sup> and Day of the 163<sup>rd</sup> Districts on March 2, 2005. House Resolution 341 states:

This body encourages, the Georgia Association of Chiefs of Police to continue utilizing the services of its Electronic Control Device (ECD) ad hoc committee, which consists of law enforcement professionals, academic advisers, attorneys, and physicians, so as to objectively evaluate the safety of this type of device and to provide a sample "model law enforcement policy" pertaining to when electronic control devices may be appropriately used.

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<sup>12</sup> Mungin, Lateef and Rosalind Bentley, *Deaths Spur Taser debate*, ATLANTA JOURNAL CONSTITUTION, June 29, 2004 at 1B.

<sup>13</sup> Amnesty International, *Excessive and lethal force? Amnesty International report on Taser abuse*, (2005).

<sup>14</sup> Robert Anglen, *84 Cases of Death Following Stun-Gun Use*, ARIZONA REPUBLIC, December 24, 2005.

BE IT FURTHER RESOLVED that the Georgia Association of Chiefs of Police ad hoc committee is encouraged to continue with its commitment to prepare a “white paper” explaining its position on this issue and the reasons for its position and that such white paper then be disseminated to members of the General Assembly, as needed.<sup>15</sup>

Per House Resolution 341, this paper will be provided to the members of the General Assembly.

### III. In-Custody Deaths in Georgia

In Georgia, there have been six cases of in-custody deaths where an electronic control weapon was utilized to obtain control over the individual prior to the death. Most significantly, the medical examiners did not conclude that the electronic control weapon caused the death in any of these cases. See Appendix A for a chart listing the six cases, the manner and cause of death in those cases. In two cases, the autopsy report identifies the use of the electronic control weapon as a factor or contributory event in the cause of death.<sup>16</sup> According to Dr. Kris Sperry, the Chief Medical Examiner of the State of Georgia, the use of the electronic control weapon is one of many factors that resulted in these two deaths. For example in DOFS Case No. 2004-1028709, the medical examiner determined that the decedent, Mr. Greshmond Gray, had underlying heart disease as evidenced by “microscopic evidence of heart enlargement and fibrosis (scarring)” which increased “the risk of sudden fatal cardiac arrhythmia (irregular heartbeat), particularly during times of physiologic stress” coupled with a “history of cocaine use” which may have caused or partially caused the heart disease.<sup>17</sup> The medical examiner determined that the cause of death was “combined effects of the physiological stress of a physical altercation (including having been shot by a Taser) and enlargement and fibrosis of the heart.”<sup>18</sup> As evidenced by the stated cause of death, the electronic control weapon (Taser) was mentioned as a factor in the death, but was not the cause of the death.

Looking nationwide, there are only a very few death cases involving electronic control weapons where the death has been linked to the use of electronic control weapons. In an article in THE POLICE CHIEF magazine, Randy Means reviewed the nationwide data regarding electronic control weapons and death. After considering the available data, he concluded that there are 11 cases in the United States where the electronic control weapon was “purportedly linked to a death or not ruled out as a contributing factor.”<sup>19</sup> According to Means, analyzing the number of applications (62,000 field uses and 100,000 training and volunteer applications) with the 11 cases results in a .000067

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<sup>15</sup> Georgia General Assembly, House Resolution 341, Favorably Reported by Committee on March 2, 2005.

<sup>16</sup> See Appendix A -- Case # 04-0974 Daryl Smith and Case # 2004-1028709 Greshmond Gray. The circumstances surrounding use of the electronic control weapon in the Greshmond Gray case are discussed more fully in Section IV of this paper.

<sup>17</sup> GBI Division of Forensic Sciences Official Autopsy Report No. 2004-1028709.

<sup>18</sup> GBI Division of Forensic Sciences Official Autopsy Report No. 2004-1028709.

<sup>19</sup> Means at 11.



percent death rate – a rate far less than less than 1%.<sup>20</sup> Significantly, there has been no analysis of other restraint-related deaths to compare with this death rate.

The Georgia Bureau of Investigation has also identified and reviewed in-custody/law-enforcement-involved death cases (“in-custody death cases”), from January 1, 1995 to December 31, 2004, handled by the Chief Medical Examiner and his staff.<sup>21</sup> This review has identified in-custody deaths that occurred when police used restraints or struggled with individuals but did not use an electronic control weapon. See Appendix B for a chart listing these cases. In such cases, the restraint is a factor or contributory event in the cause of death. As with the six electronic control weapon cases, however, the restraint did not cause the death.<sup>22</sup>

Law enforcement must make every effort through training and appropriate medical care to avoid these in-custody deaths. This data demonstrates, however, that there is a risk of death any time any form of restraint is used by law enforcement. There does not appear to be any way to eliminate this risk completely.

Additionally, the use of an electronic control weapon may reduce the incidence of deaths that occur when an officer engages in a struggle and ultimately has to fire his weapon, killing the subject. In DOFS Case # 2003-1029286, the decedent died of a “gunshot wound of the neck with penetration into the chest.” He was struggling with law enforcement officers, grabbed one officer’s gun, and fired it. The other officers fired and killed him. As this case demonstrates, there is always a risk when an officer engages in a hand-to-hand struggle with a suspect that the suspect will attempt to seize the officer’s weapon. The use of an electronic control weapon usually allows the officer to avoid that hand-to-hand struggle.

The nature of law enforcement work entails dealing with a population of individuals who do not comply with lawful commands and often engage in extreme physical exertion in an effort to avoid complying. Couple this with preexisting medical conditions and high-risk behaviors such as illegal drug use and the result may be deaths. As the review of the in-custody deaths indicates, however, these deaths are associated with any type of force application -- whether it is the electronic control weapon, handcuffs or simply hand-to-

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<sup>20</sup> Means at 11.

<sup>21</sup> These cases do not include the following counties: Cobb, Gwinnett, DeKalb, Rockdale, and Fulton. Autopsies are sometimes performed for Hall and Henry County; so the data includes some cases from these counties. Additionally, the only cases reviewed were those that could be identified as in-custody/law enforcement-involved death cases based upon the information in the files. If law enforcement involvement was not reported to the Chief Medical Examiner, then the case was not included in the review.

<sup>22</sup> For example DOFS Case # 2003-5004063 involved a prisoner who died while strapped in a restraint chair at the jail due to his violent outburst. His cause of death was “delayed effects of stress-induced cardiorespiratory arrest while strapped in a ‘restraint chair.’” DOFS Case # 2003-1029965 involved a 23-year-old male in police custody who had “cardiorespiratory arrest in the course of being restrained during an apparently severe psychotic episode.”

hand fighting. As the Eleventh Circuit Court of Appeals stated, “Almost every use of force, however minute, poses some risk of death.”<sup>23</sup>

#### IV. Legal Cases in Georgia

The courts have considered two cases involving the use of an electronic control weapon in Georgia. The first case, *Alford v. Osei-Kwasi*,<sup>24</sup> was decided by the Georgia Court of Appeals in 1992 and involved the use of a Taser by a deputy in the DeKalb County jail. Jail personnel called Lt. Osei-Kwasi to Ms. Alford’s cell because she was creating a disturbance. He told her to stop creating a disturbance and she refused to stop. Lt. Osei-Kwasi went back into her cell to attempt to move her to another location; however, she resisted. Lt. Osei-Kwasi knew that she was pregnant. He decided to use the Taser “because it would not cause permanent injury and would avoid a physical altercation with her which might result in injuries to Alford, her unborn child, and jail personnel.”<sup>25</sup> Before he fired the Taser, Ms. Alford was “extremely abusive, defiant and belligerent and moved toward him in an aggressive manner.”<sup>26</sup> After using the Taser, Ms. Alford was briefly incapacitated and taken to the jail clinic and found without injury except where the Taser dart struck.

Alford filed suit alleging that her constitutional rights were violated because the shooting of the Taser constituted cruel and unusual punishment in violation of the Eighth Amendment.<sup>27</sup> The Georgia Court of Appeals did not agree. The Eighth Amendment to the United States Constitution provides that: Excessive bail shall not be required, nor excessive fines imposed, *nor cruel and unusual punishments inflicted*.<sup>28</sup>

The court explained that, “prison administrators are given ‘wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.’” In evaluating an Eighth Amendment claim the court must determine “whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.”<sup>29</sup> The factors considered by the court included (1) the need for application of force; (2) the relationship between that need and the amount of force used; (3) the threat reasonably perceived by the responsible officials; (4) the efforts made

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<sup>23</sup> 378 F.2d at 1280 n.12.

<sup>24</sup> 203 Ga. App. 716 (1992).

<sup>25</sup> 203 Ga. App. at 716-717.

<sup>26</sup> 203 Ga. App. at 717.

<sup>27</sup> 203 Ga. App. at 717. For convicted prisoners, the Eighth Amendment governs their treatment in a correctional facility. For pretrial detainees, the Fourteenth Amendment governs their treatment; however the cases hold that the standard is the same whether the analysis is under the Eighth or the Fourteenth Amendment.

<sup>28</sup> U.S. Const. Amend. VIII.

<sup>29</sup> 203 Ga. App. at (quoting *Hudson v. McMillian*, 503 U.S. 1, 7 (1992)).

to temper the severity of a forceful response; and (5) the extent of the injury suffered by the inmate.<sup>30</sup>

The court concluded that there was no constitutional violation. It stated:

Although we also are concerned about using a device like a Taser, we cannot agree that its use is inherently wanton, malicious, or sadistic. If used properly, it avoids the physical injuries associated with other means of force. Further, although incapacitated by the Taser, Alford produced no credible evidence that the Taser caused her or Sterling Alford any serious injury or that it routinely caused serious injuries in others. Moreover, Tasers are used in other state penal systems and have been used for years in the DeKalb County Jail without report of serious injury. Further, even Alford's expert did not condemn their use generally. Therefore, we do not find that using the Taser, per se, constituted a violation of the Eighth Amendment."<sup>31</sup>

The Eleventh Circuit Court of Appeals<sup>32</sup> also considered a case involving the use of an electronic control weapon by a Georgia law enforcement officer. In *Draper v. Reynolds*,<sup>33</sup> Clinton D. Reynolds, a Coweta County Sheriff's deputy, had stopped a tractor-trailer for a burned-out tag light. The deputy approached the truck on the right side and shined his flashlight inside the vehicle. According to the driver Stacy Allen Draper, he was blinded by the flashlight and asked the deputy to stop shining it at him. The deputy asked the driver to exit the vehicle and stand at the rear of the truck in full view of the patrol car camera. The parties disputed the language used by each during the exchange at the truck – both alleged that the other used profanity.

Once the driver exited the vehicle, however, the remainder of the encounter was videotaped and tape recorded, which allowed the court to see and hear the encounter. The deputy asked the driver for his license and bill of lading. "During the encounter, [the driver] was belligerent, gestured animatedly, continuously paced, appeared very excited, and spoke loudly."<sup>34</sup> On five occasions, the deputy instructed the driver to retrieve documents and the driver did not comply. At one point, the driver yelled, "how 'bout you just go ahead and take me to fucking jail, then man, you know, because I'm not going to kiss your damn ass because you're a police officer."<sup>35</sup> After the fifth request, the deputy discharged his Taser gun at the driver's chest. The driver fell to the ground and the deputy directed his back-up, who had just arrived, to handcuff the driver. The driver

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<sup>30</sup> 203 Ga. App. at 719-20.

<sup>31</sup> 203 Ga. App. at 720 (emphasis added).

<sup>32</sup> The Eleventh Circuit Court of Appeals has jurisdiction over Georgia, Florida and Alabama.

<sup>33</sup> 369 F.3d 1270 (11th Cir. 2004).

<sup>34</sup> 369 F. 3d at 1273.

<sup>35</sup> 369 F.3d at 1273.

was not injured. He was charged with an improperly illuminated taillight and obstruction of an officer.

He filed a lawsuit alleging that the deputy used excessive force in violation of the Fourth Amendment by using the Taser.<sup>36</sup> The district court granted the deputy's motion for summary judgment and dismissed the case. The driver appealed and the Eleventh Circuit Court of Appeals affirmed the dismissal.

The court considered the totality of the circumstances to determine if the force used was reasonable. Specifically, it considered the following factors: (1) the need for the application of force; (2) the relationship between the need and amount of force used; and (3) the extent of the injury inflicted.<sup>37</sup> Additionally, the court explained that:

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments — in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.<sup>38</sup>

The videotape was very useful for the court in making the determination that the use of the Taser was reasonable. The court could see that the driver was “standing up, handcuffed and coherent shortly after the Taser gun stunned and calmed him.”<sup>39</sup> “Although being struck by a Taser gun is an unpleasant experience, the amount of force Reynolds used – a single use of the Taser gun causing a one-time shocking – was reasonably proportionate to the need for force and did not inflict any serious injury.” Finally, the court recognized that the use of the Taser “may well have prevented a physical struggle and serious harm to either Draper or Reynolds.”<sup>40</sup> The court concluded that the use of force was not excessive and that Draper's constitutional rights were not violated during the arrest.<sup>41</sup>

These two cases are significant because they demonstrate that the Georgia courts recognize the utility of an electronic control weapon. Both courts stated in their opinions that using an electronic control weapon may have prevented the injuries associated with the use of other nondeadly weapons. Consequently in Georgia, the use of an electronic control weapon to control a resistant individual who is either not cooperating with lawful requests of detention facility personnel or refusing to obey lawful requests of an officer is not excessive force.

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<sup>36</sup> 369 F. 3d at 1274. The complaint also alleged that the deputy improperly stopped him and falsely arrested him. These claims were also dismissed.

<sup>37</sup> 369 F.3d at 1277-78.

<sup>38</sup> 369 F.3d at 1278 (quoting *Graham v. Connor*, 409 U.S. 386 (1989)).

<sup>39</sup> 369 F.3d at 1278.

<sup>40</sup> 369 F.3d at 1278.

<sup>41</sup> 369 F.3d at 1278.

There has been no reported decision in a civil case involving a death after use of an electronic control weapon in Georgia. There is, however, a review by a district attorney of a case involving a death after the use of electronic control weapon by a LaGrange Police Department officer. The officer responded to an unwanted person call at an apartment complex.<sup>42</sup> Once there, he attempted to persuade the male subject, Greshmond Gray, to leave the premises, but Mr. Gray refused to leave. Another officer arrived. The male subject, who was drinking beer and appeared intoxicated, used profanity with the officers and threatened to “slap [the girlfriend] silly.” The officers told Gray that he would be arrested for criminal trespass if he did not leave. He said, “Fine then, I’ll go to jail” and turned his back to the officers, placing his hands behind his back. As the officer approached to handcuff him, Gray turned around and backed up toward the grill where he had been grilling meat. The officers gave more verbal commands to put his hands behind his back. Gray picked up the grill containing burning embers. At that point, one officer used his Taser because he “thought that Gray was going to toss the grill and its hot embers at him.” After the first Taser cycle, Gray was still able to move away from the officer. The officer deployed the Taser again and Gray fell to the ground but still ignored commands to put his hands behind his back and the officer deployed the Taser once more before the other officer was able to handcuff the subject. Gray became unresponsive and ultimately died. This incident was investigated by the Georgia Bureau of Investigation (GBI). At the conclusion of the GBI investigation, Coweta Judicial Circuit District Attorney Peter J. Skandalakis reviewed the file and made the following determination:

I am of the opinion that neither Officer Daniel nor Officer Robinson committed any crimes which directly or indirectly caused Mr. Gray’s death.

My opinion is based upon the following facts from the investigation:

Upon responding to the scene, Officers Daniel and Robinson exhibited patience and restraint in dealing with Mr. Gray who was intoxicated and verbally abusive. For some extended period of time, the officers attempted to get Mr. Gray to voluntarily leave the complex where he was not a resident. Witnesses interviewed within hours of Gray’s death corroborated various portions of the above-stated events.

After speaking with Gray for some time, it became apparent to the officers that Gray would not leave the complex without being arrested. Gray turned his back to the officers giving them the impression that he would comply with their orders and be arrested peacefully. When Gray made a sudden turn towards the officers, only then did Officer Daniel unholster his [Taser device]. Gray continuously refused to obey both officers’

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<sup>42</sup> This information is taken from the Georgia Bureau of Investigation Case File No. 02-0085-01-05 and specifically from the investigative summaries of the interviews with Officers Chad Daniel and Antwane Robinson.

verbal commands and both officers perceived that Gray was about to make an aggressive move in order to avoid arrest.

Finally, Officer Daniel used the Taser device only after Gray refused commands to put down a small grill with coals in it and only after the officer reasonably believed that Gray was about to throw hot coals at the officers. Such a reasonable belief by Officers Daniel and Robinson cloaked each of them with legal justification to repel an attack.

Officer Daniel, subsequent to the first use of the Taser, used it intermittently to prevent Gray from fleeing and afterwards because Daniel believed Gray was not obeying his commands to place his hands where the officers could see them. Such use of the Taser is in compliance with the officers' training and was perceived necessary to effect an arrest of Gray.

Shortly thereafter, the officers discovered that Gray was unresponsive and in poor condition. The officers then immediately called for medical assistance.

Therefore, given the totality of the circumstances surrounding the events, the officers acted in a reasonable manner to protect themselves, protect others in the community and effect an arrest. They did not act with criminal intent nor did they violate any criminal statutes. The law in fact permits law enforcement officer[s], just like citizens, to act in self-defense as did these officers.

The death of Mr. Gray is unfortunate and was not foreseeable by the officers given their training involving the Taser device.<sup>43</sup>

As mentioned, the review by the district attorney in the Gray case to determine if the officers committed any crimes and was not a determination of any civil liability.

While there is no civil case in Georgia involving a death after the use of an electronic control weapon, there is a civil case in Georgia involving the death of a suspect who was handcuffed and fettered after a police chase and struggle with police. This case provides guidance on how the courts will consider civil cases brought when a suspect dies after use of an electronic control weapon. In *Garrett v. Athens-Clarke County, Georgia*,<sup>44</sup> a police officer attempted to stop Eric William Irby for suspected driving under the influence. He did not stop and led police on a high-speed chase over 30 miles and with speeds as great as 75 miles per hour throughout Franklin, Madison and Athens-Clarke counties. Eventually Irby ran off the road into a ditch; however he continued to elude

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<sup>43</sup> February 4, 2005 Letter from District Attorney Peter J. Skandalakis to Special Agent Sam Baity located in GBI Case File No. 02-0085-01-05.

<sup>44</sup> 378 F.3d 1274 (11<sup>th</sup> Cir. 2004).

police and even rammed a patrol car with his vehicle. This, however, resulted in Irby's car going into the ditch and ending the chase. Irby refused to exit the car or show his hands after being told to do so. The officer pulled Irby out of the car, Irby began screaming, grabbed the officer's pistol and pushed the officer down into the ditch. The officer was able to get his pistol away from Irby and hit Irby on the head with the butt of his gun. Then Irby ran away. The officer holstered his gun, pulled out his baton and chased Irby. The officer hit Irby three times on the back of the thighs and Irby finally fell to the ground. The officer dove on top of Irby to keep him from getting up and another officer arrived who assisted in handcuffing Irby.

Despite being handcuffed, Irby continued to kick, swing, yell and fight as the officers tried to walk him to the road. At this point three officers were trying to control Irby who was handcuffed. Despite the fact that there were three officers, Irby managed to kick one officer in the chest and knock him to the ground. Four more officers arrived and one had a "hobble cord." The hobble cord is "a nylon strap with a metal snap at one end that can connect to a pair of handcuffs and a permanent loop on the other end, that can secure ankles, knees, or elbows."<sup>45</sup> The officer attempted to apply the restraint, but Irby kept kicking and bruised the officer in the process.

Another officer told Irby to stop kicking or he would be sprayed with pepper spray. Irby did not stop and was sprayed. At that point, Irby became compliant. The officers then fettered Irby by tying his ankles together, cuffing his hands behind his back, and strapping his hands and feet together so that the distance between Irby's wrists and ankles was less than 12 inches. Irby was carried to a place near the rear of an officer's car. The car was running and Irby was placed on his chest near the exhaust pipe.

The ambulance was called and arrived a few minutes later. The ambulance personnel found no pulse and he was declared dead at the hospital. The GBI medical examiner stated that the cause of death was "positional asphyxia." The autopsy report also indicated that there was methamphetamine and amphetamine in Irby's system and listed these as contributing factors of death; however, the pepper spray and the exposure to carbon monoxide were not listed as contributing factors.

Irby's family sued alleging that the force used, specifically the fettering, was excessive force. The Eleventh Circuit Court of Appeals did not agree and concluded that Irby's Fourth Amendment rights were not violated.

The family argued that the "fettering posed a high potential of death."<sup>46</sup> The court stated that there was "no competent evidence in this case support[ing] the view that death or serious injury is a likely consequence of fettering a person as Irby was fettered."<sup>47</sup> Plaintiff's expert had testified that fettering posed "some risk of death." This however is

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<sup>45</sup> 378 F.3d at 1278 n. 5.

<sup>46</sup> 378 F.3d at 1279.

<sup>47</sup> 378 F.2d at 1280.

not enough. The court explained that: “Almost every use of force, however minute, poses some risk of death.”<sup>48</sup>

Next the family argued that the fettering was not necessary after Irby was sprayed with pepper spray and became compliant. Looking at the totality of the circumstances, the court found that the fettering was objectively reasonable. It explained that:

Irby repeatedly placed officers’ lives and innocents’ lives in danger by engaging the police in a multi-county vehicle chase that did not end until Irby had crashed twice. Once Irby’s truck was finally stopped, the officers tried to restrain him in a less restrictive manner (simple handcuffing), but Irby ran and fought with the police and kept on violently kicking and resisting. The uncontroverted evidence in the record shows that legs can still be used to kick, even when the ankles are bound together. Therefore, it can be necessary to restrain further or secure the legs to avoid a power kick from the ground.

Irby kicked violently until sprayed with the OC spray. As soon as he was sprayed and became compliant, the officers immediately fettered him. They took advantage of a window of opportunity – of unknown duration – to restrain Irby in such a way that he could not harm another officer or himself should he decide to stop being compliant, a realistic possibility given his recent words and deeds.<sup>49</sup>

For these reasons, the Eleventh Circuit reversed the district court ruling, which meant that the family’s claim would be dismissed.

In sum, the courts having jurisdiction in Georgia recognize the following about the use of an electronic control weapon.

- (1) Any restraint device, whether it is an electronic control weapons, pepper spray, or even handcuffs, carries with it the possibility of death.<sup>50</sup>
- (2) The use of an electronic control weapon may avoid injury to the suspect or prisoner.<sup>51</sup>

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<sup>48</sup> 378 F.2d at 1280 n.12.

<sup>49</sup> 378 F.2d at 1280-81.

<sup>50</sup> See *Garrett v. Athens-Clarke County*, 378 F.3d at 1280 n.12 (“Almost every use of force, however minute, poses some risk of death.”).

<sup>51</sup> See *Alford v. Osei-Kwasi*, 203 Ga. App. at 720 (“If used properly, it avoids the physical injuries associated with other means of force.”); *Draper v. Reynolds*, 369 F.3d at 1278 (recognizing that use of electronic control weapon “may well have prevented a physical struggle and serious harm to either Draper or Reynolds”).



- (3) The use of an electronic control weapon may avoid injury to the officers.<sup>52</sup>
- (4) The risk of death must be a likely consequence of the use of the restraint device for the device to be considered deadly force.<sup>53</sup>

The courts will evaluate each case by considering the totality of the circumstances that the officer was facing when making the decision to utilize an electronic control weapon. In the jail or correctional facility setting, if an officer utilizes the electronic control weapon maliciously and sadistically for the purpose of causing harm, then that use will violate the Eighth or Fourteenth Amendments to the United States Constitution. If an officer utilizes the electronic control weapon in an objectively unreasonable manner to punish a suspect or cause pain, that use will violate the Fourth Amendment to the United States Constitution.

#### V. Policy Considerations

The Committee recommends that every agency have a policy regarding the use of electronic control weapons. As sample policies for agency heads to consider, the Committee attaches the Dalton Police Department's policies regarding Use of Force and Non-Deadly Weapons (copies attached at Appendixes C and D). The Committee also recommends that agency heads review the International Association of Chiefs of Police (IACP) Model Policies on Use of Force and Electronic Control Weapons (available at <http://iacp.org/> or 1-800-THE IACP). While the use of force and electronic control weapons are addressed in two policies by the Dalton Police Department and the IACP, the Committee recommends combining the two policies and including in the overall use of force policy specific guidance regarding any other nondeadly weapons issued by the agency such as OC spray. It is also recommended that agency heads address the following issues in their electronic control weapons policy:

- (1) The placement of the electronic control weapon on the use of force continuum;<sup>54</sup>
- (2) Provide for reporting by law enforcement officers when electronic control weapons are used and the circumstances leading up to their use, as well as a supervisory and agency review of the use;
- (3) The use of the electronic control weapon in the "drive-stun" mode;

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<sup>52</sup> See the cases cited in footnote 51 *supra*.

<sup>53</sup> See *Garrett v. Athens-Clarke County*, 378 F.3d at 1280 ("No competent evidence in this case supports the view that death or serious injury is a likely consequence of fettering a person as Irby was fettered.")

<sup>54</sup> The Committee highly recommends that agency heads review the IACP Executive Brief entitled *Electro-Muscular Disruption Technology 'A Nine-Step Strategy for Effective Deployment'* (hereinafter "Nine-Step Strategy") available at <http://www.iacp.org/research/rcdcuttingedgetech.htm>. The second step in the Nine-Step Strategy is to place the weapon "within the local use-of-force continuum based on an assessment of the technology" prior to deployment (Nine-Step Strategy at p.2).

- (4) Provide guidelines for the removal of the probes and when medical attention is necessary; and
- (5) The use of electronic control weapons on susceptible populations such as children, elderly persons and pregnant women.

In preparing the policy, the agency head should decide when using electronic control weapons is appropriate. Most use of force training utilizes the concept of a use of force continuum. In Georgia, prospective law enforcement officers are trained using the I.F.M. – Integrated Force Management Use of Force Model (hereinafter “I.F.M. Model” (a copy of the I.F.M. Model is attached as Appendix E). Using the I.F.M. Model as a guide, the most likely placement would be Level 3 or active resistance. Examples of subject actions that demonstrate active resistance are verbal threats to fight or resist arrest, and resisting restraint/arrest by pulling away or refusing to submit to the officer’s control amounting to enhanced physical or mechanical defiance. The I.F.M. Model categorizes the threat perception at the active resistance level as “volatile” requiring an active degree of alertness and caution on the part of the officer.

The IACP Concept Paper also addresses when to use the electronic control weapon:

The model policy prohibits [electronic control weapon’s] use against anyone unless the person demonstrates an overt intention to use violence or force against the officer or others or resists detentions and arrest and other alternatives for controlling them are not reasonable or available under the circumstances. Normally violence, force and resistance are demonstrated by actions, deeds, and/or words that signify the intent and ability to take such actions. With these cautions in mind, [electronic control weapons] may generally be deployed consistent with a professionally recognized philosophy of use of force, that is: use only that level of force that reasonably appears necessary to control or subdue a violent or potentially violent person. It should also be used early enough in a confrontation or situation to prevent the incident from escalating to a point where a greater level of force might be necessary.<sup>55</sup>

According to the IACP, most agencies put the electronic control weapon at the same level as pepper spray on the use of force continuum.<sup>56</sup> Similarly the I.F.M. model provides that chemical irritants, electronic restraint devices, contact controls including takedown techniques, and batons may be used when the subject is actively resisting.

In addition to placing the electronic control weapon on the use of force continuum, agency heads should provide for reporting when the electronic control weapon is used.<sup>57</sup>

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<sup>55</sup> IACP Concept Paper, Rev. Jan. 2005 at 3.

<sup>56</sup> IACP Concept Paper, Rev. Jan. 2005 at 3.

<sup>57</sup> Agency heads should also consider requiring reporting when the officer unholsters and points the electronic control weapon, but does not need to deploy it because the suspect complies. This will enable

The report should describe in detail the totality of circumstances and all factors contributing to the use of the electronic control weapon. The report should include, if possible, exact quotes from the subject or prisoner and exact quotes used by the officers in attempting to control the situation. In addition to the report by the officer, the supervisor should complete a report as well. If possible, the supervisor should go to the scene and do an initial inquiry regarding the circumstances surrounding the use. Finally, the agency head should review the reports periodically to ensure that there is no misuse or abuse and identify additional training needs. (A copy of the Georgia Bureau of Investigation Use of Force Report and Supervisory Taser Use Report and the Dalton Police Department Use of Force Report Form are attached hereto as Appendixes F and G.)

Some electronic control weapons may be used in what is referred to as the “drive-stun” mode. Instead of firing the cartridge containing the probes, the cartridge is removed and the end of the weapon is touched to the subject’s body. Using the electronic control weapon in this manner will not result in immobilization; instead the subject will most likely jerk to get away from the weapon.<sup>58</sup> Hence using the weapon in this manner on someone handcuffed or otherwise restrained will likely result in the appearance of continued resistance by the subject.<sup>59</sup> It is important that policy address when such use is appropriate.

The policy should also address the removal of probes and when medical attention should be sought. If the subject is hit in a non-sensitive area, usually the law enforcement officer will be able to remove the probes in the manner recommended by the manufacturer.<sup>60</sup> The IACP recommends transportation to a medical facility for the following subjects:

- (1) Subjects who are hit in a sensitive area (face, head, female breasts, genitals);
- (2) Subjects from whom officers have difficulty removing the probes (i.e. probe/barb separation);
- (3) Subjects who do not appear to be fully recovered within 10 minutes after being hit;
- (4) Subjects who are in a potential susceptible populations [such as women who are pregnant, persons with pacemakers, those suffering debilitating illnesses,

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agencies to track the deterrent effect of the electronic control weapons. The Cincinnati Police Department tracks the number of times its officer have had to use their Tasers and has noticed a decline in the use of the Tasers as well as a reduction in the number of injuries to suspects and officers. Kevin Osborne, *Cincinnati Cops Using Stun Guns Less*, THE CINCINNATI POST, May 24, 2005.

<sup>58</sup> Mungin, Lateef, “*Cops’ reactions to Taser mirror those of inmate*,” ATLANTA JOURNAL CONSTITUTION, May 12, 2005 at 1C.

<sup>59</sup> A deputy who was shocked in the drive-stun mode described it as follows, “The pain was so intense that I would have done anything to get away from it.” He also pulled his body away from it and it caused him to scream involuntarily. Mungin, “*Cops’ reactions to Taser mirror those of inmate*,” at 1C.

<sup>60</sup> IACP Concept Paper, Rev. Jan. 2005 at 4.

- persons who are very old or very young, and as noted, persons of very small stature irrespective of age];<sup>61</sup> and  
(5) Any subject who requests medical attention.<sup>62</sup>

Additionally, it is recommended that officers ask the subjects whether they need medical attention after electronic weapon use.<sup>63</sup>

Finally, agency heads should consider whether to permit or under what circumstances should electronic control weapons be used on known susceptible populations. Obviously law enforcement officers may not know that a person has a pacemaker or that a woman is in the early stages of pregnancy. Consequently when writing policy, it may be wise to state “women who are obviously pregnant” or “individuals known to have pacemakers.”

The use of electronic control weapons by law enforcement on these susceptible populations, particularly young children, results in very negative press for all law enforcement. This is an additional reason to address this use in policy *prior* to an incident. For example, an editorial in a Florida newspaper addressed the use of a Taser on a six-year-old child.

The Taser, which uses a jolt of electricity to momentarily incapacitate a potentially violent suspect, is a valuable tool. But it should not be used on elementary-school children or suspects who are already in custody, locked in handcuffs. Tightening those rules is appropriate because a recent Sentinel article reported that police and deputies have used Tasers on at least 24 Central Florida students during the past 18 months. In all those cases, the Tasers were used on high-school-age students. But last year, a police officer in Miami-Dade County Tased a 6-year-old elementary-school student. Considering that some high-school students are the size of professional football players, judicious use of a Taser on a combative teenager can be justified. But there’s no excuse for using a Taser to stun an elementary-school student. Any officer who can’t control a 6-year-old without resorting to a Taser needs to find another line of work.<sup>64</sup>

Miami-Dade Police Department did revise its policy after the incident involving the 6-year-old boy. Now Miami-Dade officers must consider “a suspect’s age, size and perceived fighting ability before using a Taser.” MIAMI HERALD, February 24, 2005 at B10. It may be wiser, however, to address these issues at the outset rather than after an incident that engenders nationwide negative publicity.

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<sup>61</sup> IACP Concept Paper, Rev. Jan. 2005 at 3.

<sup>62</sup> IACP Concept Paper, Rev. Jan. 2005 at 4-5.

<sup>63</sup> IACP Concept Paper, Rev. Jan. 2005 at 5.

<sup>64</sup> ORLANDO SENTINEL, March 31, 2005 at A18.

## VI. Conclusion and Recommendations

The Committee concludes that electronic control weapons when used in accordance with the law have the potential to reduce injuries to suspects, prisoners and officers. The Committee recognizes that electronic control weapons, as with any other weapon, may be misused or abused. The Committee condemns the use of the electronic control weapon by law enforcement in the field as punishment or to cause pain. The Committee also deplores the malicious and sadistic use of electronic control weapon by law enforcement in the correctional setting for the purpose of punishment or causing pain. Such uses violate the United States Constitution and common standards of human decency.

In order to avoid abuse of the electronic control weapon and to ensure that if abuse occurs it will be appropriately sanctioned, it is incumbent upon agency heads to promulgate policy and reporting requirements to monitor the use of electronic control weapons. To assist agency heads, the Committee makes the following recommendations with regard to electronic control weapons:

Policy: Law enforcement agencies should promulgate a policy governing the use of electronic control weapons. This policy should be specifically tailored to the needs of their agencies and should provide guidance in the specific areas discussed earlier in this paper, particularly placement of the electronic control weapon on the use of force continuum.

Training: Agencies should provide training to their officers prior to deploying electronic control weapons.

Reporting: Agencies should require their officer to report every time the electronic control weapon is used and the circumstances leading to the use. Agencies should provide for a supervisor's report and inquiry into the circumstances. These reports should be reviewed by agency heads because they may reveal patterns or trends that could indicate training needs and/or policy modifications.

In conclusion, the electronic control weapon, when used properly and in accordance with the law, is an appropriate tool for law enforcement because it prevents injuries to suspects, prisoners and law enforcement. As the Georgia Court of Appeals explained, "If used properly, it avoids the physical injuries associated with other means of force."<sup>65</sup>

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<sup>65</sup> 203 Ga. App. at 720.

## Appendixes

- Appendix A      Chart Identifying In-Custody Deaths in Georgia Where  
An Electronic Control Weapon Was Used
- Appendix B      Chart Identifying In-custody Deaths in Georgia Where  
No Electronic Control Weapon Was Used
- Appendix C      Dalton Police Department Policy GO88-5.1 Use of Force  
(Rev. February 24, 2004)
- Appendix D      Dalton Police Department Policy GO04-5.2 Non-Deadly  
Weapons (Rev. July 26, 2005)
- Appendix E      I.F.M. — Integrated Force Management Use of Force  
Model
- Appendix F      Georgia Bureau of Investigation Use of Force Report and  
Supervisory Taser Use Report
- Appendix G      Dalton Police Department Use of Force Report Form

# APPENDIX A

**APPENDIX A—In-Custody Deaths in Georgia  
Where an Electronic Control Weapon Was Utilized**

<b>DATE</b>	<b>CASE NUMBER</b>	<b>NAME</b>	<b>MEDICAL EXAMINER</b>	<b>MANNER OF DEATH</b>	<b>CAUSE OF DEATH</b>	<b>LAW ENFORCEMENT INVOLVEMENT</b>
September 2003	03G-0705	Ray Charles Austin	Steve F. Dunton, M.D. Gwinnett County Medical Examiner	Undetermined	Hypoxic encephalopathy due to cardiopulmonary arrest due to hyperactive or agitated delirium with physical restraint.	
December 2003	2003-4005152	Curtis Lamar Lawson	Melissa Sims, M.D. GBI Assistant Medical Examiner	Accident	Complications of acute cocaine toxicity	
April 2004	2004-4001604	Melvin Samuel	Melissa Sims, M.D. GBI Assistant Medical Examiner	Accident	Positional asphyxia complicated by obesity and sickle cell crisis	
May 2004	04-0974	Daryl Smith	Eric L. Kiesel, M.D., PhD Fulton County Medical Examiner	Accident	Complications of use of controlled drug and concomitant use of restraint and taser – Sequelae of agitated delirium associated with acute cocaine poisoning	
May 2004	04G-0402	Fredrick Williams	Steven F. Dunton, M.D. Gwinnett County Medical Examiner	Undetermined	Hypoxic encephalopathy due to cardiorespiratory arrest of uncertain etiology	
November 2004	2004-1028709	Greshmond Gray	Keith Lehman, M.D. GBI Assistant Medical Examiner	Homicide	Combined effects of the physiological stress of a physical altercation (including having been shot by a TASER) and enlargement and fibrosis of the heart.	



# **APPENDIX B**

**APPENDIX B—In-Custody Deaths in Georgia  
Where an Electronic Control Weapon Was Utilized**

<b>DATE</b>	<b>CASE NUMBER</b>	<b>NAME</b>	<b>MEDICAL EXAMINER</b>	<b>MANNER OF DEATH</b>	<b>CAUSE OF DEATH</b>	<b>LAW ENFORCEMENT INVOLVEMENT</b>
June 1997	97-52870	Eric Irby	Mark A. Koponen, M.D.	Homicide	Positional Asphyxia (“Hog Tie Restraint”)	Decedent did not stop; vehicle chase; fought with officers; sprayed with OC; handcuffed and fettered; placed face-down on chest; became unresponsive
September 1998	M98-5040	Willie Williams	Anthony J. Clark, M.D. GBI Assistant Medical Examiner	Homicide	Complications of blunt-force head trauma. Other significant condition: Chronic ethanolism	During arrest, deputy struggled with decedent who was pushed to the ground; transported to hospital, treated and sent back to jail; observed having tremors next day and then died
August 2000	2000-1029286	Jeffrey J. Roman	Mark A. Koponen, M.D.	Homicide	Gunshot wound of the neck and chest	Decedent did not stop vehicle, police chase ensued; once stopped, physical altercation between officers and decedent; decedent grabbed officer’s gun and fired; officer shot decedent in neck
August 2000	2000-1029656	James Eppinger	Geoffrey P. Smith, M.D. GBI Assistant Medical Examiner	Homicide	Complications of Cerebral Hypoxia, as a consequence of cervical compression	Altercation between decedent and jail personnel; guard performed chokehold and other three wrestled decedent to floor; decedent became unresponsive shortly after neck compression

August 2003	2003-5004063	Rufus Robert Rhodes	Anthony J. Clark, M.D. GBI Assistant Medical Examiner	Homicide	Delayed effects of stress-induced cardiorespiratory arrest while strapped in a "restraint chair". Other significant conditions: Coronary atherosclerotic disease; hypertension; morbid obesity; hepatic cirrhosis.	Decedent was in restraint chair at jail for containment after violent outburst for over 13 hours, then out for two hours and then in chair for 34 hours
October 2003	2003-1026850	Wayne Walker	Kris Sperry, M.D. GBI Chief Medical Examiner	Homicide	Contact-range gunshot wound of neck	Officers engaged in an altercation with decedent while attempting to arrest; decedent grabbed officer's weapon; another officer shot decedent in neck
November 2003	2003-1029965	Joshua Cannon	Geoffrey P. Smith, M.D. GBI Assistant Medical Examiner	Homicide	Acute bronchopneumonia as a consequence of cardiorespiratory arrest and sequelae, due to physical restraint during acute psychotic episode.	Decedent was transported to hospital for psychological evaluation; became combative at hospital and had to be restrained; after gaining control, officers found decedent not responsive
February 2004	2004-5000550	Herman Jackson	Anthony J. Clark, M.D. GBI Assistant Medical Examiner	Homicide	Hypoxic brain injury due to anterior neck compression.	Decedent resisted arrest; during fight decedent fell to the ground; decedent was handcuffed and placed in backseat of patrol car; decedent was not breathing upon arrival at jail
March 2004	2004-4001462	Keith Tatmon	Melissa Sims, M.D. GBI Assistant Medical Examiner	Homicide	Complications of aspiration pneumonia due to physical restraint during an altercation	Officer chased decedent on foot; officer tackled decedent; decedent bit officer's ear; officer subdued decedent possibly with neck hold; decedent developed seizure activity during struggle; transported to hospital; put on ventilator; developed aspiration pneumonia and died

# APPENDIX C

# DALTON POLICE DEPARTMENT

	<i>Effective Date</i> <b>May 1, 1998</b>	<i>Number</i> <b>GO88-5.1</b>
<i>Subject</i> <b>Use of Force</b>		
<i>Reference</i>		<i>Revised</i> <b>February 24, 2004</b>
<i>Distribution</i> <b>All Sworn Personnel</b>	<i>Re-evaluation Date</i> <b>February 24, 2006</b>	<i>No. Pages</i> <b>6</b>

## I. Policy

Officers shall use only that degree of force when and to the extent that there is reasonable belief that such force is necessary to defend the officer or a third party against the other's imminent use of unlawful force.

## II. Definitions

- A. Deadly force - Any degree of force, which by the manner of its application has the reasonable potential to cause death or serious bodily harm.
- B. Non-Deadly Force - Force, other than deadly force, that is not excessive, is reasonable and necessary to effect an arrest and to ensure safety to the officer and others.
- C. Forcible felony - Any felony which involves the use or threat of physical force or violence against any person.
- D. Reasonable belief - the facts and circumstances which would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- E. Serious physical injury - a bodily injury that creates a substantial risk of death; causes serious permanent disfigurement; or results in long-term loss or impairment of the functioning of any part of the body.

## III. Justification for Use of Force

- A. Preserve the peace
- B. Prevent the commission or attempted commission of a crime
- C. Prevent self-inflicted injury
- D. Make a lawful arrest
- E. Make a lawful search
- F. Overcome resistance to such arrests and searches
- G. Prevent escapes from custody

## IV. Levels of Force

### RESTRICTED LAW ENFORCEMENT DATA

The data contained in this manual is confidential for internal department use only, and will not be divulged outside the department without the written approval of the Chief of Police.

- A. When the use of force is necessary and appropriate, officers shall, to the extent possible, utilize an escalating scale of options and will not employ a more forceful measure, unless it is determined that a lower level of force would not be adequate, or such a level of force is attempted and actually found to be inadequate. Officer will use only the level of force that is reasonable necessary to stop the perceived threat. The officer's general perception and corresponding force options, in order of increasing severity, are set forth as follows:

Level 1 - The suspect is perceived by the officer to be *compliant*. The appropriate level of response is *cooperative controls*, including *officer presence, hand signals, verbal commands and instructions, light touching or patting*, etc.

Level 2 - The suspect is perceived by the officer to be *passively resistant*. The appropriate level of response is *contact controls*, including *strong or forceful soft hand, hand and arm holds, pressured physical movement of the suspect, removal*, etc.

Level 3 - The suspect is perceived by the officer to be *actively resistant*. The appropriate response is *compliance techniques*. This is the threshold for any reasonable officer to consider this suspect to be a potential threat to himself, the officer or other citizens. Compliance techniques may include *all reasonable* means to cause the *suspect to comply as soon as reasonably possible*. These techniques may include *use of chemical weapons, Taser, forced movement, etc.* This could include *forcing the suspect's limbs behind his back, forcing the suspect to the ground or against a wall, or other rough physical force, etc. in an attempt to gain control*. Once suspects are perceived as *actively resistant*, officers should not relax care until the subject is fully secured.

Level 4 - The suspect is perceived by the officer to be *assaultive – and a threat to bodily harm*. The appropriate level of response is *immediate defensive tactics*. *Defensive tactics* may include *impact weapons, hard hands, or any other reasonable means available* and at hand to stop the aggression, defend against the attack, and bring the suspect into compliance. It is contemplated and understood that reasonable officers, while employing defensive tactics, may cause injury, serious injury, and in some isolated instances, death without intending such consequences.

Level 5 - The suspect is perceived by the officer to be *assaultive – serious bodily harm or death*. The appropriate level of response is *deadly force*. Deadly force includes firearms, knives, or any other means immediately available that a reasonable officer, in the same circumstance, would consider as potentially causing death or serious bodily injury.

Only when there is a reasonable expectation that altered or damaged property may place others in imminent risk of death or serious bodily injury is deadly force appropriate to protect property. For example, stopping a suspect from setting a fire or throwing a bomb.

V. **Parameters for Use of Deadly Force**

- A. A Dalton police officer is justified in using deadly force:
1. If the officer reasonably believes that such force is necessary to prevent death and great bodily injury to the officer or another person, or
  2. To prevent the commission of a forcible felony when such felony is intended or likely to cause death or great bodily harm.
- B. Before using a firearm, law enforcement officers shall identify themselves and state their intent to shoot, when feasible.
- C. A Dalton police officer may also discharge a weapon under the following circumstances:
1. During range practice or competitive sporting events.

**RESTRICTED LAW ENFORCEMENT DATA**

The data contained in this manual is confidential for internal department use only, and will not be divulged outside the department without the written approval of the Chief of Police.

2. To destroy an animal that represents a danger to public safety, or as a humanitarian measure where the animal is seriously injured. Time permitting; officers should make every attempt to locate the rightful owner and animal control authorities before using deadly force against an animal.

D. Dalton police officers shall adhere to the following restrictions when their weapon is exhibited:

1. Except for maintenance or during training, law enforcement officers shall not draw or exhibit their firearms unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance with this policy.
2. Warning shots are prohibited.
3. Dalton police officers shall not fire their weapon at or from a moving vehicle unless the officer reasonable believes that such force is necessary to prevent death or great bodily injury to the officer or another person.
4. Firearms shall not be discharged when it appears likely that an innocent person may be injured.

VI. **Parameters for Use of Non-Deadly Force**

- A. When deadly force is not authorized, officers should assess the incident in order to determine which non-deadly technique or weapon will best de-escalate the incident and bring it under control in a safe manner.
- B. Officers will not intentionally use more force than is necessary and reasonable under the circumstances.
- C. Officers will never use force in response to mere verbal provocation or abusive language directed at the officer.
- D. Dalton police officers are authorized to use department-approved non-deadly force techniques as follows:
  1. To prevent themselves or another from physical harm; or
  2. To restrain or subdue a resistant individual; or
  3. When necessary to preserve the peace, prevent commission of offenses, or prevent suicide or self-inflicting injury; or
  4. When preventing or interrupting a crime or attempted crime against property; or
  5. When making lawful arrests and searches, overcoming resistance to such arrests and searches, and preventing escapes from custody; or
  6. To bring an unlawful situation safely and effectively under control.

VII. **Use of Force Reporting Requirements**

- A. Injuries in Arrest Situations

**RESTRICTED LAW ENFORCEMENT DATA**

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1. The use of any force or accidental injury to a prisoner or other person involved in an arrest situation which results in injury requiring medical treatment by rescue or hospital personnel shall be reported immediately to the officer's supervisor.
2. The immediate supervisor shall review the circumstances and report findings to the division commander.
3. The division commander shall review the findings and make recommendations to the chief of police.
4. Whenever there are injuries or the possibility of injuries, photographs shall be taken of any possible injury areas on the officer and the arrestee.

**B. Use of Deadly force - Serious Bodily Injury or Death**

1. Officer
  - a. Determine physical condition of injured and administer first aid, if appropriate.
  - b. Request Whitfield County 911 dispatch emergency medical assistance and supervisor.
  - c. If a firearm is involved and it is safe to do so, holster the weapon without loading or unloading it.
  - d. Detain all witnesses and secure the scene.
  - e. Unless injured, remain at the scene until the arrival of supervisory and investigative personnel.
  - f. Do not discuss the case with anyone except supervisors and investigators, unless authorized to do so.
  - g. Complete required reports and cooperate fully with investigation to bring it to a speedy conclusion.
2. Supervisor
  - a. Proceed immediately to the officer's location.
  - b. Ensure that the officer and others, if injured, are receiving medical attention.
  - c. Assign officers to protect the crime scene and detain witnesses. Make sure that only necessary individuals are allowed on the crime scene.
  - d. Isolate the officer for safety purposes, if needed.
  - e. Assist in the investigation as needed to bring it to a speedy conclusion.
3. Investigator
  - a. A division commander will be responsible for coordinating the investigation of incidents where the use of deadly force results in death or great bodily injury.

**RESTRICTED LAW ENFORCEMENT DATA**

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- b. Only the chief of police or others designated by the chief of police will make official comments to the news media concerning the incident. Efforts will be made to protect the identity of the officer(s) involved pending the investigation results and notification of family members.

C. **Administrative Leave and Post Traumatic Incident Syndrome Counseling**

1. Any officer directly involved in a deadly force incident resulting in death or great bodily injury shall be placed on administrative leave, pending investigation.
2. The leave shall be without loss of pay or benefits and shall not be interpreted to imply or indicate that the officer has acted improperly.
3. While on administrative leave, the officer shall remain available at all times for official departmental interviews during the investigation and shall be subject to recall at any time
4. The officer shall not discuss the incident with anyone except the assigned detective(s), the officer's immediate family and/or attorney, the district attorney, the chief of police, or professional counselor.
5. The officer(s) shall undergo an immediate evaluation by the department designated mental health professional and obtain counseling, if deemed necessary.

D. **"Use of Force" Report and "Supervisor's Review of Use of Force" Report Required**

1. Any time force is used where the possibility of injury exists.
2. Any time force is used through the use of a lethal or non-lethal weapon or any other type of action.
3. Any situation which results in the officer's being assaulted and force is needed to resist the assault.
4. Any situation which the officer feels may result in a complaint.
5. Any time an officer discharges a firearm other than in training or for recreational purposes.

VIII. **Distribution of Use of Force Policy**

All sworn personnel shall be issued a copy of and instructed in this policy before being authorized to carry a firearm.

This policy supersedes any previous policies issued.

**BY ORDER OF**

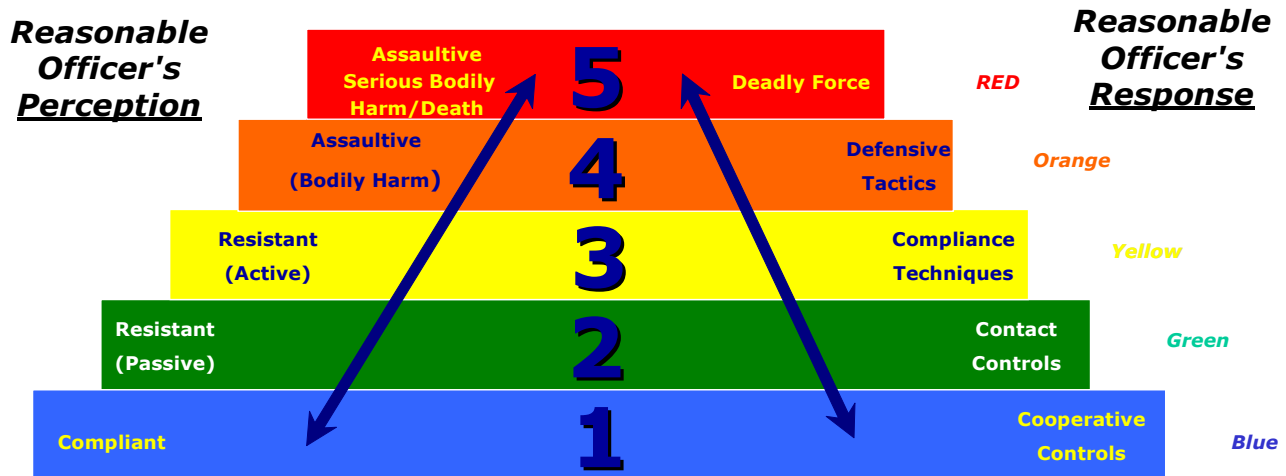
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**CHIEF OF POLICE**

**RESTRICTED LAW ENFORCEMENT DATA**

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# Use of Force



## Officer Enforcement Options

**RESTRICTED LAW ENFORCEMENT DATA**

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# **APPENDIX D**

# DALTON POLICE DEPARTMENT

	<i>Effective Date</i> <b>January 27, 2004</b>	<i>Number</i> <b>GO04-5.2</b>
<i>Subject</i> <b>Non-Deadly Weapons</b>		
<i>Reference</i>		<i>Revised</i> <b>July 26, 2005</b>
<i>Distribution</i> <b>All Sworn Personnel</b>	<i>Re-evaluation Date</i> <b>July 26, 2007</b>	<i>No. Pages</i> <b>5</b>

I. **Policy**

It is the policy of this department to use only that level of force reasonably necessary to control or otherwise subdue individuals.

II. **Definitions**

As used in this policy, non-deadly weapons or force means the use of any weapon or instrument, or any physical action taken by an officer which is not likely to cause death.

III. **Types of Non-Deadly weapons and their use**

A. Oleoresin capsicum (O.C. spray), with 10% pepper solution, as issued by the department, is an appropriate non-deadly weapon which can be effectively used in situations falling between physical strength (hands, fists, feet) and impact tool to control persons who demonstrate they intend to do violence to an officer or third party. It is to be used to avoid physical combat and possible injury to an officer and/or suspect by making it difficult or impossible for an otherwise violent person to fight effectively.

1. All persons sprayed or exposed to OC shall be provided with a list of instructions on decontamination (see Exhibit A).
2. O.C. Spray is not to be used against persons who are offering passive resistance.
3. Reporting requirements
  - a. Complete a Use of Force Report anytime O.C. spray is used, except in training.
  - b. Document the circumstances, which led to O.C. spray's use, as well as aftercare provided, in the Use of Force Report.
4. Issuance
  - a. O.C. spray shall not be used until an officer has read and understands this directive.
  - b. Training and certification are required prior to issuance.
  - c. Only water based O.C. spray will be issued.

<b>RESTRICTED LAW ENFORCEMENT DATA</b>
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- B. M26 and X26 Advanced TASER is a hand held battery operated unit designed to immobilize a suspect by means of an electrical current. The TASER may be used when a subject is displaying active, aggressive or aggravated aggressive resistance to an officer attempting to conduct legal law enforcement activities. Deployment of the TASER will be evaluated using the criteria in this directive and within the framework of the Dalton Police Department Use of Force matrix. Officers must assess the effectiveness of each application and determine whether further applications are warranted or a different tactic should be employed. The decision to use the TASER will be dependent upon the actions of the subject, the threat facing the officer, and the totality of circumstances surrounding the incident.
1. An approved TASER device may only be utilized by officers that have successfully completed the department approved training in its use taught by a certified instructor.
  2. Uniformed officers will carry the TASER in a department issued holster. The holster will be carried on the duty belt, on the side opposite the duty firearm, cross draw position is optional. Non-Uniformed officers will carry the TASER in an approved holster on the side opposite the duty firearm.
  3. The TASER shall be carried fully armed with the safety on in preparation for immediate use.
  4. Officers approved to use the TASER shall be issued a minimum of one spare cartridge as a back up in case of cartridge failure, the need for reapplication, or in case the first cartridge's leads break during engagement. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
  5. Only agency approved battery power sources shall be used in the TASER.
  6. The TASER should be inspected and checked prior to each tour of duty.
  7. A use of force report should be completed anytime a taser is used, except in training.
    - a. The use of force report shall contain at a minimum:
      1. The officer's approximation of the range at which the unit was employed.
      2. The point(s) of impact on the subject;
      3. The number of five-second cycles used;
      4. The type of clothing the probes encountered;
      5. The type of cartridge used;
      6. The type of discharge (probe, drive stun, or both);
      7. Evaluation of the effectiveness of the device;
      8. After-discharge actions taken by the officers;

**RESTRICTED LAW ENFORCEMENT DATA**

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9. Any injuries that the officer is aware suffered by the subject as a result of the use of the device;
8. Unintentional discharge will be reported to a supervisor and will be treated the same as the unintentional discharge of a firearm.
9. The TASER may only be used under the following circumstances:
  - a. To overcome violent or assaultive behavior or its threat;
  - b. To control persons in order to prevent them from harming themselves or others.
10. Use of the TASER under the following circumstances is prohibited, unless exigent circumstances are present:
  - a. Against handcuffed subjects;
  - b. Against subjects fleeing on foot;
  - c. At or from a moving vehicle;
  - d. Against subjects known to be pregnant;
  - e. Against children under 14 years of age and/or weighing less than 90 pounds;
  - f. Against subjects who are visibly elderly or physically disabled and/or suffering from a debilitating illness;
  - g. Against subjects with known neuromuscular disorders such as muscular sclerosis, muscular dystrophy or epilepsy;
  - h. In a situation where deadly force is clearly justifiable unless another officer is present and capable of providing deadly force to protect the officers and/or civilians as necessary;
11. The TASER will not be used under the following circumstances:
  - a. For coercion or intimidation;
  - b. To escort or prod subjects;
  - c. To awaken unconscious or intoxicated subjects;
  - d. Against subjects who are offering only passive resistance;
  - e. When the officer knows the subject has come in contact with flammable liquids or is in a flammable atmosphere;
  - f. When the subject is in a position where a fall may cause substantial injury or death;
12. In preparation of firing, when reasonable, the TASER shall be pointed in a safe direction, taken off safe and then aimed. Center mass of the subject's back is the primary aiming point and center mass of the chest or legs are the secondary targets;

**RESTRICTED LAW ENFORCEMENT DATA**

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13. Prior to use, when practical, a warning to the subject and other officers should be given;
14. Fixed sights should be used as the primary aiming device and the laser dot as the secondary aiming device;
15. Taser probes may not be intentionally fired at the face, head, neck or groin, unless the use of deadly force would be justified.
16. Use of the “Drive Stun” is discouraged except in situations where the “probe” deployment is not possible. If initial application is ineffective, officer will reassess situation and consider other available options.
17. Jail/Detention personnel shall be notified at the time of booking that the subject has been stunned with TASER probes or received a direct stun.
18. The TASER shall be pointed at the ground in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.
19. Officers shall evaluate all subjects against whom the TASER has been deployed, and shall provide emergency medical treatment if needed or requested. If the TASER probes have penetrated the skin in a sensitive area (head, neck, groin or breast of a female), officers have difficulty removing the probes (i.e. probe/barb separation) EMS will be called to the scene to remove the probes or the subject will be conveyed to an emergency room for removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.
20. Subjects who do not appear to be fully recovered within 10 minutes after being tased shall be evaluated by medical personnel.
21. After the taser is used, probes should be removed from the suspect as soon as the suspect is handcuffed.
  - a. If there is an indication that there is serious injury or any complications EMS should be called to the scene before the probes are removed.
  - b. Photographs of the affected area should be taken after the TASER is used with the subjects consent.
22. When the TASER has been used operationally, the officer will collect the air cartridge, wire leads, darts, and AFID Tags as evidence and process it as such.
23. Supervisors shall:
  - a. Download the data record of the TASER prior to the end of the shift in which a reported use of TASER incident occurs and save the data to the appropriate file.
  - b. Download the data record of each TASER under their command annually regardless of reported use.
  - c. The downloaded data shall be tabulated and a summary prepared for inclusion in the department annual use of force report.

**RESTRICTED LAW ENFORCEMENT DATA**

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- C. Officers shall carry the department issued impact tool the ASP collapsible baton. (See Exhibit B)
1. The impact tool is generally used against an aggressive, unarmed suspect or when lesser levels of control have failed or have been determined by the officer to be inadequate.
  2. The impact tool, when properly used, is capable of delivering extremely powerful blows to stun and incapacitate an aggressive opponent. It is also capable of delivering lethal or permanently disabling blows. Blows to the head, throat, and side of the neck, armpit or chest cavity must be avoided, whenever possible.
  3. Officers will carry only impact tools authorized by the department or ASP. Only those officers trained and/or certified will be authorized to use impact tools.
  4. Reporting requirements
    - a. Complete a Use of Force Report anytime the ASP is used, except in training.
    - b. Document the circumstances, which led to the ASP use, as well as aftercare provided, in the Use of Force Report.
- D. The 12ga non-deadly shotgun is a shoulder-mounted weapon capable of firing a projectile to immobilize a suspect by means of pain compliance. Its use can assist an officer in the protection of life and property and/or the restoration of order. The non-deadly shotgun shall be considered whenever the use of non-deadly options would assist in an arrest, restoring order, and/or reducing the risk of a more serious injury.
1. Deployment:
    - a. The non-deadly 12ga. Shotgun will primarily be used by supervisory personnel with the rank of Sergeant or above.
    - b. Must be used in accordance with agency training and manufacturers' instructions.
    - c. May be used in emergencies that require deployment of personnel in dangerous situations, or as considered alternative to the use of more lethal force.
    - d. Normally used in planned assaults which require the temporary disabling of target individuals, or facilitate maneuver, or capture.
    - e. Only personnel trained in the use of the non-deadly 12ga. Shotgun and under direct supervision shall expend this device.
    - f. Officers assigned to deliver these rounds should be backed up by other officers armed with departmental approved firearm(s).
    - g. Emergency medical (first aid) training officers or medical personnel will assist after the deployment of the weapon to provide emergency first aid if applicable.
  2. Reporting: After using a non-deadly 12ga. Shotgun in tactical incidents, a incident report will be completed that includes:
    - a. The supervisor authorizing the use of the weapon;
    - b. Identification of officers deploying the weapon;
    - c. Number of rounds expended;
    - d. Effects on targeted person(s) and injuries;
    - e. Any collateral or unintended injury or damage;
    - f. Use of Force report including any medical report.

**RESTRICTED LAW ENFORCEMENT DATA**

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#### **IV. Training**

All officers shall receive refresher and/or in-service training at least annually concerning all non-deadly weapons and non-deadly force.

*This policy supersedes any previous policies issued.*

**BY ORDER OF**

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**CHIEF OF POLICE**

**RESTRICTED LAW ENFORCEMENT DATA**

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Exhibit A

OLEORESIN CAPSICUM (OC) EXPOSURE

You are receiving this document in order to answer some of your questions regarding your exposure to an Oleoresin Capsicum (OC) aerosol spray. You were exposed to an OC aerosol spray with a 10% concentration. This is a form of Pepper Spray. This product does not contain CN, CS, or MACE. OC is a natural pepper derivative.

You need to know the following:

1. If you experience difficulty breathing, you should seek competent medical attention immediately.
2. The severe symptoms of the OC exposure should dissipate within 45 minutes after exposure. If the severe symptoms do not substantially dissipate within 45 minutes, you should seek competent medical attention immediately.
3. You may experience the following for up to 36 hours:
  - a. *Redness of the affected skin areas*
  - b. *A burning sensation to the affected skin areas. The sensation may return while shaving, wetting the skin with warm water, etc.*
  - c. *Reddened, sensitive eyes*
4. You should:
  - a. *NOT TOUCH any sensitive body areas without first THOROUGHLY cleansing your hands with soap and water. Should you unthinkingly touch your genitalia or other sensitive body part(s) with OC contaminated hands, you will experience excruciating pain.*
  - b. *Remove all OC exposed clothing as soon as practical to do so. Wash the clothing as you normally would to remove any remaining OC particles.*
  - c. *Thoroughly wash all OC exposed body areas as soon as practical. Before showering/bathing, thoroughly wash any exposed hair and facial area. This is very important because if you take a shower without first thoroughly washing your hair and facial area, the shower will cause the OC particles to be washed from your head down your body's natural channels to your lower level mucous membranes and your genitalia. This will cause you EXCRUCIATING PAIN.*
5. Do NOT rub your eyes - you may only cause any remaining OC particles to become more deeply embedded. Rinse your eyes with sterile water or other appropriate clear, clean, fresh water.
6. Do NOT apply any salve, lotion, lanolin, cold cream, etc., to OC exposed body areas. The salve may result in holding the OC particles against the skin and cause further irritation.

**RESTRICTED LAW ENFORCEMENT DATA**

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## Exhibit B

### Dalton Police Department Specifications for issued Less Lethal Weapons

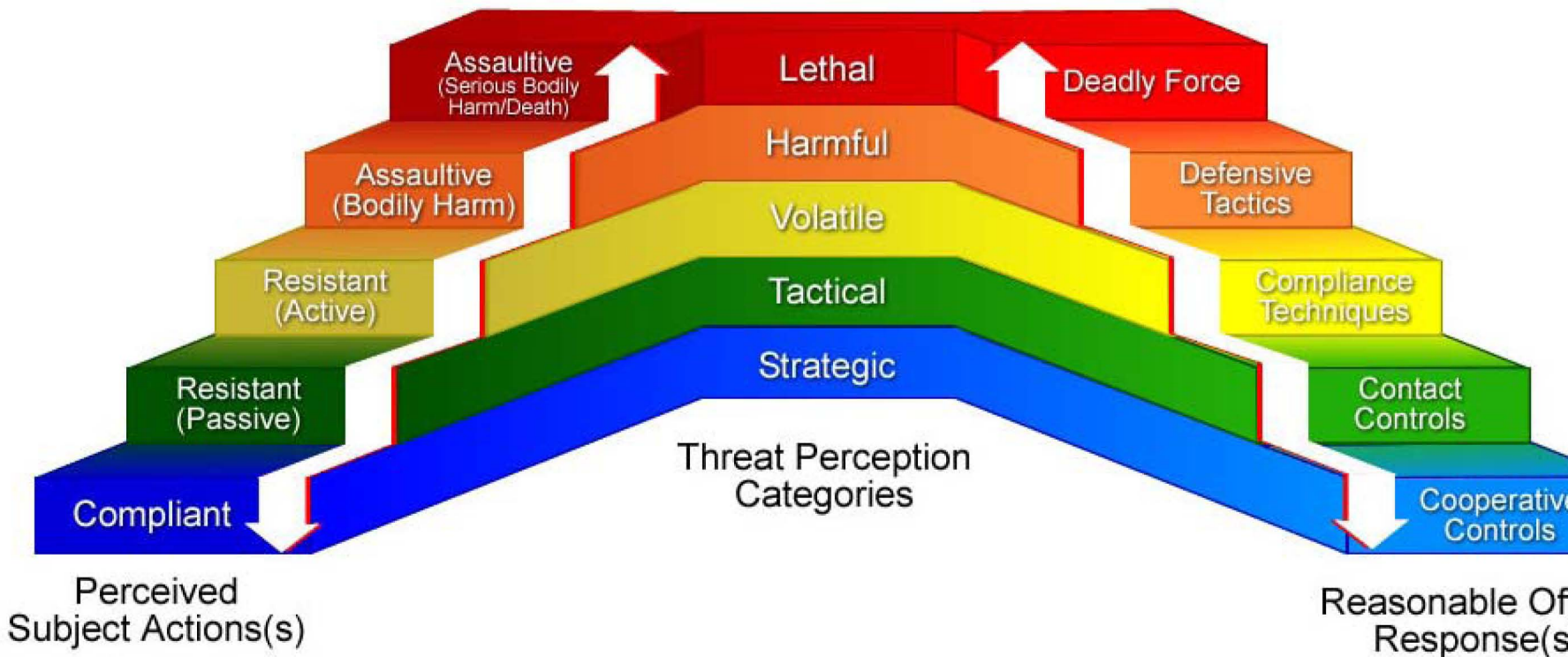
- Item: ASP Baton  
Description: Expandable metal baton used as an impact weapon. Overall length is 26 inches.
- Item: M26 and X26 Advanced Taser  
Description: A hand held battery operated unit designed to immobilize a suspect by means of an electrical current.
- Item: Oleoresin Capsicum (OC) aerosol spray  
Description: A natural pepper derivative with a 10% concentration of active material. The spray, when exposed, causes tearing and irritation of the mucus membranes and is intended to reduce the effectiveness of the offender's attack.
- Item: 12ga. Remington 870 Less-Lethal Pump-Action Shotgun  
Description: A designated less-lethal shotgun capable of firing a projectile that impacts the person causing disabling of the individual to facilitate capture.

**RESTRICTED LAW ENFORCEMENT DATA**

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# **APPENDIX E**

# I.F.M - Integrated Force Management™ Use of Force Model



# APPENDIX F

# GBI USE OF FORCE REPORT

## INSTRUCTIONS

This form is to be completed by the immediate supervisor of a GBI agent that:

- Discharges a firearm other than in training or for recreational purposes; or
- Is involved in a use of force/struggle which results in subject injury/death; or
- Is alleged to have caused a subject's injury/death by a use of force; or
- Uses any of the following on a subject (regardless of injury):
  - Counter Moves (e.g. striking or kicking)
  - OC Aerosol, ASP Baton, PR 24 Baton, or other Non-deadly weapon
  - Deadly Force, with or without a firearm

Complete a separate form for each GBI agent using force. Copies to: Director via Chain of Command for forwarding to OPS and GBI Training Unit.

## GBI AGENT INFORMATION

Name \_\_\_\_\_ SSN \_\_\_\_\_  
 Work Unit \_\_\_\_\_ Supervisor \_\_\_\_\_  
 Injured: Y \_\_\_ N \_\_\_ Medical Treatment? Y\* \_\_\_ N \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

\* Provide Details in Narrative Section

## SUBJECT INFORMATION

1. Name \_\_\_\_\_ Sex \_\_\_ Race/Ethnic \_\_\_\_\_ DOB \_\_\_\_\_ Height \_\_\_\_\_  
 Weight \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Injured? Y\* \_\_\_ N \_\_\_ Medical Treatment? Y\* \_\_\_ Refused \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

2. Name \_\_\_\_\_ Sex \_\_\_ Race/Ethnic \_\_\_\_\_ DOB \_\_\_\_\_ Height \_\_\_\_\_  
 Weight \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Injured? Y\* \_\_\_ N \_\_\_ Medical Treatment? Y\* \_\_\_ Refused \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

\* Provide Details in Narrative Section

## OTHER LAW ENFORCEMENT PERSONNEL

1. Name \_\_\_\_\_ Agency \_\_\_\_\_  
 Injured? Y\* \_\_\_ N \_\_\_ Medical Treatment ? Y\* \_\_\_ N \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

2. Name \_\_\_\_\_ Agency \_\_\_\_\_  
 Injured? Y\* \_\_\_ N \_\_\_ Medical Treatment ? Y\* \_\_\_ N \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

3. Name \_\_\_\_\_ Agency \_\_\_\_\_  
 Injured? Y\* \_\_\_ N \_\_\_ Medical Treatment ? Y\* \_\_\_ N \_\_\_ Hospitalized? Y\* \_\_\_ Location \_\_\_\_\_ N \_\_\_

\* Provide Details in Narrative Section

## WITNESSES

Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_  
 Name \_\_\_\_\_ Address \_\_\_\_\_ Phone \_\_\_\_\_

## ADDITIONAL INFORMATION

Date/Time of Incident \_\_\_\_\_ Location \_\_\_\_\_  
 Name of Supervisor Notified \_\_\_\_\_ Date/Time Supervisor Notified \_\_\_\_\_  
 Photos Taken of Subject? Y \_\_\_ N \_\_\_ By \_\_\_\_\_ Date/Time Taken \_\_\_\_\_  
 Photos Taken of Injured GBI Agents(s)? Y \_\_\_ N \_\_\_ By \_\_\_\_\_ Date/Time Taken \_\_\_\_\_

## COMPLETE NARRATIVE ON REVERSE SIDE

### INCIDENT INFORMATION

Type of Enforcement Action: Arrest \_\_\_ Search Warrant \_\_\_ Other (Specify) \_\_\_\_\_

Offense(s) \_\_\_\_\_  
Number of Subjects Present/Involved \_\_\_ Subject(s) Armed? Y \_\_\_ N \_\_\_ Weapon Type \_\_\_\_\_  
Does Subject Have a History of Violence? Y \_\_\_ N \_\_\_ Specify \_\_\_\_\_  
Number of Law Enforcement Personnel Present/Involved \_\_\_\_\_

**RESISTANCE/THREAT OFFERED BY SUSPECT**

Check all that are applicable: Verbal \_\_\_ Passive Physical Resistance (refused to comply or respond) \_\_\_\_\_  
Active Physical Resistance (evasive/avoidance movements, bracing/tensing, pulling away) \_\_\_\_\_  
Aggressive Physical Resistance (hostile attacking movements threatening injury) \_\_\_\_\_  
Aggravated Physical Resistance (threatens death or serious physical injury) \_\_\_\_\_

**FORCE USED BY THE GBI MEMBER**

Check all that were utilized:  
Counter Moves \_\_\_ Specify \_\_\_\_\_  
OC Aerosol \_\_\_ ASP Baton \_\_\_ Other Impact Weapon \_\_\_ Specify \_\_\_\_\_  
Deadly Force \_\_\_ Firearm \_\_\_ Other Weapon/Technique \_\_\_ Specify \_\_\_\_\_

**NARRATIVE**

Briefly describe the incident, the force used, the resistance or threat being offered by the subject when the force was used and any injuries and medical treatment to subjects, GBI agents or other persons:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Supervisor Completing Report	_____	Date	_____
Inspector review	_____	Date	_____
Deputy Director review	_____	Date	_____
Director review	_____	Date	_____
OPS review	_____	Date	_____



# Supervisory Taser Use Report

1. **Deploying Agent:** \_\_\_\_\_ **Assignment:** \_\_\_\_\_

2. **Date of Deployment (mm/dd/yy)** \_\_\_\_\_

3. **Time of Deployment:** \_\_\_\_\_ (am) (pm)

4. **Location of Deployment:**

- a. Address or specific location of deployment \_\_\_\_\_
- b. City \_\_\_\_\_
- c. County \_\_\_\_\_
- d. Outdoor \_\_\_\_\_ Indoor \_\_\_\_\_

5. **Other Agents/Officers Involved:**

<u>Name</u>	<u>Agency</u>	<u>Assignment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. **Type of Subject:** Human \_\_\_\_\_ Animal \_\_\_\_\_ (name species \_\_\_\_\_)

7. **Subject Person:**

- A. Name: \_\_\_\_\_
- B. Sex: Male \_\_\_\_\_ Female \_\_\_\_\_
- C. Age or DOB: \_\_\_\_\_
- D. Height: \_\_\_\_\_
- E. Weight: \_\_\_\_\_
- F. Race: \_\_\_\_\_
- G. Arrested: Yes \_\_\_\_\_ No \_\_\_\_\_
- H. Charge(s): \_\_\_\_\_  
\_\_\_\_\_

8. **Synopsis of Incident:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Taser Model: X26\_\_\_\_\_ M26\_\_\_\_\_ Serial Number:\_\_\_\_\_

10. Air Cartridge Type(s): 21-ft.\_\_\_\_\_ 21-ft. XP\_\_\_\_\_

11. Number Cartridges Fired:\_\_\_\_\_ Number Cycles Applied:\_\_\_\_\_

12. Dart Probe Contact:\_\_\_\_\_ Drive Stun Contact:\_\_\_\_\_

13. If Dart Probe Contact, Approximate Target Distance (in feet) at time of Launch:\_\_\_\_\_ Distance (in inches) Between Probes:\_\_\_\_\_

14. Dart Probes Penetrated Skin:\_\_\_\_\_ Penetrated Clothing Only:\_\_\_\_\_

15. Probes Removed On Scene:\_\_\_\_\_ Removed By:\_\_\_\_\_  
Probes Removed at Medical Facility:\_\_\_\_\_  
Name and Location of Medical Facility:\_\_\_\_\_  
Name/Title of Staff Removing Probes:\_\_\_\_\_

16. Did the Taser Operate Satisfactorily? Yes\_\_\_\_\_ No\_\_\_\_\_  
(If No, Describe Problem(s):\_\_\_\_\_

If Taser firing was unsuccessful, was drive stun follow-up used?\_\_\_\_\_

17. Describe Subject's Demeanor Following Taser Deployment:  
\_\_\_\_\_  
\_\_\_\_\_

Photographs Taken of Subject: Yes\_\_\_\_\_ No\_\_\_\_\_  
Video Tape of Incident Recorded: Yes\_\_\_\_\_ No\_\_\_\_\_

18. Download Data from Taser: Yes\_\_\_\_\_ No\_\_\_\_\_  
If No: Explain why no download.  
\_\_\_\_\_  
\_\_\_\_\_

Attach printout of data to this form.

18. Was Subject Injured During Incident: Yes\_\_\_\_\_ No\_\_\_\_\_  
Nature and Cause of Injury:\_\_\_\_\_  
\_\_\_\_\_  
Medical Treatment Required: Yes\_\_\_\_\_ No\_\_\_\_\_  
Name/Location of Medical Facility:\_\_\_\_\_  
\_\_\_\_\_

Treating Physician: \_\_\_\_\_  
Subject Admitted to Hospital: Yes \_\_\_\_\_ No \_\_\_\_\_  
Admitted to Hospital for Psychiatric Treatment: Yes \_\_\_\_\_ No \_\_\_\_\_

**19. Was Any Other Agent or Other Person Injured in Incident:** Yes \_\_\_\_\_ No \_\_\_\_\_  
If Yes, Identify Injured Party, and Describe Nature and Cause of Injury. \_\_\_\_\_  
\_\_\_\_\_

- 20. Other Force Used on Subject:**
- a. Firearm (Deadly Force): \_\_\_\_\_
  - b. Chemical Munitions: \_\_\_\_\_
  - c. Blunt Force Munitions: \_\_\_\_\_
  - d. Baton: \_\_\_\_\_
  - e. Physical Force: \_\_\_\_\_
  - f. Other (Describe): \_\_\_\_\_

**Describe Non-Taser Force Used, the Order of Use (Including Taser), and Results:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Provide Reason(s) for Non-Taser Force Used:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Other Remarks: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Supervisor Completing Report: \_\_\_\_\_ Assignment: \_\_\_\_\_

Signature of Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

# APPENDIX G

DALTON POLICE DEPARTMENT  
**USE OF FORCE REPORT**

**Incident Date:** \_\_\_\_\_

**Case #:** \_\_\_\_\_

**Incident Time:** \_\_\_\_\_

**Incident Location:** \_\_\_\_\_

**Day of the Week:** \_\_\_\_\_

**Subject Involved:** \_\_\_\_\_

**Charges:** \_\_\_\_\_

**Subject Address:** \_\_\_\_\_

**DOB:** \_\_\_\_\_ **Race/Sex:** \_\_\_\_\_

**Height:** \_\_\_\_\_ **Weight:** \_\_\_\_\_

**Home Phone:** \_\_\_\_\_ **Business Phone:** \_\_\_\_\_

**Subject Arrested:** \_\_\_\_\_ (Y) \_\_\_\_\_ (N)

**Officer(s) Involved:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Property Damage/Owner:** \_\_\_\_\_

**Type of Property Damaged:** \_\_\_\_\_

**Vehicle VIN:** \_\_\_\_\_

**Tag#:** \_\_\_\_\_ **Make:** \_\_\_\_\_

**Other Property Damage:** \_\_\_\_\_

**Witnesses:**

<u>Names</u>	<u>Addresses</u>	<u>Phone #s</u>
#1	_____	_____
#2	_____	_____
#3	_____	_____

**DEGREE OF INJURY**

(Circle Level for Each Listed)

	<u>None</u>	<u>Death</u>
<b>Officer</b>	0---1---2---3---4---5---6---7---8---9---10	
<b>Suspect</b>	0---1---2---3---4---5---6---7---8---9---10	
<b>Other</b>	0---1---2---3---4---5---6---7---8---9---10	

**SUSPECT'S BEHAVIOR**

- \_\_\_\_\_ **No resistance**
- \_\_\_\_\_ **Cooperative**
- \_\_\_\_\_ **Passive Resistance**
- \_\_\_\_\_ **Active Resistance**
- \_\_\_\_\_ **Combative (No Non-Personal Weapon)**
- \_\_\_\_\_ **Combative With Weapon(s)**

**FIREARM / TOOL / TECHNIQUE(S) USED**

- \_\_\_\_\_ **Presence**
- \_\_\_\_\_ **Verbal Persuasion**
- \_\_\_\_\_ **Physical Strength (Empty Hand Control)**
- \_\_\_\_\_ **Taser: Serial # \_\_\_\_\_ Cartridge # \_\_\_\_\_**
- \_\_\_\_\_ **Pointed \_\_\_\_\_ Contact Tased \_\_\_\_\_**
- \_\_\_\_\_ **Cartridge Deployed \_\_\_\_\_ Range in feet \_\_\_\_\_**
- \_\_\_\_\_ **# Cycles Used \_\_\_\_\_ Point of Impact \_\_\_\_\_**
- \_\_\_\_\_ **Clothing Encountered: Heavy \_\_\_\_\_ Light \_\_\_\_\_ None \_\_\_\_\_**
- \_\_\_\_\_ **Chemical Tool**
- \_\_\_\_\_ **Impact Tool**
- \_\_\_\_\_ **Firearm Pointed**
- \_\_\_\_\_ **Deadly Force**

**FORCE RECIPIENT'S STATUS**

- \_\_\_\_\_ **Free Citizen—Seized**
- \_\_\_\_\_ **Free Citizen—Not Seized**

**Seized Free Citizen**

		<u>None</u>	<u>High Severity</u>
_____	<b>Imminent threat to Officers / Others</b>	0---1---2---3---4---5---6---7---8---9---10	
_____	<b>Resisting Arrest</b>	0---1---2---3---4---5---6---7---8---9---10	
_____	<b>Circumstances: Tense, uncertain, rapidly evolving</b>	0---1---2---3---4---5---6---7---8---9---10	
_____	<b>Severity of the crime(s) at issue</b>	0---1---2---3---4---5---6---7---8---9---10	
_____	<b>Person attempting to evade by flight</b>	0---1---2---3---4---5---6---7---8---9---10	
_____	<b>Level of force Officer(s) used</b>	0---1---2---3---4---5---6---7---8---9---10	

**NARRATIVE: (Describe incident in detail)**

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**SUPERVISORY REVIEW**

**Was use of force reasonable and necessary?** \_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

**Comments:** \_\_\_\_\_

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**Justification for more than 3 taser cycles:** \_\_\_\_\_

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**Is follow-up action necessary?** \_\_\_\_\_ (Yes) \_\_\_\_\_ (No)

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<b>Reporting Officer</b>	<b>Badge #</b>	<b>Supervisor</b>	<b>Badge #</b>
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