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New Jersey policy on stun guns

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ATTORNEY GENERAL POLICY ON CONDUCTED ENERGY DEVICES

I. Scope

This supplemental policy is based on the work of the Attorney General's Advisory Group to Study the Use of Less-lethal Force. The following policy applies to the use of conducted energy devices, as defined in Section III of this policy. These weapons fall under the broader category of "stun guns," as that term is defined in the New Jersey Code of Criminal Justice. Specifically, N.J.S.A. 2C:39-1(t) provides that the term stun gun means "any weapon or other device which emits an electrical charge or current intended to temporarily or permanently disable a person."

Pursuant to N.J.S.A. 2C:39-3(h), any person who knowingly has in his possession any stun gun is guilty of a crime of the fourth degree. N.J.S.A. 2C:39-3(g)(1) further provides in pertinent part that, "[n]othing in subsection h. (generally prohibiting the knowing possession of stun guns) shall apply to any law enforcement officer who is exempted from the provisions of that subsection by the Attorney General." This supplemental policy shall constitute an exemption from the provisions of N.J.S.A. 2C:39-3(h) for any law enforcement officer authorized pursuant to Section VIII of this policy to deploy or use a conducted energy device, or any officer while participating in a training program pursuant to Section VIII of this policy.

II. Policy

1. It is the general policy of the State of New Jersey that law enforcement officers should only use the degree or intensity of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time force is used. The reasonableness of force must be judged from the perspective of a reasonable law enforcement officer on the scene at the time of the incident.

2. The Attorney General's Use of Force Policy (rev. 2000) provides that deadly force may only be used when an officer reasonably believes that such action is immediately necessary to protect an officer or another person from imminent danger of death or serious bodily injury. Deadly force may not be used against persons whose conduct is injurious only to themselves.

3. Conducted energy devices are serious and potentially deadly weapons. In some limited situations, they may reduce the risk of injuries to officers, to persons subject to arrest, and to innocent bystanders. They may also allow officers to resolve a confrontation without it escalating to a level where deadly force is required. This policy defines the issuance, use, and reporting requirements for these weapons to ensure that they are used consistent with public safety, in lieu of deadly force, and in furtherance of these limited and specific objectives.

4. The policy limits the issuance and deployment of conducted energy devices in order to emphasize the limited contexts in which an officer should use the weapon. An officer armed with a firearm recognizes that the discharge of the weapon is likely to cause death. Accordingly, in most instances, an officer will resolve a situation without the use of a firearm. This policy limits the use of the devices to ensure that officers recognize the lethality and seriousness of the weapons, deploy them consistent with that lethality, and use the weapons only where appropriate.

5. In limited and controlled environments, and under certain situations, conducted energy devices may be appropriate weapons for law enforcement officers to use against an emotionally disturbed person, as that term is defined in Section III below.

6. This policy supplements the Attorney General's Use of Force Policy. It provides express criteria for the firing and discharge of conducted energy devices by law enforcement officers.

7. This policy establishes procedural safeguards and reporting requirements to ensure that the devices are used consistent with and in furtherance of the objectives of their authorization.

8. The policy prohibits use of these weapons in certain circumstances, namely, (1) as a "pain compliance" device (i.e., for the purpose of overcoming a person's refusal to comply with an officer's order to move from or to a place, to get onto the ground, or to exit a vehicle); (2) on individuals restrained by handcuffs; (3) against a person in a moving vehicle; and (4) in any instance not authorized by this policy.

9. Any firing or discharge of a conducted energy device against a person except as authorized by this supplemental policy is strictly prohibited. Any intentional misuse or reckless abuse of any such device will not be tolerated and will result in administrative discipline, criminal prosecution, or both.

III. Definitions

"Conducted energy device" means any device approved by the Attorney General that fires darts, i.e., electrodes that are attached by wire to the main body of the device held by a law enforcement officer, and that through these electrodes emits an electrical charge or current intended to temporarily disable a person. "Emotionally disturbed person" ("EDP") is a person who appears to

be mentally ill or temporarily deranged and is conducting himself or herself in a manner that a police officer reasonably believes is likely to result in serious bodily injury to himself, the officer, or others “Fire” means to cause the darts/electrodes of a conducted energy device to be ejected from the main body of the device and to come into contact with a person for the purpose of transmitting an electrical charge or current against the person. “Discharge” means to cause an electrical charge or current to be directed at a person in contact with the darts/electrodes of a conducted energy device. “Drive stun mode” means to discharge a conducted energy device where the darts/electrodes have not been ejected from the main body of the device, so that the device is in direct contact with the person against whom the charge or current is transmitted.

IV. Authorized Officers

1. No officers shall carry or be authorized to use a conducted energy device absent express written authorization by the department’s chief executive.
2. A chief executive of a law enforcement agency shall limit authorization to carry or use a conducted energy device only to one officer of a supervisory rank in any municipality that has 25,000 or less residents; two officers of a supervisory rank in any municipality that has between 25,001 and 50,000 residents; three officers of a supervisory rank in any municipality that has between 50,001 and 75,000 residents; or four officers of a supervisory rank in any municipality that has more than 75,000 residents. In addition, the chief executive of a law enforcement agency may authorize any officer, regardless of rank, who is a member of a duly authorized and trained SWAT or other emergency response squad or unit, to carry or use a conducted energy device, consistent with this policy.
3. The chief executive of a law enforcement agency shall not authorize any officer to fire or discharge a conducted energy device until the officer has successfully completed a training course approved by the Police Training Commission in the proper use and deployment of conducted energy devices.
4. Any officer issued a conducted energy device shall determine and record on an appropriate log, prior to field deployment, that the device, including the video recording function, is functional.
5. A law enforcement officer authorized to fire or discharge a conducted energy device during an actual operation pursuant to this supplemental policy shall be exempt from criminal liability under N.J.S.A. 2C:39-3(h) for knowing possession of a stun gun provided by his or her department.

V. Authorization to Use Conducted Energy Devices

1. An officer authorized to use conducted energy device pursuant to this policy may discharge the device only where:

- a. the officer reasonably believes that the individual is an emotionally disturbed person; and,
 - b. the individual possesses a weapon and the officer reasonably believes that the individual poses an immediate threat of serious bodily injury to him/herself, an officer, or any other person; and,
 - c. the individual will not voluntarily submit to custody; and,
 - d. the officers have isolated and contained the individual. An individual is isolated when sufficiently separated from nonsubjects, e.g., onlookers, crowd, etc., to allow the officer to use the weapon safely. An individual is contained when law enforcement has confined the incident to the smallest possible area by limiting the ability of the subject, for example, to run around or grab hostages.
2. Provided that the use of the conducted energy device would comply with the requirements of Paragraph V(1), a conducted energy device may only be discharged upon the authorization of the highest-ranking police supervisor at the scene. Where the officer authorized to carry or use a conducted energy device is the highest-ranking officer at the scene, no additional authorization is required.
3. A member of an authorized and trained SWAT team or emergency response unit may discharge a conducted energy device consistent with Paragraph V(1) upon authorization of the team or unit supervisor. If the officer has responded to the scene but not deployed as part of an authorized and trained SWAT team or emergency response unit, the officer may discharge a conducted energy device consistent with Paragraph V(1) only upon authorization of the highest-ranking supervisor at the scene.
4. A law enforcement officer shall not direct an electrical charge or current against a person who has already received an electrical charge from a conducted energy device unless the person has been given a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands and the person continues to pose an immediate threat of serious bodily injury to him/herself, an officer, or any other person.
5. A law enforcement officer shall not be required to exhaust the option of using a conducted energy device before using lethal ammunition in any circumstance where deadly force would be justified and authorized pursuant to the Attorney General's Use of Force Policy.

VI. Unauthorized uses of Conducted Energy Devices

The following uses are expressly prohibited:

1. A conducted energy device shall not be fired or discharged in drive stun mode.
2. A conducted energy device shall not be used as a pain compliance device.

3. A conducted energy device shall not be fired or discharged to prevent a person from committing property damage.
4. A conducted energy device shall not be fired or discharged to prevent a person from fleeing the scene.
5. A conducted energy device shall not be fired or discharged against a person who is restrained by handcuffs.
6. A conducted energy device shall not be fired or discharged against an individual in a moving vehicle.
7. Two or more conducted energy devices shall not be discharged upon a person at the same time.

VI. Training and Qualification

1. No officer shall be authorized to carry or use a conducted energy device until having completed a training course and qualification procedure approved by the Police Training Commission in the proper use and deployment of conducted energy devices. The training program shall include a component on how to interact with an emotionally disturbed person, and topics such as recognizing mental illness and techniques to de-escalate a psychiatric crisis to prevent injury or death.
2. A person participating in a training course approved by the Police Training Commission shall during such training be exempt from criminal liability under N.J.S.A. 2C:39-3(h) for knowing possession of a stun gun.
3. All law enforcement officers authorized to use a conducted energy device pursuant to this supplemental policy shall qualify, and thereafter re-qualify semi-annually, in a training course and qualification procedure approved by the Police Training Commission.

IX. Deployment Techniques

1. When feasible, the officer should warn the person against whom the conducted energy device is directed that the officer intends to use the weapon. The same applies where the individual has already received an electrical charge from a conducted energy device.
2. To provide for officer safety, at least one law enforcement officer other than the one deploying the conducted energy device should be present, be armed with lethal ammunition, and be prepared to deploy deadly force in the event that the use of a conducted energy device for any reason fails to protect an officer or other person from imminent danger of death or serious bodily injury.
3. During the deployment of a conducted energy device, the deploying officer shall, when feasible, continually evaluate the options selected against changing circumstances.

4. An officer trained and authorized to carry a conducted energy device should be aware of any targeting recommendations made by the manufacturer.
5. A conducted energy device may be used in conjunction with a distraction device, water-based chemical agent, or less-lethal ammunition. If the individual has already received an electrical charge from a conducted energy device, officers should provide the person a reasonable opportunity to submit to law enforcement authority and to comply with law enforcement commands before deploying a distraction device, chemical agent, or less-lethal ammunition.
6. A conducted energy device shall not be directed against a person who is situated on an elevated surface (e.g., a ledge, scaffold, near a precipice, etc.) unless reasonable efforts have been made to prevent or minimize a fall-related injury (e.g., deploying a safety net).
7. The officer should use particular care when considering whether to use a conducted energy device against a individual that is particularly vulnerable due to age (either elderly or young) or medical condition (e.g., pregnant).

X. Handling of Injured Suspects

Subjects against whom a conducted energy device has been directed shall be transported to a medical facility for examination if they suffer bodily injury or request medical attention.

XI. Reporting and Evaluation

1. In all instances when a conducted energy device is fired or discharged, the law enforcement officer who employed such force shall complete:
 - a. Any reports made necessary by the nature of the underlying incident, and,
 - b. A use of force report as required by the Attorney General's Use of Force Policy.
 - c. A Conducted Energy Device Report.
2. In all instances when a conducted energy device is fired at or discharged upon a person, a higher-ranking supervisor shall investigate the circumstances and outcomes of the device deployment. The investigating supervisor shall not be the same officer who authorized the discharge or discharged the device. The investigating supervisor shall report on the incident to the chief executive of the department, providing the chief executive of the agency information on circumstances, deployment, and outcome, including whether the deployment avoided injury to officer and the use of deadly force. Upon receipt, the chief executive shall issue a finding whether the discharge complied with the Attorney General's Policy on Conducted Energy Devices. The chief executive shall forward the report to the County Prosecutor within 3 business days of device discharge.

3. The County Prosecutor will review all reports detailing conducted energy device discharges, indicate their finding and recommendations as to the propriety of the discharge, and report their findings to the Attorney General within 7 days of device discharge. A Prosecutor may request a reasonable extension when the Prosecutor believes that an incident requires further investigation to determine whether the discharge complied with this Policy.

4. In all instances when a conducted energy device is fired at or discharged upon a person, a superior officer designated by the chief of the department employing the officer who fired or discharged the device shall take custody of and secure the device. The superior officer shall safeguard the digital information in that device concerning the incident. The chief executive officer of each department that employs the use of conducted energy devices shall issue a rule, regulation, standing operating procedure or other appropriate order to establish a system to ensure that the internal digital recordation systems of these devices are maintained, and that the data contained therein cannot be tampered with, and cannot be accessed except by duly authorized supervisors. After the information is safeguarded, the device may be returned to deployment consistent with the department's policies. The information stored in the device concerning the use of force incident (i.e., e.g., data concerning the time the weapon was fired, the time of all electrical discharges, and video recordings of the firing of the weapon and all electrical discharges) shall be preserved and reported on in a report of the incident prepared by the chief or his or her designee, and, along with the use of force report prepared by the officer who fired the weapon, shall be provided to the County Prosecutor or Attorney General for review. The County Prosecutor, or the Attorney General, may at any time supersede any investigation of the use of force incident conducted by the department.

XI. Approved Conducted Energy Devices

The New Jersey State Police, in consultation with the Division of Criminal Justice, shall develop a list of specifications and characteristics of conducted energy devices that may be deployed and used pursuant to this supplemental policy. Those specifications will include the following requirements:

1. The device must be capable of making a date- and time-stamped digital record of each occurrence when the darts/electrodes are fired, and of each occurrence when an electrical current is discharged.
2. The device must be capable of making a digital video recording of each such firing and electrical discharge, where the focus of the internal camera is centered on the person against whom the conducted energy device was targeted.
3. The device must safeguard all such digital data and video recordings to ensure that they can be

accessed or erased only by appropriate supervisory personnel in accordance with rules, regulations, standing operating procedures or orders promulgated pursuant to this supplemental policy. The list of specifications and characteristics shall be submitted to the Attorney General for approval and dissemination. No law enforcement agency shall purchase, possess, deploy, fire, or discharge any conducted energy device pursuant to this supplemental policy unless the device satisfies the specifications and characteristics approved by the Attorney General. The private ownership or possession of a conducted energy device or any other form of stun gun is strictly prohibited and is subject to criminal prosecution.

XII. Sanctions for Non-Compliance

If the Attorney General or designee has reason to believe that a law enforcement agency or officer is not complying with or adequately enforcing the provisions of this supplemental policy, the Attorney General may temporarily or permanently suspend or revoke the authority of the department, or any officer, to possess or use conducted energy devices may initiate disciplinary or criminal prosecution proceedings, and may take such other actions as the Attorney General in her sole discretion deems appropriate to ensure uniform and strict compliance with this supplemental policy.

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ELECTRONIC CONTROL DEVICE

INDEX CODE: 406
EFFECTIVE DATE: 11-18-09

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I. PURPOSE

The purpose of this policy is to establish guidelines for the use of Electronic Control Devices (ECD).

II. POLICY

The Anne Arundel County Police Department has issued the Advanced TASER (X26) to select trained officers, to provide those officers with additional use-of-force options for gaining compliance of resistant or aggressive individuals in arrest and other enforcement situations. It is the policy of the department that personnel may use the TASER when warranted, but only in accordance with the guidelines and procedures set forth in this directive and in the department's use-of-force policy.

III. PROCEDURES

A. Authorization

1. Only personnel who have been trained, demonstrated proficiency, and have been issued a departmental TASER and associated equipment, are authorized to carry and use it. Proficiency must be demonstrated at least annually, and be monitored by a certified TASER instructor.
2. Only the departmentally issued TASER (Model X26), issued TASER holster (mounted on the officer's weak/support side of duty belt), and issued TASER cartridges are authorized for use (***Exception: trained members of the Special Operations Section (SOS) are authorized to carry the TASER in an SOS drop leg or belt attached holster.*** Trained personnel, who are carrying a departmental TASER while on duty, must have both (2) cartridges affixed to their TASER at all times. The only exception to this would be if the officer has deployed a single cartridge, and is awaiting a replacement cartridge.

B. Usage Criteria

1. The use of a TASER is considered a use of force and will be employed in a manner consistent with the department's use of force policy.
2. The TASER may be used when verbal dialogue has failed to bring about a subject's compliance, and the subject indicates the intention to actively resist the officer's efforts to arrest him/her, the subject is actively resisting arrest, or to prevent subjects from harming themselves or others.
3. A fleeing suspect will not be the sole justification for the use of the TASER. Severity of the offense and other circumstances will be considered before officers' use a TASER on a fleeing suspect.
4. The TASER may be used to display the ECD's "test arc" or "painting the subject with it's laser" in an attempt to gain compliance of the subject where resistance, assault, and/or violence is reasonably anticipated.
5. No more than one officer at a time should discharge a TASER against a person.

6. Whenever practical and reasonable, personnel should issue a verbal warning prior to discharging the TASER on a person. This could give the suspect the opportunity to voluntarily comply with the officer's lawful orders. If other officers are present, the deploying officer, prior to deployment, should consider announcing, if reasonably safe and feasible, "TASER!" This will give the other officers warning to either not engage or disengage from the suspect before the TASER is deployed.
7. When discharging the TASER, the officer should only use it for one standard cycle (five seconds), then stop and evaluate the situation. In an attempt to minimize the number of TASER discharges needed for subject compliance, officers should, while deploying the TASER, reasonably direct (order) the suspect as the incident mandates. Such verbal commands may include, "stop resisting," "lie flat," "put your hands behind your back," etc. Officers will only use the minimum number of activations necessary to place the suspect into custody.
8. The use of a TASER in "drive-stun" mode will not reliably or foreseeably incapacitate the suspect. Officers will not use the TASER in drive-stun mode if they reasonably believe that discomfort will not cause the subject to be compliant with the officers; i.e., TASER use in drive-stun mode on a drug induced highly pain-resistant subject.
9. Once a person is handcuffed or otherwise restrained, the use of the TASER is no longer justified. Officers will not use any restraint technique that impairs respiration of the suspect.
10. The TASER is not a substitute for deadly force, and generally should not be used in those situations. If a TASER trained officer does deploy the TASER in those situations, he/she must have another officer present to provide deadly force cover.
11. Officers may use deadly force to protect themselves from the use or threatened use of a TASER when the officer reasonably believes that deadly force will be used against them if they become incapacitated.
12. A TASER may be deployed on an animal when the animal is threatening or is attacking a person, including officers, another animal, or property.
13. When lawful and appropriate to do so, the deploying officer will take photographs of the probe impact sites and any related injuries.
14. When not in use, TASER's will be kept in a secure place, inaccessible to all persons who are not trained TASER operators of the department.

C. Elevated TASER Application Risk Factors and Justification Factors

1. The following factors, where apparent to involved officers, require additional justification of TASER use. This is because the risks of foreseeable direct or secondary injuries are elevated:
 - a. Presence of flammable liquids/fumes or explosive environments
 - b. Elevated positions
 - c. Person operating moving vehicle or machinery
 - d. Person running (fleeing)
 - e. Pregnant female
 - f. Swimming pool or other body of water
 - g. Intentional TASER application to sensitive areas
 - h. Frail or infirm individual
 - i. Non-standard repeated TASER applications
2. The following factors involve groups of people from which the general public commonly assumes that these individuals are not capable of being an imminent threat of death and/or serious bodily harm, or that these people should be treated more sensitively and compassionately by officers. Officers understand that the realities are that individuals from each of these groups do commit violent crimes, can be an imminent threat of death and/or serious bodily harm to officers, others, and themselves, can be so resistive that the use of a TASER is eminently justified, etc. However, since society generally places individuals within these groups into protected classes, officers using a TASER on one of these individuals will foreseeably be placed under heightened scrutiny and will likely be required to provide additional justification(s) for the use of the TASER. These groups include:
 - a. Children
 - b. Seniors
 - c. Passive subjects who are being taken into custody.

D. Post TASER Medical Attention

1. All individuals who have been exposed to the TASER by probe deployment or by drive stun will be transported to the hospital by EMS personnel (*an exposure is defined as a probe entering the skin or when an individual experiences Neuro-Muscular Incapacitation by probe deployment or experiences the effects of a drive stun*). The individual will be medically evaluated and if necessary will have the probes removed while at the hospital. (This does not apply to officer exposure during training or if an officer receives a secondary exposure while taking a subject into custody).
2. EMS personnel will be summonsed to the scene by the deploying officer. If the probes have penetrated the skin, EMS personnel should be advised to not remove them prior to transport. The probes should only be removed by a doctor or authorized medical staff at the Hospital.
3. Officers may remove probes which have penetrated clothing and are not intact with the skin. If this occurs, the subject is still required to be transported to the hospital by EMS personnel for a medical evaluation, *if they experience Neuro-Muscular Incapacitation. If the subject does not experience Neuro-Muscular Incapacitation, due to an incomplete circuit (i.e., only one probe making contact to the clothing), then a medical evaluation is not necessary.*
4. Should the probes impale a sensitive area, (head, neck, hands, feet or genitalia) officers will attempt to stabilize the probes in place until EMS personnel arrive on scene. Officers will instruct EMS personnel to continue probe stabilization until the probes can be removed by a doctor or authorized medical staff at the Hospital.
5. Scene security or volatility may necessitate selecting an alternative location for meeting medical personnel for transport. This may be accomplished by moving the subject to a neutral secure location, police facility and/or fire station.
6. Probes that have been deployed and strike the subject (penetrate the skin) will be treated as biohazard sharps. They may be placed point down into the expended cartridge bores and secured (i.e., with latex gloves(s), tape, etc. They will be transported to the station and placed in a sharps container, unless they are needed as evidence, or discarded in the proper receptacle at the Hospital.

E. AFID (Anti-Felon Identification) System

This system provides accountability for each use of the TASER via the dispersal of tiny coded tags. Every time the device is "probe deployed"- a cartridge is discharged. AFIDs shall only be collected and maintained as evidence if reasonably necessary, such as where identification of who discharged the TASER is a foreseeable problem or issue. If a supervisor determines that the AFIDs need to be collected and maintained as evidence, then ECU should be contacted for evidence collection. The AFIDs will be placed into evidence with any expended cartridge.

F. Supervisors Responsibilities

A patrol supervisor in the district of occurrence is responsible for the following actions:

1. Respond immediately to all incidents of ECD deployment.
2. Ensure proper medical attention is requested.
3. Ensure expended cartridge and probes are treated and disposed of as biohazard sharps, unless required for evidence.
4. Determine whether AFIDs and expended cartridges will be needed as evidence based on unanticipated injury to the suspect.
5. Ensure all reporting requirements are met and arrangements are made to transport the TASER to a *District Executive Officer*, SOS or SES Lieutenant for dataport tracking and cartridge replacement.

G. Reporting Procedures

1. Accidental discharges, as well as intentional discharges of the TASER will be immediately reported to a supervisor.
2. A Use-of-Force Report will be completed following all discharges of the TASER except during testing and training. Although a Use-of-Force report is not required for an accidental discharge or use on an animal, an Incident Report is required.

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3. Intentional discharges of the TASER on a person will be reported to the District Executive Officer, SOS or SES Lieutenant as soon as possible. The TASER does not have to be placed out of service before this occurs, unless both cartridges have been expended. The Lieutenant will conduct the dataport download from the TASER and provide the officer a cartridge replacement. A copy of the report generated through the dataport download will be attached to the Use of Force Report and forwarded through the chain of command. TASER replacement cartridges will be tracked, logged and inventoried by the District Executive Officer, SOS and SES Lieutenants.
- IV. PROPONENT UNIT:** Training Academy.
- V. CANCELLATION:** This directive cancels Index Code 406, dated 01-24-08.

Taser™ Guidelines

309.1 PURPOSE AND SCOPE

When properly applied in accordance with this policy, the Taser™ is considered a less-lethal device which is intended to temporarily incapacitate and permit control of a violent or potentially violent individual, or an individual demonstrating the intent to harm himself/herself, without causing serious injury. While it is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects, it is important to remember that the use of a Taser has the potential to result in serious injury or death. The use of the Taser must comply with other relevant department policies, including those involving use of force, and is a reportable use of force.

309.2 GENERAL GUIDELINES

An officer who has completed department approved training may be issued a Taser for use during his/her current assignment. An officer leaving a particular assignment may be expected to return his/her issued device to the department's inventory.

Officers shall only use a Taser and cartridges that have been issued by the Department. The device will normally be carried as a part of an officer's equipment in an approved holster. Alternatively, a plainclothes officer or an officer working a specialized assignment may carry the Taser secured in the officer's vehicle so that it is readily accessible at all times.

- (a) If the Taser is carried as a part of a uniformed officer's equipment, the Taser shall be carried on the side opposite from the officer's duty weapon.
- (b) All Tasers shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (c) Whenever practical, an officer should carry at least two Taser cartridges on his/her person at all times while carrying a Taser.
- (d) Each officer is responsible for insuring that his/her issued Taser is properly maintained and in good working order at all times.
- (e) An officer should never hold both a firearm and the Taser at the same time unless lethal force is justified.

309.3 VERBAL AND VISUAL WARNINGS

Unless it would otherwise endanger safety or is impractical due to circumstances, an explicit verbal announcement of the intended use of the Taser shall precede the application of a Taser in order to:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with warning that a Taser may be deployed.

If, after a verbal warning, an individual continues to express an unwillingness to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical under the circumstances, the officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the Taser) or the aiming laser in a further attempt to gain compliance prior to the application of the Taser. The laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

The fact that a verbal and/or other warning was given, or reasons it was not given, shall be documented in any related reports.

309.4 USE OF THE TASER

As with any law enforcement equipment, the Taser has limitations and restrictions requiring consideration before its use. The Taser should only be used when its operator can safely approach the subject within the operational range of the Taser. Although the Taser may be generally effective in subduing most individuals, officers should be prepared with other options in the event it is not effective.

Because the application of the Taser in the "Drive Stun" mode (i.e., direct contact without probes) affects a smaller area of the body and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited. Application of the Taser in the Drive Stun mode is effective as a method to complete the circuit when one of the probes fails to connect with the subject.

309.41 AUTHORIZED USE OF THE TASER

Authorized personnel may use the Taser only when circumstances known to the individual officer at the time indicate that the application of the Taser is reasonable to subdue or control:

- (a) a person who the officer reasonably believes creates an immediate, credible threat to the physical safety of himself/herself, the officer, or another person; or
- (b) a person who engages in, or displays the intent to engage in, aggressive physical resistance to a lawful police action; or
- (c) a person who has been placed under arrest or is so advised but engages in active physical resistance exceeding officers' ability to control him/her using strength or control holds. A Taser may be used to gain control of such a person in lieu of engaging in a struggle with him/her that would risk greater injury to the subject or officers than use of the Taser; or
- (d) a person who flees from arrest for a crime for which a person would normally be taken into custody, in lieu of using another force option more likely to result in injury to the subject or officer, such as tackling or striking. The fact that a person is fleeing should not be the sole justification for use of a Taser. Officers should consider the severity of the offense, the threat the person poses to others, the person's history of violent behavior, what other options are available to apprehend the individual, and other relevant circumstances to determine whether the use of a Taser is reasonable for the situation.

"Aggressive physical resistance" as used in this section means physical actions which attack or threaten to attack the officer, coupled with the ability to carry out the attack, which may result in physical injury.

309.42 RESTRICTIONS ON TASER USE

Even if authorized by §309.41, the use of the Taser is restricted under the following circumstances:

- (a) The Taser should not be used against the individuals listed below, who may be more susceptible to injury, unless one of the listed exceptions exists.
 - Females who are known to be, or who obviously are, pregnant

- Elderly individuals or young children (e.g., obviously less than 12 years of age)
- Individuals who are known to be, or who obviously are, medically fragile
- Individuals who have been recently sprayed with alcohol-based OC spray or who are otherwise in close proximity to, or contaminated with, flammable liquids or gasses
- Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles, in or near a pool or body of water)

Exceptions that would permit the use of the Taser in these circumstances are:

- The person is armed with a dangerous weapon;
- The person is engaging in suicidal behavior; or
- The person cannot be safely controlled with other available force options.

(b) A Taser shall not be used at a demonstration or protest without authorization of the Chief of Police or designee unless its use is reasonably necessary to prevent injury to the officer or another person.

(c) A Taser shall not be used against persons engaged only in verbal or passive resistance. For purposes of this policy, "passive resistance" means non-compliance with an officer's orders unaccompanied by any active or physical resistance. A Taser may be used against an individual who has been advised that s/he is under arrest and who is resisting arrest by holding onto an object if the only other option(s) available to the officer to take the person into custody would likely result in significant injury to the person, an officer, or another person. In this circumstance, the Taser should be used in "drive stun" mode, and only to the extent required to have the person release his/her hold.

(d) A Taser shall not be used on individuals who are handcuffed or otherwise restrained, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion. Officers using the Taser on a restrained individual should consider using the Taser in "drive stun" mode and only to the extent required to gain control of the person.

(e) Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms of "excited delirium" (e.g. nudity, profuse sweating, irrational behavior) may be more susceptible to certain medical problems and should be closely monitored following the application of the Taser until they can be examined by paramedics or other medical personnel. Following use of a Taser, officers should use a restraint technique that does not impair respiration and will summon EMS to examine the individual as outlined in §309.5.

(f) A Taser shall not be used as a prod or escort device, or to arouse unconscious, impaired, or intoxicated individuals.

(g) Officers should not intentionally aim for the head, neck, or groin.

(h) The Taser shall not be used punitively, or to harass or inflict undue pain on any individual.

309.43 MULTIPLE APPLICATIONS OF THE TASER DEVICE

Multiple Taser activations or activations exceeding the standard five-second duration may increase the risk of injury or death and should be avoided when possible.

If, after a single application of the Taser, an officer is still unable to gain control of an individual and circumstances allow, the officer should consider whether or not the Taser is making proper contact, whether the Taser is limiting the person's ability to comply, or if other tactics may be more appropriate or effective. After each application of the Taser, the officer should weigh the circumstances involved to determine whether an additional Taser discharge would be appropriate under provisions of this policy. When practical, officers should give a verbal warning prior to each activation.

Only one officer at a time should discharge his/her Taser at a person. If more than one Taser is unholstered for potential use, officers should communicate with each other in order to prevent multiple discharges or a sympathetic discharge of additional Tasers. If practical, officers assisting a Taser operator will attempt to gain physical control of a subject while the Taser is being activated or immediately thereafter.

The number of Taser applications should not exceed three. For purposes of this section, "application" means that the Taser probes or contacts appear to have effectively connected with the subject as intended. If officers have not achieved reasonable control of the person following three applications of the Taser, other options should be employed.

309.44 REPORT OF USE

All Taser discharges shall be documented in the related arrest/crime report and on the Taser report form. Accidental discharges of a Taser cartridge will also be documented on the Taser report form. Any report documenting the discharge of a Taser cartridge will include the serial number(s) of the cartridge(s) used and an explanation of the circumstances surrounding the discharge.

Specific details will be included articulating the rationale for Taser use when, during a given incident:

- A Taser is applied more than once, or the Taser is applied for a total length of time exceeding 15 seconds, during an incident;
- More than one Taser is used against an individual; or
- A Taser is used against an individual fitting one of the categories outlined in §309.42(a).

The Taser report form will also be used to report a situation in which a verbal warning of potential Taser use was issued and compliance gained without an actual Taser discharge.

The on-board Taser memory will be downloaded through the dataport by the supervisor, and saved with the related arrest/crime report.

309.45 TASER CAM™

The TASER can be equipped with TASER Cam™ which is an audio-video recording device integrated into the power supply. The TASER Cam is activated any time the safety is in the "off" position. The safety should not be in the "off" position unless the officer intends the use the device and the guidelines established in sections 309.3 and 309.4 are met. Any time the TASER Cam has been activated, the video and audio data should be downloaded in accordance with current department evidence procedures and referenced in any related report(s).

Taser Cam data will be handled and retained in the same way as in-car video data, except for those provisions which by their nature cannot apply (refer General Order 301.4).

309.46 SUPERVISOR RESPONSE

Whenever feasible, a sworn supervisor will respond to all incident scenes where a Taser is actually used against a person.

309.47 DEFENSE AGAINST TASER

If a person armed with a Taser or similar device uses or threatens to use the device against an officer, the officer or another officer may use reasonable force to defend the officer in order to avoid becoming incapacitated and risking the possibility that the person could gain control of the incapacitated officer's firearm.

309.48 USE WITH ANIMALS

The Taser may be used to defend against an aggressive animal which poses a threat to the officer, another person, a police service dog, or an assistance animal as defined in ORS 346.680, or which is attacking another animal.

309.5 MEDICAL TREATMENT

Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser probes shall be medically cleared prior to being booked at a correctional facility. EMS will be summoned to examine individuals who have been subjected to the electric discharge of a Taser and/or struck by Taser probes when:

- the person is suspected of being under the influence of controlled substances and/or alcohol;
- the person is younger than 12 years of age, or older than 60 years of age;
- the person is known to be, or is obviously, pregnant;
- the person is known to be, or is obviously, medically fragile;
- the person is exhibiting symptoms of hyper stimulation or excited delirium;
- the person has received multiple Taser activations, or the combined length of Taser activations has exceeded 15 seconds;
- a Taser probe is lodged in a sensitive area (e.g., groin, female breast, near the eyes);
- the officer observes that the individual is experiencing any distress beyond what would normally be expected under the circumstances; or
- the person requests medical treatment or EMS response.

Because the Taser causes a person to undergo involuntary muscle spasms, officers should also be aware of the possibility of injuries due to falls, or from sudden or excessive muscular tension.

Officers who are trained to do so may remove the metal probes from a person struck with the Taser probes. If a person is struck with the probes in a sensitive area, the probes should be removed by a medical professional.

Prior to transitioning custody of a person who has received a Taser discharge to a correctional facility, hospital, or other facility, officers should advise the appropriate receiving party of the Taser deployment and any aftercare provided.

309.6 ACTIONS FOLLOWING TASER USE

If the Taser probes have contacted the person's skin, or if the Taser has been used in drive stun mode against the person's skin, take color photographs of the locations where the device was applied, as well as any other injuries related to the incident. Consent should be obtained before photographing personally sensitive areas. If a person adamantly opposes photographs of a sensitive area, document the refusal in the police report.

Absent extenuating circumstances, the cartridge(s), probes, and wires used may be discarded in an

appropriate manner. Probes which have penetrated the skin should be considered biohazards, and disposed of in the appropriate manner. At least three Anti-Felon Identification Tags (AFIDs) from each cartridge used will be collected and submitted as evidence.

309.7 REVIEW OF TASER USE

Each report of use of a Taser will be reviewed by the lieutenant in the officer's chain of command to determine whether the use was in compliance with department policy.

309.8 TRAINING

In addition to the initial department approved training required to carry and use a Taser, personnel carrying the Taser must receive annual recertification. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Manager.

PROCEDURAL ORDER

Las Vegas Metropolitan Police Department
Partners with the Community

TO :	ALL PERSONNEL	Nov. 4, 2004	Directive No. PO-43-04
SUBJECT :	USE OF THE TASER®		Effective Date Nov. 15, 2004
Additional Information :	Revises PO-02-04. Changes appear in <i>italics</i> .		
Accreditation Standards :	1.3.4, 1.3.5, 1.3.6, 1.3.7, 1.3.9, 1.3.10, 1.3.11	Dept. Manual Reference:	6/003.00
Approval Signature :		Bill Young, Sheriff Douglas C. Gillespie, Undersheriff	

It is the policy of this department to authorize the use of the TASER® as a use of force option. The TASER® falls into Level Three of the force options and is considered a non-lethal use of force..

DEFINITIONS

TASER®	An electro-muscular disruption weapon that disrupts the body's ability to communicate messages from the brain to the muscles causing temporary motor skill dysfunction to a subject.
Drive Stun	A secondary function of the TASER® is to stun a subject by making direct contact with the body after the air cartridge has been expended or removed.
Air Cartridge	A replaceable cartridge for the TASER® which uses compressed nitrogen to fire two barbed probes on thin connecting wires sending a high voltage/low current signal into a subject.

GENERAL

Department members are not authorized to draw or display the TASER®, except for training, unless the circumstances create reasonable belief that it may be necessary to use it. The TASER® will be handled in the same manner as a firearm and will be secured prior to entering any detention facility.

There are three separate types of reportable TASER® applications

1. Spark Display - A non-contact demonstration of the TASER's® ability to discharge electricity. This is conducted only when the cartridge has been removed from the weapon. The purpose of this display is to convince the subject to comply with a lawful order and avoid the TASER® being deployed in the Drive Stun or Probe mode.
2. Drive Stun - Contact is made by pressing the front of the TASER® (cartridge removed) into the body of a subject resisting lawful orders, and activating the TASER®. The Drive Stun causes significant localized pain in the area touched by the TASER® but does not have a significant effect on the central nervous system. The Drive Stun does not incapacitate a subject but may assist in taking a subject into custody. If a TASER® is fired using the cartridge, at a distance of less than three feet, the effect will be very similar to a Drive Stun.
3. Probe - The TASER® is most effective when the cartridge is fired and the probes/darts make direct contact with the subject. Proper application will result in temporary immobilization of the subject and provide the officer a "window of opportunity" in which to take the subject safely into custody. Optimum range for probe deployment is 7 to 15 feet with a 21 foot maximum distance. Deployment of the TASER® cartridge at distances of less than three feet will not result in temporary immobilization or central nervous system disruption.

The TASER® is one of the options available to officers. The TASER®, like the baton, OC spray or empty hand techniques may not be effective in every situation. 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.

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 (see 6/002.00, Use of Force, for definitions).

The TASER® will not be used:

1. when *the officer knows* a subject has come in contact with flammable liquids or is in a flammable atmosphere;
2. when the subject is in a position where a fall may cause substantial injury or death;

3. *punitively for purposes of coercion, or in an unjustified manner;*
4. *when a prisoner is handcuffed;*
5. *to escort or jab individuals;*
6. *to awaken unconscious or intoxicated individuals; or*
7. *when the subject is visibly pregnant, unless deadly force is the only other option.*

The TASER® should not be used in the following circumstances (unless there are compelling reasons to do so which can be clearly articulated):

1. *when the subject is operating a motor vehicle;*
2. *when the subject is holding a firearm;*
3. *when the subject is at the extremes of age or physically disabled, or*
4. *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.*

TRAINING AND CERTIFICATION

Defensive Tactics Instructors *who have been certified as TASER® instructors will be the only authorized persons to instruct on the TASER®.* Training will be conducted in accordance with department protocols. Officers authorized to use a TASER® must successfully complete an initial certification training course, to include written and practical tests. Once certified, officers must attend annual re-certification training. *All Patrol Division officers, below the rank of lieutenant, must obtain certification training and carry the TASER® when in uniform.*

EQUIPMENT CARE AND HANDLING

Officers will use only authorized TASER® equipment issued by the LVMPD Supply Section. The TASER® will be inspected for damage and cleanliness, and batteries and cartridges replaced when required *by the officer.* *The battery display will be checked on the CID at the beginning of each shift. A reading of 20% or less will require the DPM/battery pack be changed. The DPM/battery pack will not be removed from the TASERS® except when the reading is 20% or less or to conduct a data download. The TASER® will never be stored more than 48 hours without the DPM/battery pack attached. When off duty, TASERS® must be stored and secured in a climate-controlled area (i.e. locker), not in a vehicle.*

Officers must conduct a spark check at the beginning of shift to ensure the TASER® will function properly. A spark check is an equipment check conducted outside of public view to ensure the TASER® is operable. It is conducted by removing the cartridge, test firing the weapon and observing the electrical arc. This spark check does not require completion of a use of force report.

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, crossdraw position is optional. Non-Uniformed officers will carry the TASER® in an approved holster on the side opposite the duty firearm. Officers have the option of carrying the standard DPM or the X-DPM which is an extended version, capable of carrying a spare TASER® cartridge.

P.D. DEPLOYMENT ONLY

Patrol Officer

1. Gives a warning, when practical, to the subject and other officers before firing the TASER® at the subject.
2. *Center mass of body should be primary target area, particularly the center mass of the back, as clothing tends to be tighter on this part of the body.*
3. *When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as a target.*
4. Attempts to avoid hitting the subject in sensitive tissue areas such as head, face, neck, groin, or female breast area, however probes penetrating these areas will be removed by medical personnel at a medical facility.
5. Ensures the probes are removed from the subject's skin by a TASER® certified officer.
6. *Use of the "Drive Stun" is discouraged except in situations where the "probe" deployment is not possible and the immediate application of the "Drive Stun" will bring a subject displaying active, aggressive or aggravated aggressive resistance safely under control. Multiple "Drive Stuns" are discouraged and must be justified and articulated on the Use of Force form. If initial application is ineffective, officer will reassess situation and consider other available options.*
7. Notifies detention medical personnel, at the time of booking, that the subject has been struck with TASER® probes or received a drive stun. *An examination will be conducted by detention medical personnel to determine whether the individual has suffered any injury, either directly from the TASER® discharge or indirectly, such as by falling after incapacitation.*
8. Makes notification to immediate supervisor whenever the TASER® has been used.

Communications

9. Makes notifications as requested.

Immediate Supervisor

10. Responds to the scene when a TASER® has been used.
11. Notifies the area lieutenant and/or watch commander when a TASER® has been used.
12. *Ensures photographs are taken of the site of the probe impacts and any related injuries and attached to the Use of Force Report.*

Area Lieutenant/Watch Commander

13. Responds to the scene if serious bodily injury resulted from the use of the TASER®, or other circumstances dictate.

DSD DEPLOYMENT ONLY

Corrections Sergeant or SERT Team Officer

1. Responds to the scene with at least two cartridges.
2. Considers other alternatives to resolve the incident before deploying the TASER®.
3. Ensures sufficient back-up officers are present prior to use.
4. Gives a warning, when practical, to the inmate and other officers before targeting and firing the TASER® at an inmate.
5. *Center mass of body should be primary target area, particularly the center mass of the back, as clothing tends to be tighter on this part of the body.*
6. *When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as a target.*
7. *Attempts to avoid hitting the subject in sensitive tissue areas such as head, face, neck, groin, or female breast area, however probes penetrating these areas will be removed by medical personnel.*
8. *Ensures the probes are removed from the subject's skin by a TASER® certified officer.*
9. Video tapes non-emergent deployments pursuant to division procedures.
10. *Use of the "Drive Stun" is discouraged except in situations where the "Probe" deployment is not possible and the immediate application of the "Drive Stun" will bring a subject displaying active, aggressive or aggravated aggressive resistance safely under control. Multiple "Drive Stuns" are discouraged and must be justified and articulated on the Use of Force form. If initial application is ineffective, officer will reassess situation and consider other available options.*
11. Notifies the corrections lieutenant and medical staff to respond to the scene of a TASER® deployment.
12. Ensures photographs are taken of the site of the probe impacts and any related injuries.

DSD Medical Staff

13. *An examination will be conducted by DSD medical personnel to determine whether the individual has suffered any injury, either directly from the TASER® discharge or indirectly, such as by falling after incapacitation.*

POST-DEPLOYMENT

Police Officer/Corrections Officer

1. Handles the probes the same as contaminated needles and sharps in accordance with department biohazard disposal procedures (*see Department Manual section 5/110.10*). *Impounds all probes removed at a medical facility.*
2. Completes Use of Force Report, LVMPD 156 (Automated) in accordance with Department Manual Section 6/002.00, Use of Force, whenever a TASER® is fired, whether a subject is struck or not, when the *drivestun mode is used on a subject or when a spark demonstration is conducted. Attaches any photos to original copy of the report.*
3. *Presents TASER® to supervisor for data download prior to end of shift if a reported use of force incident occurs.*
4. *Forwards a copy of the Use of Force Report to the bureau/area commander.*

Supervisor

5. Ensures the officers complete reports and that required photographs are taken.
6. Verifies the probes are disposed of properly and arranges for replacement cartridges.
7. *Downloads the data record of the TASER® prior to the end of shift in which a reported use of force incident occurs and saves data to the appropriate file. (Note: This file is not currently available; Information Technologies is in the process of establishing it. In the meantime, the TASER® download should be made and attached to the Use of Force Report. Notification will be made and instructions provided when the automated system is available.)*

Bureau/Area Command Supervisor

8. *Ensures data of TASER® has been downloaded, Use of Force report is complete, accurate and forwarded to the*

Internal Affairs Section according to department protocols.

9. Ensures a control log is maintained for weapon/cartridge check-out and check-in, and weapon repairs.
(1/04, 11/04) ■

SM