



POLICE DEPARTMENT
City of Benicia

SANDRA SPAGNOLI
Chief of Police

April 10, 2008

Ramona Garrett
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Avenue
Fairfield, CA 94533

Honorable Judge Ramona Garrett:

I have reviewed the Solano County Grand Jury's report issued April 2, 2008 entitled "Taser Use in Solano County." I am responding pursuant to, and in the manner described in, California Penal Code Section 933.05.

Finding 1:

Each Law Enforcement agency in Solano County now has a written policy governing the use of Tasers.

The Benicia Police Department has a taser policy that outlines the use of the taser, reporting taser applications, medical treatment and employee training.

Recommendation 1:

The policy should be reviewed and updated as appropriate.

The Benicia Police Department updates our policy manual on a regular basis and conducts an annual review of all policies, including the taser policy. We are currently contracting with the company LEXIPOL to ensure all our policies are contemporary and meet or exceed the minimum legal requirements of the law.

If there are any further questions regarding this issue, please have your staff contact Captain Steve Mortensen at (707) 746-4262 or via e-mail at smortensen@ci.benicia.ca.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Spagnoli". The signature is fluid and cursive, with the first name being more prominent.

Sandra Spagnoli
Chief of Police

CC: Jim Erickson, City Manager

TASER™ Guidelines

309.1 PURPOSE AND SCOPE

When properly applied in accordance with this policy, the TASER™ device is considered a non-deadly control device which is intended to temporarily incapacitate a violent or potentially violent individual without causing serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

309.2 POLICY

Personnel who have completed department approved training may be issued a TASER for use during their current assignment. Personnel leaving a particular assignment may be expected to return their issued device to the department's inventory.

Officers shall only use TASER and cartridges that have been issued by the Department. The device may be carried either as a part of a uniformed officer's equipment in an approved holster or secured in the driver's compartment of the officer's vehicle so that it is readily accessible at all times.

- (a) When the TASER is carried as a part of a uniformed officer's equipment, the TASER be carried on the side opposite from the 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, officers should carry a total of two or more TASER cartridges on their person at all times while carrying a TASER.
- (d) Officers shall be responsible for insuring that their issued TASER is properly maintained and in good working order at all times.
- (e) Officers 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 officer safety or is impractical due to circumstances, a 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 laser in a further attempt to gain compliance prior to the application of the TASER. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair their 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.

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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 rarely fails and is generally effective in subduing most individuals, officers should be aware of this potential and be prepared with other options in the unlikely event of such a failure.

Authorized personnel may use the TASER 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 violent or physically resisting subject, or
- (b) A potentially violent or physically resisting subject if:
 - 1. The subject has verbally or physically demonstrated an intention to resist; and
 - 2. The officer has given the subject a verbal warning of the intended use of the TASER followed by a reasonable opportunity to voluntarily comply; and
 - 3. Other available options reasonably appear ineffective or would present a greater danger to the officer or subject.
- (c) Although not absolutely prohibited, officers should give additional consideration to the unique circumstances involved prior to applying the TASER to any of the following individuals:
 - 1. Pregnant females.
 - 2. Elderly individuals or obvious juveniles.
 - 3. Individuals who are handcuffed or otherwise restrained.
 - 4. Individuals who have been recently sprayed with alcohol based Pepper Spray or who are otherwise in close proximity to any combustible material.
 - 5. Passively resisting subjects.
 - 6. Individuals whose position or activity may result in collateral injury (e.g. falls from height, operating vehicles).
- (d) 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 collateral problems and should be closely monitored following the application of the TASER until they can be examined by paramedics or other medical personnel.
- (e) Because the application of the TASER in the Drive Stun mode (i.e. direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited.

The TASER shall not be used to torture, psychologically torment or inflict undue pain on any individual.

309.41 MULTIPLE APPLICATIONS OF THE DEVICE

If, after a single application of the TASER, an officer is still unable to gain compliance from an individual and circumstances allow, the officer should consider whether or not the probes or darts are making proper contact, or if the use of the TASER is limiting the ability of the individual to comply, or if other options or tactics may be more appropriate. This however,

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shall not preclude any officer from multiple, reasonable applications of the TASER on an individual.

309.42 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 cartridge's serial number and an explanation of the circumstances surrounding the discharge.

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

309.5 MEDICAL TREATMENT

Individuals who have been subjected to the electric discharge of a TASER and/or struck by TASER darts and who are also suspected of being under the influence of controlled substances and/or alcohol should also be examined by paramedics or other qualified medical personnel as soon as practicable. Any person who has been subjected to the electric discharge of a TASER and/or struck by TASER darts shall be medically cleared prior to booking. If any such individual refuses medical attention, such a refusal shall be fully documented in related reports and, whenever practical, should be witnessed by another officer and/or medical personnel. If an audio recording is made of contact or an interview with the individual, any refusal should be included, if possible.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, imperviousness to pain or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable. Any individual exhibiting signs of distress after such an encounter shall be medically cleared prior to booking.

309.6 TRAINING

In addition to the initial department approved training required to carry and use a TASER, any personnel who have not carried a TASER as a part of their assignment for a period of six months or more shall be recertified by a department approved TASER instructor prior to again carrying or using the device. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by any department supervisor.