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CITY OF VACAVILLE

650 MERCHANT STREET, VACAVILLE, CALIFORNIA 95688-6908

ESTABLISHED 1850

August 15, 2005

The Honorable Peter B. Foor
Presiding Judge of the Superior Court
Solano County Superior Court
600 Union Avenue
Fairfield, California 94533

Dear Judge Foor:

Pursuant to Penal Code Section 933.05, I am writing to respond to the Findings and Recommendations contained in the 2004-2005 Grand Jury Report (dated June 21, 2005), entitled: An Analysis of Law Enforcement use of Tasers in Solano County - "How Much Force is Enough?"

Finding # 1 - Based on the police taser reports submitted to the Grand Jury and witnesses' testimony, it appears that Solano Law Enforcement policies in general focus more on using the taser rather than under what circumstances tasers are to be used.

Recommendation # 1 - Even though police agencies like Vallejo, Fairfield and Dixon have better written policies and procedures, all Law Enforcement agencies in Solano County should reevaluate their EMDT (Electro-Muscular Disruption Technology) procedures and consider the nine-step IACP (International Association of Chiefs of Police) deployment strategy.

Response: We agree with Finding #1, and the Vacaville Police Department has already implemented Recommendation #1. Based on our review of the IACP nine-step Taser deployment strategy and other documents, including policies from other law enforcement agencies, the Vacaville Police Department has recently modified its Use of Force policy. The policy is in draft form (pending review by the Vacaville Police Officers' Association). It should be formally published and training of all sworn personnel on the new policy should commence within the next 30 days. A copy of the draft policy is attached to this response.

Relative to the use of the Taser, the modified policy sets forth when a Taser may not be deployed. For example, the draft policy includes the following statements:

DEPARTMENTS: Area Code (707)

TDD (707) 449-5162 or California Relay Service 7-1-1

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Administrative Services 449-5101	City Attorney 449-5105	City Manager 449-5100	Community Development 449-5140	Community Services 449-5654	Fire 449-5452	Housing & Redevelopment 449-5660	Police 449-5200	Public Works 449-5170
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1. The Taser may be used when an officer perceives an overt act of aggression or threat of danger from another person towards the officer, the subject, or another person and when such force reasonably appears justified and necessary.
2. The Taser should not be used on a restrained subject unless the actions of the subject present an immediate threat of physical injury to the officer, the subject, or another person and no other reasonable means to further restrain the subject is available.
3. The Taser shall not be used when the subject is in danger of falling from a significant height or into a body of water which presents a drowning risk.
4. The Taser should not be used when there is a reason to believe the subject was exposed to flammable liquids or they are in a flammable or explosive environment.
5. Officers shall evaluate whether the use of the Taser is appropriate based upon the subject's age or physical condition (i.e., pregnant, physically handicapped).
6. The Taser shall not be used to recover evidence or compel a subject to surrender evidence.

Finding # 2 - In reviewing the Taser reports submitted, there were some use of the devices that appeared to violate the individual departments' written policies and procedures.

Recommendation # 2 - Agencies should write clear and concise policies and procedures to address the use of the EMDT, including methods for measuring success and reporting incidents.

Response - We agree. As previously noted, the Vacaville Police Department has already modified its Use of Force policy, and particular emphasis was placed on improving and clarifying the section pertaining to use of the Taser. The provisions of the new policy will be further clarified during training.

Finding # 3 - Based on some interviews and reports, some agencies condone the use of the EMDT for compliance.

Recommendation # 3 - The Grand Jury strongly recommends that the policy explicitly state guidelines where and when an EMDT can be used and when it should not be used (such as compliance or punishment).

Response - We agree. The Vacaville Police Department's draft Use of Force policy clearly sets forth specific circumstances under which the Taser should not be used (on a restrained subject, when the subject is in danger of falling from a significant height, when there is reason to believe the subject was exposed to flammable liquids, etc.).

Finding # 4 - Based on how the policy and procedures are written, incident reports and witnesses'

statements, there is insufficient information to support a definitive finding in Law Enforcement's management of taser usage.

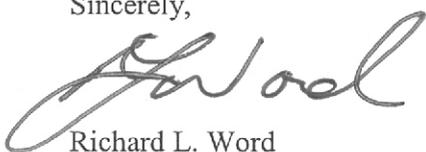
Recommendation # 4 - Agencies should reinforce in-house training by using some of the department's own taser reports as a training tool.

Response - We agree. In preparation for the re-training of all officers on the new Vacaville Police Department Use of Force policy, Officer Aaron Love recently asked all sworn personnel to submit actual Taser scenarios that he can use to establish a more current training curriculum. We absolutely agree that in-house training should be reinforced by using our own taser reports and other real-life Taser incidents experienced by other law enforcement agencies.

In closing, the Vacaville Police Department's Use of Force policy encourages officers to use verbal commands and warnings whenever possible prior to the use of any force against another person. Further, officers understand that they are to use only that amount of force reasonably necessary given the facts and circumstances perceived by them at the time of any given event.

We appreciate the Grand Jury's study of Taser use in Solano County, and I personally enjoyed the professionalism and openness displayed by the jurors during my testimony.

Sincerely,



Richard L. Word
Chief of Police

Attachment (A draft of Vacaville Police Department Policy No. 500 - Use of Force)

cc: Mayor Len Augustine, City of Vacaville
Vice Mayor Pauline Clancy, City of Vacaville
Councilmember Chuck Dimmick, City of Vacaville
Councilmember Steve Hardy, City of Vacaville
Councilmember Steve Wilkins, City of Vacaville
Mr. David Van Kirk, City Manager, City of Vacaville



500 Use of Force

PURPOSE AND SCOPE

This policy provides guidelines for the reasonable use of force.

POLICY

Officers shall only use the force that reasonably appears necessary, given the facts and circumstances perceived by the officer at the time of the event, to effectively bring an incident under control. Each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy. Officers are encouraged to use verbal commands and warnings when possible prior to the use of any force against another person.

CHEMICAL AGENTS

Chemical agents shall only be used by personnel trained in their use and in a manner consistent with Department policy and training. Chemical agents may only be used when an officer perceives an overt act of aggression or threat of potential danger from another person towards the officer, the subject, or another person and when such force reasonably appears justified and necessary. Chemical agents may be used to effect a lawful arrest when a suspect takes flight and such force reasonably appears justified and necessary to complete the arrest process.

TREATMENT FOR CHEMICAL AGENT EXPOSURE

Persons who have been affected by the use of chemical agents should be promptly provided with water to cleanse the affected areas. Persons who continue to complain about the affects of the chemical agent should be medically cleared prior to being booked into the Jail.

CAROTID RESTRAINT

The carotid restraint shall only be used by personnel trained in its use and in a manner consistent with Department policy and training. The carotid restraint shall only be used when lesser force has failed or would not reasonably appear to result in the safe control of a combative suspect. Medical attention will be sought as soon as practical for any person subjected to a carotid restraint.

IMPACT WEAPONS

Department authorized police impact weapons (baton or ASP) shall only be used by personnel trained in their use and in a manner consistent with Department policy and training. The impact weapon may be used when an officer perceives an overt act of aggression or threat of potential danger from another person towards the officer, the subject, or another person and when such force reasonably appears justified and necessary.

Items of safety equipment (flashlight, portable radio, citation book, etc.) used in an exigent circumstance as an impact weapon is a use of force and shall be subject to review with regard to the appropriateness and necessity of the action.



VACAVILLE POLICE DEPARTMENT

Use of Force - 500

TASER

The Taser shall only be used by authorized personnel trained in its use and in a manner consistent with Department policy and training. The Taser may be used when an officer perceives an overt act of aggression or threat of danger from another person towards the officer, the subject, or another person and when such force reasonably appears justified and necessary.

Employees assigned a Taser shall be responsible for the control and use of that device. The Taser should not be used on a restrained subject unless the actions of the subject present an immediate threat of physical injury to the officer, the subject, or another person and no other reasonable means to further restrain the subject is available. The Taser shall not be used when the subject is in danger of falling from a significant height or into a body of water which presents a drowning risk. The Taser should not be used when there is a reason to believe the subject was exposed to flammable liquids or they are in a flammable or explosive environment. Officers shall evaluate whether the use of the Taser is appropriate based upon the subject's age (i.e., small children, elderly) or physical condition (i.e., pregnant, physically handicapped). In some cases, other control techniques may be more suitable based on the subject's threat level to themselves or others. The Taser shall not be used to recover evidence or compel a subject to surrender evidence.

Officers shall not simultaneously draw and hold a Taser and firearm. The Taser is not to be carried on the same side as the officer's duty weapon and should not be drawn with the officer's gun hand. All Tasers shall be clearly and distinctly marked to differentiate them from the officer's duty weapon or any other piece of issued safety equipment. The Taser may be carried either as a part of the uniformed officer's equipment in an approved holster or secured in the officer's assigned vehicle. Commands and warnings should normally be given, when feasible, prior to using the Taser. An officer may display the Taser's arc when an officer reasonably believes it will avert a potentially dangerous or injurious situation and the officer has ensured that the Taser cartridge has been removed from the Taser. The display of the Taser's arc under these circumstances is not considered a discharge under this order. Officers who display the Taser's arc under these conditions shall document such use in the related crime or incident report.

MEDICAL TREATMENT FOR TASER DARTS

Taser probes can be removed by appropriately trained officers unless the darts are lodged in a highly sensitive area such as the eyes, nose, mouth, ear, or the genital area. Once removed the officer will confirm that both Taser darts are located and proper first-aid is administered. The used Taser darts shall be placed in a sharps container. Darts lodged in sensitive areas shall be removed by medically qualified personnel. Persons struck with Taser darts or injured by a probe shall be treated at a designated treatment hospital as soon as practical. Persons struck with one or more Taser probes shall be medically cleared prior to being booked into the jail.

EXTENDED RANGE IMPACT WEAPON (ERIW)

The ERIW shall only be used by authorized personnel trained in its use and in a manner consistent with Department policy and training. The ERIW may be used when an officer perceives an overt act of aggression or threat of potential danger from another person towards



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the officer, the subject, or another person and such force reasonably appears justified and necessary.

DISPOSITION OF ERIW DEVICES AND PROJECTILES

All damaged or inoperative ERIW devices and projectiles shall be returned to the Rangemaster for disposition, repair, or replacement. All normal maintenance, charging, and cleaning shall remain the responsibility of personnel issued an ERIW device. The ERIW cartridges and projectiles used during the arrest of a suspect shall be booked into evidence.

LETHAL FORCE APPLICATIONS

Lethal force is that force that may cause great bodily harm or death. Use of lethal force is justified in the following circumstances:

- An officer may use lethal force to protect themselves or others from what they reasonably believe would be an imminent threat of death or serious bodily injury.
- An officer may use lethal force to effect the arrest or prevent the escape of a suspected felon when the officer has probable cause to believe that the suspect poses a significant threat of death or serious bodily injury to the officer or others.

USE OF A FIREARM

Department personnel in the performance of their duties may discharge a firearm at another human being under the following circumstances:

- In self-defense when the officer has reasonable cause to believe that there is imminent danger of death or great bodily injury.
- In defense of another person when the officer has reasonable cause to believe that the other person is in imminent danger of death or great bodily injury.
- To effect an arrest, to prevent an escape, or to recapture an escapee when the officer has probable cause to believe that the suspect has committed or attempted to commit a violent felony involving the threat of death or great bodily injury and the officer has reasonable cause to believe that the felony suspect if allowed to escape may cause death or great bodily harm to an officer or to another person.

FIRING AT OR FROM MOVING VEHICLES

Officers shall not fire at or from a moving vehicle unless there is reasonable assurance that such firing will not endanger innocent persons and the suspect presents imminent danger of death or great bodily injury to the officer or another person.

USE OF AN ASSAULT RIFLE, SHOTGUN, OR AUTOMATIC WEAPON

The Department issued assault rifle, shotgun, or automatic weapon shall only be used by authorized personnel trained in their use and in a manner consistent with Department policy and training. The use of these weapons should be limited to situations when increased firepower, range, and/or accuracy appear reasonably necessary. When deploying these weapons, the supervisor or officer should consider the following factors:

- The type of crime that has been committed.
- The type and number of weapons accessible to the suspect.
- Whether or not the suspect is contained.
- The distance between the suspect and officers.
- The range and penetration capabilities of the weapon being deployed.
- The potential risk to bystanders by stray rounds or pellets.



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WARNING SHOTS

The use of warning shots is expressly discouraged. A warning shot shall not be discharged unless the officer reasonably believes that the use of such is necessary for officer safety and no other reasonable alternatives are available.

REPORTING DISCHARGE OF A FIREARM

When an officer discharges a firearm intentionally or accidentally, or in the performance of police duty, the officer shall notify the on-duty supervisor immediately. This requirement also applies when a discharge occurs off duty.

VEHICLE AS A WEAPON

The intentional striking of any person with a vehicle shall be considered as a use of lethal force.

REPORTING THE USE OF FORCE

Use of force by a Department employee shall be documented completely, promptly, and accurately in a crime report and a Department Use of Force Form completed when any of the following occurs:

- When the application of force appears to have caused physical injury, whether or not medical treatment was required.
- Any application of an impact weapon, OC, ERIW, Taser or other Department issued device or equipment used to apply force to effect an arrest.
- Any application of a strike to the individual (e.g., kick, leg sweep, punch, palm strike).
- When an individual was rendered unconscious.
- The discharge of a firearm.

NOTIFICATION TO SUPERVISORS

Supervisory notification shall be made as soon as practical following any of the above "use of force" circumstances.

MEDICAL ATTENTION FOR INJURIES SUSTAINED USING FORCE

Medical assistance shall be obtained for any person who has sustained a visible injury, expressed a complaint of pain, or been rendered unconscious.