

Incapacitating Weapons

Model Use of Force Policy

The Policy

1.1 – Key Concepts and Definitions

A. Key Concepts:

1. TASER energy weapons and other conducted electrical weapons (collectively “Tasers”) and pepper spray are incapacitating weapons used by officers to interrupt a person’s threatening behavior so that officers may take physical control of the person with less risk of injury to the person or officer than that posed by more severe force options.
2. Tasers are less-lethal weapons, but officers must be aware that Tasers can still inflict lethal injuries, and their use must be balanced with the need to subdue a person.
3. Pepper spray is a non-lethal weapon, but its use also presents risks to officers and individuals that must be balanced with the need to subdue a person.

B. Definitions:

1. **Available Information:** The information that was obtainable or accessible to an officer at the time of the officer’s decision to use force. When an officer takes actions that hasten the need for force, the officer limits their ability to gather information that can lead to more accurate risk assessments, the consideration of a range of appropriate tactical options, and actions that can minimize or avoid the use of force altogether.
2. **De-Escalation:** Taking action or communicating verbally or nonverbally during a potential force encounter in an attempt to stabilize the situation and reduce the immediacy of the threat so that more time, options, and resources can be called upon to resolve the situation without the use of force or with a reduction in the level of force necessary.
3. **Lawful Objective:** Limited to one or more of the following objectives:
 - a) Conducting a lawful search;
 - b) Preventing serious damage to property;
 - c) Effecting a lawful arrest or detention;
 - d) Gaining control of a combative individual;
 - e) Preventing and/or terminating the commission of a crime;
 - f) Intervening in a suicide or self-inflicted injury; and/or
 - g) Defending an officer or another person from the physical acts of another.

4. **Necessary:** Force is necessary only if there are no other available non-force options or less-forceful options to achieve a lawful objective.

5. **Reportable Force:** A use of force that must be reported to the Department.

6. **Resistance:** Officers may face the following types of resistance to their lawful commands:

Passive Resistance: A person does not attack or attempt to attack the officer or another person, and does not attempt to flee, but fails to comply with the officer's commands. Examples include, but may not be limited to, going limp, standing stationary and not moving following a lawful command, and/or verbally signaling their intent to avoid or prevent being taken into custody.

Active Resistance: A person moves to avoid detention or arrest but does not attack or attempt to attack the officer or another person. Examples include, but may not be limited to, attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the officer's grasp. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by an officer or purely defensive reactions to force does not constitute Active Resistance.

7. **Aggression:** Officers may face the following types of Aggression:

Active Aggression: A person's attempt to attack or an actual attack on an officer or another person. Examples include, but may not be limited to, exhibiting aggressive behavior (e.g., lunging toward the officer, taking a fighting stance, striking the officer with hands, fists, kicks). Neither Passive nor Active Resistance, including fleeing, pulling away, bracing, or tensing, constitute Active Aggression.

Aggravated Aggression: A person's actions that create an objectively reasonable perception on the part of the officer that the officer or another person is facing imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Aggravated Aggression represents the least encountered but most serious threat to the safety of officers or bystanders.

8. **Totality of Circumstances:** The totality of the circumstances consists of all facts and circumstances surrounding any event.

9. **Verbal Command:** A method of control that includes instruction or direction from an officer to an individual in the form of a verbal statement or command. The statement instructs a person to engage in or refrain from a specific action or non-action (e.g., "Put your hands behind your back").

10. **Verbal Persuasion:** A method of communication to persuade, as opposed to command, a person to refrain from a specific action or non-action and to persuade a person to voluntarily

1.2 – Requirements for Issuance of Tasers and Pepper Spray

A. Issuance

Tasers and pepper spray may be issued only to officers who have been trained on this Department's use of force policies, have demonstrated the required proficiency in the use of the weapons, and become certified as trained users of the weapons, and maintain their certifications on the weapons.

B. Training and Qualification

1. All training and certification for Tasers and pepper spray must be conducted by certified instructors.
2. *Training Programs.* Training programs on Tasers and pepper spray must be:
 - a) Approved by the police chief;
 - b) Consistent with the manufacturer's recommendations, as well as any laws and regulations that may be adopted relative to Tasers and pepper spray;
 - c) Consistent with the Department's training curriculum;
 - d) Consistent with the Department's use of force policy; and
 - e) For TASERs, adopted from the lesson plan established by the manufacturer Axon.
3. *Training Courses.* The courses must be approved by the supervisory officer responsible for the Department's training section. These courses may include:
 - a) The Department's training courses;
 - b) Manufacturer's certification courses; and
 - c) Approved certification courses taught by other agencies.
4. *Taser Training Frequency.* Officers selected to be authorized to carry and use a Taser must receive initial and annual training that meets or exceeds the approved training standards of Axon.
5. *Taser Instructor Training.* Instructors must have completed the manufacturer's instructor certification program and must be certified by the state's police officer standards and training organization.
6. *Failure to Attend Annual Training.* Any officer who fails to attend and satisfactorily complete annual training for Tasers shall not carry or use a Taser until completing the required course of instruction.
7. *Training Monitoring/Compliance.* The Department must track certification of officers to ensure there are no lapses in certification.

C. Designating a Taser Control Manager

The police chief should designate a Taser control manager. The Taser control manager must:

1. Coordinate with the necessary Department leaders to ensure basic certification, annual training, and recertification training, as well as maintenance of accurate records and notification of officers whose certifications are approaching expiration;
2. Receive, inspect and audit Tasers, account for their issuance to authorized personnel, and oversee maintenance of department Tasers and related equipment;
3. Develop and maintain a system to comply with all state law reporting requirements and monitor the overall Taser program to ensure compliance with those requirements;
4. Assist the firearm discharge investigation team [or the Department's nearest equivalent] as requested in connection with investigations into a Taser deployment;
5. Identify training needs, equipment upgrades, and recommended changes to Taser policy that should be considered as a result of the analysis.

1.3 – Storage, Testing, and Carrying of Tasers and Pepper Spray

A. Storage

Officers must treat Tasers and pepper spray as weapons. When not carried, officers must store Tasers and pepper spray securely in a manner consistent with the Department's standards. Officers may not store pepper spray in locations where temperatures exceed 120 degrees Fahrenheit.

B. Testing and Carrying Tasers

1. *Pre-shift Testing.* Officers must conduct a function, or spark, test before any shift or operation during which the Taser will be carried. The test must be conducted as follows:
 - a) Proceed to a safe or designated area, remove the Taser from its holster, and point it in a safe direction;
 - b) With the safety in the down (Safe) position, press and release both Arc switches simultaneously for the Taser to display its firmware version and the battery percentage. Officers should verify that there is adequate battery capacity;
 - c) Shift the safety switch to the up (Armed) position
 - d) Press either Arc switch to perform a spark test. The Taser will arc for five seconds and the electricity arcing across the electrodes should be visible from the top or side of the Taser;
 - e) Shift the safety switch to the down (Safe) position.
2. *Failure or Malfunction.* If the Taser does not arc or otherwise function as expected, the Taser must be taken out of service and the malfunction must be reported to the appropriate supervisor.

3. *Carrying*. Officers must carry the Taser in an approved, Department-issued holster on the support/weak side of the body, opposite the firearm side. Officers must ensure that the Taser is properly charged and prepared for immediate use. During loading, unloading, or in any circumstance other than a deployment against a person or an authorized testing or training, officers must point the Taser in a safe direction (typically toward the ground) with the safety switch engaged.

B. Carrying Pepper Spray

1. *Carrying*. Officers must carry pepper spray once it has been issued to them and it must be Department-approved pepper spray.
2. *Maintenance and Replacement*. Officers must maintain and manage the replacement of pepper spray issued to them.

1.4 – Authorization and Standard for Use of Pepper Spray

A. Authorization for Pepper Spray

The use of pepper spray is authorized only when there is a Lawful Objective, lower-level force options have been ineffective or are not available, the officer issues a verbal warning before using force, and the use of pepper spray is necessary to:

1. Subdue a person who exhibits Active Resistance or Aggression in a manner that is likely to result in injuries to themselves or others; or
2. Incapacitate a person who poses an imminent threat of physical injury to themselves, an officer, or another person.

B. Verbal Warning Before Using Pepper Spray

If feasible and safe, the officer should provide a verbal warning and allow a reasonable amount of time for the person to comply with the warning before deploying pepper spray. A verbal warning is not required if giving the warning would compromise the safety of the officer or others.

C. Standard for Using Pepper Spray

Any use of pepper spray must be limited to the minimum amount of force the officer believes is feasible to carry out a Lawful Objective, consistent with Available Information, and must be proportional to the totality of the circumstances. In deploying pepper spray, officers must:

1. Spray the pepper spray in two half-second bursts directed to the upper facial area of the person. Officers should not directly target the person's eyes.
2. Deploy the pepper spray while standing at least 3 feet from the person, except in an exigent situation, because a deployment within 3 feet increases the risk of self-contamination or contamination of others at the scene.

3. Allow a brief time for the pepper spray to take effect and for the person to comply before spraying an additional burst. A second burst is authorized only if the initial burst proves ineffective in subduing the person.
4. Justify each subsequent spray, after the initial application of pepper spray, as a separate application of force in the Department's use of force reporting.

D. Avoiding Use of Pepper Spray on Vulnerable Persons

Avoiding use of pepper spray on vulnerable persons. Officers must remain aware of the greater potential for injury when using pepper spray on certain categories of people. pepper spray should not be used on the following categories of people unless they pose an imminent threat of serious bodily injury to themselves or others:

1. Children;
2. Elderly individuals;
3. Persons believed to be pregnant
4. Persons with frail health; or
5. Persons with known respiratory conditions.

E. Prohibited Uses of Pepper Spray

Officers must not use pepper spray:

1. Against persons who comply with the officers' commands or exhibit only Passive Resistance;
2. On persons who are handcuffed, or otherwise restrained, unless the handcuffed person continues to pose an imminent threat of physical injury, either to themselves, an officer, or another person and the person cannot be controlled by any lesser force options;
3. In crowded areas, except with a supervisor's approval after taking into account all of the circumstances, including possible pepper spray exposure for bystanders;
4. To wake up a person, including an intoxicated individual;
5. To threaten or draw out information from a person; and/or
6. To prevent a person from swallowing narcotics.

1.5 – Authorization and Standard for Use of a Taser

A. Authorization for Taser

The use of a Taser is authorized only when there is a Lawful Objective, lower-level force options have been ineffective or are not available, the officer issues a verbal warning before using force, and the use of the Taser is necessary to:

1. Subdue a person who exhibits Active Resistance or Aggression in a manner that is likely to result in injuries to themselves or others; or
2. Incapacitate a person who poses an imminent threat of physical injury to themselves, an officer, or another person.

B. Verbal Warning Before Using Taser

If feasible and safe, the officer should provide a verbal warning and allow a reasonable amount of time for the person to comply with the warning before using the Taser. A verbal warning is not required if giving the warning would compromise the safety of the officer or others.

C. Standard for Using Taser

Any use of a Taser must be limited to the minimum amount of force the officer believes is feasible to carry out a Lawful Objective, consistent with Available Information, and must be proportional to the totality of the circumstances. This policy has specific standards for each of the typical Taser modes:

1. *Power On.* Officer turns on the Taser, activating the weapon's light and/or laser, sometimes known as the "laser and light" mode. Turning on the Taser is not, by itself, considered a use of force.
2. *Spark Activation.* Officer depresses an arc switch activating an electric arc. This mode may be used in response to Active Resistance or Aggression.
3. *Drive Stun Application.* Officer applies Taser directly to a person's body as a coercive, pain compliance technique. This mode may be used in response to Active Resistance or Aggression. In this mode, the Taser does not act as an electro-muscular disruptor and drive stun capabilities—such as whether the application can be used when the Taser's cartridges have been expended—depend on the Taser model.
4. *Full Deployment.* Officer visually and physically confirms that the weapon about to be used is a Taser and not a firearm. Officer depresses trigger, deploying primary probes at a person. A Full Deployment is comparable to an impact weapon strike and may only be used in response to Active Aggression or Aggravated Aggression.

D. Duration of Taser Deployment

A Taser may be applied for only the minimal amount of time necessary to bring the person under control. Officers are prohibited from applying the Taser for longer than a full five-second cycle without interruption. During this cycle, officers should take the opportunity to control, handcuff, or otherwise contain the person as quickly as possible.

E. Additional Applications of Taser and 15-second Maximum Limit

Additional applications of a Taser may be necessary if the person remains a threat to officers or others. Officers should be aware that a person may not be able to respond to commands during, or immediately

after exposure to a Taser cycle, and should give individuals the opportunity to comply. A Taser deployment must not exceed 15 seconds (3 cycles of 5 seconds each) and the fewest number of Taser cycles should be used to accomplish the Lawful Objective.

F. Preferred Deployment Target Areas

The Taser should be aimed at a preferred deployment target area, consistent with training and manufacturer Axon's recommendations. The Taser should not be intentionally aimed at a sensitive area, which includes the person's face, eyes, head, throat, chest area, or groin.

G. Avoiding Use of Taser on Vulnerable Persons

Officers must remain aware of the greater potential for injury when using a Taser on certain categories of people. A Taser should not be used on the following categories of people unless they pose an imminent threat of serious bodily injury to themselves or others:

1. Children
2. Elderly individuals
3. Persons believed to be pregnant
4. Persons believed to be equipped with a pacemaker or with known or obvious serious physical health problems, including cardio-neuromuscular diseases;
5. Persons in wheelchairs; or
6. Persons who appear to weigh under 80 pounds.

H. Prohibited Uses of a Taser

Officers must not use a Taser in the following situations:

1. When the incapacitation of the person is reasonably likely to result in death or serious bodily injury to the person or others;
2. Intentionally aiming the TASER's laser at a person's eyes;
3. On persons who are handcuffed, unless the handcuffed person continues to pose an imminent threat of physical injury, either to themselves, an officer, or another person and the person cannot be controlled by any lesser force options;
4. When a person is susceptible to severe falls or is climbing or jumping to or from a fence, wall, or other elevated structure; or
5. When a person is driving a motor vehicle, riding a bicycle, or adjacent to a body of water.

I. Taser as Deadly Force

Intentionally firing a Taser at a person's head or neck is a use of lethal force and is limited to circumstances in which this policy authorizes deadly force.

J. Potential Deadly Force Situations

If an officer deploys a Taser in a situation where there is a possibility that the encounter could rapidly become a situation where the use of deadly force may be necessary, a second officer should be designated as “lethal cover” and should be appropriately armed and positioned to employ deadly force if it is necessary and authorized under this policy.

K. Use of Taser on Aggressive Animals

A Taser can be effective on aggressive or dangerous animals when necessary to protect an officer, another person, or another animal from the actions of an aggressive animal. Such use of a Taser will depend upon the circumstances and must be documented. Officers who use a Taser on an aggressive animal should consider how to control the animal as the incapacitating effect of the Taser dissipates.

1.6 – Duty to Provide Medical Aid and Assistance; Avoiding Cross Contamination and Engaging in Decontamination After Use of Pepper Spray

A. Tasers

1. *Duty to Provide Aid.* In addition to the general duty to provide medical aid, an officer has the following duties with respect to the use of a Taser:
 - a) An officer must call EMS to evaluate the subject of a full Taser deployment. Persons subjected to a Taser must be examined by EMS personnel once in custody. If the probes penetrate the skin of the person, the EMS personnel will determine if they can safely remove the probes on scene, or if the individual should be transported to a hospital for removal;
 - b) If the individual is transported to a hospital, the officer must obtain a medical release from the hospital before transporting the person to a detention facility. EMS personnel will be advised of the nature of the force used during the event, including the number of Taser cycles, the duration, and if more than one Taser was used or if a barb on a Taser probe may have broken with a portion remaining under the person’s skin.
2. *Post-Deployment Monitoring.* The post-deployment monitoring of individuals subject to a Taser application is important. Officers must request EMS assistance immediately if one or more of the following conditions exist:
 - Disorientation, hallucinations/delusions, or intense paranoia;
 - Violent or bizarre behavior;
 - Elevated body temperature or diminished sensitivity to pain;
 - An officer used a Taser on a person classified as “vulnerable;”
 - Officers used more than one Taser on a person; or

- An officer exposed a person to three or more Taser cycles, or 15 seconds, or longer of continuous exposure.

3. *Probe Removal.* Probes may be removed after the person is restrained and secured. Officers must protect themselves and others from exposure to blood and must not attempt to remove probes from an uncooperative person. An officer must remove probes in accordance with training while taking necessary precautions for biohazards, including securing the probes in an appropriate container. Officers must not remove deeply embedded probes, or probes embedded in the head, neck, groin, or breasts of a person, or the abdomen of a person who indicates they are pregnant. EMS must be requested for removal of the probes in the above-referenced circumstances.

B. Pepper Spray

1. *Duty to Provide Aid.* In addition to the general duty to provide medical aid, an officer has the following duties with respect to the use of pepper spray:
 - a) The officer should have the person wash any contaminated areas of the skin with soap and water as soon as feasible and, at a minimum, have the affected areas of the person flushed with water within 20 minutes of the application of pepper spray. If the person wears contact lenses, the officer should instruct the person to remove them.
 - b) The officer must ask the person if they suffer from any respiratory diseases or problems, such as asthma, bronchitis, or emphysema.
 - c) The officer must monitor the person for signs of difficulty breathing, nausea, or other physical discomfort and must not leave the person unattended until the effects of the pepper spray have completely diminished, or the individual indicates they have fully recovered from the effects of the pepper spray. If the person displays respiratory problems, the officer should expose the person to fresh air, if possible, and the officer must seek medical attention immediately.
 - d) Under normal circumstances, the person's symptoms should disappear within 30 to 45 minutes. If the person's symptoms persist beyond 45 minutes, the officer must seek medical attention for the person.
2. *Avoidance of Cross-Contamination and Decontamination.* After resistance has ceased, the officer must inform the person that they will decontaminate the pepper spray application and that the effects of pepper spray are temporary. Officers involved in physically restraining the person should be careful not to contaminate themselves with residue from the person. Officers should keep their hands away from their faces and should wash their hands as soon as possible after contact.

1.7 – Reporting and Investigation

A. Documentation and Reporting

1. When an officer deploys a Taser or uses pepper spray, the officer must report the incident to their supervisor as soon as practicable. The deploying officer and witnessing officers must complete the appropriate use of force reports.
2. Officers must document in writing all incidents where they point a Taser or pepper spray at a person.

B. Evidence Collection

1. *Taser Probe and Cartridge Collection.* Taser probes and air cartridges must be collected and submitted as evidence in accordance with Department evidence-collection, packaging, and submission policies. The probes must be handled as appropriate for a biohazard to safeguard against any contamination by bodily fluids, while preserving evidence.
2. *Taser Data Download.* The Taser data download must be performed as soon as practicable and a report prepared by the Taser Control Manager.
3. *Body-Worn Camera Footage.* The body-worn camera footage of each officer present at the scene at the time the Taser was deployed must be collected and submitted as evidence in accordance with Department evidence-collection, packaging, and submission policies.

C. Investigation and Disposition

1. The firearm discharge investigation team must investigate any drive stun or full deployment of a Taser, other than for training purposes. The firearm discharge investigation team has sole responsibility for investigating firearm discharges involving a member of the Department.
2. Where the deployment of a Taser results in death or serious bodily injury, the Department must relinquish control of the investigation to the District Attorney's Office.