

Butte County DA's Office Bureau of Investigation

Policy 309

309.1

An Electro-Muscular Disruptive Device, commonly referred to as TASER, is intended to control a violent or potentially violent individual while minimizing the risk of serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects. The Butte County District Attorney's office does not currently own or issue TASER's there may be circumstance that require investigators to assist outside agencies in the deployment of a TASER. This policy is intended to cover future issuance of, or investigator use of, TASER's.

Investigators who have completed department-approved training may be issued a TASER for use during their current assignment. Officers assigned TASER's shall only use the TASER and cartridges that are issued by the Department. If the TASER is carried as part of an officer's equipment, the TASER shall be carried on the side opposite the officer's duty weapon.

- (a) All TASERs shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (b) Whenever practicable, officers should carry a total of two or more TASER cartridges on their person when carrying the TASER.
- (c) Officers shall be responsible for ensuring that their issued TASER is properly maintained and in good working order at all times.
- (d) Officers should never hold both a firearm and the TASER at the same time.

309.3 VERBAL AND VISUAL WARNINGS

A verbal warning of the intended use of the TASER should precede its application, unless it would otherwise endanger the safety of officers or when it is not practicable due to the circumstances. The purpose of the warning is for the following:

- (a) Provide the individual with a reasonable opportunity to voluntarily comply.
- (b) Provide other officers and individuals with a warning that a TASER may be deployed. If, after a verbal warning, an individual is unwilling 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 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 his/her vision

The fact that a verbal and/or other warning was given or reasons it was not given shall be documented by the officer deploying the TASER.

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 is generally effective in controlling most individuals, officers should be alert to the potential for failure and be prepared with other options.

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309.4.1 FACTORS TO DETERMINE REASONABLENESS OF FORCE

The application of the TASER is likely to cause intense, but momentary, pain. As such, officers should carefully consider and balance the totality of circumstances available prior to using the TASER including, but not limited to, the following factors:

- (a) The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
- (b) Officer/subject factors (i.e., age, size, relative strength, skill level, injury/exhaustion, number of officers vs. subject(s)).
- (c) Influence of drugs/alcohol (mental capacity).
- (d) Proximity of weapons.
- (e) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (f) Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
- (g) Seriousness of the suspected offense or the reason for contact with the individual.
- (h) Training and experience of the officer.
- (i) Potential for injury to citizens, officers and suspects.
- (j) Other exigent circumstances.

309.4.2 APPLICATION OF THE TASER

Authorized personnel may use the TASER when circumstances known to the individual officer at the time indicate that such application of the TASER is reasonable to control a person in any of the following circumstances:

- (a) The subject is violent or physically resisting.
- (b) A subject who, by words or action, has demonstrated an intention to be violent or to physically resist and who reasonably appears to present the potential to harm officers, him/herself or others.
- (c) Absent meeting the conditions set forth in (a) or (b) above, or a reasonable belief that an individual has committed or threatened to commit a serious offense, mere flight from pursuing officers shall not serve as good cause for the use of the TASER to apprehend an individual.

When using the TASER, best practice calls for another officer to be present to provide "lethal cover" in the event the TASER is not effective and the suspect's actions call for deadly force.

309.4.3 SPECIAL DEPLOYMENT CONSIDERATIONS

The use of the TASER should generally be avoided in the following situations unless the totality of the circumstances indicate that other available options reasonably appear ineffective, impractical, or would present a greater danger to the officer, the subject or others, and the officer reasonably believes that the need to control the individual outweighs the risk of using the TASER:

- (a) Pregnant females;
- (b) Elderly individuals or obvious juveniles;
- (c) Individuals who are handcuffed or otherwise restrained;
- (d) Individuals who have been recently sprayed with a flammable chemical agent or who are otherwise in close proximity to any flammable material; or
- (e) Individuals whose position or activity may result in collateral injury (e.g. falls from height, operating vehicles).

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. The application in drive-stun mode should be limited to brief applications in which pain compliance would reasonably appear necessary to achieve control. Repeated applications in the drive-stun mode should be avoided where it appears there is no benefit being obtained by its use. The TASER shall not be used to torture, psychologically torment, elicit statements or to punish any individual.

309.4.4 TARGETING CONSIDERATIONS

While manufacturers generally recommend, and investigators are expected to avoid intentionally targeting the head, neck, chest and groin, it is recognized that the dynamics of each situation and officer safety

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may not permit the officer to limit the application of the TASER darts to a precise target area. As such, officers should take prompt and ongoing care to monitor the condition of the subject if one or more darts strikes the head, neck, chest or groin until he/she is released to the care of paramedics or other medical personnel.

309.4.5 MULTIPLE APPLICATIONS OF THE DEVICE

If the first application of the TASER appears to be ineffective in gaining control of an individual and if circumstances allow, the officer should consider the following before additional applications of the TASER:

- (a) Whether the probes or darts are making proper contact.
- (b) Whether the application of the TASER is interfering with the ability of the individual to comply.
- (c) Whether verbal commands, other options, or tactics may be more effective. This, however, shall not preclude any officer from deploying multiple, reasonable applications of the TASER on an individual.

309.4. 7 REPORT OF USE

All TASER discharges shall be documented in the related arrest/crime report, the TASER report form and notification made to a supervisor in compliance with Policy § 300.4.1. Any report documenting the discharge of a TASER cartridge will include the cartridge serial number and an explanation of the circumstances surrounding the discharge. The onboard TASER memory will be downloaded and saved with the related arrest/crime report. Photographs of probe sites should be taken, Anti-Felon Identification (AFID) tags should be collected and the expended cartridge along with both probes and wire should be submitted by the officer collecting the cartridge into evidence for future reference. The cartridge serial number should be noted and documented on the evidence paperwork. The evidence packaging should be marked "Biohazard" if the probes penetrated the subject's skin.

309.5 MEDICAL TREATMENT

Absent extenuating circumstances or unavailability, only qualified, trained medical personnel should remove TASER darts from a person's body. Used TASER darts shall be considered a sharp biohazard, similar to a used hypodermic needle. Universal precautions should be taken accordingly.

All persons who have been struck by TASER darts or who have been subjected to the electric discharge of the device shall be medically assessed prior to booking. Additionally, any such individual who falls under any of the following categories should, as soon as practicable, be examined by paramedics or other qualified medical personnel:

- (a) The person is suspected of being under the influence of controlled substances and/or alcohol.
- (b) The person may be pregnant.
- (c) The person reasonably appears to be in need of medical attention.
- (d) The TASER darts are lodged in a sensitive area (e.g., groin, female breast, near the eyes).
- (e) The person requests medical treatment.

Persons who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond their physical characteristics, imperviousness to pain (sometimes called "excited delirium"), or who require a protracted physical encounter with multiple officers to be brought 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. If any individual refuses medical attention, such a refusal should be witnessed by another officer and/or medical personnel and shall be fully documented in related reports. If an audio recording is made of the contact or an interview with the individual, any refusal should be included if possible. The transporting officer shall inform any person receiving custody or any person placed in a position of providing care that the individual has been subjected to the application of the TASER. It should be recommended to the suspect to check personal medical records and update tetanus immunizations when appropriate to do so.

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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 the Training Coordinator. The Training Coordinator should ensure that all training includes the following:

- (a) A review of this policy;
- (b) A review of the Use of Force Policy § 300;
- (c) Target area considerations, to include techniques or options to reduce the intentional application of probes near the head, neck, chest, and groin;
- (d) De-escalation techniques; and
- (e) Removal of probes from non-sensitive areas as a result of a deployment.

309.7 ANNUAL AND BI-ANNUAL INSPECTIONS

The designated Less-Lethal Program Coordinator shall conduct a complete inspection and inventory of all Department TASER's annually and report to the Chief of Police via chain of command. Such inventory may be conducted during monthly Department training. The Defensive Tactics Program Manager shall inspect all TASER's and:

- (a) Conduct necessary service and maintenance;
- (b) Download the computerized history on each TASER; and
- (c) Re-set the internal time clock. Service and maintenance may be conducted during monthly Department training.