

RECOMMENDATION 111215-5

Rename and Revise Directive 1051.00, Electronic Control Weapon System, to Clarify When the Use of Conducted Electrical Weapons [Tasers] Is Authorized.

FULL TEXT:

Rename and Revise Directive 1051.00, Electronic Control Weapon System, to Clarify When the Use of Conducted Electrical Weapons [Tasers] Is Authorized:

Consistent with the Conducted Electrical Weapon policies of the Seattle Police Department and the New Orleans Police Department, the directive on the use of tasers should be renamed "Conducted Electrical Weapons (CEW)."

The revised directive should include most if not all of the policy provisions found in New Orleans Police Department, Chapter 1.3, Conducted Electrical Weapon (CEW) (attached).

A conducted electrical weapon (CEW), or taser, is a weapon. Directive 1051.00 should be rewritten to clarify when the use of the taser is authorized and include at least the following:

A taser in probe deployment is designed to stimulate a portion of the nervous system with sufficient electrical energy to bring about uncontrolled muscle contractions which override an individual's voluntary motor function. Drive stun mode occurs when the taser makes direct contact with the subject's body and does not override an individual's motor responses. It is intended to cause significant pain. Use of the taser in probe deployment is preferred in some circumstances over use in drive stun mode, which can only be used at close range and may cause marks and scarring.

Before resorting to the use of a taser, officers shall use all reasonable de-escalation techniques and tools which are available to them to avoid the use of such force.

Officers shall use tasers only when such force is necessary to protect the officer, the subject, or another party from physical harm, and other less intrusive means would be ineffective.

Tasers are only authorized to control a subject who is engaged in aggressive resistance or aggravated resistance as defined in Directive 1010.00, Use of Force, and there is a reasonable expectation that it will be unsafe for officers to approach the subject. In addition, each use of a taser must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Subject to Directive 1010.00, tasers are authorized if the subject has committed a crime of violence and is fleeing, and the person presents the potential to harm officers, himself/herself, or others. Mere flight from a pursuing officers, without known facts or

circumstances, is not sufficient cause for the use of a taser. In addition, the use of a taser on a fleeing subject must be objectively reasonable, necessary, and proportionate to the threat or resistance encountered, as required by Directive 1010.00.

Tasers are not authorized to control a subject who is only passively resistant or actively resistant as defined in Directive 1010.00, Use of Force.

Tasers are intended to control an aggressively resisting individual while minimizing the risk of serious injury.

Officers shall determine the reasonableness of taser use based on all facts or circumstances known to the officer at the time, including but not limited to the subject's age, size, physical condition, and the feasibility of lesser force options.

Use of a taser in the following circumstances is only authorized in situations where there is a risk of death or serious physical injury to the officer or third parties:

- a. When the suspect is in an elevated position where a fall is likely to cause substantial injury or death.
- b. When the suspect is in a location where the suspect could drown.
- c. When the suspect is operating a motor vehicle or motorcycle and the engine is running or is on a bicycle or scooter in motion.
- d. When an individual is handcuffed or otherwise restrained.¹
- e. When an individual is fully contained in a police vehicle.

Unless it would present a danger to the officer or others, officers shall issue a verbal warning, or attempt to utilize hand signals where there is a language barrier or the subject is deaf or hard of hearing, prior to deploying a taser. Officers shall give the subject sufficient time to comply with the warning before deploying the taser. A warning shall be given prior to each deployment of a taser.

Officers shall not target a subject's head, neck, chest, heart, or genital area. The center mass of the back to the buttocks is a viable target. Officers shall target below the ribcage down to the upper thigh, splitting the beltline, if possible. When encountering subjects wearing heavy or loose clothing on the upper body, the legs should be considered as targets.

¹ There is at least one member of the work group and possibly community members that do not favor the taser being used on someone who is in handcuffs or restrained under any circumstances. The subcommittee expects further discussion on this issue at the DSUFCS meeting on Monday.

The use of tasers for pain compliance against those suffering from mental illness or emotional crisis is prohibited, except when an objectively reasonable person would believe that immediate and serious bodily harm to a person or persons is about to occur, and then only to avoid the use of a higher level of force.

Only one taser at a time may be intentionally used on a subject, except where deadly force is authorized.

After once standard taser cycle (5 seconds), the officer shall reassess the situation to determine if subsequent cycles are necessary, including waiting for a reasonable amount of time to allow the subject to comply with the warning.

Officers should evaluate their force options and give consideration to other force options if a taser is not effective after two (2) cycles on the same person.

Officers shall make every reasonable effort to attempt handcuffing during and between each taser cycle. Officers should avoid deployments of more than two taser cycles unless an objectively reasonable person would believe that immediate and serious bodily harm to a person or persons is about to occur, and then only to avoid the use of a higher level of force.

If the taser is not effective after three (3) cycles on the same person, it shall not be used again on that person.

Except where deadly force would be authorized or where the officer has reasonable cause to believe there is an immediate risk of serious physical injury, officers shall not use tasers against:

- a. Visibly pregnant women;
- b. Elderly persons;
- c. Visibly frail persons;
- d. Young children (individuals perceived to be as young as 18);
- e. Individuals with obviously low body mass; and

Except when deadly force would be authorized, tasers shall not be used when deployment may cause serious physical injury or death from situational hazards. This may include falling, drowning, losing control of a motor vehicle, or igniting a potentially explosive or flammable material or substance.

The taser shall not be used in an indiscriminate manner in situations involving a large crowd (e.g., parade assignments or special events).

Officers are required to justify each application of a taser and why less intrusive levels of force were ineffective.

Close quarters deployment (a range closer than three (3) feet) may not provide adequate probe spread (the distance between probes) to allow the taser to function to its full effectiveness and should be avoided.

The taser shall not be used to torment, elicit statements from, or to punish any individual.

Prior to deploying a taser, an officer shall visually and physically confirm it is, in fact, a taser and not a firearm.

Officers should be cognizant of the risk of positional asphyxia following a taser application and avoid using a restraint technique or position that would impair a subject's respiration, such as the subject being on his or her stomach. Once controlled in police custody, the subject should be continually monitored for any signs of distress.

Officers shall summon medical aid whenever a subject has been struck with a taser.

Officers shall not remove taser barbs or probes that are embedded in flesh. Only emergency medical response personnel shall remove taser barbs or probes that are embedded in flesh.

Officers shall be certified on the use of tasers. Officers shall receive annual taser in-service training, including proficiency and policy changes, if any.