

DANGEROUSLY OUT OF BOUNDS

Taser Use in Nebraska

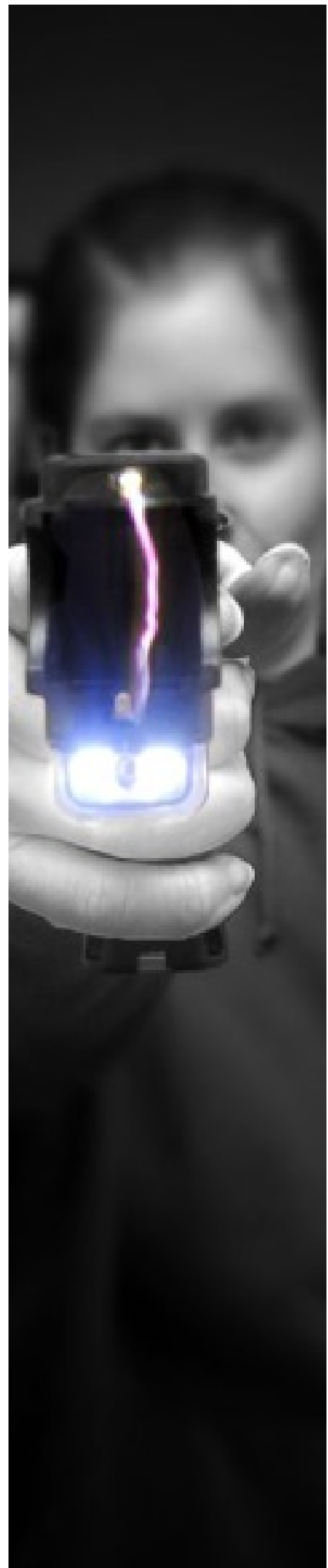


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Introduction

Nebraska law enforcement is dangerously out of bounds in Taser use. The practices in place across the state flout recommendations from the Taser corporation, the Department of Justice and police associations. This report outlines where Nebraska agencies are farthest afield from safe practices.

Tasers, the preferred brand of electronic control weapon (ECW) or electronic control device (ECD) for thousands of law enforcement agencies worldwide, incapacitate human targets through shocks of up to 50,000 volts of electricity that jolt the body's central nervous system. It is one of several less-than-lethal force options available to police alongside batons and pepper spray. A Taser offers a means of force that is more advanced than traditional police skills such as soft hand control (a grab or hold) or hard hand controls (punches or kicks).

Federal agencies, police organizations, and advocacy groups, citing the potential for misuse and overuse as well as serious injury and death, urge restraint from law enforcement officers when considering Taser deployment. Since the early 2000s, Tasers have become a ubiquitous tool in law enforcement officers' arsenal of "less-lethal" weapons. Taser International, the manufacturer of the device, states

77% of Nebraska incidents involved members of vulnerable populations.

on their website that their products have been used on humans over two million times.¹ However, Amnesty International has documented over 540 Taser-related deaths in the United States in the last thirteen years.² Critics assert that the device is consistently misused and abused by law enforcement.

Nebraska has had at least three reported Taser-related deaths: in 2005, David L. Moss was Tasered by Omaha Police while experiencing either a mental health episode or a reaction to drug use. In 2007, Omaha Police Tasered James C. Barnes despite the fact he was only wanted for misdemeanors and was near an open window when he was hit by the barbs. Barnes died from his injuries. The last known Taser death in Nebraska was an example of appropriate use of force by police: Lincoln police used a Taser on Gabriel Bitterman because he was holding a knife to his girlfriend's throat. The Taser caused nearly immediate cardiac arrest that proved fatal.

ACLU has been concerned with law enforcement Taser use for many years. In 2005, we issued a report identifying serious concerns about incomplete policies and inadequate training. Sadly, the ACLU study undertaken this

summer demonstrates those concerns have largely remained unaddressed by law enforcement leadership.

Vermont was the first state to address the problem of Taser misuse through a comprehensive bill passed earlier this year. This law largely complies with expert recommendations on proper Taser safety.

National organizations, such as the Police Executive Research Forum (PERF) and Office of Community Oriented Policing Services (COPS) at the Department of Justice have produced clear guidelines on how Tasers should be used.³ In addition, Taser International incorporates many of these recommendations into their training manual, now in its eighteenth version.⁴ Nevertheless, Nebraska law enforcement policies vary widely in their compliance with these guidelines.

Experts at PERF and COPS at the DOJ warn that members of certain vulnerable groups “may be at a heightened risk for serious injury or death when subjected to ECW [electronic control weapon] application.”⁵

Given the potential lethal nature of the Taser, these devices have been the subject of intense government scrutiny, including a review of all Taser-related deaths.⁶ The device should be used

responsibly, particularly in hazardous situations, to prevent serious injury to the subject. It should be used “only against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer’s judgment, is likely to result in injuries to themselves or others.”⁷ Passively resisting subjects should not be Tasered according to these experts.⁸ Yet approximately 65% of the Nebraska Taser incidents examined in this report did not involve active aggression or active resistance that was likely to cause injury. These actions contravene best practices.

This report makes several recommendations: First, Nebraska law enforcement agencies must update their policies on Taser use to comply with expert recommendations and then train all officers accordingly. The policies should improve how vulnerable populations are treated as well as educate officers about how to decrease the possibility of Taser-related death or injury. Second, Nebraska needs uniformity in Taser use across the state. Legislation such as the Vermont act would provide clear accountability to all agencies. Finally, we recommend more uniformity in data collection so that study of Taser incidents by law enforcement leadership as well as outside experts can be more thorough.

What the Experts Say

In association with the Police Executive Research Forum and other law enforcement organizations, the Department of Justice has published numerous studies about Tasers that include guidelines for safe use. Due to the great physical and mental stress Tasers can inflict, law enforcement officers must exercise caution to ensure that Taser deployment is the most appropriate response to a given situation. These studies establish that certain populations are at a greater risk for serious physical injury or death.

The ACLU of Nebraska used the following criteria adapted from expert guidelines to evaluate the Taser policies and incidents provided by Nebraska law enforcement agencies.

- Taser deployment is only justified when a subject is exhibiting active aggression or actively resisting in a manner that will cause injury to themselves or others.
- Law enforcement officers must avoid using Tasers in a coercive or punitive manner, which means the avoidance of drive-stun mode and ensuring that multiple shocks are warranted.

- Targeting sensitive body areas—including the chest—can increase the risk of injury or death and thus should be avoided.
- Lastly, officers must be aware that members of vulnerable populations may be more susceptible to injury or death and should be Tasered only in extreme circumstances.

A. When Taser Use is Justified

Active aggression occurs when “The subject has battered or is about to batter an officer, and the subject’s action will likely cause injury.”⁹ Active resistance differs in that “The subject’s actions are intended to facilitate an escape or prevent an arrest,” and “The action is not likely to cause injury,” such as fleeing the officer.¹⁰ Passive resistance is defined as the failure “to obey verbal direction, preventing the officer from taking lawful action,” such as refusing to move.¹¹

The Department of Justice Office of Community Oriented Policing Services (COPS) and the Police Executive Research Forum (PERF) mandate that Tasers should only be used in cases of subjects who exhibit active aggression or active resistance that will lead to injuries for them or others.¹² Subjects who exhibit lower

levels of resistance, such as psychological intimidation, verbal noncompliance, or passive resistance, should not be Tasered.

Additionally, common acts of active resistance, such as fleeing arrest or attempting to destroy evidence, do not inherently warrant Taser use.¹³ In their training materials, Taser International refers to *Cavanaugh v. Woods Cross City*, a Tenth Circuit Court case which determined that ECD use “against a non-violent misdemeanor who appeared to pose no threat and who was given no warning” was unconstitutional excessive force.¹⁴

Nebraska has had its fair share of appropriate Taser use—consider the actions of Norfolk Police in 2010 when they entered an apartment and found a man standing over his dying girlfriend he had stabbed multiple times. Deployment of a Taser in this circumstance was appropriate to secure a dangerous situation.

B. Avoiding Abusive Taser Practices

In addition to deploying Tasers only when justified given the subject’s level of resistance, law enforcement officers must ensure that they are using the device itself properly and effectively. Tasers can be used in two different modes. In “probe mode,” the shocks are delivered through a pair of barbs that attach to the subject’s skin; in “drive-

stun mode,” the charge is delivered directly to the body through contact with the weapon. Probe mode is intended to immobilize subjects through neuromuscular incapacitation, while the purpose of drive-stun mode is to gain compliance through pain.¹⁵

COPS and PERF advise that drive-stun mode “may have limited effectiveness and, when used repeatedly, may even exacerbate the situation by inducing rage in the subject.”¹⁶ Tasers should not be used for punitive or coercive purposes, but only when necessary to incapacitate an aggressive or dangerous subject.

Police officers must ensure that they refrain from deploying Tasers in an abusive manner. Subjects who are already handcuffed or otherwise incapacitated should not be Tasered.¹⁷ Additionally, the DOJ states that “A warning should be given to a subject prior to activating the [ECD] unless doing so would place any person at risk.”¹⁸ Experts warn that multiple shocks, which are generally unnecessary, can increase the risk of cardiac arrest and other injuries.¹⁹ Taser International cautions that Taser “exposure for longer than 15 seconds ... may increase the risk of death or serious injury.”²⁰

C. Making Taser Use as Safe as Possible

Due to the unpredictable nature of police work, law enforcement officers frequently encounter situations in which simply Taser-ing a subject would be the easiest course of action. However, under certain circumstances, incapacitating a subject in a dangerous setting can lead to injury or even death. COPS and PERF warn that Taser-ing a fleeing subject is not inherently justified and that “Personnel should consider the severity of the offense, the subject’s threat level to others, and the risk of serious injury to the subject” before deploying the ECD.²¹

Additionally, there are times when a Taser is just not appropriate. For example, subjects who are in water may drown after being Tasered, subjects who are in the presence of flammable liquids or vapors that may combust and those who are operating a vehicle that may crash.²² The DOJ also warns that Tasers “should not be used when a subject is in an elevated position and a fall may cause substantial injury or death.”²³

When firing a Taser, law enforcement officers must also take care to not aim at a sensitive area of a subject’s body. In 2012, the American Heart Association released a study that closely examined eight cases and concluded “ECD stimulation can cause

cardiac electrical capture and provoke cardiac arrest.”²⁴

Taser International asserts that the back is always the preferred target area and discourages targeting the chest: “The further an ECD dart is away from the heart, the lower the risk of affecting the heart.”²⁵ Best practices encourage law enforcement officers be explicitly trained to refrain from firing the Taser at a subject’s chest area.

Lastly, the DOJ and other law enforcement policy organizations provide a list of vulnerable populations—groups of people who are at a greater risk of injury or death after Taser exposure. Naturally, officers should take caution to not Taser people with heart conditions.²⁶ Elderly persons, young children, and individuals who are disabled or visibly frail are also more susceptible to physical stress.²⁷ Pregnant women may be more likely to miscarry after Taser exposure.²⁸

Intoxicated individuals, who are already at a greater risk for arrest-related death due to their consumption of drugs and/or alcohol, may suffer injury or death from any metabolic or physiological change caused by the Taser, according to Taser International.²⁹

People experiencing mental crises should be Tasered with extreme discretion, given that subjects taking

certain psychiatric medications may have an increased risk of injury and the Taser shocks may only exacerbate their crisis.³⁰ Additionally, these individuals may not be capable of complying with police commands, which would render the Taser deployment ineffective. In

such instances, officers are advised to use de-escalation tactics and other types of force, such as empty hand controls or other intermediate weapons, to protect members of these vulnerable populations.

Method

The ACLU of Nebraska sent open records requests to several law enforcement agencies asking for use of force reports involving Tasers between January 2013 and May 2014 as well as any written policies regarding Tasers. Seven police departments, Bellevue, Grand Island, Hastings, Kearney, Scottsbluff, Seward and Plattsmouth, as well as three county sheriffs' departments, Adams, Douglas, and Sarpy provided us with their Taser policies and a total of 63 use of force reports.

Two agencies have failed to provide any information at all. The Lincoln and Omaha Police departments refused to provide even a copy of their policy or redacted incident reports. For that reason, this study evaluates the Lincoln Police Taser policy from 2009, which was the last year the agency was willing to publicly share the information. The disturbing refusal to provide transparency is part of a growing trend on the part of some agencies to place a veil of secrecy over their practices. The ACLU of Nebraska is preparing a lawsuit to obtain these Taser policies and anticipates legal action before the end of the year.

After obtaining the written policies and use of force reports, we evaluated them based on their

compliance with the expert guidelines detailed above.

A. Situational Factors and Guidelines to Consider

Each Taser policy was evaluated on how it addresses each of the following circumstances and aspects of Taser use, if at all:

- Subject is handcuffed or restrained
- Subject is fleeing or attempting to escape
- Presence of combustible liquids or materials
- Subject may fall to injury or death
- Taser is used to coerce or intimidate
- Officer announces warning before deployment
- Officer targets subject's chest
- Officer may use drive-stun mode

If the policy referred to the circumstance, we indicated whether officers are explicitly "allowed" or "not allowed" to use the Taser in such an instance, as well as whether they are "encouraged," "discouraged" or asked to "consider" a circumstance before deploying the Taser. If the policy made no mention of a certain provision, we indicated that the policy was "silent."

B. Subject Characteristics to Consider

Additionally, each Taser policy was evaluated for how it addresses the following vulnerable populations, if at all:

- Pregnant women
- The elderly
- Subjects who are disabled, infirm, or in obviously poor health
- Subjects who are very young
- Subjects who are under the influence of drugs or alcohol
- Subjects who are experiencing a mental crisis

C. Analysis of Use of Force Reports

Each of the 63 use of force reports received were reviewed and evaluated for their compliance with expert guidelines on Taser use, regardless of each department's official Taser policy. Because no two agencies used the same reporting form, it was not always possible to obtain all of the following information from every report.

The ACLU of Nebraska recorded, when available:

- The age, sex, and race of the Tasered subject
- Vulnerable population(s) status
- Drive-stun mode, probe mode, or both
- The targeted area of the subject's body
- The subject's level of resistance
- Handcuffed or otherwise incapacitated prior to Taser use
- Subjects experiencing a mental crisis
- Any special circumstances of the incident that would heighten risk of injury or death or further justify Taser use
- Whether a warning was given before deployment
- Other form of control, if any, attempted by law enforcement officers before Taser use
- Whether subject was engaged in active aggression and therefore Taser use was warranted, as per expert guidelines

As the above tables demonstrate, there is a striking lack of uniformity among Nebraska law enforcement agencies regarding proper Taser use. Every department is silent on at least one aspect covered by expert guidelines.

All these agencies must reform their policies to comply with expert recommendations and protect the public.

A. Coercion, Combustibles, Fall Hazards, and Handcuffed Subjects

While four agencies (Grand Island Police, Plattsmouth Police, Scottsbluff Police, Seward Police) explicitly do not allow Tasers to be used for coercion or intimidation, the remaining seven agencies are completely silent on this vital provision. For example, the Scottsbluff Police policy is clear and unambiguous: it forbids the use of the Taser “in a punitive or coercive manner.”

Most agencies in this study follow expert recommendations by explicitly discouraging or disallowing use of the Taser in the presence of combustible materials.

Several of the agencies follow expert recommendations and do not permit Taser use on subjects who may be at risk of a fall or who are already handcuffed. For example, Sarpy County does not permit the use of a Taser on a restrained or handcuffed subject unless

Punitive deployment of Taser for spitting.

Hastings Police Tasered someone (age, race and gender unknown) in 2007 for “spitting on officers.” Apparently this was retaliation for the fact the person had Hepatitis C. The very small transmission risk by spitting would never warrant such a punitive measure as Taser use on someone.

“he or she is actively resisting or exhibiting active aggression.”

B. Drive-stun Mode and Preferred Target Area

Since experts disfavor use of “drive stun” mode, it is disappointing that Grand Island Police explicitly permit drive-stun mode by written policy. Two agencies, Scottsbluff Police and Sarpy County Sheriff, discourage or ask officers to consider the use of Tasers in drive-stun mode. Sarpy County “[recommends] that the probes be deployed if at all possible and the “drive stun” method be used only as a secondary application.” Though Scottsbluff does not explicitly discourage drive-stun use in their policy, they include several provisions that characterize drive-stun mode as “minimally effective” and “more likely to leave marks on the subject’s skin.” The remaining six agencies are silent on this aspect of Taser use.

Furthermore, eight agencies are also silent on the preferred target area for Taser deployment. Grand Island appropriately discourages targeting the chest. Several agencies flout the explicit warning from Taser International itself to avoid the chest. The Douglas County policy states, “The primary target area is the front/rear torso,” which can be read to indicate the chest is an acceptable target. Though Scottsbluff lists the back as the primary target area, the chest is also given as a permissible secondary target.

C. Flight

The most contradictory and inconsistent rules across agencies are those governing whether fleeing subjects should be Tasered. Expert guidelines do not consider flight alone justification for Taser use. This is due to the heightened risks for injury as well as the fact that flight generally does not constitute active aggression or active resistance that can cause injury to anyone.

Plattsmouth Police policy conforms to Department of Justice advice by explicitly disallowing Taser use on a subject who is attempting to escape. Yet three departments allow the practice: Sarpy County Sheriff, Scottsbluff Police and Grand Island Police. Adams County at least asks officers to consider the consequences

Man Tasered by Grand Island Police for “staring down” officer from hospital bed.

In 2009, Grand Island Police were present at a local hospital for a man described in their report as “very drunk.” The report lists the man’s resistance as “staring down” the officer and passively “pulling away,” both of which do not meet national best practices for someone suitable for Taser use. The Taser administered was in drive-stun mode in the chest, meaning law enforcement walked up to the man to use the Taser. Drive-stun mode is very dangerous and Taser use in the chest has been known to lead to heart attacks.

before Taser use on a subject in flight, while the remaining agencies are silent.

D. Vulnerable Populations

Shockingly, seven departments include nothing in their policies that protects vulnerable populations: Adams County Sheriff, Bellevue Police, Douglas County Sheriff, Hastings Police, Kearney Police, Plattsmouth Police and Seward Police.

Three vulnerable populations—those who are under the influence of alcohol, those using drugs, and people in a mental crisis—are completely ignored by all the surveyed agencies.

Ten year old child Tasered by Kearney Police.

Kearney Police arrived in response to a school's call about a ten year old boy who was "not complying with staff." Police didn't just Taser this child—they also used a "punch to his upper shoulder" and a "boot strike to the back left side of his head." The episode is upsetting not just because this is a very young child: the officer used the Taser directly to the chest (which is most likely to result in a heart attack), used the Taser twice (once in probe mode and once in the disfavored drive-stun mode), and was deployed for 18 seconds, which is much longer than recommended by experts.

A few agencies were appropriate in discouraging the use of Tasers on pregnant women, the elderly, children and people with disabilities: Scottsbluff Police, Grand Island Police, and Sarpy County Sheriff. While the current Lincoln Police policy is unknown, their prior policy modeled good practice by

stating Tasers should not be used on "small children, pregnant subjects, handcuffed subjects and subjects who passively resist."

Scottsbluff Police deserves commendation for being the only agency to discourage targeting individuals who may have heart conditions.

Not a single department policy warns against Tasering a subject who is under the influence of drugs or alcohol or one who is experiencing a mental crisis. Expert guidelines warn that intoxicated individuals can be at risk of injury from metabolic or physiological changes due to Taser exposure and that Tasers may be ineffective or counterproductive when used on psychologically unstable subjects. Therefore, the complete absence of language that protects vulnerable populations in any Nebraska law enforcement Taser policy is particularly worrisome.

Findings - Incidents

Our analysis of 63 use of force reports from Kearney, Scottsbluff, and Grand Island police departments as well as Adams, Douglas, and Sarpy County Sheriffs' departments reveals the troubling state of Taser misuse in Nebraska. The Plattsmouth Police Department and Seward Police Department had no reported incidents during the timeframe of January 2013 to May 2014. While the Bellevue Police Department and Hastings Police Department provided us with their policy, they did not supply use of force reports.

Each of the six law enforcement agencies that provided us with incident reports used a different form. For example, while Douglas County uses a fill-in-the-bubble form for reporting uses of force, Sarpy County requires officers to produce written narratives that span several pages. Most departments included checklists for level of subject resistance on their forms, with some providing additional space for an explanation of the resistance. In total, subjects exhibited active aggression or actively resisted in a manner that could have caused harm to themselves or others in 23 of the 63 incidents, meaning that Taser use was only justified around 35% of the time.

We also received 17 reports of incidents involving a subject fleeing

Elderly disabled man with dementia Tasered by Omaha Police

Omaha Police Tasered 79 year-old nursing home resident Rodell Cole in April 2012. Cole lived in the home because he has dementia and uses a wheelchair. He only weighed 106 pounds. He reportedly became belligerent after a nursing home employee began cleaning his room while he was asleep. According to news reports, he threatened officers with a handful of safety pins.

After the staff called the police, Cole began cursing and throwing objects at the officers, at which point he was Tasered twice. Cole's reaction was not out of the ordinary for patients with dementia, according to geriatric psychiatrist Dr.

custody, a condition that does not by itself justify Taser use, and three reports in which a subject was operating a vehicle or a bicycle. Both of these situations create dangerous circumstances for Taser deployment.

Furthermore, over 77% of incidents involved a member of at least one vulnerable population. Nearly 15% of subjects were members of multiple vulnerable groups. For example, in Sarpy County an intoxicated woman who was also mentally ill was Tasered. 65%

of incidents involved an intoxicated subject who was Tasered. Additionally, we received multiple reports involving minors, one report involving an elderly man, and nearly two dozen reports involving persons experiencing mental health crises. Members of these vulnerable populations are at a heightened risk for injury or death and, in the case of those experiencing psychological episodes, may become even more difficult to subdue after Taser use.

In 55% of incidents, officers only attempted to control subjects through verbal commands before deploying the Taser, rather than using other forms of control such as empty hand techniques. Nebraska law enforcement officers must exercise considerably greater restraint when considering Taser deployment and attempt to deescalate situations first before firing the device.

In order for Tasers to be used safely and effectively, law enforcement officers must be sure to use the device in the appropriate mode, justify multiple uses, and target the proper area of subjects' bodies. Not every use of force report described whether the Taser was used in probe or drive-stun mode. However, of the incident reports that did

Woman with mental illness Tasered while sitting.

Grand Island Police used a Taser on a woman who police knew from prior contact to have "bipolar and psychotic episodes" in 2013. The woman was resisting by sitting on the ground, a form of passive resistance that merits open hand control or de-escalation but not a Taser given her known mental health condition. She was Tasered until she "cried out in pain for the officer to stop."

list the Taser mode, drive-stun was used nearly 45% of the time. Additionally, multiple shocks were deployed in 30% of incidents.

As with probe and drive-stun mode, not every use of force report listed the targeted body area of subjects. However, in reports that did list the body area, the chest was targeted over 35% of the time. Furthermore, only 12% of reports mentioned that a warning was given before the Taser deployment, despite four agencies encouraging or requiring warnings be issued. Law enforcement officers must adhere to expert guidelines for safe Taser use in order to protect the public.

Recommendations

Despite the small sample size of this study, the findings paint a bleak picture of Taser safety in the state of Nebraska. A comprehensive and effective Taser policy is necessary to prevent misuse and overuse of the device. As evidenced by our examination of Taser policies, Nebraskan law enforcement officers receive instruction that is wildly inconsistent from agency to agency and that departs from best practices.

While some departments succeed in protecting members of a few vulnerable populations and discourage Taser use in hazardous situations, the majority of agencies fail to include provisions that address many of the criteria examined in this report. Some agencies actively contradict the expert guidelines that informed our review of their policies.

Statewide standards modeled after the recent Vermont law would create consistency among Taser policies across Nebraska. The ACLU of Nebraska makes the following recommendations to ensure that the public is better protected from the risks of improper Taser use:

RECOMMENDATION: Update policies and train officers in compliance with expert guidelines. For the last decade, law enforcement experts have

recommended the necessary components of a Taser policy that promotes safety and effectiveness. Though none of the agencies examined in this report currently meet all of the criteria, all of these police and sheriffs' departments can easily reform their policies to better protect vulnerable populations and avoid unsafe, abusive Taser practices.

Additionally, law enforcement officers must undergo more extensive Taser training to ensure greater sensitivity to the dangers posed by Tasers. Policy reform must be supplemented by training that informs officers of the greater risks involved with certain Taser practices, such as multiple shocks and drive-stun mode, as well as the need for greater caution when dealing with vulnerable populations.

RECOMMENDATION: Uniform Taser use legislation. Now that Vermont has signed into law the first set of statewide standards for Taser use by law enforcement, Nebraska policymakers can adopt similar legislation to ensure greater Taser safety throughout the state. Encouraging uniformity among the Taser policies of every law enforcement agency in the state will ensure greater protection to civilians in all jurisdictions.

RECOMMENDATION: Uniform use of force reporting forms and increased internal review of Taser use. While we were generally able to determine from the sparse information provided by use of force reports whether Taser use was justified, no use of force forms were identical. Additionally, not a single agency requires reporting of special information for Taser deployment. This allows officers to engage in abusive Taser practices, such as delivering multiple drive-stuns or Tasering a psychologically troubled subject, without any clear justification.

Agencies should include sections on their form that require officers to indicate whether the subject was a member of a vulnerable population, the circumstances that led to the Taser use, and specific justification for multiple shocks, drive-stun mode, and other potentially abusive practices. This information should be recorded and reviewed regularly to ensure a decline in Taser misuse and overuse throughout the state of Nebraska.

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CONDUCTED ENERGY WEAPONS

The Adams County Sheriff's Department recognizes that utilizing less-lethal Conducted Energy Weapons benefits both the officer and the suspect, whereas overall, injuries to both the officer and the suspect are reduced compared to incidents where the officer is required to go hands on.

TASER

Purpose

The purpose of this policy is to establish guidelines for the use and deployment of the TASER less-lethal weapon. The TASER may be issued as an additional police tool and is not intended to replace firearms or self-defense techniques.

Policy

This agency authorizes Conducted Energy Weapons manufactured by TASER International, Inc., specifically the TASER X26 and M26, to provide officers with additional use-of-force options for gaining compliance of resistant or aggressive individuals in arrest or other enforcement situations. The TASER may be used to control dangerous or violent subjects when deadly physical force does not appear to be justified and/or necessary; or attempts to subdue the subject by other conventional tactics have been or will likely be, ineffective in the situation; or there is reasonable expectation that it will be unsafe for officers to approach within contact range of the subject. It is the policy of this agency that officers use the TASER when warranted, but only in accordance with guidelines and procedures set forth here and in this agency's use-of-force policy.

Procedures

Authorization

- The TASER may be issued to, and only deployed by an officer who has; successfully completed the required User Training and Certification, or, successfully completed TASER International, Inc. TASER Less-Lethal Weapon Instructor Course.
- After initial User Certification, officers shall re-certify once a year (with-in 365 days) in order to maintain eligibility to carry and deploy the TASER. It shall be the responsibility of the officer to notify the TASER Instructor to arrange for re-certification.

How to Carry

- Only holsters authorized by the TASER Instructor will be used to carry the TASER.
- The TASER will remain holstered at all times unless it is being tested, being used to respond to an incident, or is properly secured.

Readiness and Safety

- The Central Information Display should be checked at the beginning of every shift to ensure the TASER is charged to a level above 20 % battery capacity. If an officer's Digital Power Magazine reaches 20 % or lower, the officer shall notify the TASER Instructor for a replacement DPM. The replaced DPM will be turned over to the TASER Instructor for use in training. The X26 TASER shall be stored with the DPM installed.
- The TASER utilizes a powerful laser to assist in aiming the weapon. Care should be taken to avoid directing the laser directly into the eyes of anyone.

Deployment

- The deployment of the TASER is a force option following Officer Presence and Verbal Direction tactics on the use-of-force continuum.
- The TASER may be used to detain or arrest a subject when the officer has reason to believe that person has committed or is about to commit a criminal offense and is displaying active resistance, active aggression, or aggravated active aggression.
- The TASER may be used to protect a subject when that person is attempting to injure themselves or commit suicide.
- Deployment of the TASER should be backed up by the availability of lethal force when the situation allows.
- Whenever practical and reasonable, officers should issue a verbal warning prior to the deployment of the TASER.
- The officer must consider the potential secondary injury to subjects who are; running, traveling at high speeds (skateboards, bicycles, etc.), situated in elevated places (roofs, ladders, trees, fences, utility poles, staircases, etc.), or are in deep water.
- The TASER shall not be deployed in environments that are likely to have, or are known to have, highly flammable fluids and/or vapors (i.e. near fuel pumps, methamphetamine labs, etc.).
- The deployment of the TASER shall be reasonable and based upon the totality of circumstances known to the officer at the time.

Post Deployment

- Once the subject is properly restrained, the deploying officer is responsible for probe removal, inspection and care of the skin. If the deploying officer is unable to remove the probes, or, is uncomfortable with removing the probes; an officer may refer to another TASER certified officer or the appropriate medical personnel.
- Probes embedded in the head, face, neck, groin, or in a female breast shall be removed by medical personnel.
- Removed probes shall be considered a biohazard and shall be disposed of accordingly.
- The deploying officer should, to the best of their ability; assess the subject for secondary injury, signs of drug intoxication, or any other condition that may require medical attention, and seek the appropriate level of care.

Documentation

- Accidental discharges as well as intentional deployments of the TASER against an individual in an enforcement capacity shall be reported to the Sheriff or the officer's immediate supervisor as soon as possible.
- The officer shall notify the TASER Instructor of all accidental discharges in writing. Intentional deployments require that a detailed incident report and a use-of-force report be completed and submitted to the Sheriff and the TASER Instructor prior to the officer's end of shift.
- Any discharges or deployments during training under the supervision of the TASER Instructor will not be considered an accidental discharge or an intentional deployment.
- The TASER may be inspected at anytime by the TASER Instructor. Any unexplained discharges or deployments shall require an investigation and written report by the TASER Instructor which will be submitted to the Sheriff.

USE OF FORCE

Purpose

The purpose of this policy is to provide Officers with guidelines on the reasonable use of force.

Policy

The use of force by law enforcement personnel is a matter of critical concern, both to the public and the law enforcement community. The Bellevue Police Department recognizes and respects the value of all human life and dignity, without prejudice to anyone. The Bellevue Police Department intends to be responsive to citizens of the community and protect their constitutional rights pertaining to the use of force.

Officers are authorized by law to use force that is reasonable and necessary, given the facts and circumstances perceived or known to them at the moment force is used. Officers are authorized to use reasonable force to achieve their lawful objectives and to effectively bring an incident and/or person(s) under control.

Definitions

- A. **Deadly Force** – Any force likely or intended, to cause death or serious bodily harm.
- B. **Non-Deadly Force** – Any force that is not likely to cause death or serious bodily harm.
- C. **Control** – The force an Officer uses to neutralize physical actions of another. Generally, there are four times when an Officer is justified in using physical control methods.
 - 1. To stop potentially dangerous and unlawful behavior.
 - 2. To protect the Officer or another from injury or death.
 - 3. To protect subjects from injuring themselves.
 - 4. In the process of effecting lawful arrest or detention when the subject offers resistance.
- D. **Immediate Threat** – A statement or other indication of intention to hurt or injure another that is capable of being carried out if intervention does not occur.
- E. **Reasonable Belief** – The facts or circumstances the Officer knows, or perceives at the time, that would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- F. **Serious Bodily Harm** – A bodily injury, which creates a substantial risk of death, causes serious permanent disfigurement, or results in long-term loss or impairment of the function of any part or organ of the body.

Authorized Use of Force

An Officer, who reasonably believes a subject threatens violence, may choose to use reasonable force regardless of whether or not the subject actually engages in the acts of overt aggression.

Officers who make or attempt to make an arrest need not retreat or stop his/her efforts by reason of resistance or threatened resistance by the subject. The Officer shall not be deemed the aggressor or lose his/her right of self-defense by the use of reasonable force to effect the arrest, or to prevent escape, or to overcome resistance.

Officers may use deadly force when the Officer reasonably believes the action is in defense of human life, including the Officer's own life, or in defense of any person in immediate danger of serious bodily harm, if apprehension is delayed. When feasible, a verbal warning should be given prior to the use of deadly force.

Verbal Skills as an Alternative to the Use of Force

The direction and result of some encounters may be controlled by verbal direction. Communication may defuse a subject's fear and anger, resulting in compliance by the subject and avoidance of an escalation of violence.

Factors Used to Determine the Reasonableness of Force

When determining whether or not to use force and to evaluate if an Officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

- A. the conduct of the individual being confronted (as perceived by the Officer at the time),
- B. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, etc.),
- C. influence of drugs/alcohol (mental capacity),
- D. proximity of weapons,
- E. seriousness of the suspected offense or reason for contact with the individual,
- F. training and experience of the Officer,
- G. potential for injury to citizens, Officers and suspects,
- H. risk of escape, or
- I. other exigent circumstances.

It is recognized that Officers are expected to make split-second decisions. The amount of an Officer's time available to evaluate and respond to changing circumstances may impact his/her decision.

While various degrees of force exist, Officers are expected to use only the degree of force reasonable, under the circumstances, to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

Handcuffs and Restraining Devices

The purpose of handcuffs, flex cuffs, and transport restraints is to temporarily restrain the movement of a subject to prevent further physical resistance or acts of aggression by a subject.

All restraining devices are considered temporary in nature and are intended as a means to safely achieve other goals, such as restriction of movement and safe transportation.

All subjects taken into custody will be handcuffed behind their backs. Subjects indicating the inability to move his/her arms behind their back, due to injury or physical limitation, will be handcuffed in the front of their body. All handcuffs will be double locked after being applied.

All subjects taken into custody will be handcuffed prior to being searched and/or transported.

Officers are authorized to utilize only those restraint devices approved by the Department.

Unless under exceptional circumstances, subjects will not be handcuffed to a fixed object, such as posts, vehicles, buildings, etc.

Non-Deadly Force Applications

Officers are provided with equipment, training and skills to assist in the apprehension and control of subjects, as well as protection of Officers and the public. Non-deadly force applications are reasonably anticipated and intended not to create a substantial likelihood of death or serious bodily harm. Non-deadly force applications may include, but are not limited to, arrest and control techniques, baton, chemical agents, taser and Police K-9 as described in this policy.

Arrest and Control Techniques

Arrest and control techniques may be very effective in controlling a resisting individual. Officers may only apply those techniques that are reasonable, under the circumstances, and only when the Officer reasonably believes the use of such a technique appears necessary to further a legitimate law enforcement purpose.

The application of any arrest and control technique will be discontinued once the Officer determines that full compliance has been achieved.

Baton

Officers will carry the authorized baton after receiving training in appropriate techniques. Baton contact should be directed to the areas of the body that will temporarily incapacitate the combatant and avoid contact to the body parts that could be potentially lethal unless deadly force is justified.

Chemical Agents

Chemical agents are tools that can provide a means of defense against injury for an Officer or another by controlling resistance. Officers will carry only Department-approved chemical agents while on duty.

Officers are authorized to carry approved chemical agents for which they have received Department-approved training.

Chemical agents will be carried in an appropriate pouch and never displayed or pointed at another individual in the form of horseplay.

At no time will an Officer unnecessarily brandish or use the chemical spray as an intimidating device, unless the Officer is attempting to prevent further escalation of force.

Any time chemical agents are used to control a subject, the application of the chemical agent will end when the subject discontinues resistance or aggression.

Following the use of a chemical agent for the purpose of subject control, the Officer will ensure the subject receives approved post-incident exposure treatment, as set forth in the training. Any severe reaction to chemical agent exposure will require immediate medical attention.

When a subject is booked into jail, after being exposed to a chemical agent, the Officer will advise jail personnel in order to prevent any unnecessary contamination of other jail occupants or personnel.

Taser

The primary purpose for deploying the taser is to allow Officers to gain control of a subject and reduce the potential for injuries to suspects and Officers. Officers deploying the taser should attempt to utilize the same cover as they would in a deadly force application.

The taser may be used to control a potentially dangerous or violent subject when the subject, through words or actions, communicates impending resistance, opposition or the attempt to flee from the Officer who is making a lawful arrest or detention. The taser may also be used if the subject poses a risk of harm to self, such as self-inflicted injury or suicide attempt.

Only those Officers, who have successfully completed a Department-approved training program in the use of the taser, are authorized to use the taser. Officers will only use the taser in a manner consistent with the approved training and Department policy.

The only taser authorized for use is the M26/X26 Advanced Taser, manufactured by Taser International. Authorized tasers may be issued by the Department, or Officers may make a written request to the Chief of Police to purchase their own M26/X26 taser. Upon written approval of the Chief of Police, Officers may carry a personally-owned taser. Officers will register the taser with the Training Unit, prior to use.

Officers are responsible for ensuring the taser is in proper working order before the start of their tour of duty. Officers will record the Department-assigned number of the taser on the Daily Field Activity Report.

Any taser with a malfunction, defect, or damage will be immediately taken out of service and reported to the Officer's Supervisor and the Taser Maintenance Officer.

Officers should avoid intentionally aiming a taser at a subject's head. Officers will not deploy a taser on a subject who is suspected of having a flammable substance on their person or near the proximity of any known combustible material.

When a subject is struck by a taser probe which breaks the skin, photographs will be taken of the area of contact. In the event a taser is deployed, the taser will be reloaded with a new cartridge. Used probes and cartridges will be submitted as evidence.

Taser cartridges will be maintained and issued by the Taser Maintenance Officer. When issuing cartridges, the Maintenance Officer will document the cartridge serial number.

All uses of the taser, including accidental discharge, (with the exception of training) will be documented and reported as a use of force incident.

Police K-9

The Police K-9 is a tool that can provide a means of defense from injury to an Officer or a citizen. The Police K-9 is a tool that may be used to assist in the control or apprehension of a potentially dangerous or violent subject when the subject, through words or actions, communicates impending resistance. Any injury resulting from the use of a Police K-9 will be documented according to Department policy.

Firearms and Deadly Force Applications

Firearms are considered deadly force weapons and their use constitutes deadly force. The use of firearms is never to be considered routine, but is permissible only in the defense of life or serious bodily harm when making or assisting in making a lawful arrest.

The use of firearms to control the resistance of a subject is limited to situations where deadly force is warranted. Officers will not draw or display their firearms unless there is a threat or reasonable suspicion to believe there is a threat to life based on the circumstances.

Officers will not discharge their firearm to threaten or apprehend subjects whose actions are destructive to property or injurious to themselves and do not represent an imminent threat of death or serious bodily harm to the Officers or others.

Officers will not discharge their firearm to apprehend an escaping subject who presents no immediate threat of death or serious bodily harm.

Officers will not discharge their firearm from or at a moving vehicle unless it is absolutely necessary to do so to protect the life of the Officer or others. When feasible, a verbal warning shall be given.

Officers will not fire warning shots.

Justification for the use of deadly force is limited to what reasonably appears to be the facts known or perceived by the Officer at the time the decision to use such force is made.

Officers will immediately notify a Supervisor of all incidents where the discharge of a firearm occurs, except in connection with training events.

Protocol When Deadly Force Is Used

If an Officer discharges his/her firearm or uses other deadly force applications which result in injury to any person, if able, the Officer will:

- Place the subject in handcuffs, when appropriate.
- Render first aid to any injured person, when appropriate, and request emergency rescue personnel be dispatched to the scene.
- Notify Communications of the incident and location, request appropriate Team Supervisor to respond to the scene.
- Secure the scene.
- Provide a brief oral explanation of the incident to the responding Supervisor, to assist the Department in determining the appropriate course of investigation.
- Protect weapon for examination and submit said weapon to the appropriate Supervisor. If the weapon used was a firearm, the Officer will also submit all magazines. The Supervisor will immediately replace the Officer's firearm with another firearm.

The on-scene Supervisor, Commander or designee will immediately notify the Chief of Police, the Division Commander, the appropriate investigative personnel, and the County Attorney.

The name of any Officer who is killed or injured will not be broadcast over the Police radio.

All incidents involving the use of force by Department personnel, which result in death or serious injury to a person, will be investigated by an appropriate law enforcement agency to be determined by the Chief of Police.

At an appropriate time, an Allegation/Inquiry/Commendation (AIC) Report will be initiated. Department policy governing AIC investigations will be followed with particular emphasis on confidentiality.

Any Officer directly involved in a deadly force incident will be immediately placed on paid administrative leave until such time as designated by the Chief of Police.

Regardless of whether or not the Officer invoked his or her rights per Miranda, the Office of Professional Standards Investigator or designee, may proceed with interview of the Officer, following advisement, in writing, of the Garrity Warnings. No interviews will be conducted for at least twenty four (24) hours following the incident, unless this time frame is waived by the Officer.

While on administrative leave, the Officer will remain available at all times for official Department interviews or statements necessary for the investigation. The Officer will not make any official statements regarding the incident to any media or other persons without prior authorization from the Chief of Police.

In all incidents where any person has been seriously injured or killed, as a result of a deadly force application, an involved Officer(s) is required to undergo a debriefing with a Department-provided psychologist within forty eight (48) hours of the incident. This debriefing will not be related to any investigation and will remain protected by HIPPA regulations.

Before return to full duty, the involved Officer(s) may be required to obtain a release from the Department's psychological staff. This is used to determine duty readiness as a matter of protection for the Officer and the public.

Reporting the Use of Force

Any use of force applied by a member of this Department, either on or off duty, will be promptly reported to the on-duty Supervisor, and accurately documented on an Incident Report, as well as an Administrative Use of Force Report. All Officers involved in the use of force incident will complete a narrative report. This does not include routine handcuffing and searching where no subject resistance occurred.

Officers will take appropriate photographs of the subject, any injuries and areas with complaint of pain. Photographs should be accomplished as soon as practical after the incident. A copy of photographs obtained will be attached to the Administrative Use of Force Report. If applicable, all photographic evidence will be submitted to the Property/Evidence Unit.

The Administrative Use of Force Report and copies of applicable photographs will be completed and distributed prior to the end of the involved Officer's duty shift.

The on-duty Supervisor will review the reports to ensure all information is correctly and accurately documented. Reports will include identification of all persons involved in the incident and all witnesses.

The Administrative Use of Force Report will be disseminated as follows:

- The original Administrative Use of Force Report with photographs will be forwarded to the Chief of Police.
- One copy of the Administrative Use of Force Report will be given to the Division Commander of the involved employee. These copies must be destroyed after review so only the original report exists.

The Chief of Police or the involved employee's Division Commander may elect to form a committee to assist in the administrative review of the incident.

The purpose of the Administrative Review Committee is to create an environment where varying degrees of training and knowledge work together to achieve a well-formed opinion of the incident. The Administrative Review Committee will consist of any employee with the rank of Sergeant or above, and any current certified defensive tactics or firearms instructor from the Bellevue Police Department.

If no Administrative Review Committee is needed, and after the Chief of Police has reviewed the report, the original report and photographs will be forwarded to the Office of Professional Standards for data entry and filing

The Department Training Unit will review the report to collect statistical data on the use of force. This statistical data will be used to enhance Department use of force training techniques.

Under no circumstances is the Administrative Use of Force Report forwarded to the Records Unit.

Officer Surrendering Weapon

An Officer or his/her partner may be at the mercy of an armed subject who has the advantage. Experience has shown that the danger to Officers is not reduced by surrendering their weapons upon demand. Officers who surrender their weapons may be giving up their only chance of survival. Therefore, Officers should use every tactical tool at their disposal to avoid surrendering their weapons.

Destruction of Animals


When immediate action is required, Officers will request authorization from a Supervisor to destroy an injured wild or dangerous animal. Officers may utilize firearms to destroy severely injured wild animals or to defend themselves against vicious, rabid or potentially dangerous animals.

Such destruction requires that it can be accomplished safely with regard to other persons and property. Head shots should be avoided if the possibility of rabies exists.

When dealing with severely injured domestic animals; (i.e. dogs and cats), the owner should be contacted prior to destroying the animal, if practical.

Training

All Officers will receive instruction and training on the department's use of force policies. All Officers will participate in annual mandatory Department-approved training on the use of force.

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|--|--|-----------------------|----------------------------------|
| GENERAL ORDER | | DATE 9/19/2011 | GO-30-2011 |
|  <p>DOUGLAS COUNTY SHERIFF'S OFFICE OMAHA * NEBRASKA TIMOTHY DUNNING SHERIFF</p> | CALEA STANDARD: 1.3.1-13; 33.4.1; 46.1.8; 46.2.3 | | RE-EVALUATE: AS NEEDED |
| | APPROVED: <i>Timothy F. Dunning</i> | | |
| CHAPTER TITLE: | | | |
| SUBJECT: USE OF FORCE 2011 AMENDED | | | AUTHOR RS |

This directive supersedes GO-16-2011.

I. PURPOSE

This Directive establishes guidelines consistent with state and federal statutes that will guide a DCSO member's actions in situations that require use of force. The Directive also specifies equipment and methods to be used during use of force situations.

This policy is intended for internal department use only and is not to be applied in any criminal or civil proceeding, nor does it create a higher legal standard of safety or care with respect to third parties. Violations of this policy will only be the basis of administrative discipline, while violations of the law will be the basis for civil and criminal penalties in a court of law.

II. POLICY

A. **Use of Force** - A member will use only the reasonable force necessary to accomplish lawful objectives. (1.3.1)

B. **Deadly Force** - Deadly force may only be used when a Deputy/ESO II reasonably believes that the action is in defense of human life, including the member's own life, or in defense of any person in imminent danger of serious bodily injury. (1.3.2)

III. PROCEDURE

A. **Intent of Policy** - The demands of law enforcement will in some circumstances require Deputies to employ force to maintain order, enforce law, and to protect life and property.

1. This policy incorporates an objective standard of reasonableness and is intended to provide direction and guidelines to Deputies meeting resistance.

2. It is not intended that a suspect be the first to exercise force or gain an advantage in a confrontation.
3. Furthermore, nothing in this policy should be interpreted to mean that a member is required to engage in hands on techniques before resorting to that method and type of force that will most safely, effectively, and humanely bring a suspect under physical control.

B. Definitions (1.3.2)

1. **Force** - Any act aimed at detention or control. Actions taken through the use of a person's body, weapons, equipment, and/or other instruments, to assist in controlling a situation or the behavior of others.
2. **Deadly Force** - Deadly Physical Force is the intended, natural, and probable consequence of a degree of force which can or may produce death, or which does, in fact, produce death.
3. **Serious Bodily Injury** - Serious bodily injury is defined as bodily injury which involves a substantial risk of death, or which involves a substantial risk of serious permanent disfigurement, or protracted loss or impairment of the function of any part or organ of the body.
4. **Reasonably Necessary Force** - No reasonably effective alternative to the use of force appeared to exist and that the amount of force to be used is reasonable to accomplish the lawful purpose intended.
5. **Deputy** - A sworn member of the DCSO.
6. **ESO** - Entrance Security Officer II (armed).
7. **Member** - any member of the Douglas County Sheriffs Office.
8. **Reasonable Belief** - Facts, circumstances or knowledge present to the member sufficient to justify a thought or feeling.

C. **Force Continuum** - The force continuum is designed to give members a model in which to learn the various levels of subject resistance and the appropriate subject control response. This continuum is only a model. The member's response should be based on the subject's actions, the member's perception of the threat and the members knowledge of his/her own abilities.

1. **Levels of Resistance:**

- a) **PSYCHOLOGICAL INTIMIDATION** - Non-verbal cues, attitude, appearance, physical readiness, etc.
- b) **VERBAL NON-COMPLIANCE** - Verbal responses indicating unwillingness to cooperate or threats.
- c) **PASSIVE RESISTANCE** - Physical actions that do not prevent a member's attempts at control.
- d) **DEFENSIVE RESISTANCE** - Physical actions which attempt to prevent a member's control.
- e) **ACTIVE AGGRESSION** - Advancing, challenging or physical assault.
- f) **DEADLY FORCE ASSAULT** - Any force used against a member and/or another person that may result in serious bodily injury or the loss of human life.

2. **Levels of Control:**

- a) **OFFICER PRESENCE** - Identification of authority.
- b) **VERBAL DIRECTION** - Commands of direction or arrest.
- c) **EMPTY HAND CONTROL:**
 - (1) Soft empty hand control-minimal chance of injury: Joint locks, pressure points, come-along holds.
 - (2) Hard empty hand control-higher probability of injury: Hand strikes, leg strikes, neck restraints, and OC spray.
- d) **INTERMEDIATE WEAPONS** - Use of Taser/stun device, Pepperball gun, expandable baton, straight baton, or any impact weapon strikes.
- e) **DEADLY FORCE** - Any force used that may result in serious bodily injury or the loss of human life.

D. **Deadly Force**

1. **Authority** - The use of deadly force is authorized by *NSS 28-1412*.
 - a) A Deputy/ESO II may use deadly force, in the performance of his/her duty; after all other means of effecting the arrest or subduing the suspect have been exhausted under the following conditions:

2. Deadly force may be used by Deputies/ESO II's only with probable cause to believe that:

- a) Deadly force is necessary to prevent imminent death or serious bodily harm to themselves or another person, or
- b) Deadly force is necessary to effect the arrest or prevent the escape of the suspect; and
 - (1) The Deputy/ESO II reasonably believes that the person to be arrested has used or threatened to use deadly force in the commission of a felony, and
 - (2) There is a substantial risk that the person to be arrested will endanger human life or inflict serious bodily harm unless arrested without delay.
- c) Deadly force will not be used if it will create a substantial risk of injury to innocent persons.
- d) Deadly force will not be used unless there is a present danger. The Deputy/ESO II must reasonably believe that the suspect has the immediate means to inflict death or serious bodily harm and is intent on doing so.
- e) Deputies/ESO II's will give a verbal warning to the suspect prior to using deadly force when practical.
- f) When deadly force is necessary, Deputies/ESO II's will make every attempt to use the equipment and methods outlined by this policy unless no other reasonable option exists.

3. **After Deadly Force is Used:**

- a) DCSO Deputies/ESO II's will render aid to any person injured or involved in a deadly force incident.
- b) DCSO Deputies/ESO II's involved in a deadly force incident will immediately notify their Supervisor(s) following the incident. This includes on and off duty incidents.
- c) Any DCSO member whose actions or use of force results in death or serious bodily injury will be placed on administrative leave per the guidelines set forth in the *Use of Force Resulting in Death or Serious Injury* policy. (1.3.8)

E. **Use of Force - Less Lethal Weapons**

1. **Authorized** - The DCSO recognizes the need for force above soft empty hand control in some situations, resulting in the authorization of several less-lethal weapons. (1.3.4)
 - a) Less-lethal weaponry authorized for use include: (1.3.9a)
 - (1) Oleoresin Capsicum - OC;
 - (2) Pepperball gun;
 - (3) Taser;

- (4) REACT Belt and Band-It system; and
 - (5) Baton/Impact Weapon.
 - b) Types and specifications are included in this Directive and enumerated on an Approved Weapons List maintained by the EDD.
 - c) With the exception of OC spray, all less-lethal weapons are considered intermediate weapons on the force continuum.
2. **Carry** - While on duty, sworn uniformed personnel up to and including the rank of Sergeant will carry two less-lethal weapons to include the Taser, and either OC or the Baton.
- a) Deputies who have submitted a taser for repair will not be subjected to the carry requirement.
 - b) K9 Deputies are required to carry one less than lethal weapon.
 - c) By Bureau Directive, the Bureau Captain may require other sworn and non-sworn personnel to carry one or more less-lethal weapon(s), including the Taser.
3. **Use** - When using less-lethal weapons, Deputies will conform to all policies and training methods taught during certification classes.
- a) Only the less-lethal weapons defined in this Directive are approved for use.
 - b) If an incident becomes a deadly force situation, less-lethal weapons may be used in any manner necessary, to include targeting the suspect's eyes, face, throat, spine, or groin, to prevent death or serious bodily injury to the involved DCSO member(s) or any other person(s).
4. **Post Deployment General** - Medical attention will be given to anyone injured or complaining of injury as a result of less-lethal-weapon use.
- a) Photographs will be taken of all injuries resulting from the use of less-lethal weapons.
 - b) Additional post deployment procedures for individual techniques and weapons will be covered in the section pertaining to the weapon or technique being discussed.
5. **Off-Duty** - DCSO members may lawfully use and carry less-lethal weapons off duty with the exception of agency owned Pepperball guns. Any off duty use will be reported following the same guidelines for on duty use.
6. **Reporting** - All use of force incidents both on and off duty will be reported following the current DCSO *Use of Force Report* policy guidelines. Additional specific reporting requirements for individual techniques and weapons will be

covered in the section pertaining to the weapon or technique being discussed.

F. Approved Less than Lethal Weapons

1. Pepperball Gun:

a) Authorized:

- (1) It may be used in situations that require intermediate weapon control or indirect application of OC. (1.3.4) (1.3.9a) Pepperball Guns are available for use within the Patrol, Vice/Narcotics, Fugitive Warrants, and County and District Court Divisions.
- (2) The respective Bureau Captain or designee will determine additional procedures regarding access and control within each Division.

b) **Operation** - *Training Bulletin 02-02.85* outlines additional information regarding the operation of the Pepperball Gun.

c) **Primary Target Area** is the center of the suspect's torso.

- (1) Alternative target areas include the legs, buttocks, arms and shoulders.
- (2) When firing the Pepperball gun at a suspect, DCSO members will not target the suspect's eyes, face, throat or spine unless deadly force is justified.

d) **Force Continuum** - The Pepperball gun is located on the Force Continuum as an Intermediate Weapon.

e) **Post Deployment** - The Pepperball gun should be taken out of service after being fired and returned to the EDD to be recharged and reloaded.

2. Taser:

a) Authorized:

- (1) The M26 and X26 Advanced TASER, manufactured by TASER International are authorized less than lethal weapons. (1.3.4)
- (2) Only DCSO owned M26/X26 units are authorized for use. (1.3.9a)
- (3) Supervisors will note Taser serial number, DCSO number, Holster number, and all three cartridge serial numbers on uniform inspections forms.
- (4) DCSO members who are issued Tasers will secure them both on and off duty in accordance with the same procedures for firearms as outlined in this policy.

b) Deployment Procedure:

- (1) DCSO members who use the M26/X26 will ensure that the unit is in proper

- working order by routinely spark testing before the start of their tour of duty.
- (2) DCSO members will wear the Taser on the side of their bodies opposite their duty firearm. Tasers will be worn in a cross draw manner and only in DCSO approved holsters.
 - (3) The member deploying the Taser will state (when practical) loudly and repeatedly (prior to and during firing) "Taser-Taser-Taser."
 - (a) This will be done to inform all other personnel on scene that a Taser is being deployed.
 - (b) If possible an announcement that Taser is about to be deployed should be broadcast on the radio prior to the Taser being deployed.
 - (4) The M26/X26 should not be pointed at any individual unless the DCSO member involved reasonably believes it may be necessary to use the device.
 - (5) The tactical use of the M26/X26 is at the discretion of the member, based on training, policy and procedure and the proper application of the force continuum.
 - (6) The M26/X26 will not be used when the deputy has knowledge of being in the proximity of flammable liquids, gases, blasting materials or any other highly combustible materials that may be ignited by use of the device, including but not limited to any subject who may have been contaminated with combustible liquids.
 - (7) The M26/X26 will not be used on a suspect who has already been sprayed with OC, or other chemical agent.
- c) **Training** - The initial training certification will be an eight-hour class consisting of written and practical exams. In service training will be conducted at least annually to maintain proficiency/certifications.
- d) **Primary Target Area** - The primary target area for Taser is the front/rear torso.
 - (1) Alternative target areas are the arms, legs and buttocks area.
 - (2) When firing the M26/X26 at a suspect, members will not target the suspect's eyes, face, throat or spine, unless deadly force is authorized.
- e) **Force Continuum** - Taser is located on the Force Continuum as an Intermediate Weapon.
- f) **Probe Removal** - A DCSO member at the scene, in accordance with the manufacturer's guidelines and the member's training may

remove M26/X26 Probes that penetrate the skin in a non-sensitive area.

- (1) Only properly trained medical personnel (EMS) should remove probes imbedded in sensitive tissue areas such as the neck, face, and groin.
 - (2) Removal from other areas (i.e., female breasts and buttocks) can be made at the discretion of the on-scene supervisor.
 - (3) Probes that have been removed from suspects will be placed back in the cartridge 'sharp end first', sealed, booked into evidence, and stored in accordance with DCSO policy on handling and storage of bio-hazardous materials.
- g) **Reporting** - With the exception of training, DCSO members will document all uses of the M26/X26 (including accidental discharges) in accordance with DCSO current *Use of Force Report* policy, and include:
 - (1) The serial numbers of both the unit and cartridge(s) used,
 - (2) The distance from the subject from which the M26/X26 was fired,
 - (3) Locations of impact on the subject, and
 - (4) An evaluation of the effectiveness of the device.
- h) **Post Deployment** - Following use, Tasers will be removed from service and turned in to OPS. The information from the TASER will then be downloaded and printed at the earliest convenience after the deployment.
- i) **Maintenance and Storage** - Bureau Captains will designate a DCSO member to be responsible for the assignment, maintenance and storage of the M26/X26 and cartridges. The designated member will:
 - (1) Maintain a record of the cartridge location(s) by recording the serial number of the cartridge and to whom they were issued.
 - (2) Periodically check cartridges and request replacements for those that have exceeded their expiration date.
 - (3) Report all malfunctions, defects, or damage to the M26/X26 to the EDD. The EDD is responsible for maintenance and ordering additional supplies for the M26/X26.
3. **R-E-A-C-T Technology/Stinger/Band-It Systems::**
- a) **Authorized** – Stinger Systems Band-It is authorized for use only by certified DCSO personnel.

Grand Island Police Department
Standard Operating Procedure

Topic: Electronic Controlled Devices

Category/Number: G2

Issued by: Chief Lamken

Effective Date: 10-28-09

I. Electronic Control Device (ECD)

- A. Definition. An ECD is a battery powered less-lethal force device that uses propelled wires and probes, or direct contact, to conduct sufficient energy to affect the sensory and motor functions of the human and animal nervous system. The intended purpose of the device is to incapacitate and help control resistive or potentially resistive humans or animals.
- B. Officers will carry only the authorized ECD. The use of force continuum adopted by the department recognizes the use of the ECD as falling between soft empty hand control and hard empty hand control.
- C. The ECD is a less-lethal weapon and is not intended to replace the firearm in deadly force situations.
- D. The ECD may be used to control a potentially dangerous or violent subject when the subject, through words or actions, communicates that he/she may soon resist, oppose, or attempt to flee from an officer making a lawful arrest or detention. The ECD may also be used if a person poses a risk to self, such as a self-inflicted injury or suicide attempt.
- E. The ECD may also be deployed as a "drive stun" weapon in cases where the probes miss the desired target or when deploying cartridge is not possible. The drive stun method will work as a pain compliance method.
 - 1. The drive stun is completed by aggressively driving the ECD into the body of the subject as a stun gun.
 - 2. The "drive stun" should be used as a secondary application.
- F. Equipment
 - 1. Officers are only authorized to carry the X26 Taser ECD in the Department-approved and provided holster.

2. Officers may only carry ECD accessories that have been approved by the department's training sergeant.

G. Training

1. Officers who have successfully completed a GIPD approved training course and written test concerning the use of an ECD will carry it on duty if ECD units are available.
2. Officers authorized to carry the ECD will complete periodic training which may contain a proficiency exam for ECD operators.

H. Method of Application

1. The ECD will be deployed in conjunction with Departmental training standards. Deployment will encompass the use of verbal commands before, during, and after, when tactically feasible.
2. Officers deploying the ECD should attempt to have lethal force cover when feasible.
3. If tactically feasible, the ECD officer will notify other responsible officers, "Taser Ready," indicating the ECD may be deployed if needed.
4. If tactically feasible, the deploying officer will announce, "Taser, Taser, Taser," prior to deployment.
5. An ECD should not be used in a situation where the person poses an imminent threat of great bodily harm or death to the officer, or another person, unless another officer is present and capable of immediately delivering deadly force.
6. When deploying the weapon, the officer should not shut off the ECD before the end of the automatic 5-second cycle.
7. The primary deployment method is to discharge the ECD cartridge, propelling the probes and probe wires. The backup method is to firmly drive the attached fired ECD cartridge into the subject's body.
8. Officers should use the cycle as the "window of opportunity" for handcuffing. Multiple energy bursts should only be used if officers are not able to gain control for handcuffing, or if the subject continues to resist.

9. Officers will deliver only the number of deployment cycles reasonably necessary to control the subject.
10. For Department uniformity, officers should use the ECD illumination selector to (LO) Laser Only.
11. Officers should take great care to avoid intentionally aiming at the subject's head or chest.
12. Use of the ECD on a handcuffed suspect is prohibited unless there are extenuating circumstances. The officer must be able to articulate additional facts, i.e., the suspect is causing or attempting to cause injury to the officer or damage to police property.
13. Officers should take care to avoid using the ECD on known pregnant women. This concerns the potential for secondary injury from a fall.
14. The ECD will not be utilized in an attempt to dislodge, retrieve, or prevent the swallowing of contraband.
15. The ECD may be displayed as a deterrent to violence; however, it will not be used to threaten and intimidate, or used in conjunction with a "come-along" technique.

I. Elevated ECD Deployment Risk Factors

The following factors, when reasonably perceived by the officer(s) at the time of the incident, require elevated justification for deployment. Under the following conditions, the risk for direct or secondary injury is elevated. Officers must balance the elevated risk of injury with the need for immediate apprehension:

1. Presence of flammable materials.
2. Person in an elevated position.
3. Person operating a vehicle.
4. Person in water deep enough to drown.
5. Person obviously frail or infirm.
6. Person very young or very old.

J. Medical Attention

1. Officers may call for an ambulance and offer medical treatment for the subject. Only officers certified to use ECDs or members of the rescue squad or medical professionals are authorized to remove the probes.
2. Since the probes are a biohazard, they must be treated as such. Consequently, latex gloves should be used when removing probes. After removal, the probes should be disposed in proper biohazard containers.
3. In cases where a subject is struck with a probe in a sensitive tissue area (face, groin, or breast area of a female), the probe should be removed by a medical professional.

K. Reporting Requirements

1. A GIPD Use of Force report will be completed and include the following information:
 - a. A brief outline of the details of the incident & the effectiveness of the application;
 - b. The ECD weapon serial number;
 - c. The cartridge serial number;
 - d. The number of "activations" given to the subject;
 - e. The location of the probes on the subject's body;
 - f. Medical treatment given to the subject;
 - h. The subject's actions after being struck by the ECD; and
 - i. Any injuries the subject received. (*Differentiate secondary injuries that may occur from the subject falling to the ground.*)
3. When the ECD is deployed on an animal, the only required report is Spillman Law Incident report.

L. Data Port Tracking

1. The Training Sergeant or designee will be responsible for tracking ECD data port information annually.
2. An ECD used in an incident shall be turned into the training sergeant so the information can be downloaded.

M. Maintenance

1. The ECD contains sensitive electronic components. Care should be taken to avoid dropping the ECD.
2. Prior to each shift, the Taser officer should REMOVE the cartridge, point the ECD in a safe direction, and conduct a one-second "spark test" to ensure that the ECD is operating properly.
3. Officers should check the Central Information Display prior to each shift to ensure there is adequate battery life. If the battery displays 20% or less, the Training Sergeant should be contacted as soon as possible for a replacement battery. If a battery displays 20% or less, the weapon should be taken out of service.
4. If the Central Information Display shows something other than a two-digit number, the weapon should be taken out of service. Do not attempt to pull the trigger on the ECD if the display shows anything but a two-digit number.
5. No changes, alterations, modifications, or substitutions will be made to the ECD. Any ECDs that are unsafe or not functioning properly will be given to the Department's Training Sergeant, who will have it repaired or replaced.

N. Storage

1. The ECD and all companion equipment will be kept in designated areas at the Law Enforcement Center and checked out only by certified officers.
2. The ECD should be secured in the Department approved and purchased holster at all times when not in use.
3. The ECD should be stored with the safety on at all times unless deployed for use.
4. The ECD should not be stored in a vehicle or a vehicle's trunk.

GRAND ISLAND POLICE DEPARTMENT GENERAL ORDER

Topic: Less-Lethal Force
Number: O2703
Issued by: Chief Lamken
Effective date: July 2009

I. Policy

Officers are faced with encounters that require the use of force to affect an arrest or subdue a person that do not reach the threshold of requiring deadly force. The level of less-lethal force needed can range from verbal commands and handcuffing to a much higher level. Officers are required to use a level of force necessary to overcome resistance. Only force which is reasonable and necessary to accomplish a police function shall be applied and should cease immediately upon the accomplishment of the police function.

II. Procedure

- A. Less-lethal force is that force which is intended to control a situation or overcome physical resistance an officer may encounter when attempting to carry out a police function. The use of less-lethal force is preferable to lethal force and should be used in accordance with the resistance/control continuum adopted by the Department.
1. Officers are authorized to use Department issued or approved less-lethal tactics and weapons which include defensive tactics, the baton, Taser, OC spray and impact munitions.
 2. Officers shall be instructed in each approved method of defensive tactics and use of less-lethal weapons prior to authorization to use or carry such, and will be periodically required to demonstrate a proficiency in the use of the method. Officers shall use and provide care after the use of less-lethal weapons in accordance with Department approved training.

- B. Less-lethal force is used to overcome resistance and gain compliance. Officers shall use only the force judged necessary in conjunction with their training and policy to overcome resistance and gain compliance.
- C. A Department use of force report shall be completed for every instance in which physical force, including the use of less-lethal weapons, is used to overcome or restrain an individual. The arrest of a person involving handcuffing without resistance does not require a use of force report.

Kearney Police Department

Effective Date: May 1, 2006

General Order Number: R 3102

Subject: CONFORMANCE TO LAW - THE USE OF FORCE

Reference: All General Orders (GO) Rescinds All Previous
All Special Orders (SO)
All Rules and Regulations (RR)

Special Instructions:

Distribution: G-1

Re-Evaluation: Annually in October

No. Pages: 9

I. PURPOSE

The use of force by law enforcement officers has been granted by the Revised Nebraska Statutes with certain restrictions and under certain circumstances. The use of force is under the constant watch by the public, the courts, and lawmakers. The unreasonable and unwise use of force can result in serious consequences, both civil and criminal, for the officer and the agency represented. Kearney Police Officers may use force when and as authorized by law. Officers will use only that force which is reasonable and necessary under the circumstances, as they know them to be. The application of force will cease when the purpose justifying its use, no longer exists. The use of excessive force is prohibited. All officers will receive instruction regarding requirements before being authorized to carry a weapon.

II. PROCEDURE

A. Definitions

1. The use of force shall be separated into two categories, non-lethal and lethal force.
2. Non-lethal force - Is that force which is intended to control a situation or overcome physical resistance an officer may encounter when attempting to carry out a police function. The use of non-lethal force is preferable only to lethal force. Non-lethal force may be used by officers after they have exhausted other reasonable alternatives or any other alternative would clearly be ineffective. Non-lethal force is force that does not create risk of causing death or serious bodily harm.

3. Lethal Force - Shall mean the use of force with the purpose of causing, or which will create, a substantial risk of causing death or serious bodily harm. The discharge of a firearm will be considered being the use of lethal force; however, lethal force can be expanded to include the use of non-lethal weapons, tactics or techniques, if the intent of their use is to cause serious bodily harm.

4. Serious bodily harm - Shall mean injury that creates a risk of death, causes serious, permanent disfigurement, or results in long-term loss or impairment of a major bodily function.

5. Reasonable belief: Shall mean a reasonable conclusion based upon the information known to the officer at the time.

6. Hospitalization: Shall be admission to a hospital, and does not include treatment and release at an emergency room.

B. Resistance Control Continuum.

1. The department has adopted a resistance control continuum as a conceptual model for use of force. A chart defining the continuum is contained as an annex to this policy

2. The resistance control continuum is a guide on when to use force and what type and degree of force to use. The continuum is founded on the principle that officers should:

a. Respond to resistance with a level of control that is sufficient to overcome the resistance, but is reasonable and necessary under the circumstances.

b. Select a type and degree of force in consideration of the particular circumstances at hand such as:

- 1) Environmental factors
- 2) Reaction time
- 3) Individual Attributes of both the subject and the officer such as size, strength, etc.

c. Escalate the level of force if the present level is ineffective or the subject escalates resistance.

d. De-escalate the level of force as the subject is brought under control.

3. The resistance control continuum is only a guide, and is not intended to cover all situations, and all possible variables. It should be noted that an officer may enter into the continuum at any level, depending upon the resistance given by the suspect.

4. Officers shall employ non-lethal force techniques consistent with the methods and procedures instructed by the department.
5. Officers may be required to use force in non-arrest situations, to affect a lawful purpose, such as restraining a person who is mentally ill.

C. Non-lethal Weapons – Are defined as physical strength of the officer, the baton, Oleoresin capsicum spray (O.C. spray), Pepper ball gun, Taser, flexible and non-flexible impact projectiles, and chemical agents.

1. Oleoresin capsicum spray (O.C. Spray) - officers will be trained and certified in the use of O.C. Spray and shall be required to re-certify every 3 years. O.C. Spray will be used in accordance with the training provided. Officers are reminded that O.C. Spray can be used prior to physical force in overcoming resistance while attempting to carry out a police function.

*See sections E, F, and G of this policy.

- a. An officer shall be subject to review of his knowledge and/or skills in the use of O.C. Spray at any time.

- b. All uniformed officers will carry department issued O.C. Spray while on duty.

2. Physical Strength – Often an officer is called upon to use his/her physical strength to control a situation or affect an arrest. It is the policy of the department that officers use only that force which is necessary to control a situation.

3. Taser – Officers will be trained and certified on the use of the Taser and shall be required to recertify on an annual basis. The Taser will be used in accordance with training provided. Officers are reminded that the Taser may be used prior to physical force in overcoming resistance while attempting to carry out a police function

*See sections E, F, and G of this policy.

- a. An officer shall be subject to review of his knowledge and/or skills in the use of the Taser at any time.

4. Shoulder Pin Neck Restraint - Officers will be trained and certified in the use of the Shoulder Pin Neck Restraint and shall be required to recertify on a regular basis. The Shoulder Pin Neck Restraint will be used in accordance with the training provided.

Officers are reminded that this technique is to be used only to the point of submission of the suspect.

*See sections E, F, and G of this policy.

a. Officers shall be subject to a review of his/her knowledge and/or skills in the use of the Shoulder Pin Neck Restraint at any time.

5. Baton – All officers shall possess and carry only a Department-approved baton. Officers shall be certified in the use of the baton and shall be required to re-certify on an annual basis. Officers shall use the baton in accordance with training provided for the use of the baton.

*See sections E, F, and G of this policy.

a. An officer shall be subject to review of his knowledge and/or skills in the use of the baton at any time.

b. The department approves the collapsible straight handle baton. Officers shall carry an approved baton while on duty. Officers are encouraged to carry a baton on all calls for service. An officer (including investigators) will carry a baton on his person when responding to the following situations:

Assaults and fights in progress

Disturbance calls

Loud party calls

Calls where the officer knows an arrest will be made

6. Pepper ball Gun – The department has authorized the use of a pepper ball gun in accordance with established standard operating procedures and departmental training. Officers will be trained in the use of the pepper ball gun, prior to deployment. Supervisor approval is required prior to use.

Pepper ball gun falls under intermediate weapons on the Resistance Control Continuum

*See sections E, F, and G of this policy.

a. An officer shall be subject to review of his knowledge and/or skills in the use of the pepper ball gun at any time.

7. Flexible and Non-flexible Impact Projectiles – the department has approved the use of flexible and non-flexible impact projectiles under special circumstances and in accordance with established standard operating procedures and departmental training. Officers

shall be trained in the use of these devices and have supervisor approval prior to deployment or use.

Flexible and non-flexible impact projectiles fall under intermediate weapons on the Resistance Control Continuum.

*See sections E, F, and G of this policy.

a. An officer shall be subject to review of his knowledge and/or skills in the use of flexible and non-flexible impact projectiles at any time.

8. Chemical Agents – chemical agents shall be used only upon the approval of the ESU Commander, Operations Captain, Chief of Police or his designated representative. It should be remembered that unlike other non-lethal weapons, chemical agents could adversely affect other persons, including law enforcement personnel in the immediate area of use. Chemical agents should not be used without thorough analysis of the situation.

*See sections E, F, and G of this policy.

a. An officer shall be subject to review of his knowledge and/or skills in the use of chemical weapons at any time.

9. Flashlight – The primary purpose of a flashlight is to provide illumination. Flashlights are not intended to be used as non-lethal weapons. However, in some situations it may be permissible. The flashlight can be used as a defensive weapon when an officer or person is in danger of receiving bodily injury and the officer cannot gain use of the baton. Flashlights shall not exceed 15" in length and should be of non-reflective material. Use of the flashlight as a weapon falls under intermediate weapons on the Resistance Control Continuum.

*See sections E, F, and G of this policy.

10. Auxiliary Weapons – Auxiliary weapons, other than those issued by the department, must be approved by the Chief of Police before an officer can carry or have in his possession. Pocketknives and sheath lock blade knives shall not be considered auxiliary weapons for the purpose of these provisions.

11. Knives (other than pocketknives) – Knives must meet all of the following criteria to be carried by an officer. Possession of a knife is optional.

- a. Be of a lock blade type
- b. Be a folding knife
- c. Blade length not to exceed 4"
- d. Carried in a black sheath if on the duty belt

*See sections E, F, and G of this policy.

12. Distraction Device – The department has approved the use of Distraction Devices under special circumstances and in accordance with established standard operating procedures and department training. Officers shall be trained in the use of these devices and shall be used only upon approval of the ESU Commander, Operations Captain, the Chief of Police, or his designated representative. Distraction Devices should not be used without thorough analysis of the situation. Special areas of consideration should be if children are present, elderly present, smoke, and fire consideration. A fire extinguisher shall always be on hand with the use of these devices. Special circumstances and environment may preclude the use of a Distraction Device. A procedure of LOOK before deploying a device will be mandatory in most cases when using a Distractive Device.

*See sections E, F, and G of this policy.

- a. An officer shall be subject to review of his knowledge and/or skills in the use of distraction devices at any time.

D. Lethal Weapons/Force - Officers may use lethal force only when the officer reasonably believes that the action is in defense of a human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily harm. In no case shall an officer discharge his firearm or use lethal force until all other reasonable means have been exhausted or would be clearly ineffective.

1. The policy of the Kearney Police Department is that an officer may discharge his firearm when it reasonably appears to be the only remaining means in the following situations.

- a. In the defense of the life of an officer or another person.
- b. To prevent the commission of a dangerous felony such as murder, rape, armed robbery, and first degree arson.
- c. In effecting an arrest when the resistance has reached a state where it endangers the life of the officer or another person.

A police officer may never fire upon a person who is ordered to halt, upon mere suspicion and who, without making resistance, runs or drives away to avoid apprehension for a crime other than a dangerous felony where there is reason to believe further violent acts will occur without immediate apprehension. There is always a danger of injury to innocent persons when a firearm is discharged and all officers are admonished to always use the utmost caution when it becomes necessary to fire.

2. Warning shots create a danger to citizens, and officers are prohibited from firing warning shots, except in the following situations:

- a. Shots intended to stop a threatened felonious attack upon an officer or innocent victim.
- b. Shots fired to summon aid in extreme cases of urgency when no more conventional means of communication are available and the safety of other persons is considered.

3. Officers shall avoid the use of the service firearms and use the Department's .22 caliber rifle or a department issued shotgun to kill animals that are seriously injured or pose a real threat to the safety of people. Service firearms can be used only when the situation requires an immediate response. Officers shall use the utmost caution and safety before using any firearm in such situations.

4. An officer may draw his firearm and hold it in readiness when engaged in the performance of his duties or in imminent danger of his life or the life of another person. Officers shall not display firearms unnecessarily or draw firearms in public places, except for inspection or official use. In effecting the arrest of a felony offender, officers may display firearms for the purpose of maintaining control of the arrest.

*See sections E, F, and G of this policy.

- a. An officer shall be subject to review of his knowledge and/or skills in the use of firearms at any time.

E. Medical Aid After Use of Force - Medical attention will be offered and/or provided to the subject if injury is apparent or the suspect requests medical attention, after force has been used. If injury is apparent and the subject refuses medical treatment, the report will reflect such refusal. A third party should witness refusals.

1. Officers should summon emergency medical units promptly in the event of a medical emergency resulting from use of force.

2. If a subject injured by use of force is transported by ambulance, an officer shall accompany the subject in the ambulance and remain with the subject until relieved.

3. Officers should obtain necessary medical treatment for subjects prior to booking into the detention facility. Officers should notify correctional staff of any use of force, use of the shoulder pin neck restraint, Taser, OC spray, loss of consciousness, or other known medical distress or condition, which may have occurred.

F. Notification and Reporting Use of Force - In the following types of cases officers are required to personally notify their immediate supervisor or the duty commander and complete a Use of Force Form:

1. Discharge of a firearm (on or off duty) for purposes other than training or recreation
2. Any force which results in injury
3. Any use (not merely display) of a weapon of any kind, including, but not limited to: shoulder pin neck restraint, Taser, firearms, batons, OC spray, and special impact weapons.
4. Use of any "Hard Empty Hand" techniques.

The duty supervisor shall notify the Chief of Police, Operations Captain, and Lieutenants whenever police action has resulted in significant injury or death.

G. Review of Use of Force - The department has adopted a Use of Force Form as a method of tracking the use of force and compiling data. This form is to be forwarded to the Lieutenants for review and on to the Operations Captain who will be responsible for the compiling of data.

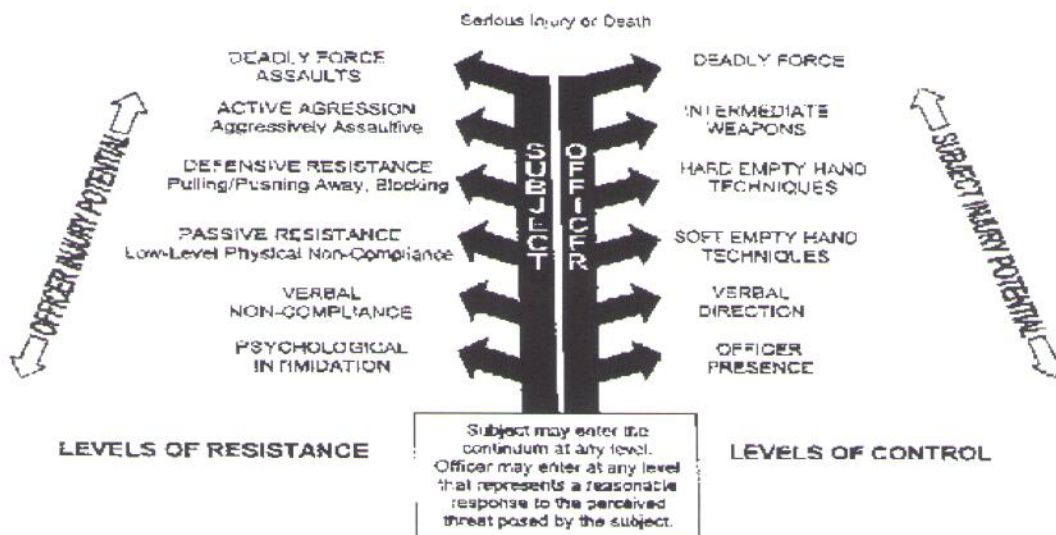
1. The Operations Captain shall review each form and the related reports to determine compliance with this and other department policies.
2. Completion of the Use of Force Form does not relieve the officer from completing all necessary reports appropriately and completely.

H. Investigation of Lethal Force and Serious Injury - All incidents involving the use of force by department personnel, which result in death or serious injury, will be investigated by the criminal investigations unit or by another law enforcement agency to be determined by the Chief of Police. The purpose of the investigation is to determine whether a crime has been committed, and in the case of an in custody death, to provide evidence for the Grand Jury investigation.

1. If another law enforcement agency is conducting such an investigation, the Chief will assign a command officer to serve as a liaison to that agency during the investigation.
2. The investigative unit or designee of the Chief shall undertake a separate internal investigation. The purpose of this investigation is to determine compliance with department policies, procedures, rules, and regulations and to gather information for the internal use of the department.
3. Any employee whose actions result in a death or serious bodily injury will be removed from line duty assignment pending administrative review. Return to full duty will be at the discretion of the Chief of Police.
4. The name or names of any department employee involved in a use of force incident which results in the death or serious injury will not be made public until such time as is pertinent and proper regarding the investigation and in concert with the County Attorney.

Annex C
Use of Force

PPCT Management Systems
PPCT RESISTANCE CONTROL CONTINUUM



2009

LINCOLN POLICE DEPARTMENT GENERAL ORDERS



NUMBER: 1340
TOPIC: LESS LETHAL FORCE TRAINING
ISSUED BY: TOM CASADY, CHIEF OF POLICE
DATE: 1-1-2007
SUPERSEDES: G.O. 1340, 2001
REFERENCE:

I. POLICY

The Lincoln Police Department will provide officers with pre-service and ongoing instruction in the use of force. The purpose of use of force training is to attain a level of proficiency that encourages less resistance and allows each officer to protect himself and the community in the safest and most appropriate manner possible.

II. PROCEDURE

- A. Less lethal force training is the responsibility of the Education and Personnel Unit, and will be coordinated by an officer assigned to that Unit as the less lethal force instructor. Training will occur at least once every two years.
- B. The department will provide officers with training which includes the following areas:
 - 1. Baton;
 - 2. Lateral vascular neck restraint (LVNR);
 - 3. Pressure point control tactics;
 - 4. Aerosol oleoresin capsicum (OC);
 - 5. Handcuffing and restraint use;
 - 6. Weapons retention;
 - 7. Medical considerations in use of force;
 - 8. Use of force policy.
- C. The Education and Personnel Unit will maintain a detailed manual which covers these topics. This manual contains the curriculum and standard practices of the department in the use of less lethal force. Copies will be available to officers for training and review.
- D. It is the department's intent that each officer become skilled in each technique and topic. Therefore, all officers are required to participate in regular less lethal force training.

2009

LINCOLN POLICE DEPARTMENT GENERAL ORDERS



NUMBER: 1510
TOPIC: USE OF FORCE
ISSUED BY: TOM CASADY, CHIEF OF POLICE
DATE: 1-1-2009
SUPERSEDES: G.O. 1510, 2008
REFERENCE: G.O. 1430, N.R.S. 28-1407, et seq.

I. POLICY

Lincoln Police Officers may use force when and as authorized by law. Officers will use only that force which is reasonable and necessary under the circumstances as they know them to be. The application of force will cease when the purpose justifying its use has been accomplished. The use of excessive force is prohibited. All officers will be issued a copy of this General Order and will receive instruction regarding its requirements before being authorized to carry a weapon.

II. PROCEDURE

A. Definitions

1. Lethal Force: Shall mean force that creates a substantial risk of causing death or serious bodily harm.
2. Less lethal Force: Shall mean force that does not create a substantial risk of causing death or serious bodily harm.
3. Serious Bodily Harm: Shall mean injury that creates a risk of death, causes serious permanent disfigurement, or results in long term loss or impairment of a major bodily function.
4. Reasonable Belief: Shall mean a reasonable conclusion based on the information known to the officer at the time.
5. Hospitalization: Shall be admission to a hospital, and does not include treatment and release at an emergency room.

B. Use of Firearms and Lethal Force

1. Officers may use lethal force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious bodily harm. In no case shall an officer discharge a firearm until all other reasonable means have been exhausted or would be clearly ineffective.

2. Officers may draw or display firearms when engaged in a hazardous duty in which firearms may be needed. In effecting felony arrests, officers may display firearms for the purpose of obtaining and maintaining control of persons arrested.
3. Officers shall not draw or display firearms unnecessarily.
4. Shots fired into the air or ground in an attempt to cause a fleeing suspect to stop or surrender are prohibited. Shots fired into the air or ground may be employed with extreme caution for the following purposes only, and then only when other alternatives have been exhausted or would be clearly ineffective:
 - a. To stop a threatened felonious attack on an officer or a victim;
 - b. To summon aid when more conventional communication is not effective.
5. A supervisor may approve the use of firearms to kill animals that are seriously injured or pose a threat to public safety when no other disposition is practical.
6. In all circumstances, officers will discharge firearms only when the safety of others has been taken into consideration, and will use the utmost caution to avoid endangering innocent persons.
7. Officers shall not surrender their firearms except as a last resort.

C. Use of Less lethal Force

1. The department has adopted a resistance control continuum as a conceptual model for the use of force. A chart depicting the continuum is contained in this General Order.
2. The resistance control continuum is a guide on when to use less lethal force, and what type and degree of force to use. The continuum is founded on the principle that officers should:
 - a. Respond to the resistance with a level of control that is sufficient to overcome the resistance, but is reasonable and necessary under the circumstances.

- b. Select a type and degree of force in consideration of the particular circumstances at hand, such as:
 - (1) Environmental factors;
 - (2) Reaction time;
 - (3) Attributes of both the subject and the officer, such as size, strength, etc.;
 - c. Escalate the level of force if the present level is ineffective or if the subject escalates the resistance.
 - d. De-escalate the force as the subject is brought under control
3. The resistance control continuum is only a guide, and is not intended to cover all situations, and all possible variables.
 4. Officers shall employ less lethal force techniques consistent with the methods and procedures instructed by the department.
 5. Use of Taser
 - a. Taser is an intermediate weapon, and may be used only when the use of a firearm or baton would be authorized.
 - b. Taser should not be used upon:
 - (1) Small children
 - (2) Pregnant subjects
 - (3) Handcuffed subjects
 - (4) Subjects who passively resist
 - c. Taser should not be used near flammable or explosive chemicals.
 6. Officers may be requested to use force in non-arrest situations, to effect a lawful purpose, such as restraining a person who is mentally ill or injured for treatment. Officers may provide such assistance to caregivers when necessary in emergency circumstances, but should not use force in the absence of an emergency or when other less intrusive methods would suffice.

D. Medical Aid After Use of Force

1. Officers should obtain appropriate first aid when subjects are injured in use of force incidents, and summon emergency medical units promptly in the event of a medical emergency resulting from use of force.
2. If a subject injured by the use of force is transported by ambulance, an officer shall accompany the subject in the ambulance.
3. Officers should regularly observe the subject to determine his or her state of consciousness and physical condition whenever weapons or active countermeasures have been employed. The duty to observe shall end upon the arrival of emergency medical personnel. Active countermeasures include:
 - a. Hard empty hand techniques;
 - b. OC spray or other chemical agents;

- c. Lateral vascular neck restraint;
 - d. Baton strikes;
 - e. Specialty impact munitions;
 - f. Taser discharge.
4. In the circumstances listed above, officers should employ the following precautions following the use of force:
 - a. Place subject in an upright position as soon as safely possible;
 - b. Regularly observe the subject;
 - c. Summon emergency medical assistance immediately if the subject displays visible signs of medical distress, such as loss of consciousness, difficulty breathing, convulsions or tremors.
 5. When it can safely be done, officers shall assist in decontaminating subjects who have had contact with OC spray.
 6. Officers should obtain necessary medical treatment for subjects prior to booking. Hospital examination shall be obtained for any subject when Taser, lateral vascular neck restraint or specialty impact munitions to include bean bag and baton has been used, or when there has been any loss of consciousness. Officers should notify corrections staff of any use of lateral vascular neck restraint, OC spray, Taser, loss of consciousness, or other known medical distress or condition which may have occurred.

E. Notification and Reporting of Use of Force

1. In the following types of cases officers are required to personally notify their immediate supervisor or the duty commander, who shall complete a Use of Force form. Officers shall also complete a Supplementary Report or ACI documenting the circumstances of the use of force in these cases:
 - a. Discharge of a firearm (on or off duty) other than for training or recreation;
 - b. Any use of force which results in injury;
 - c. Any use (not merely display) of a weapon of any kind, including, but not limited to, firearms, baton, Taser, and OC spray;
 - d. Use of any hard empty-hand technique.
2. The duty commander shall notify the officer's commanding officer, the assistant chief, the chief of police, the police legal advisor and the Internal Affairs Unit whenever police action has resulted in death, hospitalization or heightened community interest.

F. Review of Use of Force

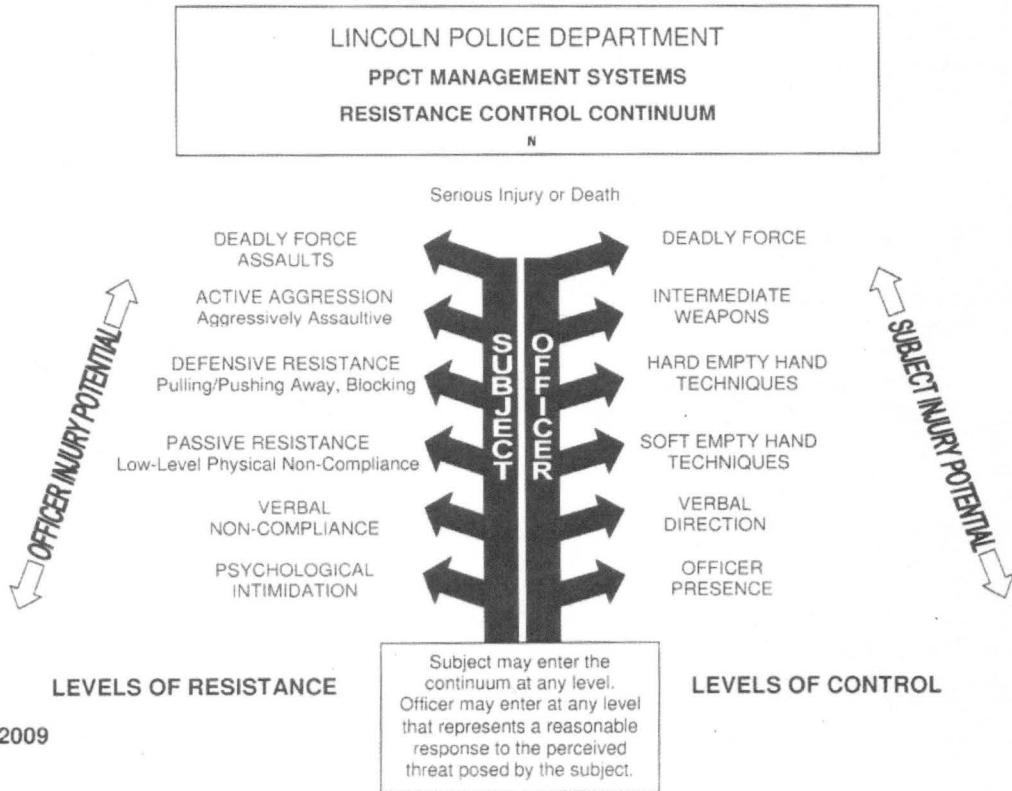
1. The Department has adopted a Use of Force Form as a method of tracking the use of force and compiling data.
2. One copy of this form shall be sent to the officer's commanding officer, for his or her review in order to determine compliance with this General Order.
3. A second copy of this form shall be forwarded to the assistant chief who will distribute copies to the Management Services and Education and Personnel Units.
4. The assistant chief shall review each form and the related reports to determine compliance with this policy.
5. The Management Services Unit shall also review these reports, and make any recommendations pertaining to department policy or practice to the chief of police.

G. Investigation of Lethal Force and Serious Injury

1. Incident Investigation
 - a. All incidents involving the use of force by department personnel which result in the death of a person will be investigated by the Criminal Investigations Team or by another law enforcement agency to be determined by the chief of police. The purpose of this investigation is to

determine if a crime has been committed and, in the case of an in-custody death, to provide evidence for the grand jury investigation.

- b. If another law enforcement agency is conducting such an incident investigation, the chief of police will assign a commanding officer to serve as a liaison to that agency during the investigation.
2. Administrative Investigation
 - a. The Internal Affairs Unit shall undertake a separate internal investigation, following the guidelines contained in General Order 1430, *Internal Investigations*. The purpose of this investigation is to determine compliance with department procedures and gather information for the internal use of the department.
 - b. Any employee whose actions result in a death or serious bodily injury will be removed from line duty assignment pending administrative review. Return to full duty will be at the discretion of the chief of police.





LINCOLN POLICE DEPARTMENT GENERAL ORDERS

NUMBER: 1510
TOPIC: USE OF FORCE
ISSUED BY: JAMES PESCHONG, CHIEF OF POLICE
DATE: 1-1-2012
SUPERSEDES: G.O. 1510, 2010
REFERENCE: G.O. 1430, N.R.S. 28-1407, et seq.

I. POLICY

Lincoln Police Officers may use force when and as authorized by law. Officers will use only that force which is reasonable and necessary under the circumstances as they know them to be. The application of force will cease when the purpose justifying its use has been accomplished. The use of excessive force is prohibited. All officers will be issued a copy of this General Order and will receive instruction regarding its requirements before being authorized to carry a weapon.

II. PROCEDURE

A. Definitions

1. Lethal Force: Shall mean force that creates a substantial risk of causing death or serious bodily harm.
2. Less lethal Force: Shall mean force that does not create a substantial risk of causing death or serious bodily harm.
3. Serious Bodily Harm: Shall mean injury that creates a risk of death, causes serious permanent disfigurement, or results in long term loss or impairment of a major bodily function.
4. Reasonable Belief: Shall mean a reasonable conclusion based on the information known to the officer at the time.
5. Hospitalization: Shall be admission to a hospital, and does not include treatment and release at an emergency room.

B. Use of Firearms and Lethal Force

[REDACTED]

C. Use of Less lethal Force

[REDACTED]

[REDACTED]

emergency medical personnel. A [REDACTED]
[REDACTED]

4. In the circumstances listed above, officers should employ the following precautions following the use of force:
 - a. Place subject in an upright position as soon as safely possible;
 - b. Regularly observe the subject;
 - c. Summon emergency medical assistance immediately if the subject displays visible signs of medical distress, such as loss of consciousness, difficulty breathing, convulsions or tremors.
5. When it can safely be done, officers shall assist in decontaminating subjects who have had contact with OC spray.
6. Officers should obtain necessary medical treatment for subjects prior to booking. Hospital examination shall be obtained for any subject when TASER, lateral vascular neck restraint or specialty impact munitions to include bean bag and baton has been used, or when there has been any loss of consciousness. Officers should notify corrections staff of any use of lateral vascular neck restraint, OC spray, TASER, loss of consciousness, or other known medical distress or condition which may have occurred.

E. Notification and Reporting of Use of Force

[REDACTED]

D. Medical Aid After Use of Force

1. Officers should obtain appropriate first aid when subjects are injured in use of force incidents, and summon emergency medical units promptly in the event of a medical emergency resulting from use of force.
2. If a subject injured by the use of force is transported by ambulance, an officer shall accompany the subject in the ambulance.
3. Officers should regularly observe the subject to determine his or her state of consciousness and physical condition whenever weapons or active countermeasures have been employed. The duty to observe shall end upon the arrival of

[REDACTED]

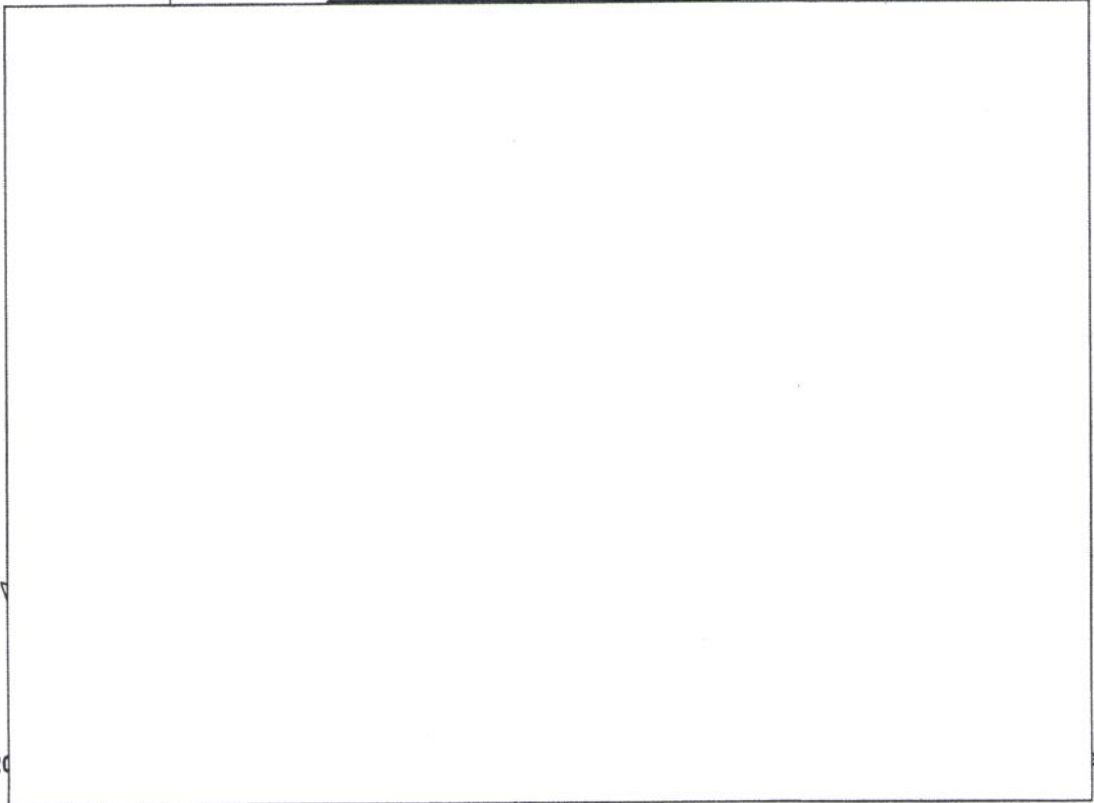
F. Review of Use of Force

[REDACTED]

[REDACTED]

G. Investigation of Lethal Force and Serious Injury

[REDACTED]



LINCOLN POLICE USE OF FORCE SUMMARY
 1-1-14 TO 5-20-14

| | | |
|--------------------------|----------------------------------|----|
| RESISTANCE LEVELS: | A PSYCHOLOGICAL INTIMIDATION | 1 |
| | B VERBAL NON-COMPLIANCE | 1 |
| | C PASSIVE RESISTANCE | 2 |
| | D DEFENSIVE RESISTANCE | 16 |
| | E ACTIVE AGGRESSION | 8 |
| | F DEADLY FORCE ASSAULT | 2 |
| FORCE LEVELS: | A OFFICER PRESENCE | 0 |
| | B VERBAL DIRECTION | 0 |
| | C SOFT EMPTY HAND CONTROL | 16 |
| | D HARD EMPTY HAND CONTROL | 1 |
| | E OC SPRAY | 0 |
| | F SOFT INTERMEDIATE WEAPON CNTRL | 0 |
| | G HARD INTERMEDIATE WEAPON CNTRL | 13 |
| | H DEADLY FORCE | 0 |
| | Z DESTROY INJURED ANIMAL | 5 |
| | TASER: | 13 |
| | LVNR: | 0 |
| * no longer used 11/2011 | 6 IN ONE: | 0 |
| | PRESS. POINT: | 0 |
| | OC SPRAY: | 0 |
| | FIREARM: | 5 |
| | CUFFS: | 26 |
| | COME ALONG: | 0 |
| | ACTIVE COUNTER MEASURE: | 0 |
| * no longer used 11/2011 | IMPACT: | 0 |
| * added 11/2011 | BATON: | 0 |
| * added 11/2011 | IMPACT MUNITIONS: | 0 |
| * added 11/2011 | CANINE: | 0 |
| * added 11/2011 | OFFICER INJURED: | 8 |
| * added 11/2011 | SUSPECT INJURED: | 21 |
| | OFFICER NEEDING MEDICAL: | 2 |
| | SUSPECT NEEDING MEDICAL: | 19 |
| | TOTAL CASES: | 35 |

LINCOLN POLICE USE OF FORCE SUMMARY
 1-1-13 TO 12-31-13

| | | |
|--------------------------|----------------------------------|----|
| RESISTANCE LEVELS: | A PSYCHOLOGICAL INTIMIDATION | 0 |
| | B VERBAL NON-COMPLIANCE | 5 |
| | C PASSIVE RESISTANCE | 0 |
| | D DEFENSIVE RESISTANCE | 45 |
| | E ACTIVE AGGRESSION | 21 |
| | F DEADLY FORCE ASSAULT | 5 |
| FORCE LEVELS: | A OFFICER PRESENCE | 0 |
| | B VERBAL DIRECTION | 0 |
| | C SOFT EMPTY HAND CONTROL | 30 |
| | D HARD EMPTY HAND CONTROL | 12 |
| | E OC SPRAY | 4 |
| | F SOFT INTERMEDIATE WEAPON CNTRL | 0 |
| | G HARD INTERMEDIATE WEAPON CNTRL | 30 |
| | H DEADLY FORCE | 0 |
| | Z DESTROY INJURED ANIMAL | 10 |
| | TASER: | 26 |
| | LVNR: | 5 |
| * no longer used 11/2011 | 6 IN ONE: | 0 |
| | PRESS. POINT: | 0 |
| | OC SPRAY: | 6 |
| | FIREARM: | 9 |
| | CUFFS: | 70 |
| | COME ALONG: | 0 |
| | ACTIVE COUNTER MEASURE: | 0 |
| * no longer used 11/2011 | IMPACT: | 0 |
| * added 11/2011 | BATON: | 0 |
| * added 11/2011 | IMPACT MUNITIONS: | 0 |
| * added 11/2011 | CANINE: | 0 |
| * added 11/2011 | OFFICER INJURED: | 17 |
| * added 11/2011 | SUSPECT INJURED: | 64 |
| | OFFICER NEEDING MEDICAL: | 3 |
| | SUSPECT NEEDING MEDICAL: | 47 |
| | TOTAL CASES: | 86 |



City of Omaha
Jean Stothert, Mayor

Law Department

Omaha/Douglas Civic Center
1819 Farnam Street, Suite 804
Omaha, Nebraska 68183-0804
(402) 444-5115
Telefax (402) 444-5125

Paul D. Kratz
City Attorney

June 27, 2014

Amy Miller
ACLU of Nebraska
941 'O' Street
Suite 706
Lincoln, Nebraska 68508

RE: Request for Police Department Records – Use of Taser and Force

Dear Ms. Miller:

On behalf of Chief of Police Todd Schmaderer I am responding to your request for Omaha Police Department records. You ask for copies of reports documenting the use of a Taser electronic control device or other use of force by Omaha police officers from January 1, 2013, through May, 2014. Your request is made under the provisions of the Nebraska Public Records Act, Neb. Rev. Stat. sections 84-712 et seq. This is the response required by section 84-712(4). Thank you for your patience in waiting for this response.

Your request is set out in three parts and is denied in part and granted in part.

1. Reports summarizing use of force and Tasers: The Police Department does not maintain reports on the use of a Taser as an administrative function. The Department does not have reports that are specifically intended to summarize the use of a Taser or use of force as you describe. Such use is summarized on several types of reports which will be treated separately.

The use of force, including use of a Taser, is first reported on an incident report or supplementary report that documents arrests or other contact between police officers and citizens. In addition, the use of a Taser is documented by the officer on a Chief's Report, which goes directly to the Chief of Police. The Chief's Report contains a factual narrative about the incident, often repeating the facts documented in the supplementary reports. Chief's Reports are intended to directly alert the Chief of specific types of incidents, allowing the Chief and other supervisory personnel to respond to issues raised by the incident, determine if the incident was handled properly, and, if not, decide if the involved officer should be disciplined or given additional training. The Chief's Reports and accompanying supplementary reports are, when appropriate, then forwarded to

RE: Request for Police Department Records – Use of Taser and Force

the Internal Affairs Unit for review and disciplinary action, the Safety Review Board for consideration of discipline and/or procedural changes, and to the Training Academy for providing additional training to the officer. Chief's Reports arise from activities that are part of the Police Department's duty to investigate crime and are maintained and used to examine employee conduct and appropriately monitor that conduct. Over 1200 Chief's Reports are typically created every year.

Supplementary Reports Denied. To the extent your request extends to supplementary reports documenting use of a Taser, it is denied. The supplementary reports are records created or maintained as part of a law enforcement investigation and are withheld pursuant to Neb. Rev. Stat. § 84-712.05(5) (Reiss. 2008). See, *Fourcloud v. City of Fremont*, 3 NCA 986 (1993). The records being withheld were created by Omaha police personnel during investigations of reported or observed criminal activity.

The City is unable to retrieve the supplementary reports and fully describe the records' contents without an extensive search at additional cost to you. Typically these reports contain witness statements, descriptions of investigative efforts, scene evaluations, investigators' conclusions and comments, and descriptions of evidence collected.

Incident Reports Unable to Provide: Police activity giving rise to supplementary reports might also cause an incident report to be created and those reports typically describe the type of force used. Incident reports or Uniform Crime Reports are considered original records of entry that are open to public inspection pursuant to Neb. Rev. Stat. § 29-3521 (Reiss. 2008). However, a manual search will be required to retrieve these reports and determine if they include references to the use of force or a Taser. Incident reports are provided to the public at a standard fee of \$5.00 per report, regardless of the number of pages. We have identified 81 known incidents of Taser use in your chosen time period and 592 uses of force of any kind. Obtaining copies of these publicly available reports will require payment of \$2,960.00 in copy costs and the charge allowed by law for retrieval time. It is the City's policy to require full payment of this amount before beginning any search for the available records. If you want the Department to provide these reports, please send at least the copy costs payment to my attention.

Chief's Reports Denied: To the extent your request extends to the Chief's Reports that document use of force, it is denied. The reports are records created or maintained as part of a law enforcement investigation and are withheld pursuant to Neb. Rev. Stat. § 84-712.05(5) (Reiss. 2008). The records were created by Omaha police personnel during investigations of reported or observed criminal activity and added to by supervisors monitoring employee conduct. The reports typically contain a description of the activity, the officer's response, and comments from command personnel. In addition, the reports contain the impressions and conclusions of supervisory personnel and those portions are withheld pursuant to Neb. Rev. Stat. § 84-712.05(7) (Reiss. 2008).

Amy Miller
June 24, 2014
Page 3

RE: Request for Police Department Records – Use of Taser and Force

2. Policies and procedures for Taser use: This portion of your request is denied. The policies are records that contain strategic or tactical information used in law enforcement training and are withheld pursuant to Neb. Rev. Stat. § 84-712.05(5) (Reiss. 2008). In addition, to the extent that information could be redacted, the Department is currently working on that task for all policies in the Standard Operating Procedures manual provided to officers. A redacted copy of the policy will be available when the task is completed for this portion of the SOP.

3. Statistical information: Enclosed are printouts of the statistical record for the use of force incidents during 2013 and the first 4 months of 2014.

REVIEW: Section 84-712.03 of the Nebraska Revised Statutes may grant you the right to administrative or judicial review of this response. Please consult that statute for further information. Chief of Police Schmaderer is the public employee responsible for the decision to deny a portion of your request. Contact me at (402) 444-5137 if you have questions about the legal basis for this response.

Sincerely,



Thomas O. Mumgaard
Deputy City Attorney

C: Police Chief Schmaderer

**Profile of Use-of-force Incidents Received
Between Jan 1, 2013 and Dec 31, 2013**

Total number of use-of-force incidents: 275

Total number of officers involved: 400

Type of force tally:

| Type of force | Effective | | Not effective | | Total # |
|-----------------------|-----------|------|---------------|-----|---------|
| | # | % | # | % | |
| Baton | 4 | 80% | 1 | 20% | 5 |
| Brachial Stun | 6 | 67% | 3 | 33% | 9 |
| Canine Bite | 12 | 92% | 1 | 8% | 13 |
| Chemical Agent | 15 | 79% | 4 | 21% | 19 |
| Double Leg Sweep | 1 | 33% | 2 | 67% | 3 |
| Elbow Strike | 4 | 100% | 0 | 0% | 4 |
| Hand Strike | 32 | 56% | 25 | 44% | 57 |
| Improvised Imp.Weapon | 2 | 100% | 0 | 0% | 2 |
| Knee Strike | 26 | 74% | 9 | 26% | 35 |
| Leg Strike | 3 | 30% | 7 | 70% | 10 |
| Lift and Dump | 5 | 100% | 0 | 0% | 5 |
| LVNR-Evid. Recovery | 1 | 50% | 1 | 50% | 2 |
| LVNR/ULNR | 17 | 63% | 10 | 37% | 27 |
| Pepper Ball | 3 | 100% | 0 | 0% | 3 |
| Pressure Point | 6 | 55% | 5 | 45% | 11 |
| Single Leg Sweep | 23 | 92% | 2 | 8% | 25 |
| Tackle | 23 | 82% | 5 | 18% | 28 |
| Takedown | 82 | 85% | 14 | 15% | 96 |
| Taser | 47 | 76% | 15 | 24% | 62 |

Report date range criteria: Incidents received Between Jan 1, 2013 and Dec 31, 2013

Report name: Use of Force stats

Report run on: Mar 10, 2014 at 11:40 by Administrative Assistant Suzanne Stone

Profile of Use-of-force Incidents Received
Between Jan 1, 2014 and May 1, 2014

Total number of use-of-force incidents: 101

Total number of officers involved: 135

Type of force tally:

| Type of force | Effective | | Not effective | | Total # |
|--------------------------|-----------|------|---------------|------|---------|
| | # | % | # | % | |
| Baton | 3 | 75% | 1 | 25% | 4 |
| Brachial Stun | 3 | 100% | 0 | 0% | 3 |
| Canine Bite | 3 | 100% | 0 | 0% | 3 |
| Chemical Agent | 3 | 43% | 4 | 57% | 7 |
| Double Leg Sweep | 2 | 100% | 0 | 0% | 2 |
| Elbow Strike | 1 | 20% | 4 | 80% | 5 |
| Hand Strike | 17 | 94% | 1 | 6% | 18 |
| Improvised Impact Weapon | 3 | 100% | 0 | 0% | 3 |
| Knee Strike | 12 | 75% | 4 | 25% | 16 |
| Leg Strike | 1 | 100% | 0 | 0% | 1 |
| Lift and Dump | 4 | 100% | 0 | 0% | 4 |
| LVNR - Evidence Recovery | 0 | 0% | 1 | 100% | 1 |
| LVNR/ULNR | 7 | 88% | 1 | 13% | 8 |
| Other Strength Technique | 28 | 82% | 6 | 18% | 34 |
| Pressure Point | 3 | 75% | 1 | 25% | 4 |
| Single Leg Sweep | 8 | 80% | 2 | 20% | 10 |
| Tackle | 7 | 100% | 0 | 0% | 7 |
| Takedown | 25 | 93% | 2 | 7% | 27 |
| Taser | 16 | 84% | 3 | 16% | 19 |

Report date range criteria: Incidents received Between Jan 1, 2014 and May 1, 2014

Report name: Use of Force stats

Report run on: May 28, 2014 at 13:37 by Administrative Assistant Suzanne Stone

DIVISION: General
TITLE: Non-Lethal Use of Force
STANDARD #: G-26
APPROVED BY: Chief B. Paulsen
DATE: March 2002
REVIEWED: February 2005
REVISED: February 2005

Law enforcement officers are confronted daily with situations where control must be exercised to effect arrests and protect the public safety. Control may be achieved through verbal advice, warnings, or persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, physical force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers are permitted to use whatever force is reasonable and necessary to protect themselves and others from bodily harm.

In a majority of cases, some level of physical force will be necessary to effect an arrest or to protect others. That amount of physical force may be as low as placing a hand on the subject's shoulder or arm, and directing that subject to place his hand behind his back for handcuffing. Depending on the level of resistance encountered, the officer may use techniques that may escalate to techniques which influence behavior by eliciting pain in order to apply handcuffs, using hand/leg strikes, impact weapons, or even the use of a firearm, if the resistance offered is severe. In all cases, the Nebraska State Statute indicates that only "necessary" force is justified. Any force above that act would be unjustified, and a criminal act by a police to would then occur.

For the purposes of this policy, the use of force will be examined from two perspectives: resistance and control. Both control and resistance can be in the form of verbal directions or physical action. Resistance is defined as actions that are directed from a subject towards an officer, while control is directed from the officer towards the subject.

- Resistance is manifested by the subject who attempts to evade an officer's attempts of control. The amount and type of resistance will vary based on a variety of factors.
- Control is the force an officer uses to influence or neutralize the unlawful physical actions of a subject under arrest.

Generally, there are four circumstances when an officer is justified in using physical control methods, they are:

- to stop potentially dangerous and unlawful behavior;
- to protect the officer or another from injury or death;
- to protect the subject from injuring himself; and
- in the process of effecting a lawful arrest, when the subject offers resistance.

Justification of the use of force in the judicial system is measured by two broad standards. First, the officer's use of control methods was initiated by a subject's resistance. Second, the level of physical force used by the officer was "necessary" and not excessive when considering the type of resistance offered by the subject.

Levels of Resistance

Resistance is defined as the force used by a subject under arrest against the officer(s) who is effecting the arrest. Although the resistance offered by a subject is usually physical, the type and amount of resistance an officer meets is determined by the subject's level of intent. The intent of the subject may range from passive resistance to an active, aggressive attack on the officer. Resistance may be categorized into three broad areas:

1. Verbal dialogue, i.e., denial or threats of resisting arrest;
2. Physical resistive actions, i.e., passive resistance/active resistance;
3. Aggressive attacks, i.e., against the officer, often leading to severe physical injury.

The officer's reaction to resistance will be based upon his perception of the level of resistance. The officer has been trained to use the necessary amount of force to control a subject offering any level of resistance.

A. Psychological Intimidation

Non-verbal actions, often called body language, may influence an officer's decision on how to approach a subject or what level of force to use if a subject starts to resist an arrest. Non-verbal intimidation actions may include clenching of fists, widening of foot stance, or a blank expression that may warn an officer of the individual's emotional state. These non-verbal intimidation actions often warn an officer of a subject's potential for violence, even when the subject has offered no verbal threats.

However, an officer's reaction to a subject's non-verbal intimidation signals should be used as information to mentally propose the officer's alternatives to a possible attack, not as a justification for attack. An officer who reads the non-verbal signals and believes that physical control is necessary to prevent a subject from injuring himself, others, or the officer, may initiate action before any overt moves are made by the subject.

B. Resistive Dialogue

A subject's dialogue that offers the threat of physical resistance to an officer's commands is not normally considered resistance until he/she physically resists an arrest. However, dialogue in the form of threats of physical injury may influence the officer's opinion as to the amount of force needed to effect control. An offender may boast of his fighting skill and his/her intention to injure the officer, or assume a fighting stance such as raised hands or clenched fists. Verbal threats or psychological threats may influence the officer's judgment to attempt either empty hand control, impact weapons, or even firearms if the subject has a weapon, or has such great physical skills that the threat of life is real.

The reaction to verbal threats made by a subject may differ from officer to officer. An officer's decision of the level of force necessary to control a subject will be based on his perception of the threat and the subject's ability to carry out that threat. An additional factor is the officer's knowledge of his own physical ability to manage the threat presented. If the officer believes that he does not have sufficient skill to establish control with empty hand methods, he/she has been trained to escalate the level of force.

C. Passive Physical Resistance

Passive resistance is the lowest level of physical resistance. The subject resists control through passive, physical actions. At this level, the offender never makes any attempt to defeat the physical contact of the officer. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the officer lift, pull or muscle the subject to establish control.

- D. **Defensive Physical Resistance**
Quite often officers find themselves confronting a suspect who is physically resisting the officer's attempt to control the subject by directing overt, defensive, physical actions. With this level of resistance, the offender attempts to push/pull away, in a manner that does not allow the officer to establish control. However, the subject never attempts to strike the officer.
- E. **Active Physical Aggression**
Active physical aggression is when a suspect attacks the officer to defeat attempts of control. The attack is a physical assault on the officer in which the offender strikes or uses techniques in a manner that may result in injury to the officer or others.
- F. **Aggravated Active Physical Aggression**
Aggravated active physical aggression is when a subject uses a level of physical force that the officer must use, or, at least, is justified in using deadly force. At this level, officers may not only face resistance to an arrest, but also overt, physical actions of force where the subject is assaulting the officer with a weapon, and/or uses techniques or objects which could result in death or serious bodily harm to the confronting officer.

Levels of Control

Force that an officer uses to gain control over a subject's resistant actions is divided into the following categories; verbal direction, chemical agent, empty hand control, intermediate weapons, and deadly force. Once an officer determines that he/she must use physical force, the level of force will be dependent upon the officer's perception of the resistance and danger of that resistance, and whether that resistance is placing the officer or another in jeopardy of serious injury or death. It is important to note that each officer's perception of the danger of the level of resistance will be based upon his/her past training, experience and knowledge of physical control techniques.

- A. **Verbal Direction**
The majority of situations can be resolved by good communication skills or verbal direction. Often, the mere presence of an officer and proper verbal direction will be sufficient to persuade most individuals to follow an officer's direction. In any verbal confrontation, fear and anger must be defused before a suspect will be able to understand the officer's commands. This requires good communication skills and patience. Successful communication techniques can prevent many physical confrontations from escalating to higher levels.
- B. **Handcuffs and Restraints**
The purpose of handcuffs, flexcuffs, or transport handcuffs is to temporarily restrain the movements of a subject in a manner that provides a safer means of transportation for officers. Restraints also hamper further physical resistance from a subject. The Departmental policies for the use of restraints are as follows:
 - 1. All subjects taken into custody should be handcuffed behind their back and the handcuffs double-locked. An exception to this rule is when the subject has an injury that does not permit his/her arms to move behind his back. Other factors such as the subject's age, physical condition, or physical limitations may also dictate a change in this procedure.
 - a. If a subject complains that the handcuffs are too tight, the transporting officer is to ensure that unnecessary tightness, which may prevent proper blood circulation, does not occur.
 - 2. To ensure proper safety for officers, all subjects will be handcuffed prior to being searched.
 - 3. Except under exceptional circumstances, officers should not handcuff a subject to a fixed object such as posts, vehicles, buildings, etc.

4. It is not uncommon for an officer to arrest a subject, place him in restraints, and then have the subject start to resist. If an officer does encounter this type of resistance, the officer should utilize control techniques to prevent injuries to the officer or injuries to the subject. However, the control techniques should be limited to those which would not be construed as excessive force and are appropriate to the amount of resistance encountered.

C1. Chemical Agents (Specifically Oleoresin Capsicum)

The Department approved chemical agent, Oleoresin Capsicum, is a tool that can provide a means by which an officer can defend himself or another from injury and a means of controlling an offender when an officer is facing resistance which would require the use of Empty Hand Control Techniques. The policies of carrying and the use of Department approved chemical agents are as follows:

1. No officer shall carry any chemical agent in which he/she has not had training.
2. The chemical agent should be carried in an appropriate pouch, and never displayed or pointed at another individual in the form of horseplay.
3. At no time shall an officer unnecessarily brandish, or use the chemical agent as an intimidating device unless the officer is trying to prevent the further escalation of force.
4. Any time chemical agents are used for controlling an offender, the application of the chemical agent will end when the offender discontinues resistance or aggression.
5. Chemical agents are irritating to the mucous membranes of the eyes, nose, throat and the skin. If possible, any time an officer uses Oleoresin Capsicum for the purposes of subject control, the officer should practice the approved decontamination procedures set forth in the training. Any severe reaction will require immediate medical attention.
6. When an officer books a subject who has been exposed to chemical agents, the officer should advise the jail personnel to prevent the necessary contamination of other jail occupants or custody personnel.
7. Any time an officer finds it necessary to use a chemical agent for subject control, the officer will immediately contact a supervisor and advise the supervisor of the nature of the incident.
8. The Plattsmouth Police Department currently endorses the use of Oleoresin Capsicum. This product is organic and is felt to be the safest available chemical agent for both the officer and the subject. As such, no medical treatment should be necessary. The effects of this chemical will normally dissipate within 30 - 45 minutes, even with no decontamination procedures.
9. Although the carrying of this chemical agent is mandatory, it will not be considered as a required step of the resistance control continuum.

C2. Taser (Equal to Oleoresin Capsicum Use of Force)

The only Taser/Stun less lethal device approved for use is the Taser International X-26, manufactured by Taser International. The primary purpose for employing the X-26 is to reduce injuries to suspects and officers. The X-26 is on the same level of force as OC or pepper spray on the force continuum. The X-26 is not intended to be used as a general substitute for other non-lethal force options or lethal force.

S-26 units used in the course of duty may be either department or officer owned.

Officers wishing to purchase their own X-26 units, must first receive written approval from the Chief of Police or his designee. Officer will register their personally owned X-26 units with the Chief of Police and the firearms instructor(s) of the Plattsmouth Police Department before carrying it on duty or using it in any official capacity.

Officers who choose to use their own X-26 will be responsible for all costs incurred with its use, (i.e. replacement cartridges and maintenance).

Officers who own their own X-26 units, must meet the same requirements as those using department owned units.

Officers who have not been trained and certified, as outlined within this policy, will not use or carry the X-26.

All officers who use the X-26 are responsible for ensuring that it is in proper working order before the start of their shift. Also officers will record the X-26 unit number on a daily sign out sheet before taking the unit out on patrol/assignment.

All malfunctions, defects, or damage to the X-26 shall be reported to the shift supervisor who will inform the Chief or Assistant Chief and the X-26 maintenance officer.

The tactical use of the X-26 is at the discretion of the officer, based on training and the proper application of the force continuum.

The X-26 shall not be surrendered or abandoned to engage in a foot pursuit. The X-26 will also not be used to terminate a foot pursuit once it has begun.

All uses of the X-26 (including accidental discharges), with the exception of training, will be documented and reported as a use of force incident. Information from the Taser used, will be downloaded, printed, and forwarded to the Shift Supervisor, Taser instructor, and Chief of Police or his designee as soon as possible after the deployment.

1. No officer may use or carry the X-26 unless they have been certified in its use, by successfully completing a written and practical exam as prescribed by the manufacture and the Department. This training must be conducted by a certified instructor as recognized by the manufacturer. Officers will be re-certified annually. No officer will carry or use the X-26 in any way that is inconsistent with the training.
2. The X-26 should not be pointed at any individual unless the officer involved reasonably believes it may be necessary to use the device.
3. When an officer feels it necessary to draw the X-26 on a suspect, that officer, if at all possible needs to advise other responding unit via radio that the X-26 is possibly going to be used.
4. Upon an officer deploying the X-26, a radio call must be put out by the deploying officer to inform other responding units and dispatch of it's use.
5. The X-26 shall not be used when in proximity to flammable gases, blasting materials or any other highly combustible materials that may be ignited by use of this device, included but not limited to any subject who may have been contaminated with flammable or combustible liquids.
6. The X-26 shall not be used on a subject who has already been sprayed with OC or other chemical agent.
7. Probes, cartridge pack(s) and AFID tags, used against individuals shall be submitted directly into evidence and held in accordance with departments evidentiary guidelines. Probes that have been removed from suspects shall be sprayed with a germicide, placed back into cartridge "sharp end first", sealed with evidence tape, and treated in accordance with department policy on handling and storage of possible biohazardous materials.

8. X-26 probes that penetrate and individuals skin in a non-sensitive area may be removed by the officer on scene, following manufactures guidelines and training. Only properly trained medical personnel should remove probes imbedded in sensitive tissue areas such as neck, face and groin. Removal from other areas (i.e., female breasts and buttocks), can be made at the discretion of the on-scene supervisor. Once in custody, EMS is to be contacted to respond to the location to check the suspect for any injuries. Point out puncture sites as needed.
9. The X-26 will not be deployed on subjects already placed in handcuffs or any type of restraining device.
10. Appropriate use of force photos will be taken of the suspect and probe impact areas, as well as any secondary injuries resulting from the use of the X-26. The involved officer shall indicate in their use of force report, in addition to their other requested information, the serial number of the unit used, the distance from the suspect that the X-26 was fired, locations of impact on the subject and an evaluation of the effectiveness of the device. Cartridges for the X-26 will be kept and issued by the Taser maintenance officer. When issuing cartridges, the maintenance officer will keep a record of their location by recording the serial number of the cartridge and the serial number of the X-26 unit. Officers will also have to sign for the cartridge upon receipt. The maintenance officer will also be responsible for replacing expired cartridges.
11. At no time will any officer use the X-26 as a "coercion" device. No officer will engage in any type of "horseplay" or use the X-26 for personal reasons. The X-26 will not be carried off duty

E. Empty Hand Control

Empty hand control are physical contact techniques that cover a number of subject control methods. Some of these methods may be as subtle as gently guiding a subject's movements, to more dynamic techniques such as strikes, kicks, or neck restraints which may have a higher potential of injury to the subject. This policy divides empty hand control into two categories; soft empty hand control, which are techniques that have minimum implications of injury, and hard empty hand control, which are techniques that have a higher probability of subject injury.

F. Soft Empty Hand Control

This level of control is used when an officer faces passive or defensive resistance. These are methods of physical control which usually subdues an offender without any severe injuries. Techniques which fall into this category are: strength techniques, joint locks, leverage locks, pain compliance techniques such as the use of touch pressure on pressure points.

G. Hard Empty Hand Control

This level of control is for high levels of defensive resistance, active aggression, or active aggression with a weapon (aggravated aggression). These techniques are applied when lower forms of control have failed or when not applicable, because the subject's resistance level was at a perceived dangerous level.

Techniques that fall into this level of force have a probability of creating soft or connective tissue damage, skin lacerations that require medical attention, or bone fractures. Although the use of these techniques may create some minimal injury to the offender, an officer may be risking injury to himself or have to utilize higher levels of control (such as intermediate weapons) if hard empty hand control had not been used. Techniques that are considered as hard empty hand tactics are:

GRAND ISLAND POLICE DEPARTMENT

USE OF FORCE REPORT

Report# L09091268

1) Nature of Call or Incident: Probation Violation

2) Date of Incident: 9-8-09 3) Time: 2042

4) Subject's Name: [REDACTED]

5) Date of Birth: [REDACTED]

6) Reason for Use of Force:

- Necessary to effect arrest
- Necessary to defend reporting officer
- Necessary to defend another
- To prevent a violent, forcible felony
- To restrain for subject's safety
- Other (explain) _____

7) Was Subject Injured? Yes () No (X)

8) Nature of Subject's Injury: _____

9) Where was Subject treated for injury?: _____

10) Was the subject rendered unconscious? Yes () No (X)

11) At the time of the incident, was the subject:

- Under the Influence of Alcohol
- Suspected Under the Influence of Alcohol
- Under the Influence of Chemical Drug
- Suspected Under the Influence of a Chemical Drug
- Other (explain) _____

12) Number of Officers Present at the Time of Incident: 1

13) Number of Subjects that Resisted Arrest or Assaulted Officers: 1

14) Was Officer Injured?: Yes () No (X)

15) Nature of Officer Injury: _____

16) Where was Officer Treated for Injury?: _____

17) Level of Resistance: (List all that apply)

- Psychological Intimidation
Explain: Staring down
- Verbal Threats or Non-Compliance
Explain: _____
- Passive Resistance
Explain: _____
- Defensive Resistance
Explain: Pulled away
- Active Aggression
Explain: _____
- Deadly Force Assaults
Explain: _____

2

GRAND ISLAND POLICE DEPARTMENT

USE OF FORCE REPORT

18) Level of Control Effected:

Verbal Direction:

Commands Given: Sit down _____

Type of Empty Hand Control:

Joint Locks Technique Used: _____

MACH Hold MACH Used: _____

Pressure Points Location: _____

Hand Strike Location: _____

Leg/Foot Strike Location: _____

Neck Restraint Level of Neck Restraint Used: _____

Less Lethal Weapons:

Impact Weapon: _____

Location of Strike: _____

Number of Strikes Needed to Effect Arrest: _____

Chemical Agent: (*Oleoresin Capsicum*)

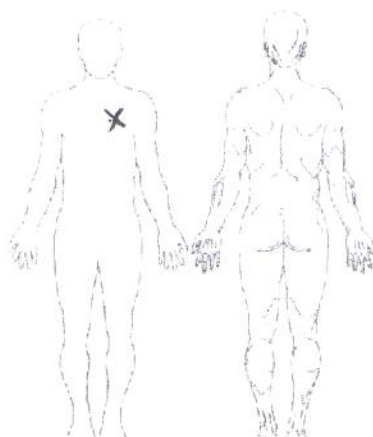
Effective: circle one (Yes) (No)

TASER: Taser # Used : X00-219514 Number Of Taser Applications: 1

Location of Use: (*Mark Points On diagram*) Cartridge Serial Number (s): 1) _____ 2) _____ t

APPLICATION AREAS

Please place "X's" on the points of contact



19) Briefly describe your application of the technique and the method's effect on the subject:

[REDACTED] was very drunk and being non compliant. When told to sit back in the hospital bed he refused and when I tried to grab ahold of him he pulled away. After being informed that if he didn't comply he would be tasered he again pulled away and stated "Fuck you" A drive stun without the cartridge was administered to his left pectoral area.

Reporting Officer B Riley #455 Date 9-9-09

GRAND ISLAND POLICE DEPARTMENT
USE OF FORCE REPORT

Report # L13083530

- 1) Nature of Call or Incident: Removal of subject/ later changed to EPC.
2) Date of Incident: 8-23-13 3) Time: 1619 Hours_
4) Subject's Name: [REDACTED]
5) Date of Birth: [REDACTED]

- 6) Reason for Use of Force:
 Necessary to effect arrest
 Necessary to defend reporting officer
 Necessary to defend another
 To prevent a violent, forcible felony
 To restrain for subject's safety
 Other (explain) _____

- 7) Was Subject Injured? Yes No
8) Nature of Subject's Injury: Injury to back from impact points of taser probes.
9) Where was Subject treated for injury?: St. Francis ER.
10) Was the subject rendered unconscious? Yes No
11) At the time of the incident, was the subject:
 Under the Influence of Alcohol
 Suspected Under the Influence of Alcohol
 Under the Influence of Chemical Drug
 Suspected Under the Influence of a Chemical Drug
 Other (explain) _____ According to NCIC hit from prior contact by Officer [REDACTED] (this is attached to related incident in Spillman records), [REDACTED] suffers from bipolar and psychotic episodes.
12) Number of Officers Present at the Time of Incident: 1
13) Number of Subjects that Resisted Arrest or Assaulted Officers: 1

- 14) Was Officer Injured?: Yes No
15) Nature of Officer Injury: _____
16) Where was Officer Treated for Injury?: _____

- 17) Level of Resistance: (List all that apply)
 Psychological Intimidation
Explain: Balling of fist, attempting to stare down this officer, look of rage on suspects face.
 Verbal Threats or Non-Compliance
Explain: Ignored multiple orders to stop and to allow herself to be handcuffed.
 Passive Resistance
Explain: _____
 Defensive Resistance
Explain: Pulling arms away and attempting to lock arms to prevent herself from being handcuffed.
 Active Aggression
Explain: Multiple strikes/attempted strikes to this officers body by suspect's fist and legs while an attempt was being made to restrain and handcuff suspect.
 Deadly Force Assaults
Explain: _____

GRAND ISLAND POLICE DEPARTMENT

USE OF FORCE REPORT

Level of Control Effected:

(XX) Verbal Direction:

Commands Given: Stop walking away, stop resisting, turn around so you can be handcuffed.

Type of Empty Hand Control:

() Joint Locks Technique Used: _____

() MACH Hold MACH Used: _____

() Pressure Points Location: _____

() Hand Strike Location: _____

(XX) Leg/Foot Strike Location: Knee strike to back of leg/buttocks of suspect.

() Neck Restraint Level of Neck Restraint Used: _____

Less Lethal Weapons:

() Impact Weapon: _____

Location of Strike: _____

Number of Strikes Needed to Effect Arrest: _____

() Chemical Agent: (*Oleroresin Capsicum*)

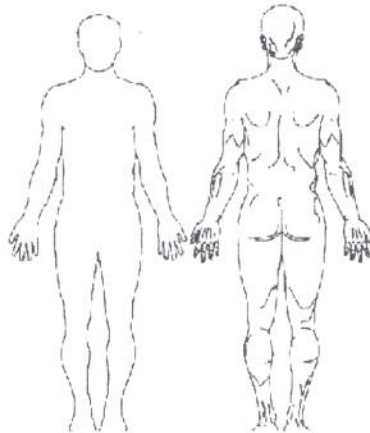
Effective: *circle one* (Yes) (No)

(XX) TASER: Taser # Used : X00-2437674 Number Of Taser Applications: One 5 second cycle.

Location of Use: (*Mark Points On diagram*) Cartridge Serial Number (s): 1) C3100V98K 2) _____

APPLICATION AREAS

Please place "X's" on the points of contact



9) Briefly describe your application of the technique and the method's effect on the subject:

Suspect was sitting on the ground after continuing to fight off this officer from his attempt to place her in handcuffs and immediately after he applied a knee strike to gain compliance/control. Suspect was attempting to face this officer from the ground so I continued circling suspect until I was able to deploy my taser into her back. Suspect went rigid on deployment and cried out and pain and for this officer to stop. At the end of the 5 second cycle, suspect became compliant and allowed herself to be handcuffed and taken into custody.

TASER/CARTRIDGE DEPLOYMENT AND DAMAGE REPORT

Date: 08-23-07 Time: 2210
Offense Report Number: P072467 Cartridge Drive Stun
(If use/damage is related with an offense) Serial Number:
TASER's Assigned 10 TASER Serial X00-109042
Number: number:

Describe the reason for the deployment or the cause of the damage:
Suspect was Hepitis C positive and spitting on officers.

CARTRIDGE REPLACEMENT

1. See the shift supervisor for replacement Cartridge
2. If the supervisor is unable to replace the cartridge the TASER will be removed from service until a replacement cartridge can be issued.
3. **TASER cartridges are not to be moved from one TASER to another TASER**

Replacement Cartridge Serial Number:

Where the new cartridge was obtained:

Officer: Sgt. Walter Eley

Badge No.: 241

Forward to Sergeant Hinrichs.

Kearney Police Department
USE OF FORCE REPORT

Case # 0173-5545

- 1) Nature of Call or Incident Student not complying with staff / Trespassing
- 2) Date of Incident 11-6-13
- 3) Time: 1111
- 4) Subjects Name [REDACTED]
- 5) Date of Birth 8-19-04

- 6) Reason for Use of Force:
- Necessary to effect arrest
 - Necessary to defend reporting officer
 - Necessary to defend another
 - To prevent a violent, Forcible felony
 - To restrain for subject's safety
 - Other (explain) _____

7) Was Subject Injured? Yes () No ()

8) Nature of Subjects Injury: _____

9) Where was Subject treated for injury? _____

10) Was the subject rendered unconscious? Yes () No

- 11) At the time of the incident, was the subject:
- Under the influence of alcohol
 - Suspected Under the influence of alcohol
 - Under the influence of Chemical Drugs
 - Suspected Under the influence of Chemical Drugs
 - Other (explain) UNKNOWN

12) Names of Officers Present at the Time of Incident: Officers [REDACTED]
Asst. Principal Ganz & Asst. Principal Herrmann Kearney Public High School

13) Number of Subjects that Resisted Arrest or Assaulted Officers: 1

14) Was Officer Injured? : Yes No ()

15) Nature of Injury: minor aches in right knee & abrasions on right knuckles

16) Where was the Officer Treated for injury? NO

17) Level of Resistance: (list all that apply)

- Psychological Intimidation
Explain: _____
- Verbal Threats of Non-Compliance
Explain: GO TO THE GROUND - " Kiss my Ass "
- Passive Resistance
Explain: Sat in chair, spread legs scabbled table as I attempted to take him to ground from chair
- Defensive Resistance
Explain: pulling away from me
- Active Aggression
Explain: pushing officer, talking / pushing officer down, gaining the mount position, flailing arms, throwing punch
- Deadly Force
Explain: _____

Kearney Police Department

USE OF FORCE REPORT

18) Level of Control Effected:

Verbal Direction:

Commands Given: You are under Arrest / Go to the ground

Type of Empty Hand Control

Joint Locks

Technique Used: _____

Pressure Points

Location: _____

Hand Strike

Location: Punch upper right shoulder

Leg/Foot Strike

Location: Body strike to the back left side of [redacted] head

Neck Restraint

Location: _____

Intermediate Weapons:

Impact Weapon: _____

Location of Strike: _____

Number of Strikes: _____

Chemical Agent (Olororesin Capsicum)

Effective: circle one (Yes) (No)

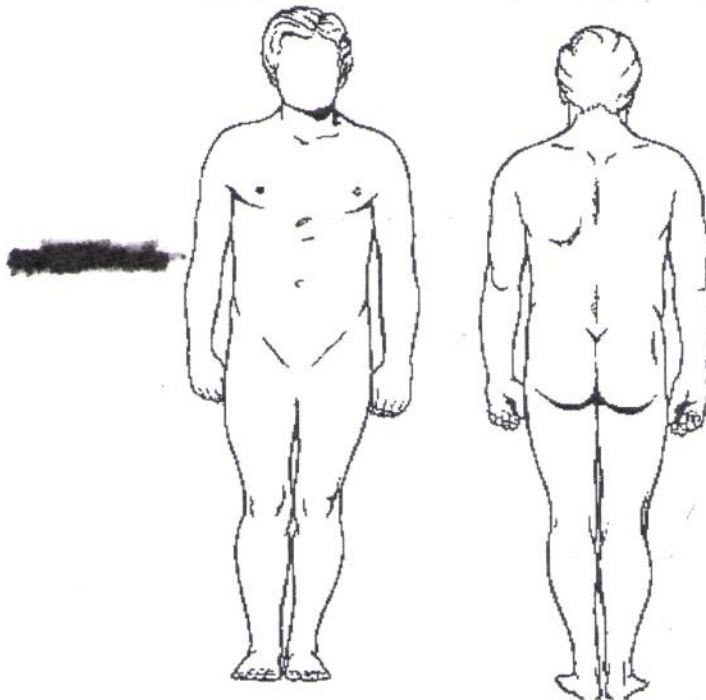
TASER: Taser # Used: _____ Number of Taser Applications: 18 seconds

Location of use: (Mark Points on diagram)

Cartridge Serial Number(s): 1) _____ 2) _____

APPLICATION AREAS

Please place "X's" on the points of contact




19) Briefly describe your application on the technique and the method's effect on the

Subject: Taser probes to the chest from contact range 3-4" away. Immediately used Taser in drive stun mode to lower left ankle area to increase distance between probes & Taser. Minimal reaction to Taser. Was able to roll [redacted] off me & used Taser in drive stun mode into right inner thigh area. Full Taser effect & was able to gain control of [redacted]

Reporting Officer: _____

Date: 11-6-13

| | | | | |
|--|--|--|--------------------------|---------------------------|
| STANDARD OPERATING PROCEDURE | | G-6220 | | |
|  | SARPY COUNTY SHERIFF'S OFFICE PAPILLION * NEBRASKA JEFFREY L. DAVIS SHERIFF | DATE ISSUED 12/04/06 | DATE REVISED 04/01/12 | DATE REVIEWED 03/14/14 |
| | | APPROVED: <p style="text-align: center;"><i>JEFFREY L. DAVIS</i></p> | | |
| CHAPTER TITLE GENERAL | | RESOURCES | | |
| SUBJECT TASER | | CROSS REFERENCE <u>G-6100 USE OF FORCE</u> <u>G-6110 USE OF FORCE REPORTING REQUIREMENTS</u> <u>G-6400 CUSTODIAL DEATH PREVENTION</u> <u>G-7500 UNIVERSAL PRECAUTIONS/INFECTIOUS DISEASE CONTROL</u> <u>G-10200 EVIDENCE AND PROPERTY</u> | | |

I. Purpose:

The purpose of this policy is to establish the guidelines for issuing and deploying the Taser.

II. Policy:

The Taser is an electronic restraint device, specifically a hand held electronic immobilizing device used to subdue violent or dangerous subjects. The Taser is used as an intermediate weapon and is not intended to replace firearms or self-defense techniques. The Taser is authorized to control a subject exceeding verbal non-compliance. Deputies shall carry only the X26 Taser system. The force continuum lists the use of the Taser as an intermediate weapon.

III. Procedures:

- A. Training:** Only trained and certified deputies shall carry or utilize a Taser.
1. A certified instructor recognized by the manufacturer shall conduct training.
 2. Certification shall consist of completion of a written and a practical exam as prescribed by the manufacturer and the Sheriff's Office.
 3. Deputies shall recertify every three (3) years.
- B. Issue and Carry:** Certified deputies may be assigned a Taser under the following guidelines:

1. Depending upon assignment, deputies may be issued a Taser at the beginning of a duty shift.
2. Those supervisors assigned to divisions/units where Tasers are approved for carry (e.g. road patrol, warrants, etc.) shall ensure that all available Tasers are assigned to certified deputies at the beginning of each shift. The identification number (e.g. R1, W1, etc.) for each assigned Taser shall be noted on the Roll Call form next to the assigned deputy. If a deputy attains a Taser after roll call (e.g. deputy has a late start), his or her supervisor shall ensure that the Roll Call form is updated to reflect the assigned Taser.
3. Assigned Tasers shall be returned at the end of the duty shift.
4. Each Taser shall be assigned a Taser cartridge, these cartridges shall stay with the Tasers unless expended or damaged. If a cartridge assigned to a Taser is expended or damaged, the responsible deputy shall notify a Taser instructor and complete the appropriate report(s).
5. Deputies permanently assigned to divisions/units where Tasers are approved for carry shall be permanently issued two additional Taser cartridges.
 - a) Those deputies working the Road Patrol Division but assigned to another division shall check out two additional cartridges from the storage room and return them at the end of the duty shift. The additional cartridges shall be noted by the on-duty supervisor on the Roll Call form.
 - b) If a deputy damages or loses an assigned Taser cartridge, he or she shall notify a Taser instructor and complete an information report.
 - c) Deputies may return expired Taser cartridges to a Taser instructor for replacement.
6. Deputies issued a Taser shall ensure it is in proper working order prior to beginning a tour of duty.
 - a) The deputy shall remove the cartridge from the Taser prior to any inspection or testing.
 - b) The Taser safety shall be turned to the "off" position.
 - c) The digital battery power display shall indicate a charge of at least 25%. If the display indicates less than 25% or an "E" then the Taser shall be returned to a Taser Instructor for service.

- d) With the cartridge removed, the Taser shall be activated to ensure it is functioning. The Taser does not need to complete a full five (5) second cycle during this test and the safety may be returned to the "on" position after the Taser is activated.
 - e) If a Taser fails to function, it shall be returned to a Taser instructor for repair or replacement.
7. Carry: Deputies assigned a Taser for carry shall have the Taser available on their person.
- a) Tasers shall be secured in an authorized belt or thigh holster or in a pouch in the Deputy's vest cover, if available.
 - (1) Deputies shall have at least one (1) additional Taser cartridge available on their person.
 - b) Tasers and cartridges shall be stored in a secure, clean, dry location when not worn.
 - c) It is recommended that Tasers should be holstered on the deputy's weak (support) side.
- C. Maintenance:** Only a certified Taser Instructor/Armorer shall modify or repair any Taser.
- 1. Only certified Taser instructors shall remove digital power magazines or Tasercams. Deputies shall not remove or exchange digital power magazines or Tasercams.
 - 2. Tasers shall always be stored with a digital power magazine or Tasercam installed.
 - 3. If a Taser is dropped, the deputy shall conduct a function test (see B, 6 above). If the Taser is not functioning correctly, the deputy shall return the Taser to a Taser instructor.
 - 4. If a Taser is submerged in water, the Taser shall be returned to a Taser instructor.
- D. Pre-Deployment Considerations:**
- 1. Prior to deploying a Taser, deputies shall take into consideration the following:
 - a) Have all other lower levels of force been considered or exhausted.

- b) The sex and age of the subject.
 - c) The ability of the subject to resist.
 - d) The number of subjects and officers present.
 - e) The suspect's actions.
2. Generally, deputies should avoid deploying a Taser when the subject is:
- a) Known to be pregnant.
 - b) Elderly or obviously infirm.
 - c) A young child.
 - d) In control of a motor vehicle.
 - e) Above ground level and in danger of falling or could be caught in machinery which could result in death or serious bodily injury.
 - f) Near flammable or combustible liquids or fumes.
 - g) In or near a pool, lake or similar body of water.
- E. Deployment:** The Taser shall be deployed in accordance with all Sheriff's Office training standards, policies and procedures. Tasers shall only be deployed when justified according to the use of force policy (see G-6100 Use of Force).
1. When tactically feasible, verbal commands shall be given prior to, during and after the deployment of a Taser.
2. The Taser may be used by a deputy in the following circumstances:
- a) When a subject is being placed under lawful arrest and refuses to obey verbal commands and other levels of control have been or would be ineffective.
 - b) To apprehend a subject attempting to escape from lawful custody.
 - c) To control a violent restrained or handcuffed subject only when he or she is actively resisting or exhibiting active aggression, and/or to prevent the subject from harming himself or herself or others.
 - d) To restrain or control a subject engaged in or threatening active aggression (i.e. a physical assault).
 - e) To restrain or control a subject attempting to or threatening to injure himself or herself.
 - f) In lawful defense of the deputy or others.
 - g) To deter a vicious or aggressive animal that threatens the safety of the deputy or others.

3. When feasible, deputies deploying a Taser should attempt to have lethal force cover.
4. If tactically feasible, a deputy prepared to deploy a Taser should notify other deputies on the scene "Taser Ready." This shall indicate a Taser may be deployed if needed.
5. If tactically feasible, a deputy deploying a taser shall announce "Taser, Taser, Taser." This shall indicate to other deputies on the scene that a Taser is being deployed.
6. The maximum range of the X26 Taser is twenty-one (21) feet. The optimum distance for deployment is seven (7) to fifteen (15) feet.
7. The Taser should never be fired at the eyes, face, neck or groin. The laser sight should not be intentionally aimed at a subject's eyes.
8. When deploying the Taser, the Deputy should allow the automatic five (5) second cycle to complete. (The cycle may be stopped by turning the safety to the "on" position). Additional cycles may be utilized if resistance continues. When the behavior that justified the use of the Taser ends, the deputy shall stop the use of the Taser.
9. Additional cartridges should be available for the Taser should a target be missed. The Taser safety must be in the "on" position to change cartridges.
10. The Taser may be deployed as a "drive stun" weapon in cases where the probes have missed the subject. The drive stun method is a pain compliance technique and is accomplished by touching the front of the Taser, with or without a cartridge in place, to the subject's body. It is recommended that the probes be deployed if at all possible and the "drive stun" method be used only as a secondary application.

F. Post Deployment:

1. Any deputy deploying a Taser (including accidental discharges) shall immediately notify his or her supervisor. The supervisor shall respond to the scene.
2. The supervisor shall notify the on-duty watch commander or ADC.
3. A deputy authorized to use the Taser, in accordance with the manufacturer's guidelines and Sheriff's Office policy, may remove the Taser probes from a subject's skin in non-sensitive areas.

- a) Only properly trained medical personnel shall remove probes embedded in sensitive tissue areas such as the head, neck, or groin.
 - b) Removal from other areas (e.g. female breast or buttocks areas) may be made at the discretion of the on-scene supervisor. If there is any question or concern regarding the removal of the probes, emergency medical service personnel shall be requested.
 - c) Once the subject is in custody, EMS personnel may be requested to examine the subject for injuries.
 - d) The subject should be monitored closely after the incident (see G-6400 Custodial Death Prevention).
4. The on-scene supervisor or deploying deputy shall photograph the subject and the probe impact areas (or drive stun location) as well as any secondary injuries resulting from the use of the Taser. If possible, photographs should be taken prior to removal of the probes.
 5. If probes impact the head, neck or groin area, or a secondary injury requires hospitalization, the on-scene supervisor shall request the on-call investigator respond.
 6. Following an operational deployment of a Taser, the Taser probes shall be collected and placed into evidence (see G-10200 Evidence and Property).
 - a) Deputies shall use universal precautions when handling Taser probes that have been removed from a subject (see G-7500 Universal Precautions/Infectious Disease Control).
 - b) The used Taser probes shall be re-inserted, point down, into the discharged cartridge and covered in red caution tape prior to being placed in an evidence bag.
- G. Reporting:** With the exception of training, deputies shall document all uses of the Taser (including accidental discharges) in accordance with Sheriff's Office use of force reporting requirements (see G-6110 Use of Force Reporting Requirements).
1. On all operational deployments, the Use of Force Report form shall include:
 - a) A brief description of the incident.
 - b) The Taser serial number.
 - c) The cartridge serial number.
 - d) The number and duration of "activations" used on the subject.
 - e) The distance the deputy was from the subject.
 - f) Location the probes impacted.

- g) Medical treatment, if any, provided to the subject.
 - h) A description of the subject's actions after being struck with the Taser.
 - i) A description of any injuries sustained by the subject including secondary injuries that may have occurred.
2. If the Taser is deployed on an animal, the deputy shall complete an information report containing all information required for a Use of Force Report form. All other evidence (e.g. taser cartridge and photographs) shall be collected and submitted.
3. Deputies accidentally discharging a Taser shall complete an information report containing all relevant information required for a Use of Force Report form.
4. Deputies shall notify a Taser instructor by memorandum of any use of a Taser. Deputies should attach a copy of the Use of Force Report, if appropriate.
5. If a deputy deploys a Taser (not an accidental discharge) and the Taser is equipped with a Tasercam, the following procedures shall be adhered to:
- a) The deputy shall complete a Tasercam Download form.
 - b) The deputy shall secure the Taser with the Tasercam in an evidence locker with the original Tasercam Download form.
 - c) The deputy shall forward a copy of the Tasercam download form to a Taser instructor.
 - d) The Taser instructor shall retrieve the Taser and Tasercam from the evidence technician and download the Tasercam video.
 - (1) The Tasercam video shall be copied to a CD.
 - (2) The Taser instructor shall place the original CD and Tasercam download form into evidence and complete a supplemental report using the original report number.
 - (3) The Taser instructor shall make an additional CD which shall be forwarded to the Professional Standards Commander to be included with the original Use of Force report.
 - (4) If approved by the Chief Deputy, the Taser instructor may also create additional CDs for training purposes.

- (5) The Taser instructor shall then return the Taser to service.
6. Information from the Taser's data port shall be downloaded and printed by a Taser instructor and forwarded to the Professional Standards Commander to be included with the original Use of Force report. The Taser instructor shall also maintain a copy of the print out.

Subject: Use of Force / Taser

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| Effective Date: 09/04/07 | Revision Date: 09/04/07 | Re-evaluation Date: 09/10 |
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State Standard Reference:

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| Special Instructions: | Notes: |
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| Distribution: S,O,EM,A | Issued By: Alex B. Moreno |
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POLICY:

It is the policy of the Scottsbluff Police Department to use only that level of force that reasonably appears necessary to control or otherwise subdue violent or potentially violent individuals. Electronic Control Weapons (ECW) may be used by authorized and trained personnel in accordance with this use of force policy and additional guidelines established herein.

PROCEDURE:

Definitions:

Electronic Control Weapon (ECW): A weapon designed to disrupt a subject’s central nervous system by deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override voluntary motor responses.

Anti-felon identification (AFID): Confetti like pieces of paper that are expelled from the cartridge when fired. Each anti-felon identification tag contains an alphanumeric identifier unique to the cartridge used. The AFID is a component of the taser cartridge.

PROCEDURE:

AUTHORIZED USERS

Only department personnel who have satisfactorily completed department approved training shall be authorized to carry ECW’s. Department training will be conducted by a certified taser instructor and will include the following recommended training components for user certification:

- Minimum six (6) hour training course
- Use of Taser International User Course Lesson Plan, in it’s entirety
- Deployment of at least two (2) cartridges during training module
- Scenario based training utilizing a target specified by the taser instructor

WEAPON READINESS

- The device will be carried in an approved holster on the side of the body opposite the service handgun. Officers not assigned to uniformed patrol may utilize other department approved holsters and carry the weapon consistent with department training.
- The device shall be carried fully armed with the safety on in preparation for immediate use when authorized.
- Officers authorized to use the device shall be issued a minimum of one spare cartridge as a backup in case of cartridge failure, the need for redeployment, or in case the first cartridge's lead breaks during engagement. The spare cartridges shall be stored and carried in a manner consistent with training and the cartridges replaced consistent with the manufacturer's expiration requirements.
- Only agency approved battery powered sources shall be used in the ECW.

DEPLOYMENT

- The ECW is generally analogous to oleoresin capsicum (OC) spray on the use of force continuum, and decisions to use an ECW involve the same basic justification. Authorized sworn personnel will carry the ECW in addition to OC spray. Personnel will comply with department Policy # 15.1 "*Use of Force – General – Use of Force Continuum*" when determining the deployment of the ECW or OC spray. As such, it is forbidden to use the device as follows:
 - a. In a punitive or coercive manner.
 - b. On a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
 - c. On any suspect who does not demonstrate an overt intention (1) to use violence or force against the officer or another person, or (2) to flee in order to resist or avoid detention or arrest (in cases where officers would pursue on foot).
 - d. In any environment where an officer knows that a potentially flammable, volatile, or explosive material is present (including but not limited to OC spray with volatile propellant, gasoline, natural gas, or propane).
 - e. In any environment where the subject's fall could reasonably result in death (such as in water or on an elevated structure).
- As in all uses of force, certain individuals maybe more susceptible to injury. Officers should be aware of the greater potential for injury when using an ECW against children, the elderly, persons of small stature irrespective of age, or those who the officer has reason to believe are pregnant, equipped with a pacemaker, or in obvious ill health.

- Upon firing the device, the officer shall energize the subject the least number of times and no longer than necessary to accomplish the legitimate operational objective.
- The subject should be secured as soon as practical while disabled by ECW power to minimize the number of deployment cycles. In determining the need for additional energy cycles, officers should be aware that an energized subject may not be able to respond to commands during or immediately following exposure.
- In preparation for firing, the ECW shall be pointed in a safe direction, taken off safe, and then aimed. Center mass of the subject's back should be the primary target where reasonably possible; center mass of the chest or the legs are secondary targets.
- Fixed sights should be used as the primary aiming device and the laser dot as the secondary aiming device.
- The device may also be used in certain circumstances in a "touch stun" mode. This involves removing the cartridge and pressing the unit against an appropriate area of the body based on training. It is important to note that when the device is used in this manner, it is:
 - a. Primarily a pain compliance tool due to a lack of probe spread.
 - b. Minimally effective compared to conventional cartridge-type deployments.
 - c. More likely to leave marks on the subject's skin.
 - d. Subject to the same deployment (use) guidelines and restrictions as those of the ECW in cartridge deployments.
- The ECW shall be pointed at the ground in a safe direction with the safety on during loading, unloading, or when handled in other than an operational deployment.

AFTERCARE

- The ECW darts may be removed from the subject after the subject is restrained following procedures outlined in training.
- Whenever reasonably possible, individuals who have been incapacitated by an ECW should be taken to an emergency medical facility for evaluation.
- The following persons shall be transported to a medical facility for examination following exposure to an ECW. Any person who:

- a. Requests medical attention; - officers shall ask persons if they desire medical attention,
 - b. Is hit in a sensitive area (e.g., face, head, female breasts, male groin),
 - c. From whom officers have difficulty removed the probes (owing to probe or barb separation),
 - d. Does not appear to recover properly after being hit,
 - e. Is in a potentially susceptible population category as defined in *Deployment* of this policy,
 - f. Has been energized more than three times,
 - g. Has had more than one ECW effectively used against him or her in any given incident,
 - h. Has been subjected to a continuous energy cycle of 15 seconds or more, or
 - i. Has exhibited signs of extreme uncontrolled agitation or hyperactivity prior to ECW exposure.
- Photographs of the affected area should be taken after the darts are removed.
 - When the device has been used operationally, the officer shall collect the cartridge, wire leads, darts, and an AFID as evidence.

REPORTING

- The deploying officer shall notify his or her supervisor as soon as practical after using the device, and complete the appropriate use of force report in accordance with Policy # 15.5 - *Use of Force – Reporting / Review*.
- Officers shall specifically articulate the rationale in their use of force report for any instance in which: an ECW is energized more than three times, an energy cycle longer than 15 seconds in duration is used, more than one ECW is used against a subject in any given incident, or an ECW is used against an individual designated to be in a “susceptible population” as defined in this policy.

Alex B. Moreno
Chief of Police

2015

USE OF FORCE/GENERAL

1-10-01

N.R.S. 28-1406 to 28-1416

I. POLICY

This is to establish general guidelines for the use of force for the Seward Police Department officers as set forth by state statutes. The objective is for officers to use the minimum amount of force necessary to effect an arrest or control a person to overcome resistance offered by that subject.

This policy is for internal department use only and is not to be applied in any criminal or civil proceedings nor does it create a higher legal standard of safety or care with respect to third parties. Violations of this policy will only be the basis of administrative discipline, while violations of the law will be the basis for civil and criminal penalties in a court of law.

II. DEFINITIONS

- A. "Force" means to compel by physical means.
- B. "Deadly Force" means that force which is intended to cause death or serious bodily harm or which the officer reasonably believes will create a substantial risk of death or serious bodily harm. Deadly force includes, but is not limited to, purposely firing a firearm at another person, improper use of batons, choke holds, causing an automobile to crash, and any other techniques likely to cause death or serious bodily harm.
- C. "Reasonable belief" is that belief which would cause an ordinary and prudent person to act or think in a similar way under similar circumstances.
- D. "Serious bodily harm" means an injury that creates a substantial risk of death; causes serious, permanent disfigurement; or results in long-term loss or impairment of the function of any bodily member or organ.
- E. "Resistance" is the subject(s) action or inaction intended to evade, injure or impair the officers attempt to control them.
- F. "Control" is that amount of force used by the officer to influence or overcome the action or inaction by the subject(s).

III. PROCEDURE

- A. Each officer must exercise his or her own judgment in determining whether force is necessary and, if so, the degree of force required. The officer using force must reasonably believe it is necessary and proper. Advice from another officer or permission from a supervisor will not serve to relieve the person using force from any potential consequences.
1. The level of force utilized by a Seward Police Officer may vary from the officer's physical presence to deadly force dependent upon the subject's level of resistance.
 2. All force shall be in accordance with the training principles and practices of the Seward Police Department and the adopted Defensive tactics system.
- B. Deadly Force
1. Deadly force may be used by officers only when they reasonably believe that:
 - a. Deadly force is necessary to prevent imminent death or serious bodily harm to themselves or another person, or
 - b. Deadly force is necessary to effect the arrest or prevent the escape of the suspect and
 1. The officer reasonably believes that the person to be arrested has used or threatened to use deadly force in the commission of a felony and
 2. There is substantial risk that the person to be arrested will endanger human life or inflict serious bodily harm unless arrested without delay.
 2. Deadly force will not be used if it will create a substantial risk of injury to innocent persons.
 3. Deadly force will not be used unless there is a present danger. The officer must reasonably believe that the suspect has the immediate means to inflict death or serious bodily harm and is intent on doing so.
 4. Deadly force must not be used unless an officer first gives a warning to the suspect, if such warning is feasible under the circumstances. The warning should be oral, if possible.
 5. The following practices are specifically forbidden;
 - a. Firing into crowds.
 - b. Firing at a moving vehicle or from a moving vehicle unless absolutely necessary in self-defense or in defense of others against the suspect's use of deadly force.
 - c. Firing into a building or through doors when the person fired at is no clearly visible unless officers are being fired upon from such building or through such door.
 - d. Firing at a suspect when lesser force could be used and the officer believes that the suspect can be apprehended reasonably soon thereafter without the use of deadly force;

or when there is any substantial risk of injury to innocent bystanders.

- e. Intentionally ramming a suspect's vehicle when there is a substantial risk of injury to innocent persons in that vehicle or elsewhere.

C. Impact Weapons

1. Impact weapons shall include side handle batons, riot batons, flashlights and collapsible batons.
2. Impact weapons are a recognized and useful tool in the defense of an individual officer or in controlling a group of people.
 - a. An impact weapon is a weapon and must be regarded as such.
 - b. The use of an impact weapon must be justified.
 - c. Impact weapon strikes will be delivered in accordance with the Seward Police.
 - d. Intentional strikes to the head, neck, face, clavicle or locations that create a substantial risk of death, serious, permanent disfigurement or results in long-term loss or impairment or function to any bodily member or organ shall constitute deadly force.
 - e. Use only the amount of force reasonable and necessary under the existing conditions.
 - f. Use of an impact weapon is prohibited unless the officer is certified through the Seward Police Department's adopted defensive tactics training program.

D. Chemical Weapons

1. Officers of the Seward Police Department shall have prior approval from the Chief to carry chemical weapons. As with all other weapons, the Chief has the final authority in determining what weapons may be carried.
 - a. Chemical mace shall not be used by officers of the Seward Police Department as a threat to make a person comply with the officer's verbal order when no physical violence is imminent or in retaliation for a person's verbal abuse of an officer nor as a threat to elicit information from any person.
 - b. Once a person is subdued, there is no further justification for the continued use of chemical mace against the person.
 - c. If mace is used, the officer will insure that as soon as possible, the suspect is afforded the opportunity to rinse off his face and eyes.
 - d. When a suspect is incarcerated, the officer will advise the Corrections staff if mace was used. They may then avoid further contamination of other prisoners and insure that the opportunity to rinse off his/her person and have a change of clothing.

- e. Chemical agents (i.e. tear gas) shall be used in accordance with Policy for specific emergency service response to incidents.
- E. Taser X2 CEW (Conducted Electrical Weapon)
1. The Taser is a defensive weapon and the decision to use it is based on the same criteria an officers uses when selecting to deploy O.C. spray or a baton.
 2. It is deployed as an additional subject control tool and the selection of the Taser must be made dependant on:
 - a. the actions of the subject(s)
 - b. the threat facing the officer
 - c. and the totality of the circumstances surrounding the incident
 3. The Taser is not meant to be used in deadly force situations and should not be used without a firearm backup in those situations where there is a substantial threat towards the officer or other present.
 4. In any event, the use of the Taser must be reasonable and necessary.
 5. Using the Taser may greatly reduce the need for other types of physical force by the officer resulting in serious or potential deadly injury to the offender, officer or others present.
 6. Prior to being issued a Taser, officers must first successfully complete a 6-hour Taser certification course to include written and practical tests. Additionally, Taser in-service training will be conducted annually.
 7. Any use of the Taser contrary to the direction of this policy may subject the officer to disciplinary action.
 8. Prior to deployment of a Taser:
 - a. the person deploying has the responsibility to visually and physically confirm that the tool selected is in fact a Taser and not a firearm.
 - b. the deploying person should also notify any on-scene assisting officers that they intend to deploy a Taser.
 - c. immediately prior to deploying the Taser, the deploying person should announce, if feasible, "TASER! TASER! TASER!". This warning serves as a notice to assisting officers. The announcement should be made only if it would not endanger any civilians, officers or the suspect.
 9. The Taser has the ability to ignite flammable liquids. It will not be deployed at subjects who have come in contact with flammables or in environments where flammables are obviously present.
Personnel should be especially aware of this when in known meth lab environments.
 10. Proper consideration and care should be taken when deploying the Taser on subjects who are in an elevated position or in other

- circumstances where a fall may cause substantial injury or death. Officers must be prepared to justify such a deployment.
11. Immediate action should be taken to place the subject in custody, care for any injuries and to protect the scene.
 12. Once the subject is restrained or has complied, the Taser should be turned off.
 13. Medical personnel will be summoned to the scene if circumstances and injuries dictate the necessity.
 14. Medical personnel will remove probes located in sensitive areas such as the face, neck, groin or breast.
 15. Removal of probes in other areas may be done by officer at the discretion of a supervisor. Officers will wear protective gloves when removing probes and treating affected areas. Officers will provide first aid following removal of the probes by applying iodine or alcohol wipes and band-aids to the probe site as needed. Officers should inspect the probes after removal to ensure that the entire probe and probe barb has been removed. *In the event that a probe or probe barb has broken off and is still embedded in a subject's skin, the subject should be provided appropriate medical attention to facilitate the removal of the object.*
 16. Photographs will be taken of probe impact sites and any other related injuries.
 17. Probes that have been removed from skin will be treated as *biohazard sharps*. They should be placed point down into the expended cartridge bores and secured with tape.
 18. Officers will attempt to locate the yellow, pink and clear "micro-dots" dispersed at the time of the cartridge firing. These will be collected and placed into evidence with any expended cartridges.
 19. Officers shall refrain from discussing the incident until the arrival of an on-scene shift supervisor or other administrative staff member. The involved personnel will brief them of the circumstances surrounding the incident and what action has taken place.
 20. The deploying officer will complete a Response to Resistance Report regarding the use of the Taser.
 21. The deploying officer will ensure the offender is booked into jail or will take other appropriate action as the situation dictates. Jail personnel shall be informed the subject was controlled by use of a Taser.
 22. Supervisory staff on scene should ensure the proper care is given to injured officers and/or citizens.
 23. The supervisor shall ensure the proper notifications of command staff are made, as soon as possible.

F. Authorized Control Systems

Restraints - the Seward Police Department authorizes the use of Smith and Wesson, Peerless and Hiatt handcuffs, along with Flexcuffs, hobbles and leather restraints to control a suspect's resistance.

G. Duties and Responsibilities

1. Reporting - whenever an officer uses force he shall determine the physical condition of any injured party.
 - a. If loss of consciousness occurs or there are other obvious physical injuries, the subject will be transported to the hospital prior to being transported to the jail.
 - b. The involved officer will notify his/her supervisor prior to the end of shift.
 - c. The involved officer will complete the Seward Police Department "Response to Resistance Report and Review" and submit it prior to the end of his/her shift.

2. Reporting - whenever an officer causes serious bodily harm or death, either accidentally or officially, or discharges a firearm they shall immediately;
 - a. Determine the physical condition of any injured person and render first aid when appropriate.
 - b. Request necessary emergency medical aid.
 - c. Notify Communications of the incident and location. The officer will remain at the scene (unless injured) until the arrival of appropriate investigators and/or supervisors.
 - d. The officer will protect the discharged weapon for examination and submit the discharged weapon to the appropriate on-side investigator or supervisor. When the discharged weapon is turned over to the on-site supervisor, the chain of evidence must be maintained.