

FCPD TASER TRAINING

Instructors:

Ofc. Turner

A/Sgt. Grimaldi

Sgt. Shaffer



FCPD USE OF FORCE POLICY

LEXIPOL POLICY #300

Refer and Review FCPD Lexipol – Use of Force Policy (December 2019)

CA Penal Code 835A – Reasonable Force explanation



FCPD USE OF FORCE POLICY

USE OF FORCE REPORTING

Use of Force Reporting Considerations:

- Reports to be completed as soon as possible
- Photographs of officers and subjects
- Document factors perceived before, during, and after force application (pre-assaultive behaviors)
- Document why you felt the force was *reasonable* at the time
- Threats of physical violence made by suspect
- Exigent need to apprehend
- Public caretaking



FCPD USE OF FORCE POLICY

OFFICER'S RESPONSIBILITIES

- Duty to Intercede: An officer observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstance SHALL intercede
- Notify supervisor as soon as feasible
- Provide medical attention as soon as feasible



FCPD CONDUCTED ENERGY DEVICE POLICY

LEXIPOL POLICY #309

The Taser device is intended to control a violent or potentially violent individual, while minimizing the risk of serious injury.

The appropriate use of such a device *should* result in fewer serious injuries to officers and suspects.



FCPD CONDUCTED ENERGY DEVICE POLICY

ISSUANCE AND CARRYING

- Uniformed officers who have been issued the TASER device shall wear the device in an approved holster on their person.
- Non-uniformed officers may secure the TASER device in the driver's compartment of their vehicle.
- When carried while in uniform officers shall carry the TASER device in a weak-side holster on the side opposite the duty weapon.
- Whenever practicable, officers *should* carry two or more cartridges on their person when carrying the TASER device.
- Officers *shall* be responsible for ensuring that their issued TASER device is properly maintained and in good working order.
- Officers *should not* hold a firearm and the Taser at the same time



FCPD CONDUCTED ENERGY DEVICE POLICY

VERBAL WARNINGS

When practicable, a Verbal Warning *should* precede application of the Taser.

Purpose

- Provide the subject with a reasonable opportunity to voluntarily comply
- Warn other officers and individuals with a warning that the Taser may be deployed
- (It also looks really good and demonstrates your composure during a use of force incident)

The fact that a verbal or other warning was given or the reasons it was not given *shall* be documented by the officer deploying the TASER device in the related report.



FCPD CONDUCTED ENERGY DEVICE POLICY APPLICATION

The Taser device may be used in any of the following circumstances, when perceived by the officer at the time that such application is *reasonably necessary* to control a person:

- The subject is violent or is physically resisting
- The subject has demonstrated an intention to be violent or to resist AND reasonably appears to present potential harm

Mere flight from a pursuing officer, absent any other factors, is NOT good cause for the use of the Taser.



FCPD CONDUCTED ENERGY DEVICE POLICY

DEPLOYMENT CONSIDERATIONS

The use of the Taser device in the following circumstances *should* be avoided:

- Pregnant individuals
- Elderly individuals
- Individuals with low body mass
- Individuals who are handcuffed or restrained
- Subjects who have been sprayed with OC or are near flammable material or vapor
- Subjects whose position or activity may result in additional injury (e.g. Heights or Operating vehicles)



TASER USE

NMI – NEUROMUSCULAR INCAPACITATION

- There are different levels of NMI ranging from limited area effects to significant body lockup
- The greater probe spread, the higher likelihood of NMI
- CEWs may not achieve total NMI incapacitation
- Subject may maintain muscle control, particularly in arms and legs (depending on many factors, including probe locations)
- Be prepared with other force options including a drive-stun follow up to spread NMI over a wider area if necessary and reasonably appropriate
- Drive stuns rarely, if ever, will achieve NMI, only localized pain



TASER USE

PREFERRED TARGET ZONE - FRONT

When possible, the following areas should be targeted:

- Lower torso (blue zone below chest)
- Most effective: split the belt line and target larger muscle groups

Reasonable efforts should be made to target lower center mass and avoid the head, neck, chest, and groin (Lexipol Policy 309.5.3).



TASER USE

PREFERRED TARGET ZONE - REAR

When possible, the following areas should be targeted:

- Below the neck
- Most effective: target larger muscle groups
- Avoid the head

The back is the preferred target area when *reasonably practicable*



TASER STORAGE

A spark test should be conducted at the beginning of your work week and conducted in the following fashion:

- Remove Taser from its position in your locker (it should not have a cartridge on it)
- Double-check to make sure there is no cartridge
- Point your Taser toward the interior of your locker
- Engage the safety switch and pull the trigger
- Check to ensure proper spark
- Let your device run for the entire 5 second cycle

At the end of your shift, your Taser should be stored :

- In your locker
- With the cartridge removed

At the beginning of your shift:

- Place cartridge onto you Taser and holster



TASER TRAINING CASE LAW

GRAHAM VS CONNOR

Scenario:

- Graham, a diabetic, asked his friend, Berry, to drive him to a convenience store to purchase orange juice to counteract the onset of an insulin reaction.
- Upon entering the store, Graham saw that the line was too long and decided to leave. Graham hurried out and asked Berry to drive him to a friend's house instead.
- Ofc. Connor became suspicious after seeing Graham hastily enter and leave the store. He followed Berry's car and made an investigative stop. The traffic stop turned into a use of force incident during which Graham sustained multiple injuries.
- Graham was released when Ofc. Connor learned that no crime had occurred.



TASER TRAINING CASE LAW

GRAHAM VS CONNOR

Court decision: Supreme Court, 1989

- “The “reasonableness” of a particular use of force must be judged from the perspective of a *reasonable* officer on the scene, rather than with the 20/20 vision of hindsight.” (Supreme Court, 1989)
- “The test of reasonableness is not capable of precise definition or mechanical application.”

Effects:

- A standard of *reasonableness* was established
- Findings from *Graham v. Connor* determine the legality of every use-of-force decision an officer makes



TASER TRAINING CASE LAW

BRYAN VS MCPHERSON

Scenario:

- Bryan was stopped by Ofc. McPherson for a seatbelt violation after crossing the Coronado Bridge at 7:30 am.
- Bryan had just been stopped by another officer minutes before and had failed to buckle his seatbelt.
- Bryan was frustrated and upset for being pulled over a second time. He began to angrily hit his steering wheel and yell expletives to himself.
- Ofc. MacPherson testified that he told Bryan to remain in the car, while Bryan testified he did not hear that. Bryan exited his vehicle.
- Standing outside of the car, approximately 20–25 feet away from Ofc. MacPherson, Bryan began jumping up and down in the middle of the street, was yelling, and clenched his fists. Bryan was clad only in his boxer shorts and tennis shoes.
- Bryan took “one step” toward the officer. Without giving any warning, Ofc. McPherson shot Bryan with a Taser. Immobilized by the electric shock, Bryan fell face first to the ground, fracturing four teeth and suffering numerous facial contusions.



TASER TRAINING CASE LAW

BRYAN VS MCPHERSON

Decision: 9th Circuit Court of Appeals, 2009

- Based on the following factors:
 - Bryan was obviously not armed
 - Bryan did not make any threats or threatening gestures
 - Bryan did not physically resist or attempt to flee
 - Bryan's proximity from the officer – 25 feet
- The court determined that Ofc. McPherson DID use excessive force
- The Taser, when used in dart mode, should be considered an “intermediate, significant level of force that must be justified by the governmental interest involved.”
- Ofc. McPherson did get qualified immunity for the civil lawsuit



TASER TRAINING CASE LAW

COCKRELL VS CITY OF CINCINNATI

Scenario:

- On July 3, 2008, Cockrell jaywalked near his girlfriend's apartment complex.
- Ofc. Hall observed Cockrell's conduct, got out of his car, and ran toward Cockrell.
- Cockrell ran away.
- Ofc. Hall did not order Cockrell to halt. He chased Cockrell for a short distance.
- Ofc. Hall deployed his Taser device in "probe mode." The Taser temporarily paralyzed Cockrell, causing him to crash headlong into the pavement. Unable to break his fall, he sustained "lacerations and abrasions to his face, chest, [and] arms."



TASER TRAINING CASE LAW

COCKRELL VS CITY OF CINCINNATI

Decision: 6th Circuit Court of Appeals, 2009

- “The use of a Taser, against a fleeing . . . non-violent misdemeanor who posed no threat of harm to anyone, was prohibited by the Constitution.”
- Ofc. Hall still received qualified immunity but the application of the Taser was deemed unconstitutional, did not pass the 3 part Graham test

Lesson:

- Weigh the offense and threat to yourself and public safety
- Consider the safety of the fleeing non-violent misdemeanor



TASER TRAINING CASE LAW

BROOKS VS. SEATTLE

Scenario:

- In 2004, Brooks was 7 months pregnant when she was stopped by Police for speeding
- Brooks was issued a citation and she refused to sign it
- Brooks was threatened with incarceration and force. Brooks refused to sign the cite and refused to comply.
- A Sergeant arrived and informed Brooks that force would be applied if she did not comply with an order to exit her vehicle.
- Brooks refused
- Officers used a Taser to drive stun her three times in a one minute time span – in the thigh, arm, and neck
- Brooks fell out of the vehicle, was dragged onto the street on her face, and was handcuffed



TASER TRAINING CASE LAW

BROOKS VS. SEATTLE

Decision: 9th Circuit Court of Appeals, 2011

- Based on the three part Graham test, the force was excessive
- However, there was no constitutional violation and the officers received qualified immunity

Lesson:

- Weigh the totality of the circumstances
- Consider de-escalation tactics first
- Consider other means of accomplishing our Public Safety goal



FORCE OPTIONS TRAINING

SAFETY RULES

- We are ALL safety officers
- No live weapons or ammo
- No live Taser cartridges
- Safety Check all personnel
- All students must wear eye protection
- The command “Stop Scenario” will be used to direct ALL personnel to freeze
- Anyone can stop or freeze the training if an unsafe situation is observed
- All students must remain outside the scenario area while not engaged in the training
- **DO NOT USE THE TASER TO DRIVE-STUN**

