

Seattle Police Department DIRECTIVES



Date: April 1st, 2005

Directive: D 05-016

Department Policy Governing Less Lethal Options: The Taser and the Patrol Less Lethal Shotgun with Beanbag Rounds

Philosophy and Guidelines on the Use of Less Lethal Options. The use of less lethal options by SPD officers – as with all applications of force - is governed by the provisions of RCW 9A.16.010 and 9A16.020, by which officers are expected to use necessary and reasonable force to effect a lawful purpose.¹ As with all uses of force, "necessary and reasonable" uses of less lethal devices are defined by the totality of circumstances that confront officers. It is not possible to specify in advance all the various scenarios under which less lethal systems are likely to be deployed, but it is possible to identify the types of situations for which less lethal options are intended, as well as those for which they are not.

Less lethal devices are intended to provide officers with an alternative that may be appropriately used when necessary to confront any of the following situations:

- ✓ to overcome a subject's combative intent, physical behavior, or
- ✓ to control, disable or subdue persons bent on harming others,
- ✓ to provide self-defense.

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At the same time, less lethal devices may not be used for use of force cannot be satisfied. Examples include use of less lethal devices against non-combative/non-resistant subjects, or for the purpose of recovering evidence or compelling compliance, absent suspect resistance justifying the legal application of necessary force. In no situation are officers required to use less force than is being threatened by a subject. Less lethal devices provide officers with alternative resolutions short of the use of deadly force. Factors that may be taken into account when considering use of these alternatives include, but are not limited to:

- ✓ the amount of time the officer has to react to the threat,
- ✓ the officer's relative proximity to the person(s) posing the threat,
- ✓ the immediacy of the need to incapacitate the subject;
- ✓ the officer's ability to isolate or contain the person(s) posing the threat;
- ✓ the limitations of the less lethal device being employed, and
- ✓ the belief that the application is likely to be successful.

¹ Under RCW 9A16.010(1) "Necessary" means that no reasonably effective alternative to the use of force appear to exist and that the amount of force used was reasonable to effect the lawful purpose intended. Under RCW 9A16.020 (T)he use, attempt, or offer to use force . . . is not unlawful . . . (1) Whenever necessarily used by a public officer in the performance of a legal duty . . .

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In the interests of public and officer safety, less lethal options shall not be employed against lethal threats except when lethal cover is available and in place to provide protection for the officers employing these tools as well as innocent parties who are not involved.

The Department's training curricula provide an assessment of less lethal options from a use of force perspective². This is to let officers know how these devices compare to other uses of force with which they may be more familiar. Because such assessments do not account for the totality of circumstances faced by officers that may warrant a greater or lesser force response, they remain guidelines and do not substitute for the professional judgment of officers in individual cases.

The Department's Less Lethal Options Program is coordinated and administered by the Deputy Chief for Operations, with oversight provided by Command Staff and ongoing research and recommendations provided by the Force Options Research Group (FORG).

To ensure the orderly, consistent, and safe deployment of less lethal devices, the Department has developed a Less Lethal Options Training Guideline. The Guideline applies not only to officers certified to use less lethal devices, but also to those in the Department charged with equipping, supplying, training, supervising, and commanding these officers. Employees who perform any of these roles related to less lethal devices should, therefore, be cognizant of the Guideline and adhere to its principles and procedures. The Less Lethal Options Training Guideline and associated less lethal training materials are maintained by the Deputy Chief for Operations, the Advanced Training Section, and the SWAT unit, from which Department employees may obtain copies.

Department Policy and Procedures. For quick reference and information, this Directive summarizing the Department's Less Lethal Options Policy is provided. This synopsis should not be regarded as a substitute for a thorough reading of, and familiarity with, the full Less Lethal Options Training Guideline.

1) QUALIFICATION AND CERTIFICATION

- a) Sworn personnel will be selected for less lethal device training by the Deputy Chief for Operations, in consultation with Precinct Commanders and Command Staff. In making officer selections, consideration will be given to Precinct, watch, and squad assignment; command review, and firearms qualifications.

² The taser and the less lethal shotgun with beanbag rounds are viewed differently from a use of force perspective. When used as a touch stun device, the taser is viewed as a lesser use of force than the use of OC spray and on a par with pain compliance techniques such as wrist locks and control holds. Because deployment of the taser probes carries a greater risk of injury, their use is viewed as a greater use of force than pain compliance techniques, but less than punches, kicks, or the use of impact weapons. The less lethal shotgun with beanbag rounds is placed at the same level as other impact weapons as a use of force. As with these other weapons, the use of force assessment will vary depending on the target area to which a beanbag round is applied.

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- b) Sworn personnel must successfully complete a Department authorized training and certification course before they may use less lethal devices.
- c) Authorized officers may use only a Department-issued taser or less lethal shotgun with beanbag rounds.

2) APPLICATIONS OF LESS LETHAL OPTIONS

- a) Applications of less lethal options are expected to conform to the principles outlined in the respective taser and less lethal shotgun training and certification courses and be consistent with Department policy on the use of force.
- b) In deciding to deploy a less lethal option, officers should carefully evaluate conditions or factors they know or have reason to believe about subjects that may affect responses to the deployment or increase the indirect risks (such as injuries caused by a fall) of the deployment. Such conditions or factors include subjects who are very old or very young, pregnant, physically disabled, suffering from a debilitating illness or medical condition, or drug users. In such cases, the need to stop the behavior should clearly justify the potential for additional risks.
- c) In deciding to deploy a less lethal option, officers should carefully evaluate the environmental conditions and physical settings in which they confront subjects. These may include a subject's exposure to flammables such as gasoline, gunpowder, explosives, or alcohol-based pepper spray that may be ignited from a spark; or the subject's position near a fire, stairwell, or swimming pool where the risks of secondary injuries from incapacitation or falls may be increased.
- d) At the earliest practical opportunity, an SPD supervisor shall be notified of a potential or completed less lethal device application and shall determine if it is necessary to respond to the scene. Where the above-noted conditions or factors are involved, a supervisor shall respond to the scene, documenting the on-site presence in the use of force packet.

3) POST-APPLICATION PROCEDURES – TASER

- a) As in any use of force situation, whenever a taser is applied to an individual, officers shall determine if medical aid is required. Taser probes requiring removal from an individual's skin will be removed by qualified aid, medic, or medical personnel.
- b) Some circumstances warrant a supervisory presence and on-scene medical evaluation at the site of a taser application. Such circumstances can include uses of the taser on a very young or very old subject; where the officer has credible information on a subject's preexisting medical condition; on a subject found to have a special medical condition (for example, pregnancy) or a debilitating illness; or on a subject whose demeanor and response required repeated applications of the taser and/or other uses of force. In situations where three or more taser applications were required or where the noted factors or conditions of the taser subject are found to be present, a supervisor shall be called to the scene. In addition, an on-scene medical evaluation by

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Seattle Fire Department shall be performed to determine if an underlying cause for the subject's demeanor and resistance may trigger unexpected health risks. These actions taken by officers and supervisors shall be documented in the incident report and use of force packet.

- c) Expended taser darts and cartridges will be handled as a biohazard and disposed of accordingly, unless preserved for evidentiary purposes. When the supervisor at the scene determines that there are exceptional circumstances involved in the taser application, the chain of command shall be notified. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected. In those circumstances, the taser, expended darts and cartridges will be retrieved and entered into evidence, filed under the case number of the incident.
- d) Officers and their supervisors are responsible for gathering information at the scene of a less lethal application necessary to comply with less lethal reporting and review requirements (see below).

4) POST-APPLICATION PROCEDURES – LESS LETHAL SHOTGUN

- a) Because of the greater capacity for injury with the less lethal shotgun, officers shall arrange for transportation to a medical facility whenever an individual is struck with a beanbag round.
- b) The shotgun, expended beanbag rounds and cartridges will be gathered at the scene and entered into evidence under the case number of the incident. If the supervisor at the scene determines that there are exceptional circumstances involved in the use of the shotgun, the chain of command will be notified. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected.
- c) Officers and their supervisors are responsible for gathering information at the scene of a less lethal application necessary to comply with less lethal reporting and review requirements (see below).

5) REPORTING THE USE OF LESS LETHAL OPTIONS

- a) Officers shall document field applications of less lethal devices as required by the Department use of force reporting procedures (see SPD Manual Section 1.149 – Reporting the Use of Force).
- b) Where special subject, setting, or environmental conditions or factors (such as those noted in 2 b and c above) are involved in the deployment, officers shall articulate the considerations affecting their selection of the less lethal option.
- c) The dataport feature of the taser records all applications of the device, including spark or function tests and uses during training. Taser officers

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should adopt a practice of performing spark or function tests at the beginning of their shifts and of keeping track of their participation in training sessions. By consistently adhering to this practice, taser officers will have documentation of their non-field applications of the device.

6) REVIEWING THE USE OF LESS LETHAL OPTIONS

- a) The Department, through the Deputy Chief of Operations, shall ensure systematic review of taser applications using the dataport feature of the device.
- b) Taser officers shall make their tasers available for inspection at any time upon the request of a supervisor, the Advanced Training Unit, or the Office of Professional Accountability Internal Investigations Section.
- c) Use of a less lethal device under exceptional circumstances shall result in a review of the incident by the officer's chain of command, to the level of the Bureau Commander. "Exceptional circumstances" are defined as cases where there is a substantial injury, where an officer strikes a target that is a substantial deviation from training guidelines, where injuries are inconsistent with the normal performance of the device, and/or where improper use of a less lethal device is shown or suspected.
- d) The chain of command review shall determine if further investigation or action regarding the incident may be necessary. In the case of the less lethal shotgun, the Department may convene a Firearms Review Board.

7) ONGOING LESS LETHAL QUALIFICATION AND CERTIFICATION

- a) Authorized users of a less lethal option shall qualify with their device(s) once per year. The Advanced Training Unit shall coordinate and maintain records on the annual re-qualification.
- b) Unauthorized absences from qualification training will terminate certification to use a less lethal option, until successful qualification occurs.
- c) Authorization for an officer to use less lethal options remains at the discretion of the Department and may be revoked at any time for violation of training guidelines, Department policies, or other reasons.



R. Gil Kerlikowske
Chief of Police

SEATTLE POLICE DEPARTMENT

LESS LETHAL OPTIONS PROGRAM
UPDATE

April 3, 2005

What is the status of the Department's Less Lethal Options Program?

The Less Lethal Options Program continues to be one of the Department's most successful programs for expanding the tools available to officers to do their jobs safely and effectively. The status of each part of the Program is: ① there are now 220 fully trained Crisis Intervention Training (CIT) officers in Patrol and most other officers have received some orientation to CIT skills and techniques. ② there are 220 deployed tasers, 90% assigned to first-responding officers and ③ 16 officers were trained and deployed with the less lethal shotgun with beanbag rounds in 2004, with a second group of officers selected for training and deployment this spring.

What ever happened to the Force Options Research Group?

The Force Options Research Group (FORG) still exists. It reviews and makes recommendations to Deputy Chief Kimerer and Command Staff on expansions to the Less Lethal Options Program. FORG also examines other less lethal technologies that can assist the Department in achieving its public safety mission. The Department's acquisition of stop sticks to prevent vehicle flights and of specialty impact rounds for crowd control were partially through FORG efforts. If you know of any less lethal devices



The Department is transitioning to the X26 model taser and expanding its use among first responding officers this spring.

or technologies you think the Department should consider, please contact D/C Kimerer or one of the current members of FORG: Lt. Paul McDonagh, Lt. Steve Wilske, Sgt. Liz Eddy, Ofcs. T. Burns, J. Geoghagan, D. Murry, C. Myers, or C. Stockwell.

What plans does the Department have for expanding the Less Lethal Options Program?

While the Department is planning to expand taser deployment somewhat among first responding officers and would like to expand the number of officers with full CIT training, a dramatic expansion among any of these options is not being planned. The Department never envisioned full deployment of any of the less lethal options and has relied, for the most part, on officers volunteering or being recommended for participation in the Program. This has allowed the Department to support less lethal officers with a robust training program and to commit to an active monitoring of less lethal uses. All taser and less lethal shotgun deployments, for example, are reviewed not only by the officer's chain of command, but also by Deputy Chief Kimerer and the Training Section. Similarly, all incidents involving the mentally ill are reviewed by the CIT sergeant, whether or not a CIT officer was called to the scene. This ongoing monitoring has informed and improved the training programs for all less lethal officers.

The Mission of the Seattle Police Department is to prevent crime, enforce the law and support quality public safety by delivering respectful, professional and dependable police services.

SEATTLE POLICE DEPARTMENT

TASER DEPLOYMENT EXPERIENCE

- From January 2001 through January 2005, tasers were used in 634 incidents, averaging 15 incidents per month since we have been at the 220 taser deployment level.
- West Precinct, with the largest number of taser officers, has also had the most taser deployments (37% of the Department total).
- In 57% of taser incidents, the taser officer was among the first responding officers to the scene; in a backup unit 38% of the incidents and specifically called to the scene in 5%. A new pattern that emerged in 2003 is the presence of more than one taser officer at an incident.
- Tasers have been used in a wide variety of incidents. Violent crimes and drug/alcohol incidents together comprise 35% of the situations in which tasers have been used, followed most closely by fights and disturbances (17%) and mental/suicide calls (15%).
- The Department tracks the mode of taser use. Tasers are being applied in the dart projectile mode 54% of the time, in the stun mode in 34% of incidents, and in both modes 12% of the time.
- Taser subjects are most often males (93%) and fall across a wide age spectrum. About the same number of taser subjects are 20 years or younger as are over 40 years of age; and there are about equal numbers of taser subjects in each of the remaining age bands. The racial breakdown of taser subjects is 45% African American and 42% Caucasian.
- Over two-thirds of taser subjects (71%) confronting officers have been impaired, often severely, by alcohol, drugs, or a mental illness or delusion. (This has climbed gradually from 60% in 2001.)
- Nearly a quarter of taser subjects (23%) have been armed. (Among armed subjects, 43% have had knives, 16% have had guns, and 41% have had other weapons, including scissors, hatchets, broken bottles, shovels, stakes, and hypodermic needles.)
- Of great concern is the fact that most of the armed subjects (76%) were also impaired, usually by mental illness (41% of those impaired and armed), alcohol (26%), or drugs (25%). The proportion of armed and impaired subjects has been growing steadily over the four-year period, with 62% armed and impaired in 2001, 70% in 2002, and 74% by the end of 2003.
- Verified taser contact was obtained in 81% of the incidents. Where there was verified contact, the taser delivered a disabling or partially disabling effect 93% of the time. This has remained stable over time.
- In 80% of all incidents and in 87% of the incidents where contact was verified, the taser was credited with controlling the subject or bringing the situation to a resolution.
- Injuries to officers and subjects are low in taser deployments when compared with other use of force situations. Subjects sustained no injuries, injuries prior to police arrival, or only self-inflicted injuries in 47% of taser incidents. In another 30% of taser incidents, the only injuries were dart/stun abrasions from the device itself.
- There were no injuries to officers in 83% of the taser incidents (this finding has been stable). Eighty percent of officer injuries occurred before the taser was deployed. National studies have indicated that in police encounters with violent and mentally ill subjects (often subjects in taser incidents), as many as 40% of the officers and the subjects may sustain injuries.

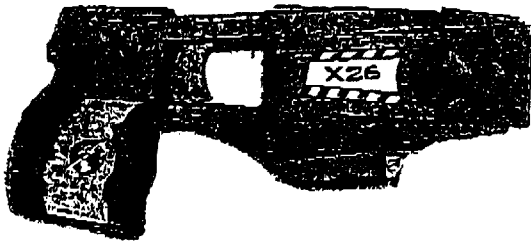


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The Seattle Police Department is an accredited law enforcement agency and meets the high standards of the Commission on Accreditation for Law Enforcement Agencies.



TASER UPDATE

This is the second of several interviews with Top Commanders regarding issues that impact Law Enforcement. The following interview was done with Deputy Chief Clark Kimerer regarding the Taser Program.

Where does the taser fit into the Use of Force Options?

The decision to use any type of force is clearly defined in state law (no other reasonable options available and the force used is reasonable given the circumstances of the situation.) Officers must rely on both their own personal judgment and the principles outlined in the law when deciding when and what type of force to use. Practically speaking, the taser used in the dart mode is considered an impact weapon (on the use of force continuum) and used in the touch mode is considered a pain compliance option. In addition to the state law, Department directives provide a broad outline of circumstances when use of the taser is appropriate.

What is the difference between using the taser in dart mode versus the touch mode?

When used with the dart projectiles the taser affects central nervous system, producing an involuntary contraction of the muscle group that the darts have struck. This is radically different from using the taser in the touch mode, which essentially provides a localized and painful jolt, but one that many can fight through. Repeated use of the contact taser when it appears that it is not having the desired result is one of the concerns I have about proper deployment.

What do you look for when reviewing taser reports?

There are a number of reasons that I review every use of force report involving tasers. First is my basic responsibility to evaluate and monitor any practice that we sanction. I believe the tasers are a great tool for officers, but we risk the possibility that our ability to use them could be taken away or significantly restricted, if we are not using them in a manner that is safe for officers and acceptable to the community at large. In addition the review identifies trends or problems that emerge and allow the department to respond to them in a coordinated and comprehensive fashion. It could result in improving our training curriculum or refining our policies about deployment of the taser. The review also provides a much larger perspective in which to evaluate and respond to concerns or problems. Lastly, it allows us to gauge our practices against those employed in other jurisdictions, both nationally and internationally.

Where are we in terms of expanding the program?

While it is definitely true we have had some budgetary and legal obstacles to overcome, we are close to resolving those. We are definitely moving toward the new X26E model. This model is 60% smaller than its predecessor; is more durable; and less affected by cool & damp weather. It delivers a stronger charge at a lower power level, increasing the margin of safety, and it is cheaper to maintain (the battery life is measured in terms of years versus weeks.) All of these advantages come at a cost, however, and that is what we are trying to work out now.

Are there problems emerging about the deployment of Tasers on a national level?

I would hate to lose this tool because of the mistakes of others, that's part of reason we have implemented the level of accountability and review that we have. Our program is markedly different from those in other jurisdictions. It is based on three key components, strategic deployment, ongoing training, and accountability/review. It has allowed us to craft a program that permits maximum discretion for the officer using the taser but at the same time requires responsible application. The fact is that we can do everything right and still lose a lawsuit. We must be mindful of that. There is a tendency in agencies that have a mass deployment to respond to individual problems by outright prohibitions regarding where & when tasers can be deployed. That has not been our approach & we remain committed to our system of training and accountability.

The evidence seems overwhelming that when used appropriately, the taser is an extremely effective tool; do you see the Department moving towards issuing a taser to all officers?

When the taser program was designed we made a conscious decision not to issue it to every officer. I think that one of the reasons our program has been so effective is because people carrying tasers want to carry them. I also am very pleased with our training and recertification process. I think this helps to keep officers current with

Continued on opposite page

TASERS: *continued*

their skills. I believe that any force option program is a balancing act.

I would much rather see officers become proficient in one or two options and specialize, much the way we do with our CIT, Patrol Rifle, and Less Lethal Shotgun programs. With that being said, I also think it is vital to train all our officers in the various force options and what to expect when one of those is deployed. We are the only agency that trains non-taser officers about what to expect when someone is tased, since we know that most often, there will be a mix of officers at the scene. Knowing what to expect, even if you are not deploying a tool, makes for much better scene management and hopefully a safer resolution.

With the national press calling into question the safety of tasers, if pressured, will the department terminate the program to reduce liability?

I have yet to see any conclusive evidence that tasers are inherently unsafe. In fact there is a study that just came out of Great Britain identifying the taser as a low risk force option for law enforcement. For every Medical Examiner who has suggested a connection between the deployment of the taser and a person's death, there are 30 that would dispute that. It is much like judging an Olympic Gymnastic Competition - it is still an opinion. So the answer to the question is No - national press coverage will not cause the Department to end a program that has been as successful as our taser program. However, if future evaluations show a negative impact, we would of course act on that information. At the same time, we have a responsibility along with all agencies utilizing this tool, to stay involved in both the national and international discussions and investigations.

There has been a lot of media attention about various police agencies and their taser deployments, how does this negative coverage impact our program?

I know that the implementation of, policy development around, and training in regards to our taser program have been the best I have seen, both nationally and internationally. Unfortunately the public does not distinguish between the Seattle Police Department and other Departments. We get painted as one and the same, so what happens in other jurisdictions does impact our program. That is why it is so important for this department to stay vigilant in setting the standard at a level that provides for integrity of the program. That is why it is important to review all the applications, to educate the public about the range of force options and the care this department takes in ensuring that all of its officers are well trained and proficient in the options they have chosen to specialize in. In the end I believe all of this will allow us to continue to grow and explore options that provide the utmost safety to our officers and the community they serve.

FACTS ABOUT TASERS

Currently SPD has 220 tasers deployed, with 90% of them with first responding officers.

Through August 2004, the Department has deployed tasers in 570 incidents.

In 58% of taser incidents, the officer deploying the taser is among the first responding officers.

Tasers are used in a wide variety of incidents.

Violent crimes and drug/alcohol incidents together comprise 36% of the situations in which tasers have been used. Followed most closely by fights and disturbances (17%) and mental/suicide calls (15%).

Records show that tasers are being applied in the dart/projectile mode 53% of the time, in the control touch mode 34%, and 13% of the time both modes are used.

Almost 3/4 of taser subjects (71%) are impaired, often severely, by alcohol, drugs, or a mental illness or delusion. This has climbed from 60% in 2001.

Nearly a quarter of taser subject (23%) have been armed. The most frequent weapon has been a knife (42%), followed by guns (12%) and other weapons (41%), which include such items as scissors, hatchet, broken bottles, shovels, stakes, and hypodermic needles.

Verified taser contact was obtained in 82% of the incidents. In those incidents the taser delivered a disabling or partially disabling effect 94% of the time.

There were no injuries to officers in 84% of the taser incidents and subjects sustained no injuries or only dart/stun abrasion in 65% of the incidents.

ADOPTION RESOURCES ►

See related story on opposite page:

Children's Home Society of Washington:

www.chs-wa.org

Administration for Children and Families:

www.acf.hhs.gov

National Adoption Foundation:

www.nafadopt.org

All Gods Children:

www.allgodschildren.org

Medina Children's Services:

www.medinachild.org

SEATTLE POLICE DEPARTMENT

R. GIL KERLIKOWSKE, Chief of Police
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FACSIMILE COVER SHEET

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