

CLAIMS BRIEF



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The Importance of Documenting Taser Usage

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Unlike most equipment used by law enforcement officers to apprehend suspects, Tasers are equipped with an internal memory that allows law enforcement agencies to monitor and document their usage. It is imperative for all law enforcement agencies utilizing Tasers to routinely monitor their internal memories and to document each and every event in which a Taser is used. The proper monitoring of Taser usage is an essential component in the defense of use of force cases arising from the use of a Taser.

As we all know, law enforcement officers are often forced to make difficult, split second, decisions regarding the degree of force to use in subduing a fleeing, physically resisting, and/or potentially dangerous criminal suspect. Numerous non-lethal force options are available to officers, many of which are dependent upon pain-compliance to be effective. Non-lethal options include: command presence, verbal commands, defensive tactics, the use of chemical agents, and the use of impact weapons.

To supplement the arsenal of non-lethal force options, a growing number of law enforcement agencies are equipping officers with Tasers. The use of a Taser during an encounter with a suspect raises the same legal issues regarding the use of force as are raised by the use of defensive tactics, chemical agents, and other impact weapons. Unlike non-electronic use of force options, however, the Taser is equipped with an internal memory that keeps detailed records regarding its usage. Tasers are equipped with an internal memory that stores information created each and every time the weapon is used. This information can be downloaded and is thus readily available for review and analysis by supervisors and administrative staff. The data stored in the Taser's electronic memory should provide complete and accurate information regarding the date and time the weapon was used. This data is essential in defending law enforcement officers against State and federal excessive use of force claims, as well as defending police agencies and local governments against claims that their official policies or unofficial customs and practices were the moving force behind any constitutional violation.

In order to take full advantage of the use of Tasers, and their electronic memories, law enforcement agencies utilizing these weapons should develop policies which require:

1. That law enforcement officers photograph as soon as is practicable Taser probe impact sites, "dry stun" sites, and any other injuries related to Taser usage.
2. That law enforcement officers retrieve and secure all deployed Taser cartridges and place them in an evidence bag, labeled and secured in the property room.

3. That law enforcement officers complete a Use of Force Form, or other similar form, each time force is applied through use of Taser.
4. As soon as is practicable after a Taser is used, either through the deployment of probes or through a dry stun technique, a specially assigned and trained “Taser Officer” should access the Taser’s internal memory and print the report detailing the weapon’s usage.
5. After an agency issues a Taser to an officer, the “Taser Officer” or other specially assigned and trained member of the command staff should be responsible for accessing each weapon’s electronic memory database every four (4) months and creating a database from the information gathered. This Taser database should confirm that there has been no additional deployment of Taser probes or dry stuns except for those previously reported.
6. When an agency “retires” a Taser, and replaces it with a new or different model, the weapon’s electronic memory database should be downloaded and stored in the Taser database. The weapon’s “retirement” or replacement date should also be included.

These specific Taser policies are designed to supplement, and complement, existing departmental policies regarding the use of Tasers. Although comprehensive policies and thorough documentation of Taser usage will not insulate an officer or local government from lawsuits, such practices will be an invaluable tool in defending claims arising from the use of Tasers.

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