

Pertinent segment from Taser policy:

308.10 TASER GUIDELINES

When properly applied in accordance with this policy, the Taser is considered a non-deadly control device, which is intended to temporarily incapacitate a violent or potentially violent individual without causing serious injury. It is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects.

308.10.1 CARRYING THE TASER

Certified sworn officers and/or other employee(s) who have completed department-approved training may be issued a Taser for use during their current assignment. Officers shall only use Tasers and cartridges that have been issued by the department. The Taser may be carried either as a part of a uniformed officer's equipment in an approved holster or secured in the driver's compartment of the officer's vehicle so that it is readily accessible at all times.

(a) If the Taser is carried as a part of a uniformed officer's equipment, the Taser shall not be carried on the same side as the officer's duty weapon.

(b) All Taser devices shall be clearly and distinctly marked to differentiate them from the officer's duty weapon and any other device.

(c) Whenever possible, officers shall carry a total of two or more Taser cartridges on their

person at all times while carrying a Taser.

(d) Officers shall be responsible for insuring that their issued Taser is properly maintained

and in good working order at all times.

(e) Officers should never hold both a firearm and a Taser at the same time.

308.10.2 VERBAL AND VISUAL WARNINGS

Unless it would otherwise endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of the Taser shall precede the application of a Taser device in order to:

(a) Provide the individual with a reasonable opportunity to voluntarily comply.

(b) Provide other officers and individuals with warning that a Taser device may be deployed. If, after a verbal warning, an individual continues to express an unwillingness to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical under the circumstances, an officer may, but is not required to display the electrical arc (provided there is not a cartridge loaded into the Taser) or laser in a further attempt to gain compliance prior to the application of the Taser device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair their vision. The fact that a verbal and/or other warning was given or reasons it was not given shall be documented in any related reports.

308.10.3 USE OF THE TASER

As with any law enforcement equipment, the Taser has limitations and restrictions requiring consideration before its use. The Taser should only be used when its operator can safely approach the subject within the operational range of the Taser. Although the Taser device rarely fails and is generally effective in subduing most individuals, officers should be aware of this potential and be prepared with other options in the unlikely event of such a failure. Authorized personnel may use a Taser device when circumstances known to the individual officer at the time indicate that the application of the Taser is reasonable to subdue or control:

(a) A violent or physically resisting subject, or

(b) A potentially violent or physically resisting subject if:

1. The subject has verbally or physically demonstrated an intention to resist; and
2. The officer has given the subject a verbal warning of the intended use of the Taser followed by a reasonable opportunity to voluntarily comply; and
3. Other available options reasonably appear ineffective or would present a greater danger to the officer or subject.

(c) Although not absolutely prohibited, officers should give additional consideration to the unique circumstances involved prior to applying the Taser to any of the following individuals:

1. Pregnant females;
2. Elderly individuals or obvious juveniles;
3. Individuals who are handcuffed or otherwise restrained;
4. Individuals who have been recently sprayed with alcohol based Pepper Spray or who are otherwise in close proximity to any combustible material;
5. Individuals utilizing static/passive resistance;
6. Individuals whose position or activity may result in collateral injury (e.g. falls from height, operating vehicles, etc.)

(d) Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms of "excited delirium" (e.g. nudity, profuse sweating, irrational behavior) may be more susceptible to collateral problems and should be closely monitored following the application of the Taser until they can be examined by paramedics or other medical personnel.

(e) Because the application of the Taser in the "Drive Stun" mode (i.e. direct contact without darts) relies primarily on pain compliance and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited. The Taser device shall not be used to torture, psychologically torment or inflict undue pain on any individual.

308.10.4 MULTIPLE APPLICATIONS OF THE TASER

If, after a single application of the Taser, an officer is still unable to gain compliance from an individual and circumstances allow, the officer should consider whether or not the Taser device is making proper contact, the use of the Taser is limiting the ability of the individual to comply or if other options or tactics may be more appropriate. However, this shall not preclude any officer from multiple, reasonable applications of the Taser on an individual.

308.10.5 REPORT OF USE

All Taser discharges shall be documented in the related arrest/caption report and on the Taser report form. Accidental discharges of a Taser cartridge will also be documented on the Taser report form. Any report documenting the discharge of a Taser cartridge will include the cartridge's serial number and an explanation of the circumstances surrounding the discharge.

308.10.6 MEDICAL TREATMENT

Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser darts shall be medically cleared prior to being booked. Individuals who have been subjected to the electric discharge of a Taser and/or struck by Taser darts and who are also suspected of being under the influence of controlled substances and/or alcohol should also be examined by paramedics or other qualified medical personnel as soon as practicable. Further, any person struck with Taser darts or injured by a probe shall be treated by medical personnel as soon as practical after the incident. Taser darts will not be removed from the head, groin, or female breast by anyone other than a medical nurse or physician. Used Taser darts shall be considered a sharp biohazard, similar to a used hypodermic needle, and disposed of accordingly.

308.10.7 TRAINING

In addition to the initial department approved training required to carry and use a Taser device, any personnel who have not carried a Taser as a part of their assignment for a period of six months or more shall be re-certified by a Departmental defensive tactics instructor who has completed a Taser Instructor course prior to again carrying or using the device. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the department's designated defensive tactics instructor(s).

308.11 REPORTING USE OF CONTROL DEVICES AND TECHNIQUES

Any application of a control device or technique listed in this policy shall be documented in the related incident report and reported pursuant to the Use of Force Policy.

Pertinent segment from procedural manual (Cell phones):

F. EVIDENCE RELATING TO STORED COMMUNICATIONS

The Stored Wire and Electronic Communications Act (SCA), 18 USC §§2701-2712, which is part of the Electronic Communications Privacy Act (ECPA), limits law enforcement access to the stored records of providers of electronic communication services and remote computing services. An **electronic communication service** is any service that provides users the ability to send and receive wire or electronic communications. 18 USC § 2510(15). For example, cell phone companies and Internet service providers are electronic communication service providers. However, a company that merely receives and sends wire or electronic communications, such as Amazon, is not an electronic service provider.

A **remote computing service** provides off-site storage or processing services for computer related data on behalf of its customers. 18 USC § 2711(2). An electronic bulletin board is an example of a remote computing service. *Steve Jackson Games v. United States Secret Serv.*, 816 F.

Supp. 432, 443 (W. Dist. Tex. 1993).

Often a service is both an electronic communication service provider and a remote computing service depending on the type of service provided. Yahoo!, for instance, is an electronic service provider when it provides users the ability to send e-mails, but is a remote computing service with respect to opened e-mails that users store on its servers.

NOTE: Although the SCA distinguishes between electronic communication services and remote computing services, that distinction has little practical meaning.

That is because the Ninth Circuit's decision in *Theofel v. Farey-Jones*, 359 F3d 1066 (9th Cir. 2003), effectively eliminated the differences between the legal process required to obtain the records of an electronic communication service and the records of a remote computing service.

1. Records Available

Electronic communication service providers and remote computing services create, maintain, and store information that may be useful in criminal investigations. The categories of information created by the SCA are subscriber information, transactional records, and content.

a. Subscriber Information

Subscriber information includes basic information about a customer. The SCA defines subscriber information as the following:

(A) name;

(B) address;

(C) local and long distance telephone connection records, or records of session times and durations;