



GENERAL ORDER

NO. 220.1

REFERENCE: NYSAP 20.6, 32.4

LESS LETHAL EQUIPMENT

ORIGINAL ISSUE DATE: 02/15/21

I. PURPOSE

The purpose of this order is to establish policies and procedures for the deployment of less lethal equipment by sworn officers of the Village of Solvay Police Department.

II. POLICY

It is the policy of the Village of Solvay Police Department that sworn officers shall carry and deploy only those less lethal equipment issued by the department, and that the deploying of those items shall be within the limits established by Article 35 of the New York State Penal Law, the standard of objective reasonableness, established by the United States Supreme Court in *Graham v. Connor* and consistent with the training and policies of the department. The actively pointing or deploying of a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas; actively pointing or deploying any impact weapon, including, but not limited to a baton or billy, and actively pointing or deploying an Electronic Control Device (ECD) is considered a use of force and shall require a "Use of Force Report."

III. DEFINITIONS:

A. IMPACT WEAPON - A device used to apply force against a resisting or assaultive subject, or to affect a blocking or defensive technique. This shall include police batons, ASP Tactical Batons and Impact Projectiles.

B. AEROSOL WEAPON - Purified pepper spray and similar agents.

C. Less-Lethal Electronic Control Device - Devices designed to disrupt a subject's nervous system by means of deploying battery powered electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

D. OBJECTIVELY REASONABLE - An objective standard used to judge an officer's actions. Under this standard, a particular application of force must be judged through the perspective of a reasonable officer facing the same set of circumstances, without the benefit of 20/20 hindsight, and be based on the totality of the facts that are known to that officer at the time that the force was used.

E. DEADLY PHYSICAL FORCE - Physical force which, under the circumstances in which it is used, is readily capable of producing death or other serious physical/bodily injury.

F. PHYSICAL INJURY - Impairment of physical condition or substantial pain.

G. SERIOUS PHYSICAL INJURY/SERIOUS BODILY INJURY - Physical injury which creates a substantial risk of death, unconsciousness or which causes death or serious and protracted and obvious disfigurement, protracted impairment of health or protracted loss or impairment of a bodily member, organ or mental faculty.

H. ACTIVELY POINTING - The intentional targeting of a person with an Electronic Control Device (ECD), firearm, impact weapon, impact projectile or chemical agent.

I. Probe Delivery- Refers to the firing of probe from a Taser weapon into a subject for the purpose of incapacitation through EMD. This type of delivery produces the most desired effect.

J. Drive Stun- when contact is made by pressing an active Taser onto the body of the subject. The drive stun affects the sensory nervous system producing pain compliance and may not achieve EMD.

K. Spark Compliance- a non contact demonstration of the Taser to convince a subject to voluntarily comply with a lawful order prior to force being used. Spark display technique will only be utilized when proper justification exists. Spark display techniques require the user to first remove the air cartridge.

L. Electronic Muscular Disruption (EMD)- The desired effect when deploying Taser weapons designed to temporarily incapacitate violent, dangerous and/or non compliant dangerous subjects so they may be safely taken into custody.

IV. PROCEDURE:

A. AUTHORIZED Less Lethal Equipment

1. Sworn members of the Village of Solvay Police Department shall carry and deploy only those Less Lethal Equipment that are authorized and issued by the police department as listed in the Duty Manual.

2. Sworn members shall be provided with training in order to properly deploy any issued Less Lethal Equipment prior to being authorized to carry those items.

3. Sworn members will be issued and authorized to carry the following Less Lethal equipment:

- a. Police Baton.
- b. Collapsible Baton.
- c. Department authorized pepper spray.
- d. Taser X26P (ECD)

4. Prior to being issued to sworn members for use in the performance of official duties a department defensive tactics instructor shall inspect all police batons, collapsible batons, pepper spray and handcuffs to ensure that they are free of defects and are serviceable.

5. The department's Defensive Tactics Instructor shall conduct inspections of all issued police batons, collapsible batons, pepper spray and handcuffs for serviceability during annual Defensive Tactics in-service training.

6. Impact/aerosol weapons shall be carried and/or utilized only as issued and authorized, and no changes, alterations, modifications or substitutions shall be made to or for same.

7. The decision to deploy an impact or aerosol weapon must be made with consideration of the severity of resistance or threat, as well as the possible injuries that may be caused by its use. Impact/aerosol weapons may be deployed in those situations where the use of force is justified, objectively reasonable and necessary. Under certain circumstances the deploying of an impact weapon may constitute a use of deadly physical force (example: head or neck strikes). In such cases the impact weapon shall only be deployed when the deadly physical force is justified by Article 35 of the New York State Penal Law to include the Tennessee v. Garner, 1985 decision, and the Graham v. Conner, 1989 decision.

8. Sworn members are responsible for providing maximum security for all impact/aerosol weapons while in their possession or under their control. Impact/aerosol weapons shall not be left in unassigned police vehicles when officers are not on-duty or in unsecured areas of headquarters.

9.. In the event that a sworn member determines that an impact/aerosol weapon has become unsafe the sworn member shall:

- a. Remove the impact/aerosol weapon from service.
- b. Turn the unsafe impact/aerosol weapon into their supervisor.
- c. Complete a 10.1 memo to the Defensive Tactics instructor(s) requesting that a new Less Lethal equipment unit be issued.

10. Less Lethal Equipment shall not be used for demonstration purposes unless specifically authorized by the Chief of Police.

B. POLICE BATON

1. Officers must have their issued police baton available to them while on patrol. When an officer carries the police baton on his/her person, it shall be carried holstered in the officer's baton ring unless its deployment is imminent.

2. Police batons shall not be used to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is justified, objectively reasonable and necessary.

C. COLLAPSIBLE BATON

1. Uniformed sworn members must carry the issued collapsible baton on their duty belt while on duty, except when wearing the Dress Uniform. Unless the deploying of the collapsible baton is imminent, it shall be carried holstered in the issued carrying case. All other sworn members may carry the collapsible baton on their person in an appropriate manner.

2. Collapsible batons shall not be deployed to strike at the head, neck or groin, except in those extreme instances in which the use of deadly physical force is justified, objectively reasonable and necessary.

D. PEPPER SPRAY

1. The deployment of pepper spray is an option granted to sworn members as an alternative in those situations where the potential for injury to an officer or a third person exists.

2. All Uniform Officers shall carry the issued pepper spray on their duty belt while on duty, except when wearing the Dress Uniform. All other officers may carry the aerosol spray in an appropriate manner.

3. Sworn members are responsible for monitoring the condition of their issued aerosol spray canister and for requesting replacement when the canister is expended or damaged.

4. Supervisors shall periodically inspect the canisters issued to their officers to ensure compliance with this order.

5. Application of pepper spray:

a. In electing to deploy pepper spray, sworn members must understand that its effects are not uniformly predictable and that certain individuals may remain undeterred by its application. Intoxicated, drugged, demented or enraged persons may have reduced sensitivity to discomfort. Any such use should be accompanied by a realization that the officer may need to take further action to ensure his/her or a third person's safety. Conversely, all sworn members should be aware of the potential; however, limited for injury arising from the use of this spray.

b. An area of special concern would be the deployment of pepper spray within a medical facility (e.g. hospital or emergency room). Deployment of pepper spray in these environments may adversely affect and even exacerbate existing medical conditions of non-involved patients, potentially causing respiratory distress.

c. Sworn members should be aware of the increased potential for injury to the person upon whom the spray is deployed when the subject:

i. Is less than two feet away from the officer.

ii. Is in an enclosed area without ventilation.

iii. Lacks normal reflexes, such as the ability to blink or is otherwise incapacitated.

d. Optimal distance for deployment of pepper spray is two to twelve feet from the subject. Unless exigent circumstances exist, the deployment of pepper spray at less than two feet from the subject should be avoided to decrease the possibility of injury. At distances greater than twelve feet, the effectiveness of the pepper spray will be significantly decreased.

e. Wind conditions and other environmental factors, including the proximity of innocent persons, should be considered before deploying the spray.

f. The spray should be applied in controlled bursts, directed at the upper respiratory/facial area.

g. After the spray has been deployed and the subject is under control, it is the sworn member's responsibility to ensure that the proper first aid is administered and to seek, when necessary, medical attention. As soon as practical, but within thirty minutes, the exposed areas should be treated with a decontamination product or with water. If the spray has contacted the eyes, they should be flushed with plenty of cool water. The water should be splashed, not rubbed on the affected eye(s). Should difficulty breathing persist he should be removed to fresh air, and emergency medical assistance requested. If necessary, the emergency medical service personnel should provide treatment and transport to a medical facility.

h. When a defendant has been exposed to the spray and is taken to the Onondaga County Justice Center, the transporting sworn member shall advise jail personnel of the exposure so that they may take the necessary precautions. Notification is to be made at the booking desk as the defendant is being initially interviewed to ensure that the notification is recorded on the jail video in addition to being noted in the officer's report.

i. After deploying the spray, it shall be the responsibility of the sworn member to ensure that there is a sufficient amount left in the canister to remain serviceable. If the canister has been expended the officer shall inform his supervisor and request a replacement.

j. Pepper spray has a manufacturer recommended expiration date. Sworn members should inspect the canister for expiration and inspect the holster for damage or wear periodically. During that inspection sworn members should vigorously shake the canister to prevent the contents from settling.

k. Pepper spray is effective against many animals and may be deployed by sworn members to deter an attacking animal.

E. Taser X26P

1. The Taser X26P is a less-lethal option that is available to all certified Taser officers to be used as an alternative in those situations where the actions of a subject create a potential risk for injury to himself, an officer or a third person.

2. When practical, the Taser officer will use verbal commands giving instruction to the subject to cease his actions prior to the use of the Taser. These verbal commands will give warning to other officers present.

3. Taser equipment are equal to OC spray on the use of force continuum and decisions to use them require the same basic justification; however, when determining whether to use the Taser, the totality of the circumstances should be considered together with the following:

- a. The likelihood of physical injury resulting from a Taser strike to include: accidental probe contact to a sensitive tissue area or a secondary injury to the subject from falling post deployment.
- b. The optimal effective range of the Taser is 7 to 15 feet: 2 feet being the minimum recommended range and 21 feet the maximum range.
- c. Number of members or suspects on scene.
- d. When encountering subjects with heavy or loose clothing on the upper body, the legs should be considered as a target.
- e. Center mass of the body should be the primary target area, particularly the center mass of the back.
- f. When possible, attempts should be made to avoid hitting the subject in sensitive tissue areas such as the head, face, neck, groin, or female breast area.
- g. The Taser may also be used in a "drive stun" mode. The air cartridge has to be removed and the unit is firmly pressed onto an appropriate area, such as the abdominal region, hips, thigh, and the brachial plexus origin, drive stuns should only be used when proper justification exists.
- h. The Taser may be used in defense against animals when proper justification exists.
- i. The Taser shall not be used under the following circumstances unless there are compelling reasons to do so that can be clearly articulated:
 1. When the member knows the subject has come in contact with flammable liquids or is in a flammable atmosphere.
 2. When the subject is a female and is known to be pregnant.

3. When the subject is clearly a juvenile.
 4. When the subject is in a position where a fall may cause substantial injury or death.
 5. Punitively for purposes of coercion.
- j. The Taser officer will deploy the Taser using only the tactics and techniques prescribed by the Taser International training course.
 - k. When an officer deploys a department issued Taser, he will immediately notify a supervisor.
 - l. The X26P Taser is not a replacement for the departmental issued firearm and should not be used without firearm backup in those incidents where there is potential threat of deadly physical force towards the officer or any third parties involved in the incident.

4. Post Deployment Procedures

- a. Taser probes may be removed from a subject by a member once the subject has been restrained using the procedures outlined in the Taser training. Universal precautions should be taken to protect the officer from the transfer of bodily fluids. In the event that a Taser probe penetrates a sensitive tissue area (groin, eye, face, female breast, or neck) the subject shall be taken to an emergency care facility for removal of the probes. The subject may also be taken to an emergency care facility if the deploying officer or a supervisor determines that it is otherwise necessary.
- b. Photographs of the affected area must be taken after the probes have been removed.
- c. The air cartridge, probes, AFID's, blast doors, and wires will be collected by the Taser officer and turned in as evidence in accordance with the procedures set forth in General Order # 415. This evidence will be marked as a bio hazard.
- d. Booking personnel will be notified any time that a prisoner being transferred into their custody has been subjected to the use of the Taser.
- e. Following a taser deployment, a 10.1 memo will be sent to the Taser instructor notifying them of the need to extract data.
- f. After a Taser deployment the officer will notify The Onondaga County 911 center of a Taser deployment and request that EMS respond to the scene. EMS will be requested to check the status of the subject that has been tased. If the subject refuses any medical treatment, then a refusal form from the EMS crew will signed by the subject and witnessed by the Officer. The results of EMS findings will be noted in the officers' report. If medical treatment is needed or requested, then the subject will be transported to the hospital for such care.

5. Training

- a. Any member authorized to carry a department issued Taser weapons must complete a Manufacturer's certification course or a department approved Taser training course.
- b. All members shall complete a minimum of four hours of annual in service training for Taser training annually.
- c. All departmental Taser instructors shall receive refresher training prior to the expiration of the certification every two years.

6. Care and maintenance

- a. The Taser shall be pointed in an upright position with the electrodes at eye level with the safety

on during loading, unloading, or when handling other than in an operational deployment.

- b. Prior to operational deployment, members shall ensure the proper functioning of the unit to include a visual inspection of the battery capacity readout display. A spark test is not mandatory each day, however, periodic checks are to be conducted. The spark test will be conducted with the air cartridge removed.
 1. All spark tests will be conducted out of view from the general public in the armory in front of the Taser locker prior to the beginning of their shift. Spark test will be conducted by:
 - a. Installing a departmental approved holster on the duty belt in the approved location if a holster is not already affixed as described above.
 - b. Remove the air cartridge from the Taser if installed.
 - c. Place the air cartridge on top of the Taser locker in the designated area.
 - d. Conduct a spark test while pointing the Taser at the spark test zone.
 - e. Upon completion of a successful spark test:
 1. Confirm the safety is in the on position.
 2. Retrieve the air cartridge from the designated area.
 3. Reattach the air cartridge to the Taser.
 2. Secure the Taser in the approved holster. A battery reading of 20 % or less shall require the unit to be placed out of service.
 3. Only approved battery power sources from the manufacturer shall be utilized in any departmental Taser weapon.
 4. Members shall never eject or remove a battery pack from the Taser. This action shall only be conducted by a certified Taser instructor.
 5. Members shall avoid prolonged exposure of the Taser unit to rain and moisture as this may cause internal problems.
 6. A supervisor will be notified immediately of any malfunctions or defects and a memo shall be completed and forwarded to the Taser instructor.
 7. At no time shall any member make or cause to be made any form of alteration to the Taser. Any and all repairs shall be completed by an authorized Taser International vendor.
 8. Any and all discharges, other than a spark test, intentional or accidental shall be reported immediately to a supervisor along with being documented in a CNY Leads report.

7. Security

- a. Taser X26P is issued to all certified Taser officers. It will be carried by the officer during those hours that the officer is working. It shall be mandatory that the Uniform Patrol officer carry the Taser while on duty.
 1. The Taser X26P will be worn on the duty belt in only an approved holster issued by Taser International or the department approved holster, Blackhawk SERPA model # LP607 PRH.

2. The Taser X26P will be worn in an approved holster on the duty belt on the opposite side of the body as the duty weapon. Thus creating a cross draw effect.
 3. Each issued Taser shall be inventoried with records maintained by the Chief of Police.
- b. The Taser will be carried fully armed with the safety in the on position. The Taser shall remain in the security holster till such time the officer is justified to remove it.

F. MEDICAL ATTENTION

1. Whenever a Less Lethal devices has been deployed, the sworn member shall immediately evaluate the need for medical attention for the person upon whom the force was used. The sworn member shall arrange for such attention by requesting emergency medical services when the person has sustained a visible injury, complains of injury or discomfort or requests medical attention. If the person refuses to be treated, he must sign the refusal statement on the emergency medical service's Pre-Hospital Care report form. If the person refuses to sign, the refusal must be witnessed on the form. The subject's acceptance or refusal of medical care shall also be documented in the sworn member's report.

G. REPORTING PROCEDURES

1. Whenever a sworn officer actively points or deploys a baton or impact munitions, actively points or deploys a chemical agent, including but not limited to, oleoresin capsicum, pepper spray or tear gas, actively points or deploys an Electronic Control Device (ECD) a "Use of Force Report" shall be completed, except when used for authorized demonstration purposes per this order.

2. In all cases where an impact or aerosol weapon has been deployed, a supervisor shall be notified as soon as practically possible.

H. EVALUATING THE USE OF FORCE

1. The Lieutenant shall review the incident to ensure that the use of force was necessary, objectively reasonable and justified and shall determine whether the use of force was:

- a. Within department policy and applicable laws.
- b. Out of department policy and/or in violation of applicable laws.

2. The Lieutenant shall report his findings, together with any recommendations, to the Chief of Police.

I. TRAINING

1. Only sworn members who have completed the department's use of force training by a certified weapons or tactics instructor, shall deploy Less Lethal equipment. Sworn members shall deploy only those items which are issued by the department and only after they have demonstrated proficiency.

2. Less Lethal Equipment instructors shall be responsible for recording and submitting all original records of training to the training section.

3. Agency personnel who are unable to demonstrate proficiency and qualify with an authorized department impact/aerosol weapon must attend and successfully complete remedial training prior to being allowed to resume official duties.

4. When practical, the instructor shall immediately conduct remedial training in an effort to correct the deficiency.
5. If the deficiency cannot be corrected before the sworn members next tour of duty, the instructor shall:
 - a. Immediately notify the Lieutenant regarding the sworn member's duty status.
 - b. Reschedule additional remedial training as soon as practical.
 - c. Keep the Lieutenant of the sworn member's duty status.
6. All remedial training shall be documented.
7. A failure to demonstrate proficiency after reasonable remedial training has been provided may serve as the basis of disciplinary action.