

PhaZZer® Policy on Liability and Litigation Risk Associated with the Use of PhaZZer® Conductive Energy Weapons by Law Enforcement Agencies and Officers

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Use of conductive energy weapons (“CEWs”) can create the risk of civil liability for CEW manufacturers, distributors and users of CEWs. Use of CEWs also has the potential for creating criminal liability for individual users as well. For manufacturers and distributors of CEWs, there exists a risk of product liability lawsuits due to injuries resulting from use of CEWs on third parties.

Law enforcement is one of the largest segments of CEW users due to the fact that CEW’s have drastically reduced injuries to suspects as opposed to different use-of-force tools and techniques that carry a much higher risk of injury thereby creating a greater risk of liability for the law enforcement agencies and their officers. CEW’s have one of the lowest liability and litigation risk profiles of any use-of-force tools or techniques available to law enforcement. However, use of CEWs still has some risk to law enforcement agencies and individual officers who may be exposed to civil liability claims for the excessive use of force pursuant to both federal law and state specific causes of action. Individual officers may also be subject to criminal liability for the excessive use of force as well.

It is important to note that manufacturers and distributors of CEWs are exposed to different civil liability than law enforcement agencies and their officers. Manufacturers and distributors of CEWs are subject to product liability claims while law enforcement agencies are subject to claims for excessive use of force. A manufacturer and distributor of CEWs cannot be sued for excessive use of force and a law enforcement agency and its officers cannot be sued for products liability.

To date PhaZZer® has not been involved in any product liability lawsuits arising from law enforcement, private security or civilian use of any PhaZZer® CEW product. It has become harder for a plaintiff to lodge a successful product liability suit against CEW manufacturers as numerous medical and safety studies and historical related research and literature have established the general safety of the use of CEWs. Furthermore courts have generally held that the proper use of CEWs is not excessive use of force.

The use of CEWs by law enforcement has greatly reduced excessive use of force claims due to the fact that it causes incapacitation of suspects from a safe distance by overriding the central nervous system. Once the suspect is incapacitated the officer has the opportunity to restrain the suspect without having to resort to higher uses of force. This is especially beneficial in situations where a suspect is under the influence of drugs or alcohol and is not complying with the officer’s commands, resisting arrest and/or potentially impervious to pain due to the effects of the drugs and/or alcohol on the individual thus making some pain compliance tools ineffective.

PhaZZer® has now added a greater advantage to its CEWs that has the effect of increasing an officer’s awareness of how much force they are using on a suspect. PhaZZer® has implemented and is in the process of obtaining patents for a “safety shut down circuit” which

effectively shuts the unit down if aggregate exposure to the body exceeds 15 seconds. Most up-to-date medical studies have indicated that this is the new benchmark for the safe and responsible use of CEWs when deployed into a live target. This PhaZZer®-designed safety shut off circuit can be overridden by recycling the safety switch if the officer believes that the use of greater force is reasonable and necessary. The PhaZZer® safety shut down circuit applies after 3 consecutive trigger pulls, each of 5 second duration for an aggregate of 15 seconds from the CEW into the perpetrator. This will cause the circuit to shut down and subsequently requires that the safety switch be recycled prior to any further applications into the target. This is in compliance with recent studies completed by the American Heart Association, American Academy of Emergency Medicine and the United States Department of Justice.

Overall CEWs reduce injuries to suspects because their use decreases the use of impact weapons; strikes, kicks and punches; and deadly and lethal force. PhaZZer's® new and improved safety feature, the "safety shut down circuit," should result in a reduction in the use of force because it requires the officer to take affirmative actions to override the circuit, therefore making them more aware of their actions. This should result in a reduction of civil liability claims against law enforcement departments and officers and a reduction in criminal claims against the individual officers using PhaZZer® CEWs.

Indemnification of Law Enforcement Agencies and Their Officers

PhaZZer® Conductive Energy Weapons are classified under the PERF/COPS 2011 Electronic Control Weapons Guidelines as "less-lethal" weapons and can be deployed to protect the operator or other innocent parties from serious bodily harm. However, PHAZZER does understand and acknowledge that there are risks associated with the use of PhaZZer® CEWs. PhaZZer® has developed a training program and guidelines for the proper use of PhaZZer® CEWs by law enforcement officers based upon the six levels of the "Continuum of Force." The program and guidelines will give law enforcement officers the knowledge and experience to know when it is appropriate to use PhaZZer® CEWs in the line of duty and how much force is appropriate in the particular situation.

PhaZZer® cannot guarantee that the proper use of its CEWs by law enforcement officers will completely eliminate the risk of law enforcement agencies and their officers being subject to civil liability and criminal liability, as it relates to the individual officers, for claims by third parties for injuries sustained due to the use of PhaZZer® CEWs.

PhaZZer® will agree to indemnify, defend and hold harmless any law enforcement agency and any of its officers (the "Indemnified Parties") from and against any and all claims, actions, causes of action, demands, assessments, losses, damages, liabilities, judgments, settlements, penalties, costs and expenses (including reasonable attorneys' fees and expenses), of any nature whatsoever, asserted against, resulting to, imposed upon or incurred by the Indemnified Parties, directly or indirectly, by reason of or resulting from: (i) a malfunction in the PhaZZer® CEW used by an officer; or (ii) a failure to warn or adequately train but only where the officer used the PhaZZer® CEW in a manner that caused injury to a person and the use was consistent with the training program and guidelines as set forth by PhaZZer®. Notwithstanding the foregoing, PhaZZer® shall not be required to indemnify, defend and hold harmless the Indemnified Parties if: (i) the law enforcement agency and its officers did not operate the PhaZZer® CEW in compliance with the training program and guidelines; or, (ii) the injuries were a result of the negligence, gross negligence, or willful or reckless misconduct of the law enforcement agency or its officers.