

# **Model Use of Force Policy Beta Release Version 1.0**

## **Chapter 7: TASER Energy Weapons (TEWs) and other Conducted Electrical Weapons (CEWs)**

**October 31, 2022**

## **OVERVIEW**

This Chapter covers the use of TASER energy weapons (TEWs) and other conducted electrical weapons (collectively, CEWs). Although often referred to as a less-lethal weapons, CEWs involve the use of force and have the potential to cause serious bodily harm or death. As a result, this Chapter requires that certain preconditions be satisfied before officers can use CEWs. When the use of force is authorized, this Chapter permits the use of a CEW in certain specified circumstances and provides guidance for its use outside of those circumstances. When officers are allowed to use a CEW, the use of force must comply with the standards set forth in the policy.

This Chapter includes a High-Level Policy Summary outlining the Chapter's overarching principles, the full Policy Language, a Supporting Memorandum providing the policy rationale and guidance, and a Comparison Memo Summary that compares this Chapter to certain other national, state, and local-level policies.

## **PART 1: HIGH-LEVEL POLICY SUMMARY**

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1. TASER energy weapons (TEWs) and other conducted electrical weapons (collectively, CEWs) are capable of inflicting lethal injuries, even though they may be less lethal than more severe force options.
2. Officers must receive annual training and certification from a certified weapons instructor to carry and use a CEW.
3. CEWs are force options and may be used only when authorized and in compliance with Chapter 1 (Authorization and Standard).
  - a. When authorized by Chapter 1, CEWs may be used in certain specified circumstances. For example, they may be used to incapacitate a person who poses an immediate threat of physical injury to himself or others.
  - b. In other circumstances, a CEW should be deployed only as reasonably necessary based on the totality of circumstances and after other less-severe, available measures have been ineffective.
4. If feasible and safe, an officer must issue a verbal warning before full deployment of a CEW – that is, before pressing the trigger and deploying the probes from the cartridge.
5. A CEW may be used only for the minimal amount of time necessary, and in no event may the CEW be applied for longer than a full five-second cycle without interruption.
6. The preferred target area for use of a CEW is below a subject's center of mass (the abdominal area below the chest). An officer may never intentionally aim the laser light at a person's eyes.
7. Officers may not use a CEW in any of the following situations:
  - a. where its use is reasonably likely to result in death or serious injury to the subject or others;
  - b. on vulnerable categories of individuals (i.e., children, elderly, women believed to be pregnant, etc.) unless they pose an imminent threat of serious bodily harm to themselves or others; and/or
  - c. on a handcuffed person, unless there are significant extenuating circumstances and the subject cannot be controlled by other means.
8. Officers must call Emergency Medical Services ("EMS") as soon as practicable after using a CEW, request a Patrol Supervisor to attend if there are no supervisors on scene, and complete a full written report before the end of the officer's tour of duty.

## **PART 2: POLICY LANGUAGE**

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### **7.100 – General Considerations and Definitions**

#### **A. General Considerations:**

1. The use of TASER energy weapons (TEWs) and other conducted electrical weapons (collectively, CEWs) are capable of inflicting lethal injuries. While having lethal capacity, CEWs may be considered less-lethal weapons, depending on the conditions. Less-lethal weapons are used to interrupt a subject's threatening behavior so that officers may take physical control of the subject with less risk of injury to the subject or officer than that posed by more-severe force options.<sup>1</sup>

The use of CEWs involve the use of force and thus, must comply with the authorization and standard-for-use requirements of Chapter 1.

2. Because of the risks posed by CEWs, officers must be trained and certified in accordance with this Chapter to be issued such a police weapon. Further, the use of CEWs must comply with this Chapter.

#### **B. Definitions:**

1. **Resistance**: Officers may face the following types of Resistance to lawful directives:
  - a) **Passive Resistance**: Passive Resistance is when a person does not attack or attempt to attack the officer or another person, and does not attempt to flee, but fails to comply with the member's commands. Passive Resistance may include, but is not limited to, going limp, standing stationary and not moving based on lawful direction, and/or verbally signaling an intention to avoid or prevent being taken into custody.
  - b) **Active Resistance**: Active Resistance is when a person moves to avoid detention or arrest but does not attack or attempt to attack the officer or another person. Attempts to leave the scene, fleeing, hiding from detection, physical resistance to being handcuffed, or pulling away from the member's grasp are all examples of Active Resistance. Verbal statements, bracing, or tensing alone do not constitute Active Resistance. A person's reaction to pain caused by a member or purely defensive reactions to force does not constitute Active Resistance.
2. **Aggression**: Officers may face the following types of Aggression:
  - a) **Active Aggression**: A subject's attempt to attack or an actual attack on an officer or another person. Exhibiting aggressive

behavior (e.g., lunging toward the officer, taking a fighting stance, striking the officer with hands, fists, kicks) are examples of Active Aggression. Neither passive nor active resistance, including fleeing, pulling away, bracing, or tensing, constitute Active Aggression.

b) Aggravated Aggression: When a subject's actions create an objectively reasonable perception on the part of the officer that the officer or another person is subject to imminent death or serious physical injury as a result of the circumstances and/or nature of an attack. Aggravated Aggression represents the least encountered but most serious threat to the safety of law enforcement personnel or another person.<sup>2</sup>

3. Totality of Circumstances: The totality of the circumstances consists of all facts and circumstances surrounding any event.
4. Necessary: Force is necessary when the officer has exhausted non- or less-forceful options to achieve their lawful purpose.

## 7.200 – Requirements for Issuance of a CEW

### A. Requirements for Issuance

1. To be issued a CEW, an officer must be certified as a trained user. Such certification is limited to eligible personnel who successfully complete the Department's authorized training course and demonstrate the required proficiency in the use of the CEW.<sup>3</sup>
2. [OPTIONAL: In addition to the certification requirement, only officers who have been designated by their immediate command, and approved by the Commissioner, may be authorized to carry or use a CEW.]<sup>4</sup>

### B. Training and Qualification

1. All training and certifying for CEWs must be conducted by certified instructors.
2. Training Program. Training on CEWs must:
  - a) Be approved by the Police Commissioner [or equivalent position];
  - b) Be consistent with the manufacturer's recommendations, as well as any laws and regulations that may be adopted relative to CEWs;
  - c) Be consistent with the Department's training curriculum;
  - d) Be consistent with this Department's Use of Force Policy; and
  - e) Adopt the lesson plan established by Axon Enterprise, Inc. ("Axon"), formerly known as Taser International, Inc., for use of TEWs.
3. Training Courses. The courses must be approved by the Training Section Lieutenant. These courses may include:
  - a) The Department's training section courses;
  - b) Manufacturer's certification courses; and
  - c) Approved certification courses taught by other agencies;
4. Training Frequency. Officers selected to be authorized to carry and use a CEW must receive initial and annual training that meets or exceeds the approved training standards of Axon.
5. Taser Instructor Training. Instructors must have completed the Axon instructor certification program and must be certified by the State's Officer Training and Standards Commission [or the jurisdiction's nearest

equivalent]. Instructors must ensure that their certification is current before providing any course of instruction.

6. Failure to Attend Annual Training. Any officer who fails to attend and satisfactorily complete annual training for CEWs shall not carry or use a CEW until completion of the required course of instruction. Personnel trained in the use of this weapon will be held accountable for proficiency and trained in compliance with Department policy and state law.
7. Training Monitoring/Compliance. The Special Operations Division [or the Department's nearest equivalent] must track certification of officers to ensure there are no lapses in certification and will advise the respective commands and the Bureau of Field Services (BFS) [or the Department's nearest equivalent] when officers are out of compliance.

C. **CEW Control Manager Designation.** The Police Commissioner [or equivalent position] must designate a CEW Control Manager. The CEW Control Manager must:

1. Coordinate with Police Special Operations SWAT Commander [or the Department's nearest equivalent] – or the Police Academy Staff for CEW users outside of Special Operations [or the Department's nearest equivalent] – to ensure basic certification, annual training, and recertification training, as well as maintenance of accurate records and notification of commanders of officers whose certifications are approaching expiration;
2. Receive, inspect and audit CEWs, account for their issuance to authorized personnel, and oversee maintenance of department CEWs and related equipment;
3. Develop and maintain a system to comply with all reporting requirements of state law;
4. Assist the Firearm Discharge Investigation Team [or the Department's nearest equivalent] as requested in connection with investigations into a CEW deployment;
5. Identify training needs, equipment upgrades, and recommended changes to CEW policy that should be considered as a result of the analysis; and
6. Monitor the overall CEW program to ensure compliance with all requirements of the Executive Office of Public Safety and Security, the State's Officer Training and Standards Commission [or the jurisdiction's nearest equivalent] and Taser International Inc.

### 7.300 – Storage, Testing and Carrying of CEWs

- A. Storage: When not on duty or acting in an official capacity, officers must store CEWs in a Department facility or within a secure locked compartment in a Department vehicle.
- B. Testing and Carrying CEW
  - 1. Testing Before CEW Use. Officers must conduct a spark test before any shift or operation during which the CEW will be carried. Such test must be conducted as follows:
    - a) Proceed to the designated area;
    - b) Remove CEW from holster and point in a safe direction;
    - c) Turn safety switch up, to the armed position, activating the flashlight and/or red laser light;
    - d) Depress arc switch until arc is heard; and
    - e) Return safety switch to the “safe” position and holster.
  - 2. CEW Failure/Malfunction. If the CEW fails to arc it must be turned over to the CEW Control Manager for repair or replacement.
  - 3. CEW Carrying Protocol. Officers must carry CEW in an approved, issued holster on the support/weak side (opposite the firearm side) of the body. Officers must carry CEW fully armed in preparation for immediate use, and must point it in a safe direction (typically toward the ground) with the safety engaged during loading, unloading, or when handled in any circumstance other than an operational deployment or authorized testing or training. Officers must safeguard CEWs to the same extent as firearms to prevent unauthorized access.

## 7.400 – Authorization for Use of a CEW

- A. Authorization for Non-Lethal Use: The use of a CEW involves the use of force and thus, may be used only when authorized under Chapter 1. In addition, the following factors should be considered:
1. CEWs are specifically permitted in any of the following circumstances:
    - a) To incapacitate a person who poses an immediate threat of physical injury to himself or others.
    - b) When an officer is engaged in a physical confrontation with a combative individual and attempts to control the subject when available, lower levels of force options have been ineffective.
    - c) Against aggressive animals when the animal reasonably appears to pose an imminent threat to the safety of the Officer, another person, or another animal.
    - d) During authorized training and related events.
  2. Other circumstances:
    - a) Certified officers are permitted to use a CEW in a variety of other circumstances, consistent with the officer's training and in accordance with the other provisions of this policy.
    - b) However, the use of a CEW can escalate a confrontation with a subject and result in serious bodily harm or death. Because of such risks, CEWs should be deployed only as reasonably necessary based on the totality of circumstances and after other less-severe, available measures have been ineffective. Each situation requires that officers consider the alternatives, risks and applicable rules, combined with their training and experience, to apply their best judgment under the circumstances.
    - c) Depending on the circumstances, the officer may use other less-severe measures, such as de-escalation strategies, Verbal Persuasion, Verbal Commands, and Physical Controls.
- B. Authorization for Lethal Use:
1. Intentionally firing the CEW at the head or neck involves the use of lethal force and is limited to circumstances in which such force is authorized by the Deadly Force threshold in Chapter 1.

2. When lethal force is authorized under Chapter 1, CEWs should not be considered a substitute for lethal force. Officers are not expected to respond to a lethal threat with a CEW. A CEW should be used only in response to a lethal force threat under exigent circumstances.

## 7.500 – Standard for Deployment of a CEW

### A. General Standard:

1. Because the use of a CEW is a form of force, it must comply with the standard for using force in Chapter 1. In particular, any use of a CEW must be limited to that which is necessary to carry out a Lawful Objective and be proportional to the totality of the circumstances.

### B. Specific Standard:

1. Meaning of Deployment: Deployment of a CEW includes any time it is removed from the holster, the safety is turned off, and:
  - a) A drive stun is delivered;
  - b) The trigger is squeezed and full probe deployment occurs; or
  - c) Any accidental deployment occurs (not including inspecting and testing).
2. This policy requires that officers meet specific standards for each of the levels and modes of deployment of a CEW, as follows:
  - a) Power on CEW: The officer turns on the CEW activating the light and/or laser beam. Note that turning on the CEW is, by itself, not considered a use of force.
  - b) Spark Activation: The CEW is activated and the arc switch is depressed, activating the electrical arc. This mode may be used in response to Active Resistance or a greater threat.
  - c) Drive Stun: There is direct contact between the CEW and the subject's body. This can be done with the cartridge in place, using the arc switch. This is a pain compliance technique. In this mode, the CEW does not act as an electro-muscular disruptor. An officer may use this mode in response to Active Resistance or a greater threat.
  - d) Full Deployment: The trigger is pressed and the probes are deployed from the cartridge. The probes "hit" the subject, sending electrical energy typically sufficient to cause electro-muscular disruption. A full CEW deployment is an impact technique and may only be used in response to Active or Aggravated Aggression. A full deployment is comparable to the use of a baton to strike or jab in this policy.

- C. Lethal Force Situation. If an officer deploys a CEW in a situation where there is a possibility that the encounter could rapidly become a lethal force situation, a second officer should be designated as “lethal cover” and should be appropriately armed and positioned to employ deadly force if required.
- D. Verbal Warning Before Deployment. If feasible and safe, the deploying officer must issue a verbal warning before full deployment of a CEW. The officer may then use the CEW in a manner consistent with their training until the subject is subdued or secured.
- E. Duration of Deployment.
  - 1. The CEW may be applied for the minimal amount of time necessary. Officers are prohibited from applying the CEW for longer than a full five-second cycle without interruption. During this cycle officers should take the opportunity to control, handcuff, or otherwise contain the subject as quickly as possible.
  - 2. Subsequent cycles may be necessary if the subject remains a threat. Officers should be aware that a subject may not be able to respond to commands during or immediately after exposure to a CEW cycle. A CEW deployment should not exceed 15 seconds (3 cycles of 5 seconds each) and the fewest number of CEW cycles should be used to accomplish the objective.
- F. Preferred Deployment Target Areas. The preferred deployment target zone (recommended point of aim) for front torso deployment is below center of mass (the abdominal area below the chest). Although chest hits are not prohibited, lowering the point of aim results in increased effectiveness by allowing the bottom probe to affect the lower extremities such as the pelvic girdle and legs, while also lowering the potential for injury and the potential onset of severe medical issues. The preferred deployment target zone also applies to the use of drive stuns to the front torso.<sup>5</sup>
- G. Restricted Use, Susceptible Populations and Restricted Circumstances.
  - 1. Restricted Uses. Officers must not use a CEW:
    - a) In an environment where the incapacitation of the subject is reasonably likely to result in death or serious injury to the subject or others;
    - b) By intentionally aiming the laser light at a person’s eyes; or
    - c) On persons who are handcuffed unless there are significant extenuating circumstances and the subject cannot be controlled by other means;

2. Vulnerable Subjects. Officers should remain aware of the greater potential for injury when using a CEW on certain categories of people. CEWs should not be used on the following people unless they pose an imminent threat of serious bodily harm to themselves or others:
  - a) Children;
  - b) The elderly;
  - c) Persons believed to be pregnant;
  - d) Persons believed to be equipped with a pacemaker; or
  - e) Persons with known or obvious serious physical health problems, including cardiac or neuromuscular (multiple sclerosis, muscular dystrophy, epilepsy) diseases;
  - f) Persons in wheelchairs; and
  - g) Persons who appear to weigh under 80 pounds.
3. Restricted Circumstances. Unless lethal force is justified, officers shall not deploy a CEW on a person in the following circumstances:
  - a) Where a person is susceptible to severe falls;
  - b) When a person is driving a motor vehicle;
  - c) When a person is riding a bicycle;
  - d) When a person is in or adjacent to a body of water;
  - e) When a person is climbing or jumping to or from a fence, wall or other elevated structure; or
  - f) When a person is in an environment where combustible material (flammable liquid, gasoline, propane, etc.) is present and in close proximity to the person.

H. Deployment of a CEW on Aggressive Animals. A CEW can be effective on aggressive animals when necessary to protect officers, other persons, or other animals from the actions of an aggressive animal. The CEW deployment will depend on the circumstances. Officers must document such use as a CEW deployment. Officers who deploy a CEW on an aggressive animal should consider how to control the animal as the incapacitating effect of the CEW dissipates.

## 7.600 – Duty to Render Medical Aid and Assistance After Deployment of a CEW

- A. The Duty to Render Medical Aid
1. The Duty to Render Medical Aid (discussed generally in Chapter 9) applies to the use of CEWs.
  2. In addition to the general Duty to Render Medical Aid, an officer has the following specific duties with respect to the use of a CEW
    - a) An officer must call Emergency Medical Services (“EMS”) to evaluate the subject of a full deployment. Persons subjected to a CEW must be examined by EMS personnel once in custody. If the probes penetrate the skin of the subject, the EMS personnel will determine if they can safely remove the probes on scene, or if the individual should be transported to hospital for the removal.
    - b) If the subject is transported to a hospital, the officer must obtain a medical release from the hospital before transporting the subject to a detention facility.<sup>6</sup> EMS personnel will be advised of the nature of the force used during the event, including the number of CEW cycles, the duration and if more than one CEW was used or if a barb on a CEW probe may be broken with a portion remaining under the subject’s skin.
  3. Due to potential medical issues, post-deployment monitoring is crucial. Officers must request EMS assistance immediately if one or more of the following conditions exist:
    - a) Disorientation;
    - b) Hallucinations/delusions;
    - c) Intense paranoia;
    - d) Violent or bizarre behavior;
    - e) Elevated body temperature or diminished sensitivity to pain;
    - f) An officer used a CEW on a person classified as “vulnerable” in Sec 9.2;
    - g) An officer used more than one CEW on a person; or
    - h) An officer exposed a person to three or more cycles or 15 seconds or longer continuous exposure to a CEW.

B. Probe Removal

1. Officer Probe Removal. Probes may be removed after the subject is restrained and secured. Officers must protect themselves and others from exposure to blood and must not attempt to remove probes from an uncooperative subject. An officer must remove probes in accordance with training and with due consideration for universal precautions for biohazards, including securing the probes in an appropriate container.
2. EMS Probe Removal. Officers must not remove probes from the head, neck, groin, breasts, or the abdomen of a person who indicates they are pregnant. Officers will not attempt removal of probes that are deeply imbedded, or from persons who are combative, or where it appears the tip of the barbed probe broke and remains under the skin. EMS must be requested for removal of the probes in the above-referenced circumstances.

## **7.700 Post-Deployment Responsibilities On The Scene and Reporting And Investigation**

- A. Deploying Officer Responsibilities. The deploying officer must:
1. Notify the Operations Division as soon as practicable after using a CEW and request that Patrol Supervisor attend, if there are no supervisors on scene;
  2. Make a verbal report of the discharge to the supervisor; and
  3. Complete a full written report of the deployment prior to the termination of the officer's tour of duty, unless medical reasons dictate that the report be made at a later date.
- B. Patrol Supervisor's Responsibilities. The Patrol Supervisor must:
1. Respond immediately to a reported deployment of CEW within the supervisor's District and assume command of the investigation pending the arrival of the District Commander and the Firearm Discharge Investigation Team;
  2. Notify the Operations Division of the deployment of the CEW. In turn, the Operations Division must be responsible for making all necessary notifications;
  3. Initiate such preliminary steps as are necessary to conduct a thorough investigation and be ready to assist the District Commander and the Firearm Discharge Investigation Team upon their arrival. In this respect, the Patrol Supervisor must have the authority to order as many units to the scene of the CEW deployment as is deemed necessary or to take any other appropriate action to complete the task;
  4. Establish an outside perimeter around the area of the incident;
  5. Ensure that the scene is preserved pending arrival of the Firearm Discharge Investigation Team;<sup>7</sup>
  6. Take possession of the CEW that has been deployed and ensure it is turned over to the CEW Control Manager as soon as practicable for data download;
  7. Take possession of any body-worn camera footage from officers present at the scene when the officer deployed the CEW; and
  8. In the event that more than one officer is present at a CEW deployment, the Patrol Supervisor must, as soon as circumstances allow, collect all CEWs from the officers who were present at the scene and store them securely until the CEW Control Manager can ascertain

which CEWs were deployed. CEWs determined not to have been deployed will then be returned to the officers to whom they were issued as soon as possible.

C. District Commander's Responsibilities. The District Commander must:

1. Respond to the scene and assume overall command of the situation pending the arrival of the Firearm Discharge Investigation Team;
2. Assign a Superior Officer to assist the Firearm Discharge Investigation Team and ensure that any and all District resources are made available to complete the investigation. The District Commander will have the flexibility to assign any Superior Officer to fulfill this task; and
3. Ensure that full cooperation is extended to the Firearm Discharge Investigation Team, the CEW Control Manager, and any designated investigators from the District Attorney's Office.

D. Commander, Homicide Unit's Responsibilities. The Commander, Homicide Unit must:

1. Be responsible for ensuring that a Firearm Discharge Investigation Team is assigned to investigate all reported CEW deployments by Department personnel except deployments which occur during Department authorized or approved CEW training, or while lawfully engaged in target practice (unless a deployment occurring during one of these three exceptions results in death, personal injury or property damage);
2. Have the flexibility and discretion to assign any investigators deemed appropriate as being members of the Firearm Discharge Investigation Team; and
3. Have ultimate responsibility for ensuring the thoroughness of any investigation regarding a CEW deployment.

E. Firearm Discharge Team Responsibilities [or the Department's nearest equivalent]. The Firearm Discharge Team must:

1. Respond to the scene as expeditiously as possible and immediately meet with the Patrol Supervisor and be briefed relative to the known facts surrounding the incident;
2. Notify the Operations Division that they are taking control of the scene and the investigation. Notifications must be done "on-air";
3. Be granted access to any resources they deem necessary to conduct a complete investigation;

4. Conduct an investigation to determine the facts of the incident;
5. Ensure that a thorough search is conducted at the scene;
6. Ensure that witnesses are identified, separated and interviewed;
7. Take possession of any body-worn camera footage from officer present at the scene when the CEW was deployed;
8. Coordinate with any other simultaneous investigations;
9. Submit a preliminary report within five days to the Commander, Homicide Unit, to the Commander of the District or Unit where the officer is assigned and to the Commander of the District or Unit where the deployment occurred, to the Bureau Chief of the appropriate command and to the Superintendent-in-Chief.
  - a) The Superior Officer in Charge of the Firearm Investigation Discharge Team must make a recommendation in the preliminary report, based upon an assessment of the facts known, as to the justification for the deployment of the CEW, whether or not the deployment of the CEW was accidental and whether or not it involved personal injury, death or damage to personal property.
  - b) Pending the filing of the preliminary report, the deploying officer(s) will be assigned to administrative duties in their unit of assignment. However, if the preliminary investigation indicates that the CEW deployment was justified, the deploying officer may be restored to their regular duties, with the approval of their Commanding Officer, the Bureau Chief of the appropriate command, the Superintendent-in-Chief and the concurrence of the Police Commissioner;
10. Submit a comprehensive, detailed report, with recommendations, within 30 days to the Commander of the Homicide Unit and the Superintendent-in-Chief. An extension may be granted to the 30-day timeframe with the permission of the Superintendent-in-Chief.

F. Evidence Collection

1. Probe and Cartridge Collection. The probes and air cartridges must be collected and submitted as evidence in accordance with Department evidence-collection, packaging, and submission policies. The probes must be handled as appropriate for a biohazard to safeguard against any contamination by bodily fluids, while preserving evidence.

2. CEW Data Download. The CEW data download must be performed as soon as practicable and a report prepared by the CEW Control Manager.
3. Body-Worn Camera Footage. The body-worn camera footage of each officer present at the scene at the time the CEW was deployed must be collected and submitted as evidence in accordance with Department evidence-collection, packaging, and submission policies.

G. Investigation And Disposition

1. Any drive stun or full deployment of a CEW other than for training purposes must be investigated by the Firearm Discharge Investigation Team, which has sole responsibility for investigating CEW deployments involving a member of the Department. Failure to cooperate with the investigation must be grounds for disciplinary action. This does not prevent an officer from exercising their constitutionally protected rights to remain silent or to speak with legal counsel.
2. The District Commander of the district in which an officer discharges a CEW must be responsible for assigning a Superior Officer to assist the Firearm Discharge Investigation Team in their investigation into the discharge.
3. Where the deployment of a CEW results in death, the Department must relinquish control of the investigation to the District Attorney's Office.<sup>8</sup> Where an officer deploys a CEW resulting in injury, the Department will notify the District Attorney's Office, who will designate a representative to conduct an independent investigation to determine the facts of the case.
4. Upon receiving a report pertaining to a CEW deployment and investigation by the Firearm Discharge Investigation Team, the Superintendent-in-Chief may accept it or return the report with a request for further information or clarification. In every case, the authority and responsibility for final Departmental disposition of a CEW deployment incident rests solely with the Police Commissioner. Upon accepting a report and making a final disposition in a CEW deployment case, copies of the Police Commissioner's decision must be sent to the appropriate District, Unit and Bureau Commanders.

## **PART 3: SUPPORTING MEMORANDUM**

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### **I. Recommended Policies**

Use of Tasers by police has been steadily increasing since 2007.<sup>9</sup> In 2007, about 40% of law enforcement agencies used Tasers.<sup>10</sup> By 2011, that number more than doubled to over 83%, or more than 15,000 out of 18,000 law enforcement agencies.<sup>11</sup> Given their popularity, each police department policy we reviewed has rules and procedures dedicated to the use of CEWs, specifically Tasers. However, there is significant variation among these departments' policies. Dr. Kalfani Turè, an assistant professor of criminal justice at Quinnipiac University, noted "[the] 18,000 police departments [are] not really in any conversation with each other."<sup>12</sup> The differences between the policies ranged from negligible to considerable. As a result, in drafting the Taser Model Policy, we found it most efficient to review the various policies and identify the one that captures most of the central discursive themes of policing, particularly with regards to minimizing the use of force. These themes include:

1. Prioritizing human dignity and the sanctity of human life, including the safety of police officers, subjects, and other persons;<sup>13</sup>
2. Encouraging de-escalation;<sup>14</sup>
3. Increasing police accountability; and<sup>15</sup>
4. Ensuring use of lethal force is the last resort.<sup>16</sup>

In addition to the above themes, we also considered what law enforcement sources say about Tasers, specifically:

1. "What we experienced in our department when we first started using Tasers many years ago, which led to every officer being required to carry one in the field, was a loss of verbal skills by officers. When many of us came on the job, there was no such thing as a Taser. So, we had to rely more on our communication skills, and be more patient with individuals we were dealing with. Once Tasers became prevalent, officers resorted to the use of them frequently in order to resolve situations more quickly."<sup>17</sup>
2. "With our shootings or our Taser deployments, every round is accounted for, every cycle of the Taser is accounted for. The officers now know this, so we're seeing really good written reports when it comes to justifications for uses of force, and *why* they are using force."<sup>18</sup>
3. "So as soon as we deploy a Taser or a conventional weapon, as soon as the threat is neutralized, the officer's absolute duty is to go and save that individual's life."<sup>19</sup>
4. "Some agencies still rely on rigid, mechanical, escalating continuums of force, in which levels of resistance from a subject are matched with specific police tactics and

weapons. While the models themselves have become more complicated over time, continuums suggest that an officer, when considering a situation that may require use of force, should think, ‘If presented with weapon A, respond with weapon B. And if a particular response is ineffective, move up to the next higher response on the continuum.’

This pattern is often seen in news stories about officer-involved shootings. For example, following an officer-involved shooting, police often explain that officers attempted to use bean-bag projectiles or CEWs [e.g., Tasers]. When those tools were not effective, they used firearms.

PERF’s field studies at the NYPD Emergency Service Unit, Police Scotland, and the Police Service of Northern Ireland revealed that there are more effective ways to respond to many threats than through a use-of-force continuum. In all three organizations, officers are trained to evaluate the totality of the situation—for example, to look beyond the mere fact that a suspect has a knife and to assess the actual threat posed by the knife.”<sup>20</sup>

5. “Recruits received a median of 8 hours of training on [CEWs], such as Taser.” (Compared to 58 hours of training on firearms.)<sup>21</sup>
6. “In 2003 I was appointed chief in Miami, and because of the good weather there, there’s a homeless population that’s extraordinary. And one thing we know about homeless people is that they can be very dangerous; make no mistake about that. But very seldom are they carrying a gun. They may have a knife or a bat, but not a gun. So rather than having police use guns, why wouldn’t you want to give the cops an alternative? In Miami, we issued all police officers Tasers. And it’s always hard to measure prevention, but we went 20 months without discharging a single bullet.”<sup>22</sup>

We distilled this commentary to formulate guiding principles when drafting the Taser Model Policy. Such principles, listed parallel to the quotes above, include:

1. Officers should attempt to communicate with a suspect before using a CEW. Uncontroversial is the premise that the use of a “less lethal weapon” is preferable to a traditionally lethal weapon (i.e., a firearm) in achieving an officer’s objective. Likewise uncontroversial is the premise that the use of no to minimal force is preferable to the use of a “less lethal weapon.”
2. The deployment of Tasers should be systematically recorded as a means to increase police accountability.
3. Concomitant to an officer’s use of a Taser should be medical attention given to the target.

4. The justification of the use of a Taser should not stem from outdated continuums. Instead, officers should consider the totality of the circumstances in determining when to deploy a Taser.
5. Although Tasers are considered to be “less lethal weapons,” the fact remains that they have the potential to kill. As such, policies should require training and certification before allowing officers to carry Tasers.
6. Recognizing that correlation does not equal causation, there is evidence, even if anecdotal, that issuing Tasers to all officers, subject to their certification, may reduce the use of lethal force. Thus, the ability to carry a Taser should be the norm, not the exception.

With the above themes, quotes, and principles in mind, we reviewed over 100 policies and found that the Boston Police Department’s (“BPD”) policy was the closest to what we considered ideal. Notwithstanding, there are other department’s policies that contain provisions that more closely reflect our ideation of a model policy on tasers. Thus, while the majority of the Taser Model Policy is taken from the Boston Police Department, we note instances where we modify the BPD policy’s language or replace it with language from another jurisdiction.

There are minimal differences between certain aspects of cities’ policies that do not warrant lengthy discussion here and which may be left up to any adopter’s reasonable discretion. For example, the Taser Model Policy requires a Firearm Discharge Team to submit a preliminary report to a Commander within five days after an officer deploys a Taser. The Miami Police Department merely requires its officers to complete similar reports “in a timely fashion.”<sup>23</sup> Thus, the discussion below relate to those aspects of the Taser Model Policy in which we found vast differences among law enforcement agencies.

### **A. Taser Training and Qualification**

The United States Government’s Accountability Office noted that “as the Taser becomes more widely used, training is critical to help ensure its safe, effective, and appropriate use.”<sup>24</sup> Training is all the more crucial when noting the potential lethal nature of Tasers.<sup>25</sup> Seemingly in line with such observations, we did not find any policy that does not require some degree of training on proper use of a Taser. That said, not all police academies provide CEW training. A survey conducted by the Police Executive Research Forum (“PERF”) found that 82% of law enforcement agencies provide CEW training.<sup>26</sup> We agree with the strong consensus of opinion in favor of mandating CEW training in a Taser Model Policy. Training officers to properly use a potentially deadly weapon is crucial.<sup>27</sup>

The source, length of initial training, and frequency of refresher training courses varies among departments. It should be noted that the specifics of Taser training policies, such as the number of hours of which a training consists, are not always indicated in use-of-force policies. However, studies have shown that the time spent training recruits on CEWs may range from four to eight hours.<sup>28</sup> PERF’s study concluded that recruits received a median of 8 hours of training on CEWs.<sup>29</sup>

Agencies differ on the source of Taser training—some providing training completely in-house and others consulting third parties.<sup>30</sup> For example, the Mesa Police Department’s Electronic Control Device Protocols provide that their Training Section conducts CEW training. The Boston Police Department however, has multiple requirements for its CEW training, which include adopting the lesson plans established by Axon Enterprise, the manufacturers of the Taser. In drafting the Taser Model Policy, we thought wise to follow Boston’s approach to provide a holistic training from multiple sources.<sup>31</sup> For example, with respect to the technical use of Tasers, Axon is more equipped to provide technical training, but not as to when and how Tasers should be used and the broader implications of using Tasers.<sup>32</sup> On the other hand, state training and standards commissions are better equipped to provide training pertaining to compliance with applicable laws and police departments are better equipped to train police officers regarding compliance with department-specific policies and procedures.

There is variation among law enforcement agencies as it pertains to the frequency of recertification of Taser training. Some agencies do not require recertification,<sup>33</sup> while others mandate unspecified “periodic training.”<sup>34</sup> Most, however, require yearly recertification.<sup>35</sup> This is in line with expert recommendations, which suggests annual recertification.<sup>36</sup> In drafting the Taser Model Policy, we adopted the requirement for annual recertification.

## **B. Issuance**

There is a lively discussion among police departments, research agencies and human rights organizations about whether CEWs should be issued to all officers or whether they instead should be limited to certain officers.

Some hold the view that Tasers are ineffective tools of de-escalation.<sup>37</sup> Further, when officers unsuccessfully attempt to end a confrontation using a Taser, this might increase the likelihood of the officer employing a lethal weapon.<sup>38</sup> The chief public defender in Pima County Arizona is quoted as saying, “When you look at who these things are being deployed against, this is a tool of escalation, not de-escalation. Now the police officer is thinking: ‘Now that didn’t work. Now I have to use the other tool attached to my belt, which is a 9-millimeter handgun.’”<sup>39</sup> Furthermore, major city police departments have rated Tasers less than effective.<sup>40</sup> Given their ineffectiveness and potential for escalation, it could be argued that the number of Tasers made available to law enforcement officers should be limited.

On the other hand, one study found that Tasers are associated with less injury for suspects.<sup>41</sup> Another study shows that Tasers are “the most successful tool for ending confrontation.”<sup>42</sup> Specifically, Axon cites to a study that found Tasers saved 244,939 lives from death or serious bodily injury.<sup>43</sup> It should be noted that a member of Axon’s Corporate and Scientific/Medical Advisory Board co-authored this latter study.

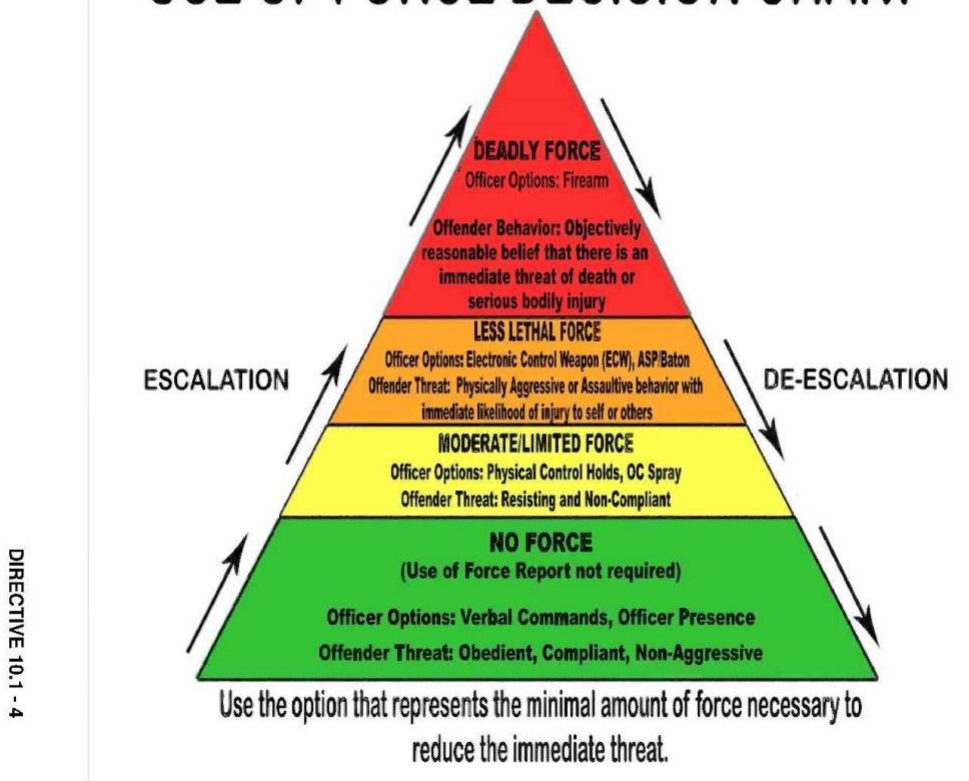
The anecdotal evidence also is conflicting. As noted above, the Miami Police Department saw a precipitous drop in the discharge of firearms after the department issued Tasers to all its officers. In contrast, the Chicago Police Department found that expanded use of Tasers did not reduce the number of people injured by the department’s officers.

We recognize that this is an area of continuing study that requires further discussion and development. For the Taser Model Policy, we found the evidence to be compelling enough to recommend a middle ground: Imposing robust requirements regarding training, certification, authorization and standards, and accountability, but allowing the issuance of CEWs to all certified officers. This is a deviation from the Boston Police Department's policy, which limits authorization to carry and use a CEW to officers who have been designated by their immediate command, and approved by the Commissioner. Instead, the Taser Model Policy reflects the Miami Police Department's policy, which provides CEWs to all certified officers, but subject to robust requirements regarding training, certification, authorization and standards for use, and accountability.<sup>44</sup> The Taser Model Policy, however, includes the Boston Police Department's policy as an "optional" provision.

### **C. Permitted Uses**

Similar to the discussion surrounding issuance, there are widely differing opinions about the circumstances under which an officer may properly discharge a Taser. On one end of the spectrum, certain law enforcement agencies adhere to a strict level of force continuum. This continuum authorizes certain levels of force when an officer encounters a potential suspect. For example, an agency might teach its officers that if an officer encounters a person with a knife, then the officers are authorized to use what the department deems appropriate force, which likely includes impact weapons. This image taken from the Philadelphia Police Department Use of Force policy illustrates a typical use of continuum.

# USE OF FORCE DECISION CHART



On the other hand, some police departments train their officers to evaluate the totality of the circumstances.<sup>45</sup> PERF takes the position that evaluating the totality of the circumstances “entails finding the most effective and safest response that is proportional to the threat. Continued reliance on rigid use-of-force continuums does not support this type of thinking.”<sup>46</sup> We agree that the inflexibility of such continuums is not conducive to minimizing uses of force, and constricts officers from considering the *entire* humanity of the person with whom they are interacting. The continuum tends to suggest that escalation is necessary in all circumstances of non-compliance, and does not encourage officers to consider things like the possibility of mental illness or the age of the target. Because the totality of the circumstances approach aligns with respecting the human dignity and life, we thought it best to include such language.

## D. Deployment

There is no consensus about the length of time an officer should deploy a Taser other than that it should not be used against a target for more than 15 seconds. The difference lies in whether the 15 seconds can be executed in one cycle<sup>47</sup> or if the 15 seconds should be no more than three cycles of five seconds.<sup>48</sup> PERF and the U.S. Department of Justice suggests avoiding deployments for more than five seconds as extended cycles may increase the risk of death.<sup>49</sup>

“Current medical research in humans and animals suggests that a single exposure of less than 15 seconds from a TASER® X-26™ or similar model CEW is not a stress of a magnitude that separates it from the other stress-inducing components of restraint or subdual. Based on cases reviewed by this panel, most adverse reactions and deaths associated with CEW deployment appear to be associated with multiple or prolonged discharges of the weapons. There is limited research with regard to exposures of greater than 15 seconds. Further, extended CEW exposure may not be effective in the subdual of some individuals with high levels of drug intoxication or mental illness.<sup>50</sup> Therefore, if the CEW is ineffective in subduing an individual after a prolonged exposure, law enforcement officers should consider other options.”

In an effort to minimize harm, this Taser Model Policy instructs officers to deploy CEWs for no more than five seconds at a time and for no more than three cycles.

## II. Selected Resources Consulted

1. Anaheim Police Department, Use of Force Policy Manual, §300.8 (2015).
2. Amnesty International, *USA: Death of 15-year-old raises further concern about safety of Tasers*, (March 23, 2009) <https://www.amnesty.org/en/latest/news/2009/03/usa-death-15-year-old-raises-further-concern-about-safety-tasers-2009032/> (reporting about the “death of a 15-year-old boy in Michigan after he was shocked with a Taser gun.”)
3. Axon, How Taser ECWs Protect Life and Enhance Safety (November 10, 2020), <https://www.axon.com/resources/articles-source/how-taser-ECWs-protect-life-and-enhance-safety>.
4. Boston Police Department §8.3.
5. Charlie Mesloh et al., Less Lethal Weapon Effectiveness, Use of Force, and Suspect of Officer Injuries: A Five Year Analysis 55 (2008).
6. Christopher Mele & Johnny Diaz, *Tasers: Are These Police Tools Effective and are They Dangerous?*, N.Y. Times (June 15, 2020), <https://www.nytimes.com/article/police-tasers.html>.
7. Christopher Mele & Johnny Diaz, *Tasers: Are These Police Tools Effective and are They Dangerous?*, N.Y. Times (June 15, 2020), <https://www.nytimes.com/article/police-tasers.html>.
8. Curtis Gilbert, Angela Caputo & Geoff Hing, American Public Media, *Tasers are Less than Reliable* (May 9, 2019), <https://www.apmreports.org/episode/2019/05/09/when-tasers-fail>.
9. Glendale Government, Police Department, *Guiding Principles: Use of Force Continuum* (2022).
10. Int’l Ass’n of the Chiefs of Police, *Police Use of Force in America* (2001).

11. Kenneth Adams & Victoria Jennison, What We Do Not Know about Police Use of Tasers, 30 Policing: Int'l J. Police Strat. & Mgmt. 447, 448 (2007).
12. Medford Police Department Policy Manual, Policy 309 Taser Guidelines (2022).
13. Miami Police Department, Departmental Orders (2015).
14. NAACP Criminal Justice Department, Pathways to Police Reform Community Mobilization Toolkit (2016).
15. Nat'l Inst. of Just., U.S. Dep't. of Just., Police Use of Force, Taser and Other Less-Lethal Weapons 1 (2011) ("Taser use has increased in recent years. More than 15,000 law enforcement and military agencies use them."); Bureau of Stat., U.S. Dep't. of Just., National Sources of Law Enforcement Employment Data 1 (2016) ("Law enforcement in the United States is made up of about 18,000 federal, state, county, and local agencies.").
16. Nat'l Instit. of Just., U.S. Dep't of Just., Study of Deaths Following Electro Muscular Disruption (2011).
17. New York Civil Liberties Union, Taking Tasers Seriously: The Need for Better Regulation of Stun Guns in New York (2011).
18. Pittsburgh Police Department, Order Number 12-6, Use of Force (2015).
19. Police Executive Research Forum, Critical Issues in Policing Series: Guiding Principles on Use of Force (2016).
20. Police Executive Research Forum, Critical Issues in Policing Series: Guiding Principles on Use of Force 11 (2016).
21. President's Task Force on 21st Century Policing, Dep't of Justice, Final Report of the President's Task Force on 21st Century Policing (2015).
22. See Aurora Police Department, Directives Manual: Less Lethal Devices and Weapons (2015).
23. Taser from Axon, Trainers, Taser.com, <https://taser.com/pages/trainers> (last visited July 7, 2022).
24. The Leadership Conference on Civil and Human Rights, New Era of Public Safety: A Guide to Fair, Safe, and Effective Community Policing (2019).
25. U.S. Gov't Accountability Office, Taser Weapons (2005).
26. U.S. Gov't Accountability Office, Taser Weapons: Use of Tasers by Selected Law Enforcement Agencies (2005).

## **PART 4: COMPARISON MEMO SUMMARY**

## **PART 4: COMPARISON MEMO SUMMARY**

We have evaluated numerous other model policies, use of force guidelines, and state law mandates and compared them to the Model Policy provisions. The following memo reflects a summary of our opinions about the key differences or similarities between the reviewed policies and the Model Policy. In particular, this Comparison Memo Summary compares our Model Policy provisions concerning CEWs (including TEWs) with other policies.

The national, state, and local policies we compared<sup>51</sup>—and the comparisons derived from them—provide a general opinion on differences in use of force options. We will continually review and update these comparisons. This Comparison Memo Summary is currently in draft form as a part of the Model Policy Beta Release. Some of the information provided may be subject to change.

### **SEPARATE POLICY**

- Many policies do not have a standalone section covering CEWs. Examples include Lexipol, IACP, Campaign Zero, Minnesota, New York, and Texas.
- The SCRJ Model Policy has an explicit section on CEWs to offer clear and comprehensive guidance for the use of any CEW.

### **STANDARD FOR USING FORCE**

- Many policies require use of force (including CEWs as a use of force) only be “necessary” based on the circumstances. Examples include Lexipol, IACP, Minnesota, New York, Texas, and Santa Monica.
- The SCRJ Model Policy requires the use of force be both necessary and proportional which is a stricter standard that offers more comprehensive guidance for officers.

### **RESTRICTED USES**

- Many policies lack any explicit restrictions on the use of CEWs. Examples include Lexipol, IACP, Campaign Zero, Minnesota, New York, and Texas.
- The SCRJ Model Policy identifies circumstances for which officers are prohibited from deploying a CEW and restricts the use of CEWs on specified vulnerable populations. Additionally, the Model Policy is more restrictive than New Jersey and Santa Monica, both of which include some specific restrictions.
- Most policies do not provide an explicit limit on the duration of deployment. Examples include Lexipol, IACP, Campaign Zero, Minnesota, New York, New Jersey and Texas.
- The SCRJ Model Policy prohibits an officer from a CEW deployment longer than 15 seconds (three cycles of five seconds each).

### **DUTY TO RENDER MEDICAL CARE**

- Most policies have lenient requirements for post-deployment medical care. Examples include Lexipol, IACP, Campaign Zero, Minnesota, New York, and Texas.

- The SCRJ Model Policy requires medical examination after any deployment including using medical personnel to remove the probes from a subject's body under specified circumstances.

#### **REPORTING AND INVESTIGATION**

- Some policies do not require every deployment of a CEW to be thoroughly reported. Examples include Lexipol and Minnesota.
- The SCRJ Model Policy requires every deployment (intentional or accidental) be thoroughly reported.
- Many policies do not require the collection of evidence. Examples include Lexipol, Campaign Zero, Minnesota, New York, and Texas.
- The SCRJ Model Policy requires evidence collection at the scene.

## ENDNOTES

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<sup>1</sup> Seattle Police Department Manual 8.300 (2021).

<sup>2</sup> Baltimore Police Department Policy 1111 (Batons) (2019).

<sup>3</sup> Miami Police Department, Departmental Orders 871 (2015).

<sup>4</sup> Boston Police Department, Rules and Procedures, Rule 303B §4 (2020).

<sup>5</sup> Note: This language is taken from the Aurora Police Department.

<sup>6</sup> This is a deviation from Boston’s policy which allows officers to transport a subject to the station prior to receiving medical attention if there is no obvious medical distress on scene, and evaluation at the station is not likely to delay the medical evaluation significantly. In an effort to provide the most medical care, in line with the SCRJ Model Policy’s emphasis on protecting life, we include language from the ACLU’s Taser Policy, which provides that EMS personnel will always examine the subject at the scene. See American Civil Liberties Union, Taser Policy [https://www.aclu.org/sites/default/files/field\\_document/30099-30102%20Taser%20policy.pdf](https://www.aclu.org/sites/default/files/field_document/30099-30102%20Taser%20policy.pdf). This may reduce the risk of misdiagnosed “medical distress.”

<sup>7</sup> Note: In the event the Department does not have a Firearm Discharge Investigation Team, the scene should be preserved for the Department’s closest equivalent investigation team.

<sup>8</sup> This is required by Massachusetts state law.

<sup>9</sup> Kenneth Adams & Victoria Jennison, What We Do Not Know about Police Use of Tasers, 30 Policing: Int’l J. Police Strat. & Mgmt. 447, 448 (2007).

<sup>10</sup> *Id.*

<sup>11</sup> Nat’l Inst. of Just., U.S. Dep’t. of Just., Police Use of Force, Taser and Other Less-Lethal Weapons 1 (2011) (“Taser use has increased in recent years. More than 15,000 law enforcement and military agencies use them.”); Bureau of Stat., U.S. Dep’t. of Just., National Sources of Law Enforcement Employment Data 1 (2016) (“Law enforcement in the United States is made up of about 18,000 federal, state, county, and local agencies.”)

<sup>12</sup> Christopher Mele & Johnny Diaz, Tasers: Are These Police Tools Effective and are They Dangerous?, N.Y. Times (June 15, 2020), <https://www.nytimes.com/article/police-tasers.html>.

<sup>13</sup> Police Executive Research Forum, Critical Issues in Policing Series: Guiding Principles on Use of Force 4 (2016) (“In order to create a shift in police culture on [minimizing the use of force], a number of departments have begun to build their use-of-force policies around statement of principle about the sanctity of *all* human life.”) Police Executive Research Forum at 22 (quoting Houston Executive Assistant Chief as saying “Our policies should reflect dignity and respect for all people.”); *Id.* at 63 (providing that recruiters should tell potential law enforcement agents that “what matters most is an unwavering commitment to the sanctity of human life, followed by your safety and our integrity.”); President’s Task Force on 21st Century Policing, Dep’t of Justice, Final Report of the President’s Task Force on 21st Century Policing 3 (2015) (noting that policing should reflect the protection and promotion of the dignity of all).

<sup>14</sup> Police Executive Research Forum at 106 (“We Need to Get Away from Thinking Patrol Officers Must Resolve Incidents Quickly”); *Id.* at 6 (noting that at least eight police departments are revamping their policies to increase de-escalation tactics); Int’l Ass’n of the Chiefs of Police, Police Use of Force in America 3 (2001) (“An officer shall use de-escalation techniques and other alternatives to higher levels of force consistent with his or her training wherever possible and appropriate before resorting to force and to reduce the need for force.”).

<sup>15</sup> The Leadership Conference on Civil and Human Rights, New Era of Public Safety: A Guide to Fair, Safe, and Effective Community Policing xiii (2019) (“Accountability is central to fair, safe, and effective policing”); NAACP Criminal Justice Department, Pathways to Police Reform Community Mobilization Toolkit 2 (2016) (discussing the importance of increasing police accountability as a means to decrease police killings).

<sup>16</sup> Police Executive Research Forum at 22 (“[An officer’s use of his/her] firearm should be the tool of absolute last resort.”); President’s Task Force on 21st Century Policing at 15 (“Use of physical control equipment and techniques. . . should be used as a last resort.”).

<sup>17</sup> Police Executive Research Forum at 56.

<sup>18</sup> Police Executive Research Forum at 55.

<sup>19</sup> Police Executive Research Forum at 65.

<sup>20</sup> Police Executive Research Forum at 19.

<sup>21</sup> Police Executive Research Forum at 11.

<sup>22</sup> Police Executive Research Forum at 20.

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<sup>23</sup> Miami Police Department, Departmental Orders 871 (2015).

<sup>24</sup> U.S. Gov't Accountability Office, Taser Weapons: Use of Tasers by Selected Law Enforcement Agencies 4 (2005).

<sup>25</sup> National Institute of Justice, U.S. Dep't of Justice, Study of Deaths Following Electro Muscular Disruption vii (2011) (“[A] Number of individuals have died after exposure to a [conducted energy device] during law enforcement encounters. Some were normal, healthy adults; many were chemically intoxicated or had heart disease or mental illness.”)

<sup>26</sup> Police Executive Research Forum, Critical Issues in Policing Series: Guiding Principles on Use of Force 11 (2016).

<sup>27</sup> See Amnesty International, *USA: Death of 15-year-old raises further concern about safety of Tasers*, (March 23, 2009) <https://www.amnesty.org/en/latest/news/2009/03/usa-death-15-year-old-raises-further-concern-about-safety-tasers-2009032/> (reporting about the “death of a 15-year-old boy in Michigan after he was shocked with a Taser gun.”)

<sup>28</sup> U.S. Gov't Accountability Office, Taser Weapons 11. This study was limited to the following law enforcement agencies: Austin Police Department, Ohio Highway Patrol, Orange County Sheriff Department, Phoenix Police Department, Sacramento Sheriff Department, Sacramento Police Department and San Jose Police Department.

<sup>29</sup> Police Executive Research Police Executive Research Forum, Critical Issues in Policing Series 11.

<sup>30</sup> Medford Police Department Policy Manual, Policy 309 Taser Guidelines (2022). It can also be unclear whether training is done in-house or by a third party. For example, the Medford Police Department requires “[a]ny personnel who have not carried the TASER device as a part of their assignment for a period of six months or more shall be recertified by a department-approved TASER device instructor prior to again carrying or using the device.” However, the department manual does not specify whether “department-approved” instructor is an in-house or a third party instructor.

<sup>31</sup> There are other police departments, such as the Aurora Police Department that allow third party training; however, its policy reads disjunctively. By contrast, the Boston Police Department’s policy reads conjunctively, ensuring that trainees receive benefits from the manufacturer and internal policies.

<sup>32</sup> Taser from Axon, *Trainers*, Taser.com, <https://taser.com/pages/trainers> (last visited July 7, 2022). This is the official Axon website that features the various trainers who teach taser training courses. It states Axon Taser trainers are “certified every two years, so you know trainers are up to date on the latest technology and safety trends” and are “subject matter experts.”

<sup>33</sup> U.S. Gov't Accountability Office, Taser Weapons: Use of Tasers by Selected Law Enforcement Agencies 11 (2005). The report shows the San Jose Police Department does not require any certification; however, Taser training is included in its annual use of force simulations training.

See also, New York Civil Liberties Union, *Taking Tasers Seriously: The Need for Better Regulation of Stun Guns in New York* n.71 (2011). The NYCLU found that the Albany Police Department, Glens Falls Police Department, Nassau County Police Department and the Saratoga Springs Police Department do not require certifications.

<sup>34</sup> Anaheim Police Department, Use of Force Policy Manual, §300.8 (2015).

<sup>35</sup> In addition to the Boston Police Department, other departments require yearly recertification, including, but not limited to the Aurora Police Department and the Pittsburgh Police Department. See Aurora Police Department, Directives Manual: Less Lethal Devices and Weapons, §5.8.15 (2015); Pittsburgh Police Department, Order Number 12-6, Use of Force §6.4 (2015). See also, U.S. Gov't Accountability Office, Taser Weapons: Use of Tasers by Selected Law Enforcement Agencies 11 (2005). The report shows that Austin Police Department, Ohio Highway Patrol, Orange County Sheriff Department, Phoenix Police Department, Sacramento Sheriff Department and Sacramento Police Department each require yearly recertifications.

<sup>36</sup> New York Civil Liberties Union, *Taking Tasers Seriously: The Need for Better Regulation of Stun Guns in New York* 28 (2011).

<sup>37</sup> Christopher Mele & Johnny Diaz, *Tasers: Are These Police Tools Effective and are They Dangerous?*, N.Y. Times (June 15, 2020), <https://www.nytimes.com/article/police-tasers.html>.

<sup>38</sup> *Id.* Joel Feinman, the chief public defender in Pima County, Arizona, stated “[i]f a person is angry, under the influence of alcohol or drugs, or has a mental illness, the use of a Taser can exacerbate those conditions and inflame a situation.”

<sup>39</sup> *Id.*

<sup>40</sup> Curtis Gilbert, Angela Caputo & Geoff Hing, American Public Media, *Tasers are Less than Reliable* (May 9, 2019), <https://www.apmreports.org/episode/2019/05/09/when-tasers-fail>.

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<sup>41</sup> See National Institute of Justice, Police Use of Force: The Impact of Less-Lethal Weapons and Tactics, (2010). <https://www.ojp.gov/pdffiles1/nij/233280.pdf> (explaining, for the Seattle Police Department, “Taser use was associated with a 48 percent decrease in the odds of suspect injury...”).

<sup>42</sup> Charlie Mesloh et al., Less Lethal Weapon Effectiveness, Use of Force, and Suspect of Officer Injuries: A Five Year Analysis 55 (2008).

<sup>43</sup> Axon, How Taser CEWs Protect Life and Enhance Safety (November 10, 2020), <https://www.axon.com/resources/articles-source/how-taser-cews-protect-life-and-enhance-safety>

<sup>44</sup> Miami Police Department, Departmental Orders 871 (2015).

<sup>45</sup> Glendale Government, Police Department, Guiding Principles: Use of Force Continuum, [https://www.glendaleca.gov/government/departments/police-department/policies-procedures-training-sb978/guiding-principles#:~:text=USE%20OF%20FORCE%20CONTINUUM%3A&text=Our%20policies%20require%20that%20officers,enforcement%20purpose%20\(Policy%20300.3\)](https://www.glendaleca.gov/government/departments/police-department/policies-procedures-training-sb978/guiding-principles#:~:text=USE%20OF%20FORCE%20CONTINUUM%3A&text=Our%20policies%20require%20that%20officers,enforcement%20purpose%20(Policy%20300.3)) (Last visited July 7, 2022). For example, the Glendale Police Department requires officers to use the amount of force “that reasonably appears necessary given the facts and totality of the circumstances.” Moreover, as part of the “four force options available to officers,” Taser is listed under “non-deadly intermediate force option/tools.”

<sup>46</sup> Police Executive Research Forum, Critical Issues in Policing Series: Guiding Principles on Use of Force 20 (2016).

<sup>47</sup> See e.g., Aurora Police Department at 8.

<sup>48</sup> See Boston Police Department §8.3.

<sup>49</sup> Police. Executive Research Forum & Office of Cmty. Oriented Policing Servs., Electronic Control Weapon Guidelines 20 (2011), [https://www.policeforum.org/assets/docs/Free\\_Online\\_Documents/Use\\_of\\_Force/electronic%20control%20weapon%20guidelines%202011.pdf](https://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf).

See National Institute of Justice, U.S. Dep’t of Justice, Study of Deaths Following Electro Muscular Disruption viii (2011) (“The current literature as a whole suggests that deployment of a CED has a margin of safety as great as or greater than most alternatives. Because of the physiologic effects of prolonged or repeated CED exposure are not fully understood, law enforcement officers should refrain, when possible, from continuous activations of greater than 15 seconds, as few studies have reported on longer time frames.”)

<sup>50</sup> Christopher Mele & Johnny Diaz, Tasers: Are These Police Tools Effective and are They Dangerous?, N.Y. Times (June 15, 2020), <https://www.nytimes.com/article/police-tasers.html>. As stated by Professor Turè, a person on mind-altering drugs, such as PCP, might “walk right through it,” thus the Taser would be ineffective in subduing an individual. *Id.*

<sup>51</sup> Selected policies include:

- Lexipol National Use of Force Policy
- International Association of Chiefs of Police National Consensus Policy on Use of Force
- Campaign Zero Model Use of Force Policy
- Minnesota Use of Force and Deadly Force Model Policy
- New York Use of Force Model Policy
- Texas Police Chiefs Association Use of Force Model Policy
- New Jersey Office of the Attorney General Use of Force Policy
- Santa Monica Use of Force Policy
- Police Executive Research Forum Guiding Principles on Use of Force
- NYU Policing Project Police Use of Force Policy Guidelines