



Office of Inspector General County of Los Angeles

Report on the Sheriff's Department's Taser Policy, Training, and Usage

December 16, 2024

Table of Contents

UPDATED TASER POLICY IMPLEMENTATION STATUS.....	1
General Standard for Taser Use	3
Analysis of General Standard for CEW Use.....	7
Multiple Taser Activations, Duration of Activation, and Limits.....	10
Other Board CEW Directives.....	13
Documentation of Taser Use	14
Disciplinary Policies for Violations of the Taser Policy	15
UPDATE ON DEPARTMENT TRAINING ON THE NEW CEW POLICY	16

Updated Taser Policy Implementation Status

On October 3, 2023, the Board of Supervisors [passed a motion](#) directing the Los Angeles County Sheriff's Department to revise its policies on Tasers — which the Sheriff's Department refers to by the generic name “Conducted Energy Weapons” (CEWs) — and incorporate best practices from other law enforcement agencies to ensure its policies comply with State and Federal law.

The Board instructed that the Sheriff's Department's policy revisions, at a minimum, address the following issues:

- i. Definitions and clear examples of the differences among an individual “actively resisting,” a “threat,” and compliance;
- ii. Clear guidance for when a Taser can be used, e.g.: only in situations in which the use of such potentially lethal force is justified;
- iii. Mandatory reassessment periods in between each deployment of the Taser to determine if an additional deployment is necessary, and lawful, based on the current threat level presented;
- iv. Approval by a supervisor, when available, for multiple Taser deployments;
- v. A policy limiting the frequency on how often a Taser can be deployed on an individual, including strict limitations/prohibition on repeated Taser application;
- vi. Justification and documentation of Taser use, including “sparking;”¹
- vii. Limitations on:
 1. Number of times a deputy can “drive stun” or “dry Taser” an individual;
 2. Duration of a Taser discharge on an individual;
 3. Number of times a Taser can be discharged;
- viii. Strict criteria for when the Taser can be used in all forms;
- ix. Limitations on the use of Tasers on at-risk individuals, such as:

¹ “Sparking” refers to activating the Taser without discharging the probes so that arc of electricity visibly and audibly appears on the front of the device, as a means of gaining compliance prior to Taser deployment. The new generation of Taser 10s do not have a sparking feature and instead have a warning siren.

1. Individuals who are, or present, in an altered state;
 2. Individuals with known or identifiable physical, mental health, learning, and other disabilities; and
- x. Specific disciplinary policies and guidelines for violations of the Taser policy or if there is misconduct associated with the use of a Taser.

In response to the Board motion, the Sheriff's Department provided [two letters reporting back](#) to the Board on the status of the policy's development and meet-and-confer discussions with labor representatives.² On July 23, 2024, the Department provided the Board with the finalized version of its new Conducted Energy Weapon (CEW) policy, published under Manual of Policy and Procedures (MPP) sections 5-06/045.00 through 5-06/045.14 (collectively, the CEW Policy).³

As noted in the Board motion, CEWs are potentially lethal. The Board motion itself identifies significant settlements by the County for lawsuits filed over a death following the use of a CEW by Sheriff's deputies. The motion also references settlements for the improper use of CEWs by deputies, meaning that the use of the CEW may have constituted excessive force. These settlements detail conduct that justifies policies limiting the use of a CEW to circumstances where the potential for causing serious injury or death to a subject are warranted. While the revised CEW Policy is an improvement over the Department's previous policy, it fails to adequately describe the necessary threat level justifying use of a CEW, fails to include some necessary definitions, and fails to address some of the directives in the Board motion. In response to a draft of this report, the Sheriff's Department fails to acknowledge that its policy allows the use of a CEW if there is *any* threat of harm, however insubstantial. This report addresses each of these points and makes recommendations for improving the policy consistent with the Board's motion. The Office of Inspector General compared the Sheriff's Department's CEW Policy to policies at other large, urban law enforcement

² In addition to reporting on the status of its Taser policy and the meet-and-confer process with the labor unions regarding the policy, the Sheriff's [letter of January 30, 2024](#), noted that the Department reviewed its policies and procedures to remove references to excited delirium from all materials as recommended by the Civilian Oversight Commission (COC) and referenced in the Board's motion. The term is not used in the CEW Policy and was removed from the Department's Manual of Policy and Procedures. The Department's Field Operations Support Services (FOSS) Newsletter 07-13 – Excited Delirium was rescinded to comply with the prohibition on the use of the term by peace officers. Additionally, FOSS Newsletter 23-05 – 2024 Legislative Update notes that peace officers are prohibited from using the term.

³ The Sheriff's Department rescinded [MPP section 5-06/040.95 - Electronic Immobilization Device \(TASER\)](#) and subsequent sections, its former policy on Tasers.

agencies in California and nationally, particularly agencies under federal consent decrees whose policies are developed in consultation with the U.S. Department of Justice and court-appointed monitors and with special attention to preventing abuse.⁴

The Sheriff's Department's changes to its former policy reflect an emphasis on using CEW in an objectively reasonable, proportional, and necessary manner, and provide similar protections against abuse and specificity in its provisions to the other comparable agencies we examined.

However, the Office of Inspector General noted several provisions of the Board's motion not fully addressed in the new policy and several ways that the Department should provide greater guidance in subsequent revisions of the CEW Policy and through CEW training, including: 1) sufficiently emphasizing that any deployment of a CEW poses a significant risk of harm, including death; 2) recognizing that a CEW deployment is an intermediate use of force tool with the potential to cause severe harm or injury or death, and as such should be used in a limited and controlled capacity only to control a threat of serious bodily injury that justifies the use of potentially deadly force; 3) emphasizing that the CEW is most safely and effectively used in probe mode, at a distance, when such force is objectively reasonable and necessary to control a threat of serious bodily injury; 4) requiring more robust documentation of the deployment of a CEW, to include investigation of remote activation of nearby body-worn cameras at the time of deployment, and requiring reporting of the pointing of a CEW at a person or use of warning activations.

In a letter dated December 13, 2024, the Sheriff's Department responded to a draft of this report. The letter is appended at the end of this report.

General Standard for Taser Use

The new CEW Policy provides that Department members may use a CEW in the following circumstances:

- When a subject poses an immediate threat of harm to any person; or
- When a subject needs to be taken into custody or safely controlled and the level of resistance presented by the subject is reasonably likely to cause

⁴ Specifically, the Office of Inspector General compared policies on CEWs from the [Los Angeles Police Department](#), [San Diego Police Department](#), [San Diego County Sheriff's Department](#), [San Jose Police Department](#), [Long Beach Police Department](#), [Philadelphia Police Department](#), [Seattle Police Department](#), [Chicago Police Department](#), [Baltimore Police Department](#), and [San Bernardino County Sheriff's Department](#).

injury to the Department member, subject, or any other person who comes within contact range; or

- When a person is threatening or attempting suicide and the use of a CEW would not increase the risk of serious bodily harm or death to that person.⁵

As written, only the first of these three circumstances justifies the use of a CEW and that circumstance should be revised to state that a CEW may only be used when a subject poses a threat of *serious bodily injury* to any person. The use of a potentially lethal weapon is only justified if such a threat is present. The term “serious bodily injury” is defined in both the CEW Policy and the Use of Force policy and mirrors the definition of serious bodily injury in California Penal Code section 243(f), which is the definition in the Department’s Use of Force policy.⁶ For the other two circumstances described, while use of a CEW is not objectively reasonable, various other forms of less-lethal and less-dangerous force may be objectively reasonable if there is a substantial threat of physical injury and the force is proportional to the threat.⁷ Also, if a resisting subject poses a threat of serious bodily injury, that is covered by the first circumstance without the necessity of including resistance as a separate category.

These revisions are consistent with the restatement in the policy that the standard for CEW use, as with any use of force (set forth in the Department’s general Use of Force policy), “must be objectively reasonable, proportional, and reasonably appear to be necessary.”⁸ The Department’s general Use of Force Policy sets forth factors to be

⁵ [MPP 5-06/045.02](#) – CEW Activation Against Subjects.

⁶ See [MPP 5-06/045.01](#), [MPP 3-10/004.00](#) and [Penal Code section 243\(f\)](#) all of which define serious bodily injury as “a serious impairment of physical condition, including but not limited to the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.”

⁷ A study of use of less-lethal force incidents at large metropolitan police agencies from 2019 to 2015, found that “chemical agents are predicted to cause hospitalization or death in 4% of cases, compared to 13% for [CEW], 16% for impact weapons and 37% for canines.” While impact weapons and canines were found to cause more serious injuries, the study found that of the three deaths that occurred, two were incidents involving the use of a CEW and one a police canine. More importantly, CEWs were the most frequently employed less-lethal option, accounting for 70% of the less-lethal uses of force, meaning that because of their more frequent use CEW cause more injuries. Kevin Petersen, Christopher S. Koper, Bruce G. Taylor, Weiwei Liu, Jackie Sheridan-Johnson, [Less-Lethal Weapons and Civilian Injury in Police Use of Force Encounters: A Multi-agency Analysis](#), J. Urban Health (2024).

⁸ See [MPP 5-06/045.02](#) – CEW Activation Against Subjects; [MPP 3-10/020.00](#) – Use of Force Policy.

considered in evaluating force this standard.⁹ Because of the risks posed by CEWs, for the use of a CEW to be proportional, the threat must be a threat of serious bodily injury or death, meaning such a revision is necessary to align the CEW policy with the general policy on using force and for internal consistency in the CEW policy.

Importantly, allowing CEWs only in response to a threat of “serious bodily injury” does not necessarily limit them to situations where “deadly force” would be allowed.¹⁰ California law and Sheriff’s Department policy authorizes “deadly force” only where “necessary ... [t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person,” or to apprehend a fleeing person for certain felonies where the officer reasonably believes “that the person will cause death or serious bodily injury to another unless immediately apprehended.”¹¹ CEWs should be used to avoid the need for deadly force, or other more serious force, and should therefore be used before firearms are “necessary.” This does not mean that CEWs should be used to respond to the mere possibility of minor harm to officers that would not rise to serious bodily injury and thus justify potentially lethal force. Instead, CEWs should be used where officers reasonably perceive a threat of serious bodily injury — a threat not sufficiently imminent to make deadly force necessary — and reasonably believe that immediate use of the CEW is necessary to prevent the situation from escalating to the point where deadly force, or other more serious force, may be used. For example,

⁹ These factors include whether the subject posed an immediate threat, the severity of the crime, whether the subject is actively resisting arrest, whether the subject has been given a reasonable opportunity to calm down and comply with directives, the feasibility of using de-escalation tactics, other characteristics of the subject (such as age, size, relative strength, skill level), the Department member’s level of training and experience, the level of threat or resistance presented by the subject, the subject’s possession of or access to weapons, the influence of drugs or alcohol on the subject, the mental capacity or mental health of the subject, whether the subject has any apparent physical or developmental disabilities, the availability of other resources, environmental conditions, and other emergent circumstances. [MPP 3-10/020.00](#) – Use of Force Policy.

¹⁰ Penal Code section 835a(e)(1) defines “deadly force” to mean “any use of force that creates a substantial risk of causing death or serious bodily injury, including, but not limited to, the discharge of a firearm.” *See also* [MPP 3-10/004.00](#) - *Use of Force Terms Defined*. Although CEWs can cause death or serious bodily injury in some cases, and the CEW policy should recognize that potential, the risks of such outcomes are low enough that CEWs may not qualify as “deadly force” as defined in state law or Sheriff’s Department policy. *See* Pedersen et al., *supra* note 7 (study of police “less-lethal” force incidents predicting that CEWs are likely to cause hospitalization or death in 13% of uses). As the Ninth Circuit noted regarding bean-bag shotguns in *Glenn v. Washington County* (9th Cir. 2011) 673 F.3d 864, 871-872, “[a]lthough [the weapons] are not designed to cause serious injury or death, [they are] considered a ‘less-lethal’ weapon, as opposed to a non-lethal weapon, because [they] can cause serious injury or death.”

¹¹ [Penal Code section 835a\(c\)\(1\)](#); *see also* [MPP 3-10/045.00](#) - *Use of Deadly Force and Firearms*.

officers facing a person with a knife, thirty feet away and neither responding to commands nor advancing, would be confronting a threat of serious bodily injury, but not one sufficiently imminent to make deadly force necessary. Use of a CEW, however, would likely be appropriate to prevent the risk of the person moving towards officers and leading to the use of deadly force after other options have been exhausted.

Warning required when feasible. The policy requires that, before using a CEW, “when feasible, Department members shall give a loud verbal warning to the subject and anyone else present, that a CEW will be used,” “will not use the CEW until a reasonable amount of time has passed to allow the subject time to comply,” and will provide additional warnings before subsequent applications.¹² This language tracks closely with the more protective policies from comparable agencies.¹³

The CEW Policy also provides that in addition to a verbal warning, a Department employee may arc or spark a Taser (for older Tasers) or activate the CEW lasers or activate the warning alert (on the Taser 10). Department members should point the CEW in a safe direction when arcing and never intentionally point the lasers into the eyes of a subject. As discussed below, the CEW Policy does not define activating any warning system on a CEW, including displaying an electrical arc, as a reportable use of force or otherwise require reporting.¹⁴

Use on Fleeing Subjects: The CEW Policy instructs that “[m]erely running away from a pursuing Department member is not sufficient justification for use of a CEW,” and that before using a CEW on a fleeing subject, a deputy “shall consider the severity of the offense, the level of threat posed by the subject who is fleeing to Department members or other people, whether the subject can be recaptured later, and the risk of serious bodily injury to the subject who is fleeing.”¹⁵ This portion of the CEW Policy should be revised to state that a CEW may only be used on a fleeing subject when the department

¹² [MPP 5-06/045.08](#) – *CEW warnings and time to comply*. The policy also distinguishes a verbal warning that a CEW will be used (giving the example, “Stop or you will be tased!”) from an announcement to other Department members before CEW use (such as “Taser! Taser!”).

¹³ See, e.g., Los Angeles Police Dept., [Use of Force Directive No. 8, Electronic Control Device Taser 7](#) (requiring that officers “shall, when feasible” give warning before using a Taser, and that officers must provide justification when a warning is not given); Baltimore Police Dept., [Policy 719 – Conducted Electrical Weapon](#), Directive 4 (requiring warning plus time to comply); Chicago Police Dept., [General Order G03-02-04, Taser Use Incidents](#) (requiring warning “where feasible”).

¹⁴ [MPP 5-06/045.14](#) – *Responsibilities After CEW Use*.

¹⁵ [MPP 5-06/045.02](#) – *CEW Activation Against Subjects*.

member reasonably believes that the subject poses a threat of serious bodily injury to themselves or another person unless immediately apprehended.

Heightened Risk Factors. The CEW Policy also specifies several situations that pose a greater risk of serious injury, in which it instructs that Department members should avoid using a CEW on subjects absent emergency circumstances, including subjects: positioned on an elevated or unstable surface; operating or riding any mode of transportation; in water, mud or marsh; and the ability to move restricted; believed to pregnant, under 12, elderly or visibly frail, or to have a pacemaker; near flammable materials; handcuffed, restrained, incapacitated, or immobilized; actively fleeing or running away; or when more than one CEW would be used on the same subject at the same time.¹⁶

Prohibited Uses. The CEW Policy also prohibits using a CEW for several specific purposes, including on a subject who is only argumentative or uncooperative, on a subject only passively resisting in situations such as non-violent protests or demonstrations, to prevent destruction of evidence, to awaken a person, to elicit statements or confessions from subjects, and as a form of punishment or retaliation.¹⁷ The use of a CEW in these situations would almost certainly not meet the general standard for CEW use in the current policy, because they do not describe scenarios in which the subject poses “an immediate threat of harm to any person” or needs to be “safely controlled and the level of resistance presented by the subject is reasonably likely to cause injury.” But including the express prohibitions helps add clarity on appropriate CEW use for Department members and the public. The Department should consider clarifying during training and any subsequent policy revisions that these scenarios are not exceptions to the general standard, but specific instances in which CEW use would be unjustified under the standard.

Analysis of General Standard for CEW Use

At a general level, the Sheriff’s Department’s CEW Policy provides guidance on CEW use with a similar or greater degree of detail and protection against misuse to those other large departments the Office of Inspector General compared in California and nationally, including departments subject to recent court oversight. These agencies generally recite the agency’s applicable standards for use of force, caution that CEWs pose risks including death or serious injury, and set forth lists of vulnerable subjects or

¹⁶ [MPP 5-06/045.07](#) – *CEW Deployment Considerations*.

¹⁷ [MPP 5-06/045.03](#) – *CEW Prohibited Use*.

particular situations that present heightened risk of serious injury from CEWs, as well as providing guidance on multiple and simultaneous activations, as discussed below.

Still, the Office of Inspector General has identified some points where the CEW Policy does not fully address the directives in the Board motion, or where other departments' policies provide greater clarity or protection, that the Sheriff's Department should consider addressing through training or in the next revision of its CEW policy.

Guidance on appropriate threat level for use. As discussed previously, the CEW policy does not define "threat," as the Board instructed, leaving the authorization to use CEWs when the subject poses an immediate "threat of harm to any person" very broad. While the Office of Inspector General recommends defining threat as the *threat of serious bodily injury*, definitions by other agencies may also be considered. Several agencies provide more guidance to their officers on the threat level that should justify CEW use and how to balance the threat with the risks from CEWs. The Los Angeles Police Department, for example, expressly authorizes the use of Tasers as a means of avoiding the use of deadly force under circumstances when, if "[a] threat is not immediately addressed, there is an articulable risk the incident could escalate to the use of deadly force."¹⁸ The San Diego Police Department authorizes a Taser use on people who are "exhibiting assaultive behavior or life-threatening behavior" or "to control actively resisting subjects reasonably believed to possess or have immediate access to a deadly weapon."¹⁹ Some agencies follow federal caselaw in identifying CEWs as an "intermediate" level of force, placing them on a use-of-force continuum above (i.e. more severe than) oleoresin capsicum (OC) spray.²⁰ While the Sheriff's Department policy does state that CEWs cause "certain effects, including physiologic and metabolic changes, stress, and pain," and "contribute to cumulative exhaustion, stress, cardiac, physiologic, metabolic, respiratory, and associated medical risks which could increase the risk of death or serious injury,"²¹ it should in its training inform deputies that federal courts in this jurisdiction have recognized that the application of a CEWs constitutes "an intermediate level of force with 'physiological effects, ... high levels of pain, and

¹⁸ Los Angeles Police Dept., [Use of Force Directive, No. 8, Electronic Control Device: Taser 7](#) (Sept. 2023).

¹⁹ San Diego Police Dept., [Procedure 1.07 – Administration, Use of Tasers](#).

²⁰ See Philadelphia Police Dept., [Directive 10.3 - Use of Less Lethal Force: The Conducted Energy Weapon \(CEW\)](#) (June 23, 2022).

²¹ See [MPP 5-06/045.00 – Conducted Energy Weapon \(CEW\)](#).

foreseeable risk of physical injury.”²² Without additional guidance on either the level of threat that is appropriate for CEW use, or the level of pain and intrusion CEW’s cause, there is a genuine risk Department members will use the devices inappropriately. The Office of Inspector General recommends that the Department consider providing members with additional guidance, through immediate training and future policy revisions, on the level of threat required to justify CEW use, and the level of pain caused, to help them evaluate when CEW use is reasonable and proportional under the CEW Policy.

Definition of “immediate threat.” The CEW Policy states that CEW use is appropriate when “a subject poses an immediate threat of harm to any person,” without defining the term “immediate threat.”²³ The Office of Inspector General proposed, in comments to the draft CEW policy, using the term “imminent threat,” which is defined in both the Use of Force policy and Penal Code section 835a,²⁴ instead of “immediate threat” which is not defined in either section. The Department responded to this report that some federal case law on CEWs uses the term “immediate” threat or risk, also without defining it. If the Department keeps this term, rather than changing the standard to “threat of serious bodily injury” as recommended above, it should address the definition of “immediate

²² *Gravelet-Blondin v. Shelton* (9th Cir. 2013) 728 F.3d 1086, 1091 (quoting *Bryan v. MacPherson* (9th Cir. 2010) 630 F.3d 805, 825); accord *Ashley v. Moore*, 2024 U.S. Dist. LEXIS 28103(2024 WL 670398) (Feb 19, 2024) *15-16; *Estate of Adkins, by and Through Adkins v. Cnty. of San Diego* (S.D. Cal. 2019) 384 F. Supp. 3d 1195, 1202 (discussing use of taser as “intermediate” use of force).

²³ While this report and previous comments in response to what was then a draft of the CEW Policy, we recommend that policy allow for the use of a CEW only when there is a threat of serious bodily injury that justifies the use of potentially deadly force, we recognize that revisions to this policy may require negotiations with the employee unions. However, the Sheriff’s Department may make changes that constitute a managerial decision. Changing a term from “immediate” to “imminent” may constitute such a managerial decision. Alternatively, the Department could meet and confer with the employee unions on this minor change that uses a defined term rather than a term that is not.

²⁴ [MPP § 3-10/004.00 - Use of Force Terms Defined](#) (“A threat of death or serious bodily injury is imminent when, based on the totality of the circumstances, a reasonable peace officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to a Department member or another person. A simple statement of fear for safety is not enough to justify the use of deadly force. There must be objective facts indicating that the threat needed to be instantly confronted and addressed.”); [Penal Code § 835a\(e\)\(2\)](#) (“A threat of death or serious bodily injury is ‘imminent’ when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person. An imminent harm is not merely a fear of future harm, no matter how great the fear and no matter how great the likelihood of the harm, but is one that, from appearances, must be instantly confronted and addressed.”).

threat” in training and, at its next revision of the policy, should change the language of the policy to imminent threat as already defined in the both the Use of Force policy and state law.

Definitions of “actively resisting” and “compliance.” The CEW Policy does not use the term “actively resisting” or “active resistance,” and instead uses the “threat of harm” to describe circumstances under which CEW use is appropriate. With additional clarification of the appropriate level of threat of harm, as recommended above, the CEW Policy could clearly convey the standards for use without using and defining the term “active resistance.” The policy does define “passive resistance” as when a “suspect is uncooperative and may be argumentative but is not a threat to the Department member or others. The suspect is not responding to verbal commands and may refuse to move by standing still, sitting down, laying down, going limp, grabbing onto an object, or linking arms with others during a non-violent protest or demonstration.”²⁵

Multiple Taser Activations, Duration of Activation, and Limits

A Taser works by causing neuro-muscular incapacitation (NMI) – uncontrolled muscle contractions that result in the temporary loss of voluntary motor functions.²⁶ As the CEW Policy cautions, CEW applications may contribute to cumulative exhaustion, stress, cardiac, physiologic, metabolic, respiratory, and associated medical risks, which could increase the risk of death or serious injury, and the “risk of death or serious injury may increase with repeated, prolonged, or simultaneous CEW exposure.”²⁷ Several aspects of the new policy address the increased risk from multiple or repeated applications.²⁸

First, as described above, the CEW Policy specifies that “each individual application of a CEW” is considered a separate use of force that must meet the policy’s standards. The policy expressly cautions that a “subsequent activation may not be justified, even seconds later, if the immediate threat or level of resistance giving rise to the initial use of

²⁵ [MPP 5-06/045.01](#) – CEW Use of Force terms defined.

²⁶ [MPP 5-06/045.01](#) – CEW Use of Force terms defined.

²⁷ [MPP 5-06/045.00](#) – Conducted Energy Weapon (CEW).

²⁸ A single application of a CEW usually consists of a timed cycle of five seconds. [MPP 5-06/045.01](#) – CEW Use of Force terms defined. The CEW Policy states that where the issued or assigned CEW model permits, the CEW shall be set to allow no more than a 5-second cycle on a single trigger pull. [MPP 5-06/045.10](#) – CEW Authorized Equipment and Certification.

a CEW has been eliminated,”²⁹ and expressly instructs that “Department members are to continuously assess the subject and use only the number of CEW energy cycles that is proportional, objectively reasonable, and which reasonably appears to be necessary to overcome the immediate threat, take a subject into custody, or safely control a person.”³⁰ While the CEW Policy does not specifically require “[m]andatory reassessment between each deployment,” as referenced in the Board motion, the CEW Policy’s directive to consider each application of the CEW as a separate use of force effectively requires reassessment between applications.

Second, the new CEW Policy instructs Department members “to minimize repeated, continuous, or simultaneous exposures to reduce the risk of death or serious injury to some particularly susceptible individuals,” and to consider specific factors before additional activations of a CEW, including whether the need to safely control the subject outweighs the potential increased risk posed by multiple applications, whether the probes are making proper contact and NMI continues, whether the subject has the ability and has been given a reasonable opportunity to comply and whether verbal commands or other options or tactics may be more effective.³¹ Although the new policy does not set a fixed limit on the maximum number of activations that deputies can use, it does instruct Department members that, “[o]nce NMI is achieved, if reasonably safe and feasible to do so,” they should “consider other force options before using more than three CEW cycles or more than 15 seconds of CEW application.”³² If Department members “realize that the CEW is not achieving the intended goal,” the policy states that they should “transition to other force tools or tactics.”³³

Third, the CEW Policy expressly instructs Sheriff’s Department members to “begin control and restraint procedures, including during CEW exposure (“cuffing under power”), as soon as reasonably safe and practical.” Most other agency policies we examined contained a similar instruction. Encouraging members to restrain the subject quickly, while incapacitated by the active CEW cycle, helps minimize the number of CEW applications by lessening the potential that the subject remains uncontrolled and repeated applications will be justified.

²⁹ [MPP 5-06/045.02](#) – *CEW Activation Against Subjects*.

³⁰ [MPP 5-06/045.02](#) – *CEW Activation Against Subjects*.

³¹ [MPP 5-06/045.02](#) – *CEW Activation Against Subjects*.

³² [MPP 5-06/045.02](#) – *CEW activation against subjects*.

³³ [MPP 5-06/045.02](#) – *CEW activation against subjects*.

Finally, the policy also requires that deputies “continue to give warnings before additional deployments while allowing sufficient time for the subject to recover, reconsider their refusal to comply, and comply with instructions.”³⁴ The policy appropriately cautions that, due to the incapacitation caused by NMI, Department members should “consider whether the initial CEW application in probe mode has rendered the subject unable to physically move or comply with commands before applying subsequent cycles,” and notes that in such cases, a “mere failure to respond to instructions is not sufficient justification for additional CEW discharges.”³⁵

The new CEW Policy does not require a supervisor's approval for multiple Taser deployments, as the Board's motion directed, although it provides that “when time and circumstances permit, and it is reasonably safe and feasible to do so, Department members shall request a supervisor before using a CEW.”³⁶ In many instances, supervisory approval for multiple deployments likely is not feasible if there is not a supervisor on scene.

The Sheriff's Department's policy provides similar caution on multiple applications as policies from other large departments we compared. In addressing multiple applications, a CEW Policy must balance the heightened risk from repeated CEW exposure, on one hand, with the risks that alternative tactics might cause even greater harm, including the possibility that a firm limit on Taser applications might force deputies to resort to lethal force in some instances if set too low, while if set too high might have the perverse effect of implicitly condoning repeated applications below that limit. The Department's decision to identify three applications as a threshold beyond which the policy requires attention to the effectiveness of the CEW and alternative tactics provides deputies some guidance on the number of applications that should cause concern, particularly in conjunction with a clear, separate evaluation of each application and the requirement that deputies provide warnings and time to comply before additional activations. Most agencies similarly identify three applications as a point at which officers should carefully evaluate the effectiveness and consider alternate tactics, although the San Diego Police Department sets that point at two applications.³⁷ At least one other jurisdiction has gone further and have established a firm limit on multiple CEW activations. For example, the

³⁴ [MPP 5-06/045.02](#) – CEW activation against subjects; [MPP 5-06/045.08](#) – CEW warnings and time to comply.

³⁵ [MPP 5-06/045.02](#) – CEW activation against subjects; [MPP 5-06/045.08](#) – CEW warnings and time to comply.

³⁶ [MPP 5-06/045.02](#) – CEW activation against subjects.

³⁷ San Diego Police Dept., [Procedure 1.07, Use of Tasers](#) § VI.A.3 (“If the officer is unable to gain and maintain control of the subject after two cycles, officers should consider other appropriate force options to respond to the threat level presented.”).

Philadelphia Police Department not only warns officers that continuous cycling and exposure to CEW longer than fifteen seconds may increase the risk of death or serious injury, but clearly prohibits law enforcement officers from administering more than three successful CEW cycles (or a total of 15 seconds of CEW activation) against a subject.³⁸

Other Board CEW Directives

Drive-Stun Mode. In Drive-Stun Mode, the end of a Taser is held against a person's body to deliver a localized electrical charge that may leave marks and scars. Drive-stun mode alone does not result in NMI and requires Department members to be at close range.³⁹ According to the CEW Policy, using the drive-stun mode for pain compliance may have limited effectiveness and, when used repeatedly, may even exacerbate the situation. The practice of using a CEW in drive-stun mode as a pain compliance tactic should be reserved for situations where alternative control measures cannot be used.⁴⁰ The rules for multiple drive-stun activations are the same as discussed above, meaning that each application is must be considered as a separate use of force, that before each application a CEW-usage warning should be given, and that after three applications there should be an evaluation of the effectiveness of the drive-stun application and whether alternative uses of force might be more effective.

The new Taser 10 device no longer has drive-stun functionality, so the tactic will be phased out with the full implementation of the new equipment. In the meantime, however, many deputies, custody assistants, and security officers still have the older Taser models with the drive-stun function, and the Department still teaches the drive-stun technique.⁴¹

Limitations on the Use of Tasers on At-Risk Individuals. As described above, the Department's Use of Force Policy, which applies to all uses of force, lists the mental capacity or mental health of the subject, apparent physical or developmental disabilities, and whether the subject appears pregnant as factors that may be considered in determining if force was objectively reasonable, proportional, and appeared reasonably

³⁸ Philadelphia Police Dept., [Directive 10.3 - Use Of Less Lethal Force: The Conducted Energy Weapon \(CEW\)](#) § 5.C.7 (June 23, 2022) ("Under no circumstances are officers authorized to administer more than **THREE (3) SUCCESSFUL CYCLES** against a person." (emphasis in original)).

³⁹ [MPP 5-06/045.01](#) – CEW Use of Force terms defined.

⁴⁰ [MPP 5-06/045.02](#) – CEW activation against subjects.

⁴¹ See Video, Training Bureau Tip of the Week (discussing three drive-stun applications of Taser) (at 1:25 mins).

necessary.⁴² The CEW Policy also adds the additional factors of whether the subject is known or believed to be under 12 years of age, elderly or visibly frail, or to have a pacemaker as deployment considerations that may increase the risk of serious injury to a subject.⁴³

Documentation of Taser Use

Directive 2(b) of the Board's October 3, 2023, motion asks for recommendations on current Taser technology to ensure proper documentation and tracking of Taser use, including the institution of early warning systems for deputies who misuse or have a history of repeated use of the Taser on an individual.

The Department stated in its [January 30, 2024](#), report back to the Board that the draft CEW Policy required reporting of the use of force, including documenting details of the incident, including observations, distances, sparking, the number of activations, the subject's post-deployment behavior, injuries, as well as other metrics. These requirements are outlined in [MPP 5-06/045.11](#) – Responsibilities After CEW Use. Currently, the Sheriff's Department's [Taser Deployment Dashboard](#) tracks all Taser deployments throughout the Department from April 2024 to the current month. Information on the Dashboard can be broken down by date, facility/station, city, and the age, race, and gender of the subject.

The Department recently altered its policy on reportable use of force to require members to report any incident in which they intentionally point a firearm at a person.⁴⁴ But the Department does not require deputies to report pointing less-lethal force options at a person, including a Taser. While Tasers may present less of a risk than firearms, the use of sparking, a laser sight, or warning siren to gain compliance nonetheless constitutes a significant intrusion for a civilian that the Department should track. Additionally, tracking use of Taser's warning features could also help the Department assess their effectiveness as a deterrent and review incidents where it was employed in order to improve training and policy. California law already requires law enforcement agencies to document all stops conducted by peace officers.⁴⁵ The Department need

⁴² [MPP3-10/020.00](#) – Use of Force Policy.

⁴³ [MPP 5-06/045.07](#) – CEW *deployment considerations*.

⁴⁴ [MPP 3-10/038.00](#) – Reportable Use of Force and Force Categories.

⁴⁵ Gov. Code, § 12525.5.

not require pointing of a CEW to be reported on a separate form or as a use of force, but could simply add means of recording a pointed CEW to the stop data form.

While most other agencies the Office of Inspector General examined do not require officers to report pointing a CEW, some do. The San Jose Police Department requires officers to report activation of a warning arc in an offense report or computer automated dispatch (CAD) entry, but not as a use of force report.⁴⁶ The Baltimore Police Department goes further and classifies pointing a CEW at a person or displaying a warning arc as a Category 1 use of force, which requires reporting and notification of a supervisor.⁴⁷

The Office of Inspector General recommends that the Department at least add a checkbox in its stop forms to allow deputies to indicate whether they pointed a Taser or activated the warning arc or siren.

Disciplinary Policies for Violations of the Taser Policy

The Sheriff's Department generally sets forth recommended disciplinary ranges for violations of different policies in its *Guidelines for Discipline*. The Department has not amended *Guidelines* to provide any specific discipline for violation of the CEW Policy. According to the Department, a violation of the CEW Policy would fall under a catchall provision that provides that discipline for any violation not specifically listed in the *Guidelines for Discipline*, which ranges from written reprimand to discharge.⁴⁸ Misuse of a CEW might also violate other policies, including the policies on using and reporting force generally, which also carry penalties from written reprimand to discharge.

⁴⁶ San Jose Police Dept., Duty Manual (Public Version) at 292, [L 2614 — Use of Electronic Control Weapons and Reporting Requirements](#) (“An officer who only displays a de-escalation warning arc is not required to notify his/her supervisor or complete an Automated Use of Force Template. An arc display should be documented in a General Offense Report or Supplemental. If a General Offense report is not required, the officer will note the display in the CAD event.”).

⁴⁷ Baltimore Police Dept., [Policy 719 — Conducted Electrical Weapon](#) (Mar. 11, 2024), Directive 28 (“Pointing a CEW at a person and/or ‘Displaying the Arc’ is considered Level 1 Use of Force”); Baltimore Police Dept., [Policy 725 — Use of Force Reporting, Review, and Assessment](#), Directives 8 & 9 (Apr. 29, 2024).

⁴⁸ MPP § 3-01/030.10, [Obedience to Laws, Regulations and Orders](#).

Update on Department Training on the New CEW Policy

BOS Directive 2(c) of the Board's October 3, 2023, motion asks for recommendations for updated training and a plan to ensure LASD staff are trained on new policies within 180 days after their adoption.

Besides the new CEW Policy, the Department's new Taser training certifies employees to use the new Taser 10, a new generation of Taser device that has significant changes in operation and functionality compared to prior generations, including the following:

- *Multiple, individual probe deployments.* Prior generations of Tasers fired two probes at once, spread at an angle, giving devices a maximum range of 25 feet. Both probes had to strike the target and make contact for the Taser to be effective at range, and firing additional probes required changing the Taser cartridge. Taser 10 fires one probe at a time, up to a total of ten probes, with a maximum range of 45 feet, and will be effective if any two probes make contact. If the Taser initially proves ineffective because probes have not made contact, a user can fire additional probes to attempt to make the device effective.
- *Reactivation.* Tasers apply current for a 5-second period after activation. In generations prior to the Taser 10, users could re-activate prior generations for additional 5-second periods by pulling the trigger again. With the Taser 10, an additional pull of the trigger will fire another probe as well as reactivating. Taser 10s can be reactivated without firing another probe by using a separate switch on the Taser.
- *Signal Activation.* Axon, the maker of the Taser brand of CEW, also manufactures the body-worn cameras used by the Sheriff's Department. The Signal Activation feature of the Taser 10 allows a deputy's Taser to electronically activate that deputy's body-worn camera when the deputy arms the Taser, making it ready to fire. This technology reduces the risk that body-worn cameras are not activated during a Taser incident.⁴⁹

⁴⁹ Axon's Signal Activation can also be set to automatically activate all body-worn cameras within 30 to 50-foot radius to help ensure body-cameras completely capture incidents. Other agencies, such as the Alameda County Sheriff's Department have embraced this technology. After testing and evaluating this feature, the Department has, however, chosen not to activate it, citing the burden and risk to officer privacy from unintentional activations. The Department should consider at least conducting a pilot to determine the actual impact of unintentional activations and whether any additional cost from adding this feature is warranted.

- *Warning Alert.* Older Taser models could create a spark or arc of electricity across the tip to warn subjects. The Taser 10 has a loud warning siren and flashing light, along with a laser sight, that the user can activate.

The Sheriff's Department purchased 3,197 Taser 10s and conducted its first Taser 10 training class on July 17, 2024. The Department's Taser 10 training team comprises members from the Custody Training and Standards Bureau, the Training Bureau, and the Body Worn Camera Unit.⁵⁰ As of October 2024, over 550 deputies have attended the 8-hour training course for the Taser 10. This training includes instruction on the new CEW Policy, Taser 10 use and functionalities, Signal Activation integration with body-worn cameras, and evidence management. Deputies learn to deploy the new Taser 10 and participate in scenarios designed to apply the new CEW Policy. The scenarios include live training in which instructors act as role players and virtual reality training. Each class has a maximum capacity of 25 students. At the close of the quarter, the Department had scheduled 23 classes for October 2024, with a total capacity of 575 deputies. The Office of Inspector General observed that the current one-day training schedule includes extensive lecture and testing of the Department's 15-page CEW Policy, Axon's 200-slide PowerPoint lecture,⁵¹ and physical training on the Taser 10 platform.

The new Taser 10 model presents some significant changes in operation from older models still used by the Sheriff's Department, including the different use of the trigger to fire individual probes and the use of a separate switch to reactivate the Taser without firing a probe. The Department should monitor Taser 10 use for any increase in accidental activations due this change in operation as deputies are being asked to internalize a new way to use the device. Given the major differences in operation between the Taser 10 and the older models still currently in use throughout the Department, additional hands-on training with the Taser 10 beyond the single 8-hour class would be well warranted.

Lastly, Taser 10 training must be refreshed every 365 days for deputies to maintain certification by Axon. This means that some patrol deputies who have already been certified on the Taser 10 will need to receive the two-hour recertification training while Department continues its initial training of patrol deputies. Taser 10 training and

⁵⁰ The Body-Worn Camera Unit holds responsibility for maintaining the technology and ensuring it functions with body-worn cameras and with Axon's evidence system, *Evidence.com*.

⁵¹ Axon manufactures the Taser 10 and all Taser models used by the Sheriff's Department. Axon also manufactures the body-worn cameras used by the Department. Axon has a training curriculum and written test that all users must pass to be certified on the Taser 10.

recertification is a considerable additional burden on the Department's training cadre, but failure to provide the infrastructure and staffing to support the training needs of the Department will undoubtedly delay the transition to a more effective, intermediate use of force tool. When the Department chooses to invest in updates use of force options, it should budget for adequate staffing, infrastructure, and equipment to successfully complete its training plan in a timely manner and ensure deputies use the devices appropriately and effectively.



OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

ROBERT G. LUNA, SHERIFF



December 13, 2024

Max Huntsman, Inspector General
Los Angeles County Office of the Inspector General
312 South Hill Street, Third Floor
Los Angeles, California 90013

Dear Mr. Huntsman:

**LOS ANGELES COUNTY SHERIFF'S DEPARTMENT'S RESPONSE TO
THE OFFICE OF INSPECTOR GENERAL'S REPORT ON THE SHERIFF'S
DEPARTMENT'S TASER POLICY, TRAINING, AND USAGE**

The Los Angeles County Sheriff's Department (Department) is in receipt of the Office of Inspector General's (OIG) December report entitled "Report on the Sheriff's Department's Taser Policy, Training, and Usage" (Report). Thank you for the opportunity to provide a written response, which we understand will be included with the published Report.

On October 3, 2023, the Board of Supervisors introduced a motion by Supervisor Hilda L. Solis, titled, "Transparency, Accountability, and Oversight of Los Angeles Sheriff's Department's Taser Policy and Use." In response to the motion, in a letter dated January 30, 2024, the Department provided an initial but thorough response to all issues addressed in the above-mentioned motion. After lengthy and comprehensive negotiations with both the United States Department of Justice (DOJ) and impacted labor unions, the Department revised and published its Conducted Energy Weapon (CEW) policy under Manual of Policy and Procedures (MPP) sections 5-06/045.00 through 5-06/045.14. A copy of the policy is attached. This policy was approved by DOJ.

Through this correspondence, the Department offers the following comments in response to the OIG's Report. First, the Department's revised policy appropriately describes the threat level justifying the use of a CEW. The revised

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policy language is consistent with applicable case law that requires a subject be an immediate threat to the deputy or others before a deputy may use a CEW. The OIG would prefer a standard, which requires that the subject poses an "immediate threat of serious injury" before a deputy uses a CEW. This position, however, is inconsistent with case law, and would place the CEW at the same level of force as a firearm.

Specifically, the OIG suggests that the Department revise the policy to permit CEW use only in response to the threat of a "serious bodily injury." California Penal Code section 835a(c)(1) permits the use of deadly force only where "necessary ... [t]o defend against an imminent threat of death or serious bodily injury to the officer or to another person." Adding a "serious bodily injury" mandate to the CEW policy would make it a deadly force option under California law. Categorizing a CEW at the same level of force as a firearm may actually result in more deputy involved shooting incidents. In contrast to the OIG's recommendation, courts have long asserted that a CEW is an intermediate force option, not a deadly force option.

Contrary to the remarks contained in the OIG's Report, the revised policy does not permit the use of a CEW in response to any threat of harm, however insubstantial. To the contrary, the revised policy requires all CEW use be proportional to the threat level posed and objectively reasonable. A deputy is only permitted to use the number of CEW energy cycles which reasonably appear necessary to overcome the immediate threat.

The Department worked closely with the DOJ in the development of the policy as part of the Settlement Agreement reached in 2015 as to the Antelope Valley patrol stations. The Department needed to develop a policy that DOJ would approve and one that met national best practice standards. As part of this process, the Department evaluated the CEW policies of other large, urban law enforcement agencies and adopted language from those policies (with a focus on other departments that were subject to DOJ settlement agreements). The standard used in the Department's CEW policy that the subject pose "an immediate threat of harm to any person," which the OIG refers to as imprecise, was based on other DOJ-approved policies such as the Seattle Police Department's CEW policy, which also requires that the subject pose "an immediate threat of harm to any person." Similar to the Department, the DOJ entered into a settlement agreement with the City of Seattle to ensure that police services are delivered in a manner that complies with the Constitution and promotes public trust and officer safety. In 2018, the federal judge overseeing that Seattle settlement agreement found the Seattle Police Department in full and effective compliance. The Ninth Circuit Court of

Appeals has also found the Seattle Police Department force policies to be consistent with Constitutional requirements. This is the standard that is reflected in the Department's newly issued CEW policy.

The OIG Report also comments on the three circumstances that justify the use of a CEW and states: "only the first of these three circumstances justifies the use of a CEW." However, the other two circumstances that the OIG contests are also contained in the Seattle policy. Specifically, the second circumstances listed in the Department's revised policy permits a deputy to use a CEW when "a subject needs to be taken into custody or safely controlled and the level of resistance presented by the subject is reasonably likely to cause injury to the Department member, subject, or any other person who comes within contact range." This concept is also included in the Seattle Police Department policy. The Seattle policy also permits CEW use when "public safety interests dictate that a subject needs to be taken into custody and the level of resistance presented by the subject is . . . likely to cause injury to the officer or subject . . ."

The OIG Report also references policies from the Los Angeles Police Department (LAPD) and San Diego Police Department, stating those agencies provide "more guidance to their officers on the threat level that should justify CEW use and how to balance the threat with the risks from CEWs." The Department respectfully disagrees with this position. The LAPD language is merely another way of saying "immediate threat of harm." When circumstances permit, one should use a CEW as a means of avoiding the use of deadly force. Notably, this LAPD standard does not limit the use of a CEW to only those situations that could escalate to deadly force. The San Diego Police Department policy uses the words "assaultive behavior or life-threatening behavior." The Department's revised policy captures this same concept by using the words "immediate threat of harm to any person" and "the level of resistance presented by the subject is reasonably likely to cause injury to the Department member, subject, or any other person who comes within contact range."

The Department's revised policy sufficiently emphasizes the risk of harm to a subject that could be caused by use of a CEW, including death. In fact, the policy specifically informs deputies that:

CEW exposure causes certain effects, including physiologic and metabolic changes, stress, and pain. CEW applications may contribute to cumulative exhaustion, stress, cardiac, physiologic, metabolic, respiratory, and associated medical risks which could increase the risk of death or serious injury. The risk of death or serious injury may increase with repeated, prolonged, or

simultaneous CEW exposure. A CEW in probe mode may cause muscle contractions that may result in injury, including bone fractures. The sudden loss of body control caused by a CEW induced neuro-muscular incapacitation (NMI) can also increase the risk of catastrophic head, neck, or spine injuries due to falls.

The Department's CEW policy was developed with considerable deliberation with the DOJ, with the benefit of review by their use of force experts from around the country. Furthermore, lengthy meet and confer discussions took place with the impacted labor organizations. Finally, it should be noted that along with the adoption of the new CEW policy the Department is in the process of training patrol deputies on the new Taser 10 model. Based upon preliminary feedback from the field, the device is effective in de-escalating situations. It is our hope that this new tool along with the new policy will result in the overall reduction in uses of force.

While the Department remains confident in the current policy, we similarly recognize that no policy is perfect. The Department intends to continue to review the impact of the new policy and will make additional changes as warranted.

Again, thank you for the opportunity to provide feedback on the Report.

Sincerely,

ROBERT G. LUNA, SHERIFF



APRIL L. TARDY
UNDERSHERIFF