

DEPARTMENT OF POLICE ACCOUNTABILITY

CITY AND COUNTY OF SAN FRANCISCO



R. Manuel Fortes
Acting Director

May 18, 2017

Commissioner Sonia Melara
Commissioner Bill Ong Hing
Police Commission Office
San Francisco Police Headquarters
1245 3rd Street
San Francisco, CA 94158

Re: Suggested Materials on Electronic Controlled Weapons (aka “Tasers”)

At the last working group meeting on Electronic Controlled Weapons (aka “Tasers”), you invited participants to suggest materials on the topic. Below I have provided a list of suggested materials.

1. Stanford Criminal Justice Center Study on Electronic Control Weapons Submitted to the Berkeley City Council (2015): At the request of the Berkeley City Council, the Stanford Criminal Justice Center’s study analyzes approximately 150 studies on the public safety impact of Electronic Control adoption, the physical effects of ECWs on the human body and the legal ramifications of ECW adoption. The City of Berkeley commissioned the study on ECWs when it considered whether to launch an ECW pilot program for the Berkeley Police Department. The report makes no recommendation as to whether the Berkeley Police Department should be equipped with ECWs because the researchers were not asked to make a recommendation and as the report explains, “our research has shown the extent to which the decision depends on the values and needs of the city itself.” (This 73-page study is an attachment to this letter.)

<https://www-cdn.law.stanford.edu/wp-content/uploads/2015/10/ECW-Final-Draft-2.pdf>

2. When Police Kill by Franklin Zimring (Harvard University Press, 2017)

A comprehensive, data-driven study of 1,100 killings by law enforcement in 2015 by Franklin Zimring, Professor of Law at University of California, Berkeley

3. This article provides an in-depth analysis of an incident in which 17-year old Bryce Masters, the son of Kansas City Police Officer Matt Masters, went into cardiac arrest after being tasered by an officer during a traffic stop.

<https://theintercept.com/2016/06/07/tased-in-the-chest-for-23-seconds-dead-for-8-minutes-now-facing-a-lifetime-of-recovery/>

4. The State of Connecticut: Electronic Defense Weapon Analysis and Findings, 2015. The Central Connecticut State University analyzed data submitted by 79 Connecticut police departments in 2015. The state-wide data indicated that 83% of persons tasered were unarmed, one-third of the individuals subject to being tasered were described as emotionally disturbed and people of color were more likely to be tasered and less likely to be given a warning before being tasered than whites. <https://www.ccsu.edu/imrp/projects/files/EDW.pdf>

5. Braidwood Commission Reports (Restricting the Use of Conducted Energy Weapons in British Columbia and Death of Robert Dziekanski)

In 2008, upon appointment by the British Columbia government, Justice Thomas Braidwood launched an inquiry into the death of Robert Dziekanski. In October 2007, at the Van Couver International Airport, a Royal Canadian Mountain Police officer used an electronic control weapon against Robert Dziekanski, who, after being subdued and handcuffed, died within minutes. The first report, released in June 2009, analyzed the use of ECWs in British Columbia and made recommendations regarding their appropriate use. The second report provided an in depth analysis of the circumstances of Mr. Dziekanski's death including the events at the Vancouver International Airport leading up to Mr. Dziekanski's death and the medical cause of his death. Justice Braidwood concluded that the RCMP officers were not justified in using the ECW on Mr. Dziekanski, and that the five deployments of the ECW and the physical struggle with the four RCMP officers contributed substantially to Mr. Dziekanski's death.

<http://www2.gov.bc.ca/assets/gov/law-crime-and-justice/about-bc-justice-system/inquiries/braidwoodphase2report.pdf>

<http://www.theprovince.com/pdf/braidwood.pdf>

<http://ontario.cmha.ca/news/final-report-from-braidwood-commission-finds-taser-use-unjustified/>

6. *Armstrong v. Pinehurst* (4th Cir.2016) 810 F.2d 892 (death of man with bipolar disorder who was tasered while holding onto a utility pole when the man had walked away from a psychiatric hospital during admission process. The 4th Circuit held that during the course of seizing an out-numbered mentally ill individual who is a danger only to himself, police officers choose to deploy a taser in the face of stationary and non-violent resistance to being handcuffed, those officers use unreasonably excessive force.

<https://www.ca4.uscourts.gov/Opinions/Published/151191.P.pdf>

7. *Bryan v. McPherson* (9th Cir.2009) 590 F.3d 767 (The Ninth Circuit ruled that in an incident involving police tasing a man for a seat belt violation, the use of a taser is an intermediate, significant level of force that must be justified by the governmental interest involved.

<http://caselaw.findlaw.com/us-9th-circuit/1498993.html>

8. The Guardian investigates incidents involving police use of tasers that resulted in the death of the individual who was tasered.

<https://www.theguardian.com/us-news/2015/nov/05/police-tasers-deaths-the-counted>

9. SFPD 2010 Officer-Involved Shootings that provides data on fifteen of SFPD's officer-involved shootings. Eight of the fifteen occurred within less than a minute; thirteen of the fifteen occurred within five minutes; seven occurred when the officer and subject were zero to five feet apart; three occurred at a distance between five and 10 feet; four occurred between 10 and 15 feet. Thus, 14 of the 15 office-involved shootings occurred within 15 feet and 13 of the 15 shootings occurred within five minutes. (See page 31.)

<http://sanfranciscopolice.org/sites/default/files/FileCenter/Documents/25102-Officer-Involved%20Shootings-%20Five%20Year%20Study.pdf>

10. LAPD 2016 Use of Force Report that indicates tasers are effective 58% of the time.

<http://assets.lapdonline.org/assets/pdf/2016-use-of-force-year-end-review-small.pdf>

11. Article about the five year shelf life of tasers that caused Warren Police Department to discontinue their use.

<http://www.theoaklandpress.com/general-news/20120610/warren-police-department-drops-tasers-after-shocking-letter-from-manufacturer>

Thank you for the opportunity to suggest these materials for the ECW Working Group.

Sincerely,

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Samara Marion
Policy Attorney

attachment