

# 2009-2010 GRAND JURY REPORT

## Riverside County Sheriff's Department

### Less-Lethal Weapon Devices

#### *Finding 1*

*The Less-Lethal Devices Manual Addendum to Department Directive #06-020 II.F.1 states: "Maximum of four effective applications per incident, either drive stun or discharge mode, whether from a single or a combination of multiple Energy Conducted Weapon(s) units." A review of a Taser report provided by the Sheriff's Department shows the Taser was used eight times on the same individual in a span of less than one minute. (See Attachment 1, Lines 0059-0066)*

#### **Response:**

Respondent agrees partially with the finding.

Respondent acknowledges the Taser report referenced<sup>1</sup> indicates a Taser electronic control device (ECD) was cycled eight times; however, the Respondent submits that no conclusion regarding policy can be drawn from that report. The finding unfortunately omits a portion of a relevant subsection of the policy. The omitted section of the policy begins with "Absent exigent or extenuating circumstances..."

#### **Grand Jury Recommendation**

- 1. Establish written policy detailing the number of times an X-26 Taser may be used on an individual within a specified time frame.*

#### **Response:**

The recommendation will not be implemented.

Respondent's policy currently identifies a maximum number of ECD applications during a given use of force incident absent any exigent or extenuating circumstances. Additionally, policy strictly limits the use of force to that which is reasonably necessary to overcome any resistance or force. Use of force incidents are often extremely violent confrontations that may involve numerous unpredictable variables. Respondent believes restrictions for time frames would inappropriately restrict personnel's ability to react to a wide range of use of force incidents and unreasonably expose the County to potential liability. As such, a written policy as recommended would result in an unacceptable compromise to public safety.

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<sup>1</sup> Attachment A

### ***Finding 2***

*The Less-Lethal Devices Manual Addendum to Department Directive #06-020 III.F.1.D states: "When deputies deploy the X-26 Taser they need to remain aware and attempt to limit the time of each discharge to no more than five seconds." The X-26 Taser has a built-in feature that allows the user to keep track of the number of seconds activated. Deputies do not always adhere to the five-second policy. Attachment 1 shows five usages in excess of five seconds on the same individual in a period of less than one minute.*

### **Response:**

Respondent agrees partially with the finding.

Respondent acknowledges the referenced Taser download report indicates a Taser ECD was cycled one second longer than prescribed by policy; however, respondent submits that no conclusion regarding policy can be drawn from that report. The finding draws conclusions about deputies' adherence to five seconds when the policy states deputies should "remain aware and attempt to limit..." The policy was written with the knowledge that each force incident is dynamic and to mandate such a restriction would be unreasonable.

### **Grand Jury Recommendation**

- 2. Require sheriff supervisors conduct a detailed review of all X-26 Taser reports. If a report reveals non-compliance with written policies, appropriate disciplinary action should be administered to the violator.*

### **Response:**

The recommendation has already been in place for over four years.

Respondent's policy for the deployment and use of ECDs currently requires, and has always required, all deployments be reported to and reviewed by a supervisor; which ensures proper Taser use. Additionally, current policy strictly requires that all allegations of misconduct be investigated. If a review of deployment indicates any misconduct, an investigation would be warranted and the involved employee(s) could face disciplinary action.

### ***Finding 3***

*There is inconsistency in the use of Less-Lethal Weapons in the Riverside County jails. One facility reported the first option to gain compliance would be the Oleoresin Capsicum (OC) spray (pepper), whereas another facility would rely on the X-26 Taser. The Riverside Sheriff's Department Corrections Division Policy and Procedures does not provide guidance regarding the prioritization of the use of Less-Lethal Weapons.*

**Response:**

Respondent disagrees with the finding.

Respondent acknowledges individual members from different jail facilities may choose one force option over another in response to a given use of force incident; however, respondent disagrees that any conclusion regarding policy can be drawn from those differences. Respondent asserts policy provides sufficient guidance regarding less-lethal options, while recognizing the required flexibility in dealing with varying circumstances related to use of force incidents. The respondent also notes that there are five different correctional facilities throughout the County and each facility has different designs. Some contain dorm style housing units. Others contain pods and two person cells, while others contain older style cells with bars and tiers. Therefore, staff at one facility may choose a use of force option differently than staff from another facility.

**Grand Jury Recommendation**

- 3. Develop realistic training exercises to assist the deputies in determining which is the most appropriate Less-Lethal Weapon rather than relying on the X-26 Taser as the Less-Lethal Weapon of choice.*

**Response:**

The recommendation has already been in place for over four years.

Realistic training exercises are a standard operational procedure. Respondent currently provides state of the art force options training based on real life scenarios that require the use and transition between all available force options, including the use of the X-26 Taser. In the existing training scenarios, deputies are required to make split second decisions for use and transition between available force options. Respondent requires the force option chosen be appropriate for the scenario; however, respondent does not promote the X-26 Taser over another appropriate force option. Respondent also maintains training standards mandated by the State (California Peace Officers Standard and Training and Corrections Standards Authority) regarding force options.

**Finding 4**

*In a review of the Corrections Division Policy and Procedures Manual it was noted section 505.07.5.6 has no designated assignment on Emergency Response Team (ERT) for the use of the X-26 Taser. However, the Less-Lethal Devices Manual section on ERT states "Deploys the X-26 Taser as directed by the ERT Sergeant".*

**Response:**

Respondent disagrees in part with the finding.

Respondent disagrees that the lack of designation of a Taser X-26 assignment in one section of ERT policy or the inclusion of the deployment of the Taser X-26 in a different section of ERT policy causes any conflict. The Corrections Division Policy covers extensively and with great clarity the use of Less-Lethal devices and the ERT. Corrections Division personnel encounter a wide variety of use of force incidents daily. Those incidents that involve the ERT may not always require the use of an X-26 Taser, and it is possible the X-26 Taser may be inadvisable under certain circumstances. Consequently, the decision to arm ERT personnel with an X-26 Taser must be evaluated on a case by case basis.

**Grand Jury Recommendation**

4. *Conduct a thorough review and update of all documentation to ensure consistency.*

**Response:**

The recommendation has already been in place since 1998.

It was, and remains, a standard operational procedure. Respondent's policy is subject to both continuous and scheduled review. General Orders are regularly supplemented by Department Directives, which are distributed as necessary. Corrections Division currently conducts a thorough quarterly review of Corrections Division policy and procedure and makes changes as necessary. Respondent has reviewed the General Orders, Department Directives, and Corrections Division Policy relevant to the findings and recommendations, and finds them to be consistent.

## Attachment A

Sccj	GMT Time	Local Time	Duration	Temp	Batter
0044	13:33:41	06:33:41		26	2e>
0045	14:23:28	07:23:28		25	26
0046	03:00:22	20:00:22		25	26
0047	14:17:06	07:17:06		24	26
0048	01:50:10 ■	18:50:10		25	26
0049	04:18:06	21:18:06		25	25
0050	03:11:20	20:11:20	2	25	25
0051	01:33:24	18:33:24		25	25
0052	01:42:01	18:42:01		24	25
0053	01:47:52	18:47:52		24	25
0054	01:49:35	18:49:35		24	25
0055	06:47:14	23:47:14		24	25
0056	08:42:09	01:42:09		25	25
0057	08:42:15	01:42:15		25	25
0058	09:41:44	02:41:44		24	25
0059	09:57:32	02:57:32	6	34	24
0060	09:57:40	02:57:40	6-	35	23
0061	09:57:46	02:57:46	5	35	23
0062	09:57:59	02:57:59	6	36	22
0063	09:58:09	02:58:09	6	36	22
0064	09:58:18	02:58:18	6	36	21
0065	09:58:24	02:58:24	5	36	21
0066	09:58:30	02:58:30	5	36	21

Recorded X26 Time Changes

Seq

GMT Time Local Time Change Type

End of Report.