



May 21, 2012

**Re: Comments on Less-Lethal Force Recommendations Report dated February 2012**

To the Taser/ Less-Lethal Work Group:

I appreciate the work that you have done and improvements you have suggested in your Less-Lethal Force Recommendations Report (February 2012.) Aside from CRC Recommendation 2012.2, I agree with your recommendations. I believe that you should revise a few recommendations and that you should add a few recommendations to strengthen your report. My comments are primarily based on the 2011 Electronic Control Weapon Guidelines<sup>1</sup>.

I request that the word “person” be used rather than “subject”. This is vastly more person centered.

Although I support CRC Recommendation 2012.1, I believe that it should go farther to eliminate confusion. Directive 1051 should delete its definition of “Physical resistance”<sup>2</sup> and replace it with the following language, **“CEWs should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves or others. CEWs should not be used against a passive subject.”**<sup>3</sup> This is clearer than the Directive’s overbroad definition of “Physical resistance” which includes a Member’s perception that a person is *attempting* to prevent Member control.<sup>4</sup> The “physical resistance” definition is still may incorporate all sorts of behavior and is overbroad. The suggested language clarifies the situations wherein CEWs may be used.

Additionally, I request that CIT training be added to CRC Recommendation 2012.1. Tasers are commonly used on people with disabilities, especially people with mental health disabilities. The CIT training (refresher) should include appropriate level of force for Taser use. The recommendation would state, “Police Bureau members should be retrained in the appropriate level of force through annual in-service training, roll call updates **and CIT training.**”

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<sup>1</sup> 2011 Electronic Control Weapon Guidelines, A Joint Project of PERF and U.S. DOJ (March 2011).

<sup>2</sup> Authorized Use of the Taser (1051.00), section (a) states: “. . . Physical resistance is actions that prevent or attempt to prevent a member’s attempt to control a subject, but do not involve attempts to harm the member”

<sup>3</sup> 2011 Electronic Control Weapon Guidelines, A Joint Project of PERF and U.S. DOJ (March 2011) @ p. 20, #25.

<sup>4</sup> I recognize that later in the Authorized use of Taser Directive 1051.00 is the statement that the Taser shall not be used on a person exercising passive resistance.

I request that CRC Recommendation 2012.2 be revised to read, ***“The Police Bureau should use a CEW for one standard cycle (five seconds) and then evaluate the situation to determine if subsequent cycles are necessary. Members should consider that exposure to the CEW for longer than 15 seconds (whether due to multiple applications or continuous cycling) may increase the risk of death or serious injury. Any subsequent applications should be independently justifiable, and the risks should be weighed against other force options.”***<sup>5</sup> No more than three cycles should be used, unless exigent circumstances exist. Further the Bureau should automatically, systematically, and critically examine instances in which the Taser has been cycled for more than **one** standard cycle. This careful use of Tasers is critical.

The following language should be added to Directive 1051.00 in terms of procedure for using a Taser. Under “Verbal Warnings Prior to and During Deployment (1051.00), revise to read, “Members will provide a warning to the **person** before using the Taser, ***unless doing so would place any person at risk. Warnings should be effectively communicated, such as with*** an explicit statement such as, “Stop, get on the ground, or you will be Tasered”<sup>6</sup>. This provides clarity to what situation is an exception to a warning, rather than leaving it to a more subjective “if feasible” standard. Also, it includes the language “effective communication” which is critical because the Officer may be aware that he is interacting with a person who is deaf. In this instance, a display or some other method of communicating may be necessary aside from verbalization.

The following recommendation should be added, ***“Personnel should not intentionally activate more than one CEW at a time against a person.”***<sup>7</sup>

Thank you for taking the time and attention to consider these recommendations. Additionally, I support Dan Handelman's comments dated May 18, 2012.

Sincerely,

/s/ Jan E. Friedman

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<sup>5</sup> Ibid @p. 20, #21.

<sup>6</sup> See Ibid @p. 20, #22.

<sup>7</sup> Ibid @ p. 20, #24.

