

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

275



FROM: Executive Office

SUBMITTAL DATE:
September 28, 2010

SUBJECT: 2009-10 Grand Jury Report: Riverside County Sheriff's Department – General Orders Policy and Procedures and Less-Lethal Weapon Devices

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendations regarding Riverside County Sheriff's Department – General Orders Policy and Procedures and Less-Lethal Weapon Devices.
- 2) Direct the Clerk of the Board to immediately forward the attached response to the Grand Jury, to the Presiding Judge, and the County Clerk-Recorder (for mandatory filing with the State).

BACKGROUND: On July 13, 2010, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding the Riverside County Sheriff's Department General Orders Policy and Procedures and Less-Lethal Weapon Devices.

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to the matters under the control of the Board, and that a response be provided to the Presiding Judge of the Superior Court within 90 days. In addition, as an independently elected official, the Sheriff has transmitted his response to the Grand Jury's findings and recommendations. The Executive Office concurs with the Sheriff's response.

90dayresponseSheriffPolicy.weapons09.10

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: Jay E. Orr

County Executive Office Signature

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

3.6



September 13, 2010

Honorable Thomas H. Cahraman
Presiding Judge
Riverside County Superior Court
4050 Main Street
P.O. Box 431
Riverside, CA 92501

Reference: Response to 2009-2010 Grand Jury Reports; Riverside County Sheriff's Department General Orders Policy and Procedure & Riverside County Sheriff's Department Less-Lethal Weapon Devices

Dear Judge Cahraman:

Pursuant to California Penal Code Section 933 et. seq. please find enclosed the response of the Riverside County Sheriff's Department to the above entitled Grand Jury Reports within the designated 90 day period. As always please feel free to contact me should you have any questions regarding this or any other matter. I may be reached at (951) 955-0163.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stanley L. Sniff", with a large, stylized flourish extending to the right.

STANLEY L. SNIFF, SHERIFF-CORONER

cc. Clerk of the Board of Supervisors
County of Riverside

Mr. Bill Luna
County Executive Officer

SLS:pk

2009-2010 GRAND JURY REPORT

Riverside County Sheriff's Department

General Orders Policy and Procedures

Finding 1

The general orders fail to specifically mention the use of tasers. There is no direct reference in the general orders paragraph 1011.02, which states: The Sheriff may authorize the use of alternative types of weapon systems that include, but are not limited to, chemical agents, tear gas guns, grenade launch devices and other special weapon systems, such as fully automatic weapons."

Response:

Respondent disagrees partially with the finding.

Respondent acknowledges Section 1011.02 does not specifically mention the use of Taser ECDs. However, Section 1011.02 of the General Orders is a subsection of section 1011, which concerns the use of chemical agents or special types of devices. While this section could include the authorization for the use of "Tasers," the section is more appropriately designed to regulate items consistent with chemical weaponry and delivery systems associated with that type of defense.

Section 1003.00 of the General Orders concerns Other Weapon Systems. While ECDs are not specifically named, the policy allows for "other such special weapon systems appropriate for the situation." An ECD falls into this category as a defensive weapon for use in the Department.

The General Orders are a guideline outlining policy, procedures, rules or regulations regarding matters that affect the entire Department or a portion thereof. General Orders are permanent directives and remain in full effect until amended or canceled by the Sheriff. Concurrently, Department Directives are written directives or communication issued by the Sheriff, or at his direction, outlining or advising a policy or an operational procedure to be followed on a specific operation or topic. Department Directives may modify portions of the General Orders. A Department Directive is to be viewed as a direct order from the Sheriff.

Grand Jury Recommendation

1. *Update the general orders paragraph 1011.02 to include the taser.*

Response:

The recommendation will not be implemented.

General Orders are general guidelines for policies. The appropriate General Orders' section (1003.00) is sufficiently generic to encompass ECD weaponry. Department Directives are designed to enhance and supplement General Orders, thus making them more concrete. Department Directive 06-020 concerning ECDs provides comprehensive policy and procedure for use of the weaponry.

Finding 2

The general orders section 700.00 Coroner's Office and section 800.00 Public Administrator's Office has been left blank.

Response:

Respondent agrees with the finding in part.

Respondent acknowledges that General Orders sections 700.00 Coroner's Office and section 800.00 Public Administrator's Office are not contained within the General Orders manual. However, the respondent asserts that those sections are incorporated by reference in the table of contents. The sections themselves are two voluminous manuals maintained within the Coroner's/Public Administrator's Bureau. The issue has been discussed on several occasions over the years; however, the sections solely concern operations within that bureau and it would be inefficient to place them in every manual printed. Therefore, the inclusion had been rejected.

Grand Jury Recommendation

- 2. Update the general order section 700.00 Coroner's Office and 800.00, Public Administrator's Office, to include at a minimum a reference to the appropriate operations manual and/or policy and procedures manual.*

Response:

The recommendation has not yet been implemented, but may be in the future.

The titles in General Orders sections 700 (Coroner's Office Operations) and 800 (Public Administrator's Office Operations) represents the minimum reference to existing and comprehensive policy maintained by the Coroner's/Public Administrator's Bureau. To incorporate those voluminous policies into General Orders and then print and distribute the amended General Orders to all employees is fiscally and operationally unsound. However, in an effort to ensure availability of the sections to all employees, respondent is reviewing the ability to make the entire policy referenced in General Orders available on the RSO Intranet. The incorporation of the sections by reference and the housing of the sections in the Coroner's Bureau has not caused operational problems for respondent.

Finding 3

Attachment (b) of the general orders, (County of Riverside Harassment Policy and Complaint Procedure), states:

"An employee or job applicant who believes he or she has been harassed has a responsibility to immediately make a complaint orally or in writing with any of the following:

-Immediate Supervisor.

-Any supervisor or management employee/officer within the department, including the department head.

-The Human Resources Director for the County of Riverside.

The employee or job applicant also has the right to file a complaint with the State Department of Fair Employment and Housing or the federal Equal Employment Opportunity Commission.

Any supervisor or management employee, or County Officer who receives a harassment complaint shall immediately notify the County's Human Resources Director."

Six former employees of the Lake Elsinore Sheriffs Station complained on numerous occasions to department personnel, including a supervision office assistant, sergeants, lieutenants, a captain and a chief deputy. The complaints included: allegations of sexual harassment, felonious battery, false imprisonment, perjury, malicious prosecution, hostile work environment, rude and discourteous conduct and age discrimination. When human resources were contacted they found no record of any complaints filed during the period of 2007-2009 from Lake Elsinore Sheriffs Station; however, there were records of complaints from other sheriff stations.

Response:

Respondent disagrees with the finding.

The Riverside County Sheriff's Department conducted a comprehensive 11 month investigation into the referenced complaint. The results of the investigation found that there were some allegations of misconduct that were sustained, while others were not. The lack of record of complaints from Lake Elsinore station was part of the focus of the internal investigation. For the sustained allegations, appropriate administrative action was taken. The all encompassing investigation was made available to and reviewed by the Grand Jury.

The respondent has gone to great lengths to increase the gender and ethnic diversity of personnel within the chain of command. This includes the recent appointments of female undersheriffs, as well as a significant increase of female commanders since taking office in 2007. This diversity aids in checks and balances for the Department and especially so in allegations of sexual harassment. The respondent takes all reports of sexual harassment and misconduct seriously and conducts an unbiased, thorough, and complete investigation. Female command staff provides significant oversight in that entire process.

Grand Jury Recommendation

3. *Ensure all supervisors and managers are properly trained and complying with harassment policy and complaint procedure.*

Response:

The recommendation is already in place. It was, and remains, a standard operational policy.

All departmental training is recorded through the Ben Clark Training Center, and or the County human resources department. All supervisors and managers are mandated by law to attend harassment policy training, a standard which has been in place for a number of years. Additionally, respondent conducts at minimum annual training with all personnel regarding harassment policy and complaint procedures. Any personnel found not complying with policy are subject to discipline. Failure to follow the policy is a separate discipline issue and handled accordingly.

The County of Riverside Harassment Policy and Complaint Procedure (C-25 policy) is designed to encompass all of the departments within the County and provide a method for reporting and investigating harassment complaints for those departments that do not have an internal investigation mechanism. The respondent is unique in comparison to other county entities because as a public safety agency, the respondent is regulated by State statutes, namely the Peace Officer Bill of Rights (POBR). As such, the respondent, unlike other departments within the County, has a Professional Standards Bureau that is charged with conducting internal complaint investigations that follow the mandates of POBR. This method of handling complaints has been recognized and accepted by the County Human Resources Department for several years.

The respondent's General Orders has a mechanism of complaint process and investigation that is specific to the laws related to the investigation of peace officers. While complaints may or may not be filed directly with human resources, complaints relating to harassment that are received by the human resources department are referred back to the respondent's Professional Standards Bureau for investigation.

Respondent recommends that the County consider updating the C-25 policy to reflect the accepted de facto process currently being utilized by the respondent, as it has served the County well.

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 referenced¹ 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.

¹ 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 unadvisable 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>
OU45	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.

