

centerforconstitutionalrights
on the front lines for social justice

November 19, 2012

Via mail and e-mail

Chief Greg Suhr and Members of the Police Commission
Police Commission Office
Thomas J. Cahill Hall of Justice
850 Bryant Street, Room 505
San Francisco, California 94103-4603
Voice 415-553-1667
Fax 415-553-1669

RE: Opposition to Possible Introduction of TASERS in San Francisco

Dear Chief Suhr and Members of the Police Commission,

Thank you for welcoming the Center for Constitutional Rights (CCR)¹ in October to meet with your staff and join the community police meeting in the Southern District. **Today, we write to express opposition to the possible introduction of Electronic Control Weapons (hereinafter “TASERS”) to the San Francisco Police Department (SFPD) officers trained in Crisis Intervention.**²

We are concerned because TASERS remain a lethal weapon, and there is growing international consensus that the use of TASERS can constitute a human rights violation. As an alternative to the introduction of TASERS, we suggest increasing the number of SFPD officers trained in Crisis Intervention, and we respectfully request the SFPD reject TASER use.

¹ Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. In 2007, the CCR filed a lawsuit against the City of Pittsburgh and various City Police officers alleging that the Pittsburgh police unconstitutionally used TASERS against peaceful demonstrators at an anti-war demonstration in Pittsburgh. The City and plaintiffs recently entered into a settlement. Learn more about CCR at: <http://ccrjustice.org>

² San Francisco Police Department, *Working Draft Policy: Use of Electronic Control Weapons*, Available: <http://www.sf-police.org/Modules/ShowDocument.aspx?documentid=26816>.

TASERS ARE LETHAL DEVICES

While the use of TASERS is perceived as an alternative to employing lethal force “to save lives and prevent injuries” as purported in the SFPD proposed Working Draft Order on the Use of Electronic Control Weapons,³ this is not entirely accurate. TASERS have been found to be lethal weapons, to cause or contribute to fatalities,⁴ and cause bodily injury.⁵ Key studies that document these fatalities and injuries follow:

According to a 2008 Amnesty International report, over a seven-year period more than 330 individuals in the U.S. died after being struck by TASERS used on them by the police and “90 per cent of those who died after being struck with a Taser were unarmed and many did not appear to present a serious threat.”⁶ A 2008 American Journal of Cardiology study found an approximate six-fold increase in in-custody sudden death rates in the first full year after TASERS were deployed in a number of police and Sheriff’s departments in California. The study also noted: “although considered by some a safer alternative to firearms, Taser deployment was associated with a substantial increase in in-custody sudden deaths in the early deployment period, with no decrease in firearm deaths or serious [officer injuries].”⁷ **Earlier this year, the American Heart Association published an article that highlighted the results of the first scientific study done to illustrate that TASERS could be responsible for cardiac arrest and death.**⁸

It is also important to note that TASERS can also be a contributing factor to fatalities at the hands of law enforcement.⁹ And despite departmental protections or policies in place in order to limit the use of TASERS, injury and death can occur following TASER-use. For example in New York, in September 2008, Iman Morales, a 35-year old suffering from mental illness was Tased

³ San Francisco Police Department, “Working Draft Policy: Use of Electronic Control Weapons.”

⁴ ACLU of Northern California, *Stun Gun Fallacy: How the Lack of Taser Regulations Endangers Lives*, Published September 2005, available:

https://www.aclunc.org/issues/criminal_justice/police_practices/special_report_stun_gun_fallacy.shtml; Truth Not Tasers, *758+ Dead After TASER Use*, Published April 25, 2011, Accessed November 12, 2012, available: <http://truthnottasers.blogspot.com/2008/04/what-follows-are-names-where-known.html>

⁵ Amnesty International, *‘Less than lethal’? The use of stun weapons in US law enforcement*, Index Number: AMR 51/010/2008, Published 16 December 2008, available: http://www.amnesty.org/en/news-and-updates/report/tasers-potentially-lethal-and-easy-abuse-20081216_pages_13-4.

⁶ Amnesty International, *‘Less than lethal’?*.

⁷ Byron K. Lee, Eric Vittinghoff, Dean Whiteman, Minna Park, Linda L. Lau, Zian H. Tseng, *Relation of Taser (Electrical Stun Gun) Deployment to Increase in In-Custody Sudden Deaths*, The American journal of cardiology, published 15 March 2009 (volume 103 issue 6 Pages 877-880 DOI: 10.1016/j.amjcard.2008.11.046) also available online: <http://www.ajconline.org/article/S0002-9149%2808%2902113-9/abstract>

⁸ American Heart Association: Tasers can cause death. <http://usatoday30.usatoday.com/news/nation/story/2012-05-02/taser-study-deaths/54688110/1>

⁹ Amnesty International, *‘Less than lethal’?*, pp. 43 -9.

by a New York Police Department (NYPD) officer, causing him to fall from a building ledge to his death¹⁰ -- despite an interim departmental guideline issued earlier that year prohibiting the use of TASERS “in situations where the subject may fall from an elevated surface.”¹¹

INTERNATIONAL SCRUTINY OF TASER-USE BY U.S. LAW ENFORCEMENT AGENCIES

The international human rights community has expressed concern about the use of electro-shock devices by members of law enforcement. The United Nations (U.N.) Committee against Torture has found that electro-shock devices “have caused in [sic] several deaths.” The Committee has since called on the U.S. government to regulate electro-shock device use and raised concerns that the U.S. has not taken proper action to ensure prevention of acts of cruel, inhuman or degrading treatment or punishment or torture through the use of such devices.¹² Additionally, the U.N. Human Rights Committee, in a review of U.S. law enforcement agencies’ use of TASERS, noted its concern over the use of TASERS against those who appear intoxicated, individuals with mental disabilities and individuals who were perceived to be noncompliant:

[The Committee] is concerned about information according to which police have used tasers against unruly schoolchildren; **mentally disabled or intoxicated individuals** involved in disturbed but non-life-threatening behaviour; elderly people; pregnant women; unarmed suspects fleeing minor crime scenes and **people who argue with officers or simply fail to comply with police commands, without in most cases the responsible officers being found to have violated their departments’ policies** [emphasis added].¹³

The Committee also called for the elimination of excessive use of force, and recommended that the U.S. bring itself into compliance with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials which outline that law enforcement officers should “apply non-violent means before resorting to the use of force and firearms...”¹⁴

¹⁰ A short video with Iman Morales’ mother was recorded in August 2010 and is available online:

<http://www.youtube.com/watch?v=vhFej6cjGwU&feature=plcp>

¹¹ Fahim, Kareem and Christine Hauser, NY Times, “Taser Use in Man’s Death Broke Rules, Police Say”. Published September 25, 2008, available: http://www.nytimes.com/2008/09/26/nyregion/26taser.html?_r=0.

¹² United Nations, Committee Against Torture, “Consideration of Reports Submitted by State Parties Under Article 19 of the Convention. Conclusion and Recommendations of the Committee Against Torture. United States of America” CAT/C/USA/CO/2/ 25 July 2006, (hereinafter CAT Recommendations).

¹³ United Nations Human Rights Committee, “Consideration of Reports Submitted by State Parties Under Article 40 of the Covenant. Conclusions and Recommendations of the Human Rights Committee. United States of America” CCPR/C/USA/CO/3/Rev.1 18 December 2006, (hereinafter “HRC Recommendations”).

¹⁴ HRC Recommendations at 30. See also United Nations, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, Adopted 1990, available: <http://www2.ohchr.org/english/law/firearms.htm>

MEANINGFUL IMPLEMENTATION OF ALTERNATIVE METHODS TO TASERS IS NEEDED

More meaningful implementation of alternative policing methods that help the population of San Francisco can provide “non-violent” alternatives to TASERS. Instead of TASERS, the SFPD should meaningfully implement alternative and non-lethal tools, including the scaling up of Crisis Intervention Teams (CIT) and the numbers of officers trained in crisis intervention.

Crisis intervention, when employed in other cities across the U.S. have been dramatically effective – in Memphis, the CIT model program “has resulted in a decrease in arrests rates for the mentally ill, an impressive rate of diversion into the health care system, and a resulting low rate of mental illness in [their] jails.”¹⁵ It should be noted that police officers in Memphis, Tennessee are not authorized to carry TASERS.¹⁶

CITs were recently heralded as a key tool to implement in San Francisco, which is “home to a significant population with mental health needs” in the response to a “high volume of incidents involving individuals with mental health needs.”¹⁷ To address these needs, the San Francisco Police Commission issued Resolution No. 11-18 on February 9, 2011 announcing that the SFPD would implement CITs.¹⁸ The resolution notes that the Department must make reasonable effort to have 20-25 percent of the force be CIT-trained, however, there has not yet been a meaningful implementation of this process.

As CIT training is a possible alternative response to incidents involving individuals with mental health needs, it must be effectively implemented in order to determine if TASER use is even necessary. The number of CIT-trained officers must increase, and the CIT program developed more comprehensively, before even beginning to consider the use of TASERS.

¹⁵ Memphis Police Department, *Crisis Intervention Team: The "Memphis Model"*, Accessed November 13, 2012, available: <http://www.memphispolice.org/crisis%20intervention.htm>.

¹⁶ Email Correspondence with Major Robert Vaughn, CIT Coordinator, Memphis Police Department, November 19, 2012.

¹⁷ Police Commission of the City and County of San Francisco, Resolution NO. 11-18 TO ENHANCE THE SAN FRANCISCO POLICE DEPARTMENT’S RESPONSE TO INCIDENTS INVOLVING INDIVIDUALS WITH MENTAL HEALTH NEEDS, Adopted February 9, 2011.

¹⁸ Police Commission of the City and County of San Francisco, Resolution NO. 11-18 .

DISCRIMINATORY APPLICATION OF TASER-USE ON VULNERABLE POPULATIONS

Further, it should be noted that even limiting TASER use to CIT-Trained Officers (as proposed in the proposed draft policy),¹⁹ is still a point of great concern because individuals living with mental illness or managing substance abuse, the very population that CIT-trained officers must serve, are particularly vulnerable to death or injury by TASER use. It is estimated that in the United States, one in four individuals lives with a mental illness. In San Francisco, at least 22,000 individuals are diagnosed with mental illness, and another 18,000 are living with substance abuse.²⁰ A study by Amnesty International has found that individuals with mental health issues or disabilities faced a strong likelihood of being Tased when officers mistakenly believed such individuals to be noncompliant or combative when in fact these individuals may have been suffering from a seizure or other mental disability.²¹

Moreover, this community is more likely to encounter SFPD officers who are TASER-equipped during moments of crisis because CIT-trained officers are deployed to specifically manage these issues. Thus, even if CIT-trained officers are the only officers that are equipped with TASERs, those living with mental illness and struggling with substance abuse will be disproportionately affected by TASER use and will face a disproportionate risk of misuse.

For the aforementioned reasons, we respectfully urge your reconsideration of the possible introduction of TASERs to SFPD officers. We appreciate the opportunity to offer our insight during the review process and remain available to discuss this further in detail. Thank you for your consideration of our views on the issue.

Sincerely,



Nahal Zamani
Advocacy Program Manager, Center for Constitutional Rights
nzamani@ccrjustice.org, 212.614.6481

¹⁹ San Francisco Police Department, "Working Draft Policy: Use of Electronic Control Weapons."

²⁰ The Mental Health Board of San Francisco reaches these individuals through outreach and community programs.

²¹ Amnesty International, *'Less than lethal'? The use of stun weapons in US law enforcement*, p.15.