



# TASERS

## Standardizing to Save Lives and Reduce Injuries

Aggi Y p6 UW [ fci bX'p: ]bX]b[ g'p7 cbWi g]cbg'pF YWta a YbXU]cbg'pF YgdcbgYg'p5 HUUW a YbHg

### Issue

Have the law enforcement agencies in San Mateo County adopted a standardized TASER<sup>®</sup> policy and, if so, is it effective?

### Summary

This investigation focused on 20 uniformed police agencies of all cities/towns and the Sheriff's Department in San Mateo County, the California Highway Patrol, and BART (Bay Area Rapid Transit) Police. It was found that only two cities, Menlo Park and East Palo Alto, currently do not employ TASER devices. Standardizing TASER device use policies and training would provide law enforcement agencies with a unified understanding of appropriate response to events within and across jurisdictions in the County. Of those agencies using TASER devices, the use of force policies and training requirements are sufficiently similar to consider them standardized, with the exception of the Sheriff's Use of Force policy.

The 2011 San Mateo County Civil Grand Jury recommends that the Sheriff either adopt a Use of Force policy that is consistent with the other agencies in the County or reinstate the Sheriff's prior Use of Force policy dated April 10, 2008. It also recommended that uniformed officers across the County who are required to have a firearm while on duty carry this less-than-deadly force tool whenever they carry a firearm. It is further recommended that all agencies track the use of the TASER device to obtain control of subjects, even when the subject is not actually "tased."

### Background

The TASER, a branded electronic control device (ECD), is a device manufactured by TASER International, Inc. that employs a high voltage, low amperage shock that is momentarily painful to the subject in a manner that causes the subject to lose muscle control and, if standing, fall to the ground. It works by the use of compressed gas to propel two barbs, attached by very thin wires, toward the subject. Once the barbs attach to skin or clothing, the shock is applied. It has an effective range of approximately 6 to 25 feet, thus allowing the officer to avoid immediate physical contact with the subject. The TASER device can also be used as a "stun gun" in what is called "drive stun" mode.<sup>1</sup> The TASER device is used by police officers to bring a subject under control, offering a less lethal option than a firearm.

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<sup>1</sup> A TASER device can directly deliver an electrical shock from the device itself without the use of wires or barbs, but such requires physical contact with the subject. It does not incapacitate the subject, but uses momentary pain as the method of obtaining control. A "drive stun" is police terminology for approaching a subject to apply a TASER in the drive stun mode. The cartridge that is on the TASER device must be removed to use it in this way. This

The use of a TASER device in an instance where otherwise the officer would be required to use physical force to subdue a subject has been reported to reduce the incidence of officer injuries, and consequently the cost to taxpayers for insurance and disability payments.<sup>2</sup> The Association of Bay Area Governments (ABAG), which provides the insurance pool for all of the police agencies except the Sheriff's department and California Highway Patrol, encourages the use of TASER devices and provides grants for departments to obtain them at no charge. TASER devices are used by uniformed police officers in all law enforcement agencies in San Mateo County with two exceptions, the cities of East Palo Alto and Menlo Park. Peace officers<sup>3</sup> in the Coroner's Office, District Attorney and Probation Department do not use TASER devices. No police agency uses an ECD made by any other company.



Although the TASER device is less lethal than a firearm, *no use of force is without lethal risk*. In the last two years in San Mateo County, TASER devices have been used approximately 130 times<sup>4</sup> with no reported loss of life or serious injury attributable to the device. One agency reported an instance in which a TASER device was used under circumstances which, had it not been available and successfully activated, deadly force would have been used. The use of the TASER device likely saved the life of the subject.

The TASER device has a laser light that is used for aiming. This light is visible to a subject and when an officer “lights up” a subject with the laser light, this alone is often sufficient for the officer to gain the subject’s immediate compliance.<sup>5</sup>

TASER devices can be misused by officers, just as any other use of force can be misused. The Grand Jury is unaware of any reported abuses by any of the law enforcement agencies in San Mateo County in the past 2 years which is the time frame studied here. The law enforcement agencies that use TASER devices have chosen to require extensive training, multi-level

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practice is usually employed when the barbs of the TASER fail to attach, or when the officer is too close to use the TASER device at a distance.

<sup>2</sup> See Reduction in Injuries charts from several police agencies at [http://www.taser.com/pages/le\\_overview.aspx](http://www.taser.com/pages/le_overview.aspx)

<sup>3</sup> Sworn peace officers, as specified by statute, are authorized to use deadly force if needed.

<sup>4</sup> See Appendix A.

<sup>5</sup> For the purpose of this report we are calling this “deployment.” “Activation” is when the officer actually uses, or attempts to use, the TASER device on a subject.

supervisory review, and reporting of any activation of the TASER device. The California Penal Code provides for criminal sanctions for the misuse of TASER devices.<sup>6</sup>

All of the law enforcement agencies in San Mateo County, except the Sheriff’s Office, use TASER protocols established by Lexipol, LLC of California. These protocols define the procedures for device deployment (use of force), activation, subject follow-up, reporting, and review policies. Lexipol is a private company that contracts by subscription service for the development and updating of policies with police departments across the United States. Lexipol defends its policies in court as meeting the “standard of care” when litigation regarding their use by local law enforcement agencies arises.<sup>7</sup> The Sheriff’s Office does not use Lexipol and has developed its own comprehensive policies.

The Sheriff’s Office provides law enforcement services for much of the County, including the unincorporated areas of the County and now including, by contract, the cities of San Carlos and soon Half Moon Bay, which previously had their own TASER device policies. The officers working for these cities are, or soon will become Sheriff’s Deputies.

On February 22, 2010, the Sheriff’s department modified its policy to require a higher threshold for deployment and activation of TASER devices by deputies.

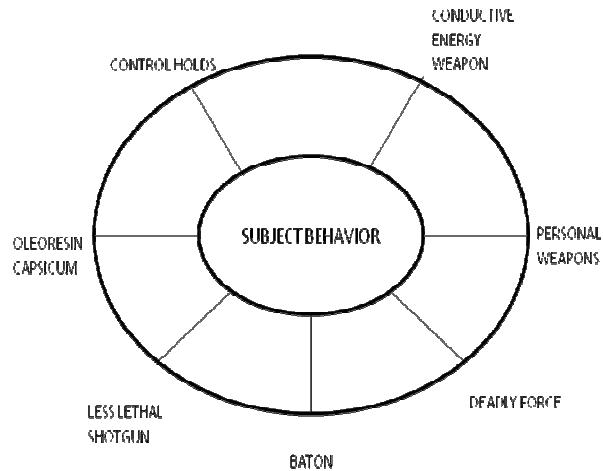
<b>Sheriff’s Department Use of Force Ladder</b>		
	<b><u>April 10, 2008</u></b>	<b><u>February 22, 2010</u></b>
1	Officer presence	Officer presence
2	Verbal commands	Verbal commands
3	Light touch	Light touch
4	Physical controls (restraint holds)	Physical controls (restraint holds)
5	Aerosol pepper projection	Aerosol pepper projection
6	<b><i>Taser Electronic Control Device (ECD)</i></b>	Impact weapons (ASP/Baton, flashlight)
7	Impact weapons (ASP/Baton, flashlight)	Specialty Impact Munitions (SIMs)
8	Specialty Impact Munitions (SIMs)	<b><i>Taser Electronic Control Device (ECD)</i></b>
9	Carotid Control	Carotid Control
10	Deadly force	Deadly force

The Sheriff’s Office employs a Use of Force Ladder (see diagram on previous page) that requires a deputy to use a baton or flashlight prod and Specialty Impact Munitions (e.g., rubber bullets) before deployment and activation of the TASER unless the deputy can articulate a reason to use the higher level of force presumably represented by the TASER. The Sheriff’s Use of Force Policy, dated April 10, 2008, placed the threshold for TASER devices use immediately prior to the use of a baton or flashlight prod, providing an opportunity to avoid physical contact with a subject. The Sheriff’s current Use of Force policy places the use of a TASER device after both the physical contact use of a baton or flashlight prod and the use of SIMS.

<sup>6</sup> California Penal Code section 244.5.

<sup>7</sup> More information about Lexipol can be found at <http://www.lexipol.com>.

Lexipol uses a toolbox<sup>8</sup> approach, allowing the officer to use their best judgment based on the subject's behavior. The California Highway Patrol calls this the Use of Force Option Wheel. *See diagram at right.*



USE OF FORCE OPTION WHEEL DIAGRAM

Copied from the Highway Patrol Manual 79.6, page 1-2

## Investigation

The Grand Jury collected information regarding the extent of standardization, the use of TASER devices and the use of Lexipol in San Mateo County using a survey, analyzed reports and documents, and conducted interviews with several Police Chiefs, the Sheriff and other personnel within their respective agencies.

Officers who had actually deployed and activated a TASER in making an arrest were also interviewed. A chart summarizing information collected is provided in Appendix A.

To help understand the effectiveness and limitations of the TASER device, a local police agency conducted a demonstration of a TASER device deployment and activation for the Grand Jury. Among the documents reviewed were the *Use of Force* manuals published by the Police Department of each city, sample post-incident *Use of Force Reports*, Lexipol generic standards and protocols, and other relevant documents.

## Findings

The 2011 San Mateo County Civil Grand Jury finds:

1. The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.
2. Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS.
3. Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use

<sup>8</sup> Many interviewees stated that "the TASER device is a use of force tool," that should be used appropriately just like any other tool available to officers.

policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.

4. All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a “Use of Force Report” when a TASER device is activated;<sup>9</sup> and require medical evaluation for a subject who has been “tased.”
5. No agency requires reporting when a TASER device has been used in the “light up” deployment mode, but not activated.
6. No agency requires that an officer who has been issued a TASER device actually keep it on his/ her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.
7. The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.

## Conclusions

The 2011 San Mateo County Civil Grand Jury concludes:

1. TASER devices can be a use of force alternative to the lethal force of a firearm.
2. With the exception of the Sheriff’s Office, of those agencies using TASER devices, the use of force deployment and activation policies are sufficiently similar to consider them to be standardized.
3. Without standardized use of force policies across San Mateo County with respect to activation and deployment of TASER devices, police officers and Sheriff’s deputies do not have a consistent approach in responding to potential use of force events. In addition, a lack of common policies (and training) could set inconsistent expectations with the public and law enforcement officers alike as to when and how TASER devices will be deployed and activated.
4. Lexipol, LLC provides the most-used set of standards for Use of Force policies in San Mateo County.
5. All agencies that are using TASER devices have adequate training, supervision, reporting, review, and medical evaluation of the subject when TASER devices are used.
6. TASER devices that are deployed, but not activated, are not included in Use of Force reports. This understates the effectiveness of Tasers because “lighting up” a subject with the laser light is often sufficient for the officer to gain the subject’s immediate compliance. The absence of this reporting can result in future decision-makers not having sufficient information about the utility of carrying and deploying this device.
7. An officer who is trained in the use of TASER devices cannot make use of the device if he or she is not carrying it when it is needed.

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<sup>9</sup> Please see attached sample Use of Force report attached as Appendix B

8. The use of a TASER device, before being required to physically subdue a subject, would result in fewer injuries to both officers and subjects. When an officer goes “hands on” with a subject, in the form of the use of a baton, flashlight prod, or other device that can cause physical injury, it places the officer and the subject into a position where physical injury is more likely.

## **Recommendations**

The 2011 San Mateo County Civil Grand Jury recommends that the Sheriff:

1. Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the prior Use of Force policy dated April 10, 2008.
2. Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” mode has in assisting deputies to gain and maintain control over subjects.
3. Require uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of the cities of Menlo Park and East Palo Alto:

1. Implement the use of TASER devices for their uniformed police officers.
2. Adopt Use of Force policies that are consistent with other San Mateo County cities.
3. Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when TASER devices are used as well as “deployment only” tracking for in-field incidents.
4. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:

1. Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” mode has in assisting deputies to gain and maintain control over subjects.
2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

## Appendix A

### Survey Results on Tasers

Standardized Taser use and Training Policies Survey results	Is the agency using Tasers	Are they using Lexipol? Directly or leveraging their policies?	# of incidents of Tase use in past 2 years	Frequency of taser training?	Any authorized use by non-Peace Officers?
Police Dept:					
Atherton	YES	YES	0	initial training; repeated if lapse of 6 months	NO
BART	YES	YES	17 (although unclear from response whether this is in SMCO or across entire BART system)	initial training; repeated if lapse of 6 months	NO
Brisbane	YES	YES	2	Unknown	NO
Broadmoor	YES	YES	0	Unknown	"Some officers do." Unclear what this actually means.
Burlingame	YES	YES	4	Unknown	NO
CHP (Redwood City)	YES	NO	15	quarterly review	NO
Colma	YES	NO	2	annually; repeated if lapse of 6 months	NO
Daly City	YES	NO	26	annually	NO
East Palo Alto	NO	N/A	N/A	N/A	N/A
Foster City	YES	YES	drawn 5 times, never fired	initial 8 hr training, then periodic throughout the year; repeated if lapse of 6 months	NO
Hillsborough	YES	YES	drawn, never fired	initial training; repeated if lapse of 6 months	NO
HMB	YES	YES	fired 4 times, with 2 misses	initial training; repeated if lapse of 6 months	NO
Millbrae	YES	Yes	2	initial training; repeated if lapse of 6 months	NO
Menlo Park	NO	N/A	N/A	N/A	N/A
Pacifica	YES	NO	14	initial training	NO
Redwood City	YES	NO	1	initial training	NO
San Bruno	YES	NO	12	initial training	NO
San Mateo	YES	NO	8	initial basic ops & policy subsequent on as needed basis	NO
Sheriff	YES	NO	14	initial followed by use review for trng needs	NO
South SF PD	YES	YES	11	initial training; repeated if lapse of 6 months	NO

**Appendix B**

REPORT#	DATE	TIME
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**SUSPECT INFORMATION**      Arrested:     Yes     No,     5150 Hold

Name: \_\_\_\_\_ Home ph#/Work #: \_\_\_\_\_

Home/Wk Address: \_\_\_\_\_

**OFFICERS INVOLVED**

Officer/Id#: \_\_\_\_\_ Officer/Id#: \_\_\_\_\_

Officer/Id#: \_\_\_\_\_ Supervisor/Id#: \_\_\_\_\_

**WITNESSES** (Name, Home/Bus. address, Home/Wk ph#)

\_\_\_\_\_

\_\_\_\_\_

**FORCE RESPONSE** (check the appropriate boxes)

- |   |   |   |  |
|---|---|---|--|
| <input type="checkbox"/> 1 - Verbal       | <input type="checkbox"/> 4 - Chemical agent | <input type="checkbox"/> 7 - Police Canine                    | <input type="checkbox"/> 10 - Carotid Control  |
| <input type="checkbox"/> 2 - Control hold | <input type="checkbox"/> 5 - Taser*         | <input type="checkbox"/> 8 - Flashlight                       | <input type="checkbox"/> 11 - Firearm          |
| <input type="checkbox"/> 3 - Body force   | <input type="checkbox"/> 6 - Baton          | <input type="checkbox"/> 9 - Extended Range Impact Projectile | <input type="checkbox"/> 12 - Other instrument |

**RESTRAINTS USED** (check the appropriate boxes)

- |  |   |                                   |   |
|--|---|-----------------------------------|---|
| <input type="checkbox"/> 1 - Handcuffs/Leg Irons | <input type="checkbox"/> 2 - Flex cuffs | <input type="checkbox"/> 3 - Wrap | <input type="checkbox"/> 4 - Medical restraints |
|--|---|-----------------------------------|---|

Injuries sustained by Officer: \_\_\_\_\_

Injuries sustained by Suspect:  Yes  No Describe: \_\_\_\_\_

**MEDICAL TREATMENT:**  Yes\*  No  Refused by suspect \* treated at the scene by:  Fire Eng#: \_\_\_\_\_ Ambulance#: \_\_\_\_\_

**Transported to:**

- SMCo General  Mills/Peninsula  Sequoia  Kaiser/RWC  Kaiser/SSF  Stanford  SF General  Other: \_\_\_\_\_

**EMERGENCY ROOM INFORMATION**

Attending Physician: \_\_\_\_\_ Nurses name: \_\_\_\_\_

Medical reports available?  Yes  No Photos taken?  Yes  No By whom: \_\_\_\_\_

Describe medical treatment: \_\_\_\_\_

Medical Waiver -  Signed by suspect     Suspect Refused

**SUPERVISOR'S REVIEW AND ASSESSMENT**

- |   |  |                            |  |
|---|--|----------------------------|--|
| Incident report completely reviewed?                | <input type="checkbox"/> Yes <input type="checkbox"/> No | Photo's of ofc's injuries? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Need for City Attorney notification?                | <input type="checkbox"/> Yes <input type="checkbox"/> No | Dispatch/Radio CD's        | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Use of force properly documented                    | <input type="checkbox"/> Yes <input type="checkbox"/> No | Administrator notified     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Copy of Report sent to Defensive Tactics Instructor | <input type="checkbox"/> Yes <input type="checkbox"/> No | * Taser X26 Use Report     | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Photo's of suspect                                  | <input type="checkbox"/> Yes <input type="checkbox"/> No | Policy followed?           | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| Photo's of Scene                                    | <input type="checkbox"/> Yes <input type="checkbox"/> No | Use of force justified?    | <input type="checkbox"/> Yes <input type="checkbox"/> No |



**SUPERVISORY INVESTIGATION CHECKLIST**

- Detective notified when injury is life threatening, fatal or police firearm is used
- Ensure immediate medical attention is rendered to all injured parties and photographs taken of suspect, involved officer and scene.
- Ask involved Officer "What happened? Are there any outstanding suspects? Are there any outstanding injured citizens or suspects?"
- Locate, identify and secure the scene, witnesses, suspects and related evidence.
- Begin independent interviews and obtain statements from victims, witnesses and/or suspects.
- Start area canvass for other witnesses or unaccounted people, etc.....
- Interview injured parties at hospital, obtain additional photographs. Obtain required medical information for report and medical waiver signed if possible.
- Interview involved officer for complete statement of incident (Within guidelines of Government Code § 3300 - 3400. Fatal or life-threatening only!)
- Collect information and thoughts to begin report.
- Complete Resistance Management Survey.
- Complete the body of the investigation (Non-lethal use only)
- Attach a copy of the police report to the investigation and route to the Division Captain and Chief of Police.

Notes: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Investigating Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Division Commander: \_\_\_\_\_ Date: \_\_\_\_\_

Chief of Police: \_\_\_\_\_ Date: \_\_\_\_\_

Sergeant/ Supervisor upon completion, note time in hours spent on entire investigation \_\_\_\_\_

Police Administration (Captain and Chief) upon completion, note time in hours spent on entire investigation \_\_\_\_\_

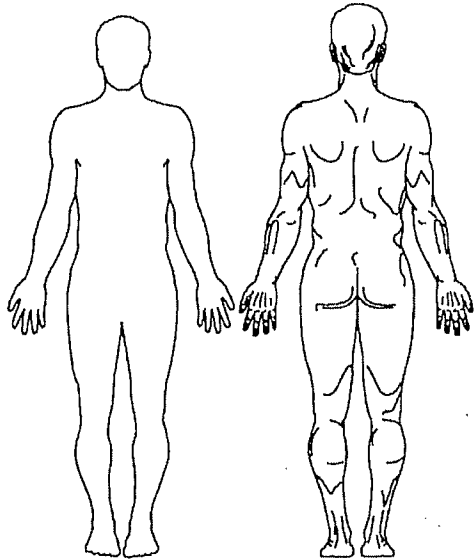
<b>Report #:</b> _____	<b>Charge:</b> _____
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Subject: \_\_\_\_\_

Address: \_\_\_\_\_

Age: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_ Weight: \_\_\_\_\_ DL: \_\_\_\_\_

**APPLICATION AREAS**  
Please place "X's" on the points of contact



Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Officer: \_\_\_\_\_ Date: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Date: \_\_\_\_\_

Report #:	Charge:	
<p><b>Did dart contacts penetrate the subject's skin?</b></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Did the application cause injury?</b></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>If yes, was the subject treated for the injury?</b></p> <p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Incident Type:</b></p> <p><input type="checkbox"/> Civil Disturbance <input type="checkbox"/> Suicidal <input type="checkbox"/> Violent Subject <input type="checkbox"/> Assaulted Officer <input type="checkbox"/> Barricaded <input type="checkbox"/> Warrant Service <input type="checkbox"/> Resisting Arrest <input type="checkbox"/> Other: _____</p> <p><b>General Appearance:</b></p> <p><input type="checkbox"/> Neat <input type="checkbox"/> Casual <input type="checkbox"/> Unkempt <input type="checkbox"/> Dirty <input type="checkbox"/> Sweaty</p> <p><b>Demeanor</b></p> <p><input type="checkbox"/> Nervous <input type="checkbox"/> Angry <input type="checkbox"/> Violent <input type="checkbox"/> Under Influence <input type="checkbox"/> Irrational <input type="checkbox"/> Combative</p>	<p><b>Speech</b></p> <p><input type="checkbox"/> Normal <input type="checkbox"/> Quiet <input type="checkbox"/> Slow <input type="checkbox"/> Talkative <input type="checkbox"/> Foreign Accent <input type="checkbox"/> Stutter <input type="checkbox"/> Slurred <input type="checkbox"/> Incoherent</p> <p><b>Influences</b></p> <p><input type="checkbox"/> PCP <input type="checkbox"/> Cocaine <input type="checkbox"/> Alcohol <input type="checkbox"/> Methamphetamine <input type="checkbox"/> Other Drug: _____ <input type="checkbox"/> Emotionally Disturbed <input type="checkbox"/> Other: _____ <input type="checkbox"/> Unknown</p> <p><b>Threat Level</b></p> <p><input type="checkbox"/> Verbal Non-Combative <input type="checkbox"/> Defensive Resistance <input type="checkbox"/> Active Aggression / Assaultive <input type="checkbox"/> Deadly Force Assault / Weapon</p> <p><b>Suspect Weapons</b></p> <p><input type="checkbox"/> Blunt Weapon <input type="checkbox"/> Edged Weapon <input type="checkbox"/> Firearm</p>	<p><b>Clothing</b></p> <p><input type="checkbox"/> Jacket / Coat</p> <p><input type="checkbox"/> Heavy <input type="checkbox"/> Light <input type="checkbox"/> Cloth <input type="checkbox"/> Nylon <input type="checkbox"/> Leather</p> <p><input type="checkbox"/> Shirt</p> <p><input type="checkbox"/> T-Shirt <input type="checkbox"/> Tank top <input type="checkbox"/> Dress Shirt</p> <p><input type="checkbox"/> Pants /Trousers</p> <p><input type="checkbox"/> Jeans <input type="checkbox"/> Dockers <input type="checkbox"/> Slacks <input type="checkbox"/> Shorts <input type="checkbox"/> Other: _____</p>



# BELMONT POLICE DEPARTMENT

Donald J. Mattei, Chief of Police

August 9, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> floor  
Redwood City, CA 94063-1655

Re: Response to Grand Jury Report regarding TASERS

Dear Judge Bergeron,

We are in receipt of the Grand Jury's report entitled, "*TASERS Standardizing to Save Lives and Reduce Injuries.*" Pursuant to your May 24, 2011 request for response, the Belmont City Council held a public meeting on August 9, 2011 and approved this response. The City of Belmont responds to the Grand Jury's findings and recommendation as follows:

## Findings:

1. *The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff's Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*

**Response:** This finding was directed toward the San Mateo County Sheriff's Office.

2. *Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for TASER use by the Sheriff are not the same as the other agencies in the county which also use TASERS.*

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"A Tradition of Service"

**Response: This finding was directed toward the San Mateo County Sheriff's Office.**

*3. Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and CHP use Lexipol, or have policies that are similar, if not identical to Lexipol.*

**Response: The respondent agrees with the finding.**

*4. All agencies using TASER devices require training prior to the issuance of the TASER to individual officers; require annual or more frequent retraining, require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been" tased."*

**Response: The respondent agrees with the finding.**

*5. No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

**Response: The respondent agrees with the finding.**

*6. No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

**Response: The respondent agrees with the finding.**

*7. The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.*

**Response: This finding was directed toward Menlo Park and East Palo Alto.**

## **RECOMMENDATIONS:**

The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:

1. *Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.*

**Response:** The recommendation has not yet been implemented, but is currently being considered.

2. *Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

**Response:** Tasers are currently available to all uniformed officers.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Donald J. Mattei". The signature is fluid and cursive, with a long horizontal stroke at the end.

Donald J. Mattei  
Chief of Police

CITY OF BRISBANE  
POLICE DEPARTMENT

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ELIZABETH MACIAS  
CHIEF OF POLICE

July 18, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 Old County Road  
Redwood City, CA 94063-1655

**TASERS – Standardizing to Save Lives and Reduce Injuries**

Dear Honorable Joseph E. Bergeron:

This letter is in response to the 2010/2011 Grand Jury report of May 19, 2011 which contained findings that pertain to the City of Brisbane. Listed below are the Jury's findings and recommendations followed by the City of Brisbane response. The Brisbane City Council reviewed and approved the below recommendations at a public hearing on July 18, 2011. The City of Brisbane responds to the Grand Jury's findings, conclusions and recommendations as follows:

**The San Mateo County 2010-2011 Grand Jury makes the following findings to the City Councils of the cities of San Mateo County:**

1. The San Mateo County Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other law enforcement agencies within San Mateo County.

*RESPONSE: The City of Brisbane Agrees with the finding. We have no knowledge of the San Mateo County Sheriff's Department Use of Force Policy but have no reason to disagree with the information contained in the Attachment to the Grand Jury's report.*

2. Officer's respond to calls outside of their jurisdiction for mutual aid and joint task force operations. In joint operations where officers respond to calls outside of their jurisdiction for mutual aid and joint force operations such as GTF and NTF, the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS.

*RESPONSE: The City of Brisbane Agrees with the finding. In joint operations, the protocols for the use of Tasers for the Sheriff's Office are not the same as other agencies in the county.*

3. Lexipol is the primary provider of Use of Force policies for 15 out of 18 police agencies within San Mateo County. Fifteen cities, BART and CHP use Lexipol or have policies similar, if not identical, to Lexipol.

*RESPONSE: The City of Brisbane Agrees with the finding. Lexipol is Brisbane's provider of Use of Force Policies.*

4. All agencies using TASER devices require training prior to the issuance of a TASER to individual officers, require annual or more frequent training, require a "Use of Force Report" when a TASER device is activated and require medical evaluation for a subject who has been "tased."

*RESPONSE: The City of Brisbane Agrees with the finding. Our officers all receive quarterly training on the TASER and are required to fill out a "Use of Force Report" when a TASER device is activated as well as require medical evaluation for all subjects who have been "tased."*

5. No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.

*RESPONSE: The City of Brisbane Agrees with the finding. In the past, the Brisbane Police Department has not required reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

6. No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device must be kept secured in the patrol car for those officers on patrol duty.

*RESPONSE: The City of Brisbane Agrees with the finding. In the past, the Brisbane Police Department has not required that an officer who has been issued a TASER device keep it on his/her person. It has been optional for the officer whether to keep it on his/her person or secure it in the patrol car while on duty patrol.*

7. The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore, TASERS are not available as an alternative to lethal force.

*RESPONSE: The City of Brisbane Agrees with the finding. We have no reason to disagree with the information contained in the Attachment to the Grand Jury's report.*

8. The use of a TASER device, before being required to physically subdue a subject, would result in fewer injuries to both officers and subjects.

*RESPONSE: The City of Brisbane Agrees with the finding. The use of Tasers before being required to physically subdue a subject would reduce the possibility of injury to both the officer and subject.*



**The San Mateo County 2010-2011 Grand Jury makes the following recommendations to the City Councils of the cities of San Mateo County:**

1. Add a "Deployment Only" category to all Use of Force Reports and track the effect that this "Light Up" mode has in assisting deputies [Officers] to gain and maintain control over subjects.

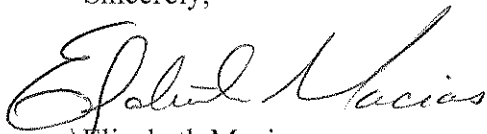
***RESPONSE:** The recommendation has been implemented. The city agrees that adding a "Deployment Only" category will provide useful information in regards to the overall effectiveness of the use of Tasers in the field. The TASER Use Report has been modified to reflect this new category.*

2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

***RESPONSE:** The recommendation has been implemented. Changes made to the department's policy manual requiring uniformed officers to carry their TASER.*

Thank you for the opportunity to comment on the recommendations made by the Grand Jury.

Sincerely,



Elizabeth Macias,  
Chief of Police



## The City of Burlingame

501 PRIMROSE ROAD, BURLINGAME, CA 94010-3997  
[www.burlingame.org](http://www.burlingame.org)

TERRY NAGEL, MAYOR  
JERRY DEAL, VICE MAYOR  
ANN KEIGHRAN, COUNCILMEMBER  
MICHAEL BROWNRIGG, COUNCILMEMBER  
CATHY BAYLOCK, COUNCILMEMBER

TEL: (650) 558-7203  
FAX: (650) 342-8386  
EMAIL: [council@burlingame.org](mailto:council@burlingame.org)

July 19, 2011

The Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

**Re: Response to San Mateo County Civil Grand Jury report titled  
"TASERS Standardizing to Save Lives and Reduce Injuries"**

Dear Judge Bergeron:

The Burlingame City Council received the San Mateo County Civil Grand Jury report titled "Sex Offender Law Enforcement in San Mateo County" in late May. The report contained several "findings" and "recommendations."

The City Council was requested to submit comments in regards to the findings and recommendations within 90 days and no later than August 22, 2011.

For the "findings," Council was to indicate one of the following:

1. Council agrees with the finding.
2. Council disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

Additionally, for the Grand Jury "recommendations," Council was requested to report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.

2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

The Burlingame City Council, at its meeting on Monday, July 18, 2011 adopting a Resolution approving the City of Burlingame's responses to the findings and recommendations to the Grand Jury's report "**TASERS Standardizing to Save Lives and Reduce Injuries**". A copy of that resolution is enclosed.

On behalf of the City of Burlingame, I would like to thank the Grand Jury for their work on this report.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Nagel". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Terry Nagel  
Mayor

**RESOLUTION NO. 51-2011**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLINGAME  
APPROVING THE CITY'S RESPONSE TO  
2010-2011 SAN MATEO COUNTY GRAND JURY REPORT ENTITLED  
"TASERS: STANDARDIZING TO SAVE LIVES AND REDUCE INJURIES"**


**WHEREAS**, on May 24, 2011, the 2010-2011 San Mateo County Civil Grand Jury issued a report entitled "Tasers: Standardizing to Save Lives and Reduce Injuries", which contains findings and recommendations pertaining to the City of Burlingame; and,

**WHEREAS**, the City of Burlingame is required under Penal Code section 933 to respond to the Grand Jury's findings and recommendations in said report; and

**WHEREAS**, the City of Burlingame has prepared appropriate responses to the Grand Jury's findings and recommendations and intends to transmit them to the Presiding Judge of the 2010-2011 San Mateo County Civil Grand Jury as required by law;

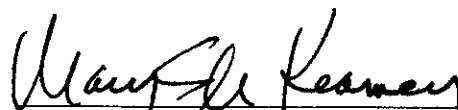
**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF BURLINGAME AS FOLLOWS:**

1. The City Council approves the responses to findings and recommendations of the 2010-2011 San Mateo County Civil Grand Jury report entitled "Tasers: Standardizing to Save Lives and Reduce Injuries e" pertaining to the City of Burlingame, a copy of which is attached hereto and made a part hereof.
2. The Mayor is hereby authorized to execute and transmit said responses to the Presiding Judge of the San Mateo County 2010-2011 Grand Jury, in accordance with State law.

  
\_\_\_\_\_  
Terry Nagel, Mayor

I, Mary Ellen Kearney, Clerk of the City of Burlingame, hereby certify that the foregoing Resolution was duly and regularly introduced and adopted at a regular meeting of the Burlingame City Council held on the 18<sup>th</sup> day of July, 2011, by the following vote to wit:

AYES: Councilmembers **BAYLOCK, BROWNRIGG, DEAL, KEIGHRAN, NAGEL**  
NOES: Councilmembers: **NONE**  
ABSENT: Councilmembers: **NONE**

  
\_\_\_\_\_  
Mary Ellen Kearney, City Clerk

## **FINDINGS:**

1. *"The Sheriff has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the Taser device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode."*

Response: The City of Burlingame agrees with this finding. Like many of the cities in San Mateo County the Burlingame Police Department uses Lexipol LLC, for our Policy Manual including a policy on Taser™ use. It should be noted that the City of Burlingame is unaware of the content of the San Mateo County Sheriff's Office policy regarding Taser use.

---

2. *"Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS."*

Response: The City of Burlingame agrees with this finding. The Burlingame Police Department uses Lexipol LLC, to develop our Policy Manual including a policy on Taser™ use. The City of Burlingame is unaware of the content of the San Mateo County Sheriff's Office policy regarding Taser's.

---

3. *Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

Response: The City of Burlingame agrees with this finding. The City of Burlingame Police Department utilizes Lexipol, LLC for our Policy Manual. We are aware that many agencies in the County utilize Lexipol however, do not have intimate knowledge of the contents of each policy.

---

4. *All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."*

Response: The City of Burlingame agrees with this finding. The Burlingame Police Department does require training prior to the issuance and use of a Taser and does require annual updated training. All Taser discharges, including accidental discharges, are documented in the related arrest/crime report, and a Supervisor's Review of Critical Incidents Report.

---

5. *No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

Response: The City of Burlingame agrees with this finding. The City of Burlingame does not have a reporting requirement when a Taser has been used only in the "light up" deployment mode and the City is unaware of other law enforcement agencies "Use of Force" reporting requirements.

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6. *No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

Response: The City of Burlingame disagrees with this finding. The Burlingame Police Department requires uniformed officers to carry the Taser on their person in an approved holster.

---

7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.*

Response: The City of Burlingame agrees with this finding.

---

## **RECOMMENDATIONS:**

- *The 2011 San Mateo County Civil Grand Jury recommends that the Sheriff:*
  1. *Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the prior Use of Force policy dated April 10, 2008.*
  2. *Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.*
  3. *Require uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

Response: Respondent is unable to respond to this Recommendation as it is directed towards the San Mateo County Sheriff's Office.

---

- *The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of the cities of Menlo Park and East Palo Alto:*
  1. *Implement the use of TASER devices for their uniformed police officers.*
  2. *Adopt Use of Force policies that are consistent with other San Mateo County cities.*

3. *Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when TASER devices are used as well as "deployment only" tracking for in-field incidents.*
4. *Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

Response: Respondent is unable to respond to this Recommendation as it is directed towards the cities of Menlo Park and East Palo Alto.

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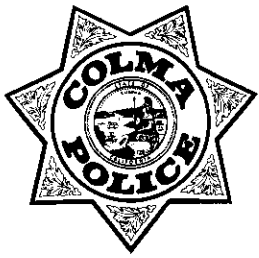
- The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:
  1. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.

Response: This recommendation will not be implemented..

To have an officer determine whether the suspect chose to comply because the Taser was in the "light up mode" would be subjective, thereby limiting the usefulness of the information collected. Officers currently document "Use of Force" incidents in an official report and a Supervisor's Critical Incident review. We do not track when an officer chooses to display any of the other tools which are available to them such as chemical sprays, baton, extendable baton or handcuffs.

2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

Response: The City of Burlingame believes this recommendation is currently in place. The Burlingame Police Department requires uniformed officers to carry their assigned Taser on their person in an approved holster.



**OFFICE OF THE CHIEF OF POLICE**

1199 El Camino Real  
Colma, California 94014-3211  
650-997-8321



July 13, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Honorable Judge Bergeron,

At the City Council meeting held on July 13, 2011, the City Council of the Town of Colma approved the below listed response to the Grand Jury report on Standardizing Tasers to Save Lives and Reduce Injuries, dated May 24, 2011.

**Findings: (Paraphrased)**

**Finding 1:**

The Sheriff's Department has a Use of Force policy that is different from standardized policies of other agencies and a policy that requires the deputy to be in physical contact with the suspect and requires the electronic control device (ECD or TASER) to be in a dry stun mode.

**Response 1:**

The Town of Colma is not in a position to comment on the content of the policy of the Sheriff's Office. The Colma Police Department utilizes the services of Lexipol LLC for its General Orders, including a policy on the use of electronic control devices.

**Finding 2:**

Law enforcement agencies respond to calls for assistance and mutual aid requests, including task forces and the ECD protocol for the Sheriff is different than the other agencies in the county.



Response 2:

The Town of Colma is not in a position to comment on the content of the policy of the Sheriff's Office. The Colma Police Department utilizes the services of Lexipol including the policy on ECD's.

Finding 3:

15 of the 18 law enforcement agencies in San Mateo County utilize Lexipol policies or policies similar to Lexipol, LLC.

Response 3:

The Town of Colma partially agrees with this finding.

The Colma Police Department is familiar with Lexipol and is aware that many other agencies within the county utilize their services.

Finding 4:

All agencies require training in the use of the Taser or similar devices including annual updates or more frequent training and require a report when a device is utilized, including a medical evaluation of the subject.

Response 4:

The Town of Colma partially agrees with this finding.

Although the Lexipol policies are similar in nature, the Town of Colma is not in a position to comment on the content of policies of other agencies. The Colma Police Department does require training prior to the issuance and use of an ECD and does require annual updated training. They also require a report when an ECD is used, which includes a medical evaluation of the person on whom the TASER was used.

Finding 5:

No agency requires a report when an ECD device is deployed but not activated.

Response 5:

The Town of Colma partially agrees with this finding.

The Town of Colma is not in a position to comment on the reporting requirements of other agencies. No such report is required for a Colma Police Officer as it presents a potential risk to officer safety and potential liability risk to the Town.

Finding 6:

No agency requires that an officer must keep an ECD on his/her person while on-duty.

Response 6:

The Town of Colma partially agrees with this finding.

The Town of Colma is not in a position to comment on the policy of other agencies. Uniformed members of the Colma Police Department are encouraged to keep an ECD with them while on-duty, but it is not required.

Finding 7:

Refers to the cities of Menlo Park and East Palo Alto and their choice regarding the use of Tasers.

Response 7:

The Town of Colma is not in a position to comment on this finding.

**Recommendations:**

The recommendations in the Grand Jury report are focused in 3 distinct categories. The first category is specifically directed at the Sheriff's Office and the second category is specifically directed at the City of Menlo Park and East Palo Alto. The Town of Colma is not in a position to comment on those recommendations.

The third category is directed at all other law enforcement agencies in San Mateo County. The response from the Town of Colma is detailed below.

Recommendation 1:

Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.

Response 1:

While we appreciate the Grand Jury's research and obvious support of the use of the ECD, the Town of Colma will not be requiring their police officers to complete any

Honorable Joseph E. Bergeron

July 13, 2011

Page 4 of 5

report that tracks the "light up" mode and its effect on suspects. This request is contrary to good officer safety practice in a variety of ways and has the potential to place the officer in jeopardy in the field.

Police officers, by the nature of their job, are often times in a reactive state while watching or dealing with a subject. If there is a potential for a violent encounter with a subject, it is best if the officer arms him/herself with the necessary tools to overcome and survive the encounter. The tools, whether they are a firearm, chemical spray, impact weapon or ECD, are best utilized when already in the hand of the officer, not on his or her duty belt.

Additionally, police officers are, as research has demonstrated, in the reactive mode and are operating at a  $\frac{3}{4}$  second disadvantage (lag time) in reacting to a suspect's actions. Requiring officers to make a report each time a weapon is drawn (firearm, baton, ECD, etc) will slow their response and possibly cause them to "second guess" the need for the equipment. This places the officers at even a greater disadvantage in a violent encounter.

Law enforcement management personnel are familiar with agencies in the past that have utilized the reporting requirements such as a memorandum every time officers took a shotgun out of their patrol car. The shotguns had a plastic strap that if broken required a written memoranda from the officers. Officers soon either refused to take the gun out of the car, or refused to load it when deployed because of the reporting requirement. This was a bad practice for officer safety at the time and still is today.

It is quite plausible that requiring an officer to report each time a piece of safety equipment is placed in his/her hand, ready for use, would cause the officer to second guess the need for the equipment. The reality is that an officer must make split second decisions under stressful situations. Adding another consideration to an already stressful situation will place the officer at an even greater disadvantage (lag time) thereby making his/her less effective during a violent or potentially violent encounter.

#### Recommendation 2:

Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

#### Response 2:

Once again, while we appreciate the Grand Jury's support for the use of ECD's, the Town of Colma will not be requiring officers to have an ECD available to the same extent of a firearm.

Police officers carry certain minimal gear as needed for officer safety purposes and are limited by a variety of factors including the physical ability to carry issued items.

Honorable Joseph E. Bergeron

July 13, 2011

Page 5 of 5

Naturally all uniformed officers carry a firearm and extra ammunition, handcuffs, and a radio. Most officers carry a flashlight and impact weapon as well as chemical spray. Some officers also elect to carry an ECD. All of these items combined, including the duty belt and body armor, carry a considerable amount of weight and therefore put a strain on the human body. Because the physique of officers varies in height, weight, waist size, etc, it becomes difficult to carry many of these items. Requiring an officer to carry an ECD in many cases would require that same officer to give up another item on his/her belt with which s/he may be much more comfortable and proficient.

Sincerely,

A handwritten signature in black ink, appearing to read 'RL' followed by a stylized flourish.

Robert L. Lotti  
Chief of Police



# CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

PHONE: (650) 991-8000

August 11, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> floor  
Redwood City, CA 94063

Re: 2010-2011 Civil Grand Jury Report TASERS Standardizing to Save Lives and Reduce Injuries

Dear Judge Bergeron,

On behalf of the City Council of Daly City, I have been requested to submit the following response to the Grand Jury's findings and recommendations pertaining to the above referenced report dated May 24, 2011. The City Council approved this response at a public meeting held on August 8, 2011.

## Findings

1. The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.

**Response:** The City **neither agrees nor disagrees** with this finding as this finding was directed towards the San Mateo County Sheriff's Office.

2. Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS.

**Response:** The City **agrees** with this finding.

3. Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.

**Response:** The City **agrees** with this finding.

4. All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."

**Response:** The City **agrees** with this finding.

5. No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.

**Response:** The City **disagrees** with this finding. The Daly City Police Department *Taser Use Report* form requires officers to document Arc display, Laser Display Only (light up), and Taser Application.

6. No agency requires that an officer who has been issued a TASER device actually keep it on his/ her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.

**Response:** The City **partially disagrees** with this finding. The Daly City Police Department requires all officers to carry an intermediate force option, which requires an officer to carry either a Taser or Pepper Spray.

7. The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.

**Response:** The City neither **agrees nor disagrees** with this finding as this finding was directed towards the Menlo Park and East Palo Alto police agencies.

## **RECOMMENDATIONS:**

***The 2011 San Mateo County Civil Grand Jury recommends that the Sheriff:***

***This recommendation is directed to the San Mateo County Sheriff.***

1. Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the prior Use of Force policy dated April 10, 2008.

2. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.
3. Require uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

***The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of the cities of Menlo Park and East Palo Alto:***

***This recommendation is directed to the City Councils of the cities of Menlo Park and East Palo Alto.***

1. Implement the use of TASER devices for their uniformed police officers.
2. Adopt Use of Force policies that are consistent with other San Mateo County cities.
3. Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when TASER devices are used as well as "deployment only" tracking for in-field incidents.
4. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

***The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:***

1. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.

**Response:** This recommendation is **implemented**. The Daly City Police Department has always required officers to document "deployment only" use of the Taser.

2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

**Response:** This recommendation is **implemented** to the extent that the Daly City Police Department requires all officers to carry an intermediate force option, which requires an officer to carry either a Taser or Pepper Spray. Presently 98 of 108 Daly City Police Officers carry a Taser.

Honorable Joseph E. Bergeron  
RE: 2010-2011 Civil Grand Jury Report TASERS Standardizing to Save Lives and Reduce Injuries  
Page 4 of 4

In conclusion, the City of Daly City appreciates the opportunity to provide written responses to the San Mateo County Grand Jury on TASERS Standardizing to Save Lives and Reduce Injuries. The City Council of Daly City approved the responses contained herein on August 8, 2011.

Should you or the Grand Jury require additional information or clarification concerning the response provided, please contact me directly at (650) 991-8127.

Sincerely,



Patricia E. Martel  
City Manager





# City of East Palo Alto

2415 University Avenue  
East Palo Alto, California 94303  
Phone: (650)853-3100  
Web: <http://www.ci.east-palo-alto.ca.us>

## CITY COUNCIL

Carlos Romero, Mayor  
Laura Martinez, Vice Mayor  
Ruben Abrica  
Peter Evans  
David Woods

September 20, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

### **Re: 2010-2011 San Mateo County Grand Jury Report: Tasers: Standardizing to Save Lives and Reduce Injuries**

Dear Judge Bergeron,

We are in receipt of the Grand Jury's final report, "Tasers: Standardizing to Save Lives and Reduce Injuries". Pursuant to your May 24, 2011, request for response, the East Palo Alto City Council held a public meeting on September 20, 2011, and approved this response. Our response is delayed because the City Council was on recess in August. The City of East Palo Alto responds to the Grand Jury findings, conclusions, and recommendations as follows:

#### **The 2010-2011 San Mateo County Civil Grand Jury report on Tasers concludes the following:**

1. TASER devices can be a use of force alternative to the lethal force of a firearm.

#### **Response:**

The City agrees with this statement.

2. With the exception of the Sheriff's Office, of those agencies using TASER devices, the use of force deployment and activation policies are sufficiently similar to consider them to be standardized.

#### **Response:**

Based on the information contained in this report this statement appears to be accurate.

3. Without standardized use of force policies across San Mateo County with respect to activation and deployment of TASER devices, police officers and Sheriff's deputies do not have a consistent approach in responding to potential use of force events. In addition, a lack of common policies (and training) could set inconsistent expectations with the public and law enforcement officers alike as to when and how TASER devices will be deployed and activated.

**Response:**

The City agrees, in principle and to the extent possible, that standardizing policing practices including the use of force is likely to minimize confusion among law enforcement in the county. However, it is important to recognize that a policy must do more than just comply with law and minimize confusion; it should enhance community trust and confidence; increase police legitimacy; provide direction to staff, and set clear expectations for the community. It is therefore not the policy of our police department to simply replicate a policy (especially one that involves the use of force) unless that policy is an "industry" best-practice and consistent with the values of the community.

4. Lexipol, LLC provides the most-used set of standards for Use of Force policies in San Mateo County.

**Response:**

Based on the information contained in this report this statement appears to be accurate.

However, the East Palo Alto police department does not use Lexipol, LLC, and is not inclined to do so in the near future. The police department just updated all of its operating policies using the Jones & Mayer law firm. This is one of the most experienced firms dealing with policing issues in the nation. In fact, Mr. Marty Mayer serves as special counsel to the California Police Chiefs Association. It should also be noted that the police department is currently in the accreditation process for the Commission on Accredited Law Enforcement Agencies (CALEA) which also sets standards for the use of Tasers.

5. All agencies that are using TASER devices have adequate training, supervision, reporting, review, and medical evaluation of the subject when TASER devices are used.

**Response:**

Based on the information contained in this report this statement appears to be accurate.

6. TASER devices that are deployed, but not activated, are not included in Use of Force reports. This understates the effectiveness of Tasers because "lighting up" a subject with the laser light is often sufficient for the officer to gain the subject's immediate compliance. The absence of this reporting can result in future decision-makers not having sufficient information about the utility of carrying and deploying this device.

**Response:**

Based on the information contained in this report this statement appears to be accurate.

7. An officer who is trained in the use of TASER devices cannot make use of the device if he or she is not carrying it when it is needed.

**Response:**

Based on the information contained in this report this statement appears to be accurate.

8. The use of a TASER device, before being required to physically subdue a subject, would result in fewer injuries to both officers and subjects. When an officer goes "hands on" with a subject, in the form of the use of a baton, flashlight prod, or other device that can cause physical injury, it places the officer and the subject into a position where physical injury is more likely.

**Response:**

The police chief believes this statement is too restrictive in scope and does not allow for the fluidity involved with street encounters.

To make a statement that "The use of a Taser device, before being required to physically subduing a suspect would result in fewer injuries..." is inaccurate and, in the opinion of our police chief, will lead to excessive and inappropriate uses of Tasers that can increase injuries to suspects. Although Tasers are designated as "Less-Lethal" they can and do, on occasion, cause serious injuries including death.

The police chief believes it is better to designate the Taser as a less-lethal weapon that when used constitutes a "serious" use of force. The Taser should be placed in a use force continuum in the same level as other less-lethal devices such as bean bags, pepper spray, and batons. This requires the officer to assess the situation and threat; identify his or her level of appropriate response to that threat, and then choose a tool within that level that best responds to the threat and constitutes "reasonable force" as defined by law.

The police chief does not support a policy that allows the use of Tasers as a compliance control device or to overcome verbal aggression.

**The 2011 San Mateo County Civil Grand Jury recommends to the San Mateo County Board of Supervisors and to the San Mateo County Sheriff that they:**

1. Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the prior Use of Force policy dated April 10, 2008.
2. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.
3. Require uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

**City's Response:**

The City will not render an opinion on this recommendation.

The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of the cities of Menlo Park and East Palo Alto:

1. Implement the use of TASER devices for their uniformed police officers.
2. Adopt Use of Force policies that are consistent with other San Mateo County cities.
3. Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when TASER devices are used as well as "deployment only" tracking for in-field incidents.
4. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

**City's Response**

The police chief does support equipping his police officers with Tasers consistent with industry-best practices and deployed in a manner that is constitutionally sound and increases public trust and

confidence. However, the City Council has not yet taken a position in favor or in opposition of Tasers.

Because of the valid concerns surrounding Tasers, the chief and the city will seek public input and further study this issue before the City Council makes a final decision on the Grand Jury and police chief's recommendation.

**The 2009-2010 San Mateo County Civil Grand Jury recommends to the City Councils of San Mateo County that they work through the San Mateo County Police Chiefs' Association to:**

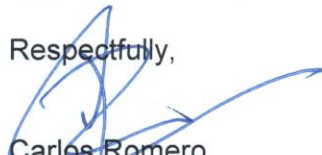
The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:

1. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.
2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

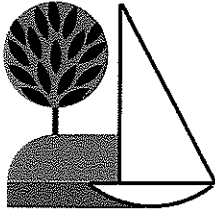
**City's Response**

Because the City does not utilize Tasers at this time, the City will not render an opinion on this recommendation.

Respectfully,



Carlos Romero  
Mayor



*City of Foster City*

**ESTERO MUNICIPAL IMPROVEMENT DISTRICT**

610 FOSTER CITY BOULEVARD  
FOSTER CITY, CA 94404-2222  
(650) 286-3200  
FAX (650) 286-3589

June 20, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Dear Judge Bergeron:

We are in receipt of the Grand Jury's final report entitled, "TASERS Standardizing to Save Lives and Reduce Risks". Pursuant to your May 24, 2011 request for response, the City of Foster City City Council held a public meeting on June 20, 2011 and approved the following responses.

### **Findings**

Findings numbers 1-5 and 7 relate to agencies other than the City of Foster City. Of the remaining two findings that do specifically relate to our agency, our responses are as follows:

"5. No agency requires reporting when a TASER device has been used in the light-up mode, but not activated."

### **Response**

Disagree wholly - Since our officers began carrying Tasers in July 2009, every deployment ("light-up mode") as well as activation has been tracked through entries in our Department's use-of-force tracking system, called the "Resistance Management Survey". Detailed descriptive information is entered by the involved officer, approved by his/her immediate supervisor, forwarded by e-mail to Department Management, reviewed and evaluated by managers and permanently stored in a readily retrievable database.

"6. No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in a patrol car for those officers on patrol duty."

Agree – Our agency has not mandated that officers carry their issued Tasers on their gun belts. Although it has yet to occur, there is the possibility that due to the diminutive size of some officers, they may not always have sufficient room on their duty belts to literally or reasonably carry the rather large and bulky devices. Instead of mandating that officers keep their Tasers on their persons, we permit them to keep the devices in their Patrol cars much the same as with our shotguns and long rifles, for ready access if/when necessary.

### **Recommendations**

The first seven recommendations made by the Grand Jury are specifically directed to the Sheriff (1-3) and the City Councils of Menlo Park and East Palo Alto (1-4). Of the remaining two recommendations directed at the City Councils of the remaining cities in the county, our responses are as follows:

- “1. Add a “deployment only” category to all Use of Force Reports and track the effect that this “light-up” mode has in assisting deputies to gain and maintain control over subjects.”

#### Response

The recommendation has been implemented and in existence since the issuance of Tasers to Foster City Police officers in July 2009. Every deployment (“light-up mode”) as well as activation has been tracked through entries in our Department’s use-of-force tracking system, called the “Resistance Management Survey”. Detailed descriptive information is entered by the involved officer, approved by his/her immediate supervisor, forwarded by e-mail to Department Management, evaluated for appropriateness and effect by managers and then permanently stored in a readily retrievable database.

- “2. Require uniformed officers to have TASERS devices available to the same extent that the officers are required to have a firearm available for use.”

#### Response

The recommendation will not be implemented. Although all uniformed Foster City police officers do carry their issued TASERS on their gun belts, there may be unusual situations in the future in which officers may not be able to find room on their belts to reasonably wear the devices on their persons. As such we have permitted officers to carry their TASERS in their patrol cars in a manner that provides immediate access if and when circumstances warrant, much as is the case with our shotguns and long rifles.

Sincerely,



Linda Koelling, Mayor  
City of Foster City

RICHARD CLINE  
MAYOR

KIRSTEN KEITH  
MAYOR PRO TEM

ANDREW COHEN  
COUNCIL MEMBER

KELLY FERGUSSON  
COUNCIL MEMBER

PETER OHTAKI  
COUNCIL MEMBER

**Building**  
TEL 650.330.6704  
FAX 650.327.5403

**City Clerk**  
TEL 650.330.6620  
FAX 650.328.7935

**City Council**  
TEL 650.330.6630  
FAX 650.328.7935

**City Manager's Office**  
TEL 650.330.6610  
FAX 650.328.7935

**Community Services**  
TEL 650.330.2200  
FAX 650.324.1721

**Engineering**  
TEL 650.330.6740  
FAX 650.327.5497

**Environmental**  
TEL 650.330.6763  
FAX 650.327.5497

**Finance**  
TEL 650.330.6640  
FAX 650.327.5391

**Housing &  
Redevelopment**  
TEL 650.330.6706  
FAX 650.327.1759

**Library**  
TEL 650.330.2500  
FAX 650.327.7030

**Maintenance**  
TEL 650.330.6780  
FAX 650.327.1953

**Personnel**  
TEL 650.330.6670  
FAX 650.327.5382

**Planning**  
TEL 650.330.6702  
FAX 650.327.1653

**Police**  
TEL 650.330.6300  
FAX 650.327.4314

**Transportation**  
TEL 650.330.6770  
FAX 650.327.5497



701 LAUREL STREET, MENLO PARK, CA 94025-3483  
www.menlopark.org

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Re: Response to *Tasers, Standardizing to Save Lives and Reduce Injuries* Grand Jury Report

Dear Judge Bergeron,

We are in receipt of the Grand Jury's final report entitled, "*Tasers, Standardizing to Save Lives and Reduce Injuries.*" Pursuant to your May 24, 2011, request for response; the Menlo Park City Council held a public meeting on July 19, 2011 and approved this response. The City of Menlo Park responds to the Grand Jury's findings and recommendations as follows:

### Findings

1. *The Sheriff's department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County.*

Response: Respondent agrees with the finding.

2. *Law enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use the Taser.*

Response: Respondent agrees with the finding.

3. *The primary provider of Use of Force policies and Taser policies in San Mateo County is Lexipol, LLC.*

Response: Respondent agrees with the finding.

4. *All agencies using Taser devices require training prior to the issuance; require annual or more frequent retraining; require a Use of Force Report when a Taser is activated; and require medical evaluation for a subject who has been "tased."*

Response: Respondent agrees with the finding.

5. *No agency requires reporting when a Taser device has been used in the “light up” deployment mode, but not activated.*

Response: Respondent agrees with the finding.

6. *No agency requires that an officer who has been issued a Taser device actually keep it on his/her person. The Taser device may be kept secured in a patrol car for those officers on patrol duty.*

Response: Respondent agrees with the finding.

7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply Taser devices to their officers.*

Response: Respondent agrees with the finding.

## **Recommendations**

### **The 2011 San Mateo County Civil Grand Jury recommends that the Sheriff:**

1. *Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies or reestablish the prior Use of Force policy dated April 10, 2008.*

Response: Not applicable to Menlo Park

2. *Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” mode has in assisting deputies to gain and maintain control over subjects.*

Response: Not applicable to Menlo Park

3. *Require uniformed deputies to have Taser devices available to the same extent that the officers are required to have a firearm available for use.*

Response: Not applicable to Menlo Park

### **The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of the cities of Menlo Park and East Palo Alto:**

1. *Implement the use of Taser devices for their uniformed police officers.*

Response: The recommendation has not yet been implemented, but will be carefully evaluated over the next several months.

2. *Adopt Use of Force policies that are consistent with other San Mateo County cities.*



Response: The Menlo Park Police Department subscribes to Lexipol, LLC, and therefore has consistent Use of Force policies. Lexipol Taser policies will be adopted.

*3. Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when Taser devices are used as well as "deployment only" tracking for in-field incidents.*

Response: The recommendation has not yet been implemented, but will be implemented in conjunction with Taser implementation if the City determines to pursue.

*4. Require uniformed officers to have Taser devices available to the same extent that the officers are required to have a firearm available for use.*

Response: The recommendation has not yet been implemented, but will be implemented in conjunction with Taser implementation if the City determines to pursue.

**The 2011 San Mateo County Civil Grand Jury recommends that the City Council of all the cities other than Menlo Park and East Palo Alto:**


*1. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.*

Response: Not applicable to Menlo Park

*2. Require uniformed officers to have Taser devices available to the same extent that the officers are required to have a firearm available for use.*

Response: Not applicable to Menlo Park

Sincerely,



Lacey Burt  
Commander of Special Operations  
City of Menlo Park  
On behalf of Bryan Roberts



# City of Millbrae

621 Magnolia Avenue, Millbrae, CA 94030

DANIEL F. QUIGG  
Mayor  
MARGE COLAPIETRO  
Vice Mayor  
GINA PAPAN  
Councilwoman  
NADIA V. HOLOBER  
Councilwoman  
PAUL SETO  
Councilman

July 12, 2011

Hon. Joseph G. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2nd Floor  
Redwood City, CA 94063-1655

Dear Judge Bergeron:

We are in receipt of the Grand Jury's final report entitled, "TASERS Standardizing to Save Lives and Reduce Injuries". Pursuant to your May 24, 2011 request, the Millbrae City Council held a public meeting on July 12, 2011 and approved this response. The City of Millbrae responds to the Grand Jury's findings, conclusions and recommendations as follows:

## Findings

### TASERS Standardizing to Save Lives and Reduce Injuries

- 1. The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff's Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*

Response: This finding was directed towards the San Mateo County Sheriff's Office.

- 2. Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the County, which also use TASERS.*

Response: Respondent agrees that many agencies participate in joint operations. Officers that participate from Millbrae are held to the Millbrae Police Department policies. Respondent cannot speak to other agencies' policies.

City Council/City Manager/City Clerk  
(650) 259-2334

Building Division/Permits  
(650) 259-2330

Community Development  
(650) 259-2341

Finance  
(650) 259-2350

Fire  
(650) 259-2400

Police  
(650) 259-2300

Public Works/Engineering  
(650) 259-2339

Recreation  
(650) 259-2360

3. *Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

Response: Respondent agrees with the finding for the Millbrae Police Department.

4. *All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."*

Response: Respondent agrees with the finding for the Millbrae Police Department.

5. *No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

Response: Respondent disagrees with the findings. The Millbrae Police Department Policy Manual requires that officers document when the warning of a potential Taser use has been given.

6. *No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

Response: Respondent agrees with the finding for the Millbrae Police Department. All Millbrae officers carry the TASER, mandatory carrying is not referenced in the policy, however Millbrae's policy will be revised to include this.

7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.*

Response: This finding was directed towards the cities of Menlo Park and East Palo Alto.

### **Recommendations**

*The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:*

1. *Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.*

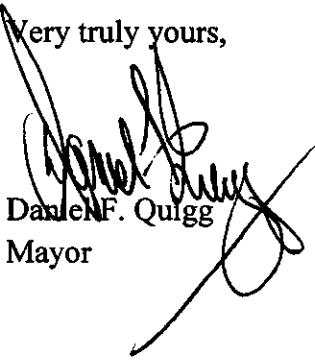
Response: The Millbrae Police Department policy already requires that officers document the deployment of the TASER device.

2. *Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

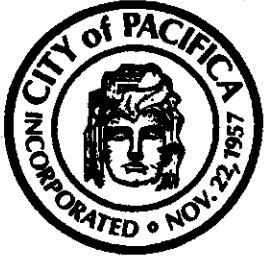
Response: All officers at the Millbrae Police Department wear the TASER device. The recommendation to include this requirement in the policy will be forwarded to the Chief of Police for further analysis. Should the Chief of Police deem that uniformed officers are mandated to wear the TASER, that implementation will occur no later than six months from the date of the letter response.

The members of the City Council and City Staff are committed to keeping our community safe. We appreciate the Grand Jury's time and effort into compiling the report on "TASERS Standardizing to Save Lives and Reduce Injuries". We hope you will find our commentary helpful.

Very truly yours,

  
Daniel F. Quigg  
Mayor

Cc: Marcia Raines, City Manager



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**PACIFICA POLICE DEPARTMENT**  
2075 Coast Highway • Pacifica, California 94044

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**JIM SAUNDERS**  
Chief of Police

*Scenic Pacifica*

July 26, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center; 2<sup>nd</sup> Floor  
Redwood City, California 94063-1655

Dear Judge Bergeron,

Our agency is in receipt of the 2010-2011 San Mateo County Civil Grand Jury questionnaire regarding practices of local law enforcement agencies as it relates to Taser usage and documentation. Our responses to the questions presented are outlined below.

The Pacifica Police Department has read and reviewed the 2011 San Mateo County Civil Grand Jury report "TASERS – Standardizing to Save Lives and Reduce Injuries". The Pacifica Police Department agrees with the findings in the report.

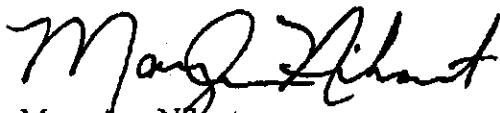
In regards to the Grand Jury recommendations for Cities other than Menlo Park and East Palo Alto, the City of Pacifica already requires its officers to report "deployment only" via its TASER Use of Force policy.

While, currently, uniformed officers are not mandated to have TASER devices available to the same extent that the officers are required to have a firearm available for use, the Pacifica Police Department agrees with this recommendation and will immediately update its policy to mandate that all uniformed officers that are qualified to carry a TASER, carry the TASER in a department approved holster and that the TASER will be worn on the officer's non-gun side (weak side).

The Pacifica Police Departments response to the Grand Jury report was reported at the City of Pacifica council meeting on July 25, 2011, wherein it was approved.

If you have any questions regarding our response, please do not hesitate to contact us.

Respectfully,

  
Mary Ann Nihart  
Mayor

**Police Department**  
Chris Cesena  
Interim Police Chief



1301 Maple Street  
Redwood City, CA 94063  
Telephone (650) 780-7100  
FAX Line (650) 780-7155

July 29, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063

Dear Judge Bergeron,

On May, 21, 2011, the Redwood City City Council received the San Mateo County Grand Jury report entitled "TASER Standardizing to Save Lives and Reduce Injuries." The report contained seven "findings," eight "conclusions" and nine "recommendations." Three of the seven "findings" were specific to other county law enforcement agencies and do not require a response from Redwood City. Similarly, seven out of the nine "recommendations" were agency specific with only two requiring a response from Redwood City.

For the four applicable "findings," Council was to indicate one of the following:

1. Council agrees with the finding.
2. Council disagrees wholly or partially with the finding, in which case the response shall specify the portion of the response that is disputed, and shall include an explanation of the reasons therefore.

Additionally, for the two applicable "recommendations," Council was requested to report one of the following actions:

1. The recommendation has been implemented, with a summary of the implemented action.
2. The recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of the publication of the Grand Jury report.

**Police Department**  
Chris Cesena  
Interim Police Chief



1301 Maple Street  
Redwood City, CA 94063  
Telephone (650) 780-7100  
FAX Line (650) 780-7155

4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

The City Council has authorized me to present the City's response to the Court. The Redwood City Council at its meeting of July 11, 2011 approved the responses to the findings and recommendations.

## **FINDINGS**

### ***Finding #3***

*Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

### **Response**

The City disagrees partially with the finding. The City agrees that the Redwood City Police Department's TASER use policy is based on Lexipol's policy, but is not identical. The City does not have sufficient information regarding the policies of the other San Mateo County uniformed police agencies to either agree or disagree with that portion of the finding.

### ***Finding #4***

*All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."*

### **Response**

The City disagrees partially with the finding. The City agrees that the Redwood City Police Department requires training prior to the issuance of a TASER to individual officers; requires annual or more frequent retraining; requires a "Use of Force Report" when a TASER device is activated; and requires medical evaluation for a subject who has been "tased." The City does not have sufficient information regarding the policies and procedures of the other San Mateo County uniformed police agencies to either agree or disagree with that portion of the finding.

**Police Department**  
Chris Cesena  
Interim Police Chief



1301 Maple Street  
Redwood City, CA 94063  
Telephone (650) 780-7100  
FAX Line (650) 780-7155

***Finding #5***

*No agency requires reporting when a TASER device has been used in the “light up” deployment mode, but not activated.*

**Response**

The City disagrees partially with the finding. The City agrees that the Redwood City Police Department does not currently require reporting when a TASER device has been used in the “light up” deployment mode, but not activated. The City does not have sufficient information regarding the policies and procedures of the other San Mateo County uniformed police agencies to either agree or disagree with that portion of the finding.

***Finding #6***

*No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

**Response**

The City disagrees partially with the finding. The Redwood City Police Department has always required uniformed patrol officers and patrol sergeants, assigned to patrol duties, who have been issued a TASER device to wear it on their duty belt and to carry two TASER cartridges on their person at all times, when carrying the device. The City does not have sufficient information regarding the policies and procedures of the other San Mateo County uniformed police agencies to either agree or disagree with that portion of the finding.

**RECOMMEDATIONS**

***Recommendation #1***

*Add a “deployment only” category to all Use of Force Reports and track the effect of this “light up” mode has in assisting [officers] to gain and maintain control over subjects.*

**Response**

The recommendation has been implemented. The Redwood City Police Department has revised its TASER deployment reporting procedures to require officers who deploy a TASER in only the “light up” mode to document this deployment and its effect in an electronic report. However, the tracking of that use is best suited to this electronic report format and not through a “Use of Force” report. This electronic report is subject to supervisor review and approval and includes a searchable parameter in the Records Information Management System (RIMS) report writing system used by RCPD. This searchable parameter will



**Police Department**  
Chris Cesena  
Interim Police Chief



1301 Maple Street  
Redwood City, CA 94063  
Telephone (650) 780-7100  
FAX Line (650) 780-7155

allow for the tracking of "light up" mode only deployments as recommended by the Grand Jury.

***Recommendation #2***

*Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

**Response**

This recommendation has not been implemented, but will be with a target date of August 31, 2011. The Redwood City Police Department has always required on duty full-time uniformed patrol officers and patrol sergeants, assigned to patrol duties, to carry the TASER on their duty belt and to carry two TASER cartridges on their person at all times. The Redwood City Police Department is in the process of purchasing sufficient TASERS to provide each of our reserve officers with an assigned TASER. This purchase should be complete by the target date.

On behalf of the Redwood City Council, I would like to thank the Grand Jury for their interest and work on this report. If there is additional information I can provide, please do not hesitate to contact me or my representatives.

Sincerely,

A handwritten signature in black ink that reads "Chris Cesena".

Chris Cesena  
Interim Police Chief



July 27, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 95063-1655

Dear Judge Bergeron:

This letter serves as the City of San Bruno's formal response to the May 24, 2011 letter from the Superior Court transmitting the San Mateo County Civil Grand Jury Report "TASERS Standardizing to Save Lives and Reduce Injuries." The San Bruno City Council authorized this letter and the attached response at its meeting on July 26, 2011.

The City Council was requested to submit comments within 90 days. For the seven findings, the City Council was to indicate one of the following:

1. City Council agrees with the finding
2. City Council disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

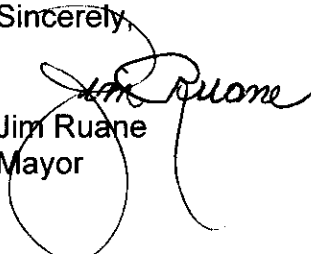
Additionally, for the Grand Jury's recommendations, the City Council was requested to report one of the following actions:

1. The recommendation has been implemented, with a summary regarding the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
3. The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing board of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation thereof.

The members of the San Bruno City Council and the San Bruno Police Department are committed to keeping our community safe. I would like to take this opportunity to commend the San Mateo County Civil Grand Jury for its work on this report on TASERS Standardizing to Save Lives and Reduce Injuries.

We hope that you find our commentary helpful. If any additional information or response would be helpful, please feel free to contact me

Sincerely,

  
Jim Ruane  
Mayor

cc: City Council  
City Manager

**City of San Bruno Response  
to  
2010-11 San Mateo County Civil Grand Jury Report on  
TASERS Standardizing to Save Lives and Reduce Injuries**

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**FINDINGS**

The 2010-11 San Mateo County Civil Grand Jury finds:

**Finding No. 1**

The Sherriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sherriff's Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.

**Response to Finding No. 1**

The City of San Bruno has no independent information on which to agree or disagree with the finding directed to the San Mateo County Sherriff's Department.

**Finding No. 2**

Law enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sherriff are not the same as the other agencies in the county which also use TASERS.

**Response to Finding No. 2**

The City of San Bruno agrees with the finding that many agencies in San Mateo County participate in mutual aid and other joint operations. Officers that participate from the San Bruno Police Department follow City of San Bruno policies. The City of San Bruno has no independent information on which to agree or disagree with the finding related to the San Mateo County Sherriff's Department or other agencies.

**Finding No. 3**

Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.

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### **Response to Finding No. 3**

The City of San Bruno agrees with the finding as it relates to the San Bruno Police Department. Current policies are similar to those provided by Lexipol and the Department is in the process of converting its policies to the Lexipol manual.

### **Finding No. 4**

All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."

### **Response to Finding No. 4**

The City of San Bruno agrees with the finding as it relates to the San Bruno Police Department.

### **Finding No. 5**

No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.

### **Response to Finding No. 5**

The City of San Bruno disagrees with the finding. The San Bruno Police Department requires an officer to document occurrences when a TASER device has been deployed in a warning or "light up" deployment mode, but not activated.

### **Finding No. 6**

No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.

### **Response to Finding No. 6**

The City of San Bruno agrees with the finding as it relates to the San Bruno Police Department.

### **Finding No. 7**

The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.

### **Response to Finding No. 7**

The City of San Bruno has no independent information on which to agree or disagree with the finding directed to the cities of Menlo Pak and East Palo Alto.

## **RECOMMENDATIONS**

The 2010-11 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:

### **Recommendation No. 1**

Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.

### **Response to Recommendation No. 1**

The recommendation has been implemented. The San Bruno Police Department requires an officer to document when a TASER device has been used in a warning or "light up" deployment mode, but not activated.

### **Recommendation No. 2**

Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

### **Response to Recommendation No. 2**

The recommendation requires further analysis and study by the City of San Bruno. The recommendation has been forwarded to the Chief of Police for further analysis. Should the Chief determine that uniformed officers be mandated to have TASER devices available as they are firearms, the policy implementation would occur within six months.



OFFICE OF THE MAYOR

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July 21, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Re: TASERS Standardizing to Save Lives and Reduce Injuries

Dear Civil Grand jury,

The City of San Mateo would like to thank the Civil Grand Jury for investigating this very important and timely topic. We would like to respond to your Findings and Recommendations as follows:

FINDINGS:

The 2011 San Mateo County Civil Grand Jury find:

1. *The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*

Response: This finding appears to pertain only to the Sheriff's Office.

2. *Law enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations, the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS*

Response: This respondent agrees that the San Mateo Police respond to calls outside of our jurisdiction. We do not have firsthand knowledge of other agencies TASER Policy, but our officers would follow our TASER policy in a situation where we respond outside of our jurisdiction.

3. *Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART, and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

Response: This Respondent disagrees. We do not currently use the Lexipol TASER Policy, but will be adopting it in the near future.

4. *All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated,<sup>2</sup> and require medical reevaluation for a subject who has been "tased."*

Response: The Respondent agrees as follows: As to the San Mateo Police Department only: We require training before being issued the TASER; We require annual training with the TASER; We following a Use of Force policy if the TASER is deployed; We require medical evaluation for a subject who has been "tased."

5. *No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

Response: This Respondent Disagrees with this finding. We currently require reporting when a TASER has been deployed, but not used.

6. *No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

Response: Respondent agrees with this finding.

7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and, therefore, TASERS are not available as an alternative to lethal force.*

Response: This finding appears specific to Menlo Park, East Palo Alto and the Sheriff's Office. We are unable to answer on their behalf.

#### RECOMMENDATIONS:

The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:

1. Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.


Response: We have already implemented a "deployment only" reporting requirement for TASERS.

2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

Response: The recommendation will be implemented.

We would again like to thank the Civil Grand Jury for their thoughtful evaluation of this very important safety issue:

Sincerely,



JACK MATTHEWS  
MAYOR



OFFICE OF THE CITY CLERK  
CITY OF SAN MATEO  
330 WEST TWENTIETH AVENUE  
SAN MATEO, CA 94403

Date: July 21, 2011

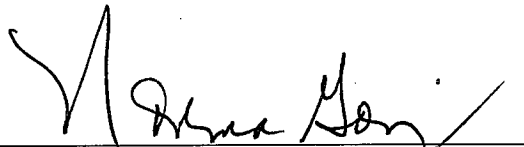
Minute Order No. 129-11

Honorable Joseph E. Bergeron  
Judge of the Superior Court

In the matter of: Response to San Mateo County Grand Jury Report on TASERS  
Standardizing to Save Lives and Reduce Injuries

(Agenda Item 18)

At the meeting of the City Council of the City of San Mateo on July 18, 2011, at which were present Council Members: LIM, LEE, GROTTTE, ROSS and MATTHEWS, and, upon motion of Council Member GROTTTE, seconded by Council Member LIM, duly carried and entered in the minutes, it was ordered to approve the letter responding to the 2011 Grand Jury Report on "Tasers Standardizing to Save Lives and Reduce Injuries" in San Mateo County; and authorize the mayor to sign and send the letter in response to that report.

  
\_\_\_\_\_  
NORMA GOMEZ, CITY CLERK

cc: Police Chief



COUNTY OF SAN MATEO

# Office of the Sheriff

GREG MUNKS  
SHERIFF

CARLOS G. BOLANOS  
UNDERSHERIFF

TRISHA L. SANCHEZ  
ASSISTANT SHERIFF

400 COUNTY CENTER    ◻    REDWOOD CITY    ◻    CALIFORNIA 94063-1662    ◻    TELEPHONE (650) 599-1664    ◻    [www.smcsheriff.com](http://www.smcsheriff.com)

ADDRESS ALL COMMUNICATIONS TO THE SHERIFF

July 13, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Dear Judge Bergeron:

Please find attached the Sheriff's Office response to the Civil Grand Jury report of May 24, 2011, titled "TASERS Standardizing to Save Lives and Reduce Injuries." Thank you for the opportunity to provide this information with the hope that it informs and clarifies the Grand Jury inquiry from the Sheriff's Office perspective.

As always, we look forward to working with the Grand Jury on all matters pertaining to the efficient and effective operation of the Sheriff's Office.

Very truly yours,

Greg Munks  
Sheriff

The San Mateo County Sheriff's Office wishes to thank and acknowledge the San Mateo County Civil Grand Jury for its time and dedicated efforts to this investigation. We will respond only to those particulars pertaining to the Sheriff's Office.

**Response to Findings:**

1. *The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff's Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*

**Response:** The Sheriff's Office does not concur with the finding. Based solely on the information contained in the Grand Jury Report (Appendix A), only 10 of the 20 agencies surveyed had policies the Grand Jury deemed sufficiently similar. Many of the larger agencies, including the Sheriff's Office, California Highway Patrol, Daly City, Redwood City and San Mateo did not. In addition, the Sheriff's Office policy does not require a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of a TASER. It is the Sheriff's Office policy that deputies are to use an appropriate amount of force necessary to address the totality of the circumstances of any given situation. Finally, the Grand Jury writes with respect to the Sheriff's Office policy that, "once engaged in physical contact, TASER use is limited to 'drive stun' mode." Specifically, there is only one reference to "drive stun" mode within the Sheriff's Office policy. This portion of the policy addresses the use of the "drive stun" mode for pain compliance and makes it clear that it is to be used for that purpose only in clearly articulable and exceptional circumstances.

2. *Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS.*

**Response:** The Sheriff's Office agrees partially with the finding. The Sheriff's Office does respond to calls throughout the County. However, as noted above, based solely on Attachment A, only half of the agencies within the County surveyed by the Grand Jury had policies that the Grand Jury deemed standardized.

3. *Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and Taser use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

**Response:** The Sheriff's Office does not concur with this finding based solely on the information contained in the Grand Jury report (Attachment A). Based on attachment A, of the 20 agencies surveyed, ten of the agencies were identified by the Grand Jury as "using Lexipol directly or leveraging their policies." Based on Attachment A, those 10 included 8 cities, a police protection district and BART, but not the CHP. It is of note that one of those eight cities, Half Moon Bay, now receives law enforcement services from the County.

4. *All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated and require medical evaluation for a subject who has been "tased."*

**Response:** The Sheriff's Office agrees with this finding to the extent it relates to the Sheriff's Office.

5. *No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

**Response:** The Sheriff's Office agrees with this finding to the extent it relates to the Sheriff's Office.

6. *No agency requires that an officer who has been issued a TASER device actually keep it on his/ her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

**Response:** The Sheriff's Office agrees with this finding to the extent it relates to the Sheriff's Office.

7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.*

**Response:** This finding does not relate to the Sheriff's Office.

**Response to Recommendations:** 1. *Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the proper Use of Force policy dated April 10, 2008.*

**Response:**

We cannot implement these recommendations for the following reasons: The Sheriff's Office revised the Use of Force policy in 2010 to be consistent with existing legal authority. While the Sheriff's Office made numerous and significant changes to the policy, the Grand Jury report references only a single change: moving the position of the TASER on the Sheriff's Office's force "continuum." The TASER now occupies a position that reflects a determination that it is to be considered non-lethal, but significant force. This change is in direct response to the decision of the Ninth Circuit in a case titled *Bryan v. McPherson*. This decision is binding on the entire federal court district encompassing San Mateo County. The Ninth Circuit specifically concluded in *Bryan* that: "the physiological effects, the high levels of pain, and foreseeable risk of physical injury lead us to conclude that [TASER] are a greater intrusion than other non-lethal methods of force we have confronted... The [TASER] thus intrudes upon the victim's physiological functions and physical integrity in a way that other non-lethal uses of force do not." It is significant that the Grand Jury appears to premise its conclusions on its view that the use of a TASER is less likely to result in injuries than other forms of non-lethal force (Civil Grand Jury Conclusion No. 8), which is contrary to the conclusion of the Ninth Circuit in *Bryan*.

In addition, it is important to recognize that the Sheriff's Office is a very unique and individual law enforcement agency in San Mateo County. The Sheriff's Office duties and responsibilities are much broader in scope than all of the other agencies reviewed by the Grand Jury. While the Sheriff's Office is responsible for general law enforcement duties to the largest population base in the County (which includes all of the unincorporated areas, the Cities of Woodside, Portola Valley, San Carlos, Half Moon Bay, and the San Mateo County Transit District), more than half of the organization is charged with correctional duties. Another significant area of responsibility involves transporting prisoners to and from correctional institutions, courts, and other related facilities (e.g., hospitals). We provide security to all of the Superior Courts and serve civil process and evictions. While Lexipol is a well-respected private vendor in law enforcement support, it only recently began to develop corrections related material, and has yet to establish any history in the fields of transportation, civil process or search and rescue, those associated responsibilities and duties which make the Sheriff's Office much more complex than Grand Jury comparison agencies.

The current General Order regarding the use of force for the Sheriff's Office was modified, in part, to recognize those differences in duty assignments unique to the Sheriff's Office in San Mateo County. Due to the complex nature of our organization, we will continue to develop our own General Orders and Policies with the assistance of the San Mateo County Counsel and by utilizing the California State Sheriff's Association as a place of reference and discussion. So while we may support the "standardization" goal of the Civil Grand Jury in the abstract, we have concluded it is best to maintain a standard consistent with similar organizations that are comprised of comparable and complex duties and responsibilities.

2. *Add a "deployment only" category to all Use of Force Reports and track the effect that the "light up" mode has in assisting deputies to gain and maintain control over subjects.*

**Response:**

The Sheriff's Office cannot accommodate this recommendation. The activation of a TASER (what Grand Jury refers to as the "light up mode") emits both a light beam and a laser aim sight. The "Deployment" of the Taser is the actual firing of the barbs. While the Grand Jury's recommendation may work in day-to-day patrol operations, it is potentially in conflict with potential use of the TASER in correctional settings. All TASERS assigned to the correctional facilities are also outfitted with a camera and microphone. The video camera and microphone are turned on when the TASER is activated ("light up mode"). This "camera" function serves as an excellent data collection tool when the TASER is needed to subdue an inmate. This enhancement is also used to allow the duty sergeant in the facility (only sergeants are authorized to carry TASER in the correctional facilities for security reasons) to quickly capture video of an incident. This kind of "activation," if characterized as a TASER deployment, would skew Sheriff's Office statistics on TASER use. Accordingly, the Sheriff's Office will be exploring modification of its Use of Force Reports, but in a manner that carves out "activations" within the custodial setting. It is of note that this discussion highlights why adoption of standardized policies designed for police organizations may not always be the best solution for the Sheriff's Office owing to the broad scope of services the Sheriff's Office performs.

3. *Require uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

**Response:**

This recommendation has not yet been implemented, but will be implemented in part as funding becomes available. In a large agency like the Sheriff's Office, funding to assign a TASER to over 350 deputy sheriffs and sergeants is a costly venture. The Sheriff's Office recently secured the funding to purchase the necessary TASERS, holsters, cartridges, and training cartridges. Fortunately, we had the foresight to anticipate this move and have already trained every deputy sheriff and sergeant in the use, testing, and documentation related to the operation of a TASER. Once there is a sufficient number of TASERS to make compliance possible, the Sheriff's Office will require that TASERS be worn by all uniformed staff when they are wearing their sidearm. But, deputy sheriffs assigned to corrections or to transport inmates do not wear a sidearm or TASER for safety and security reasons. This, of course, means that even though a deputy sheriff assigned to corrections or moving inmates throughout the court system may be wearing a

duty belt, the TASER will be secured with their firearm. Sergeants assigned to the correctional facilities will continue to be the only personnel authorized to carry the TASER inside the jails.

Once again, please allow me to acknowledge the efforts of the Civil Grand Jury. Over the years the Grand Jury has enlightened us, encouraged contemporary changes to our process, and motivated the Sheriff's Office to move beyond standard practices. Thank you for your work.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Munks', written in a cursive style.

Greg Munks, Sheriff



Office of the Mayor  
Town of Atherton

91 Ashfield Road  
Atherton, California 94027  
Phone: (650) 752-0500  
Fax: (650) 614-1212

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July 25, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

Subject: Response to Grand Jury Report: TASERS

Dear Judge Bergeron:

We are in receipt of the San Mateo County Civil Grand Jury report entitled, "TASERS Standardizing to Save Lives and Reduce Risks." Pursuant to your May 24, 2011 request for response, the Town of Atherton City Council held a public meeting on July 20, 2011 and approved the following responses.

**Findings:**

Findings numbers 1-5 and 7 relate to law enforcement agencies other than the Town of Atherton. Of the two remaining findings that specifically apply to our police agency, our responses are as follows:

- "5. No agency requires reporting when a TASER device has been used in the light-up mode, but no activated."

Response:

Disagree wholly – Since our officers began carrying TASERS in 2004, every deployment ("light-up mode") as well as activation has been documented through entries in our Department's use of force reporting system. Details of every deployment are documented in a police report and a TASER Deployment form by the involved officer, which is then approved by his or her supervisor. The approved documents are then forwarded to the Lieutenant and Chief of Police who review and evaluate the event.

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- “6. No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in a patrol car for those officers on patrol duty.”

Response:

Agree – Our agency does not mandate that officers carry their issued TASERS on their gun belts. We permit our officers to keep their TASERS in their patrol cars much the same as with our patrol rifles and our TASER rifle for ready access if/when necessary. One additional consideration for not mandating that officers carry their TASERS on their gun belts is that officers may not always have sufficient room on their duty belts to literally or reasonably carry them due to their size and bulk.

**Recommendations:**

The first seven recommendations made by the Grand Jury are directed to the San Mateo County Sheriff's Office (1-3), and the Menlo Park and East Palo Alto City Councils (1-4). Of the remaining two recommendations directed at the City Councils of the remaining cities in the county, our responses are as follows:

- “1. Add a “deployment only” category to all Use of Force Reports and track the effect that this ‘light-up’ mode has in assisting deputies to gain and maintain control over subjects.”

Response:

The recommendation has been implemented and in existence since the issuance of TASERS to Atherton Police Officers in 2004. Every deployment (“light-up mode”) as well as activation has been documented through entries in our department's use of force reporting system. Details of every deployment are documented in a police report and a TASER Deployment form by the involved officer, which is then approved by his or her supervisor. The approved documents are then forwarded to the Lieutenant and Chief of Police who review and evaluate the event.

- “2. Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.”

Response:

The recommendation will not be implemented. Even though all uniformed Atherton Police Officers do carry their TASERS on their gun belts, there may be occasions or unusual situations in the future where officers may not be able to find room on their belts to carry their TASERS on their persons. Consequently, we have permitted officers to carry their TASERS in their patrol cars in a manner that provides immediate access if and

when circumstances permit, much as is the case with our patrol rifles and our TASER rifle.

If you have any questions please feel free to contact the Town of Atherton.

Thank you.

Sincerely,

*Jim Dobbie.*

Jim Dobbie

Mayor

**TOWN OF ATHERTON**



# HILLSBOROUGH POLICE DEPARTMENT

1600 Floribunda Avenue  
Hillsborough  
California  
94010

**Matthew O'Connor**  
**Chief of Police**

Hon. Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2nd Floor  
Redwood City, CA. 94063-1655

August 09, 2011

Dear Judge Bergeron:

On behalf of the Hillsborough City Council, the Hillsborough Police Department is responding to the Grand Jury's final report entitled, "TASERS Standardizing to Save Lives and Reduce Injuries". Pursuant to your May 24, 2011 request, the Hillsborough City Council held a public meeting on Monday August 08, 2011 and approved this response. The specific responses to the Grand Jury's findings and recommendations are as follows:

## Findings

- 1. The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff's Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER device unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*

Response: This finding was directed towards the San Mateo County Sheriff's Office. Respondent cannot speak to other agencies' policies.

- 2. Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and*

*Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the County, which also use TASERS.*

Response: Respondent agrees that many agencies participate in joint operations. Officers that participate from Hillsborough are held to the Hillsborough Police Department policies. Respondent cannot speak to other agencies' policies.

*1. Of the 18 uniformed police agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the CHP use Lexipol, or have policies that are similar, if not identical, to Lexipol.*

Response: Respondent agrees with the finding for the Hillsborough Police Department.

*2. All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "Use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."*

Response: Respondent agrees with the finding for the Hillsborough Police Department.

*3. No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*

Response: Respondent disagrees with this finding. The Hillsborough Police Department through the San Mateo County Police Chiefs & Sheriff Association is aware that a number of San Mateo County agencies require statistical reporting when a TASER is deployed but not fired.

*4. No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*

Response: Respondent agrees with the finding for the Hillsborough Police Department. Nearly all Hillsborough Officers carry the TASER, however the mandatory carrying is not referenced in the policy.

5. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to their officers and therefore TASERS are not available as an alternative to lethal force.*

Response: This finding was directed towards the cities of Menlo Park and East Palo Alto.

### **Recommendations**

*The 2011 San Mateo County Civil Grand Jury recommends that the City Councils of all cities other than Menlo Park and East Palo Alto:*

1. *Add a "deployment only" category to all Use of Force Reports and track the effect that this "light up" mode has in assisting deputies to gain and maintain control over subjects.*

Response: The Hillsborough Police Department agrees with this recommendation and is in the process of implementing a "deployment only" tracking category so that we can statistically retrieve the instances that officers deploy the TASER device to maintain control over hostile or combative subjects.

2. *Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

Response: While we appreciate the Grand Jury's support for the use of ECD's, the Hillsborough Police Department disagrees with this recommendation and will not be requiring its officers to have an ECD available to the same extent of a firearm.

Police officers carry certain minimal gear as needed for officer safety purposes and are limited by a variety of factors including the physical ability to carry issued items. All uniformed officers carry a firearm, ammunition, handcuffs, and a radio. Most officers carry a flashlight and impact weapon as well as chemical spray. Some officers also elect to carry an ECD. All of these items combined, including the duty belt and body armor, carry a considerable amount of weight the officer must bear. Because the physique of patrol officers vary in height, weight, waist size, etc, it becomes difficult to carry many or all of these items.

Requiring an officer to carry an ECD in many cases would require that same officer to give up another item on his/her belt with which he/she may be more comfortable and proficient with. Although most uniformed officers at the Hillsborough Police Department wear the TASER device, it is by practice that our officers carry at least two of the less lethal options that are issued. The less lethal options that are not carried on the officer's person are kept secured in the patrol car during patrol duty.

We appreciate the Grand Jury's time and effort into compiling the report on "TASERS Standardizing to Save Lives and Reduce Injuries".

Sincerely,

A handwritten signature in blue ink, appearing to read "M O'Connor". The signature is fluid and cursive, with the first name "Matthew" and last name "O'Connor" clearly distinguishable.

Matthew O'Connor  
Chief of Police

# TOWN of PORTOLA VALLEY



## COUNCIL:

Ted Driscoll - Mayor  
Maryann Moise Derwin - Vice Mayor  
F. John Richards  
Steve Toben  
Ann Wengert

August 2, 2011

## TOWN OFFICERS:

Angela Howard  
Town Manager  
Sandy Sloan  
Town Attorney

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center  
Redwood City, CA 94063-1655

**Re: Response to 2010–2011 Grand Jury Report  
TASERS Standardizing to Save Lives and Reduce Injuries**

Dear Honorable Bergeron:

The Town Council for the Town of Portola Valley ("Town") has reviewed the recommendations in the 2010–2011 Grand Jury Report that affect the Town and approved the following responses at the public meeting on July 27, 2011:

### **TASERS Standardizing to Save Lives and Reduce Injuries**

#### Recommendation No. 1

Add a "deployment" only category to all Use of Force Reports and track the effect that this "lights up" mode has in assisting deputies to gain and maintain control over subjects.

#### Response No. 1

The Town contracts with the San Mateo County Sheriff's Department for law enforcement services. Therefore, the Town is not in a position to implement this recommendation. The Town will cooperate with the Sheriff's Department, as necessary, to implement the recommendation.

#### Recommendation No. 2

Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.

#### Response No. 2

The Town contracts with the San Mateo County Sheriff's Department for law enforcement services. Therefore, the Town is not in a position to implement this

Honorable Joseph E. Bergeron  
Page 2

recommendation. The Town will cooperate with the Sheriff's Department, as necessary, to implement the recommendation.

The Town thanks the Grand Jury for bringing this complex issue to our attention in an informative and thorough manner. Please let me know if you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Driscoll", with a stylized flourish at the end.

Ted Driscoll  
Mayor

cc: Town Council  
Town Manager  
Town Attorney





CITY COUNCIL 2011

KEVIN MULLIN, MAYOR  
RICHARD A. GARBARINO, VICE MAYOR  
MARK ADDIEGO, COUNCILMEMBER  
PEDRO GONZALEZ, COUNCILMEMBER  
KARYL MATSUMOTO, COUNCILMEMBER

BARRY M. NAGEL, CITY MANAGER

OFFICE OF THE MAYOR

August 5, 2011

Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

RE: Response to the 2010-2011 Grand Jury Report on TASERS Standardizing to Save Lives and Reduce Injuries in San Mateo County

Dear Judge Bergeron:

We are in receipt of the Grand Jury's final report titled, "***TASERS Standardizing to Save Lives and Reduce Injuries.***" Pursuant to your May 24, 2011 request for response; the South San Francisco City Council held a public meeting on July 27, 2011 and approved this response. The City of South San Francisco responds to the Grand Jury's findings, conclusions and recommendations as follows:

**Findings:**

This agency agrees that each of the 2011 San Mateo County Civil Grand Jury's findings accurately represent the current practices in San Mateo County.

- 1. The Sheriff's Department has a Use of Force policy that is different than the standardized policies of the other uniformed law enforcement agencies in San Mateo County. The Sheriff Department's policy requires a deputy to make physical contact with subjects who are violent or threatening prior to the deployment and/or activation of the TASER devices unless the deputy can identify and articulate a reason to move up the ladder to the TASER device use. Once engaged in physical contact, TASER use is limited to the "drive stun" mode.*
- 2. Law Enforcement agencies often respond to calls outside their jurisdiction for mutual aid and joint task force operations, such as the San Mateo County Gang Task Force and Drug Task Force. In these joint operations the protocols for Taser use by the Sheriff are not the same as the other agencies in the county which also use TASERS.*

3. *Of the 18 uniformed agencies using TASER devices in San Mateo County that the Grand Jury reviewed, the primary provider of Use of Force policies and TASER use policies is Lexipol, LLC. Fifteen cities, BART and the California Highway Patrol use Lexipol, or have policies that are similar, if not identical, to Lexipol.*
4. *All agencies using TASER devices require training prior to the issuance of a TASER to individual officers; require annual or more frequent retraining; require a "use of Force Report" when a TASER device is activated; and require medical evaluation for a subject who has been "tased."*
5. *No agency requires reporting when a TASER device has been used in the "light up" deployment mode, but not activated.*
6. *No agency requires that an officer who has been issued a TASER device actually keep it on his/her person. The TASER device may be kept secured in the patrol car for those officers on patrol duty.*
7. *The cities of Menlo Park and East Palo Alto are the only San Mateo County police agencies that do not supply TASER devices to the officers and therefore TASERS are not available as an alternative to lethal force.*

**Conclusions:**

This agency agrees with each of the 2011 San Mateo County Civil Grand Jury's conclusions:

1. *TASER devices can be a use of force alternative to the lethal force of a firearm.*
2. *With the exception of the Sheriff's Office, of those agencies using TASER devices, the use of force deployment and activation policies are sufficiently similar to consider them to be standardized.*
3. *Without standardized use of force policies across San Mateo County with respect to activation and deployment of TASER devices, police officers and Sheriff's deputies do not have a consistent approach in responding to potential use of force events. In addition, a lack of common policies (and training) could set inconsistent expectations with the public and law enforcement officers alike as to when and how TASER devices will be deployed and activated.*
4. *Lexipol, LLC provides the most-used set of standards for Use of Force polices in San Mateo County.*

5. *All agencies that are using TASER devices have adequate training, supervision, reporting, review, and medical evaluation of the subject when TASER devices are used.*
6. *TASER devices that are deployed, but not activated, are not included in Use of Force reports. This understates the effectiveness of Tasers because “lighting up” a subject with the laser light is often sufficient for the officer to gain the subject’s immediate compliance. The absence of this reporting can result in future decision-makers not having sufficient information about the utility of carrying and deploying this device.*
7. *An officer who is trained in the use of TASER device cannot make use of the device if he or she is not carrying it when it is needed.*
8. *The use of a TASER device, before being required to physically subdue a subject, would result in fewer injuries to both officers and subjects. When an officer goes “hands on” with a subject, in the form of the use of a baton, flashlight prod, or other device that can cause physical injury, it places the officer and the subject into a position where physical injury is more likely.*

**Recommendations for the Sheriff:**

1. *Adopt either the Lexipol standard policies and decision toolbox approach, establish similar policies, or reestablish the prior Use of Force policy dated April 10, 2008.*
2. *Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” modes has in assisting deputies to gain and maintain control over subjects.*
3. *Required uniformed deputies to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

It is not our purview to state what other agencies should implement.

**Recommendations for the City Councils of the cities of Menlo Park and East Palo Alto:**

1. *Implement the use of TASER devices for their uniformed police officers.*
2. *Adopt Use of Force policies that are consistent with other San Mateo County cities.*
3. *Implement policies that require training, supervision, reporting, multi-level supervisory review, and medical evaluation of subjects when TASER devices are used as well as “deployment only” tracking for in-field incidents.*

4. *Required uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

It is not our purview to state what other agencies should implement.

**Recommendations for the City Councils of the cities of all cities other than Menlo Park and East Palo Alto:**

1. *Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” mode has in assisting deputies to gain and maintain control over subjects.*
2. *Required uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*

Recommendations for the City Councils of all cities other Menlo Park and East Palo Alto. The City of South San Francisco will implement the recommendations; however it is not our purview to state what other agencies should implement.

**Recommendations for the South San Francisco Police Department:**

As to each of the 2011 San Mateo Civil Grand Jury recommendations for this agency:

- *Add a “deployment only” category to all Use of Force Reports and track the effect that this “light up” mode has in assisting deputies to gain and maintain control over subjects.*
- This agency agrees with the 2011 San Mateo Civil Grand Jury’s recommendation. As such, our agency has amended the manner in which we document the usage of our TASER’s so the usage can be properly tracked. Prior to the Grand Jury’s recommendation, our agency only documented the use of the TASER by categorizing the use as “Use of Force/TASER.” As our agency agrees with the Grand Jury’s recommendation, our agency has modified our documentation as follows:
  - Should an Officer use his or her TASER by firing the probes, the Officer will select the option “Use of Force/TASER probes deployed.”
  - Should an Officer use his or her TASER in a “drive stun” mode to induce pain compliance, the Officer will select the option “Use of Force/TASER probes drive stun.”

- Should an Officer discharge his or her TASER by displaying (aiming) the TASER at someone while giving a verbal warning, the Officer will select the option “Use of Force/TASER displayed.”
- *Require uniformed officers to have TASER devices available to the same extent that the officers are required to have a firearm available for use.*
  - Our agency has already implanted this recommendation as we continue to provide each uniformed officer with a TASER device. Each uniformed officer is also required the TASER device on their person to the same extent that they are required to carry their firearm.

These responses were reviewed and approved by the governing board of the City of South San Francisco at a public meeting on Wednesday, July 27, 2011.

Sincerely,



Kevin Mullin, Mayor  
City of South San Francisco



The Town of  
Woodside

June 30, 2011

The Honorable Joseph E. Bergeron  
Judge of the Superior Court  
Hall of Justice  
400 County Center, 2<sup>nd</sup> Floor  
Redwood City, CA 94063-1655

**RE: 2010-11 GRAND JURY REPORT - TASERS – STANDARDIZING TO SAVE  
LIVES AND REDUCE INJURIES**

Dear Judge Bergeron:

The Town Council of the Town of Woodside reviewed the referenced Grand Jury Report during its meeting of June 28, 2011. On behalf of the Town Council, I would like to offer the following.

The Town of Woodside does not have its own police force. It receives its police services from the San Mateo County Sheriff's Office and has no direct say in the practices and policies that the Sheriff employs regarding the use of TASERS by his deputies and other uniformed officers. Thus the Grand Jury's Report, including its findings and recommendations, does not currently apply to the Town.

P.O. Box 620005

2955 Woodside Road  
Woodside, CA 94062

The Town greatly appreciates the efforts of the Grand Jury. On behalf of the Town Council, I would like to extend our thanks for the opportunity to review the work of the 2010-11 Grand Jury.

Please do not hesitate to call our Town Manager, Susan George, at (650) 851-6790, should you require any further information.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ron Romines', is written over a horizontal line.

Ron Romines  
Mayor

650-851-6790

Fax: 650-851-2195

townhall@woodsidetown.org