



February 10, 2019

San Mateo County Board of Supervisors
300 County Center Drive
Redwood City CA 94063

Dave Pine, District 1
Carole Groom, President, District 2
Don Horsley, District 3
Warren Slocum, Vice-President, District 4
David Canepa, District 5

Email: BoardFeedback@smc.gov

Dear President Groom and Honorable Supervisors,

Thank you for the opportunity to provide feedback on the County's use of tasers and for holding this forum to discuss the use of the weapon after the tragic death of Chinedu Okobi. Since we regretfully will not be able to join you at Monday's night forum, we hope these written comments will be a useful contribution to the discussion.

Oakland Privacy is a regional citizen's coalition that works regionally to defend the right to privacy and enhance public transparency and oversight regarding the use of surveillance techniques and equipment. We were instrumental in the creation of the first standing municipal citizens' privacy advisory commission in the City of Oakland, and we have engaged in privacy enhancing legislative efforts with several Northern California cities and regional entities. As experts on municipal privacy reform, we have written use policies and impact reports for a variety of surveillance technologies, conducted research and investigations, and developed frameworks for the implementation of equipment with respect for civil rights, privacy protections and community control.

While tasers in and of themselves are not surveillance equipment, we have long taken an interest in their use due to our engagement with law enforcement policy and attempts to develop protocols that protect civil rights and allow for meaningful community control by impacted populations on public safety procedures. As with much of the Bay Area, we have concerns regarding civilian deaths at the hands of law enforcement and the high concentrations of such deaths in the Black and Brown communities of the Bay Area. Chinedu Okobi's death was yet another example of a fatality that should not have happened and should be prevented from happening again to someone else.

Generally, the use of tasers is presented as a less-lethal or non-lethal alternative to the use of gun weapons. This justification is flawed in two specific ways.

- ◆ Firstly, the premise that tasers are generally or more often than not utilized instead of or as an alternative to firing shots from a gun has proven to be inaccurate. Instead tasers are generally utilized as a replacement for non-violent or de-escalating actions in situations when gunfire would be completely inappropriate and thus function as a force multiplier, increasing the use of force and potentially an outcome of injury or death from an encounter.
- ◆ Secondly, the characterization of tasers as benign instruments has been proven incorrect given the number of incidents resulting in death after being tased, and the vulnerability of individuals with cardiac histories (which is virtually impossible to establish prior to the use of a taser) to death by what is called “excited delirium” following the use of a taser.

Because of these two discrepancies between arguments for the use of tasers and the actual outcomes following use, we are opponents of unregulated taser use and have grave concerns about the use of the equipment at all. We believe that after reviewing some of the research material, that you will share those concerns.

The most compelling argument for the use of tasers is as an alternative to the use of firearms. Who doesn't want to reduce the use of guns in our society, which is the most armed developed country in the world? If tasers were, in fact, used as a firearm replacement by law enforcement agencies, most of us would embrace their use as a concrete harm reduction. The wholesale introduction of tasers into law enforcement use was largely predicated on this argument and was broadly embraced with tasers in use in at least 15,000 law enforcement agencies across the country.¹

Unfortunately, studies have shown that having tasers available as an option does not reduce the use of firearms by officers or reduce casualties from use of force encounters between law enforcement and members of the community. A University of Chicago study released in January of 2018 that studied over 39,000 use of force incidents at the Chicago Police Department found no evidence that the adoption of tasers reduces the use of firearms by law enforcement agencies.² An earlier study by UCSF cardiologist Zian Tseng looked at sudden death rates at 50 California law enforcement agencies and found a large increase in sudden death incidents after the introduction of tasers and a slight *increase*, not a *decrease*, in the amount of officer-involved shootings, which the physician attributed to taser use escalating encounters that begin non-violently.³

The particulars of the Okobi fatal encounter are in line with the above research findings. Okobi was stopped by San Mateo sheriff county deputies while unarmed and walking down the street. It may be true that he was walking “erratically”, and it may also be true that he suffered from some degree of mental illness, but neither erratic walking nor illness are a capital crime requiring execution by gunfire. In other words, the use of tasers was not a substitute for the use of a firearm, but caused the violent escalation of an incident that did not warrant the use of lethal force and yet ended up in an officer-caused death.

So if the real world practice of taser use is preponderantly to introduce force into police-citizen encounters where firearm use would be prohibited or inappropriate, then use of tasers can be said to be an elevator of violent encounters and to potentially worsen violent encounters, rather than prevent or alleviate them.

The following material is written by Chinedu's sister, Ebele Okobi, after watching the video of her brother's death at the hands of the San Mateo County Sheriff's Department. It is a story of a violent encounter that did not need to be violent and should never have resulted in not only death, but in the use of any force whatsoever.

¹ <https://journalistsresource.org/studies/government/criminal-justice/u-s-department-of-justice-police-use-of-force-tasers-and-other-less-lethal-weapons/>

² <https://www.cnbc.com/2018/01/18/theres-no-evidence-tasers-reduce-police-use-of-firearms-new-study-shows.html>

³ <https://qz.com/559889/tasers-may-not-kill-like-real-guns-but-theyre-not-a-cure-for-police-brutality/>

Ebele Okobi wrote that the videos showed that her brother had been calmly walking on the sidewalk, carrying bags, when a deputy drove up alongside him and asked what he was doing, telling Okobi he needed to question him. Her brother then "walks to the intersection, looks out for traffic, and crosses the street," her Facebook post says. She said the deputy calls for backup and a second police car cuts off Okobi, who drops his bags and puts his hands in the air. "They grab him, rip off his jacket. He tries to run, asking, 'What's wrong? What did I do?'" Ebele Okobi wrote. She said her brother was then tased and fell to the ground while keeping his hands raised.

"He is not fighting, just crying in pain. I will never forget the visual of his hands, waving above his head, open, begging. He begs them to take the Taser prongs off of him. He tries to pull them off himself," Ebele Okobi's post reads.

"When there is a break in the torture, my brother staggers to his knees, tries to run away. A deputy pulls out his baton, strikes, they tase him again. My brother goes down. At some point, my brother tries to run across the street, they chase him, they tase him, they pepper spray him, they jump on top of him while he is prone," she writes.

Eventually, the footage shows someone shouting "I see blood," she writes. "Then it's over." No CPR or other lifesaving measures are administered, she writes.⁴

In this whole saga, there is no originating incident or proximate cause for the use of force, much less lethal force. At best, there is an individual stopped and questioned for no discernible reason exhibiting uncooperative behavior. There is no reasonable suspicion of any crime being committed, no probable cause of any crime being committed, and no tangible reason for loss of life, barring perhaps fear of the police.

Axon spokesperson Steve Tuttle is quoted in 2018 as responding to the University of Chicago study in the following manner: "We *did not* provide Tasers to *replace firearms* and if you ask any expert in the field, they'll tell you that you don't bring a knife to a gun fight."⁵

It is similarly true that you do not bring a knife to a conversation and it is deeply questionable that an inquiry regarding perceived erratic walking should result in death by electrocution.

If the use of tasers within the Sheriff's department you oversee is to inflict physical injury on individuals stopped with no proximate cause who are frightened, then a moratorium on taser use is in order until clearer and more humane policies are developed, implemented and enforced.

The characterization of tasers as non-lethal instruments has also failed to stand up to the test of real-life use. Both the Washington Post and Amnesty International have documented loss of life by Taser at least once a week for over a decade, totaling more than 1000 deaths in the past 10 years. In the 2017 documentary film on tasers *Killing them Safely*, cardiac electrophysiologist Douglas Zipes argues that the electrical pulses from tasers can interfere with normal heart rates and kill within 4-6 minutes.⁶ This is especially the case when certain factors are also present including cardiac vulnerability, use of drugs, elevated heartbeat due to adrenalin and fear, or pregnancy. And officers do not know the medical history of an individual prior to tasing them, which creates a situation where a decision to use "less-lethal" force may turn out to be nothing of the kind due to ignorance of other factors present. When presented with these statistics during the making of *Killing Them Safely*, Axon CEO Rick Smith told documentary producers: "In every single case these people would have died anyway."⁷

4 <https://www.cnn.com/2018/11/19/us/chinedu-okobi-police-taser-video/index.html>

5 <https://www.cnn.com/2018/01/18/theres-no-evidence-tasers-reduce-police-use-of-firearms-new-study-shows.html>

6 <https://qz.com/559889/tasers-may-not-kill-like-real-guns-but-theyre-not-a-cure-for-police-brutality/>

7 Ibid.

We join with Chinedu Okobi's friends and family and progressive groups throughout the Peninsula to demand:

- ◆ An independent investigation into Chinedu Okobi's death
- ◆ A moratorium on the use of tasers by the San Mateo County Sheriff's Office until that independent investigation is completed and use of force policies regarding taser use can be clarified in order to prevent future incidents of death-by-taser of unarmed San Mateo County residents.

Thank you again for holding this forum.

Sincerely,

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