

Law Enforcement Advisory Board Meeting
DPS Headquarters, 3rd Floor Conference Room, Waterbury VT.
Minutes of Meeting
February 19, 2015

- Chairman Rick Gauthier called the meeting to order at 1:04 pm with the following present: Nelson Tift, Vermont Constable Association; Glen Button, DMV; Jennifer Morrison, VT Chiefs/Colchester PD (via conference call); John Treadwell, Attorney General's Office (via conference call); Karen Horn, VT League of Cities and Towns (via conference call); Michael Major, VPA/Chittenden County Sheriffs, and Suellen Royea, Criminal Justice Services Admin. It was noted that a quorum was present. Paco Aumand, DPS Deputy Commissioner; James Leene, U. S. Attorney's Office; and Tom L'Esperance, VSP Deputy Commissioner joined the meeting at 1:10 pm.
- **Review of Minutes from December 18, 2014 Meeting:** Nelson Tift made a motion to accept the minutes. The motion was seconded by Michael Major. Motion carried.
- **Old Business:**

Business Plan for 2015: Rick Gauthier reviewed that the only carry over from the 2014 Annual Report was regarding the need to further study body cameras, which the Senate Government Operations Committee seemed good with. Rick asked for topic suggestions for the Board to review:

1. Jen Morrison suggested reviewing random drug testing of employees. She explained some of her concerns with the current labor law. Tom L'Esperance noted that VSP tried to change the law a couple of years ago and was in agreement with Jen.
2. Paco Aumand thought getting the law changed may be difficult unless it is connected with something else such as legalization of marijuana. There was some discussion around the legalization of marijuana bill and how/what the Law Enforcement Advisory Board may weigh in on. It was noted that the Legislature will decide the public policy issue. At some point the Law Enforcement Advisory Board may be asked about law enforcement issues, but the Board does not want to be in opposition of any law enforcement group. There was agreement for the Board to include this topic in this year's Business Plan. A question was asked about Colorado's program and suggestions. Tom L'Esperance noted that Colorado suggested that this should not be something Vermont rushes into. Paco Aumand added that Colorado's suggestion is to legislate marijuana; debate up front and implement provisions wanted in the state. Tom L'Esperance noted the medical marijuana program in Vermont runs well.
3. Tom L'Esperance suggested that asset forfeiture may be something we want to watch. He explained that there is an asset forfeiture program, but there is bill to change it. Jim

Leene noted he thought their office is willing to continue the program if there is good case law and their office will be looking at cases with more scrutiny.

4. Jim Leene suggested reviewing human trafficking as it might be a bigger problem than what people think. Jen Morrison added to roll it into hotel/motel interdiction work. Rick Gauthier asked about the Human Trafficking Task Force. Jim noted that the task force is geared around helping the victims. He did like Jen's suggestion and thought it may also tie into the asset forfeiture.
5. Paco Aumand suggested reviewing LPR best practices standards and record retention. He noted that NLETS is standing up a national pointer system for obtaining LPR data and are looking for states that have a central database. John Treadwell added that Senate Judiciary is reviewing the bill tomorrow. There was some review about retention periods. John Treadwell noted there are other issues with the bill; medical records and drones are also included. It was thought that the LPR portion will result in some legislation and the other pieces may become a broader study of privacy issues.
6. John Treadwell noted in the minutes of the last meeting an officer involved shooting study was mentioned. Jen Morrison noted the Chittenden County Chiefs met and are in support of the study. Paco Aumand gave an overview of his thoughts; DPS would ask the Crime Research Group to put together a report like what New York City Police Department did on all their officer involved shootings. Paco Aumand was asked to email a link to the NYCPD report to the Board members. John Treadwell inquired if there would be any additional public safety consequences and suggested it might be something to think about.

It was determined that the above topics would create a full agenda. Paco explained the process of adopting the Business Plan (document the topics, bring it back to the group, and prioritize the topics). Rick Gauthier added that the CEW policy has already come under fire and there will be some guests at the next meeting to share their thoughts. He gave an update on some of the changes being requested; the physical effects of Tasers. This is a policy we agreed to review each year.

- **New Business:** Paco Aumand noted that he has been watching a lot of the emails going back and forth about DPS and bills in the Legislature; H.130, the agency bill; S.31 the gun issue bill, DPS consolidated dispatch and moving E-911 to DPS. He noted that many of the Chiefs are concerned that there is a lack of a process for them to be involved in the process/asked by the Legislature about what might be of interest to them. He wanted to make sure that the LEAB is or can be a vehicle to get law enforcement concerns before the governor or legislature. Jen Morrison suggested the LEAB to hold a meeting to review some of the concerns about these changes. There was some discussion about the consolidation and past studies around the creation of a Public Safety Agency. Tom L'Esperance expressed that he has worked hard over

the years to build relationships and apologized for the speed of some of the bills. He explained that from a business perspective, the consolidation is a good idea. The Dispatch consolidation difference from previous restructuring is that people will lose their jobs. There are still moving parts. It was thought that there should be a discussion held with the stakeholders, possibly after the Commissioner meets with the different groups.

- Michael Major /Karen Horn made a motion to adjourn. Motion was seconded by Tom L'Esperance. Meeting adjourned at 2:07 pm.

Law Enforcement Advisory Board Meeting
DPS Headquarters, 3rd Floor Conference Room, Waterbury VT
Minutes of Meeting
April 16, 2015

- Vice Chairman Paco Aumand called the meeting to order at 1:04 pm with the following present: John Treadwell, Attorney General's Office (via conference call); Michael Major, VPA/Chittenden County Sheriffs; Roger Marcoux (via Conference Call); James Leene, U. S. Attorney's Office; and Tom L'Esperance, VSP were present. Also present was Col. Jason Bachelor (non-voting member).
- **Review of Minutes from February 19, 2015 Meeting:** The review of the minutes of the previous meeting did not occur and must be done at the next meeting.
- **Old Business:**

Business Plan for 2015: The business plan suggestions from the last meeting were discussed and it was agreed that the following items would be listed for inclusion in the 2015 action plan. It was also decided that information sharing should be included.

1. Review human trafficking. This should be put on the next agenda and we should invite people to present on the problem.
 2. Information sharing. We should establish a working group as presented in the attach proposal (Appendix A) and have the working group submit a report for inclusion in the LEAB annual report.
 3. Drug testing of employees.
 4. Asset forfeiture.
 5. Officer involved shooting study. This should be worked on but it was agreed that a review of the work done by the NYPD needs to be reviewed first.
 6. A review of LPR best practices standards and record retention.
- **New Business:** Paco Aumand outlined a proposal to form a working group to study information sharing. The working group, in part, would look at the sharing of information between the following entities:
 - **Law enforcement to law enforcement;**
 - **Law enforcement to other justice agencies;**
 - **Law enforcement with researchers; and**
 - **Law enforcement with the public.**

The outcome of this working group would be a report back to the LEAB for inclusion in the annual report that would detail the obstacles to information sharing and the policy issues associated with removing the obstacles. Karen Gennette also spoke about the role of the Crime

Research group in facilitating this working group. She emphasized the need to establish MOU's with law enforcement agencies to provide quick and easy access to information. It was felt that perhaps sample or standardized MOU's could be agreed upon by the working group. The working group proposal is found in Appendix A of these minutes. Col. Tom L'Esperance made a motion to accept the proposal and Mike Major seconded the motion. The motion passed.

- Jim Leene made a motion to adjourn. Motion was seconded by Mike Major. Meeting adjourned at 2:07 pm.

Appendix A
Law Enforcement Information Sharing

Statement of the Problem

1. The major obstacles in Vermont to conducting evaluation research to support evidence-based law enforcement programming include the disparate data collection efforts and data management systems used by law enforcement. The methodological challenge for criminal justice researchers in Vermont is the accessibility of valid and timely statewide crime data despite the fact that there are several automated police records/data systems in the state. All of these systems and analytical tools have serious limitations which negate the ability of criminal justice researchers to collect and analyze statewide crime data.
2. Not only does every justice and public safety organization require information from other agencies to do their jobs more effectively but there is a rise in the number of other State departments and community agencies needing law enforcement information for a variety of reasons. There are data-sharing and governance issues that need to be addressed in order to create a system that allows researchers and others to access statewide crime data.
3. The VIBRS and Valcour Advisory Boards act as the conduits for requests for law enforcement data. In many instances, for statewide data, researchers need releases from all 70 law enforcement agencies granting permission which is a cumbersome and lengthy process. This proposal seeks to engage justice partners in a collaborative and consensus building process that produces standardized policies and protocols for law enforcement information sharing.

Request

1. That the Law Enforcement Advisory Board develops and adopts policies and protocols for sharing law enforcement information for the purpose of providing data to policy makers, researchers, and justice partners taking into account the balance between the need for information and the privacy and constitutional rights of individuals.
2. That the Law Enforcement Advisory Board:
 - (A) Examine the state and federal laws and statutes and other information that governs the release of law enforcement data;
 - (B) Determine: 1) what data contained in the law enforcement databases are relevant and necessary for ongoing crime and criminal justice research; 2) what data can be released for research purposes; 3) who will be authorized to access the data; 4) how will data be extracted and formatted for use by researchers; and 5) how will datasets be disseminated;

- (C) For this process, the Law Enforcement Advisory Board shall be staffed by Crime Research Group. The costs associated with staffing the work group shall be underwritten through the Bureau of Justice Statistics SJS 2015 Core Capacity Grant or through other existing Crime Research Group funding; and
- (D) The final product shall be the development of written policies and protocols for law enforcement information sharing taking into account the appropriate collection, use, and dissemination of law enforcement data.

CEW Model Policy

LEAB's Proposed Policy

Use of Conducted Electrical Weapons

INTRODUCTION AND PURPOSE

The purpose of this policy is to effectuate 20 V.S.A. § 2367 and establish statewide training and policies governing law enforcement agencies' use of Conducted Electrical Weapons ("CEWs").

When properly used, CEWs can be an effective and efficient law enforcement tool that can reduce injuries to suspects, bystanders, and law enforcement officers. However, a recent review of existing CEW policies from around Vermont indicates that law enforcement agencies have different policies regulating when and how CEWs may be used. In addition, the frequency with which law enforcement agencies must work together and community concern over the potential dangers of CEWs support the need for a consistent and safe approach to the use of CEWs as less-lethal law enforcement tools.

This policy sets forth recommended minimum standards for training officers on using CEWs, the circumstances under which officers should use CEWs, and the procedures officers should follow after using CEWs. Although this policy contains provisions and principles that may apply to several different types of force, it focuses on CEWs and does not specifically address all other lawful types of force law enforcement officers may use in a given situation. This CEW policy is designed to supplement rather than replace any existing use of force policies. It is expected that law enforcement agencies incorporate the provisions of this policy into their existing use of force policies.

Finally, because this policy attempts to apply universally to all law enforcement agencies regardless of their size, it is not possible to fully detail the level of supervisory review of use of force reports completed after CEW deployment. Agencies should refine these provisions of this policy according to their size, existing policies, and the needs of the communities they serve.

POLICY 1. Definitions.

1.1. Conducted Electrical Weapon ("CEW"): A less-lethal law enforcement device that delivers an electrical pulse to the body of a subject in either a "drive stun" or "probe" mode. When used in "probe mode" the device discharges two probes that remain connected to the CEW via wire and which upon impact deliver an electrical pulse designed to temporarily incapacitate that subject. When used in "drive stun" mode, the device makes direct contact with and delivers an electrical pulse to the body of a subject, but does not result in the same temporary incapacitation of a subject as when used in "probe" mode. CEWs include "Electronic control devices" which are defined at 20 V.S.A. § 2367(a)(1) as "device[s] primarily designed to disrupt an individual's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled

muscle contractions and override an individual's voluntary motor responses.”

1.2. Special populations: Members of special populations include subjects an officer has reason to believe are:

1.2.1. Cognitively impaired such that they are unable to comply with an officer's instructions.

1.2.2. Experiencing an emotional crisis that may interfere with the ability to understand the consequences of their actions or follow directions.

1.2.3. Persons with disabilities whose disability may impact their ability to communicate with an officer, or respond to an officer's directions.

. 1.2.4. Under 18 years of age.

. 1.2.5. Pregnant.

. 1.2.6. Over 65 years of age.

. 1.2.7. Physically infirm, subject to or diagnosed with a heart condition, or epilepsy, or a seizure disorder.

1.3. Special circumstances: Special circumstances include situations where an officer has reason to believe the subject is:

. 1.3.1. Operating a motor vehicle.

. 1.3.2. Standing in an elevated area, near water, or near flammable materials

(including but not limited to alcohol-based chemical sprays).

1.3.3. Restrained.

. 1.4. Special consideration: A consideration of: (i) the potential additional risk of harm posed by deploying a CEW against a member of a special population or a subject in special circumstances; and (ii) whether other types of force are reasonably available to effectuate custody of or facilitate control over a member of a special population or a subject in special circumstances while still preserving the safety of that person, third parties, and the responding officer(s).

. 1.5. Active Resistance: A subject using physical activity to resist or takes an affirmative action to defeat an officer's ability to take him/her into custody or to seize him/her, but the subject's actions would not lead a reasonable officer to perceive a risk of physical injury to him/herself, the subject, or a third person. Examples of active resistance include pulling away, escaping or fleeing, struggling and not complying on physical contact, or other energy enhanced

physical or mechanical defiance. Refusing to move upon verbal direction or chaining oneself to an object does not constitute active resistance.

- . 1.6. Active Aggression: Behavior that creates an imminent risk of physical injury to the subject, officer, or third party, but would not lead a reasonable officer to perceive a risk of death or serious bodily injury. Examples include an attack on an officer, strikes, wrestling, undirected strikes with injury potential, kicking, shoving, punching, and other words or behavior indicating that such actions are imminent. □

1.7. Critical Incident: A deployment of a CEW that results in serious bodily injury or death of the subject.

CEW Use and Deployment Procedures.

- . 2.1 Only officers who complete training on the use of CEWs containing the minimum elements set forth in Section 4 of this policy, as approved by the Vermont Criminal Justice Training Council, shall be authorized to carry CEWs.
- . 2.2 Prior to the start of each shift, an officer authorized to carry a CEW shall conduct a spark test of the CEW to ensure that it is properly functioning. Only properly functioning CEWs shall be carried for use. CEWs that are not properly functioning shall be taken out of service and sent for repair.
- . 2.3 When it is safe to do so, law enforcement should display and provide a warning prior to deploying a CEW.
- . 2.4 Officers may only deploy CEWs in the following circumstances:
 - 2.4.1 In response to either:
 - 2.4.1.1 A subject exhibiting active aggression. □
 - 2.4.1.2 A subject actively resisting in a manner that, in the officer's judgment, is likely to result in injury to the subject, the officer, or third persons.
 - . 2.4.2 If, without further action or intervention by the officer, injuries to the □ subject, the officer, or others will likely occur.
 - . 2.4.3 To deter vicious or aggressive animals that threaten the safety of the officer □ or others.
- . 2.5 Neither an officer, a subject, nor a third party has to actually suffer an injury before use of a CEW may be justified.
- . 2.6 An officer should attempt to avoid deployment to a suspect's head, neck, chest,

genitals, female breast, and stomach of a pregnant woman.

. 2.6.1 When targeting a subject from the front, the preferred target area is a horizontal line approximately 2 inches lower than the sternum and below. An ideal probe deployment from the front will “split the hemispheres” having one probe strike a subject above the belt line and the other probe striking the subject in the thigh or leg thereby activating the hip flexor.

. 2.6.2 When targeting a subject from the back, the preferred target area is below a horizontal line drawn even with the shoulders across the neck and below.

2.7 Officers should use the minimum number of cycles necessary to take a suspect into custody or mitigate their assaultive behavior.

. 2.8 CEWs shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resistant subjects. The act of fleeing or destroying evidence, in and of itself, does not justify the use of a CEW.

. 2.9 When it is safe to do so, officers should attempt to deescalate situations. However, officers are not required to use alternatives to a CEW that increases the danger to the officer, another person or the public.

2.10 Officers should avoid deploying more than one CEW on a single subject at the same time unless circumstances exist such as an ineffective probe spread on the first CEW or the first CEW fails to achieve immobilization of the subject and a second deployment is independently justified. Before deploying a second CEW, officers should consider the feasibility and safety of attempting to control the subject with a lesser type of force.

2.11 Officers having reason to believe they are dealing with a member of a special population or are dealing with special circumstances shall give special consideration to deploying an CEW. Officers having reason to believe they are dealing with an individual with a psychiatric disability shall consider consulting with the area designated mental health agency.

3 Post Deployment Procedure.

. 3.1 Following CEW use, officers should only use restraint techniques designed to minimize the risk of impairing a suspect’s respiration. Once restrained, the subject should be moved into a recovery position that facilitates breathing.

. 3.2 As soon as practicable after CEW deployment, the CEW probes shall be removed from the subject. The probes shall be treated as a biohazard. In the following cases, officers should wait for EMS to remove the probes:

. 3.2.1 The probes embedded in a sensitive area such as the face, neck, throat, groin, female breast, or stomach of a pregnant woman.

- . 3.2.2 The officer encounters problems when attempting to remove the probe.
- . 3.3 Medical attention at a medical facility shall be offered to all individuals subjected to a CEW deployment.
- . 3.4 Emergency medical services shall be contacted if a subject:
 - . 3.4.1 Suffers an obvious injury.
 - . 3.4.2 Does not appear to recover properly and promptly after deployment.
 - . 3.4.3 Is a member of a special population.
 - . 3.4.4 Has been subjected to three or more CEW deployments or a continuous deployment exceeding 15 seconds.
 - . 3.4.5 Has been subjected to a deployment to his or her chest.
 - . 3.4.6 Exhibits signs of extreme uncontrolled agitation or hyperactivity prior to the CEW exposure or the subject was involved in a lengthy struggle or fight prior to the CEW exposure.
- . 3.5 If a subject refuses additional medical attention, that refusal should be documented.
- . 3.6 When an officer has reason to believe (s)he is responding to a situation that may necessitate emergency medical services, (s)he shall make reasonable efforts to summon such services in advance.
- . 3.7 With the exception of the required spark test and accidental discharges that do not connect with any living being, each time a CEW is deployed and/or displayed it shall be documented in a use of force report within 24 hours of the deployment unless otherwise authorized by a supervisor. This use of force report shall contain the following, at a minimum:
 - . 3.7.1 The date, time, and location of the incident.
 - . 3.7.2 The officer(s) involved in the incident, identifying which officer(s) used CEWs.
 - . 3.7.3 The type of CEW deployment, i.e., display, drive stun, or probe mode.
 - . 3.7.4 Identifying and descriptive information for the subject, including any information indicating if the subject was a member of a special population or encountered during an incident involving special circumstances. If law enforcement consulted with any mental health agencies that fact should be noted.

- . 3.7.5 A list of other known witnesses.
- . 3.7.6 The number of CEW cycles used, the duration of each cycle, and the duration between cycles.
- . 3.7.7 The level and description of resistance encountered.
- . 3.7.8 Whether CEW use was effective.
- . 3.7.9 The type of crime/incident the suspect was involved in.
- . 3.7.10 The approximate range at which the CEW was used.
- . 3.7.11 The point of impact.
- . 3.7.12 Whether law enforcement used or attempted to use any other types of force.
- . 3.7.13 The medical care provided to the subject, including any refusal of additional medical attention after initial screening by EMS.
- . 3.7.14 The type of injuries, if any, sustained by any of the involved persons including the officer(s).
- . 3.7.15 When possible, photographs of the CEW probe entry sites.
- . 3.8 The department shall also collect the download data, cartridges, probes, and wires from the CEW that was deployed and shall maintain them pursuant to its evidence policies. The download shall occur as soon as reasonably practical after the CEW is deployed.

3.9 When possible, in instances in which more than one CEW has been deployed, a sampling of the AFID tags should also be collected and maintained pursuant to the department's evidence policies.

3.10 Accidental discharges that do not connect with any living thing shall be documented in a departmental memorandum explaining in detail how the discharge occurred within 48 hours of the alleged accidental discharge unless otherwise authorized by a supervisor.

3.11 All use of force reports and departmental memorandum required under this policy shall be reviewed by the officer's supervisor. The department shall conduct a use of force review in the following situations:

- . 3.11.1 The department receives a complaint of excessive use of force.
- . 3.11.2 The supervisor recommends conducting a use of force review.
- . 3.11.3 The encounter resulted in death or serious bodily injury.

- . 3.11.4 The individual exposed to the CEW is a member of a special population.
- . 3.11.5 An individual was exposed to three or more CEW cycles or a cycle that lasted
 - longer than 15 seconds.

3.12 Upon request, a suspect subjected to a CEW deployment, or his/her next of kin, shall be kept informed of the procedural status and final result of the review.

3.13 Annually each law enforcement agency shall report to the Vermont Criminal Justice Training Council all incidents involving the use of a CEW in a form to be determined by the Council. The Council shall make this information available on its website.

4 Training Requirements.

- . 4.1 Training for officers authorized to carry CEWs shall be conducted annually.
- . 4.2 Training shall not be restricted solely to training conducted by the manufacturer of the CEW. However, training shall include the recommendation by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.
- . 4.3 Training shall emphasize that CEWs may be less-lethal, but are not non or less-than lethal.
- . 4.4 Training shall also incorporate, at a minimum:
 - . 4.4.1 Instruction on the use of force continuum.
 - . 4.4.2 Techniques to avoid or deescalate confrontations.
 - . 4.4.3 The underlying technology and operation of CEWs. □P
 - . 4.4.4 The physiological effects upon an individual against whom such a CEW is deployed.
 - . 4.4.5 The proper use of the weapon, including both the proper mechanical use of the weapon and the circumstances under which it is appropriate to use the weapon.
 - . 4.4.6 Scenario-based training.
 - . 4.4.7 Proper removal of CEW probes.
 - . 4.4.8 The potential medical needs of a subject who has been subjected to a CEW
 - deployment.
 - . 4.4.9 The post-deployment reporting requirements.
 - . 4.4.10 Instruction on interacting with individuals experiencing a mental health crisis,

emotional crisis or other type of crisis, as recommended by the Vermont Criminal Justice Training Council.

4.5 Departments should also evaluate the value of requiring or allowing officers to feel the effects of a CEW as part of training. If an officer decides to feel these effects, the training shall include an explanation of the potential differences between that officer's experience and the experience of a subject in the field. Departments requiring or allowing its officers to undergo a CEW deployment shall, beforehand, provide a thorough explanation of the potential injuries an officer could incur as a result of the deployment even within a controlled training environment.

5 Measurement and Calibration

- . 5.1 CEWs shall be calibrated at the _____ to ensure the electrical output of the device is within manufacturer's specifications under the following circumstances:
 - . 5.1.1 Upon receipt by a law enforcement agency and prior to use in the field, only if measurement and calibration equipment is available in the state;
 - . 5.1.2 Annually, only if measurement and calibration equipment is available in the state; and,
 - . 5.1.3 After a critical incident, regardless of whether there is measurement and calibration equipment available in the state or the unit needs to be sent back to the manufacturer for testing.
- . 5.2 Exception – CEWs that are self-calibrating are not subject to these provisions unless a law enforcement agency requires calibration pursuant to its own policies and procedures or there are reasonable grounds to believe that the self-calibration is not functional.
- . 5.3 If a CEW's electrical output is determined to be outside of manufacturer's specifications it shall not be used in the field until it has been found to have output within manufacturer's specifications.

6 Review

6.1 Vermont's Law Enforcement Advisory Board shall review this policy annually.

No. 180. An act relating to a statewide policy on the use of and training requirements for electronic control devices.

(H.225)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 20 V.S.A. § 2367 is added to read:

§ 2367. STATEWIDE POLICY; ELECTRONIC CONTROL DEVICES;

REPORTING

(a) As used in this section:

(1) "Electronic control device" means a device primarily designed to disrupt an individual's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

(2) "Law enforcement officer" means a sheriff, deputy sheriff, police officer, capitol police officer, State game warden, State Police officer, constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, and a certified law enforcement officer employed by a State branch, agency, or department, including the Department of Motor Vehicles, the Agency of Natural Resources, the Office of the Attorney General, the Department of State's Attorney, the Secretary of State, and the Department of Liquor Control.

(b) On or before January 1, 2015, the Law Enforcement Advisory Board shall establish a statewide policy on the use of and training requirements for the use of electronic control devices. On or before January 1, 2016, every State, local, county, and municipal law enforcement agency and every

constable who is not employed by a law enforcement agency shall adopt this policy. If a law enforcement agency or officer that is required to adopt a policy pursuant to this subsection fails to do so on or before January 1, 2016, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Law Enforcement Advisory Board. The policy shall include the following provisions:

(1) Electronic control devices are less-lethal, but not necessarily nonlethal, alternatives to lethal force.

(2) Officers may deploy an electronic control device only:

(A) against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the officer's judgment, is likely to result in injuries to others or themselves; or

(B) if, without further action or intervention by the officer, injuries to the subject or others will likely occur.

(3) Neither an officer, a subject, or a third party has actually to suffer an injury before an officer is permitted to use an electronic control device, and officers are not required to use alternatives that increase the danger to the public or themselves.

(4) When it is safe to do so, officers shall attempt to de-escalate situations and shall provide a warning prior to deploying an electronic control device.

(5) Electronic control devices shall not be used in a punitive or coercive manner and shall not be used to awaken, escort, or gain compliance from passively resisting subjects. The act of fleeing or of destroying evidence, in and of itself, does not justify the use of an electronic control device.

(6) The use of electronic control devices shall comply with all recommendations by manufacturers for the reduction of risk of injury to subjects, including situations where a subject's physical susceptibilities are known.

(7) Electronic control devices shall be used in a manner that recognizes the potential additional risks that can result from situations:

(A) involving persons who are in an emotional crisis that may interfere with their ability to understand the consequences of their actions or to follow directions;

(B) involving persons with disabilities whose disability may impact their ability to communicate with an officer, or respond to an officer's directions; and

(C) involving higher risk populations that may be more susceptible to injury as a result of electronic control devices.

(8) Electronic control devices shall not be used on animals unless necessary to deter vicious or aggressive behavior that threatens the safety of officers or others.

(c) The Criminal Justice Training Council shall adopt rules and develop training to ensure that the policies and standards of this section are met. The Criminal Justice Training Council shall ensure that a law enforcement officer receives appropriate and sufficient training before becoming authorized to carry or use an electronic control device.

(d) On or before June 30, 2017, every State, local, county, and municipal law enforcement agency that employs one or more certified law enforcement officers shall ensure that all officers have completed the training established in 2004 Acts and Resolves No. 80, Sec. 13(a), and every constable who is not employed by a law enforcement agency shall have completed this training.

(e) The Criminal Justice Training Council shall coordinate training initiatives with the Department of Mental Health related to law enforcement interventions, training for joint law enforcement and mental health crisis team responses, and enhanced capacity for mental health emergency responses.

(f) Every State, local, county, and municipal law enforcement agency and every constable who is not employed by a law enforcement agency shall report all incidents involving the use of an electronic control device to the Criminal Justice Training Council in a form to be determined by the Council.

(g) The Law Enforcement Advisory Board shall:

(1) study and make recommendations as to whether officers authorized to carry electronic control devices should be required to wear body cameras;

(2) establish a policy on the calibration and testing of electronic control devices;

(3) on or before January 15, 2015, report to the House and Senate Committees on Government Operations and on Judiciary concerning the recommendations and policy developed pursuant to subdivisions (1) and (2) of this subsection; and

(4) on or before April 15, 2015, ensure that all electronic control devices carried or used by law enforcement officers are in compliance with the policy established pursuant to subdivision (2) of this subsection.

Sec. 2. REPORTS

(a) On or before January 15, 2015, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary on the progress made implementing the rules, training, and certification standards required by this act.

(b) On or before January 15, 2015, the Department of Mental Health shall report to the House and Senate Committees on Government Operations and on Judiciary on the adequacy of resources to support the requirements of this act.

(c) On or before March 15, 2016, and annually thereafter, the Criminal Justice Training Council shall report to the House and Senate Committees on Government Operations and on Judiciary all incidents involving the use of an electronic control device, a review of compliance with standards, the adequacy

of training and certification requirements, and the adequacy of funding for
mental health collaboration.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: June 10, 2014