



# King County

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## Office of Law Enforcement Oversight (OLEO)

August 3, 2020

To: Diane Taylor, Legal Advisor, King County Sheriff's Office

Fr: Deborah Jacobs, Director, Office of Law Enforcement Oversight (OLEO)

Re: Using the Taser CEW (GOM) 6.03.030

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OLEO would like to make a policy recommendation concerning GOM 6.03.030 following-up our certification review of IIU2020-179, which involved Taser use. Because this case is still open, we are providing our policy recommendation to you rather than to the Sheriff, as we typically do.

After reviewing the completed investigation for IIU2020-179, OLEO requested that KCSO's legal advisor clarify GOM 6.03.030(12), which states that "Before application, of the Taser CEW, deputies: 12. Shall not use on persons solely because they are fleeing."

As you are aware, OLEO asked for this clarification as it relates to the objective standard in GOM 6.00.010, which asserts that any use of force must be objectively reasonable. While the objective standard analysis includes whether an officer had reasonable suspicion or probable cause as a consideration for analyzing the use of force, the restriction in GOM 6.03.030(12) excludes this consideration and creates space for competing interpretations. The policy currently reads that officers are prohibited from tasing someone that is fleeing even if there is reasonable suspicion or probable cause to stop that person.

Our recommendation is the following:

6.03.030

**USING THE TASER CEW: 12/19**

The Taser CEW may be used to control a physically resistive, or aggressive, or violent subject who poses a threat of physical harm to his/herself, to the deputy(s) or to other persons or property. Fired probes should be used rather than contact-stuns unless using probes is not possible. Before application, of the Taser CEW, deputies:

12. Shall not use on persons that are fleeing unless reasonable suspicion or probable cause exists.