



UNIVERSITY OF  
**SOUTH CAROLINA**

*Department of Criminology & Criminal Justice*

# **South Carolina 2017 Law Enforcement Census: Impacts of the Restriction of TASERS<sup>®</sup> by the Fourth Circuit Court of Appeals**

Robert J. Kaminski, Ph.D.

Hunter M. Boehme, Ph.D.

Rev. May 26, 2022

# Contents

<b>SOUTH CAROLINA CENSUS OVERVIEW</b> .....	<b>1</b>
<b>INTRODUCTION</b> .....	<b>1</b>
<b>KEY FINDINGS IN RESPONSE TO THE COURT’S RULING</b> .....	<b>2</b>
<b>ADDITIONAL FINDINGS</b> .....	<b>2</b>
<b>METHODOLOGY</b> .....	<b>2</b>
<b>DETAILED FINDINGS</b> .....	<b>3</b>
<b>DISCUSSION</b> .....	<b>13</b>
<b>CONCLUSION</b> .....	<b>13</b>
<b>REFERENCES</b> .....	<b>14</b>
<b>APPENDIX</b> .....	<b>15</b>
<b>NOTES</b> .....	<b>20</b>

## Figures

<b>FIGURE 1. SURVEY RESPONSE RATES BY AGENCY TYPE</b> .....	<b>3</b>
<b>FIGURE 2. SURVEY RESPONSE RATES BY STATE</b> .....	<b>4</b>
<b>FIGURE 4. THE PERCENTAGE OF REGULAR PATROL OFFICERS/DEPUTIES CARRYING TASERS</b> .....	<b>6</b>
<b>FIGURE 5. PLACEMENT OF TASERS ON HYPOTHETICAL 10-POINT SCALE IN TOUCH-STUN AND DART MODES</b> .....	<b>7</b>
<b>FIGURE 6. RANKING OF TASERS IN DART AND TOUCH-STUN MODES RELATIVE TO OTHER TYPES OF FORCE</b> .....	<b>8</b>
<b>FIGURE 7. RANKING OF TASERS IN DART AND TOUCH-STUN MODES RELATIVE TO OTHER TYPES OF FORCE</b> .....	<b>9</b>
<b>FIGURE 8. WAS THERE A NOTICEABLE INCREASE IN OFFICER/DEPUTY FORCE-RELATED INJURIES?</b> .....	<b>10</b>
<b>FIGURE 9. PERCENTAGE OF AGENCIES REPORTING CHANGES IN THE USE OF TYPES OF FORCE</b> .....	<b>11</b>
<b>FIGURE 10. PERCENTAGE OF AGENCIES THAT CHANGED PLACEMENT OF TASERS AND INCREASED TRAINING</b> .....	<b>12</b>

## South Carolina Census Overview

In the 1980s, the South Carolina legislature requested that the (then) College of Criminal Justice conduct annual surveys assessing the state of law enforcement in South Carolina. The legislature earmarked funds directly to the College to administer the survey. With that financial support, the College has conducted a yearly law enforcement census since 1988. Following its merger into the College of Liberal Arts (now the College of Arts and Sciences), the College of Criminal Justice was renamed the Department of Criminology and Criminal Justice and has continued its mission to survey law enforcement agencies in the State.

Early versions of the survey were conducted through phone interviews, but as the survey became longer and more complex it was converted to a mail survey. The South Carolina Law Enforcement Census (hereafter, ‘the Census’) traditionally compiled information on agency characteristics annually, such the number of personnel employed, demographics, salary schedules, budgets, equipment and technology, policies, and so forth. In certain years, the Census included short addenda on special topics of interest to law enforcement, including homeland security funding, foot pursuit policies, dealing with persons with mental illness, and community policing implementation.

Following meetings in the 2000s with executives from several law enforcement agencies for the purpose of exploring how the Census could best serve the law enforcement community and the citizens of South Carolina, it was decided to conduct a general census every three years and to conduct ‘special topic’ surveys on contemporary issues facing law enforcement during in-between years. Recent topics include law enforcement and immigration, school resource officers, police motor vehicle collisions, and body-worn cameras. Reports on these and additional topics are available for download at <http://bit.do/Census-Reports>. This year, we focus on law enforcement executives’ perceived impacts of the United States Court of Appeals for the Fourth Circuit’s (hereafter ‘the Court’) 2016 decision to restrict police use of Tasers in use-of-force encounters. Specifically, in *Armstrong V. Village of Pinehurst*, the Court ruled that the use of Tasers on resisting but non-violent and stationary defendants was unconstitutional.

## Introduction

On January 11, 2016, the United States Court of Appeals for the Fourth Circuit (hereafter ‘the Court’), which holds authority over the states of Maryland, Virginia, West Virginia, North Carolina, and South Carolina, ruled in *Armstrong v. Village of Pinehurst* that the use of electronic control weapons, such as the TASER® (hereafter, ‘Taser’), on resisting but non-violent, stationary defendants was unconstitutional.<sup>1</sup> Further, only in encounters that pose an “immediate danger” may officers be allowed to use Tasers (*Estate of Armstrong v. Village of Pinehurst, 2016*). Because most empirical studies (discussed later) show that police use of Tasers is associated with fewer and less severe injuries to suspects and/or officers, there are concerns that restricting Taser use may have produced unintended adverse consequences. Importantly, recent research suggests the Court’s decision was associated with increased officer reliance on firearms during use-of-force encounters (drawing and pointing sidearms) (Boehme, Martin & Kaminski, 2021) and increases in officer-involved shootings (Boehme, Kaminski & Leasure, forthcoming). In addition, in response to the Court’s decision, it is unknown what impacts it had on agency changes regarding, e.g., use-of-force policies, the placement of Tasers on use-of-force continuua, weapon substitution, and officer training. To assess these potential impacts, the 2017 South Carolina Law Enforcement Census (hereafter, ‘Census’) sent surveys to 169 law enforcement agencies employing 75 or more fulltime sworn officers/deputies operating within the Fourth Circuit. After accounting for the nonresponse rate (41%) and the exclusion of 7 agencies deemed out-of-scope, the analysis is based on information provided by 61 agencies.

## Key Findings in Response to the Court's Ruling

- Sixty-six percent (66%) of responding agencies indicated their officers/deputies were moderately to highly concerned about their safety following the Court's ruling restricting Taser use.
- Of the responding agencies, 23% reported an increase in force-related injuries among officers/deputies and 10% reported an increase in injuries among suspects.
- In terms of force substitution, 46% of agencies reported an increase in the use of physical force (without a weapon), 15% reported an increase in the use of pepper spray, 4% reported an increase in the use of batons/impact weapons, 5.6% reported an increase in the use of impact munitions, 4% reported an increase in the use of canines, and 7% reported an increase in the use of firearms.
- Nearly half (48%) reported they changed the placement of Tasers relative to other types of force. Of those that reported a change in placement, virtually all (97%) reported Tasers were placed higher on their continuums.
- Eighty percent (80%) reported making changes in training regarding the circumstances or situations in which Tasers may and may not be deployed in response to the Court's ruling.

## Additional Findings

- When asked to indicate where on a hypothetical use-of-force scale ranging from 1 (verbal tactics) to 10 (deadly force), the majority of respondents (71%) ranked Tasers in dart/probe mode as a 5, 6 or 7 (mean = 6.6). When asked the same question regarding Tasers in touch-stun mode, the results were nearly identical (mean = 6.4).
- Agencies also were asked to indicate where they ranked Tasers in dart/probe and touch-stun modes relative to other types of force. In terms of the ranking of Tasers in dart/probe mode, 13% of agencies ranked them lower than 'hard-hand' tactics (e.g., punching, kicking), 33% ranked them at the same level, and 53% ranked Tasers higher than hard-hands. Regarding pepper spray, 4% ranked Tasers lower, 55% ranked them at the same level, and 41% ranked Tasers higher than pepper spray. When queried about batons, 31% ranked Tasers lower, 47% ranked them at the same level, and 22% ranked them higher. Results were nearly identical regarding rankings of Tasers in touch-stun mode and all respondents ranked Tasers in either mode below firearms.

## Methodology

To obtain law enforcement perspectives regarding the effect of the United States Court of Appeals for the Fourth Circuit's 2016 decision to restrict use of Tasers in *Estate of Armstrong v. Village of Pinehurst*, the UofSC research team initially planned to follow the Bureau of Justice Statistics method for its periodic Law Enforcement Statistics and Management Survey (LEMAS)<sup>2</sup> by conducting a census of general purpose county and local law enforcement agencies employing 100 or more full-time sworn personnel operating with the Fourth Circuit's jurisdiction. However, using the 2012 National Directory of Law Enforcement Administrators<sup>®3</sup> to develop the sampling frame, it was apparent that we would have too few law enforcement agencies for analysis. Consequently, we used agencies that employed 75 or more full-time sworn personnel. This produced a sampling frame of 169 agencies.

In early May 2018 the research team mailed each agency a packet containing a cover letter explaining the purpose of the study, a hardcopy of the survey instrument (see the Appendix for the survey), and a prepaid return envelope. Chiefs and Sheriffs were asked to complete the survey (or to have someone with the requisite knowledge complete it) and return it within two weeks. This was followed by a mailed postcard reminding executives to return a completed survey if they had not yet done so. Approximately two weeks later, another survey packet was mailed to nonrespondents asking them to return the survey. Because of a continuing low

response rate, the research team decided to extend the data collection period and develop an online version of the survey instrument. Remining nonrespondents were sent an email in early July that contained a link to a secure website where they could complete the survey. The email also included a fax number and Word and PDF versions of the survey to maximize the options for returning the survey. The email indicated a final participation cutoff date of August 20, 2018.

## Detailed Findings

In Section I we present information about response rates by agency type and state. This is followed by information on agency characteristics and how agencies ranked Tasers in their force continuums. Section II provides information regarding the impact of the Court’s decision to restrict Tasers on officer/deputy safety, officer/deputy and suspect injuries, the placement of Tasers on use-of-force continuua, and changes in policy and training.

### Section I. Survey Response Rates and Agency Characteristics

Of the 169 law enforcement agencies that were sent a survey, 69 completed it, representing a response rate of 40.8%. Figure 1 presents a breakdown by agency type of the number of agencies sent a survey, the number responding, and respective response rates. County police departments had the highest response rate (46.7%, followed closely by municipal agencies (43.7%) and Sheriffs’ offices (33.7%).

**Figure 1. Survey response rates by agency type**

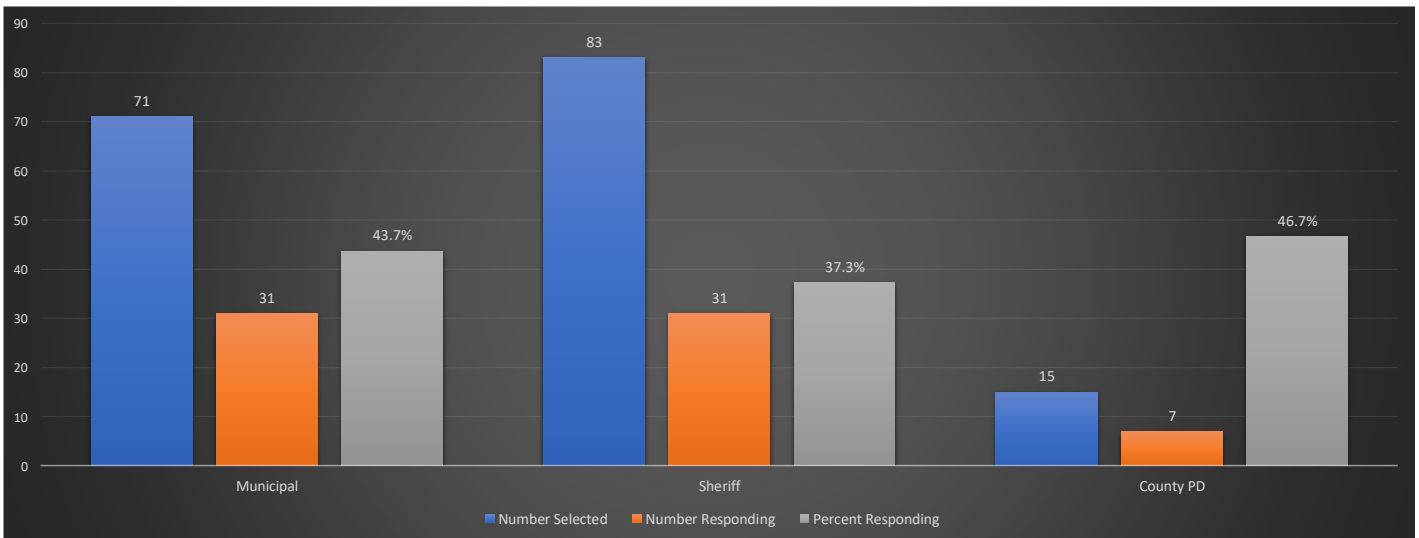
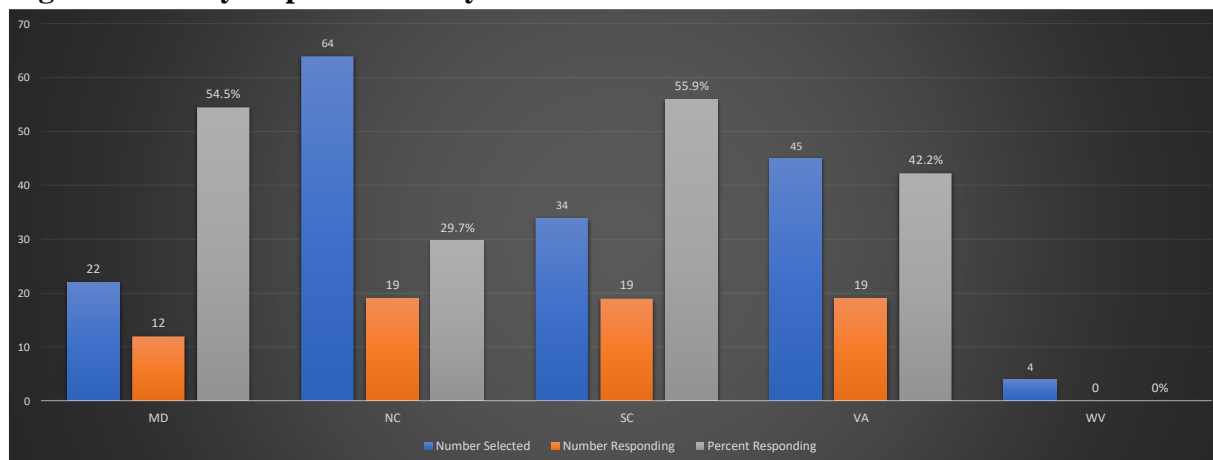


Figure 2 shows the breakdown of the number of agencies sent a survey by state, the initial number responding, and respective response rates. Approximately 55% of agencies in Maryland and South Carolina returned a survey (54.5% and 55.9%, respectively). The response rate for Virginia was 42.2% while for North Carolina it was 29.7%. None of the four agencies in West Virginia mailed surveys responded.

**Figure 2. Survey response rates by state**



After examining the characteristics of the responding agencies, eight were deemed out-of-scope for the purposes of this analysis.<sup>4</sup> Thus, the following statistics represent 61 of the 69 agencies that responded to the survey (note that the 61 respondents consists of full-service sheriffs’ offices, municipal police departments, and county police departments).

Of the 61 responding agencies, 28 (45.9%) were municipal police departments (including one department of public safety), 25 (41.0%) were full-service sheriffs’ offices, and 8 (13.1%) were county police departments. Most of the statistics presented below are for all agency types combined, though in some instances information is presented separately for sheriffs’ offices and all other law enforcement agencies combined (i.e., municipal plus county police departments).

**Figure 3. The number of full-time sworn personnel employed by agency type**

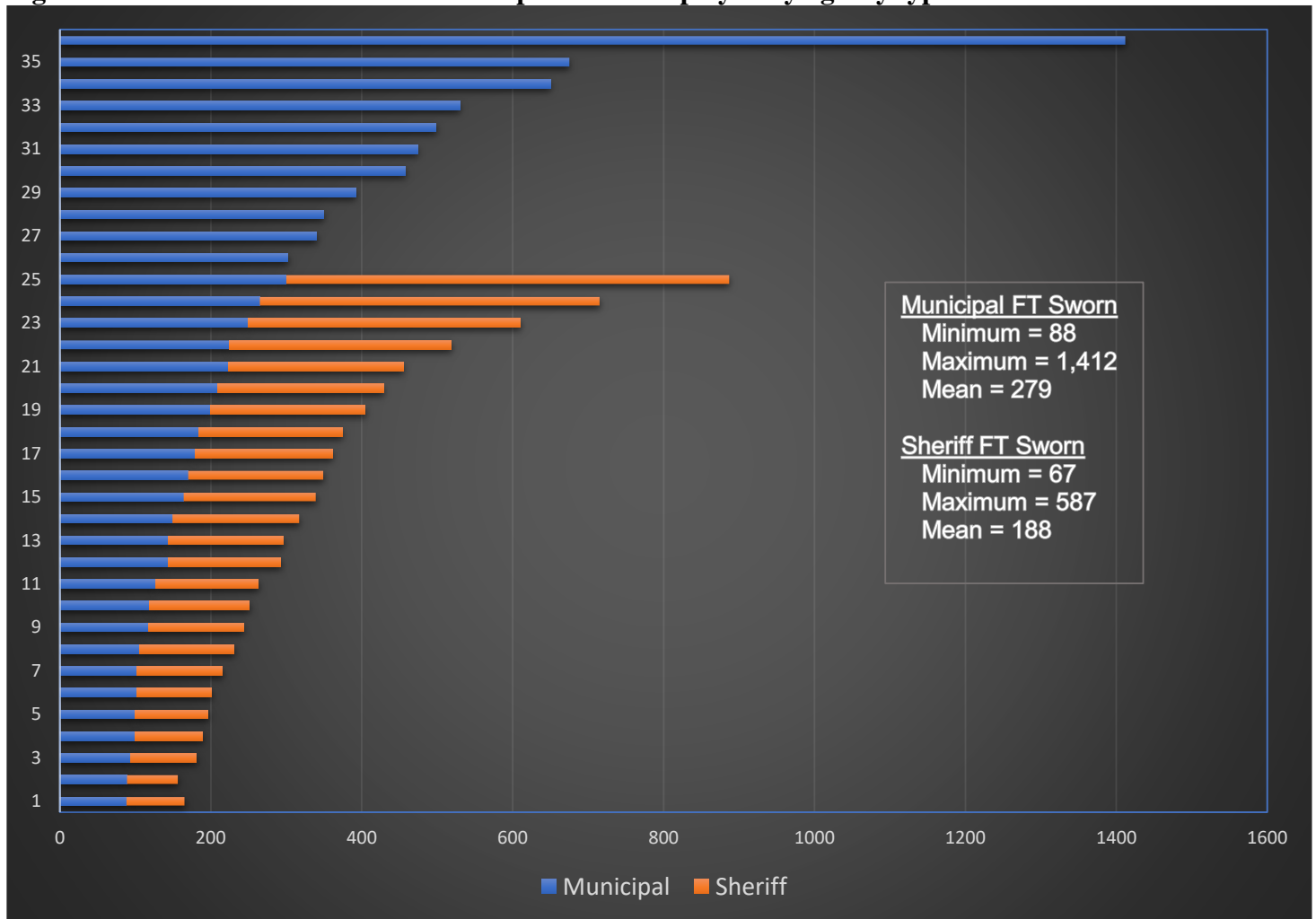
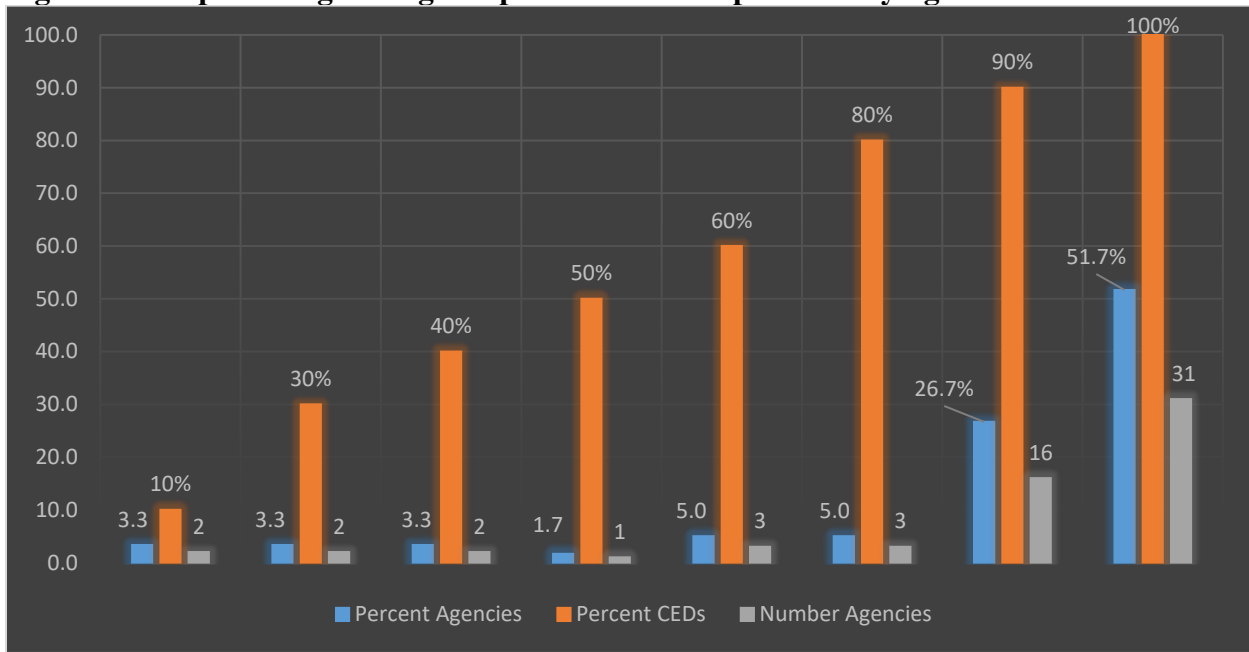


Figure 3 presents the self-reported number of full-time sworn personnel separately for municipal and sheriffs’ agencies. The minimum number of reported sworn officers employed by municipal agencies was 88, the maximum was 1,412, and the mean number employed was 279. Among sheriffs’ offices, the minimum number of deputies employed was 67, the maximum was 587, and the mean number employed was 188. Thus, on average, municipal departments employed more sworn personnel than did sheriffs’ offices.

Figure 4 indicates the reported percentage of regular patrol officers/deputies carrying Tasers at the time of the survey, along with the number and percentage of agencies reporting. Of the 60 agencies that provided data, 31 (51.7%) reported that *all* regular patrol officers/deputies were armed with Tasers. Another 16 agencies (26.7%) reported that about 90.0% were armed with Tasers. Overall (not shown in graph), 54 or 90% of agencies reported that at least half of their regular patrol officers/deputies carried Tasers. On average, sheriffs’ offices reported a higher percentage that carried Tasers than did municipal departments (92.0% and 82.0%, respectively).

**Figure 4. The percentage of regular patrol officers/deputies carrying Tasers**

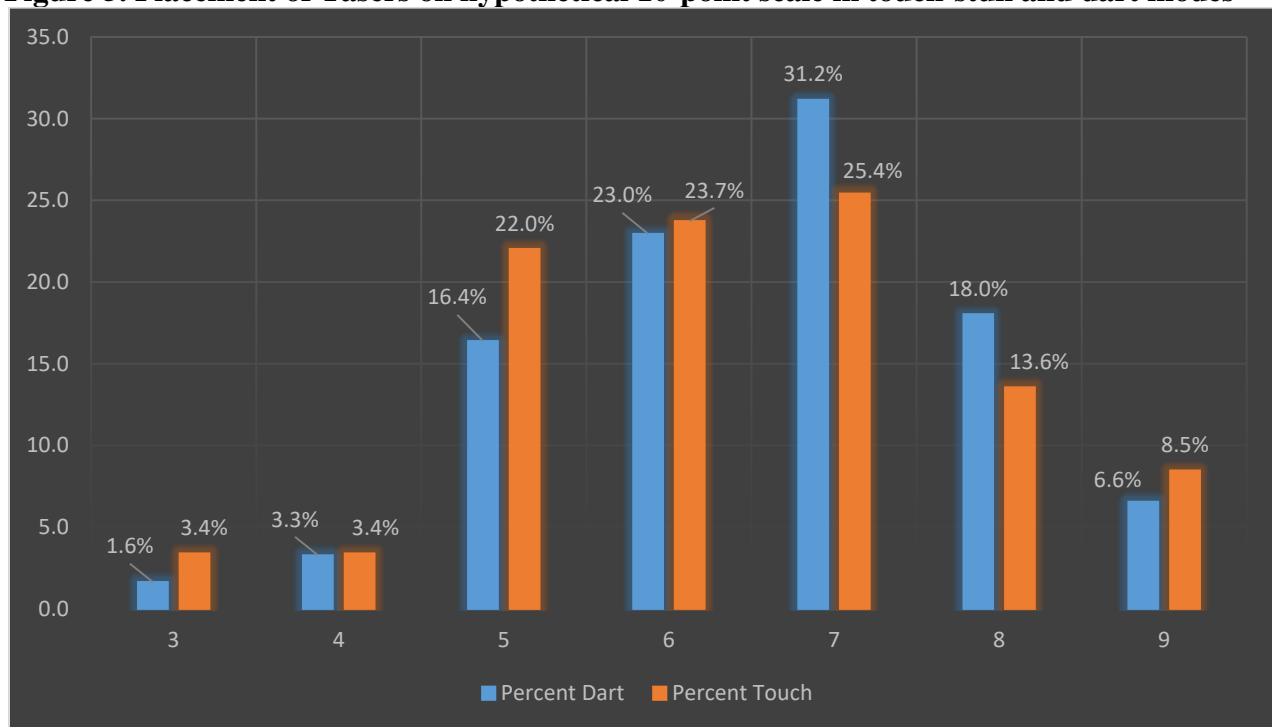


*“A number of patrol deputies requested to not carry a Taser on their duty belt but were denied. Several stated they would most likely not use their Taser anymore due to the ruling.”*

Captain, Sheriff’s Office, NC



**Figure 5. Placement of Tasers on hypothetical 10-point scale in touch-stun and dart modes**



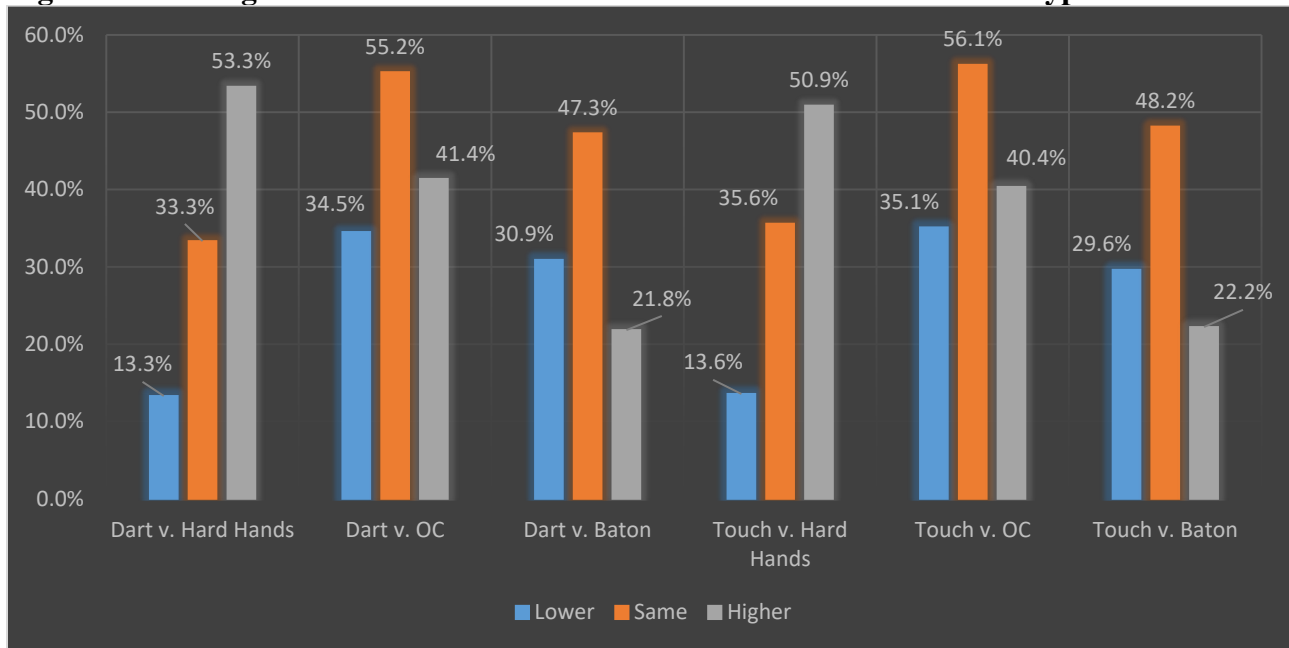
Agencies were asked to rank Tasers on a hypothetical 10-point use-of-force scale (Figure 5), with lower values representing fewer restrictions and higher values representing greater restrictions. Responses ranged from a low of 3 to a high of 9 for both touch-stun mode and dart/probe mode. As shown in Figure 5, the vast majority of agencies ranked them in the middle range. Specifically, 54 of 61 agencies or 88.5% ranked Tasers in dart mode between 5 and 8 (mean = 6.6). Responses regarding Tasers in touch-stun mode were similar, with 41 of 59 agencies or 84.7% ranking them between 5 and 8 (mean = 6.4). Agencies were somewhat more likely to rank Tasers in dart mode higher on the continuum and somewhat more likely to rank them in touch-stun mode lower on the continuum (though there are a couple of exceptions).



*“The ruling caused officers to not want to carry Tasers. Officers were fearful of discipline involving usage.”*

**Lt., Professional Standards, Police Department, NC**

**Figure 6. Ranking of Tasers in dart and touch-stun modes relative to other types of force**



Respondents also were asked whether their agencies ranked Tasers in both dart and touch-stun modes higher, lower, or at the same level as other types of force (Figure 6). Other types of force were “hard hands” (e.g., punching, kicking), OC (pepper spray), batons, and firearms (firearms not shown as no agency ranked Tasers at the same level or higher). Examining Tasers in dart mode first (the columns on the left half of the graph), we see that over half (53.3%) of agencies ranked them higher than hard hands, 33.3% ranked them at the same level, and 8 agencies or 13.3% ranked Tasers in dart mode lower than hard hands. Relative to OC, 41.4% of agencies ranked Tasers in dart mode higher, 34.5% ranked them at the same level, and 34.5% ranked them lower than OC. Compared to batons, 21.8% of agencies ranked Tasers in dart mode at a higher level, 47.3% ranked them at the same level, and 30.9% ranked them lower than batons. The pattern of responses for Tasers in touch-stun mode is nearly identical.



*“Officers have experienced a conflict when dealing with armed suicidal subjects who do not pose a threat to others. The less lethal (Taser) option is no longer available, and officers are restricted to verbal de-escalation tactics. The officer is placed in a position where they cannot keep an individual from taking their own life.”*

**Captain, Commander of Professional Standards, Police Department, VA**

**Section 2. Perceived impacts of the Court’s decision to restrict Taser use**

This section presents responses from agencies regarding the impact of the Court’s decision to restrict the use of Tasers on concerns about officer/deputy safety, force-related injuries among officers/deputies and suspects, force substitution, placement of Tasers on use-of-force continua, and new training regarding the circumstances or situations in which Tasers may and may not be deployed.

**Figure 7. Level of concern regarding officer/deputy safety following Taser restriction**

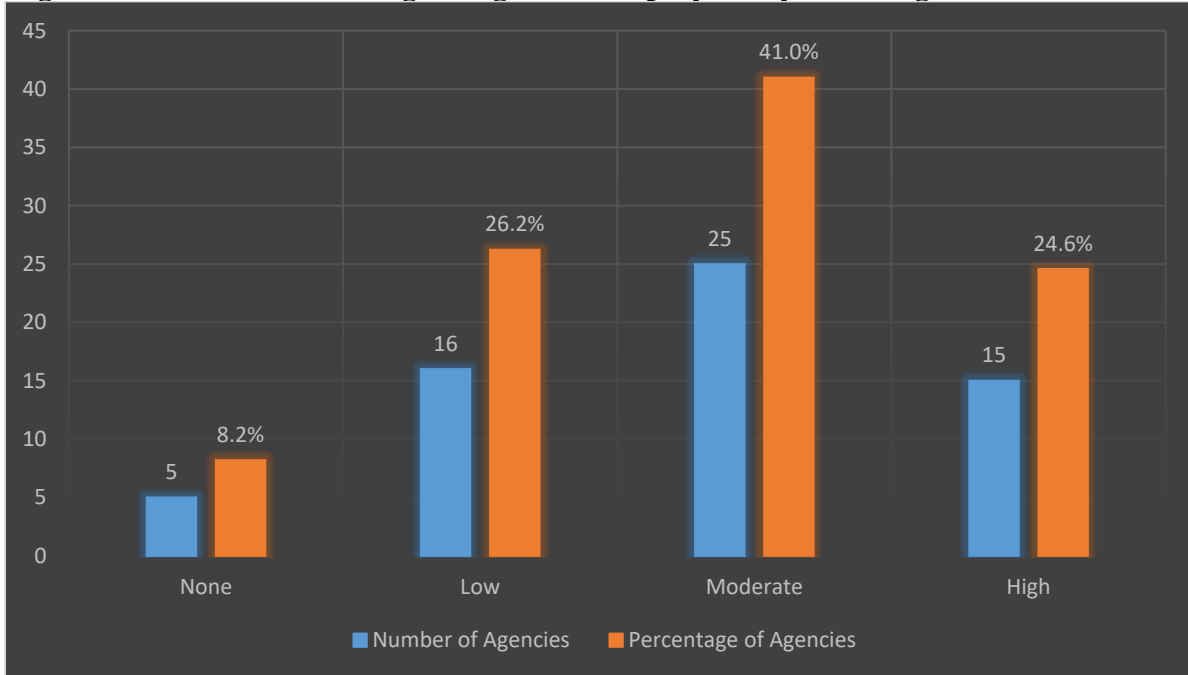


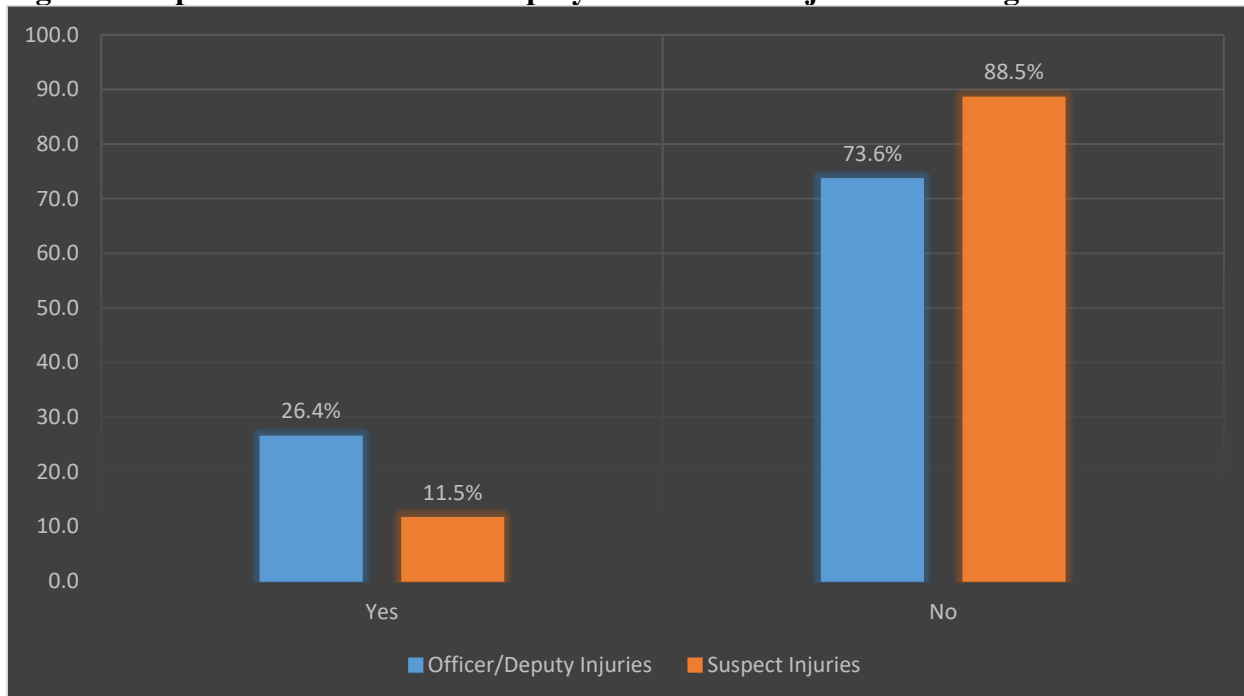
Figure 7 indicates the level of concern about officer safety following the Court’s decision restricting the use of Tasers. Only 5 agencies (8.2%) expressed no concern, 16 (26.2%) expressed low concern, 25 (41.0%) expressed moderate concern, and 15 agencies (24.6%) expressed high concern. Simplifying, 21 agencies (34.4%) expressed no-to-low concern, while 40 agencies (65.6%) expressed moderate-to -high concern regarding the safety of their officers/deputies.



*“This ruling impacted both OC and CEW. Our usage for both less lethal weapon systems decreased. However we saw increases in hard hand techniques, such as takedowns, which also increased suspect injuries.”*

**Corporal, Use of Force Coordinator, Police Department, NC**

**Figure 8. Report increase in officer/deputy force-related injuries following Taser restriction**



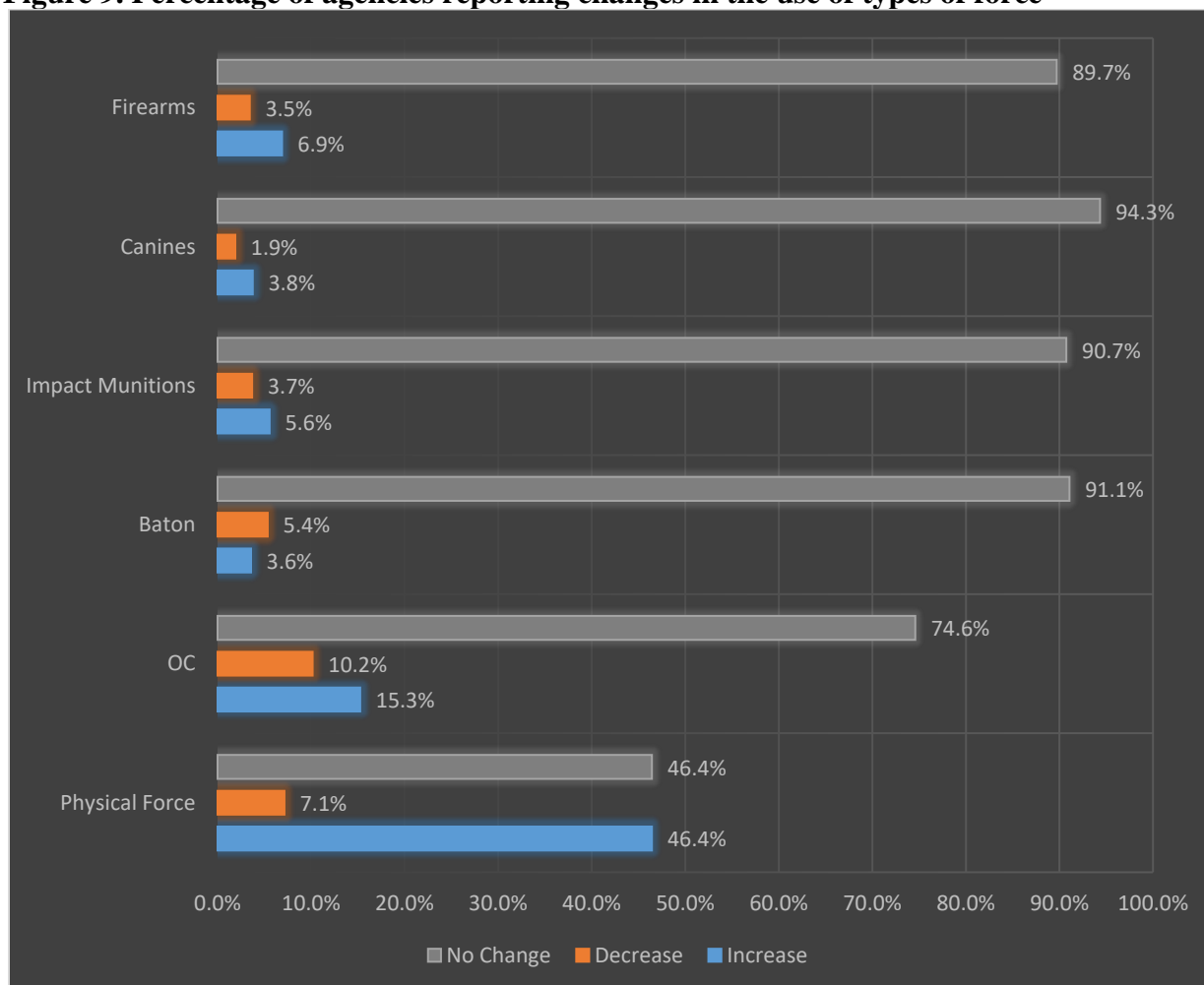
When asked whether there was a noticeable increase in force-related injuries among officers/deputies and suspects following the Court’s decision, Figure 8 reveals that a majority of agencies reported in the negative. Only 14 agencies (26.4%) reported an increase in officer/deputy force-related injuries and even fewer (6 or 11.5%) reported this was the case for suspects.<sup>5</sup>



*“I have been teaching use of force for 25 years and instructing on the Taser devices for 19 years. In my opinion this ruling has the potential to cause situations where officers could be injured.”*

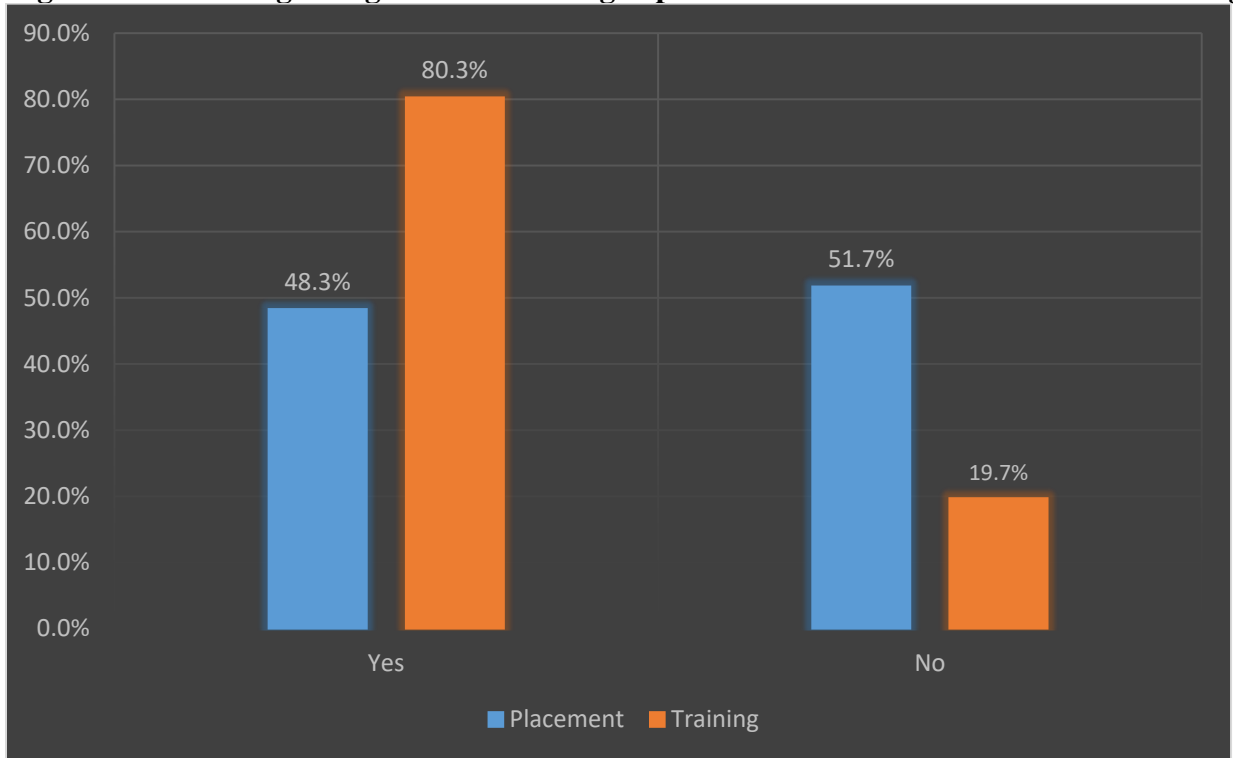
**Assistant Training Coordinator (Rtd.), Police Department, VA**

**Figure 9. Percentage of agencies reporting changes in the use of types of force**



A major concern regarding placing restrictions on Taser use is the potential for force substitution, meaning that officers/deputies may utilize other types of force at higher rates when Taser use is restricted, with some force alternatives being associated with greater risk of injury (see discussion on research findings below). The survey asked respondents to indicate whether there was a noticeable increase, decrease, or no change in the use of other types of force following the Court’s decision. The results are reported in Figure 9. Among the types of force listed, the largest changes involved the use of physical force without a weapon and OC (pepper spray). Specifically, 46.4% of agencies reported increases in the use of physical force, 7.1% reported a decrease, and 46.4% reported no change in the use of physical force. About three-fourths of respondents reported no change in the use of OC, while 15.3% reported increases and 10.2% reported decreases in OC use. Agencies reported small increases in the use of firearms, canines, impact munitions and batons (between 3.6% and 6.9%) with the vast majority (90%) reporting no change in the use of these types of force.

**Figure 10. Percentage of agencies that changed placement of Tasers and increased training**



Agencies also were asked whether the Court’s decision led to a change in the placement of Tasers on use-of-force continua relative to other types of force, and, if so, whether they were placed higher or lower. In addition, agencies were asked if they instituted changes in training regarding the circumstances or situations in which Tasers may and may not be deployed. Results are presented in Figure 10. Twenty-nine of 60 responding agencies (48.3%) reported they changed the placement of Tasers relative to other types of force. Of these, 28 (96.6%) reported placing them higher (one agency reported placing them lower relative to other types of force, which may have been a response error). Regarding training, 49 agencies (80.3%) reported having modified their training in response to the Court’s decision.



*“I believe the ruling will ultimately cause injuries to suspects as well as deputies to increase. Taking the Taser out of play for a non-compliant individual in certain circumstances will only cause a deputy to resort to a baton, hands on use of force, etc. This will surely increase the number of injuries to defendants as well as deputies.”*

**Deputy Chief, Sheriff’s Office, MD**

## Discussion

The results of this study revealed a high degree of concern among agencies regarding officer/deputy safety in response to the Court's decision to restrict Taser use and nearly a quarter of respondents reported experiencing increases in officer/deputy injuries following the decision. This finding is concerning as several research studies demonstrated that the adoption of Tasers by law enforcement agencies decreased the risk of injury and/or the severity of injury among officers and/or suspects. Other studies indicate that more restrictive Taser policies increase officer reliance on firearm threats and firearm discharges (Bishopp et al., 2015). For example, studies using quasi-experimental designs<sup>6</sup> found that the adoption of Tasers by several agencies statistically and substantively reduced injuries to officers and/or suspects (Ba & Grogger, 2019; MacDonald et al., 2009; Taylor & Woods, 2010). Using similar methods, other research found that in one large law enforcement agency within the Fourth Circuit, the Court's decision restricting Tasers significantly reduced officer Taser use and increased the drawing and pointing of firearms during use-of-force encounters (Boehme et al., 2021). Moreover, Boehme et al. (forthcoming) found that the *Armstrong* decision led to an increase in fatal and nonfatal officer-involved shootings among agencies operating within the Fourth Circuit's jurisdiction, but not in neighboring states.

Several other related studies used less rigorous 'correlational' analyses<sup>7</sup> to examine associations between various predictors and officer/suspect fatal and nonfatal injuries. Womack et al. (2016) found that the placement of Tasers higher up on the Dallas Police Department's use-of-force continuum was associated with modest increases in officer (but not suspect) injuries, while a study by Ferdik et al. (2014) revealed that among a nationally representative sample of large law enforcement agencies, those having the least restrictive Taser policies was associated with significantly fewer fatal police shootings. Moreover, the majority of studies that examined the association between injuries and types of force used during use-of-force encounters found that Tasers were associated with reductions in the risk of officer and/or suspect injury (and in some cases the severity of injury) as compared to other types of force used (e.g., hands-on tactics, impact weapons, canines) (MacDonald et al., 2009; Paoline III et al., 2012; Smith et al., 2007; for an exception regarding suspect injuries, see Terrill & Paoline III, 2012).

## Conclusion

The Fourth Circuit's decision to restrict Taser use had several reported impacts on law enforcement agencies operating under its jurisdiction. Substantial numbers of respondents reported:

- Increased concern among officers regarding their physical safety
- Increases in officer and suspect injuries
- Increases in the use of hands-on tactics by officers (which has been associated with increased risk of injury in other research)
- Placement of Tasers higher on use-of-force continua (also associated with increased risk of injury)
- Modification of training regarding when Tasers may (or may not) be deployed

The research findings reported here are not definitive as the information provided by respondents largely may be based on *perceptions* of the impact the Fourth Circuit's ruling in *Armstrong*. That said, some agencies may closely track data on use-of-force and officer and suspect injuries and consequently may be able to compare these outcomes before and after the Fourth Circuit's ruling. Regardless, we encourage all law enforcement agencies to track such data carefully and conduct their own in-house analyses (if they are not already doing so) to make evidence-based decisions regarding training and policies designed to mitigate risks within the constraints placed on Tasers by the Court.

## References

- Ba, B., & Grogger, J. (2019). The Introduction of Tasers and Police Use of Firearms: Evidence from the Chicago Police Department. *AEA Papers and Proceedings* 109, 157–60. <https://doi.org/10.1257/pandp.20191029>.
- Bishopp, S. A., Klinger, D. A., & Morris, R. G. (2015). An examination of the effect of a policy change on police use of TASERS. *Criminal Justice Policy Review*, 26(7), 727-746.
- Boehme, H. M., Kaminski, R. J., & Leasure, P. (Forthcoming). A comparative interrupted time-series assessing the impact of the Armstrong decision on officer-involved shootings. *Rapid Communication-Police Practice and Research: An International Journal*. Draft available at <http://bit.do/Boehme-et-al-2022>.
- Boehme, H. M., Martin, A., & Kaminski, R. J. (2021). Evaluating the 4th Circuit’s decision to limit officer use of Tasers: a descriptive and time-series approach. *Police Practice and Research*, 1-16.
- Campbell D. T., & Stanley J. C. (1966). *Experimental and quasi-experimental designs for research*. Chicago: Rand McNally & Company.
- Estate of Armstrong v. Village of Pinehurst, 810 F. 3d 892 (Court of Appeals, 4th Circuit 2016).
- Ferdik, F. V., Kaminski, R. J., Cooney, M. D., & Sevigny, E. L. (2014). The influence of agency policies on conducted energy device use and police use of lethal force. *Police Quarterly*, 17(4), 328-358.
- MacDonald, J. M., Kaminski, R. J., & Smith, M. R. (2009). The effect of less-lethal weapons on injuries in police use-of-force events. *American journal of public health*, 99(12), 2268-2274.
- Paoline III, E. A., Terrill, W., & Ingram, J. R. (2012). Police Use of Force and Officer Injuries: Comparing Conducted Energy. *Police Quarterly*, 15(2), 115-136.
- Smith, M. R., Kaminski, R. J., Rojek, J., Alpert, G. P., & Mathis, J. (2007). The impact of conducted energy devices and other types of force and resistance on officer and suspect injuries. *Policing: An International Journal of Police Strategies & Management*. 30(3), 443-426.
- Taylor, B., & Woods, D. J. (2010). Injuries to officers and suspects in police use-of-force cases: A quasi-experimental evaluation. *Police Quarterly*, 13(3), 260-289.
- Terrill, W., & Paoline III, E. A. (2012). Conducted energy devices (CEDs) and citizen injuries: The shocking empirical reality. *Justice Quarterly*, 29(2), 153-182.
- Womack, V. G., Morris, R. G., & Bishopp, S. A. (2016). Do changes in TASER use policy affect police officer injury rates? *Police Quarterly*, 19(4), 410-434.
- Shadish, W., Cook, T. D., & Campbell, D. T. (2002). *Experimental and quasi-experimental designs for generalized causal inference*. Houghton Mifflin Boston, MA.



# Appendix

**RETURN TO:**  
Bob Kaminski, PhD  
Department of Criminology & Criminal Justice  
1305 Greene Street  
University of South Carolina  
Columbia, SC 29208  
FAX: 803-777-9600  
EMAIL: [kaminskb@mailbox.sc.edu](mailto:kaminskb@mailbox.sc.edu)

## Fourth Circuit Court Of Appeals Decision On Conducted Energy Devices Study

University of South Carolina  
Department of Criminology & Criminal Justice

Welcome to the Fourth Circuit/CED Law Enforcement Survey. The goal of this survey is to assess the potential impacts of the Fourth Circuit Court of Appeal's 2016 decision governing the use of Conducted Energy Devices or "CEDs" (e.g., TASER™) on police and sheriffs' departments operating within the Fourth Circuit's jurisdiction. To accomplish this goal, we ask that you to answer the questions below. This will help us better understand current opinions regarding the impact of the Court's ruling on officer/deputy safety and other issues. The survey is only five pages in length and should take only a brief amount of your time to complete. Your honest and candid responses are critical to the success of this study, and all information provided will be kept confidential. Although we do ask for identifying agency and respondent contact information (in case we have follow up questions), once data collection is complete the data will be deidentified so that responses cannot be linked to specific agencies. Furthermore, analysis of responses will be done in the aggregate only. We greatly appreciate your assistance, and findings will be disseminated to participating agencies.

### INSTRUCTIONS

- Please print your written responses.
- Complete each page and do not leave any items blank.
- Mail the completed survey in the prepaid, self-addressed envelope within two weeks of receiving it.
- Retain a copy of the completed survey for your records as project staff may call to clarify responses.
- If you have any questions regarding the survey, please call or email Bob Kaminski at (803) 521-1364 / [kaminskb@mailbox.sc.edu](mailto:kaminskb@mailbox.sc.edu).

### SECTION A. AGENCY INFORMATION

---

1. Agency Name: \_\_\_\_\_
2. City: \_\_\_\_\_ 2.2 Zip Code: \_\_\_\_\_
3. County Name: \_\_\_\_\_ 3.2 State: \_\_\_\_\_
4. Respondent Name: \_\_\_\_\_ 4.2 Contact #: \_\_\_\_\_
5. Contact Email: \_\_\_\_\_
6. Respondent Position: \_\_\_\_\_ 6.2 Rank: \_\_\_\_\_

7. Which category below best describes your agency?

Sheriff's Office – full service

Sheriff's Office – jail operations, court security, etc. – no regular patrol

Municipal or County Police Department

Other (please specify) \_\_\_\_\_

8. How many full-time sworn officers/deputies does your agency currently employ? \_\_\_\_\_

9. How many part-time sworn officers/deputies does your agency currently employ? \_\_\_\_\_

10. What is the size of the resident population served by your agency? \_\_\_\_\_

**SECTION B. CONDUCTED ENERGY DEVICE-RELATED QUESTIONS**

---

11. Does your agency currently authorize Conducted Energy Devices (CEDs), such as the TASER™ or Stinger™, for use by any of your agency's officers/deputies?

Yes       No      If No, stop here. We thank you for your participation.

12. Approximately what percentage of your regular patrol officers/deputies currently carry CEDs?

10%    20%    30%    40%    50%    60%    70%    80%    90%    100%

13. In what year did your agency adopt CEDs? \_\_\_\_\_

14. Please indicate on the below hypothetical use-of-force scale about where your existing agency's policy or guideline would rank or place CEDs **in touch-stun mode**. Circle one number only.

Verbal Tactics		Lethal Force
1    2    3    4    5    6    7    8    9    10		

15. Please indicate on the below hypothetical use-of-force scale about where your existing agency's policy or guideline would rank or place CEDs **in dart/probe mode**. Circle one number only.

Verbal Tactics		Lethal Force
1    2    3    4    5    6    7    8    9    10		

16. Please indicate how CEDs **in touch-stun mode** are ranked or placed relative to other types of force by your existing agency's policy or guideline. If a particular type of force is not authorized by your agency, check 'N/A' for Not Applicable.

Are CEDs ranked lower, at the same level, or higher than:

Hard-hand tactics (e.g., punching, kicking)?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Pepper spray (personal-issue)?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Baton?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Firearm?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A

17. Please indicate how CEDs **in dart/probe mode** are ranked or placed relative to other types of force by your existing agency's policy or guideline. If a particular type of force is not authorized by your agency, check 'N/A' for Not Applicable.

Are CEDs ranked lower, at the same level, or higher than:

Hard-hand tactics (e.g., punching, kicking)?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Pepper spray (personal-issued)?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Baton?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A
Firearm?	<input type="checkbox"/> Lower	<input type="checkbox"/> Same level	<input type="checkbox"/> Higher	<input type="checkbox"/> N/A

18. Does your agency require documentation when a CED is used **in touch-stun mode**?

Yes  No  Not sure

19. Does your agency require documentation when a CED is used **in dart/probe mode**?

Yes  No  Not sure

20. Does your agency maintain use-of-force data in an electronic database or Records Management System (RMS)?

Yes  No If No, please skip to Question 22.

21. Law enforcement agencies may document uses of force on an incident basis, an individual officer/deputy basis, or a combination of the two. Three data scenarios below show examples of each. Please indicate which comes closest to the data structure in your agency. (Check only one box.)

A  B  C  Other  Not sure

- A. Example of incident-officer data combination (can determine the number of incidents & officers per incident):

Incident Number	Officer ID	Date	Used Taser	Used Pepper Spray
04212017	Officer 1	4/25/18	Yes	No
04212017	Officer 2	4/25/18	No	Yes
04212017	Officer 3	4/25/18	No	No
07082015	Officer 1	5/01/18	Yes	No
01992019	Officer 1	6/26/18	No	No
01992019	Officer 2	6/26/18	No	No

- B. Example of incident-only data (can't determine the number officers involved in an incident):

Incident Number	Date	Used Taser	Used Pepper Spray
04212017	4/25/18	Yes	Yes
07082015	5/01/18	Yes	No
01992019	6/26/18	No	No

- C. Example of officer-only data (can't be sure if some officers involved in the same incident):

Officer ID	Date	Used Taser	Used Pepper Spray
Officer 1	4/25/17	Yes	Yes
Officer 2	4/25/17	No	Yes
Officer 3	1/03/18	No	No
Officer 4	5/01/18	Yes	No
Officer 5	6/26/18	No	No
Officer 6	6/26/18	No	No

### SECTION C. INCIDENT-BASED USES OF CEDs

---

22. During 2017 how many total incidents occurred in which one or more officers/deputies used a CED on one or more subjects regardless of mode? \_\_\_\_\_ [ ] Unknown
23. During 2017 how many incidents occurred in which one or more officers/deputies used a CED on one or more subjects in touch-stun mode? \_\_\_\_\_ [ ] Unknown
24. During 2017 how many incidents occurred in which one or more officers/deputies used a CED on one or more subjects in dart/probe mode? \_\_\_\_\_ [ ] Unknown

### SECTION D. OFFICER-BASED USES OF CEDs

---

25. During 2017 how many officers deployed a CED regardless of mode? \_\_\_\_\_ [ ] Unknown

26. During 2017 how many officers deployed a CED **in touch-stun mode**? \_\_\_\_\_ [ ] Unknown
27. During 2017 how many officers deployed a CED **in dart/probe mode**? \_\_\_\_\_ [ ] Unknown

**SECTION E. FOURTH CIRCUIT COURT OF APPEALS RULING ON LAW ENFORCEMENT CED USE**

---

On January 11, 2016, the U.S. Fourth Circuit Court of Appeals, which holds authority over the states of Maryland, Virginia, West Virginia, North Carolina, and South Carolina, issued an opinion regarding the case of *Armstrong v. Village of Pinehurst*. The Court’s decision significantly restricted the use of CEDs to certain situations or circumstances during police-suspect encounters. The following questions pertain to the Court’s ruling (For details, see <http://www.ca4.uscourts.gov/opinions/published/151191.p.pdf>).

28. How much concern is there about risks to officer/deputy safety resulting from the Court’s restrictions on CED use among officers/deputies in your agency?

[ ] No concern    [ ] Low concern    [ ] Moderate concern    [ ] High concern

29. Has there been a noticeable increase in **officer/deputy** force-related injuries in your agency following the Court’s ruling?

[ ] Yes    [ ] No    [ ] Not sure

30. Has there been a noticeable increase in **suspect** force-related injuries following the Court’s ruling?

[ ] Yes    [ ] No    [ ] Not sure

31. For the types of force listed below, please indicate whether there was noticeable increase, decrease, or no change in their use following the Court’s 2016 ruling regarding CEDs.

- |                                  |              |              |               |             |
|----------------------------------|--------------|--------------|---------------|-------------|
| A. Unarmed physical force        | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |
| B. Pepper spray (personal issue) | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |
| C. Baton or other impact device  | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |
| D. Impact munitions              | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |
| E. Canines                       | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |
| F. Firearms                      | [ ] Increase | [ ] Decrease | [ ] No change | [ ] Unknown |

32. Did the Court’s 2016 ruling cause a change in your agency’s placement of CEDs relative to other types of force?

[ ] Yes    [ ] No    [ ] Not sure

33. If Yes, please indicate the nature of the change.

CEDs were placed lower relative to other types of force

CEDs were placed higher relative to other types of force

34. Did the Court's 2016 ruling cause a change in training regarding the circumstances or situations in which CEDs may and may not be deployed?

Yes       No       Not sure

### SECTION F. ADDITIONAL INFORMATION

35. Please provide any additional information regarding the Fourth Circuit's ruling on CEDs and its impact:

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

### Notes

<sup>1</sup> On April 23, 2011, three law enforcement officers from the Pinehurst (NC) Police Department responded to a call involving a mentally ill subject (Ronald Armstrong) who absconded from the Moore Regional Hospital after being checked in by his sister for engaging in self-injurious behaviors. (Armstrong suffered from both paranoid schizophrenia and bipolar disorder and had an been off his prescribed medication for five days.) Because of Armstrong's flight and the information provided by his sister, he was deemed a danger to himself by the attending physician who issued involuntary commitment papers to compel his return. Officers engaged Armstrong near the hospital, who was behaving bizarrely but not violently. Once officers learned the commitment order was finalized, they surrounded and approached Armstrong who responded by sitting down and wrapping himself around a stop-sign post. The three officers were unable to remove Armstrong from the post. Consequently, one officer applied a Taser in touch-stun mode reportedly five times over about a two-minute period to no avail. With the assistance of two hospital security officers, Armstrong was finally removed from the post, placed facedown, and restrained. He shortly became unresponsive and died despite resuscitation efforts by officers and hospital medical staff. In April 2013, Armstrong's family filed an excessive force lawsuit in the North Carolina Superior Court of Moore County. The following month the case was removed to the United States District Court for the Middle District of North Carolina, which dismissed the excessive force complaint from the families' estate by granting the officers summary judgment on grounds of qualified immunity. Upon appeal, on January 11, 2016, the Fourth Circuit disagreed and upheld the granting of summary judgment, finding that the ECW usage constituted unconstitutional excessive force, though the officers were granted immunity because the law was not clearly established at the time of the use of force. In early February, the North Carolina Justice Academy sent an advisory to law enforcement agencies that was critical of the Court's decision. In part, it stated that: "Effective immediately, TASER use as a pain compliance tool against a resisting subject is prohibited by the Fourth Amendment unless the police can articulate 'immediate danger' to the officer apart from the fact of resistance alone. This is true whether the TASER is used in probe deployment or drive stun mode." (p.5, <https://ilppp.virginia.edu/PublicationsAndPolicy/DownloadPDF/80>.)

<sup>2</sup> See [Law Enforcement Management and Administrative Statistics \(LEMAS\) | Bureau of Justice Statistics \(ojp.gov\)](#).

---

<sup>3</sup> See [National Directory of Law Enforcement Administrators - Local | State | Federal - National Public Safety Information Bureau \(safetysource.com\)](#).

<sup>4</sup> Eight sheriffs' offices without a regular patrol function were excluded.

<sup>5</sup> Eight agencies indicated they were not sure if there was an increase in officer/deputy injuries and 9 indicated they were not sure if there was an increase in suspect injuries. These numbers are not included in the calculations

<sup>6</sup> Quasi-experiments are similar to true experiments (in which researchers randomly assign subjects to experimental and control groups) but they lack the random assignment component of true experiments. Although this is a weakness of quasi-experimental designs, they are preferred to nonexperimental designs for making causal arguments (Campbell & Stanley, 1966:34-37).

<sup>7</sup> Studies using correlational designs are those in which an assumed cause-and-effect relationship is specified but other experiment features (e.g., pre-tests and control groups) are lacking. They are often cross-sectional, rely on statistical controls for potential rival explanations, and typically cannot support strong causal inferences (Shadish, Cook, and Campbell, 2002).