

Canada

Excessive and lethal force? Amnesty International's concerns about deaths and ill-treatment involving police use of tasers

Introduction and summary

Within the last few years, at least nine people in Canada – and over 60 in the US – have died after being shocked with a taser: a hand-held stun gun which fires two barbed darts at a distance, causing instant incapacitation to the target by delivering a 50,000 volt electro-shock. The weapons can also be applied close-up as stun guns. All but two of the nine who died were unarmed.

As the taser has become a more widespread and established weapon in law enforcement officers' non-lethal arsenal¹, Amnesty International has received numerous reports that the taser is being used not only in situations which do not warrant such an extreme level of force but as a routine force option to subdue non-compliant or disturbed individuals who do not present a danger to themselves or others. In some of the cases reported, Canadian police subjected individuals to multiple force options, deploying the taser in combination with pepper spray and/or dangerous restraint holds.

Agencies deploying tasers claim they reduce injuries and save lives by providing officers with an alternative to using their firearms or batons. However, Amnesty International's research shows that, in both the USA and Canada, tasers are being used in situations where police use of lethal force – or even batons – would never be justified.

Amnesty International considers that electro-shock weapons are inherently open to abuse by unscrupulous law enforcement officials as they are portable and easy to deploy; can deliver multiple shocks at the push of a button and inflict severe pain without leaving significant marks on the skin.

The organization believes that the level of police force in the reported incidents contravenes international standards prohibiting torture or other cruel, inhuman or degrading treatment as well as standards set out under the United Nations (UN) Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These require that force should be used as a last resort and that officers must apply only the minimum amount of force necessary to obtain a lawful objective.

¹ According to Taser International, the RCMP has approximately 1700 Taser M26 models in active service (Taser International, www.taser.com). Media reports indicate that more than 60 law enforcement agencies in Canada have been issued with tasers.

They also provide that all use of force must be proportionate to the threat posed as well as designed to avoid unwarranted pain or injury.

International standards encourage the development of non-lethal incapacitating weapons for law enforcement “for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons”, but state that such weapons must be “carefully evaluated” and their use “carefully controlled”. Amnesty International does not believe such safeguards have been met in regard to taser use, despite their growing deployment by forces across Canada and the USA.

Amnesty International reiterates its call on law enforcement agencies to suspend all use of electro-shock weapons, pending an urgent rigorous independent and impartial inquiry into their use and effects. Other recommendations given at the end of this report include recommendations for the immediate control and limitation on the use of the taser by forces who continue to deploy such weapons.

This report is being published in conjunction with another on the USA which sets out in greater detail Amnesty International’s concerns regarding police use of the taser, and includes details of taser-related deaths and the misuse of tasers by law enforcement officers in the USA, as well as a review of safety concerns relating to electro-shock weapons.

Recent Developments

As a result of recent taser-related deaths in Canada, the Canadian Association of Police Chiefs has launched a review into police use of the taser. On 10 August, the association announced that they had commissioned “a unique and comprehensive review of scientific research, field reports, and data on the use of Tasers in police work in Canada and around the world”. The review will be conducted by the Canadian Police Research Centre, a partnership of the Chiefs Association, the Royal Canadian Mounted Police (RCMP) and the National Research Council.

On 5 August 2004, British Columbia’s (BC) Police Complaints Commissioner, Dirk Ryneveld, called for an inquiry to investigate emerging concerns regarding the possible lethality of tasers when used by the police. In naming Chief Constable Paul Battershill of Victoria Police as Chief External Investigator, he ordered a review of the use of the taser by BC police departments and specifically its use in connection with the in-custody death of Robert Bagnall.² The commissioner highlighted in particular the growing concern over recent deaths involving individuals frequently in situations where the subject was suspected to be under the influence of drugs.

The Commissioner asked Battershill to review BC’s present use of force policies and to provide interim recommendations as he deemed appropriate for the use of the Taser by police officers in the province. Although the Commissioner believes “the use of the Taser may have saved lives...there may also be a category of individuals, those on drugs, whose adrenaline is already pumping, that just can’t take 50,000 volts of electricity”.

² See page 8

The interim report, published in September, does not cover the investigation into Robert Bagnall's death – which is still ongoing – but relates to police use of the taser in BC, including interim recommendations relating to police Taser training, reporting and terminology.

The conclusions and recommendations of the report are based on data collected by three sources: the Victoria police between 1999 and July 2004, the Edmonton Police Service between 2001 and July 2004, and Taser International. Based on an analysis of this data, and a review of published medical studies – a number of which were sponsored by Taser International – the report concludes that “appropriate use of the Taser presents an acceptable level of risk to subjects being controlled” and should as such be retained as an intermediate weapon for use by police within British Columbia. The report highlights a need for greater levels of accountability and a more uniform province-wide training program in the safe use of the weapon. It also calls for better training on the use of restraints - whether or not an individual has been tasered - in order to decrease the risk to certain groups who are most in danger from sudden and unexpected death associated to restraint.

The specific interim recommendations include: a standardized training course on the safe use of the taser provided to all officers using the weapon; a mandatory reporting policy for all taser deployments allowing for province-wide analysis of taser use; for new acquisitions of the weapon, the report recommends the X26 Taser due to its data collection capabilities and lower electrical output; the provision of a standardized ‘Excited Delirium’³ training course to all officers in the province; and finally, the suspension of the use of the ‘hogtie’⁴ restraint hold by all officers in the province, and in its place, the use of a ‘Hobble’ or a ‘Wrap’ restraint or other similar devices. Amnesty International has expressed concern that the ‘Hobble’ restraint (a modified form of hogtie) is itself a potentially dangerous form of restraint which has been associated with deaths in custody in the USA and has therefore called for a ban on this procedure as well.

The British Columbia's Coroner's Service will be reviewing the deaths of the four individuals who died in the province after police deployed a taser against them. These reviews will be carried out in separate Coroner's inquests and will involve in-depth consideration of the evidence and circumstance of each case. This is a standard procedure for all in-custody

³ A condition known as “excited delirium”, sometimes also referred to as “in-custody death syndrome”, has been attributed by some US and Canadian coroners to a number of deaths in custody, especially in the case of persons on drugs or suffering from psychosis. It is a combination of signs and symptoms, including dangerously elevated body temperature levels, leading to sudden death. The theory relating to such a syndrome is controversial and disputed by some medical experts.

⁴ Traditional “hogtying” involves the individual's wrists and ankles being bound together, so that the shoulders and ankles are raised, placing pressure on the abdomen, a particularly dangerous procedure. The hobble restraint may have a longer cord between the wrist and ankles, allowing somewhat more movement, mainly to allow the individual to be transported in an upright position; while this is less dangerous, deaths have been reported from the hobble restraint, even where someone is placed on their side or upright.

deaths in BC. The Coroner's service is also conducting a wider investigation into deaths in the province involving police restraint since 1994, which will include these four cases.

The Canada Safety Council (CAC) while maintaining that tasers are "the best alternative to firearms" has called for a comprehensive review on when Taser guns should be used. According to CAC president, Emile Therien, guidelines for the use of tasers "must balance medical concerns with personal safety of police officers, suspects and bystanders." In quoting a 1989 study which disclosed a connection between the use of stun weapons and the occurrence of heart attacks in pigs with pacemakers, Therien added, "Tasers used in some less threatening situations such as crowd control raises concerns. Even a relatively small shock can cause cardiac arrest in someone with a weak heart."⁵

Deaths in custody

Within the last fifteen months, nine people have died after being shocked with a taser by law enforcement officials in Canada. More than 60 people have died in the USA after being hit with police tasers in the past three years. While coroners have usually attributed the deaths to other factors, such as drug intoxication, some medical professionals believe taser shocks may exacerbate a risk of heart failure in cases where people are agitated or under the influence of drugs, or have underlying health problems. Furthermore, in at least five recent US cases, coroners have found the taser directly contributed to the deaths, along with other factors such as drug intoxication and heart disease.

The rising death toll heightens Amnesty International's concerns about the potential health risks involved in taser use. While the manufacturers claim the electrical output of tasers is far below the threshold that would trigger cardiac ventricular fibrillation (severe disturbance of the heart rhythm), there remains a lack of rigorous, independent research into the medical effects of such weapons.

While there is a limited amount of literature describing the clinical experience of earlier tasers, there has been virtually no independent, medical literature published to date on the effects of the more powerful M26 or X26 tasers currently deployed in the USA and Canada. The only medical studies prior to the marketing of these new generation taser models were tests on animals commissioned by the company; none of these studies has been peer reviewed by independent medical experts. Meanwhile, a number of medical experts have continued to raise concern that tasers may have adverse effects on certain vulnerable groups, including those under the influence of certain recreational drugs – often the very people who have come into contact with police tasers. Further information on health concerns relating to tasers, and studies or reports conducted to date, is contained in Amnesty International's report on police taser use in the USA, published in conjunction with this report.⁶

Amnesty International is further concerned that many of the nine men who died in Canada were subjected to high levels of force, including other restraint procedures in addition

⁵ Scott Stephenson, *City police still using Taser*, The Observer, www.theobserver.ca, 7 August 2004.

⁶ USA: Excessive and lethal force? Amnesty International's concerns about deaths and ill-treatment involving police use of tasers (AMR 51/139/2004).

to the electro-shocks. These procedures include hogtying, chest compressions and pepper spray, all of which can dangerously restrict breathing especially when combined with other force. While autopsies are still pending in some cases, Amnesty International is concerned that these restraints may also have been a contributory factor in some deaths.

In six of the nine cases reviewed, the deceased appear to have been coerced into restraint positions which have been associated with deaths in custody from “positional asphyxia”. Such positions include being held face-down on the ground with weight or pressure applied to the chest. Individuals who are obese, have underlying heart disease and/or who are severely agitated or intoxicated from drugs or alcohol are believed to be at increased risk from such procedures.

In at least five cases, the deceased were placed in a “hogtie” or “hobble restraint”, with their wrists or elbows bound behind them to their shackled ankles. This form of restraint is believed to be a particularly dangerous and potentially life threatening procedure, especially if the subject is in a prone position.⁷ Standard-setting bodies discourage the use of hogtying and urge that law enforcement officers avoid holding anyone in restraints, even handcuffs, in a face-down position.⁸ While some US departments have banned hogtying Amnesty International is disturbed that police departments in Canada still authorize such procedures.

Several of the deceased were pepper sprayed before being tasered. Pepper spray, which acts on the mucus membranes and respiratory system, can further restrict breathing and has been associated with in-custody deaths in the USA and Canada. Amnesty International is concerned that use of multiple restraint techniques, including pepper spray, might increase the risk of respiratory failure.⁹ In two cases (see below), an unarmed suspect died after being pepper-sprayed, electro-shocked and restrained.

Positional asphyxia was listed as a direct cause of death in one of the cases examined, and use of restraints was noted as a contributory factor in another. In other cases, however, restraint was not listed as a causal or contributory factor even though death or loss of consciousness appears to have occurred very shortly after the use of restraints.

Experts have noted that multiple factors may play a role in deaths where restraints have been applied, particularly if other risk factors are involved. Amnesty International believes that all the cases require further evaluation. They also underscore the need for clear protocols

⁷ See footnote 3.

⁸ These include U.S. Department of Justice National Institute of Justice (NIJ) Advisory Guidelines for the Care of Subdued Subjects (June 1995); NIJ Bulletin on Positional Restraint, October 1995; Metropolitan Police Complaints Authority (UK), bulletin July 2001.

⁹ Since the early 1990s more than 100 people in the USA are reported to have died after being subjected to pepper spray. While most deaths have been attributed by coroners to other causes, such as drug intoxication or positional asphyxia, there is concern that pepper spray could be a contributory factor in some cases. Pepper spray has been found to be a factor in several recent in-custody deaths. Studies discounting a link between physical restraint and pepper spray have generally been conducted on healthy subjects and do not replicate what happens in the field. Further research is needed.

and training for law enforcement officers on use of restraints and how to avoid excessive or dangerous force when dealing with people with mental health problems and/or acute behavioural disturbance.

- **British Columbia:** On 19 April 2003, Terry Hanna, aged 51, died shortly after he was shot with a Taser by Burnaby RCMP officers.

According to reports, Terry Hanna was seen carrying a hammer and knife as he entered the rear of the North Burnaby Inn. Officers are reported to have shocked Hanna with the taser as he resisted arrest. According to the autopsy report Hanna was then placed face-down on the ground, handcuffed behind his back and hogtied. He is reported to have gone into cardiac arrest and died at the scene after paramedics failed to revive him.

Cause of death was attributed principally to acute cocaine intoxication, cardiac hypertrophy, coronary artery disease and physical restraint contributory factors. Significantly, the coroner noted that “the patient was placed face-down, handcuffed behind his back and “hogtied” during the restraint process”¹⁰

The RCMP Headquarters’ serious crimes section is investigating the death.

- **British Columbia:** Clayton Alvin Willey, 33, an indigenous man from Prince George died on 22 July 2003 after RCMP officers shot him with a taser.

The incident is reported to have occurred after the officers responded to a call from residents that a man was acting irrationally and aggressively. It is reported that the taser was deployed twice against Willey who was handcuffed at the time. Officers are also reported to have hogtied Willey. He died in hospital approximately 16 hours later, after, according to his family, having suffered seven cardiac arrests.

An internal investigation by the RCMP cleared the officers of any wrongdoing. In October 2004, a coroner’s inquest was held into the death; at the time of writing, the conclusion is still pending.

- **Yukon Territories:** In September 2003, Clark Whitehouse, aged 34, died after he was shocked with a taser by Whitehorse RCMP officers.

Clark Whitehouse is alleged to have fled from officers after he was pulled over in his truck for a routine traffic stop. Officers are reported to have witnessed him ingesting a substance as he ran. Whitehouse was allegedly shocked with a taser by the officers as he became combative. According to the officers, Whitehouse began foaming at the mouth at the scene, paramedics were unable to resuscitate him and he was pronounced dead on arrival in hospital.

¹⁰ Autopsy report on Terry Hanna

Toxicology reports indicate that Whitehouse had very high levels of cocaine in his system. An inquest into the death has not yet been held.

- **Alberta:** On March 23 2004, Perry Ronald died after being shot with a taser by officers from Edmonton Police Department. An autopsy failed to determine a cause of death.

According to reports, Perry Ronald became involved in an altercation after being thrown out of a party. Two Edmonton police officers responded to the incident and in the course of the arrest stunned him with the taser an undisclosed a number of times. The officers also placed Ronald in a hobble restraint. He died in hospital after failing to be revived following cardiac arrest.

- **British Columbia:** On 1 May 2004, Vancouver police shot 25-year-old Roman Andreichikov with a Taser as he lay on the floor in his apartment.

According to reports, Roman Andreichikov had taken drugs and was acting irrationally when his friend who was concerned by his erratic behaviour called for paramedic assistance. Although no crime was in progress, Vancouver police were the first to arrive at the scene. Andreichikov is alleged to have complied with police orders to lie face-down on the floor of his flat. Officers are reported to have shot him in the leg with the taser as he rolled over from his front onto his back. An officer is then alleged to have handcuffed Andreichikov's hands behind his back before pushing his head down against the floor while two others bent his legs at the knees using their body weight to drive his ankles into his back.

According to reports, Andreichikov died within minutes after informing officers that he couldn't breathe.

An internal investigation is being carried out into the incident which will be handed over to Crown Counsel for review. The final coroner's report, including toxicology reports is in preparation. According to the Coroner, Andreichikov died of cardiac arrest however, "what caused the cardiac arrest we don't yet know".

- **Ontario:** May 13, 2004, Peter Lamonday, a 33-year-old landscape worker, died approximately twenty minutes after London Police Service (LPS) officers pepper-sprayed him, punched him in the face, and then tasered him a number of times.

Reports of the incident state that Lamonday had been acting strangely and was breaking doors and windows of businesses along Hamilton Rd., London. An altercation ensued when police confronted him in a parking lot; officers are alleged to have pepper-sprayed him and then punched him in the face. In the course of attempting to handcuff Lamonday, an officer is alleged to have shocked him a number of times with a taser in stun gun mode. Seven officers are then reported to have used their combined body weight to pin Lamonday to the ground before handcuffing him and using a flexible restraint to secure his feet together. He is

reported to have been placed on a restraint stretcher and died minutes after he arrived at hospital.

A post mortem examination concluded that Lamonday died from “cocaine-induced excited delirium”. The incident was investigated by Ontario’s Special Investigation Unit (SIU), a civilian agency that probes all serious incidents of injury or death involving the police. The SIU concluded that there are “no grounds to believe that any LPS officers are criminally responsible in relation to the death of Peter Lamonday”.

- **British Columbia:** 23 June 2004, Robert Bagnall, aged 54, died shortly after being shocked with a taser by Vancouver police officers.

According to reports, police were called to a hotel where Robert Bagnall had locked himself in the bathroom and was allegedly destroying hotel property. In the course of the arrest, police are reported to have shocked Bagnall with the taser. He died at the scene despite paramedics’ attempts to revive him.

According to subsequent information provided by the police, the officers made the decision to use the Taser when the fire alarm in the building went off and the hotel began filling with smoke.

Preliminary toxicology reports indicate that Bagnell had a high level of cocaine in his blood. The case is under investigation by Major Crimes Unit and a full pathology report will be carried out. Vancouver police delayed disclosing that Bagnell had been shot with a taser for a month. According to the British Columbia’s Police Complaints Commissioner, Dirk Ryneveld, the Vancouver Police Department’s (VPD) delays in disclosing information created “an adverse perception of the ability of the VPD to conduct an impartial investigation” and sparked the need for the incident to be investigated by an external force.

- **Ontario:** 17 July 2004, Jerry Knight, a semi-professional, 29-year-old boxer, was pronounced dead on arrival at hospital after being subdued with a taser by officers from Peel Region Police Department.

According to reports, police were called to a motel following reports that a guest had become violent and was throwing objects around the reception. Police attempted to subdue Knight, including using pepper spray, before shooting him with a taser in stun drive mode. Police are then reported to have hogtied Knight; securing his handcuffed hands and ankles together. He is reported to have lost consciousness at the scene and died shortly thereafter in hospital.

A post mortem examination established that Knight died from “restraint asphyxia with cocaine related excited delirium”. According to James Cornish, Interim Director of the SIU, “the actions of the police appear to have played a role in Mr Knight’s death, their actions in and of themselves cannot be said to be criminal, at least based on the available evidence.” The taser has been ruled out as a contributing cause of death.

An inquest into Knight's death, which will be looking at all forms of less-lethal force, including the taser, will be carried out now that the SIU investigation has been completed.

- **Ontario:** 8 August 2004, Samuel Truscott, 43, died after he was pepper-sprayed and shocked with a taser by Kingston police officers.

According to reports, police were called to Truscott's home where he had reportedly overdosed on drugs and had barricaded himself in a room. Armed with a baseball bat and knife, he was threatening to hurt himself. Officers are reported to have pepper-sprayed Truscott before deploying the taser against him. Truscott is reported to have walked unaided to the patrol car but died approximately two hours later in hospital following cardiac arrest.

According to the preliminary autopsy, cause of death was attributed to drug overdose. Following the findings, which reportedly exonerated police involvement – and the role of the taser - in Truscott's death, the provincial SIU closed its investigation into the incident.

Taser incidents involving excessive use of force and ill-treatment

Amnesty International has received disturbing reports of inappropriate and abusive use of tasers in Canada. Reports show that tasers are commonly used to secure compliance in routine arrest and non-life threatening situations, including use against persons not actively resisting arrest, and against non-violent protesters. In some of the cases, the treatment by police officers is in clear violation of international standards prohibiting torture and cruel, inhuman and degrading treatment – including the International Covenant on Civil and Political Rights which entered into force in Canada in 1976 and the Convention against Torture, ratified by Canada in 1987 - as well as international guidelines on police use of force.

In a number of the cases examined, officers used tasers in stun gun mode. Tasers in stun gun mode are particularly easy to use and abuse because there is no need to load or reload a cartridge. As they are applied through touch stunning the subject's skin or clothing, they tend to be used against individuals who are already in custody or under police control in some way.

In more than half the cases, individuals were subjected to multiple taser discharges. Amnesty International believes that questions remain about the harm caused by subjecting someone already in an agitated state to multiple electro-shocks, especially in conjunction with other force.

- **British Columbia:** In February 2004, an RCMP officer was charged with assault for stunning a distraught man, Robert Thomas, aged 30, seven times with a Taser in August 2001, including on the face, kidney area, arms and hand causing "excruciating pain".

Thomas's girlfriend had called the police to report that Thomas had swallowed a large quantity of anti-depressants. Thomas, who was reportedly frail and suicidal and not violent, was shocked with the gun after he climbed down from a tree which was surrounded by police.

The officer was found not guilty on the charge of excessive force despite three fellow officers testifying that Thompson was under control when he was tasered. However, the trial judge criticized the officer for using the taser twice on an already stressed individual and stated that the use of the taser had not been necessary considering that the three other officers had Thompson on the ground and under relative control. The judge is reported to have noted inconsistencies in taser-related police training and called on forces to resolve this.

A formal hearing has been scheduled by the RCMP to determine whether the actions of the officer concerned contravened policy guidelines. The officer remains suspended with pay pending resolution of a second charge of assault in another case involving potential misuse of a taser.

- **Ontario:** In February 2004, the RCMP Public Complaints Commission (an independent watchdog agency) issued its final report into policing at the 2001 Summit of the Americas in Quebec City. It found that excessive force was used by the RCMP in dealing with the largely peaceful demonstrators.

The Commission chairwoman found that the RCMP tactical squad's use of an M26 Taser against a protester who was lying face-down on the pavement, waiting to be arrested, with one arm held up for a handcuff and the other over his head flashing the peace sign, was a clear abuse of authority. The man was "not struggling and represented no threat to the members, to himself, to the public or to property". The Chair reiterated her recommendation that the incident be fully investigated by the RCMP and saw "no plausible reason, given the nature of this complaint...that this has not yet been done". The Commissioner stated that the RCMP was wrong not to have thoroughly investigated the incident and urged it to do so immediately.

- **Alberta:** On 30 July 2002, an Edmonton police officer is reported to have used a taser to subdue a handcuffed woman and was charged with 'assault with a weapon' in July 2004. A second Edmonton officer was charged the following month with two counts of 'assault with a weapon' arising from an alleged misuse of a taser gun in an incident in November 2003.
- **Alberta:** On 5 October, 2002, a 17-year-old indigenous youth was allegedly assaulted by an Edmonton Police Service officer while several other officers looked on.

According to reports, police responded to a noise-disturbance incident involving a group of youths who were sitting with the owner's permission in a broken-down car.

Five officers and a police dog are reported to have surrounded the car and pulled all but one of the youths out. The remaining teenager, Randy Fryingpan, was allegedly shocked with a Taser as -- drunk and unconscious -- he failed to respond to police commands to exit the car.

The officer involved admitted in court – during related proceedings last June – that he had shot the seventeen year-old seven times with the taser before hitting him in the mouth with the blunt end of the weapon in the course of administering a ‘head-stun’.

According to the officer, the youth was resisting arrest. Witnesses claim, however, that this was not the case, but that his body jolted, as a consequence of being shocked with the weapon at close range.

Fryingpan was treated in hospital for burn-marks and concussion before being admitted to Edmonton Young Offenders Centre where he was placed on a fifteen-minute medical watch because of his injuries.

Fryingpan’s mother filed a formal complaint against the officer involved in the alleged assault. Then Chief of Police, Bob Wayslyshen, who is the father of the police officer involved, refused to refer the investigation of his son’s misconduct to another jurisdiction and a complaint filed against him for this reason has been summarily dismissed. Two-years on, the results of the investigation are not forthcoming.

- **Ontario:** A number of Algerian asylum seekers alleged that Ottawa Police Services tactical squad and members of the RCMP kicked them and jolted them with tasers after breaking up a non-violent protest against a deportation order at a federal immigration minister’s office on 29 May 2003.

The protesters had reportedly occupied the minister’s office all day without incident, and the alleged ill-treatment occurred when police tried to evacuate them from the building in the evening. A number of people reportedly sustained Taser burns on their neck, back and arms; another was reported to have been hit on the head with the butt of a Taser, while another man’s tooth was allegedly broken when he was punched in the face by a police officer.

The twelve men were arrested, charged with “mischief” and released from jail the next day.

Two of the twelve men have since been deported; the trial of the remaining ten began in June 2004 and is scheduled to resume for two weeks in February 2005. The defence has argued that the force used to arrest the accused was excessive and unnecessary and has resulted in physical and emotional trauma for the accused, who were cooperative, unarmed and passive during their arrest.

The non-violent protests against the deportation orders continued outside of the building on 29 May 2003, where a number of demonstrators had gathered. Amnesty International received reports of the following two serious incidents concerning the potentially abusive use of force during the protests:

- **Ontario:** An RCMP officer arrested Paul Smith, a representative of a local non-profit, volunteer organization as he took photos of the demonstration.

According to reports, in the course of removing Smith from the area, an Ottawa police officer twice jolted Smith with a Taser – in stun gun mode - near his groin as he lay handcuffed on the ground. Witnesses report that Smith was neither violent nor combative.

Smith was held in Ottawa Police station for three hours before being released without charge.

Smith filed a formal conduct complaint against the Ottawa Police Service (OPS) in November 2003. The OPS determined in May 2004 that the force used by the officers in requesting and deploying the taser was not excessive in the circumstances and found his complaint to be unsustainable. At Paul Smith's request, the Ontario Civilian Commission on Police Services reviewed his complaint and subsequently directed that a hearing be held into the incident. On 26 October 2004 both officers appeared at the hearing charged with employing excessive force in using a stun gun during the arrest of Paul Smith.

- **Ontario:** Another protester, Heidi Rimke, was allegedly shot on the breast with a taser in stun gun mode by a police officer as she shouted in protest as she witnessed the aforementioned incident.

Rimke filed a complaint of excessive force against the officers with the Ottawa Police Professional Standards office (OPPSO). The OPPSO rejected the complaint and asserted that the use of the Taser had been justified as Rimke had been moving against the officer at the time of the deployment.

However, witnesses to the incident refute this account and report that the officer was approximately four meters away and walking towards Rimke when he shot her with the Taser.

- **British Columbia:** On 28 March 2003, Germain Quesnel, a French-Canadian reportedly suffered a heart attack after being tasered in custody by Richmond RCMP officers.

According to reports, officers arrested the individual at his house for breach of the peace. They failed to inform him why he was being arrested, nor of his rights to contact his lawyer. Officers are alleged to have shocked Quesnel - who was handcuffed at the time - approximately ten times, in stun gun mode, after he refused to get out of the patrol car. Approximately two hours later, after being placed in a cell, and stripped down to just a T shirt, he is reported to have been shocked again in stun gun mode with a taser directly on the chest. Immediately, Germain Quesnel is alleged to have complained about pains in his chest and requested his medication and the attention of a doctor. Despite carrying his medication on his person, the police originally failed to locate it. Approximately three hours after being tasered for the second time, Quesnel was released and taken to hospital where doctors confirmed that he had suffered a heart attack.

According to his doctor, "Although the taser attack did not cause his coronary artery disease it is possible that the Taser attack precipitated an episode of atrial or ventricular fibrillation that

compromised his coronary circulation resulting in his myocardial infarct of March 29 2003. This would not have produced a myocardial infarct if he did not have pre-existing heart disease.”

An internal investigation into the incident, concluded in May 2004, found that the officer who had shocked Quesnel in the cell had used excessive force in deploying the taser against him. As far as Amnesty International is aware, the officer has not been disciplined. In a letter from Superintendent Ward Clapham of Richmond RCMP to Germain Quesnel, he is advised that the officer was told “that his conduct was not acceptable” and would be given additional training in the use of the taser. Clapham continues, “He assured me this will not reoccur”. Three months later, the same officer, as reported below, was involved in another case involving the misuse of a taser.

- **British Columbia:** On 30 May 2003, Richmond RCMP officers shocked 58-year-old Phillip Spicer as he lay immobilized in the back seat of a patrol car.

According to reports, Phillip Spicer was arrested by officers for failing to agree to leave a pub where he had been drinking. He is reported to have fully cooperated with the officer, but after being handcuffed experienced difficulties – due to his size and the lack of space in the patrol car - getting into the back seat. Officers are alleged to have hit him on the back of the legs, possibly with a night stick, to encourage him to get into the car. During the journey, Phillip Spicer remained on his back, with his hands cuffed behind him, and his knees bent.

According to reports, when officers failed to pull Phillip Spicer out of the car by dragging him by the shoulders - which were too broad for the door opening - an officer is alleged to have jumped onto the front seat, and with no warning, shocked him with a taser seven times on his stomach and thighs resulting in second degree burns. The charges against him were eventually dropped.

The Richmond Detachment of the RCMP is investigating the incident.

CONCLUSIONS AND RECOMMENDATIONS

Tasers are widely promoted as being a useful weapon, safer than many other weapons or techniques used to restrain dangerous, aggressive and focused individuals. In practice, however, they are commonly used to subdue individuals who do not pose a serious and immediate threat to the lives or safety of others. In many reported instances police actions using tasers appear to have breached international standards on the use of force as well as the prohibition against torture or other cruel, inhuman or degrading treatment or punishment.

Amnesty International considers that electro-shock weapons are inherently open to abuse as they can inflict severe pain at the push of a button without leaving substantial marks, and can further be used to inflict repeated shocks. While the capacity for abuse exists in whichever mode tasers are deployed, Amnesty International believes that tasers in “touch”

stun gun mode are particularly open to abuse, as they are designed for “pain compliance” and tend to be used against individuals who are already in custody or under police control, often with multiple shocks.

Amnesty International is further concerned that, despite being widely deployed, there has been no rigorous, independent and impartial study into the use and effects of tasers. Medical opinion has continued to raise concern about potential health risks from tasers, particularly in the case of people suffering from heart disease, or under the influence of certain drugs. Amnesty International’s concerns are heightened by a growing number of deaths of individuals struck by police tasers. The organization believes that the taser cannot be ruled out as a possible contributory factor in some deaths. Concerns about the risks associated with tasers increase as they become more widely deployed.

Many police agencies claim that tasers have the potential to save lives or avoid serious injury in cases where police officers might otherwise resort to firearms or other forms of deadly force. It is self-evident that tasers are less-lethal or injurious than firearms. Amnesty acknowledges that there may be situations where tasers might effectively be used as “stand-off”, defensive weapons as an alternative to firearms in order to save lives. This appears to be the aim of the limited introduction of tasers to UK police who operate under strict rules. However, it appears that in practice tasers are rarely used as an alternative to firearms in Canada and many officers appear to use them at a relatively low level on the “force scale”. Amnesty International further notes that measures such as stricter controls and training on the use of force and firearms are likely to be more effective overall in reducing unnecessary deaths or injuries.

Amnesty International welcomes the announcement in August 2004 by the Canadian Association of Chiefs of Police that they, in conjunction with the Canadian Police Research Centre, the RCMP and the National Research Council, will conduct a review of all taser literature, field reports and other international data with a view to synthesize .

The organisation feels however that this review does not go far enough as it will not involve any new research involving the new generation of tasers - the more powerful M26 or X26 models - that are currently deployed in the Canada, and on which there has been virtually no independent, medical literature published to date. The only medical studies prior to the marketing of these new generation taser models were tests on animals commissioned by the Taser International; none of these studies has been peer reviewed.

Amnesty International urges the CACP, with the support of the federal government, to ensure that the following recommendations are incorporated into their review:

- The inquiry should be carried out by acknowledged medical, scientific, legal and law enforcement experts who are independent of commercial and political interests in promoting such equipment. They should rigorously assess their medical and other effects in terms of international human rights standards regulating the treatment of prisoners and use of force; the inquiry should include the systematic examination of all known cases of deaths and injury involving the use of such weapons and also consider the mental impact

of being subjected to electro-shock. The study should recommend strict rules, safeguards and oversight procedures to prevent misuse of any types of electro-shock equipment that may be viewed as having a legitimate use in law enforcement. A report of the findings of such an inquiry should be made public promptly after completion of the study.

Amnesty International urges all police enforcement agencies to:

- Suspend all transfers and use of tasers and other electro-shock weapons pending the completion of a rigorous, independent and impartial inquiry into their use and effects.
- International standards recognize that situations will arise in which police officers will have to use force. However, these standards, specifically the (UN) Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, set specific guidelines on when, how and the extent to which force can legitimately be used. All law enforcement agencies should ensure that officers are trained to use force strictly in accordance with these standards.¹¹
- All police authorities should ensure that use of force training programs for law enforcement officials include international standards on human rights, particularly the prohibition against torture and cruel, inhuman or degrading treatment or punishment.
- All allegations of human rights violations and other police misconduct should be fully and impartially investigated. All officers responsible for abuses should be adequately disciplined and, where appropriate, prosecuted.

Where law enforcement agencies refuse to suspend their use of tasers, pending the outcome of the above-mentioned inquiry, Amnesty International recommends that:

- departments using tasers should strictly limit their use to situations where the alternative would be use of deadly force. Examples would include: armed stand-offs, instances in which a police officer faces a life-threatening attack or injury, or threat of attack with a deadly weapon, or where the target presents an immediate threat of death or serious injury to him/herself or

¹¹ These require *inter alia* that law enforcement officials shall, as far as possible, apply non-violent means before resorting to the use of force and firearms; exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be pursued; minimize damage and injury, and respect and preserve human life. Law enforcement officials shall not use firearms except in self-defence or the defence of others against the imminent threat of death or serious injury; in any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life.

others. In such circumstances, tasers should be used only where less extreme measures are ineffective or without a promise of achieving the intended result.

- Unarmed suspects should not be shot with a taser for arguing, talking back, being discourteous, refusing to obey an order, resisting arrest or fleeing a crime scene, unless they pose an immediate threat of death or serious injury that cannot be controlled through less extreme measure.
- Operational rules and use of force training should include a prohibition against using tasers on the following groups, except as a last resort to avoid deadly force when no alternatives other than firearms are available: pregnant women; the elderly; children; emotionally disturbed persons or people who are mentally or physically disabled; people in vulnerable positions where there is a risk of serious secondary injury (e.g. in dangerously elevated positions, or near flammable substances); people under the influence of drugs.
- Repeated shocks should be avoided unless absolutely necessary to avoid serious injury or death.
- Departments should prohibit the application of prolonged shocks beyond the five-second default charge in any cycle.
- Tasers should only be used in stun gun mode as a back-up to dart-firing tasers and only when no other options are available to an officer and there is an immediate threat of death or serious injury to the officer, the suspect or another person. The stun gun function should never be used to force a person to comply with an order given by an officer where there is no immediate threat to the life or safety of the officer or others.
- Whenever an individual has been shot with a taser, police officers or custody staff should be required to call paramedics or other medical professionals to administer treatment. It is advisable to take tasered subjects to hospital to have the barbs removed and to monitor for other possible adverse effects.
- All agencies should ensure strict reporting by the departments concerned on all use or display of tasers, with regular monitoring and data made public. In particular:
 - Departments should download data recorded by officers' tasers after every incident in which they are used. A summary of this data should be included in all use of force reports.
 - Each display, "sparking" or shock administered by a taser should be reported in use of force reports, as well as whether the taser was used in dart-firing or stun gun mode and the reasons why a taser was used. The number of trigger-pulls and duration of the shock should be reported in each instance. The age, race and gender of each person against whom a taser is deployed should also be reported.

- Prisons and other institutional facilities should install remote monitoring equipment to record taser usage automatically as it occurs.
- Each department should provide a detailed break-down of its taser use in regular, public reports.

Additional recommendations:

- Mentally ill or disturbed individuals should receive appropriate treatment and alternatives to force in line with best practice. Where officers have reason to believe that a disturbed individual may be acting in a violent or threatening manner as a result of mental illness, efforts should be made to involve mental health specialists in dealing with the disturbed person. Policing methods based on force should only be used as a last resort.
- Dangerous restraint holds such as hogtying and use of carotid neckholds or other chokeholds should be banned.
- There should be strict limitations and guidelines on the circumstances in which pepper spray is used, with clear monitoring procedures.