



San Francisco Police Commission  
850 Bryant Street, 5<sup>th</sup> Floor  
San Francisco, CA 94103

September 21, 2004

Re: *Recommendations Regarding Taser Use*

Dear Commissioners,

I understand that the Police Commission and the Department are considering purchasing tasers and deploying them to officers as a less-lethal use of force option. In the past several months, there has been a significant increase in the number of deaths associated with taser use at the same time that research sponsored by Taser International on the medical effects of tasers has been called into question. While the ACLU of Northern California does not advocate for an outright ban on taser use, we urge you to only allow tasers to be used as an alternative to deadly force or where there is an imminent threat to human life.

*Deaths Increasing*

Since September 1999, there have been 71 reported cases of deaths following taser use, however the numbers are rapidly increasing. In August, 2004 alone, ten people in the United States and Canada died following taser use by law enforcement.<sup>1</sup> And, just last Thursday, another young man – this time in Vallejo – died after being shot with a taser.<sup>2</sup>

While some of these deaths may have occurred with or without the use of a taser, in a survey conducted by the *Arizona Republic* of 24 publicly available autopsy reports

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<sup>1</sup> Robert Anglen, "71 Cases of Death Following Stun-Gun Use," *Arizona Republic*, September 15, 2004.

<sup>2</sup> J.M. Brown, "Suspect Dies After Shot by Taser," *The Reporter*, September 17, 2004. We do not yet know all the circumstances involved in this case, but like so many deaths involving taser use, detectives suspect the young man, Andrew Washington, was under the influence of drugs.

on deaths following the use of a taser, in eight cases medical examiners either determined that tasers were a contributing factor in the death or could not be ruled out as a cause of death.<sup>3</sup> A few examples of these cases include:

- Clever Craig, Died June 28, 2002, Mobile, Alabama. Craig was acting strangely and holding a barbell. Police arrived and ordered Craig to drop the weight. Police then tasered Craig twice in a 40 second period. When police handcuffed Craig, he was not responsive. Dr. Leroy Riddick, Alabama Regional Medical Examiner, determined that Craig died of a heart attack during an episode of delirium “following electrical shock from a Taser while resisting arrest.”<sup>4</sup>
- William Lomax, Died February 21, 2004, Las Vegas, Nevada. After struggling with police at a public housing complex, William Lomax was tasered seven times while handcuffed and in police custody. Lomax was under the influence of PCP. A coroner’s inquest found that the Taser contributed to his death. According to John Fudenbert, Clark County Assistant Coroner, “all factors considered, the Taser had some effect on his death...but there is no way to tell what percentage it played.”<sup>5</sup> Clark County Sheriff Bill Young is now re-evaluating the circumstances under which a taser should be used.<sup>6</sup>
- William Teasley, Died August 16, 2004, Anderson County, South Carolina. Teasley was arrested for disorderly conduct. When he was booked into jail, he became aggressive and violent. He was shocked with a taser, stopped breathing, and died. Deputy Coroner Charlie Boseman determined that the taser was the “last straw” and caused Teasley’s death. According to Boseman, “he had really bad cardiac disease. He was a drinker....I think (the Taser) set him off into cardiac arrest.”<sup>7</sup>

Although there has been a significant increase in the number of deaths associated with taser use and there are autopsy reports listing tasers as a cause of death, Taser International steadfastly maintains that Tasers are “non-lethal” – not just “less-lethal” – and have never directly contributed to a single death. Despite coroner findings that a taser shock was the “last straw” resulting in death, Taser International President Tom Smith continues to claim that, “there is not one case that you can say ‘boom, right here, it was the taser from Taser International that killed this individual.’”<sup>8</sup>

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<sup>3</sup> Robert Anglen, *Arizona Republic*, September 15, 2004.

<sup>4</sup> Robert Anglen, *Arizona Republic*, September 15, 2004; Robert Anglen, “Autopsy Links Another Death to Taser,” *Arizona Republic*, August 6, 2004.

<sup>5</sup> Ryan Slattery, “Shock Waves,” *Las Vegas CityLife*, August 11, 2004.

<sup>6</sup> Associated Press, “Vegas Man Dies After Police Use Taser to Subdue Him,” *San Jose Mercury News*, August 3, 2004.

<sup>7</sup> Robert Anglen, “Coroner: Taser Pushed for Revision of Autopsy,” *Arizona Republic*, August 25, 2004.

<sup>8</sup> Tom Smith, News Hour with Jim Lehrer, September 15, 2004. Taser International’s position that tasers are “non-lethal” is made repeatedly in their public statements and literature. Each of their press releases contains a statement that “TASER International, Inc. provides advanced *non-lethal* weapons for use in the law enforcement, private security, and personal defense markets” (emphasis added). In the “frequently

### *Lack of Independent Safety Studies*

The intractable position taken by Taser International is particularly disturbing given the lack of independent scientific and medical studies substantiating their claims. In July 2004, the *New York Times* surveyed the safety studies done by Taser International for its weapons.<sup>9</sup> In particular, the *Times* looked at safety studies done for the popular and powerful M26. The article concluded that Taser International has “scant evidence” to support its safety claims. According to the *Times*:

The company’s primary safety studies on the M26, which is far more powerful than other stun guns, consist of tests on a single pig in 1996 and on five dogs in 1999. Company-paid researchers, not independent scientists, conducted the studies, which were never published in a peer-reviewed journal. Taser has no full-time medical director and has never created computer models to simulate the effect of its shocks, which are difficult to test in human clinical trials for ethical reasons.

What is more, aside from a continuing Defense Department study, the results of which have not been released, no federal or state agencies have studied the safety, or effectiveness, of tasers, which fall between two federal agencies and are essentially unregulated. Nor has any federal agency studied the deaths to determine what caused them.

Moreover, while Taser International released a press release “strongly refut[ing]” the *Times* article, it is significant to note that in that release, it never disputed these core points concerning the safety studies for the M26, the lack of computer modeling, and the lack of independent studies. Instead, the company points to an estimated 100,000 police officer “volunteers” who have been shocked with a taser with no deaths.<sup>10</sup> These human trials however, do not properly simulate in-field taser use and do not account for medical conditions or stimulants that are present in a large percentage of the population that police could potentially use tasers on.

Unlike when tasers are used in the field, tests on police officers often do not subject volunteers to a full five-second taser burst, rather, they sometimes only receive a single burst of a half second or less.<sup>11</sup> Even when volunteers receive one full five-second taser burst, that does not always correspond with how tasers are used in the field, according to John Wikswo, a biomedical engineer at Vanderbilt University.<sup>12</sup> In the field, subjects are often hit with more than one taser burst and officers in the field can hold

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asked questions” section of their web page, the first point that appears on the page is a statement that “TASERs are non-lethal.” See < <http://www.taser.com/pages/citizen/faqs.html>>.

<sup>9</sup> Alex Berenson, “As Police Use of Tasers Rises, Questions Over Safety Increase,” *New York Times*, July 18, 2004.

<sup>10</sup> Taser International Press Release, “Taser International Strongly Refutes New York Times Article,” July 2004 <[www.taser.com/NYT/taser\\_nyt.html](http://www.taser.com/NYT/taser_nyt.html)>.

<sup>11</sup> Berneson, *New York Times*, July 18, 2004.

<sup>12</sup> Karen Ravn, “Death Raises Taser Safety Concerns,” *Monterey County Herald*, September 5, 2004 (quoting John Wikswo).

down the trigger on the taser for longer than five seconds resulting in a longer shock.<sup>13</sup> Taser International's own training materials demonstrate that in the field, "most officers are applying the full discharge – and ... almost half of the deployments required additional discharges to obtain compliance."<sup>14</sup> The differences between the length and number of taser bursts that volunteers receive compared with how tasers are used in the field call into question the relevance of data on "volunteers."<sup>15</sup>

Further, unlike "volunteers," individuals who are shot with a taser in the field may be particularly susceptible to death as a result of being shot due to an already weakened heart or drug use. According to Dr. Terrence Allen, a former Los Angeles medical examiner who reviewed the cases of several people who died after being shocked by Tasers in the late 1980's:

Certain medical conditions including drug use and heart disease may increase the risk that the taser will be lethal... While the use of tasers may be generally safe in healthy adults, preexisting heart disease, psychosis, and the use of drugs including cocaine, PCP, amphetamine and alcohol may substantially increase the risk of fatality. Since tasers are most likely to be used on psychotic or intoxicated individuals, in whom the medical history is unknown, the priorities for use of the taser among law enforcement's "nonlethal" armamentarium must be carefully considered.<sup>16</sup>

Unfortunately, taser's testing scheme does not adequately account for these conditions. Volunteer police officers clearly do not fall into any of these categories and the few animal tests that have been done do not adequately address these issues.<sup>17</sup>

#### *Taser's Training Manual Undermines Their Claims That the Weapon is Non-Lethal*

Statements in Taser International's own training manual undermine their claims that Tasers are completely safe and 100% non-lethal. The manual, for example, admonishes volunteers in bold letters to not volunteer to be shot with a taser if they have pre-existing health conditions. The manual states:

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<sup>13</sup> Berneson, *New York Times*, July 18, 2004 (quoting Wikswo).

<sup>14</sup> Taser International, Instructor Certification Lesson Plan and Support Material Version 11.0, January 2004 (hereinafter "Taser Manual"), p. 116

<sup>15</sup> Bill Harless, "Police Use New High-Tech Stun Gun," *Nashville City Paper*, September 7, 2004 (According to Wikswo "I am not yet convinced that the tests on normal volunteers have exposed a sufficiently large population of people to the multiple, long TASER shocks that appear to have been used... by police in some cases.")

<sup>16</sup> Terrence Allen, M.D., Discussion of "Effects of the Taser in Fatalities Involving Police Confrontation," *37 Journal of Forensic Sciences*, 956-58 (1992).

<sup>17</sup> Harless, *Nashville City Paper*, September 7, 2004 (quoting Wikswo: "TASER conducted safety tests on anesthetized animals, but an anesthetized animal and a person in a PCP rage are quite different. Shooting an anesthetized animal with a TASER is not comparable to shooting a person whose heart is weakened by cocaine use"). I understand that a San Francisco police officer will be shot with a taser at the special police commission meeting on Wednesday afternoon. I assume that he or she will not be shot multiple times, will not have a pre-existing heart condition, will not be under the influence of drugs, and will not be tased for more than five seconds.

**WARNING:** Prior to conducting voluntary exposure to the TASER weapons, review all safety precautions with the class. Any student with concerns over present or past medical conditions should refrain from voluntary exposure.<sup>18</sup>

This admonition not only demonstrates the inadequacy of “volunteer” tests in proving the safety of tasers, but it also is curious in light of Taser International’s repeated claims that the weapons are non-lethal. **If the weapons are non-lethal – even in cases of individuals with already weakened hearts or under the influence of drugs – why should police officers with pre-existing medical conditions not participate in trials?**

Additionally, despite claiming in virtually all of their public statements that Tasers are “non-lethal” weapons, in its introduction, the Taser training manual appears to indicate the opposite. In a section labeled “**WARNING: READ BEFORE USING,**” the manual states “While the extensive medical evidence strongly supports the TASER X26 and ADVANCD TASER M26 and M18 will not cause lasting aftereffects or fatality, it is important to remember that the very nature or physical confrontation involves a degree of risk that someone will get hurt or may even be killed due to unforeseen circumstances *and individual susceptibilities*” (emphasis added).<sup>19</sup>

**It appears that Taser International is, in fact, trying to have it both ways. While continuing to promote their product to police departments, shareholders, and in the media as a “non-lethal” force alternative, their own training manual indicates that people with certain medical conditions should not volunteer to be shot with a taser and that taser use on people with certain “individual susceptibilities” may result in death.**

#### *Questionable Promotional Practices By Taser International*

Part of the explanation for these seemingly contradictory positions may be the fact that Taser International is a corporation that has a strong profit motive. On the one hand, there is a strong incentive to promote the product by touting it as a “non-lethal” weapon in order to increase sales. On the other hand, there is an equally strong incentive to protect its economic viability and legal standing by including warnings in its training materials. While the incentive to maximize profits is understandable and even laudable in our economic system, products should not be oversold when sufficient testing has not been done and the product is potentially lethal. Published reports raise questions about some of Taser International’s efforts to maintain the image that a taser is non-lethal.

The most glaring such report comes from Anderson County, South Carolina and the case of William Teasley, referenced above. There, according to Charlie Boseman, the coroner who determined that a taser shock contributed to Mr. Teasley’s death, representatives from Taser International pressured him to reverse that finding. As reported in the *Arizona Republic*

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<sup>18</sup> Taser Manual, p. 36.

<sup>19</sup> Taser Manual, p. iv.

Boseman said his office and the hospital pathologist who conducted the autopsy received calls from Taser asking that the stun gun be excluded from the [coroner's] report.

“They were pretty upset. They didn’t like us making that statement in our report,” Boseman said. “They just wanted us to (cite) the underlying medical diseases.”

Taser International denied trying to change the coroner findings, but Taser President Tom Smith did admit that two company representatives “called to provide information.”<sup>20</sup>

Efforts to consult with local authorities following a death associated with taser use are not limited to this particular case, however. In their training manual, under the section entitled “In Custody Death Response,” Taser International urges law enforcement agencies to immediately contact Taser International for “medical and legal expert advice” and to prepare a “media statement” providing the media with information about Taser weapons.<sup>21</sup> While providing information to the public about in-custody death’s is important, given Taser’s interest in promoting its product and the company’s continued insistence that tasers have never contributed to a single death despite evidence to the contrary, this appears to simply be a mechanism for Taser to prevent deaths from being linked to taser use rather than an effort to get bring all relevant information to light.

When Taser has reported on in-custody deaths and the effects of tasers on overall departmental use of force, the information has sometimes been incomplete or misleading. One example of such a misleading report involved the death of Raymond Siegler in February 2004. Siegler was shot with a taser after “behaving violently” in a Minneapolis and “other attempts to subdue him failed.” In a report by Taser International on his death, the company states that he died “**about a week after he was hit by a taser.**”<sup>22</sup> This language appears bold and underlined in the report to emphasize the amount of time that elapsed between the time Siegler was hit with the taser and when he died. **What Taser did not say was that Siegler went into cardiac arrest after being hit by the taser and, according to Siegler’s father, “lay in a coma for a week until we turned off the life-support system.”**<sup>23</sup> **The failure to include this information in their report gives the reader with a very different impression about what happened.**

Further, some of Taser’s claims about reduction in use of force applications after department’s adopt taser use are similarly misleading. For example, while Taser International often refers to drops in the number of officer involved shootings and uses of batons and pepper spray by the Orange County (FL) Sheriff Department following the

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<sup>20</sup> Robert Anglen, “Coroner: Taser Pushed for Revision of Autopsy,” *Arizona Republic*, August 25, 2004.

<sup>21</sup> Taser Manual, p. 130.

<sup>22</sup> Taser International, Report on In-Custody Deaths, last accessed on Taser International’s website September 3, 2004 <<http://www.taser.com/pages/pr/medical/incustodydeaths.doc>>.

<sup>23</sup> Robert Anglen, “Taser Safety claim Questioned; Medical Examiners Connect Stun Gun to 5 Deaths,” *Arizona Republic*, July 18, 2004 (the *Republic* points out the misinformation on the Taser website in their article).

introduction of the taser<sup>24</sup>, the company neglects to mention that overall use of force increased 58% thanks, in part, to insufficient regulation on taser use.<sup>25</sup>

### *Independent Evaluation and International Standards*

All of this does not mean that Tasers should never be used under any circumstances. It simply means that law enforcement agencies should have a healthy skepticism about claims made by Taser International and look at the available independent evaluations of taser's safety along with standards for their use employed in other jurisdictions.

One of the most comprehensive independent reviews of the available medical evidence on tasers that we are aware of comes from Britain. There, scientific advisers to the British government surveyed the existing literature and confirmed the incomplete and uncertain state of the medical evidence. The Defense Scientific Advisory Council's Subcommittee on the Medical Implications of Less Lethal Weapons (DOMILL)<sup>26</sup> studied the 26-watt M26 Advanced Taser as well as the earlier generation of lower-powered tasers. DOMILL reported that experimental research was sparse "particularly with regard to the M-26," and that independent medical research published in authoritative peer-reviewed journals "is even more limited."<sup>27</sup> Regarding the risks of the M26 taser, the British advisers cited "the dearth of information on the potentially adverse electrophysiological effects of the higher current flow in the body, particularly in subjects who may have a predisposition to cardiac arrhythmias arising from drug use, pre-existing heart disease or genetic factors."<sup>28</sup>

The British study noted that "drugs such as cocaine and pre-existing heart disease may lower the threshold for cardiac arrhythmias." It further noted that "excited, intoxicated individuals or those with pre-existing heart disease could be more prone to adverse effects from the M26 taser, compared to unimpaired individuals." The DOMILL study said that research was necessary to explore the cardiac hazards associated with using the taser on agitated persons, drug-intoxicated persons, and persons with heart disease. It concluded, however, that it was not medically essential that the research be

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<sup>24</sup> Taser International, Press Release, "Taser International Demands Amnesty International Withdraw Its Misleading and Defamatory Statements, June 2, 2004 (citing 80% drop in use of lethal force). In this press release, Taser International also indicated it was exploring possible legal action against Amnesty International over their calls for a ban on taser use pending additional testing. Such criticism is, however, thankfully protected by the First Amendment to the United States Constitution.

<sup>25</sup> Berneson, *New York Times*, July 18, 2004.

<sup>26</sup> The findings of DOMILL with regard to tasers are presented at pages 80-85 of the Patten Report Recommendations 69 and 70 Relating to Recommendations 69 and 70 Relating to Public Order Equipment: a Research Programme into Alternative Policing Approaches towards the Management of Conflict, Third Report prepared by the steering Group led by the North Ireland Office, in consultation with the Association of Chief Police Officers, December 2002 ("Third Patten Report"). Thanks to Mark Silverstein of the ACLU of Colorado for his work on this section on the British studies, originally appearing in his February 26, 2004 letter to the Denver Police Department.

<sup>27</sup> Third Patten Report, ¶ 144, at 82

<sup>28</sup> Third Patten Report, ¶ 149 at 83.

completed before approving a trial use of the taser “under the terms of the ACPO Guidance.”

The last sentence refers to the Association of Chiefs of Police (ACPO) and the guidelines it formulated for the trial of the taser that began in the United Kingdom in April, 2003. Those guidelines restrict the use of the taser to situations in which officers are authorized to draw their firearms and use lethal force, as specified in the ACPO Manual of Guidance on Police Use of Firearms. That trial is now complete and law enforcement agencies in Britain are now authorized to use tasers, **but only “as a less lethal alternative for use in situations where a firearms authority has been granted.”**<sup>29</sup>

Thus, law enforcement authorities in the United Kingdom recognized that there was insufficient medical evidence to alleviate concerns that the taser may pose a heightened risk to persons with certain vulnerabilities, including persons with heart conditions or persons who are suffering from drug intoxication or severe agitation. Because of these heightened risks, Britain appropriately restricts the use of the taser to situations where firearms are justified. In those cases, despite the potential dangers of the taser, the device nevertheless functions as a less-lethal alternative to the far more certain danger of a police revolver.

### *Recommendations*

In light of the yet unanswered questions regarding the safety of tasers – particularly when used on individuals under the influence of drugs or with preexisting heart conditions – we urge you to follow the lead of the police forces in the United Kingdom and only authorize taser use in cases where deadly force would otherwise be authorized or where there is an imminent threat to human life. Adopting this standard will give officers a *less-lethal* force option to use in lieu of their gun and could result in saving lives, while at the same time, not jeopardizing additional lives in situations where deadly force is not warranted.

Additionally, if tasers are to be used, it is essential that the Commission adopt strict reporting requirements and accountability measures. Officers must be required to report each time a taser is used<sup>30</sup> and such report should include comprehensive information about the taser use including: the reason a taser was used and the circumstances surrounding its use, the number of times tasers were fired at the subject, duration taser was held down for, the race of the individual who was tased, the name of the officer, the effect of the taser, whether there was any injury, and the extent of medical attention required.

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<sup>29</sup> David Barrett, “Police Given Stun Gun Go-Ahead,” *Scotsman*, September 15, 2004. Even researchers who have been hired by Taser International in the past appear to advocate this standard. According to A. Bleetman, et al., previously hired by Taser International, “it is worth remembering that the Advanced Taser is to be used only as an alternative to firearms and any outcome measures should be considered in this context.” *Emerg Med J* 2004; 21:136-140.

<sup>30</sup> Taser use defined as drawing the taser, not just firing it.



The Office of Citizen Complaints and Risk Management Office should also conduct quarterly reviews of taser use and the overall use of force statistics to determine the effect that taser deployment is having on the overall use of force by the department, the effectiveness of tasers, how tasers are being used in the field, and the effects of taser use.

If the above referenced regulations and reporting mechanisms are adopted, we would not oppose the use of tasers and, in fact, would welcome its introduction as an alternative to deadly force. I look forward to discussing this matter with you further and would be happy to provide you with any of the materials referenced in this letter should you want to review them. I can be reached at 415-621-2493 ext. 316.

Sincerely,

Mark Schlosberg  
Police Practices Policy Director  
ACLU of Northern California

Cc: Police Chief Heather Fong