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Published on Saturday, June 7, 2008 by [The Herald \(Monterey County, CA\)](#)

## Taser Held Responsible in Salinas Death

by Jim Johnson

SAN JOSE, Calif. - A federal jury has held Taser International responsible for the death of a Salinas man in U.S. District Court in San Jose on Friday, and awarded his family more than \$6 million in punitive and compensatory damages.

An attorney for the family called the verdict a "landmark decision," and indicated that it was the first time Taser International had been held responsible for a death or injury linked to its product.

But the jury exonerated Salinas police, including four officers, in the death of 40-year-old Robert Heston Jr. on Feb. 20, 2005.

Heston died a day after being shocked repeatedly by officers using Tasers. An autopsy found that Heston died from a combination of methamphetamine intoxication, an enlarged heart due to long-term drug abuse, and Taser shocks.

Heston's parents, Betty Lou and Robert Sr., and their daughter sued Taser International. They alleged the company failed to properly warn users that its



A pair of Taser C2s are displayed at the Taser International booth during the 2007 International CES in Las Vegas, Nevada January 8, 2007. REUTERS/Steve Marcus

product could be dangerous, and even lethal, when used repeatedly in conjunction with chest compressions and on people under the influence of drugs.

The family alleged wrongful death, assault and battery, and negligence in their suit against the Salinas Police Department and officers Juan Ruiz, James Godwin, Lek Livingston and Michael Dominici.

The six-person jury found that Arizona-based stun-gun manufacturer Taser International should have more effectively warned police that Taser shocks were potentially dangerous. Salinas police testified during the trial that they were not warned that the shocks could be dangerous.

### A possible precedent

Plaintiffs attorney John Burton said the verdict is precedent setting, noting that this was the first time a jury found Tasers are dangerous when used too often.

"We're overjoyed," Burton said.

According to Burton, the verdict included \$5.2 million in punitive damages, and \$1.021 million in compensatory damages. The jury found that the victim was 85 percent at fault, resulting in an apportioned final damages award.

Co-counsel Peter Williamson said the Heston family was "absolutely overwhelmed and extremely proud that they stood up for their son and brother."

Williamson said he spoke to three jurors, including the jury foreman, after the decision. He said the jury agreed with the "crux of our case," that Taser International should have made more of an effort to warn people about their product once they realized it was potentially dangerous, perhaps even e-mailing all its customers.

"They should have sent out a warning and they didn't," he said.

Burton said he still believes Salinas police should have been held accountable, but understood the jury's rationale.

"Taser continued to say their product was safe," he said.

City Attorney Vanessa Vallarta said in a statement, "We are pleased and relieved by the verdict. This is a sad and tragic case. The jury affirmed that our officers did exactly what they were trained to do in the course of a very violent episode."

Contacted later by phone, Vallarta said the verdict "certainly raises questions" about the use of Tasers and the city would be evaluating their use.

The decision "does put the state of the law somewhat in flux on this," she said. "In light of current scientific evidence, there may be a need for a change in procedures."

## No big changes planned

Salinas Police Chief Daniel Ortega said his department wouldn't make any major changes in its Taser use and training procedures, despite the verdict finding that Tasers can be dangerous. Ortega said he was "elated" that his department was exonerated and called his officers "heroes" in the incident. He expressed doubt about the verdict against Taser International and said he expected the company to appeal the decision.

"I have absolutely no intention of not using Tasers," Ortega said. "It's not going to change a whole lot."

Ortega said he would keep trying to purchase Taser cams, which videotape incidents when Tasers are used, and suggested that if the officers had been equipped with the Taser cams the trial never would have occurred.

Salinas police responded to Heston Sr.'s Rodeo Avenue home in 2005 after a friend called 911 to report that Heston Jr. was behaving violently.

In an attempt to subdue agitated Heston Jr., who was later found to have high levels of methamphetamine in his system, officers shocked him repeatedly with Tasers. Some shocks were administered after Heston Jr. was held down by several officers.

When Heston Jr. began turning blue, the officers started CPR and he was raced to Natividad Medical Center. But he never regained consciousness and died the next day.

Burton contended that Heston Jr. was shocked 30 times.

Taser International representatives did not offer comment on the decision.

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