
STUN GUN FALLACY:

HOW THE LACK
OF TASER REGULATION
ENDANGERS LIVES



AMERICAN CIVIL LIBERTIES UNION
OF NORTHERN CALIFORNIA

TASER STUDY

SEPTEMBER 2005

Table of Contents

EXECUTIVE SUMMARY	1
PART I. Evolution of the Taser, and its Toll on Human Life	3
Deaths Increasing	
Playing “Russian Roulette” with the Heart	
A Dearth of Independent Studies	
Law Enforcement Has Questions Too	
PART II. Taser International Overhypes Stun Gun.	6
Misleading Marketing Terminology	
Exaggerates Safety and Downplays Risks	
Questionable Marketing and Compensation Practices	
PART III. Training Materials Reflect The Hype	8
Conflicting Warnings in the Training Materials	
Multiple Shocks	
Shocked When on Drugs or Alcohol	
Misrepresenting Medical Studies	
PART IV. Standards of Taser Use or Lack Thereof.	12
Allowing for Multiple Shocks	
Civil Disobedience	
Vulnerable Targets (Pregnant, Juveniles, Elderly)	
Handcuffed or Unconscious	
PART V. Recommendations for Safer Police Practices	15
State Legislation	
Local Law Enforcement and Local Government	
CONCLUSION.	16
APPENDIX A. Scope and Methodology of the Survey	17
APPENDIX B. Best Practices Policy	17
APPENDIX C. Departments Surveyed	20
APPENDIX D. Data on Local Taser Policies	21
ENDNOTES.	22

Author: Mark Schlosberg
Researchers: Jessica Levin, Shyla Batliwalla, and Julia Daniels
Design: Gigi Pandian
Published by the ACLU of Northern California, September 2005

STUN GUN FALLACY: How the Lack of Taser Regulation Endangers Lives

Executive Summary

Police use of Taser stun guns to subdue suspects in California and around the nation has increased dramatically in recent years. Billed by their manufacturer, Taser International, as a non-lethal alternative to deadly force, Tasers have been purchased and deployed by a growing number of law enforcement agencies. However, while the Taser is less deadly than a traditional firearm, it is hardly the non-lethal weapon its manufacturer promotes under the slogan “Saving Lives Every Day.”¹

Between 1999 and September 2004, 71 people in the United States and Canada died in incidents that involved the police use of Tasers. In the last year, that number has more than doubled to at least 148, with 15 post-Taser fatalities in northern and central California,² including one case where a 21-year-old man was jolted 17 times within three minutes before he died.

Despite the high fatality rate involved with stun gun use, officials at Taser International have yet to concede that their product has led to a single identifiable death and, despite concerns raised by medical experts, the company continues to downplay safety concerns.

Taser’s controversial marketing practices have not gone unnoticed. The Scottsdale, Ariz.-based company’s promotion practices and safety claims are being examined by both the Securities and Exchange Commission (“SEC”) and the Arizona Attorney General.

Several law enforcement agencies have also begun to question Taser’s safety claims and the efficacy of the weaponry. Earlier this year, two major Department of Homeland Security law enforcement divisions announced that they were not purchasing Tasers because of safety concerns. “There are enough question marks about the safety of this device. The safety of our officers and the public is always a concern. It was determined that the device just didn’t fit,” said Barry Morrissey, spokesperson for Customs and Border Protection.³

Moreover, in April 2005, the International Association of

Chiefs of Police (“IACP”) issued a report recommending that local law enforcement reassess its Taser training and establish policies. The IACP particularly noted the lack of safety studies, concluding that “independent data does not yet exist concerning in-custody deaths, the safety of EMDT [Electro-Muscular Disruption Technology] when applied to drug or alcohol-compromised individuals, or other critical issues.”⁴

In light of these concerns and the rising death toll associated with Taser use, the ACLU of Northern California (“ACLU-NC”) has conducted a thorough survey of 79 law enforcement agencies throughout northern and central California to determine how Tasers are being used. A close review of thousands of pages of policy and training materials used by departments reveals that, despite the growing number of deaths, increasing concern from medical and other experts about Taser safety, and extensive media coverage of problems associated with Taser use, the weapon remains largely unregulated.

Of the 79 departments surveyed, 56 have added Tasers to their weapons arsenals. Of those, 54 provided their Taser-use policies and/or training materials to the ACLU-NC, which concluded the following:

- Only four departments regulate the number of times an officer may use a Taser on an individual. The others place no restriction on the number of times a suspect can be shot. This is particularly troubling considering that several of the targets in California died after being jolted multiple times.
- Only four departments created any of their own training materials for their officers. The rest relied exclusively on materials produced by Taser International.
- The training materials produced by Taser International and relied on by local law enforcement grossly exaggerate the safety of Tasers, downplay their risks, and misrepresent medical studies on their effects. Most were published in 2003 and 2004 and are outdated considering the sobering facts that have come to light in the past year.

There are a couple of explanations for these results. Certainly, the failure of many in law enforcement to ask tough questions early on and take a skeptical approach to Taser International's representations provide a partial explanation for the lack of regulation. But Taser International is also largely responsible for the uninformed use of Tasers because its questionable marketing practices and exaggerated safety claims provide the basis for local police policy.

Given the increasing number of deaths associated with Taser use, the lack of independent studies on several critical safety issues, and the lack of policy governing the use of the weapon, the California Legislature and local law enforcement should act quickly to impose regulations on Taser use. The ACLU of Northern California therefore recommends several policy reforms including the following:

- **Pass Legislation.** The California Legislature should pass a law that allows Tasers to be used solely as an alternative to deadly force. The British Government currently employs such restrictions. Tasers are certainly a safer alternative to firearms, but until more independent safety studies are completed, law enforcement agencies should be restricted from using Tasers in non-life-threatening situations.

- **Adopt Stricter Policies.** Local government and local law enforcement should each independently adopt Taser policies. If local law enforcement will not restrict its Taser use to life-threatening situations, agencies should, at a bare minimum, adopt policies to minimize the risk of death such as prohibiting repeated shocks and protecting vulnerable populations such as the very young, the elderly and pregnant women.

- **Revise Training Materials.** Local law enforcement agencies should conduct comprehensive reviews of the Taser International training materials, revise them, and retrain all officers that have already completed the Taser International training.

This report is divided into five sections. Part I contains an overview of Taser technology and recent deaths involving Taser use. Part II discusses Taser International's exaggerated safety claims and marketing practices. Parts III and IV contain our survey results. Part III analyzes training materials produced by Taser International and used by local law enforcement. Part IV analyzes the Taser policies and procedures used by local law enforcement in northern and central California. Part V contains recommendations for reforms. ■

PART I. Evolution of the Taser and its Toll on Human Life

Taser, an acronym for Thomas A. Smith Electronic Rifle, has been used in one form or another since 1974. However, the stun guns were not widely used by law enforcement until recently. In the 1990s, Tom and Rick Smith founded Air Taser, which they marketed to law enforcement. The Bureau of Alcohol, Tobacco, and Firearms certified that the Air Taser was not a firearm, which meant that the weapon would be exempt from regulation, leaving Air Taser free to market their product without government interference or oversight.⁵

In 1998, the company changed its name to Taser International and developed the Advanced Taser, using a different electrical frequency and technology. Three years later, the company went public, trading on the NASDAQ Exchange.⁶ Since then, the Smith brothers have aggressively and successfully marketed their products, the M26 Advance Taser and the X26 model. Whereas in 2002, 159 departments had fully deployed Tasers to each of their officers,⁷ by 2005, that number had dramatically increased. As of July 2005, Taser International reported that 1,735 agencies in the United States are at full deployment including some of the largest in California, such as the San Jose Police Department.⁸ This marketing success, however, has not come without significant cost.

Deaths Increasing

As Taser sales have increased, the number of deaths associated with their use has also skyrocketed. Since 1999, there have been 148 deaths in the United States and Canada following the use of a Taser, more than half of which occurred in the last year alone. California has not been immune, with 15 deaths in northern and central California over the past year. Among the casualties are:

Andrew Washington, Age 21, Vallejo Police Department:

On September 16, 2004, Washington died after being shot 17 times with a Taser in a three-minute period in Vallejo.⁹ He was fleeing police after allegedly hitting a parked car. As he climbed a fence, a Vallejo police officer repeatedly shocked Washington with a Taser until he noticed that Washington was having trouble breathing. Police called for an ambulance and Washington, who had no history of heart problems, was pronounced dead at the hospital. He was the father of a young child. The autopsy report indicated the cause of death was “cardiac arrest associated with excitement during the police chase and cocaine and alcohol intoxication, occurring shortly

after Taser-ing.” Later the medical examiner admitted he did not have enough medical information about the effects of Tasers to know whether it could be ruled in or out. At the time of the autopsy, he had a manual produced by Taser International on Tasers, but no other studies or information.¹⁰

Gregory Saulsbury, Age 30, Pacifica Police Department:

On January 2, 2005, Saulsbury was at his grandmother’s home. His family called 911 requesting medical help and specifically asked that police not be sent. According to news reports, members of the Pacifica Police Department arrived first because Saulsbury was behaving violently. A struggle ensued, with two officers shooting their Tasers 11 times. A coroner’s report showed 22 marks on Saulsbury’s body. The confrontation lasted less than four minutes and ended when Saulsbury stopped breathing and died. The medical examiner found that a combination of high levels of cocaine, the struggle with the police, and the Taser contributed to Saulsbury’s death.¹¹

Carlos Casillas Fernandez, Age 31, Santa Rosa Police Department:

On July 16, 2005, Fernandez’ wife told a 911 dispatcher that her husband had been acting paranoid and delusional but that he was not acting violently, according to police reports and dispatch tape transcripts. Officers arrived at their home and, with his wife’s permission, tried to talk to Fernandez, who appeared to be under the influence of drugs and was sweating profusely. They checked his pulse, which was fast. When Fernandez refused to answer questions, officers moved to arrest him. He resisted and officers used pepper spray, a carotid restraint, and fired six Taser shots at him. After he was restrained, Fernandez had difficulty breathing. He was transported to the hospital where he was pronounced dead.¹² According to news reports, the autopsy report indicated that the cause of death was “drug-induced excited delirium from methamphetamine intoxication.” However we have been unable to review the report as the Santa Rosa Police Department has not released it to us.¹³

These are just a few examples of Taser-related deaths in the region. However, they share similar patterns with others. For example, many victims who die after being jolted by Tasers are under the influence of drugs. In several cases, officers have Tasered victims multiple times in short period of time. While we do not know the extent to which Tasers contributed to the death in all the cases nationally or the 15 in northern Califor-

nia in the past year, the rising fatality rate is serious cause for concern.

Playing “Russian Roulette” With The Heart

As the deaths have increased, several medical experts have attempted to provide explanations for how Tasers may contribute to deaths. The Taser works by delivering 50,000 volts of energy—albeit at a very low amperage—to the body, causing a disruption of its electrical energy pulses and locking up the muscles.¹⁴ While the shock alone does not cause injury or death in most cases, it may be fatal if it hits the subject during the vulnerable period of the heart beat cycle, is used on particularly susceptible populations, or is used multiple times and for an extended time period.

According to Dr. Zian Tseng, cardiologist at the University of California at San Francisco, if the Taser sends its energy to the heart at the wrong time, the electricity may cause ventricular fibrillation, a state in which the heart muscles spasm uncontrollably, disrupting the hearts pumping function and causing death.¹⁵ Dr. Kathy Glatter of the University of California Davis Medical School agrees: “If I hit the heart or create electricity in the wrong time of the (beat) cycle, it could send the whole heart into an electrical tailspin.”¹⁶

Further, certain populations may be more susceptible to ventricular fibrillation as a result of a Taser shock. Children, for example, being smaller than adults, may be at greater risk from a taser shock. According to Roger Barr, professor of Bioengineering at Duke University, the size of the individual is important “because the same amount of current is injected by the device, whatever the size of the person. So when the person is a small person, whether they be a child or a small adult or whatever, current intensity, the amount that’s flowing in any one space, is greater. And any sort of damage that occurs will be greater because the current intensity is greater” (see p. 13 for more on Taser use on children).¹⁷

Drug users may also be more vulnerable because of the effects that drugs have on the heart. Again, Dr. Tseng: “I’ve seen the Taser folks say, ‘Oh, the guy had cocaine in his system, that’s the reason for his death.’ Well, someone with cocaine in their system is also much more prone to a Taser-induced cardiac arrest. They cannot say that it’s safe in my opinion.”¹⁸ The same is also true for certain medications that are used to treat psychiatric problems.¹⁹

Finally, multiple applications of the Taser can increase the risk of death for a couple of reasons. First, it increases the chance that the electrical charge will hit the heart in a vulnerable period. According to Dr. Tseng, “I think they are dangerous... you are shocking someone repeatedly, it becomes a bit like Russian Roulette. At some point, you may hit that vulnerable period.”²⁰

Second, research on pigs by Dr. James Jauchem indicates that multiple shocks can lead to an increase in blood acid levels and the enzyme Troponin T. While Dr. Jauchem indicated that the levels he found in his research would only require additional monitoring, other medical experts took his findings to be more significant. According to Dr. Charles Rackley, cardiologist at the Georgetown University Hospital, if a patient came to see him with similar symptoms to those Dr. Jauchem found in his experiments, his “initial impression would be that meant some heart muscle damage, or heart attack. The combination of the acidosis as well as the heart muscle damage would put this patient at high risk of developing ventricular fibrillation or sudden cardiac death.”²¹

A Dearth of Independent Studies

While several medical experts have indicated that Tasers—in certain situations—can be lethal, there has been very little independent study on the medical effects of Tasers. And, what few independent studies there are have been largely limited to surveying the existing medical literature, analyzing Taser International’s database, and conducting studies on the effects of Tasers on healthy people, studies that do not address the vulnerable populations discussed above.

One San Diego study—highly touted by Taser International²²—found “no significant dysrhythmias in healthy human subjects immediately after receiving a Taser shock.” However, the 20 subjects of the study received shocks at a mean duration of 2.4 seconds—far below the 5-second charge administered by the standard taser models—and none of the subjects were under the influence of drugs or had any known heart problem.²³

A study by the Potomac Institute—characterized by Taser International as “a major, independent safety study”²⁴—was not a medical safety study at all, but simply a review of currently available data on Taser uses. Despite indicating that, “when the stun technology is applied appropriately, it is relatively safe,” the report also concluded that additional research is needed. The report “strongly recommend(s) that additional research be con-

“I THINK THEY ARE DANGEROUS... YOU ARE SHOCKING SOMEONE REPEATEDLY, IT BECOMES A BIT LIKE RUSSIAN ROULETTE. AT SOME POINT, YOU MAY HIT THAT VULNERABLE PERIOD.”
—DR. ZIAN TSENG,
UCSF CARDIOLOGIST

Some in Law Enforcement Back Off From Tasers

In 2004, Georgia's DeKalb Police Department purchased 125 Tasers for its officers. At the time, Police Chief Louis Graham was "a big supporter of Taser" and believed it would be a good non-lethal force alternative. But over the next year Graham began reviewing the literature on Tasers and, after Taser International issued a bulletin saying that multiple Taser shocks could impair breathing and respiration, Chief Graham and DeKalb Chief Executive Officer Vernon Jones in August, 2005, opted to shelve the Taser. Graham said he made up his mind when Taser International "said it could take your life."³⁰

Chief Graham is not alone. Nationally, several law enforcement executives have challenged Tasers, imposed stricter policies, or discontinued their use. The Mayor of Birmingham, Ala., for example, ordered police to stop using Tasers after a jail death, citing the need for additional studies.³¹ A class action lawsuit was filed against Taser International on behalf of Dolton, Ill., and other yet unnamed municipalities and claims the cities were misled into purchasing Tasers by the manufacturer.³² The Police Chief of Fort Wayne, Ind., opted against Tasers in light of a lack of independent research on the effects of Tasers on people under the influence of drugs or with pre-existing heart conditions.³³ And the Chicago, IL, Police Department reversed plans to expand its Taser program following two Taser related deaths in February, deaths that medical experts blamed on Tasers.³⁴ ■

ducted at the organism, organ, tissue, and cell levels."²⁵

Other studies such as the one conducted by the U.S. Department of Defense—discussed in more detail in section III—conclude that more research is still needed, especially in the area of the effects of Tasers on people under the influence of drugs or with pre-existing heart conditions.

Law Enforcement Has Questions Too

Several police officials and law enforcement agencies are now questioning the adequacy of safety studies as well as the merits of using Tasers. In April, the IACP issued a report on Taser technology, urging law enforcement agencies to reevaluate their taser policies and review the medical evidence. It concluded that "independent data does not yet exist concerning in-custody deaths, the safety of EMDT [Electro-Muscular Disruption Technology] when applied to drug or alcohol-compromised individuals, or other critical issues."²⁶ In other words, data does not exist to evaluate the safety of Tasers under the most likely circumstances that law enforcement will use them. The IACP also called for "further research on EMDT outcomes, injuries, and in-custody deaths."²⁷

Also, several police officials—nationally and in northern California—have either held off on purchasing Tasers, stopped using Tasers in the face of increased deaths, or have strongly regulated the weapons in their departments. The two largest law enforcement divisions of the Department of Homeland

Security (Immigrations and Customs Enforcement ("ICE") and Customs and Border Protection ("CBP")) decided not to buy Tasers out of safety concerns. According to CBP spokesperson Barry Morrissey:

*"There are enough question marks about the safety of this device. The safety of our officers and the public is always a concern. It was determined that the device just didn't fit."*²⁸

One department in northern California that has held off on purchasing Tasers is the Newark Police Department. Chief Ray Samuels, while not ruling out the possibility of acquiring Tasers in the future, opted against them because of uncertainties about their health effects. As Chief Samuels put it:

*"What scared me about the weapon is that you can deploy it absolutely within the manufacturer's recommendation and there is still the possibility of an unintended reaction. I can't imagine a worse circumstance than to have a death attributed to a Taser in a situation that didn't justify lethal force. It's not a risk I'm willing to take."*²⁹

Unfortunately, despite the lack of independent studies on Taser's effects, the questions raised by independent medical experts, and concerns from many in law enforcement, Taser International continues to aggressively promote the weapon as a non-lethal device and exaggerate the safety of its product. ■

**"INDEPENDENT DATA DOES NOT YET EXIST CONCERNING IN-CUSTODY DEATHS, THE SAFETY OF EMDT [ELECTRO-MUSCULAR DISRUPTION TECHNOLOGY] WHEN APPLIED TO DRUG OR ALCOHOL-COMPROMISED INDIVIDUALS, OR OTHER CRITICAL ISSUES."
—INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE**

Part II. Taser International Overhypes Stun Gun

In recent years, Taser International has vastly exaggerated the stun gun's safety, downplayed medical concerns, and engaged in marketing practices that are questionable at best. Despite concerns by medical experts, and even warnings from government officials that Taser has worked with, the company keeps up these practices.

While the company continues to market Tasers as a “life-saving” alternative to firearms, it is clear that, for the most part, Tasers are used in situations in which officers would never—and could never legally—use a gun. The company actively encourages law enforcement to use the weapons in these broad circumstances—not just in the face of possible imminent death or grave bodily injury when officers must resort to firearms—but also to handle far less threatening situations ranging from the resistance or flight of unarmed suspects to verbal displays of hostility and non-compliance.

Misleading Marketing Terminology

To justify their stated marketing goal of making the Taser a standard-issue accessory for every police officer, Taser International aggressively promotes very broad, frequent, and repeated use of what it claims to be a “non lethal” product. The company does not market Tasers as a “backup” weapon for use in extraordinary situations, but rather promotes it for “every day” forms of resistance and uses of force.³⁵

Indeed, the company does not merely promote Tasers as a strictly defensive weapon to be used only in the face of active and very dangerous threats. Rather, it promotes Tasers for use as an offensive weapon, to sometimes be used pre-emptively and preventatively—in the absence of any actual physical threat being present, much less a threat to life. The training materials even depict a model usage showing a naked, fully prone, unarmed man, surrounded by armed police officers, being shocked simply so that he will roll over on the ground.³⁶

So, while the company slogan is “Saving Lives Every Day,” the vast majority of shocks fired by police officers are not actually alternatives to gunshots, but rather alternatives to other, non-life threatening forms of law enforcement apprehension, control and force techniques—batons, chemical sprays, physi-

cal holds, and other weapons. Yet, dangerously and incongruously, reading the fine print of their marketing shows that Taser International is saying only that the stun gun is less lethal than firearms—not less lethal than other law enforcement tools.

In calling its stun gun non-lethal, Taser International slickly uses the military definition of the term, rather than the “less-lethal” terminology used by law enforcement. By using the term “non-lethal,” the company implies that its weapons are less deadly than other “less-lethal” alternatives. But, according to the U.S. Department of Defense, any weapon that is merely intended to “significantly reduce the probability of...fatalities or injuries as compared with traditional military weapons which achieve their effects through the physical destruction of targets,”—such as firearms, grenades and missiles—can be called “non-lethal.”³⁷ In other words, when Taser labels its weapon “non-lethal” it is merely saying that the stun gun is less lethal than a firearm, not that it is “non-lethal” as commonly understood by law enforcement or the general public, or even less lethal than other forms of force used by police officers.

Exaggerates Safety and Downplays Risks

Further, in many of its press releases and other public statements, Taser International does not qualify its use of the term non-lethal at all, and simply leaves it open to a more literal interpretation by the public, the news media and policy makers.³⁸ In public statements about the effects of Tasers, company officials continually downplay the risk associated with the weapons. Taser CEO Rick

Smith, for example, has said “we tell people that this (the Taser) has never caused a death, and in my heart and soul, I believe that’s true.”³⁹ Company spokesperson Steve Tuttle has said the Taser poses no greater risk than taking the painkiller Tylenol,⁴⁰ and Taser President Tom Smith has asserted that there is “no scientific of medical evidence to suggest that these are dangerous devices.”⁴¹

Finally, despite the fact that in 18 of 47 cases reviewed by the Arizona Republic,⁴² medical examiners indicated that Tasers were a cause of death, a contributing factor in a death, or could not be ruled out as a cause of death, Taser International has yet to concede that the Taser contributed to death in even one case, not even in the case of Andrew

ACCORDING TO THE U.S. DEPARTMENT OF DEFENSE, ANY WEAPON THAT IS INTENDED TO “SIGNIFICANTLY REDUCE THE PROBABILITY OF.. FATALITIES OR INJURIES COMPARED WITH TRADITIONAL MILITARY WEAPONS...”—SUCH AS FIREARMS, GRENADES AND MISSILES—CAN BE CALLED “NON-LETHAL.”

Promoting Taser Drives Up Stock Sales

In March, 2003, Taser International was still a relatively small company trying to mainstream its product. The stock price had been mired in the \$3-5 dollar range for the past several months.⁴⁶ However, Chandler Ariz. presented a significant sales opportunity. One of the company's master trainers, Sgt. Jim Halsted, was an employee of the Chandler Police Department and, without disclosing to his chief that he had received stock options from Taser International, he gave a Taser presentation to the Chandler City Council.⁴⁷

Halsted aggressively pushed the product and, with Taser International's president watching from the audience, urged the Council to purchase one Taser for every officer. Halsted downplayed the safety dangers of the weapon, claiming, "No deaths are attributed to the (Taser model) M26 at all. That's absolutely incredible... We put a Band-Aid on that person. There is no injury." Halsted made an effective presentation and the Council that night moved to approve the expenditure of nearly \$200,000 for 300 Tasers and supporting equipment. Halsted and Taser International, however, never disclosed to the Council that the sergeant was not only working for the city, but had a financial stake in the Taser sale going through.⁴⁸

Halsted and his family had received more than 1,000 shares and options for Taser stock and stood to gain significantly if Taser stock increased.⁴⁹ The Chandler sale helped launch Taser stock's meteoric rise. On March 27, 2003 the stock was valued at \$4.26. For the quarter that ended March 31, 2003 Taser reported its largest ever earnings of \$.08 per share—in part due to the Chandler sale.⁵⁰ Just two months later, the stock had more than doubled to \$8.99 per share.⁵¹ And the stock continued to increase and trade at extremely high levels, until January 2005 when the Securities and Exchange Commission announced it was opening an inquiry into Taser's marketing practices. Had Halsted cashed in his stock and options at Taser's peak, they would have been worth over \$300,000.⁵²

Such practices present a clear conflict of interest. According to Professor David Harris of University of Toledo School of Law, "you have police officers who are supposed to be looking out for their departments when they have another competing interest." Even companies that sell products to police departments see it this way. According to Paul Pluff, spokesperson for gun manufacturer, Smith and Wesson, "I see it as somewhat of a conflict of interest. We don't do it."⁵³ ■

Washington, who died after being Tased 17 times by Vallejo police in a three minute period. Taken together, Taser's marketing leaves the distinct impression that the product is safe, well tested, and, despite evidence to the contrary, will not lead to fatalities.

This is not the only example of Taser International over-exaggerating the safety of its product or otherwise engaging in questionable business practices to promote sales. Taser International maintained that no medical examiner had found Tasers responsible for contributing to any deaths, until the Arizona Republic reported on several autopsy reports that implicated Tasers as a potential contributing factor.⁴³

Questionable Marketing and Compensation Practices

The company has also engaged in questionable business practices to promote and sell its product and close sales. For example, Taser granted stock options to several "master trainers," some of whom promoted Tasers to their own police departments and city councils without disclosing the options.⁴⁴ In one example, a Minneapolis police officer was, at the same time, receiving stock options from Taser and serving as the Minneapolis Police Department point person on Taser purchasing decisions. Furthermore, in San Francisco, Taser International paid a Phoenix, AZ, city council member to make a presentation about Tasers to the San Francisco Police Commission without disclosing to the commission that the council member was a paid consultant for Taser.⁴⁵ Overall, these practices are ethically dubious and raise questions about the credibility of Taser's representations of its product.

The company has touted the few animal studies it has conducted as proof that Tasers are safe.⁵⁴ However, it does not routinely disclose that the principle researcher in many of those studies, Taser International's medical director, Dr. Robert Stratbucker, was compensated for his work with stock options, a form of compensation that potentially creates an incentive to find favorable results.⁵⁵

Particularly worrisome is Taser International's claim that its weapon is safe to use on small children, including toddlers, and that the company was "unaware of any scientific data that suggest the use, or multiple uses of a Taser device would result in [a] regrettable outcome."⁵⁶ This despite the fact that the company was, at the time of making the statement, aware of the research by Dr. Jauchum, discussed in the section on health risks, and knew about the opinions of Dr. Rackley interpreting those findings.⁵⁷

Taser International's questionable business practices and safety claims have spurred the SEC to open an investigation into its practices and the Arizona Attorney General has launched an investigation of the company.⁵⁸ ■

Part III. Training Materials Reflect The Hype

As could be expected, the training materials produced by Taser International mirror many of the misrepresentations the company has made in its presentations to the public. This is cause for concern because training materials help provide the foundation for how police officers use the weapons. Unfortunately, as we learned from our survey of law enforcement agencies throughout northern and central California, the vast majority of law enforcement agencies rely exclusively on company-produced materials—some of which are outdated.

Of 56 agencies surveyed by the ACLU-NC, only four departments created or used any of their own training materials. All other departments surveyed exclusively used training materials created by the manufacturer. The most recent version of the Taser International training materials is Version 12. However, of the departments using Taser’s training materials, only 13 used the latest version. Another 11 departments used Version 11, and the others used older versions, two using the 2002 Version 6.

Even the most recent versions 11 and 12 contain significant misrepresentations about the safety of Tasers and encourage the liberal use of the weapon, giving officers a false impression of the risks of using Tasers on potential suspects. In short, the survey found that the power-point presentations used to train officers exaggerate overall safety, encourage multiple uses of the weapon, downplay the risk of using Tasers on people un-

der the influence of drugs, and misrepresent the few medical reviews that have been done on Tasers.

Conflicting Warnings in the Training Materials

Though some of the claims in Version 11 of the training materials have been changed in Version 12, both versions seriously downplay any health risks and leave the impression that the weapon is never deadly.

Version 11 is most egregious in claiming that Tasers pose no risk of death. A slide titled “What TASER Weapons Don’t Do,” states “No reports of TASER weapons causing death.”⁶² The materials also state that “there is no medical evidence that the TASER T-Waves in any way cause or contribute to heart or respiratory failure,”⁶³ and that “no deaths have ever been attributed to the use of TASER technology.”⁶⁴ This despite the fact that at that time the materials were produced, 39 people had died in the United States and Canada in Taser-related incidents.⁶⁵

Version 11 also claims there have been no long-term injuries associated with the weapon. Under its “medical safety” section, the instructor notes state:

“There have been an estimated 50,000 volunteers who have been exposed to actual applications of the M26 and X26. There are over 3600 documented field uses of the weapon as well. It is estimated that only 30% of the field uses are reported to TASER International, hence it is estimated that there have been over well over 17,000 field uses of the M26 and X26. There have been no long term injuries caused by the TASER. The use of the Taser technology causes incapacitation and thereby secondary injuries can occur. This includes cuts, bruises, abrasions caused by falling. These short-term injuries are secondary in nature and are reversible injuries.”⁶⁶

At the time the materials were produced, Taser International had been made aware of at least one case where an officer “volunteer” was significantly injured as a result of the stun of a Taser. In 2002, Samuel Powers, a deputy with the Maricopa County Sheriff’s Department, suffered a compression fracture to a vertebra in his back following a Taser shock. When Version 11 training materials were issued, a doctor working for Taser International had already written a memo on the incident for the company and Deputy Powers had filed a lawsuit against the company. Since then, several other officers have

Training Materials By Department

<i>Training Materials Version</i>	<i>Number of Departments</i>
Version 12	13
Version 11	11
Version 10 (or 10.1)	6
Version 8	3
Version 7	4
Version 6	2
Version 4	1
Other ⁵⁹	2
Own Materials ⁶⁰	4
Not Stated ⁶¹	10

reported and/or filed lawsuits against Taser International for injuries ranging from ruptured disks and other fractures to joint injuries. Moreover, the Phoenix Police Department, which once strongly recommended officer exposure during training, now prohibits voluntary exposures.⁶⁷ In the month of August, 2005, alone, officers in at least five states filed suit against Taser International for Taser related injuries, including multiple spinal fractures, burns, a shoulder dislocation, and soft tissue injuries.⁶⁸

Despite increased scrutiny of Taser stun guns in the news media and elsewhere, the latest version of the training materials—Version 12—contains many similar problems. Some of the provisions have been changed. For example, Version 12 contains warnings in small print that state “the very nature of physical incapacitation involves a degree of risk that someone will get hurt or may even be killed due to physical exertion.”⁶⁹ It also states that “in rare instances, subjects may experience physical exertion type injuries including injuries to muscles, tendons, ligaments, backs, joints and stress fractures.”⁷⁰

However, on four separate occasions, the materials continue to indicate that Tasers are harmless. The materials contain virtually identical language to Version 11 and state:

*There have been no long-term injuries caused by the TASER.*⁷¹

Deputy Powers and countless other officers who have suffered long-term injuries from the stun gun—and even Taser’s own doctor—might disagree. The problem, of course, is that police departments in California and around the nation rely on Taser training materials to educate their officers. Certainly Version 12 has some additional warnings that Version 11 and other prior versions did not have, but most departments do not have this most recent version—relying on older versions—and even the most recent version grossly misrepresents the potential damage Tasers can cause.

Multiple Shocks

Similarly, Taser training materials encourage multiple shocks and downplay the risks. Version 11 indicates that 32 percent of field applications use more than one “cycle,” or hit, and, in the instructor notes section, the materials state that “the students should anticipate using additional cycles to subdue suspects.”⁷²

Version 12 does contain a warning about the potential dangers of multiple cycles and urges avoiding “prolonged applications whenever practicable.”⁷³ However, another slide titled “Follow up Action” states that the “Taser operator should be prepared to apply additional cycles if necessary.”⁷⁴ And in response to the question: “When should an officer be prepared to use more than one cycle?” the answer given is:

An officer should ALWAYS be prepared to use more than one cycle. This is especially true for subjects on drugs or EDPs. Officers should use as many cycles as necessary to either gain compliance from the subject or to allow other officers to safely restrain the subject while he is incapacitated (during the cycle).⁷⁵

Not only are repeated and even limitless cycles encouraged, but they are specifically encouraged for subjects under the influence of drugs. Further, there is no mention in the training materials about some of the fatal consequences that multiple Taser shots could cause, or warnings by independent analysts of the dangers of repeated applications. Nor is there any mention of Andrew Washington, the young Vallejo man who died after being shocked 17 times in a three-minute period.

IN THE MONTH OF AUGUST 2005 ALONE, OFFICERS IN AT LEAST FIVE STATES FILED SUIT AGAINST TASER INTERNATIONAL FOR TASER RELATED INJURIES INCLUDING MULTIPLE SPINAL FRACTURES, BURNS, A SHOULDER DISLOCATION, AND SOFT TISSUE INJURIES.

Shocked When On Drugs or Alcohol

The Taser training materials also contain misleading information on the potential effects of Tasers on people under the influence of drugs. This is a critical issue because a large percentage of the targets of police force are under the influence of drugs or alcohol.

Nonetheless, in Version 11, Taser International claims that “animal studies prove cocaine does not make the heart more susceptible to electrically induced fibrillation.”⁷⁶ Meanwhile, Version 12 states, under a section entitled “Medical Safety: Drugs” that “no arrhythmia provocation occurred even when the animals were given the stimulant drugs epinephrine and isoproterenol, agents that make the heart more susceptible to electrical stimulation.”⁷⁷

Several external reviews, however, conclude that more study is needed in this critical area and, as discussed above, several medical experts speculate that cocaine and other drugs may make the heart more susceptible to fibrillation. The IACP has concluded that more study is needed on this critical issue,⁷⁸ and the British government in its review concluded that

“the possibility that other factors such as illicit drug intoxication, alcohol abuse, pre-existing heart disease and cardioactive therapeutic drugs may modify the threshold for generation of cardiac arrhythmias cannot be excluded.”⁷⁹

To say that animal studies *prove* the safety of Tasers on people under the influence of drugs in the face of experts’ skepticism and an increasing number of deaths of people on drugs when hit by the Taser, at the very least, gives officers a false sense of security about the safety of the weapon when used on vulnerable suspects.

At the same time that Taser is touting the weapons’ safety on drug users, it is encouraging officers to act quickly and early to deploy a Taser on such individuals.⁸⁰ The combination of misleading safety claims coupled with encouragements of liberal usage could be a recipe for disaster and lead to more deaths.

Misrepresenting Medical Studies

Further, the medical studies mentioned in Taser International’s training materials are largely taken out of context and lack relevant information, giving law enforcement agencies the impression that Tasers are safer than they actually are. In Version 12, Taser presents the “independent conclusions” of studies that are actually not independent or are taken out of context.

One slide in the training materials lists the conclusions of Dr. Anthony Bleetman, who says he does “not believe that any of the deaths described in subjects who have been TASERed during their arrest can be conclusively linked to the use of these devices.”⁸¹ While he is identified as a consultant at Birmingham Heartlands Hospital whose opinion is “independent,” the materials neglect to mention that Dr. Bleetman had previously been hired as a consultant by Taser International.⁸²

The materials also fail to mention that while Dr. Bleetman concludes that Tasers are “essentially safe on healthy people,” he adds that “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.”⁸³ Clearly, Taser training materials envision a much more liberal use of the weapon, and as described in section IV, the policies of police departments throughout northern and central California provide for their use under a wide range of circumstances.

In a second slide, the training materials cite an “independent

study” by the U.S Department of Defense that says:

Analyses provided by law enforcement agencies indicate that increased use of the TASER M26 and TASER X26 has decreased the overall injury rate of both police officers and suspects in conflict situations when compared to alternatives along the use-of-force continuum.

*The study concludes that Electro-Muscular Incapacitation (TASER) is likely not the primary causative factor in reported fatalities.*⁸⁴

Again, Taser’s connection to the study was not disclosed although it was billed as independent. Nonetheless it concluded that there are risks associated with Tasers, that multiple applications of Tasers can cause serious problems, and that more research is needed on sensitive populations. Information obtained by the Arizona Republic showed that Taser officials “not only participated in three panels to determine the scope of the study, analyze data and review findings, but also provided the bulk of research used in the study.”⁸⁵ In fact, the DOD study recognizes the potential problems of relying on information provided by Taser International:

THE TASER INTERNATIONAL DATABASE CONTAINS A LARGE NUMBER OF RECORDS FROM A WIDE VARIETY OF USERS. HOWEVER THE RECORDS ARE NOT A STATISTICALLY REPRESENTATIVE SAMPLE AND ARE POTENTIALLY INFLUENCED BY A NUMBER OF SOURCES OF BIAS.
—U.S. DEPARTMENT OF DEFENSE REPORT

*This analysis relied on the data collected by Taser International. The Taser International database contains a large number of records from a wide variety of users. However the records are not a statistically representative sample and are potentially influenced by a number of sources of bias.*⁸⁶

It also appears as if Taser International may not have supplied all the information it had to the DOD for the study, which states that “no reports were identified that describe bone fractures resulting from the rapid induction of strong muscle contraction” caused by Tasers.⁸⁷ At the time, Taser officials were aware of Deputy Powers’ injury and his pending legal action, and may also

have known about other officer injuries.⁸⁸

When preliminary results of the DOD study were released, Taser International issued a press release touting it as a “major independent safety study” that demonstrated Tasers were “generally safe.” Capt. Daniel McSweeney, a Pentagon official, cautioned Taser International to “tone it [the company’s rhetoric] down,” but eventually approved the press statement because he believed that Taser International was “some kind of

Some Police Parrot Taser's Hype

On Feb. 20, 2005, Robert Heston died after being Tased five times by Salinas police officers. At a press conference, Salinas Police Chief Daniel Ortega defended his officers' use of Tasers and denied they played any role in Heston's death, blatantly parroting Taser International's promotional materials. For example, he said "These reports clearly indicate that the Taser technology, while not risk-free, is among the safest use-of-force options for our police officers to have."

Consider the wording used by Taser International CEO Rick Smith in a Nov. 30 press release criticizing a report by Amnesty International:

"These reports clearly indicate that the Taser technology, while not risk-free, is among the safest use-of-force options for our police officers to have."

Chief Ortega also told reporters: "This compilation based on independent police, medical and scientific study clearly supports that Taser's non-lethal systems are reducing injuries and saving lives every day." A verbatim quote is used in Taser's Nov. 30 press release.⁹⁵

Moreover, the Salinas Police Department continues to downplay indications that the Taser played a role in Heston's death. The autopsy was initially performed by Terri Haddix of Stanford University, who performs autopsies on a contract basis for the Monterey County Coroner's Office. While the report has not been made public, news reports indicate that Haddix listed the Taser as a contributing factor in the death along with methamphetamines. The Monterey County Sheriff's Department, which oversees the coroner's office, had the findings reviewed by another pathologist John Hain and then sent the report to a third individual, Steven Karch, a former San Francisco medical examiner. Despite these reviews and the length of time since the death, the autopsy report has yet to be released and neither the police department nor Taser International have yet to concede that the Taser contributed to the death.⁹⁶ ■

partner with us [the DOD], since we purchase and field their systems." When interviewed about the study, McSweeney noted that Taser had "been at the center of several controversial issues," and urged independent studies.⁸⁹

Despite potential bias, the DOD study does not conclude that Tasers are completely safe. It notes that "although likely to be uncommon, severe unintended effects might occur." The report also concludes that there is insufficient data to accurately assess the risk of Tasers causing ventricular fibrillation in "very small children, the elderly, and individuals possessing potentially mitigating factors such as underlying heart disease

or drug intoxication, for example."⁹⁰ The report also states that multiple applications of the Taser can pose serious problems. According to the report:

Field experience indicates that in most cases only one or a small number of 5-second activations are needed to achieve and maintain control of the subject. However, repeated or constant activation of the devices can deliver constant electrical output, which results in sustained muscle contraction with little or no muscle recovery period. If long periods of uninterrupted EMI activation did occur, the risk of unintended adverse effects such as cardiac arrhythmia, impairment of respiration, or widespread metabolic muscle damage (rhabdomyolysis) could be severe.⁹¹

Another section of the training materials cites a study by the British government stating that "the risk of life-threatening or serious injuries from the M26 Taser is very low."⁹² While the study concludes that the risk from Tasers to *healthy* people is low, it says "the possibility that other factors such as illicit drug intoxication, alcohol abuse, pre-existing heart disease and cardioactive therapeutic drugs may modify the threshold for generation of cardiac arrhythmias cannot be excluded."⁹³ Further, the British government only authorizes the use of Tasers as an alternative to deadly force, a much more narrow and restricted use of the weapon than Taser advocates and U.S. police departments follow.⁹⁴ ■

IF LONG PERIODS OF UNINTERRUPTED
EMI ACTIVATION DID OCCUR, THE RISK
OF UNINTENDED ADVERSE EFFECTS
SUCH AS CARDIAC ARRHYTHMIA,
IMPAIRMENT OF RESPIRATION, OR
WIDESPREAD METABOLIC MUSCLE
DAMAGE (RHABDOMYOLYSIS) COULD
BE SEVERE.
—U.S. DEPARTMENT OF DEFENSE
REPORT

Part IV. Standards for Taser Use or Lack Thereof

Compounding Taser's safety issues is the fact that the stun guns remain largely unregulated in police departments throughout California and the nation. Of the 54 departments reviewed, there are very few restrictions to prevent abuse and misuse of the weapon. From the standards that police departments require to use the weapon, to protections for specific sub-populations, there is very little in terms of regulation to guide Taser use by law enforcement officers in northern and central California.

While the British government only authorizes Taser use as an alternative to deadly force, the California law enforcement agencies surveyed by the ACLU-NC permit their use under a wide range of circumstances. Most commonly, however, police use Tasers when dealing with a "violent or potentially violent" individual. This standard is extremely subjective as few departments define what they mean by "potential violence." Indeed, almost any suspect could be viewed as "potentially violent," and in the absence of any specific guidelines, officers are given near total discretion in using a Taser.

The Atherton Police Department, for example, places the Taser on the force continuum just after verbal commands, permitting their use before officers may use pain compliance holds or any other hands-on techniques.⁹⁷ In other words, the Taser is the preferred force option available to officers and is to be used whenever force is warranted—even in relatively minor situations.

Fortunately, not all police departments are so lax in their Taser use. The Sacramento Police Department, for example, requires the weapon be used not only in the face of a threat to officer safety, but that the threat be both "credible" and "imminent."⁹⁸ This type of language at least signals to officers that Tasers should not be used in every force situation and that they should be reserved for use in especially dangerous situations.

Allowing for Multiple Shocks

While several reviews of the available Taser studies urge limits on multiple applications of the weapon—even Taser International recently issued a training bulletin on its website

indicating that multiple applications "may impair breathing and respiration,"⁹⁹—very few agencies in northern and central California have a policy in place limiting the duration or number of jolts officers may administer to a person. In fact, out of the 54 agencies surveyed, only four agencies had any language whatsoever in their policies warning against or prohibiting multiple shocks.

One department that has such regulation was the Stockton Police Department, whose policy states:

*Officers should avoid using more than one Taser at a time on a suspect. If the initial Taser becomes disabled, a second Taser may be deployed. If the Taser does not gain control or is ineffective, repeated deployments shall not be done.*¹⁰⁰

The Fremont Police Department also regulates multiple applications, but in a different way:

*Absent exigent circumstances, examples of generally prohibited uses of the TASER X26 are: Maximum of four (4) applications, either Drivestun or Discharge mode, whether from a single or a combination of multiple TASER(s) units.*¹⁰¹

While each of these policies instructs officers that it is inappropriate to repeatedly shock an individual, there are, unfortunately, exceptions to the rule. The vast majority of departments have no policy on the books to prevent multiple applications.

Civil Disobedience

Tasers are marketed to and touted by police departments as a way to decrease police shootings and injuries to suspects and officers. Passive resisters, however, pose no threat by protesting peacefully and refusing to leave a certain area. While a policy that only authorizes Taser use on "potentially violent" individuals might arguably prevent their use on passive resisters, it, in fact, provides little direction or protection against use of Tasers on passive resisters because the term "potentially violent" is too broad and subject to the interpretation of an individual officer.

Of the police departments surveyed, only 10 (19 percent) have any policy prohibiting or regulating the use of Tasers on

OUT OF THE
54 AGENCIES
SURVEYED, ONLY
FOUR AGENCIES
HAD ANY LANGUAGE
WHATSOEVER IN
THEIR POLICIES
WARNING AGAINST
OR PROHIBITING
MULTIPLE SHOCKS.

passive resisters. Indeed, the Fairfield Police Department appears to specifically authorize the use of Tasers against passive resisters. The department's policy provides that Tasers shall be used in the following circumstances:

*When the actions of the subject (as reasonably perceived by the police officer) rise to the following levels—uncooperative or passive, low-level resistance, active resistance or aggression, and life threatening assault or assault likely to cause great bodily harm.*¹⁰²

Other departments, however, take a more progressive approach, prohibiting the use of Tasers on peaceful passive resisters. The policy of the El Dorado Sheriff Department, for example, states that “the Taser shall not be used on individuals who are passively resisting,”¹⁰³ and the Fresno Police Department has a similar policy.¹⁰⁴

Vulnerable Targets (Pregnant Women, Juveniles, Elderly)

Most of the police departments surveyed had no policies protecting vulnerable people, including pregnant women, children and adolescents, and the elderly, from Taser shocks. Members of these groups may be more likely to be injured as a result of a Taser shock—be it from the shock itself or the severe muscle strain caused by the jolt or from falls after being hit. Even Taser International, in its training materials, highlights the dangers of using Tasers on pregnant women and warns that the “risks from falling and other health considerations make it advisable to avoid deployment of the TASER on pregnant females where practicable.”¹⁰⁵

Nonetheless, only 23 departments—or 43 percent of police departments surveyed—have any policy prohibiting or regulating the use of Tasers on pregnant women. Only 19—or 35 percent—have any policy regulating the weapon's use on the

elderly and only 10—or 19 percent have a policy restricting the use of Tasers on juveniles.

But there are exceptions to the rule. The San Joaquin Sheriff Department, for example, only allows the use of the Taser on the pregnant and elderly “in cases where deadly force is the

only alternative.”¹⁰⁶ The Vallejo Police Department provides that “the Taser generally should not be deployed against young juveniles.”¹⁰⁷

Handcuffed or Unconscious

Others groups against whom police should never use a Taser are those who are already restrained (i.e. handcuffed), and those who are unconscious. A Taser is a dangerous weapon and should not be used on someone who is unconscious and posing no active threat to an officer or bystander. However, of the 54 departments surveyed, only 8 (15 percent) had any policy explicitly prohibiting or regulating the use of Tasers

What's to Stop Children from Being Tased?

In recent years, there have been reports around the nation of police using Tasers on children. Two such incidents occurred in Miami, FL. In one case, police used a Taser on a 6-year-old child who was threatening to cut his own leg with a piece of glass. Other adults were at the scene. In another, police Tased a 12-year-old girl who was playing truant from school and ran away from police who confronted her.¹⁰⁸

The Florida incidents are not unique. Last year, a Tucson police sergeant shocked a 9-year-old psychiatric patient who was already handcuffed, because she was screaming and kicking in the back of his police car.¹⁰⁹ And this year, Cincinnati police used a Taser on a 12-year-old girl who struggled with officers after she refused to go to an in-school suspension class.¹¹⁰

In the wake of these and similar incidents, medical and law enforcement experts have cautioned against the use of Tasers on children. According to Joe Davis, former Medical Examiner of Miami Dade, “those things are designed for adults; they're not designed for children. The whole idea is to disarm somebody who's a real threat. It's a substitute for shooting a person.”¹¹¹ And, despite the fact that Taser International asserts that medical tests prove Tasers safe on children, Dr. Wayne McDaniel, one of the lead researchers who conducted the Taser studies admits that the researchers did not have children in mind when they conducted their experiments:

*“I don't know that I had ever envisioned the use of this thing on small children...I don't think anyone has ever tried to draw any inferences as far as use in children... The design of this device is for bad guys.”*¹¹²

We have yet to document the use of Tasers on children in California; however, very few departments throughout the region prohibit or even warn against such uses. ■

MOST OF THE POLICE DEPARTMENTS SURVEYED HAD NO POLICIES PROTECTING VULNERABLE PEOPLE, INCLUDING PREGNANT WOMEN, CHILDREN AND ADOLESCENTS, AND THE ELDERLY, FROM TASER SHOCKS.

San Jose Police Resist Taser Regulation

In April, 2004, a Vietnamese woman named Cau Bich Tran was shot dead by San Jose police officers as she was holding an Asian vegetable peeler in her home. In response, San Jose Police Chief Rob Davis announced that every police officer on the force would carry a Taser to avoid such deadly incidents. Thus, San Jose became the largest police department in California to go to full deployment with Tasers.¹¹⁵

Initially, the San Jose Police Department (“SJPD”) issued regulations governing the use of Tasers. Department General Orders specified that Tasers could only be used:

- *To incapacitate assaultive or physically resisting persons to the point where they can be safely taken into custody and controlled without the necessity to use force likely to cause serious injury;*
- *To be used as a defensive weapon in situation where its use is likely to prevent a Department employee or member of the public from being seriously injured.*

Additionally, the policy contained prohibitions on using Tasers against individuals who were unconscious, non-combative, restrained, or otherwise incapacitated.¹¹⁶

In June, 2004, however, just three months after deploying Tasers, the department gutted its regulations, eliminating any language regulating officer use of Tasers. Under the new rules, while there is still a general use of force policy, the SJPD provides no specific rules for when and how officers should or should not use Tasers.¹¹⁷

In response, the ACLU-NC and several other organizations have urged the SJPD to adopt Taser regulations, especially in light of the growing number of stun-gun related deaths and lack of independent safety studies. Yet the department continues to insist on a policy of no regulation.

On August 1, 2005, Brian Patrick O’Neil died after being jolted during an altercation with San Jose police. Because the SJPD has not provided sufficient details of the incident, it is unclear to what extent the Taser played a role in O’Neil’s death. What is clear, however, is that in the absence of regulation, more deaths are likely to occur in the future. ■

against the unconscious and only 14 (26 percent) had any policy regulating the use of Tasers on people who were handcuffed or otherwise restrained.

Of the departments that do provide such protections, the Capitola Police Departments’ policy states that officers “shall

not” use the Taser “against handcuffed subjects” or “subjects detained in a police vehicle.”¹¹³ The Sacramento County Sheriff Department policy requires that Tasers “shall not” be used “to arouse unconscious, impaired or intoxicated individuals.”¹¹⁴ ■

Part V. Recommendations for Safer Police Practices

Lax regulation of Tasers largely stems from the promotional tactics of Taser International, which has repeatedly exaggerated safety claims and provided misleading information to law enforcement and the public. Many in law enforcement have been too quick to accept without question Taser's claims, and the California Legislature has yet to adopt any legislation regulating Tasers. One bill which would have required some data collection, and prohibited civilian use of Tasers—authored by Assemblyman Mark Leno—was defeated following a strong lobbying effort by Taser International.¹¹⁸

In the absence of adequate regulation, it is more than likely that Tasers will be used in situations that could be resolved in less volatile or lethal ways, and that the number of deaths will continue to increase. Meanwhile, there is scant public information available to gauge the continuing use and impact of these weapons. The ACLU-NC therefore urges the following policy recommendations:

State Legislation

To ensure at least some baseline standards on the use of Tasers, the California Legislature should adopt legislation mandating minimum standards for the use of Tasers. Given the increasing number of deaths, the lack of independent medical studies, and uncertainty about the effects of Tasers, the weapons should only be used in life-threatening situations. It is reckless and irresponsible to use these largely untested weapons in a wide range of circumstances, especially in light of the spike in Taser-related deaths. Certainly a Taser is a safer alternative to a handgun; but short of life-threatening situations, Tasers should not be used until we know more about the health risks.

If the legislature is unwilling to adopt such legislation, the state, at a bare minimum, should take steps to minimize the risk of death and serious injury from Taser use. To that end, it should mandate regulations requiring departments to adopt policies regulating the number of shocks that can be administered on an individual, the use of Tasers on juveniles, the elderly, pregnant women, and people known to be

under the influence of drugs, the use of Tasers on handcuffed and unconscious individuals, and on passive resisters.

Further, such legislation should require all departments that use Tasers to submit copies of their Taser use policies to the Legislative Analyst Office for analysis and review and should specify that Taser-use policies are a matter of public record.

Finally, in response to Taser International's leading claim that the stun gun reduces other uses of force, we requested use-of-force data from all police departments using Tasers. We asked for documentation of all categories of police force used before and after Tasers were deployed. The vast majority of departments that responded to our request do not collect this type of data. However, in the case of the Monterey County Sheriff Department, which does, the overall use of force increased dramatically after Tasers were deployed.¹¹⁹ We therefore urge any legislation to include a provision that would require all law enforcement agencies to collect and tabulate statistical data on all uses of force and that this data be available to the public.

Local Law Enforcement and Local Government

Local police chiefs and sheriffs, mayors, city councils, and county boards of supervisors should not wait for the Legislature to pass a law regulating Tasers. Several steps toward implementing restrictions can be taken immediately at the local level. As for law enforcement involvement, in its report issued in April, the IACP recommended that local law enforcement re-evaluate their Taser-use policies and training materials. In urging this process, the IACP provided some guidance as to how departments should evaluate policies. According to the IACP:

Policies should clearly describe the circumstances when EMDT may be used. It is not enough, however, to establish rules that address only when to use EMDT. Policies should also be explicit as to when its use is inappropriate.¹²⁰

GIVEN THE INCREASING NUMBER OF DEATHS, THE LACK OF INDEPENDENT MEDICAL STUDIES, AND UNCERTAINTY ABOUT THE EFFECTS OF TASERS, THE WEAPONS SHOULD ONLY BE USED IN LIFE-THREATENING SITUATIONS.

Therefore, the ACLU of Northern California recommends the following:

1. **Adopt Strong Taser Regulations:** As previously explained, Tasers should only be used in life-threatening situations. Such a policy would allow Tasers to be used in very limited circumstances and may save lives while avoiding unnecessary deaths caused by Tasers. Until there is independent testing evaluating the safety of Tasers on a variety of vulnerable populations, Tasers should not be used in other situations.

If law enforcement agencies are not willing to adopt such a policy, they should at least take steps to regulate the weapon with the goal of decreasing the chance that a Taser will be used in a situation where it will contribute to or cause a death. In the course of reviewing the policies of police and sheriff departments throughout the northern and central California, we discovered a lack of regulation of Tasers, but we also reviewed a number of policies that contained some provisions that did provide better more substantial protections. While, no one department had a perfect policy, we took the best out of policies throughout the state and combined them into a best-practices policy. This policy (attached as appendix B), contains only provisions currently used by law enforcement. Adopted as a whole, it would be an improvement over any policy currently used in the region.

2. **Create New Training Materials:** As previously discussed, there are several exaggerations and misrepresentations in the current Taser training materials. Local law enforcement

should review the training materials they are utilizing and develop new training materials that more accurately reflect the potential danger associated with Taser use and the current state of medical studies regarding its safety.

3. **Mandate Openness:** While we did receive policies and training materials from the vast majority of departments, two agencies—the Sutter County Sheriff Department and the Cotati Police Department—refused to provide any policy or training documents. Further, a number of departments that we sent follow up requests to for use of force or police reports documenting the use of the Taser refused to provide the requested documents. It is difficult to evaluate a department's actual use of the Taser without such information. We urge local law enforcement and local government to adopt policies favoring disclosure of such documents.

4. **Use of Force Data Collection:** Through our records survey, we learned that the vast majority of law enforcement agencies do not collect, collate, and analyze use-of-force data for the various types of force employed by the department. This data is useful to analyzing whether Tasers are being relied on disproportionately. However, beyond Tasers, this type of information is critical for police managers if they want to have a good understanding of how force is being used in their department. We therefore urge local law enforcement and local government to require the collection, collation, and analysis of use of force data for each type of force and to disclose such information to the public. ■

Conclusion

While the Taser stun gun has the potential to save lives as an alternative to deadly force, it poses a serious health risk as long as it remains largely unregulated. Deaths in the aftermath of Taser jolts are increasing steadily, and there have yet to be sufficient independent studies of the weapon's health effects. However this scenario need not continue. Lo-

cal law enforcement should follow the above recommendations and reevaluate its training and use policies. At the very least, practices currently employed by law enforcement in northern and central California should be consolidated and followed so that Tasers do, indeed, save lives rather than end them unnecessarily. ■

Appendix A

Scope and Methodology

On May 16, 2005, the ACLU of Northern California sent Public Records Act requests to several police and sheriff departments throughout Northern and Central California. The requests were sent to every department that employs 100 or more sworn officers as well as departments that we knew or believed from news reports used Tasers. At the beginning of June, we sent another round to a few smaller agencies. In total, requests were sent to 79 agencies.

Between May and August, we received documents from the agencies. We reviewed their policy documents and the training materials that were provided. If departments did not respond, we followed up multiple times.

One agency, the Oakland Police Department, was good

enough to invite us to attend the full Taser training presented to their officers. This experience was extremely informative and rewarding and we thank the Oakland Police Department for their openness.

The information we have reported in this report is based on information we received when we received it. Some departments may have changed their policies and training in the interim. We did not do additional follow up requests after we received a response. Departments that reported at the time they did not use Tasers may have since employed them. Other agencies may have modified their training materials or policies. The information contained in this report represents the state of Taser training and policy at the time we issued the request. ■

Appendix B

Best Practices Taser Policy

Taken from law enforcement agencies throughout northern and central California. This does not necessarily represent the ACLU-NC's "model policy," however it represents some of the best policies currently being employed by regional law enforcement agencies.

Purpose:

To establish guidelines for the deployment and use of the Taser.

Policy Statement:

To deploy and use the Taser in a manner which maximizes the safety of all individuals involved in an incident.
(Capitola Police Department Departmental Order No. 60)

Procedure:

I. GENERAL CONSIDERATIONS

A. **Definition:** The X26 Air Taser is a conducted energy weapon that utilizes compressed nitrogen to shoot two probes up to twenty-one feet. The probes are connected to the weapon by high-voltage insulated wires. When the probes make contact with the target, the Taser transmits electrical pulses along the wires and into the body of the target. The X-26 Taser has a built-in memory to track usage. It has the ability to down-

load information relating to the time discharged, time of the day and duration of the discharge. (Gilroy Police Department, Addendum to GPD Policy Manual Section 308, June 2004)

B. **Less-Lethal Weapon:** As with other "less lethal" force options, this department is committed to reducing the potential for violent confrontations with the suspects we encounter. The X26 Advanced Taser technology is one of those items, which when used properly, are less likely to result in serious physical injury or death. (Gilroy Police Department, Addendum to GPD Policy Manual Section 308, June 2004)

Although designed to lower the risk to officers and civilians, and not cause serious injury or death, it is recognized that any less lethal force weapon has the potential to cause serious injury or death. (Redding Police Department, General Order A-43.2 Less Lethal Force Weapons)

C. **Training:** The Taser shall only be used by officers and supervisors trained in its deployment and use. Officers shall use the Taser in a manner that is consistent with departmental orders and training guidelines. (Capitola Police Department Departmental Order No. 60)

II. DEPLOYMENT

A. **Circumstances for Use:** Because the taser has the potential to cause serious injury, this type of weapon will only be used in the following circumstances. (Fairfield Police Department Policy and Procedure 4310 Degree of Force A19 use of X-26 Taser). The Taser may be used to overcome resistance from subjects who the officer reasonably believes present an immediate, credible threat to the safety of the officer(s), the public, or whenever an officer reasonably believes that a subject poses an immediate, credible threat to the subject's own safety. (Sacramento Police Department General Order 580.10 Use of the Taser 1/9/04)

B. **Verbal and Visual Warnings:** Unless it would otherwise endanger officer safety or is impractical due to circumstances, a verbal announcement of the intended use of the Taser shall precede the application of a taser device in order to:

1. Provide the individual with a reasonable opportunity to voluntarily comply.
2. Provide other deputies and individual with warning that a Taser device may be deployed.

If, after a verbal warning, an individual continues to express an unwillingness to voluntarily comply with a deputy's lawful orders and it appears both reasonable and practical under the circumstances, a deputy may, but is not required to display the electrical arc (provided there is not a cartridge loaded into the Taser) or laser in a further attempt to gain compliance prior to the application of the Taser device. The aiming laser should never be intentionally directed into the eyes of another as it may permanently impair their vision. Deputies should not remove a Taser cartridge in order to display an electrical arc.

The fact that a verbal and/or other warning was given or reasons it was not given shall be documented in any related reports. (Sonoma County Sheriff's Department, 308.52)

C. **Only display when use justified:** The Taser shall not be displayed on calls or incidents unless the officer has specific information about the call or incident that reasonably indicates there is a potential for the Taser's use. The circumstances of each call or incident shall dictate the reasonableness for the deployment of the Taser. (Capitola Police Department Departmental Order No. 60)

D. **Prohibited Use:** The Taser shall not be used:

1. In potentially flammable or explosive environment;
2. On an individual exposed to flammable liquids or substances;
3. On individuals who are passively resisting;
4. As a prod or escort device;
5. To arouse unconscious, impaired, or intoxicated individuals;
6. On an individual operating a running vehicle or machinery;
7. On an individual who could fall from a significant height;
8. On an individual in a pool or body of water, or who could fall into a pool or body of water.
(El Dorado County Sheriff Department, Order No 308.55,56)

E. **Use Cautions:** Deputies and officers should carefully evaluate the circumstances before using a Taser on individual who may be more susceptible to injury.

Although not absolutely prohibited, deputies should give additional consideration to the unique circumstances involved prior to applying the Taser. Criteria to consider include:

1. Availability and effectiveness of alternative means to gain compliance;
2. Time severity of the aggressive behavior versus the potential harm;
3. Individual who may be at greater risk include:
 - a. Pregnant women;
 - b. Elderly persons;
 - c. Children;
 - d. Persons with known health problems.
 - e. Individual who have been recently sprayed with alcohol based Pepper Spray or who are otherwise in close proximity to any combustible material (El Dorado County Sheriff Department, Order No 308.55,56)

F. **Restrained Individuals:** The Taser should not be used on a restrained subject, unless the actions of the subject present an immediate threat of physical injury to a Department member, the restrained sub-

ject, or another person. Members using the Taser on a restrained subject should use the Taser in a drive stun mode. (Fresno Police Department Standing Order No. 2.5.8)

- G. **Multiple Uses:** Officers should avoid using more than one Taser at a time on a suspect. If the initial Taser becomes disabled, a second Taser may be deployed. If the Taser does not gain control or is ineffective, repeated deployments shall not be done. (Stockton Police Department, General Order Q-1c, III.C-D)

III. **TACTICAL CONSIDERATIONS**

- A. Members deploying the Taser operationally, if feasible, should be supported by at least one Officer capable of providing immediate cover. (Stockton Police Department General Order Q-1c III B)
- B. No individual shall simultaneously draw and hold a Taser and any firearm (Capitola Police Department Departmental Order No. 60)
- C. The M26 shall be carried in an ambidextrous holster on the non-firearm side of the body. Training shall include drawing the M26 using the on-gun hand in order to prevent unintentional drawing of firearm. (Daly City Police Department, General Order K-1)
- D. The target area should be center of mass which allows the electrical impulse to engage large muscle groups. Officers shall not intentionally aim for the head, neck, or groin. (Daly City Police Department, General Order K-1)

IV. **MEDICAL TREATMENT**

Persons who have been subjected to the Taser electronic immobilization device, either the darts or the probes, shall be treated as follows:

- A. Once in custody, the subject shall be transported to a local hospital emergency room or other medical care facility. The transporting officer shall advise the medical staff that the person has been subjected to the Taser electronic immobilization device and relate the appropriate time the action occurred. If the darts contact the skin, the puncture sites shall be located and brought to the attention of the medical staff.

NOTE: IF THE TASERED SUSPECT LOSES

CONSCIOUSNESS, OFFICERS SHALL IMMEDIATELY REQUEST FIRE RESCUE AND AN AMBULANCE.

- B. The transporting officer shall obtain medical clearance from the appropriate medical facility physician prior to booking the suspect.
- C. If the dart contacts are firmly embedded in the skin, they shall be removed only by the appropriate medical facility personnel.
- D. One easily overlooked aspect of injury in a tasered subject is that of falling from a standing position. Potential injuries could include: fractures, contusions, and intercranial hemorrhage. A thorough physical examination with particular emphasis on injuries secondary to the fall should be performed.
- E. If the Taser darts or antennae are applied directly to the suspect's skin, then color photos will be taken indicating the application points of the device.
- F. If Taser darts are utilized, then the expended cartridge and darts should be placed into evidence. (Scotts Valley Police Department, General Order 5.1.6.D)

IV. **REPORTING:** The use of a Taser constitutes a use of force and, as such, must be reported according to Department force reporting procedures. Any member who uses the Taser on a subject shall immediately notify a supervisor as soon as reasonably possible. The supervisor shall then prepare an Unusual Occurrence Report which details the events that led to the application of the Taser, the extent of the subject's injuries, and the name of the treating physician. Such Unusual Occurrence Reports shall be completed and submitted through approved channels to the Chief of Police no later than 0900 hours on the next business day following the incident.

The use of the Taser on a subject shall be documented in a police report prepared to cover the incident. The report should cover the complete circumstances surrounding the use of force. Additionally, the police report shall include:

- A. Name(s) of the department member(s) using the Taser;
- B. Serial number of the Taser(s) used;
- C. Serial number of the Taser cartridge(s) used;
- D. Model of the Taser(s) used;
- E. Number of applications and duration of application(s) (i.e. 3 sec., 5 sec., Etc); and
- F. Location and description of application sites. (Fresno Police Department Standing Order No. 2.5.8) ■

Appendix C

Departments Surveyed

Departments That Use Tasers

Atherton Police Department
Butte County Sheriff
Calaveras County Sheriff
Capitola Police Department
Clearlake Police Department
Concord Police Department
Contra Costa County Sheriff
Cotati Police Department
Daly City Police Department
El Dorado County Sheriff
Fairfield Police Department
Fremont Police Department
Fresno Police Department
Fresno County Sheriff
Gilroy Police Department
Healdsburg Police Department
Hollister Police Department
Kings County Sheriff
Livingston Police Department
Lodi Police Department
Manteca Police Department
Monterey County Sheriff
Oakland Police Department
Pacifica Police Department
Petaluma Police Department
Pleasanton Police Department
Redding Police Department
Richmond Police Department
Rohnert Park Police Department
Sacramento County Sheriff
Sacramento Police Department
Salinas Police Department
San Benito County Sheriff
San Francisco County Sheriff
San Joaquin County Sheriff
San Jose Police Department
San Mateo Police Department
Santa Cruz County Sheriff
Santa Rosa Police Department
Santa Rosa Junior Collage Police Department
Scotts Valley Police Department
Seaside Police Department
Sebastopol Police Department
Shasta County Sheriff
Solano County Sheriff

Sonoma County Sheriff
Stanislaus County Sheriff
Stockton Police Department
Sutter Police Department
Tracy Police Department
Truckee Police Department
Tulare County Sheriff
UC Davis Police Department
Vacaville Police Department
Vallejo Police Department
Visalia Police Department

Departments That Do Not Have Tasers:

Alameda County Sheriff
Alameda Police Department
Antioch Police Department
Berkeley Police Department
Del Rey Oaks Police Department
Department of Police Services-Atascadero State Hospital
Hayward Police Department
Marin County Sheriff's Department
Mendocino County Sheriff's Department¹²¹
Merced County Sheriff's Department
Modesto Police Department
Placer County Sheriff's Department
San Louis Obispo County Sheriff's Department
San Mateo County Sheriff's Department
Santa Clara County Sheriff's Department
Santa Clara Police Department
Sunnyvale Police Department
Sonoma State University

Departments That Did Not Fully Respond:

Atwater Police Department
Cloverdale Police Department
Humboldt County Sheriff's Department

Jurisdictions Surveyed That Contract Out Services to Another Department

City of Elk Grove contracts with Sacramento County Sheriff
City of Sonoma contracts with Sonoma County Sheriff

Appendix D

Data on Local Taser Policies ¹²²

Department	Multiple	Handcuffs	Juveniles	Pregnant	Elderly	Unconscious	Passive Resisters
Atherton PD				x			x
Butte County Sheriff							x
Calaveras County Sheriff							
Capitola PD		x		x			
Clearlake PD		x					x
Concord PD							
Contra Costa County Sheriff				x	x		
Daly City PD							
El Dorado County Sheriff		x	x	x	x	x	x
Fairfield PD						x	
Fremont PD	x	x	x	x	x	x	
Fresno PD		x	x	x	x		x
Fresno County Sheriff						x	
Gilroy PD							
Healdsburg PD		x		x	x		
Hollister PD							
Kings County Sheriff		x		x			x
Livingston PD							
Lodi PD				x	x		
Manteca PD							
Monterey County Sheriff	x			x	x	x	
Oakland PD		x					
Pacifica PD							
Petaluma PD							
Pleasanton PD							
Redding PD							
Richmond PD							
Rohnert Park PD							
Sacramento County Sheriff			x	x	x	x	x
Sacramento PD							
Salinas PD							
San Benito County Sheriff							
San Francisco County Sheriff		x		x			
San Joaquin County Sheriff				x	x		
San Jose PD							
San Mateo PD		x		x	x		x
Santa Cruz County Sheriff				x	x		
Santa Rosa PD							
Santa Rosa JC PD							
Scotts Valley PD							
Seaside PD				x	x		
Sebastopol PD							
Shasta County Sheriff			x		x		
Solano County Sheriff							
Sonoma County Sheriff		x	x	x	x		x
Stanislaus County Sheriff		x	x	x	x	x	
Stockton PD	x		x	x	x		x
Tracy PD		x					
Truckee PD			x	x	x		
Tulare County Sheriff				x		x	
UC Davis PD							
Vacaville PD							
Vallejo PD	x		x	x	x		
Visalia PD		x		x	x		
Totals:	4	14	10	23	19	8	10

Endnotes

- ¹ Taser International Web Site font page www.taser.com.
- ² Robert Anglen, "144 Cases of Death Following Stun-Gun Use," Arizona Republic, August 8, 2005, available online at www.azcentral.com. This article cites 144 deaths, however four additional deaths have been reported in Northern California since. They are Tommy Valentine Gutierrez, Dwayne Zachary, and David Anthony Cross, and Timothy Michael Torres. Christina Jewett, "Suspect Hit With Tasers, Then Dies," Sacramento Bee, August 6, 2005; Christina Jewett, "Man's Death After Taser Shot Probed," Sacramento Bee, August 17, 2005; Genevieve Bookwalter, "Sheriff's Office Probes Death of Jail Inmate After Taser Use," Santa Cruz Sentinel, September 20, 2005; Jim Downing, "Man Shot with Taser Dies," Sacramento Bee, September 23, 2005.
- ³ Kevin Johnson, "Federal Bureaus Reject Stun Guns," USA Today, March 18, 2005.
- ⁴ International Association of Chiefs of Police, Electro-Muscular Disruption Technology: A Nine Step Strategy for Effective Deployment, April 4, 2005 ("IACP Report"), p. 5.
- ⁵ Taser International Website, About Taser, Corporate History, www.taser.com/about/history.html.
- ⁶ Id.
- ⁷ Taser International Quarterly Report, March 14, 2003, p. 4.
- ⁸ Taser Internation Second Quarter Earnings Conference Call, July 8, 2005.
- ⁹ Christina Jewett, "Suspect Hit With Tasers, Then Dies," Sacramento Bee, August 6, 2005.
- ¹⁰ Andrew Washington Autopsy Report; Matthias Gafni, "Pathologist Expounds on Autopsy," Vallejo Times-Herald, February 2, 2005.
- ¹¹ Alan Gathright, "Man Dies After Police Shock Him with Taser," San Francisco Chronicle, January 4, 2005; David Herbert, "Officers Cleared in Taser Case," San Jose Mercury News, June 25, 2005; Amy Yarbrough, "Police are Cleared in Taser Case," Inside Bay Area, June 25, 2005.
- ¹² Transcript from 911 call obtained from the Santa Rosa Police Department via a Public Records Act Request; "Six Shots Preceded Santa Rosa Man's Death," CBS 5 News, July 19, 2005, online at www.cbs5.com; Jeremy Hay, "Santa Rosa Man Dies After Police Struggle," Santa Rosa Press Democrat, July 17, 2005.
- ¹³ Herbert Sample, "ACLU Seeks Police Data on Taser Cases," Sacramento Bee, August 6, 2005.
- ¹⁴ According www.techweb.com's on-line dictionary, amperage is "a measurement of electrical current in a circuit," as opposed to volts, which is "is a measure of force, or pressure, behind the current."
- ¹⁵ Russel Sabin, "Heart Expert Warns About Using Tasers," San Francisco Chronicle, January 5, 2005.
- ¹⁶ Anabelle Garay, "Study Finds Stun Gun Use Is Being Abused by Police," San Francisco Chronicle, December 3, 2004.
- ¹⁷ Roger Barr, Talk of the Nation, National Public Radio, December 7, 2004; we also interviewed Professor Barr for this report.
- ¹⁸ Alan Gathright, "Taser Sued Over 'Non-Lethal' Claim," San Francisco Chronicle, March 1, 2004.
- ¹⁹ Elizabeth Hume, "Stun Gun Deaths Raise Drug-Link Questions," Sacramento Bee, November 13, 2004 (citing comments by Dr. Kathy Glatter).
- ²⁰ Matthias Gafni, "Autopsy Reveals Taser Use," Vallejo Times-Herald, January 6, 2005.
- ²¹ CBS Evening News On-Line, February 9, 2005, available at <http://www.cbsnews.com/stories/2005/02/09/eveningnews/main672709.shtml?CMP=ILC-SearchStories>.
- ²² Taser International News Release, "Human Cardiac Safety Study of TASER Devices Released," May 13, 2005.
- ²³ Saul D. Levine, Christian Sloane, Theodore Chan, Gary Vilke and James Dunford, "Cardiac Monitoring of Subjects Exposed to the Taser," Abstract, Academic Emergency Medicine, Volume 12, No. 5, Suppl 1, 71.
- ²⁴ Taser International News Release, "Department of Defense Full Report on TASER Device Study Conducted by Human Effects Center of Excellence," April 1, 2005 (repeated reference to Taser "non-lethal" weapons without qualification), announcing the release of the Department of Defense report on Tasers describes the Potomac Study as a "major independent safety study." A news release dated March 30, 2005 announced the release of the Potomac Study.
- ²⁵ Dennis K. McBride and Natalie Tedder, Efficacy and Safety of Electrical Stun Devices, Potomac Institute for Policy Studies Report: No. 05-04, March 29, 2005, p. 4, 5.
- ²⁶ IACP Report, p. 5.
- ²⁷ IACP Report, p. 19.
- ²⁸ Johnson, supra, note 3.

- ²⁹Ben Aguirre Jr., “Newark Police Chief Reluctant to Use Tasers,” www.insidebayarea.com January 31, 2005 (www.inside-bayarea.com is the common website for ANG newspapers).
- ³⁰David Simpson, “Taser Use to Go on at County Jail,” Atlanta Journal Constitution, August 11, 2005; Tracey Christensen, “DeKalb Suspends Use of Tasers,” News11, August 2, 2005, online at www.11alive.com.
- ³¹Barrett Wright and Carol Robinson, “Mayor Halts Use of Tasers By Police,” Birmingham News, July 13, 2005.
- ³²Tom Rybarczyk, “Dolton Sues Taser Maker,” Chicago Tribune, July 29, 2005.
- ³³“Ind. Police Forgo Tasers in Face of Health Risks,” [policeone.com](http://www.policeone.com), February 9, 2005, online at <http://www.policeone.com/police-products/less-lethal/taser/articles/96697/>.
- ³⁴Tom Rybarczyk and David Heinzmann, “Man Hit By Cop Stun Gun Dies,” Chicago Tribune, February 11, 2005; David Heinzmann and John Chase, “Medical Examiner Ties Death to Officer’s Taser,” Chicago Tribune, June 30, 2005; David Newbart, “Doctors: Taser Stopped Teen’s Heart,” Chicago Sun-Times, September 4, 2005.
- ³⁵The cover of Taser International’s latest training CD, for example, carries the slogan “safety every officer deserves.” Training CD Version 12, November 2004.
- ³⁶Instructor Certification Course for the X26, Taser International, November 2004, slide 130 (video of police using tasers on individual under the influence of drugs).
- ³⁷For example, see letter from Rick Smith, CEO of Taser International, to San Francisco Police Commission, p. 3 (letter undated, but sent in late September or October 2004) citing Joint Concept for Non-Lethal Weapons, United States Marine Corps, available on-line at <http://www.fas.org/man/dod-101/sys/land/docs/NONLETH.HTM>.
- ³⁸For example, see Taser International Press Release, April 1, 2005, and May 13, 2005, *supra*, notes 22 and 24.
- ³⁹Alex Berenson, “As Police Use of Tasers Rises, Questions Over Safety Increase,” New York Times, July 18, 2004.
- ⁴⁰Christina Jewett, “Coroner: Taser Wasn’t a Factor in Man’s Death,” Sacramento Bee, April 14, 2005.
- ⁴¹Kevin Johnson, “Death Prompts Concerns, Reviews on Use of Stun Guns,” USA Today, February 16, 2005.
- ⁴²Robert Anglen, “144 Cases of death Following Stun Gun Use,” Arizona Republic, August 8, 2005 (online at www.azcentral.com). The Arizona Republic requested autopsy reports in 144 Taser related death cases. It received the reports in 47 cases. Eighteen reports listed Tasers as a cause, a contributing factor, or stated that Tasers could not be ruled out. In 25 cases, medical examiners stated that Tasers were not a factor. It is unclear what happened in the other four cases.
- ⁴³Robert Anglen and Dawn Gilbertson, “Feds Look at Taser Actions,” Arizona Republic, January 7, 2005; Robert Anglen, “Coroner: Taser Pushed Revision of Autopsy,” Arizona Republic, August 25, 2004.
- ⁴⁴Thor Valdmanis, “Taser Defends Giving Stock Options to Police,” Arizona Republic, September 24, 2005, “Taser Gave Four Police Officers Stock Options,” USA Today, January 12, 2005; Also Beth DeFalco, “Stun Gun Maker Gave Stock Options to Active-Duty Cops Moonlighting As Master Trainers,” Associated Press printed at www.policeone.com, (describing how Jim Halsted of the Chandler Police Department helped convince the Chandler City Council to purchase Tasers while he was employed by Taser International. The City Council did not know he was receiving stock options from the company); also Alan Gathright, “Stun-Gun Maker Hires Police to Tout Weapon,” San Francisco Chronicle, February 21, 2005.
- ⁴⁵Robert Anglen, “Firm Paid Councilman to Push Stun Guns,” Arizona Republic, March 28, 2005.
- ⁴⁶Historic stock quotes for Taser at quote.yahoo.com.
- ⁴⁷Beth DeFalco, “Stun Gun Maker Gave Stock Options to Active-Duty Cops Moonlighting As Master Trainers,” www.policeone.com, March 18, 2005.
- ⁴⁸Id.
- ⁴⁹Id.
- ⁵⁰Taser International Press Release, “Taser International, Inc. Reports Record First Quarter Financial Results,” April 21, 2003
- ⁵¹Historic quotes for Taser at quote.yahoo.com.
- ⁵²DeFalco, *supra*, note 47.
- ⁵³Kevin Johnson, “Police on Weapon Company Payrolls,” USA Today, April 24, 2005.
- ⁵⁴For example, the company cites research published in Pacing and Clinical Electrophysiology (PACE) Journal. See Taser Press Release, January 13, 2005. That study, however, did not take into account important factors such as drugs, elevated heart rates and conditions like heart disease. Robert Anglen, “Taser Doctor’s Credibility Questioned,” Arizona Republic January 23, 2005 (citing an analysis done by Gradient Analytics).
- ⁵⁵See Deposition of Dr. Robert Allen Stratbucker, Robert Christian Wolf v. John Bennett Ramsey and Patricia Paugh Ramsey, May 30, 2002, p. 25 (Stratbucker admitted in response to questioning that he received stock options as compensation for his research. He was asked to testify about whether a Taser had been used on Jon Benet Ramsey but was ultimately not used as a

witness after questions about his credibility were raised in the deposition).

⁵⁶Christian Hall, “Taser-Linked Death Ruled a Homicide,” *Toledo Blade*, April 13, 2005.

⁵⁷CBS news report on Dr. Jauchman’s findings were two months earlier—see note 21, *supra*.

⁵⁸Robert Anglen and Dawn Gilbertson, “Taser Safety Claims Draw State Scrutiny,” *Arizona Republic*, January 8, 2005.

⁵⁹Two departments utilize stun guns produced by other manufacturers. The Fresno County Sheriff utilizes the Nova Police Special Stun Gun and the Solano County Sheriff utilizes the Tasertron stun gun—a much older version. This report does not analyze either weapon or the training on them in detail. Also, in addition to the Taser, the Santa Cruz Sheriff Department uses the Ultron II stun gun and has a separate training manual for that weapon.

⁶⁰Departments that produce their own training materials may also use Taser International’s materials, but at least also supplement them with their own materials. The Oakland Police Department, for example, uses Version 12 of the Taser training materials, but also created some of their own materials on excited delirium. In the course of their training, Oakland Police Department also discussed the Andrew Washington case.

⁶¹Some departments refused to provide training materials, but others simply stated that they had none in their possession and referred us to Taser International as the provider of their training.

⁶²Taser International Instructor Certification Lesson Plan and Support Materials, Taser X26 and Advanced Taser M26, January 2004, slide 33 (hereinafter “Training Materials Version 11”).

⁶³Training Materials Version 11, slide 128.

⁶⁴Training Materials Version 11, slide 127.

⁶⁵Anglen, *supra*, note 2.

⁶⁶Training Materials Version 11, slide 29 (emphasis added).

⁶⁷Robert Anglen, “Officer’s Injury Tied to Taser,” *Arizona Republic*, December 26, 2004.

⁶⁸Robert Anglen, “Police in 5 States Sue Taser in Past 2 Weeks,” *Arizona Republic*, August 20, 2005.

⁶⁹Taser International Instructor Certification Course, Taser X26 and Taser M26 Non-Lethal Weapons,” November 2004, slide 51 (hereinafter “Training Materials Version 12”).

⁷⁰Training Materials Version 12, slide 38

⁷¹Training Materials Version 12, slides 170, 171, 173, and 174 (emphasis added).

⁷²Training Materials, Version 11, slide 116

⁷³Training Materials, Version 12, slide 158.

⁷⁴Training Materials, Version 12, slide 188.

⁷⁵Training Materials, Version 12, M/X 26 Instructor Review Questions. Emphasis added.

⁷⁶Training Materials, Version 11, slide 31

⁷⁷Training Materials, Version 12, slide 40

⁷⁸IACP Report, p. 5.

⁷⁹DOMILL Statement on the Comparative Medical Implications of the Use of the X26 and the M26 Taser, March 7, 2005 (“DOMILL Statement”) para 21.

⁸⁰Training Materials, Version 12, slide 186 (Indicates that Tasers are best used in situations with a “hostile” or “potentially hostile” individual and as an alternative to officers going “hands on.”)

⁸¹Training Materials, Version 12, slide 172.

⁸²A Bleetman, R Steyn, and C Lee, “Introduction of the Taser into British Policing. Implications for UK Emergency Departments: An Overview of Electronic Weaponry,” *Emerg Med J.* 2004; 21:136-140 (“Bleetman and Steyn have previously conducted a financed literature review for Taser International).

⁸³*Id.*, (emphasis added).

⁸⁴Training Materials, Version 12, slide 174.

⁸⁵Robert Anglen, “Taser Tied to ‘Independent’ Study that Backs Stun Gun,” *Arizona Republic*, May 21, 2005

⁸⁶United States Department of Defense, Human Effects Center of Excellence, Human Effectiveness and Risk Characterization of Electromuscular Incapacitation Devices, October 18, 2004 (“DOD Study”) p. 71.

⁸⁷*Id.*, p. 18.

⁸⁸Anglen, *supra*, note 85.

⁸⁹*Id.*

⁹⁰DOD Study, p. 70

⁹¹DOD Study, p. 19.

- ⁹²Training Materials, Version 12, slide 174.
- ⁹³DOMILL Statement, supra, note 79.
- ⁹⁴Association of Chief Police Officers (“ACPO”), Operation Use of Taser Policy, p. 4 (“Taser will only be deployed in circumstances where firearms officers are authorized to carry firearms. Taser will be readily available and will only be deployed alongside conventional firearms.”); ACPO, Operational Use of Taser Operational Guidance, p. 3 (Authorized Firearms Officers (AFOs) are, in accordance with the ACPR Manual of Guidance on Police Use of Firearms, issued with firearms – where the authorizing office has reason to suppose that they, in the course of their duty, may have to protect themselves or others from a person who is in possession of a firearm, or has immediate access to a firearm, or is otherwise so dangerous that the officer’s use of a firearm may be necessary.”) Both available on-line at <http://www.westmercia.police.uk/800/mogpuf/mogpuf2.htm>.
- ⁹⁵Alan Gathright, “Police Chief Defends Use of Stun Guns,” San Francisco Chronicle, February 24, 2005.
- ⁹⁶Clarissa Aljentera, “Taser Death Warning,” Monterey County Herald, August 4, 2005.
- ⁹⁷Atherton Police Department General Order Oper 1: Use of Force, IV.E., March 2005.
- ⁹⁸Sacramento Police Department General Order 580.10, Use of the Taser, January 9, 2004.
- ⁹⁹Taser International, Training Bulletin 12.0-04, June 28, 2005.
- ¹⁰⁰Stockton Police Department General Order Q-1c, III.C-D, March 1, 2005.
- ¹⁰¹Fremont Police Department Operations Directive Z-13: Taser X26, Less Lethal, September 16, 2004.
- ¹⁰²Fairfield Police Department Policy and Procedure 4310: Degree of Force, February 2005.
- ¹⁰³El Dorado Sheriff Department Order No 308.55, 56, February 2005.
- ¹⁰⁴Fresno Police Department Standing Order No 2.5.8, April 4, 2005 (“The Taser should not be used on subjects exhibiting passive resistant behavior.”)
- ¹⁰⁵Training Materials Version 12 slide 43.
- ¹⁰⁶San Joaquin Sheriff’s Department, Field Forces Division, Divisional Order: Use of —26 Tasers, July 11, 2001.
- ¹⁰⁷Vallejo Police Department Special Order 2003-3 (Revised), Taser Use and Deployment Policy, November 30, 2004.
- ¹⁰⁸CNN, “Police Review Policy After Taser Used on Kids,” cnn.com, November 15, 2004.
- ¹⁰⁹Robert Anglen, “Police Expand Use of Taser,” Arizona Republic, November 7, 2004.
- ¹¹⁰Associated Press, “Police Stun 12-Year-Old Girl With Taser,” available on-line at www.cleveland.com, September 9, 2005.
- ¹¹¹United Press International, “Police Use Stun-Gun on 6-Year-Old,” Washington Times Web Site, November 12, 2004.
- ¹¹²Lisa Arthur, Susannah A. Nesmith, Jacob Goldstein, “Experts Dispute Data on Stun Guns,” Miami Herald, December 5, 2004.
- ¹¹³Capitola Police Department Order No. 60: Use of the Advanced Taser, July 10, 2003.
- ¹¹⁴Sacramento Sheriff’s Department General Order 2/14: Use of the Taser, May, 2001.
- ¹¹⁵Crystal Carreon, “Police to Review Use of Stun Gun,” San Jose Mercury News, September 29, 2004, Cicero A. Estrella, “Police Shooting in San Jose Stirs Vietnamese into Action,” San Francisco Chronicle, December 29, 2003.
- ¹¹⁶San Jose Police Department Research and Development Duty Manual, Policy L 2614 and L 2615 (date of original adoption unknown).
- ¹¹⁷San Jose Police Department Duty Manual, Policy L2614 and L 2615 (revised June 16, 2004).
- ¹¹⁸Taser’s opposition was focused largely around the provision of the bill which would have banned Taser use and possession by private citizens. The bill, AB 1237, was defeated in the Assembly on a narrow floor vote of 38 to 36 against. See bill status at www.leginfo.ca.gov. The ACLU-NC takes no position on the civilian use of Tasers.
- ¹¹⁹Statistical data provided by the Monterey County Sheriff’s Department. While in 2002, the last full year before the department started using Tasers, there were 64 reportable uses of force, in 2004, the first full year after Taser deployment, there were 66 uses of Tasers in addition to 76 other reportable uses of force.
- ¹²⁰IACP Report, p. 13 (emphasis added).
- ¹²¹The Mendocino County Sheriff responded indicating that the department had not yet deployed Tasers but was in the process of acquiring them when we spoke with him.
- ¹²²In the chart, “x” indicates that the department has some policy regulating the use of Tasers in the particular area. Multiple refers to multiple applications of the Taser. The other categories are self evident. The Clearlake, Petaluma, and Sacramento Police Departments blacked out large portions of their departmental policy when they provided it to us. It is therefore unclear whether the department has additional restrictions or not. The Sebastopol police department indicated to us that they were in the process of adopting a new policy with additional restrictions and provided us a copy, however that policy was not in effect when they responded to our request and therefore we did not include it in this analysis.



ACLU of Northern California
1663 Mission Street, Suite 460
San Francisco, CA 94103
(415) 621-2493 ■ www.aclunc.org