

The Taser: Don't Be Shocked

Synopsis

Local law enforcement agencies use a variety of lethal and non-lethal weapons. One of these weapons, the Taser, receives both positive and negative publicity. The 2005-2006 Grand Jury looked at the use of the Taser by local law enforcement agencies, focusing on established policy and training.

The Grand Jury found that all local law enforcement agencies within the County of Santa Cruz had current policies that thoroughly addressed important factors regarding Taser use. The Grand Jury also found agencies were providing up-to-date training to their officers. The overall reported reduction in injuries to officers and suspects, since Taser usage was introduced, was an unanticipated finding.

Recommendations are made encouraging continued policy review and additional training.

Definitions

Afid Tags: Each air cartridge contains over forty minute particles that identify the serial number of the air cartridge used.

Air cartridge: a replaceable cartridge for the Taser that uses compressed nitrogen to fire two barbed probes on connecting wires, sending high-voltage current into the target

Barb: sharp point of the probe that is intended to penetrate clothing or skin. Penetration of skin is not required for successful deployment.

Drive Stun: bringing the Taser into direct contact with the target after the air cartridge has been expended or removed

Excited delirium: a behavioral condition whereby a person exhibits extremely agitated and non-coherent behavior, elevated temperature, high tolerance to pain, and excessive endurance without fatigue

Taser: 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 wires and when the probes make contact with the target, the Taser transmits electrical pulses along the wires and into the body of the target. Taser is both the company name and the product name.

Lethal Weapon: weapon that, by design, is capable of causing death

Non-Lethal or Less-Lethal Weapon: weapon that is designed and normally employed to incapacitate, while minimizing fatalities

OC: Oleoresin Capsicum; also known as pepper spray; used as a non-lethal, self-defense tool that irritates the eyes to cause tears, pain, and even temporary blindness

POST: Commission on California Peace Officer Standards and Training; the agency that regulates standards and training for California law enforcement officers

Use of Force: California Penal Code § 835a provides that: "Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense

may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

Background

Every day throughout the country, law enforcement officers are faced with difficult split-second decisions to use lethal or non-lethal force to protect their lives, or the life of another person. This difficult decision also falls upon law enforcement officers serving in Santa Cruz County.

When lethal force is not justified, and sometimes when it is, law enforcement officers employ non-lethal weapons to perform their duties. Various types of non-lethal weapons are used by law enforcement including impact weapons, chemical agents, and defensive tactics. More recently, less lethal munitions that deploy a bean-bag or a plastic projectile have been available to law enforcement officers.

Most non-lethal weapons and force options depend on pain-compliance to be effective. The effectiveness of these measures can be diminished by size, strength, mental condition, or being under a chemically influenced state.

People under the influence of an illicit stimulant substance such as cocaine or methamphetamine, or people with a history of mental illness who are not taking their medications properly, are particularly prone to the condition of excited delirium. Pain-compliance weapons and force are minimally effective on those in a state of excited delirium. Therefore, law enforcement personnel are at greater risk for injury when they must take control of such a person. Using hands-on force, or the Taser, can escalate a state of excited delirium.

Taser, the brand name for the Thomas A. Swift Electronic Rifle, manufactured by Taser International, is advertised as a less-lethal weapon that does not depend on pain-compliance. The most current models of the Taser in use by local law enforcement, the M26 (introduced in 1999) and the X26 (introduced in 2003) override the central nervous system and incapacitate the subject. It is, therefore, more effective against persons who have the ability to resist painful stimuli.

Taser International asserts that their current model, the X26, produces a low-amperage, high-voltage discharge. Training material shows the amperage output of a standard Christmas tree bulb as 1 amp, and that of the Taser as 0.0036 amps. Taser International additionally asserts that the static discharge from a door knob can range from 35,000 to 100,000 volts compared to 50,000 volts from the Taser.

When oleoresin capsicum (OC) or Pepper Spray was first introduced for use by law enforcement its use was controversial. Use of the Taser is likewise controversial. While news articles often focus on detrimental effects of Taser usage, the successful deployment of Tasers and their effectiveness are less frequently reported. The American Civil Liberties Union (ACLU) and Amnesty International are two organizations that have been particularly critical of Taser use. Many studies have been conducted concerning the Taser that reflect both sides of the controversy. The results are often contradictory.

Published articles often encourage a completely independent government-sponsored study of the Taser, rather than studies conducted or commissioned by Taser International. A study published by the Florida Gulf Coast University¹ examined 1,400 Orange County (Florida) Sheriff's Department use of force reports from 2001 to 2003. This study showed that while subduing a target:

- impact weapons had high injury rates and lower effective rates
- chemical agents had very low injury rates but were often ineffective
- defensive tactics caused the largest number of suspect and officer injuries and were often ineffective
- Taser was effective seventy-seven to ninety-five percent of the time and was effective in de-escalation ninety percent of the time with a very low injury rate

The ACLU of Northern California (ACLU-NC) published a Taser Study in September 2005.² Included in this study was a "Best Practices Taser Policy." This did not represent a "model policy," rather "some of the best policies currently being employed by regional law enforcement agencies." Portions of the policies of Capitola and Scotts Valley Police Departments were favorably cited by the ACLU-NC.

The Criminal Justice Committee of the 2005-2006 Grand Jury reviewed the departmental policies of the five local law enforcement agencies (Capitola Police Department, City of Santa Cruz Police Department, Scotts Valley Police Department, Watsonville Police Department, and Santa Cruz County Sheriff-Coroner's Office) pertaining to the use of the Taser, and compared each policy with the "Best Practices Taser Policy" presented by the ACLU-NC. State law enforcement agencies were excluded from the study.

Specific Taser training is not currently available from California Peace Officer Standards and Training (POST). Law enforcement personnel are trained by department in-house training staff who were previously trained by Taser International. Training material is constantly updated. The current training version provided by Taser International is version 12.0.

Scope

This investigation focused on the policies and procedures of each local law enforcement agency in the County of Santa Cruz for deployment of the Taser, training provided to officers, and maintenance of the weapons to ensure Tasers are being used properly. The investigation sought to determine if education was consistent with recognized training standards. The purpose of the investigation was not to encourage or discourage the use of the Taser by local law enforcement, nor to make any finding on the safety or science of the Taser.

¹ Florida Gulf Coast University, "Taser Deployment and Injuries: Analysis of Current and Emerging Trends," undated document.

² American Civil Liberties Union of Northern California, "Stun Gun Fallacy: How the Lack of Taser Regulation Endangers Lives," September 2005.

Sources [See Appendix]

Findings

1. Every local law enforcement agency has a Taser policy in place.

Response: The Watsonville Police Department AGREES.

2. All local law enforcement agencies have reviewed and revised their Taser Policies within the past twelve months.

Response: The Watsonville Police Department AGREES.

3. Not all local law enforcement agencies publish a “use of force” report that includes Taser use and deployment.

Response: Santa Cruz County Sheriff’s Office AGREES.

The Santa Cruz County Sheriff’s Office does not “publish” a use of force report relative to the actual discharge or deployment of the taser. However, the Sheriff’s Office, by policy, does document any use of deployment of the taser by written report. This report is reviewed by the supervisor of the employees who discharged or deployed the taser and by the lieutenant of the Investigation Division to ensure compliance with office policy. The Investigation lieutenant also tracks and logs each taser-related incident.

Response: Capitola Police Department AGREES.

Currently there are no reports that specifically record Taser use and deployment within the Capitola Police Department. However, for the past several years, the Capitola Police Department has had a comprehensive use of force reporting and investigation policy that records all use of force incidents including the use of the Taser. While the Police Department has not published these reports in the past, we plan to do so as part of the annual year end report which is usually published each April.

Response: City of Santa Cruz Police Department AGREES.

While the City of Santa Cruz Police Department is not aware of how other agencies treat use of force reports, it has been compiling a use of force report that includes Taser use and deployment for over a year.

Response: The Scotts Valley Police Department AGREES.

The Scotts Valley Police Department has not implemented such a form but anticipates doing so within the next six months.

Response: The Watsonville Police Department AGREES.

4. Every local law enforcement agency currently employs an officer trained to instruct in the proper use of the Taser according to individual department policy.

Response: The Watsonville Police Department DISAGREES.

The Watsonville Police Department began issuing X26 Tasers to each individual officer July of 2006.

5. Every local law enforcement agency currently employs an officer trained to instruct in the proper use of the Taser according to individual department policy.

Response: The Watsonville Police Department AGREES.

6. Every local law enforcement agency uses the most current Taser training material provided by Taser International for initial and updated Taser training. POST does not provide Taser training to California law enforcement officers.

Response: Santa Cruz County Sheriff's Office AGREES.

Response: Capitola Police Department AGREES.

Capitola Police Department has used the M-26 Taser since July 2003, and has recently purchased and trained on the new X-26 Taser model. Since the implementation of the current models of the Taser, the only available law enforcement training resource was from Taser International, the manufacturer. All training and procedure materials were supplied by the manufacturer as there were no other resources available. This has recently changed with new California P.O.S.T. training requirements (Copy of California Commission on Peace Officer Standards & Training (POST) Electronic Weapons Courses Regulation 1084, see attachment #1).

Response: City of Santa Cruz Police Department AGREES.

The City of Santa Cruz Police Department has actively participated in current Taser training and POST has created a Taser training that will be available to local law enforcement agencies.

Response: The Scotts Valley Police Department AGREES.

The Scotts Valley Police Department's Taser Instructor was trained via Taser International; however we plan to send our instructor to a recently created POST Taser Instructor course.

Response: The Watsonville Police Department AGREES.

7. Taser training officers must be re-certified every two years.

Response: The Watsonville Police Department AGREES.

8. Only officers who have received Taser training are authorized to carry a Taser.

Response: The Watsonville Police Department AGREES.

9. Every local law enforcement agency requires that officers who are going to carry Tasers on their duty shifts, must test the weapon prior to departing the office.

Response: The Watsonville Police Department AGREES.

10. Officers carry a Taser on the opposite side of their bodies from their lethal weapons.

Response: The Watsonville Police Department AGREES.

11. It is reported by training officers that the mere threat of using a Taser will often de-escalate a volatile situation.

Response: The Watsonville Police Department AGREES.

12. The range of probes from a Taser is fifteen to twenty-one feet from weapon to target, thus reducing the proximity of physical contact.

Response: The Watsonville Police Department AGREES.

13. When either the M26 or the X26 is discharged, small, colored and transparent, coded microdots, called afids, disburse into the surrounding area. The afids facilitate the collection of evidence and are traceable to the taser weapon used.

Response: The Watsonville Police Department AGREES.

14. Barbs that penetrate the skin can be removed easily by officers or medical personnel.

Response: The Watsonville Police Department AGREES.

15. Commonly, photos are taken of barb sites after removal.

Response: The Watsonville Police Department AGREES.

16. The M26 and X26 Taser models have built-in memory that documents use of the weapon and are capable of being downloaded and used for statistical data gathering. Not all local law enforcement agencies have purchased the computer hardware to download this information.

Response: Santa Cruz County Sheriff's Office PARTIALLY AGREES.

It is not known what other local agencies have in the way of software to download the described information. The Sheriff's Office does have the ability to download all available statistical information stored in the taser memory. As a matter of policy, trained personnel download all such information following a taser discharge that becomes part of the written report.

Response: Capitola Police Department AGREES.

When the Police Department purchased its M-26 Tasers in 2003, we did not purchase the optional computer which can gather the statistical data. With our recent purchase of the new X-26 models, we have also purchased the computer. This computer however, is not capable of downloading information from the M-26 models. A separate computer would need to be purchased to work with the M-26 model.

Response: City of Santa Cruz Police Department AGREES.

The City of Santa Cruz Police Department has all of the necessary tools to download the statistical data. It has been using this data for our use of force report.

Response: The Scotts Valley Police Department AGREES.

Response: The Watsonville Police Department AGREES.

The Watsonville Police Department has the software necessary to download TASER data and is in the process of purchasing a laptop that will be dedicated for this purpose.

17. Local law enforcement agency administrators were knowledgeable about the Taser and the controversy surrounding its use.

Response: The Watsonville Police Department AGREES.

18. A search of the literature by the Grand Jury found that death or injury, associated with Taser utilization by law enforcement, occurred disproportionately in suspects on drugs, in states of excited delirium, or in those who received persistent multiple shocks.

Response: The Watsonville Police Department AGREES.

19. It is difficult for law enforcement officers to quickly recognize the broad range of symptoms exhibited in states of excited delirium.

Response: Santa Cruz County Sheriff's Office AGREES.

Excited delirium is a medical condition that is still not fully understood. All Sheriff's Office personnel who have been trained and authorized to carry the taser have also received information concerning excited delirium. Further, the county forensic pathologist provided a block of instruction on this topic to Sheriff's personnel.

Response: Capitola Police Department AGREES.

When the Police Department first began training and using the Tasers, the symptom known as "excited delirium" was an unknown. Over the past couple of years, however, the Police Department has conducted regular training on various objective symptoms of both physical and psychological indicators which may result in Taser usage. This on going training now includes recognizing the symptoms of "excited delirium."

Response: City of Santa Cruz Police Department PARTIALLY AGREES.

The City of Santa Cruz Police Department is in the process of setting up training on this issue. It will attempt to conduct training within 180 days.

Response: The Scotts Valley Police Department AGREES.

Response: The Watsonville Police Department AGREES.

20. All of the policy items listed in the ACLU-NC "Best Practices Taser Policy" are partially or fully addressed in the Taser Policy of every local law enforcement agency.

Response: The Watsonville Police Department AGREES.

21. Local law enforcement administrators and training officers have told the 2005-2006 Grand Jury that officer Workers Compensation claims and suspect injuries have declined since Taser use began.

Response: Santa Cruz County Sheriff's Office AGREES.

The use of the taser by Sheriff's staff is a recent event; therefore, there is little historical information available at this time. In the few times the taser has been utilized by deputies since implementation, there has been no reported injury to either the suspect or deputy. Considering our limited taser experience, it is possible both suspect and deputy could have received injuries from a physical confrontation had the taser not been utilized.

Response: Capitola Police Department AGREES.

The Capitola Police Department has conducted an audit of all of its Worker's Compensation records for Police Officers injured in the line of duty in situations where a Taser could have been deployed if one was available. Our audit revealed no officer injuries during the last six months of 2003 when the Taser program began.

There was a spike in injuries in 2004 and a significant decrease in officer injuries in 2005 and 2006.

Response: City of Santa Cruz Police Department PARTIALLY AGREES.

It is difficult to statistically isolate the impacts of the Taser on Workers Compensation and suspect injuries. There are too many confounding factors that would render the information nothing more than anecdotal.

Response: The Scotts Valley Police Department AGREES.

Response: The Watsonville Police Department AGREES.

Conclusions

1. Local law enforcement agencies have policies that regulate Taser use that meet or exceed the “Best Practices Taser Policy” recommended by the ACLU-NC.
2. Departmental administrators and Taser training officers are knowledgeable in the use of the Taser and its possible risks.
3. Local law enforcement agencies are using the most current Taser training material.
4. Law enforcement agencies must have less-lethal weapons at their disposal to better protect themselves and the public.
5. POST does not provide independent training in the use of the Taser.
6. Less-lethal weapons, such as the Taser, decrease the need for traditional defensive tactics by law enforcement officers, and are reported to be responsible for a reduction in costly Workers Compensation claims.
7. A person in a state of excited delirium poses a serious threat to law enforcement personnel, as well as the general public.
8. Community outreach and the sharing of published reports showing the circumstances and use of less-lethal weapons, including the Taser, would help to educate the public and improve law enforcement relationships with the community.

Recommendations

1. Local law enforcement agencies should continue to be diligent in updating their Taser policies to conform to changing regulations and technology.

Response: Santa Cruz County Sheriff’s Office AGREES.

This recommendation has been implemented.

Response: Capitola Police Department AGREES.

This recommendation has been implemented.

Response: City of Santa Cruz Police Department:

The recommendation has been implemented. The City of Santa Cruz Police Department is continually updating our Taser policies to appropriately address changing regulations and technology.

Response: The Scotts Valley Police Department AGREES.

Updates to the Scotts Valley Police Department's Taser policy have been implemented.

Response: The Watsonville Police Department AGREES.

Since its inception, the Watsonville Police Department has been vigilant in keeping up on changes related to electronic stun devices. Experiences from other agencies relative to successful use and mis-use of the TASER continue to be an important part of on-going policy management. New information and developments concerning the weapon's strengths and weaknesses are regularly incorporated into training scenarios and curriculum.

Currently, all Taser training officers receive their training from Taser International. Local law enforcement administrators should lobby POST to provide independent training for Taser use.

Response: Santa Cruz County Sheriff's Office AGREES.

This recommendation has been implemented.

Response: Capitola Police Department AGREES.

This recommendation has been implemented. On June 9, 2006, the POST Commission issued bulletin # 2006-07. This bulletin was a Notice of Proposed Regulatory Action to adopt minimum hours and curriculum requirements for electronic weapons operator training courses (Attachment #1).

Response: City of Santa Cruz Police Department:

The recommendation has been implemented by POST. The City of Santa Cruz Police Department will attempt to participate in the independent training within 180 days.

Response: The Scotts Valley Police Department AGREES.

This has been implemented. POST has since created a Taser Instructor's Course. This 16-hour course includes curriculum which covers medical aspects, risk factors such as drugs, alcohol, excited delirium, positional asphyxia, legal and ethical considerations, and more.

Response: The Watsonville Police Department PARTIALLY AGREES.

This is a good idea conceptually but until such time POST is prepared to carry out such training, the Watsonville Police Department will continue to turn to the manufacturer of the TASER device for advanced training needs. The dependence upon manufacturer support and training is not new to law enforcement. Agencies

routinely look to the makers of specialty devices such as guns, batons and less lethal equipment — for initial training and certification purposes. In-house experts, who independently design curriculum based on the needs of the agency, carry out on-going training.

Local law enforcement agencies should publish a Use of Force Report to include Taser usage. Portions of this report could be shared with members of the community to foster educational awareness and improve community relations.

Response: Santa Cruz County Sheriff's Office PARTIALLY DISAGREES.

This recommendation requires further analysis. Every utilization of the taser, including an accidental discharge or the mere display of the weapon to gain compliance, requires a written report by policy. This documentation is believed sufficient.

Response: Capitola Police Department AGREES.

This recommendation has not yet been implemented, but will be implemented as part of the 2006 Capitola Police Department Year End Report due in the spring of 2007.

Response: City of Santa Cruz Police Department:

The recommendation has been implemented. The City of Santa Cruz Police Department has collected data, and provided a yearly report to the City Council, since 2005.

Response: The Scotts Valley Police Department AGREES.

The Scotts Valley Police Department has not yet implemented this recommendation, but is in the process of creating such a report form within the next six months.

Response: The Watsonville Police Department PARTIALLY AGREES.

Government code 6254(f) identifies certain information, which must be made public unless release of the information would endanger the safety of a person or the successful completion of an investigation. In accordance with this law, the Watsonville Police Department has cooperated with public records requests for TASER Use of Force Reports and has released information to the press about the frequency of usage by its officers. In addition, portions of the Use of Force Report have been shared with members of the public during community education sessions.

The Grand Jury recommends that law enforcement agencies within the county begin a tracking system to determine if a correlation between Taser deployment and the number of law enforcement officer Workers Compensation claims exists.

Response: Santa Cruz County Sheriff's Office AGREES.

This recommendation requires further analysis. The Sheriff's Office is willing to work with other local law enforcement agencies to devise an instrument for this purpose.

Response: Capitola Police Department AGREES.

This recommendation has been implemented.

Response: City of Santa Cruz Police Department:

The recommendation has been implemented. The City of Santa Cruz Police Department already maintains a tracking system of usage.

Response: The Scotts Valley Police Department AGREES.

The Scotts Valley Police Department has not yet implemented this recommendation but believes the completed Use of Force report will aid in tracking any correlation between use of force incidents and workers compensation claims. We anticipate a time frame of six months to complete implementation.

Response: The Watsonville Police Department AGREES.

The Watsonville Police Department supports this type of study and is currently gathering the data necessary to carry out a proper analysis.

2. Local law enforcement agencies should train their personnel in the recognition of symptoms related to excited delirium and establish policies for handling persons in that state. As soon as reasonably possible, the services of medical professionals should be enlisted to render appropriate care.

Response: Santa Cruz County Sheriff's Office AGREES.

This recommendation has been implemented. The Sheriff's Office already conducts such training and the policy on taser use addresses medical concerns and response.

Response: Capitola Police Department AGREES.

This recommendation has been implemented.

Response: City of Santa Cruz Police Department:

The recommendation has not yet been implemented, but will be implemented in the future. The City of Santa Cruz Police Department is aiming for implementation within 180 days.

Response: The Scotts Valley Police Department AGREES.

The Scotts Valley Police Department has implemented this recommendation. Officers receive training in the recognition of excited delirium and our taser policy includes a

medical care component.

Response: The Watsonville Police Department AGREES.

The Watsonville Police Department strongly agrees with this recommendation and has been instrumental in providing Excited Delirium and In-Custody Death training to members of local law enforcement, fire, paramedic and hospital personnel.

Responses required

Entity	Findings	Recommendations	Respond Within
Santa Cruz County Sheriff-Coroner	3, 6, 16, 19, 21	1-5	60 Days (September 1, 2006)
Capitola Police Department	3, 6, 16, 19, 21	1-5	90 Days (October 1, 2006)
City of Santa Cruz Police Department	3, 6, 16, 19, 21	1-5	90 Days (October 1, 2006)
Scotts Valley Police Department	3, 6, 16, 19, 21	1-5	90 Days (October 1, 2006)
Watsonville Police Department	3, 6, 16, 19, 21	1-5	90 Days (October 1, 2006)

Appendix - Sources

Interviewed:

Chief of Police, Capitola Police Department.
Chief of Police, City of Santa Cruz Police Department.
Chief of Police, Scotts Valley Police Department.
Chief of Police, Watsonville Police Department.
Sheriff-Coroner, Santa Cruz County Sheriff-Coroner's Office.
Training Officer, Capitola Police Department.
Training Officer, City of Santa Cruz Police Department.
Training Manager, Scotts Valley Police Department.
Training Officer, Watsonville Police Department.
Training Officer, Santa Cruz County Sheriff-Coroner's Office.

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