

## **Tasers in Jersey: Discussion and Suggestions**

*In a study of the cardiac effects of prominent stun-gun models on anaesthetized pigs, Roy and Podgorski found that such devices could cause ventricular fibrillation if they were applied directly to the heart, and pump failure when applied directly to the chest. For people utilizing pacemakers the dangers were said to be particularly acute. (Journal of Law and Health, 2006)*

*Tasers were fired, or as police chiefs prefer to call it 'deployed', 1,765 times between April 2004 and June 2009. Stun gun officers have a less PC term for firing their weapon - they call it 'sparking up'. (Daily Mail)*

The issue of Tasers in Jersey is a very emotive one, and perhaps rightly so, because any weapon that can discharge enough volts to shock a person into inaction must raise concerns about safety. The potential misuse of the weaponry can be seen in the fact that the export conditions are extremely severe because it could be used as an instrument of torture by a repressive foreign regime:

*It is not only human-rights organizations that have taken a stern critical position about electroshock weapons. For purposes of export controls from Britain, electrical devices such as taser and stun batons have been classified as instruments of torture since 1997 and their export is strictly forbidden. The British government has also publicly supported such a categorization for the European Union as a whole.*

*As part of a medical review of the safety of tasers for a British police force, an evaluation concluded that 'depending on how their introduction might be publicized in the media, their use might be construed as a potential weapon of torture'. The medical authors advised that 'the media portrayal of the introduction of these weapons needs to be handled very carefully' (1)*

Clearly the safety aspects of Tasers is one of balance between not using them, and the risks involved in using more conventional methods of policing. When there is a strict policy of only using them as a substitute for conventional fire arms, the number of cases is relatively small, and the risk to individuals less - a risk also balanced by the risk of being shot in a confrontational situation. But where that is relaxed, and the Taser becomes a weapon of choice for dealing with a belligerent and perhaps not necessarily violent individual, the greater number of cases will make fatalities more statistically likely.

Shaun Kedir notes how the expansion of the use of the Taser has led to more reported deaths, which is something that might be expected. The Taser organisation does not test their product on children, elderly or pregnant women, and are unlikely to test it on people with suspected heat conditions or compromised immune systems. As the population potentially subject to the use of Taser increases, the statistics gathered for its safety record thereby have less validity:

*Recently, media and human rights organizations, such as Amnesty International, have released reports of more than 100 people since 2001 dying after receiving Taser shocks. Although coroners have attributed the majority of the deaths to other factors, such as drug use, in at least five of the cases, coroners found Tasers to be a contributory factor. In addition to reports of fatalities, there have been reported cases of police officers deploying Tasers on unarmed, non-compliant, or disturbed individuals who do not pose a threat to themselves or others. Some of these individuals include children, elderly, and pregnant women. (2)*

Part of the problem is the "quick fix", where the Taser is deployed without adequate - and costly - training, and seen as an instrument of first resort, rather than one of last resort, because it achieves results quickly:

*In short, Taser weapons have the potential of providing law enforcement with a viable life-saving tool that presents no greater health risk than other less-lethal methods currently in use; however, extensive training, detailed deployment policies providing clear direction on how to avoid unnecessary acts of force, further research, and community approval are critical to ensure its safe, effective, and appropriate use.(2)*

The most controversial use of the Taser is when the subject is simply non-compliant. This could almost be termed the "Ghandi situation", where someone is offering non-violent resistance, and rather than talk them into compliance, the police resort to use of the Taser. Clearly protocols in Jersey need to be established extremely clearly to ensure that this could not happen. There need to be controls, and controls that are not worded in a vague and badly defined way to prevent this.

*Generally, the lowest level of force that police agencies allow the use of Tasers is when an officer perceives the situation as tactical, as when the subject is passively resistant. This occurs, for example, when a subject refuses to comply with police officer's verbal commands, but does not interfere with the police officer and presents no physical threat. This level on the force continuum is the most controversial for Taser deployment, and generally, no other forms of physical force are appropriate. (2)*

The legal consideration of Taser use in the USA should flag up a warning signal. Unless those voting and drawing up Taser legislation are in favour of making non-violent resistance potentially subject to the use of Taser, that possibility will exist. It is that, I am sure, which gives a good deal of disquiet, and I think most politicians and members of the general public would like to see strict controls on the use of Tasers in writing, otherwise, as in the USA, the Courts may actually permit their use in a wider context:

*Courts have held that the single use of a Taser in making the arrest of a suspect who appears "hostile, belligerent, uncooperative," and repeatedly refuses to comply with police officer's commands was justified and does not amount to excessive force.*

*A May 2004 study in Denver, Colorado, on the Denver Police Department's Taser deployment found that officers commonly used Tasers against passively resisting or fleeing suspects. In at least ninety percent of the cases, the suspects were unarmed, and in more than two-thirds of the cases, the suspects were only cited for misdemeanors. The study also found that Denver police officers used Tasers on sixteen juveniles and suspects already restrained. (2)*

Amnesty International has provided a study of the use of Tasers in practice, as opposed to the ideal use as outline by those promoting their use. It is important not to dismiss this, because those wanting the use of Tasers in a very wide range of circumstances will play up the positive aspects of that, and downplay any negative consequences.

*"Tasers are not the 'non-lethal' weapons they are portrayed to be," said Angela Wright, US researcher at Amnesty International and author of the report. "They can kill and should only be used as a last resort. "The problem with Tasers is that they are inherently open to abuse, as they are easy to carry and easy to use and can inflict severe pain at the push of a button, without leaving substantial marks." (3)*

In 2005, reports came out that Tasers have been operating on Merseyside for more than six months without alarm, and once in place, the argument came that their use should be expanded to more widespread use by general members of the force and not just the armed response units. The idea is that many officers could be trained:

*Up to this point, though, the 50,000-volt weapons, which cause targets to lose muscle control and either freeze on the spot or collapse to the ground, have been available only to*

*armed response units. But they comprise just a small proportion of the force and Chief Constable Bernard Hogan-Howe is now hoping for distribution to other officers, having become convinced of the worth of the Tasers. Mr Hogan-Howe said: "I think at the very least we need to spread the use of Tasers more widely than they are at the moment. "To have them available to all patrolling officers would be a very good option, and at the moment would appear to be a very safe option.*

This overlooks, of course, the possibility that they might not measure up. Membership of an armed response unit is not just a matter of training; if the officer does not pass certain standards, they will not be accepted into the unit. Expanding the scope of Taser deployment to many officers will mean lowering those stringent standards.

In 2007, this occurred in Northumbria:

*MORE police are being trained to deploy Taser stun guns to take down violent suspects. Units will now operate in each of the six Northumbria force command areas on 24-hour standby. At the moment, the electrical volt devices are only being used by firearms officers in violent or threatening incidents. Now Northumbria is one of 10 forces throughout the UK, moving into a second phase of a pilot programme of extended Taser use. From this Saturday, small teams of trained non-firearms officers will be available for a rapid response in their local area.*

It is this "second phase" which takes the Taser out of the armed response unit, and puts it in the hands of non-firearms officers that has the potential for fatalities, and for indiscriminate use of Tasers. This is a "slippery slope" of the use of Tasers, and the anecdotal evidence emerging is that away from the strict controls of trained firearms officers, there is a significant risk of making mistakes and harming members of the general public.

In 2009, the Taser was used on an 89 year old man who was suffering from Alzheimer's disease. This is what happens when Tasers can be used as a "quick and cheap fix": This was in Merseyside, where the decision had been taken to deploy Tasers by non-firearms officers:

*POLICE officers who Tasered an 89-year-old war veteran with a 50,000 volt stun gun after he threatened to cut his throat have been cleared by a watchdog - to the anger of his family. A police constable used the Taser gun twice to stun the pensioner on Abbey Road, Llandudno, last January, fearing he was going to kill himself. The pensioner's sister-in-law said: "We are disappointed our concerns about the use of the Taser were not upheld. We just feel there was a much better way to handle this. We think he was scared and could have been talked down if they had backed off. This has caused untold stress to him and his family. The message this gives is that anyone could be shot with a Taser no matter of their age or their physical condition."*

*An officer discharged one Taser shot which was not fully successful as only one barb attached. He dispatched another shot and the man fell on the grass and the glass was taken from him. He was then handcuffed and taken to hospital. (5)*

*The man's nephew, an engineer, added that his uncle had gone into a residential home three weeks earlier, apparently suffering from the onset of Alzheimer's disease. 'He didn't like it there and walked out a few days later, and then again on Saturday,' he said. 'We've been to see him in hospital and he seems better than for a long time. He can remember what happened with the Taser. He says the pain was excruciating and that he was frightened to death. 'The police say he was holding a shard of glass to his neck but we think they should have tried persuasion. It's a miracle he didn't have a heart attack on the spot. Of course we are angry. We've been told his arms were handcuffed behind his back, which we don't think is the way to treat an old man who had never been in trouble in his*

life.' (6)

Another case in 2007 involved a diabetic. Now I know a diabetic, who sometimes behaved in a bizarre way because their sugar level was too low. The cure was to persuade them to take sugar, in milk or water, to stabilise their condition, which would often appear quite manic. It required calm, persuasion, often a considerable amount of time, and the need to stay calm as their eyes were bright, and their movements might become very jerky. It can be an alarming site, and it appears from the story that the "mistaken terrorist" was an excuse by the police to get out of what was, in fact, simply a use of the Taser as another "quick and cheap fix":

*A DIABETIC in a coma and in need of urgent medical attention was shot with a stun gun by police who feared he was a suicide bomber. Nicholas Gaubert's bizarre ordeal happened just six days after the July 7 bombings with the country in a state of high alert. But apart from wearing a rucksack and being on a bus, he is bewildered as to how he could be mistaken for a terrorist. Last night he accused police of using him for 'target practice'.*

*The 34-year-old bistro owner and son of a magistrate has been dependent on insulin for 20 years. He was on his way to meet friends for a drink after work when he fell into a diabetic coma on the top deck of a bus in his home town of Leeds. He says he was the only passenger on board. He does not remember any more until he woke up in the back of a police van in handcuffs, initially fearing he had been kidnapped. It appears armed police had been called to the bus and shot him twice with a Taser gun after he failed to respond to their orders.*

*'I was in a diabetic coma. I could have died and all they were bothered about was whether I was going to blow up an empty, stationary bus.' From the back of the police van, Mr Gaubert eventually persuaded officers to take him to hospital for treatment. 'I just remember waking up in the back of a van and I could hear people talking in the front. I genuinely thought I'd been kidnapped. I just shudder when I think what could have happened if I hadn't come round. They would have thrown me into a cell and I would probably have died.' He was on anti-depressants after the incident and suffered from back pain for two weeks. (7)*

The recent removal of protestors at Dale Farm signified another escalation of the use of Tasers, this time not for individuals, but as a method of crowd control:

*POLICE who smashed their way on to Dale Farm were accused of being too eager to use 50,000-volt electric stun guns to bring down protesters. Witnesses claimed at least two Tasers were fired as officers surged through a fortified metal fence in the dawn raid. It is believed to be the first time the controversial weapon has been deployed by police when faced with activists, and there were fears that this could mark a worrying escalation of its use in Britain. But Essex Police insisted Tasers were not used to quell protest and an officer pulled the trigger only after facing a 'serious level of violence'. Dramatic amateur footage showed the moment officers brandished their Tasers as they stormed the barricades. One officer could be seen and heard discharging the weapon, which fires two metal prongs before delivering the incapacitating charge through a thin wire.*

*A young man was hit and collapsed to the ground but managed to pull the barbs from his skin before disappearing in the crowd. **The shot narrowly missed a legal observer.** (8)*

Last year, the Daily Mail started to assess the less discriminate use of Tasers - "phase two" - when they have been deployed more generally and not by trained firearms officers. They reported that Nicholas Gaubert "has since become what is believed to be the first person in the UK to obtain compensation for being shot with a Taser. West Yorkshire Police has confirmed that it made an out-of-court settlement - thought to be tens of thousands of pounds - and an apology, after a civil action brought against them."

It notes the wider use of Tasers, and - worryingly - the way in which the use of non-firearms officers has led to an escalation in their use - the slang phrase "sparking up" denotes an attitude of mind which is quite worrying:

*Tasers were fired, or as police chiefs prefer to call it 'deployed', 1,765 times between April 2004 and June 2009. Stun gun officers have a less PC term for firing their weapon - they call it 'sparking up'.*

*Oliver Sprague, the UK's Arms Programme Director of Amnesty International, says: 'Because it's a projectile weapon it's much more likely to cause injury and damage if it hits someone in the face or head.' He adds: 'The key concern, however, is instead of Tasers being used in genuinely life-threatening cases, you start to see it creep into mainstream policing. It is disturbing to consider that a Taser could be in the hands of every police officer in a matter of years.'* (9)

It does note, however, that not all police go along with a wider use of Tasers. The use of Tasers is restricted to armed response officers by some forces:

*Not all forces agree with the decision to arm non-specialist officers. Sussex Police and the Metropolitan Police are among those which are refusing to extend the use of Tasers to the rank and file.*(9)

As Jersey is likely to get Tasers, I think there should be clearly prescribed limits, which would require full States Approval if they were changed, to their use. I have no problems with them as a substitute weapon for armed response officers; I do have a problem with the wider use, as the risk to members of the public, and the less discriminate use of them poses a serious hazard to the safety of those subjected to Tasers.

In 2011, the first person in Britain died as a result of Taser use - or misuse, as he was hit three times:

*A BODYBUILDER is believed to be the first person in Britain to have died from a police Taser after officers shot him three times with the powerful 50,000-volt gun. Father-of-two Dale Burns, 27, was confronted by up to eight officers after they were called to reports of a disturbance at his bedsit in a block of flats. He was arrested on suspicion of criminal damage but when he refused to calm down officers used pepper spray before one fired at him three times in quick succession.*

*A friend, who did not want to be named, said: 'I don't know what kicked off the trouble but when the police got to him they couldn't control him so they Tasered him. 'But he got back up and was going off his head because he was angry at what they had done, so they Tasered him twice more. 'They got him up to the hospital and his body went into shock. 'They brought him back to life with the shockers but then he just went flatline.' He added: 'The police went overboard with the Taser. They didn't need to Taser him three times* (10)

The article notes that this is a direct result of indiscriminate use of Tasers by non-firearm officers:

*At first only firearms officers were allowed to use them in exceptional circumstances. But by July 2007 they were given powers to use the high-voltage weapons in less serious incidents. Two months later, non-firearms officers were given authorisation to carry the weapons, provided they were given additional training under a pilot scheme involving ten forces which was later expanded to include all 43 police forces in England and Wales.*

*In most of Scotland, only firearms officers are permitted to carry Tasers* (10)

The case for medical safety of Tasers is also not as clear cut as it might seem. The evidence coming from America is that political pressure is put on pathologists to ensure that a Taser does not feature often as the cause of death. Forensic pathologist Dr Allen, who works in Los Angeles notes how this has happened on his watch:

*I was apparently one of only two medical examiners in the Los Angeles office to list taser on a death certificate. This was because pathologists in Los Angeles were under pressure from law-enforcement agencies to exclude the taser as a cause of death. [One] autopsy was performed in the presence of six upper-level law-enforcement agents who were confrontational and argumentative in their attempts to persuade me that death was caused by drowning in a few inches of water. I was not allowed to attend the death scene. I insisted that the cause of death would not be determined until all tests were complete. My opinion was widely and prematurely misquoted by the officers. Likewise, I was called into Dr. Kornblum's office to defend my investigation in something more akin to a disciplinary hearing than a scientific conference. In the end, Dr. Kornblum seemed to agree that the taser was the immediate cause of death. Yet, in his article it is stated that 'the death clearly fits into cocaine category'. (2)*

The Journal of Health notes that people and circumstances vary, so that controlled testing, especially when a wider use of Tasers is in place, is of limited use in assessing safety:

*[There] are variations in effects due to recipients' characteristics (body temperature, amount of clothing and skin moisture), the contact duration and the areas targeted (the chest, eyes), and differences within and between types of devices in terms of their power sources, peak voltage and electrical outputs. Once electroshock devices are used in connection with other types of force, the possibilities for specifying likely effects of weapons becomes even more problematic. (2)*

This is particularly important, as the Taser company has introduced more powerful weapons, which again will filter down to the police:

*Despite long-standing claims about the effectiveness of TASERS, TASER International has recently stated that its older devices proved ineffective in 15 percent to 33 percent of cases. In response, it has introduced a new advanced line of weapons with significantly higher wattage levels. The new 26-watt version, the ADVANCED TASER, is said to be 99 percent effective in incapacitating individuals, making it more effective than firearms. Promotional material fosters this image by illustrating test results on elite military and police personnel. So, a former US Marines Chief Instructor in hand-to-hand combat states, 'I have been hit by hand grenades yet still completed my mission. The ADVANCED TASER is the only thing that has ever stopped me.'*

#### **In conclusion:**

- (A) The use of Tasers as a weapon of choice in place of firearms by a trained firearms unit could significantly reduce fatalities and I would recommend its use.
- (B) The "Phase Two" deployment of Tasers by non-firearms officers for situations where firearms use would not be deployed poses significant risk to the general public, and the use of the slang term "sparking up" illustrates a kind of attitude that we do not want to see in Jersey. I would not recommend "phase two" under any circumstances.
- (C) If Tasers are introduced in Jersey, legislation should restrict its use to trained firearms officers in situations where firearms would be deployed.
- (D) Any change to a "phase two" wider deployment should not be a matter for operational consideration, but should require full States approval to change legislation. Without this safeguard, there are no controls by the States on a "slippery slope" in the use of Tasers.

## Links

- (1) Non-Lethal Weapons as Legitimizing Forces? Technology, Politics and the Management of Conflict. Brian Rappert, 2003
- (2) Stunning Trends in Shocking Crimes: A Comprehensive Analysis of Taser Weapons. Shaun H. Kedir, Journal of Law and Health, 2006
- (3) <http://www.amnesty.org/en/news-and-updates/report/tasers-potentially-lethal-and-easy-abuse-20081216>
- (4) Hundreds of Fingers on the Trigger; Every Police Officer on Merseyside Could Soon Be Equipped with a Taser Stun Gun. Chief Reporter Andy Kelly Reports. Daily Post, 2005
- (5) Daily Post (Liverpool, England), August 8, 2009
- (6) Police Fire Taser at Man, 89, Who Fled Care Home; Stun Gun: The Taser Causes Paralysis; The Daily Mail (London, England), January 14, 2009
- (7) Police Shoot Diabetic with Taser after Taking Him for a Terrorist; Target: Nicholas Gaubert Is Considering Suing the Police; The Daily Mail (London, England), November 16, 2007
- (8) But Were Officers Too Eager to Fire Their 50,000-Volt Taser Guns? The Daily Mail (London, England), October 20, 2011
- (9) TASERS: THE SHOCKING TRUTH; A Commuter in a Diabetic Coma, an 89-Year-Old Man and Children as Young as 12 - Just Some of the Targets of British Police Armed with Skin-Piercing 50,000-Volt Taser Guns. as the Home Office Investigates Bringing an Even More Powerful Rifle Version to Britain, Jason Benetto Reports on the Slow Creep of Arms onto Our Streets; The Mail on Sunday (London, England), March 7, 2010
- (10) Bodybuilder Dies after Police Blast Him Three Times with Taser Gun; The Daily Mail (London, England), August 18, 2011
- (11) MORALIZING VIOLENCE: Representations of Electro-Shock Weapons, Brian Rappert Science and Technology Studies Unit University of York