

# **SOLANO COUNTY GRAND JURY**



## **An analysis of Law Enforcement use of Tasers in Solano County “How Much Force Is Enough?”**



**2004-2005 Grand Jury Report  
Issued: June 21, 2005**

# **An Analysis of Law Enforcement Use of Tasers in Solano County**

## **“How Much Force Is Enough?”**

### **2004 – 2005 Grand Jury Report**

“One juror was recused from this report because of a personal investment in Taser, International.”

#### **I. Reason For Investigation**

The Grand Jury elected to do a study of how law enforcement agencies in Solano County are using tasers in view of the attention the media have given the subject in recent months, coupled with concerns expressed by local citizens.

#### **II. Procedures**

- The Grand Jury interviewed representatives from each law enforcement agency in Solano County. For clarity representatives interviewed are referred to as witnesses in the report.

The Grand Jury reviewed the use of force continuum (command presence, verbal skills and assessing if there is a threat, the severity and the action of the individual) and taser policies and procedures from each law enforcement agency.

The Grand Jury reviewed documents from:

- United States Air Force Research Laboratory
- International Association of Chiefs of Police (IACP) Report on Electro-Muscular Disruption Technology (EMDT)
- Taser Instructor Certification Manual
- New York Times article on Stun Guns
- San Francisco Chronicle article on Tasers

The Grand Jury also viewed about eight hours of videos of law enforcement agencies using tasers in both training and actual arrest situations supplied by Taser International, the foremost supplier of tasers to police around the nation.

#### **III. Background**

It should be noted that the purpose of this Grand Jury study was to determine if Law Enforcement Agencies in Solano County use tasers appropriately or inappropriately (as a mere convenience).

Law Enforcement agencies use various versions of the taser or “stun gun” as a non-lethal alternative to deadly force in controlling criminal suspects. The taser is a hand-held, electronic defense and immobilization weapon that has been commercially available since 1974. When it is deployed on a person, it induces involuntary muscle contractions that cause temporary incapacitation. Although painful, newer models of the taser devices do not rely merely on pain for compliance.

Several taser models are marketed for public use or for use by Law Enforcement agencies. The power output of the Law Enforcement model (50,000 volts) is double that of some public models according to United States Air Force documents. The Taser weighs approximately 1.5 lbs. and consists of a nickel-cadmium power source with a cartridge containing two darts. When the trigger on the taser is pressed, either a gunpowder charge explodes or a nitrogen gas propellant is discharged, firing the two darts from the cartridge at a velocity of 180 feet per second. Effective range of the weapon is 12-15 feet. When both darts penetrate the victim’s skin or clothing, the voltage is transmitted to the victim, causing

the victim to fall and experience involuntary muscular contractions lasting as long as the current continues to be delivered. Each pull of the trigger produces five seconds duration of current.

According to documents reviewed and statements from witnesses, police in-house taser instructors receive a minimum of eight hours of training from Taser-tron or Taser International before they are able to train other officers to use tasers. Officers that are trained by the in-house instructors receive a minimum of four hours of training.

The Grand Jury requested and received copies of all police reports that involved the use of tasers from January 1, 2004 through January 31, 2005. Based on the reports received, Fairfield Police Department had 92 taser-use incidents over the thirteen month time frame, Vallejo had 70 and Solano County Sheriff Department and Vacaville Police Departments employed the devices less often. Documents received from Rio Vista, Suisun City and Dixon show their taser incidents amounted to six or less. Benicia Police Department responded that they did not use tasers. However, during an interview, it was stated that Benicia had one taser that is used only by Sergeants and Lieutenants.

During the interviews, all witnesses were asked to respond to the following questions:

- Give us your opinion as to why your department uses tasers and how are they used?
- Have you identified any problems in the way your department uses tasers, and do you see a problem in the way Law Enforcement, in general, uses tasers?
- What is your opinion regarding some alleged experts, organizations and the community's perception that Law Enforcement uses tasers as a convenience?
- If you had the power, and you could wave a magic wand to correct all of the perceived problems associated with the use of tasers, what would they be?

All witnesses were invited to meet with the Grand Jury to discuss the use of tasers by Law Enforcement. During the interviews, it was stated by all witnesses that they believe tasers are a useful tool in Law Enforcement, because police agencies are able to apprehend subjects with the least resistance necessary. Consequently, fewer officers are injured and workers compensation claims are fewer.

Witness #1 stated that the use of a baton, Oleoresin Capsicum (OC) commonly known as pepper spray and tasers provides Law Enforcement with tools with less lethal capability than a firearm. He stated, if everything is equal, the first line of force is the baton, OC and the taser. He further stated that tasers are a very effective tool and works well "when it works." He stated that the biggest draw back in using tasers is when you are using it at a distance, sometimes both darts don't connect and you don't get an effective discharge of voltage to incapacitate the subject.

Witness #1 further stated that he, as well as all Law Enforcement agencies, is concerned about the future of tasers. "We all have to step back and take a look and say, 'OK, is this device safe? Let the science prove that, and I think science is doing that. If Law Enforcement at times uses the taser inappropriately, we need to correct that with training, and I don't know if we have done that yet. I want to make sure that we are not over using tasers when another tool is appropriate. I think that some Law Enforcement officers use tasers without thinking about any other alternative."

Witness #2 stated that in his department, tasers are used after verbal persuasion and control holds. Tasers are equivalent to the lowest form of physical force and are equal to OC. and below the baton. Tasers are not one hundred percent reliable. Officers must realize when the taser is used, they have to be

prepared to do something else. Officers say that when they draw their taser, nowadays, most subjects comply with officers' orders. It was stated that tasers have increased the safety level of officers and reduced worker's compensation claims. It was also stated that any time a taser is discharged, the memory chip from the taser is downloaded into a computer and a print-out tells you how many times the taser has been discharged. "Officers are required to think through the continuum of force. If a subject complies with the order, the officer has made during an arrest by putting his hands behind his head, we are not going to use force. If the person takes a fighting stance, we expect the officer to deploy his taser."

Most witnesses stated that their policy and procedures are written to allow officers to use their discretion when using a taser. Witness #3 stated that there is no way to have a black and white procedure in how and when to use tasers in every situation. He stated that his department policy and procedures provide guidelines for the officers when a taser has to be used. He also stated that he does not agree that officers use tasers as a convenience. He believes that it is another tool for the police. He said it is all about safety, we don't train our officers to use tasers inappropriately. "I can understand why some people have the perception that tasers are inappropriately used. Tasers are the best thing we have going. Are they perfect? Probably not," said Witness #3. "If I could wave a magic wand, all our officers would have 'phazer guns' like they had on the old 'Star Trek' series and they would be set on 'stun,' so there would never have to be a physical altercation between officers and the bad guys."

Witness #4 stated that tasers are a valuable tool as long as they are used properly. He stated that he was concerned about the frequent use of tasers and less use of OC. He stated that he suspects that there has been a misuse of tasers. "If a subject is running away and there is no credible threat, I don't believe a taser should be used," he said. Witness #4 stated that sometimes officers do not take the time to talk to the subject and, in some cases, the use of tasers is not justified. "I don't think force should be used just because you can justify it. I think you should use force when it is the right thing to do." He stated that tasers should be used correctly. He also stated police training as it relates to "excited delirium" is not good enough. ("Excited delirium" is a condition caused by the excitement of running and/or struggling with police, if drugs or other stimulants are in the body.) He stated that officers should work through the use of force continuum instead of using the taser as a first line of defense. Witness #4 stated, "Tasers should not be used on a passive-resisting person. But, if the person is actively resisting, using a taser would be appropriate."

Witness #5 stated that his department has one taser, and the last time the taser was used was in the Year 2000. He stated that sergeants and lieutenants are the only ones authorized to use the taser, which is carried in the trunk of the sergeant's car. Witness #5 stated that tasers are just one more tool that the police have. The more tools you have, the better your chance of taking a person into custody without the officer getting injured, he said. Witness #5 stated that his department has made a decision not to buy tasers until a definitive study was done to determine the value of using tasers.

Witness #6 stated that tasers are an intermediate force level option. He stated that the situation dictates if a taser is going to be used. He stated that his officers do not use tasers as a convenience. The witness believes that Tasers are a very effective tool but before a taser is used, there has to be some resistance. He stated that he does not believe that officers are using their tasers without working their way through the use of force continuum: (command presence, verbal skills and assessing if there is a threat, the severity and the action of the individual). And then a decision is made on the appropriate force to use. He stated there is a potential for officers to misuse the taser, that is just human nature, however, it becomes an accountability issue. "If you give your officers the proper training, the right tools and a clear policy to follow, you won't have the misuse."

Witness #7 has been a full time Police Officer for over a decade and he is a Police Officer Standard Training (P.O.S.T.) certified firearms arrest and control instructor. He also is a certified taser instructor and a taser user. He has used the taser approximately 30-50 times in the last 18-months. He

stated that tasers are a welcome and highly effective addition to the police tool belt. It gives the officer an option that was not available before. He says that there is no doubt that, when used appropriately, it can save lives and significantly reduce officers and suspects' injuries.

A forensic pathologist met with the Grand Jury and stated he knew very little about circumstances when tasers are used or the effect it has on a human body. He stated that he has done approximately six autopsies where tasers were employed prior to the subject's death and he was not able to determine any difference in the condition of a body where a taser was used versus another in-custody death, particularly when drugs are involved. He stated that he believes that people die from "excited delirium," a condition caused by the excitement of running and or struggling with police, if drugs and other stimulants are in the body. He stated that based on his experience, it is his belief that tasers do not cause death.

It should be noted that some of witnesses who spoke to the Grand Jury did not respond to all questions asked. Some chose to refer to their department policy and procedures as a response. However, most witnesses believe that their taser policy is clear and concise, and most stated that they were comfortable with their policy. Some witnesses advocated the use of tasers and expressed a desire to equip all of their officers with the devices, but sometimes departments are unable to do so because of budget constraints.

The Grand Jury reviewed the taser policy and procedures submitted, and found them to be strategically written so that officers could use their discretion as to when to use a taser. The philosophy of the witnesses was consistent with their written policy and most expressed a desire and a belief that their officers' decisions would be consistent with their policy and procedures. However, in one incident report reviewed by the Grand Jury, a female with her hands cuffed behind her back in the custody of two officers was escorted from one cell to another cell and placed face down on a bunk bed still cuffed. During the un-cuffing of the female, a decision was made to "tase" her. The witness was asked, "How could the officers justify using a taser?" The witness stated that he personally would not have used the taser, but would accept the officers' decision to use the taser.

The International Association of Chiefs of Police (IACP) in a news release on April 4, 2005, classified Tasers as a police tool utilizing "Electro-Muscular Disruption Technology (EMDT)" which is defined as a high-voltage, low power charge of electricity to induce involuntary muscle contractions that cause temporary incapacitation. The increase use of these weapons has raised concerns about the safety of tasers, as well as the liability and risk associated with deployment of tasers. The IACP study did not focus on the technology of the weapon, but rather on the management of the weapon. The IACP summary states that the amount of force necessary to prevent harm to Law Enforcement, bystanders or potentially violent subjects, is a decision that can have severe implications for officers, suspects, police departments and the public. They say it is also essential that departments provide their officers with appropriate training and tools for these split-second decisions. Whether the tool is verbal communication, a police baton, OC, EMDT, or a service weapon, the IACP report states that most Law Enforcement agencies place EMDT (tasers) at the same justification level as OC, commonly referred to as pepper spray, on the use of force continuum.

The IACP report states that; "Policies should clearly describe the circumstances when an 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. IACP strongly recommends that the department policy explicitly state that there are some inappropriate uses of the EMDT. Examples given were using EMDT as a punishment, or discharging the weapon near potentially flammable, volatile, or explosive materials."

The IACP recommends that when developing an EMDT (Taser) policy and procedure, the following questions should be answered:

- Should EMDT be used on fleeing suspects? If so, are there limits on the types of fleeing?
- Should you use EMDT on mentally challenged persons?
- Should you use EMDT on persons with known or visible impairments that indicate compromised health?
- Should EMDT be used on vulnerable populations (i.e.: children, the elderly, women known to be pregnant, etc.)?
- Should EMDT be used for compliance?
- Under what circumstances would multiple discharges be permissible?

The contents of this Grand Jury report are intended to assist Law Enforcement to develop a strategy for EMDT deployment that establishes management accountability, guidelines for appropriate use, and reduction of the need for more lethal level of force.

#### **IV. Findings And Recommendations**

**Finding # 1** – Based on the police taser reports submitted to the Grand Jury and witnesses’ testimony, it appears that Solano Law Enforcement policies in general focus more on using the taser rather than under what circumstances tasers are to be used.

**Recommendation # 1** – Even though police agencies like Vallejo, Fairfield and Dixon have better written policies and procedures, all Law Enforcement agencies in Solano County should reevaluate their EMDT procedures and consider the IACP nine-step deployment strategy.

**Finding # 2** – In reviewing the taser reports submitted, there were some use of the devices that appeared to violate the individual departments’ written policies and procedures.

**Recommendation # 2** – Agencies should write clear and concise policies and procedures to address the use of EMDT, including methods for measuring success and reporting incidents.

**Finding # 3** – Based on some interviews and reports, some agencies condone the use of EMDT for compliance.

**Recommendations # 3** – The Grand Jury strongly recommends that the policy explicitly state the guidelines where and when an EMDT can be used and when it should not be used (such as compliance or punishment).

**Finding # 4** – Based on how the policy and procedures are written, incident reports and witnesses’ statements, there is insufficient information to support a definitive finding in Law Enforcement’s management of taser usage.

**Recommendation # 4** – Agencies should reinforce in-house training by using some of the department’s own taser reports as a training tool.

#### **V. Comments**

This Grand Jury report has not focused on the validity of employing tasers, but when the use of tasers is appropriate.

An article from the San Francisco Chronicle dated January 10, 2005, stated the following; “When 50,000 volts of electricity from a taser surge across the body, it can instantly incapacitate a person – more safely than a blow from a police baton or a blast of pepper spray”, says Taser International. In this same

article, the Chronicle stated that some cardiologists are concerned that in certain cases, the taser might also interrupt the rhythm of the human heart, throwing it into potentially fatal chaotic state known as ventricular fibrillation.

An article by the New York Times dated February 17, 2005, stated that the concern over tasers has risen nationwide since a 14 year-old boy suffered cardiac arrest and a 54 year-old man died in separate incidents. Both were shot by Tasers.

Many police officers say that tasers provide a way to restrain dangerous suspects without using a firearm or fighting with them. But civil liberties groups say police often use tasers as retaliation on people who are merely unruly or disobedient, not dangerous. The Executive Director of Amnesty International says, "Many police use tasers as a routine force option."

Law Enforcement in general should incorporate a mission statement in their training, policy and procedures to say, "We will not use EMDT or any other weapon just because we can legally justify the use in writing. We will use them when it is the right thing to do."

## **VI. Affected Agencies**

- Solano County Sheriff/Coroner's Office
- City of Benicia
- City of Benicia Chief of Police
- City of Dixon
- City of Dixon Chief of Police
- City of Fairfield
- City of Fairfield Chief of Police
- City of Rio Vista
- City of Rio Vista Chief of Police
- City of Suisun City
- City of Suisun City Chief of Police
- City of Vacaville
- City of Vacaville Chief of Police
- City of Vallejo
- City of Vallejo Chief of Police

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