

## USA

### **Amnesty International's concerns about Taser® (1) use: Statement to the U.S. Justice Department inquiry into deaths in custody**

#### **Background**

This document provides the text of an oral briefing by Amnesty International to the Chief Medical Panel supporting a US Justice Department inquiry into deaths in custody following electro-muscular disruption. The study is examining the impact of Taser stun guns and similar electrical weapons known as "conducted energy devices" (CEDs). (2) Amnesty International's statement was given on 27 September 2007 in Washington, DC. (3)

The Justice Department's National Institute of Justice (NIJ) (4) commissioned the two-year study in June 2006, following reports of more than 150 deaths of individuals subdued by police Tasers and concerns raised by Amnesty International and others. (5) While medical examiners have usually attributed the deaths to other factors, such as drug intoxication, some medical experts believe that shocks from taser-type weapons may exacerbate a risk of heart failure in cases where people are agitated or under the influence of drugs, or have underlying health problems. The study is reported to be reviewing more than 100 deaths associated with Tasers or similar devices over the past five or more years. (6) It is expected to report its findings in 2008.

The study is being assisted by a medical panel whose members include five medical examiners, a cardiologist, an emergency medicine physician and a toxicologist. It will also draw on the advice of specialists in epidemiology, electrical engineering, neurology and psychiatry. In addition, the International Association of Chiefs of Police is working with investigators to provide field research into the deaths and comparative data on in-custody deaths not involving electrical weapons. (7)

More than 11,000 US law enforcement agencies (mainly police departments but also prison and jail agencies) are reported to use Tasers or similar devices: dart-firing electro-shock weapons which can also be applied directly to the body in what is known as "drive stun" mode (similar to traditional stun guns). From June 2001 to 30 September 2007, Amnesty International has recorded more than 290 deaths of individuals in the USA and Canada struck by police Tasers. While the organization does not reach conclusions regarding the role of the Taser in each case, it believes the deaths underscore the need for thorough, independent inquiries into their use and effects.

As Amnesty International concluded in its statement to the panel,

*"The degree of tolerable risk involving Tasers, as with all weapons and restraint devices, must be weighed against the threat posed. It is self-evident that Tasers are less injurious than firearms where officers are confronted with a serious threat that could escalate to deadly force. However, the vast majority of people who have died after being struck by Tasers have been unarmed men who did not pose a threat of death or serious injury when they were electro-shocked. In many cases they appear not to have posed a significant threat at all."*

Of the 291 reported deaths, the organization has identified only 25 individuals who were reportedly armed with any sort of weapon when they were electro-shocked; such weapons did not include firearms.

Amnesty International acknowledged in its statement that there may be "stand-off" situations where Tasers in dart-firing mode could effectively be used as an alternative to firearms to save lives. However, the potential to use Tasers in drive-stun mode (where they are used as "pain compliance" tools when individuals are already effectively in custody), and the capacity to inflict multiple and prolonged shocks, renders the weapons inherently open to abuse.

Amnesty International calls on all governments and law enforcement agencies to either cease using Tasers and similar devices pending the results of thorough, independent studies, or limit their use to situations where officers would otherwise be justified in resorting to deadly force where no lesser alternatives are available. Strict guidelines and monitoring should govern all such use.

#### **Amnesty International's statement before the Chief Medical Panel**

Amnesty International (AI) welcomes the National Institute of Justice's study of deaths following electro muscular

disruption. We are grateful for the opportunity to present an aspect of our work that is germane to your topic: namely, our continuing concerns regarding the use of Tasers, the most prevalent conducted energy device.

As you may be aware, AI is a worldwide membership-based organization which seeks to promote the observance of international human rights standards set out in the Universal Declaration of Human Rights and other international instruments and treaties, including those relating to use of force by law enforcement officials.

The manufacturer of Tasers and law enforcement agencies deploying them maintain that they are a safer alternative to many conventional weapons in controlling dangerous or combative suspects and that Tasers have saved lives by avoiding the resort by officers to lethal force.

As a human rights organization, AI acknowledges the importance of developing non-lethal or "less-lethal" force options to decrease the risk of death or injury inherent in police use of firearms or other impact weapons such as batons. We support the development of such force options.

However, we have serious concerns about the use of electro-shock devices in law enforcement, both as regards their safety and their potential for misuse. Portable and easy to use, with the capacity to inflict severe pain at the push of a button without leaving substantial marks, electro-shock weapons are particularly open to abuse, as our organization has documented in numerous cases around the world.

While in the United States police operate under professional standards,(8) we are concerned that many U.S. police departments are using Tasers to subdue non-compliant or disturbed individuals who do not pose a serious danger to themselves or others. As our reports have documented, there are many cases where we believe use of Tasers has contravened international standards which require that police use force only when strictly necessary, in proportion to the threat posed, only for as long as the threat exists and in a manner designed to minimize pain or injury. We have documented disturbing instances where we believe that Taser use has amounted to cruel, inhuman or degrading treatment which is absolutely prohibited under international law. The U.N. Committee against Torture has called on the United States to deploy Tasers only as a non-lethal alternative to using firearms.

We are particularly concerned about the capacity of Tasers to be used in close contact situations as a stun weapon -- including in situations where individuals appear to be already effectively in custody -- and to inflict repeated shocks over a relatively prolonged period. While we believe the drive-stun mode is especially open to abuse, we note that in dart-mode also there have been instances of alleged abuse, with officers able to inflict repeated shocks once the darts have taken hold.

We are also concerned that Tasers are being widely deployed in the United States before the results of rigorous, independent and comprehensive testing of their safety and potential health risks. While existing studies have found the risk of adverse effects from Tasers generally low in healthy subjects, they have pointed to the need for more understanding of the effects of such devices on vulnerable subjects and those compromised by substance abuse or poor health. Our data suggests that many of those who have died following Taser use fall into these potential at-risk categories. Thus the need for full evaluation and guidance on usage is of urgent concern.

AI has collected data on more than 290 cases of individuals in the United States and Canada who since 2001 have died after being struck by police Tasers. 15 of these were in Canada, the rest in the United States. Our sources include media reports, information from families of the deceased, and police and autopsy reports. While in most cases medical examiners have attributed death to other factors, such as "excited delirium" associated with cocaine intoxication, AI has identified at least 20 cases where coroners have found the Taser served as a causal or contributory factor in the death and other cases where the Taser was cited as a possible factor in autopsy reports. The organization is seeking more information on more than a dozen further cases where coroners are reported to have found a link between the TASER and death. AI continues to record all reported deaths, pending the results of a comprehensive, independent study, because the role played by the Taser often remains unclear. While we are not in a position to reach conclusions on the cause of death in each individual case, we believe there may be more cases among those reported where the Taser cannot be ruled out as a factor.

We recognize that it can sometimes be difficult to identify cause of death in such cases by autopsy alone. However, the circumstances of the cases raise issues we believe merit thorough investigation by the Justice Department inquiry. These have been outlined in our November 2004 and March 2006 reports(9), and I summarize them briefly here today. While a number of studies have been reported or are ongoing, none we believe has yet fully answered the safety concerns raised in our reports.

· Most of the individuals who died were agitated, disturbed and under the influence of drugs, and/or had underlying health problems such as heart disease. These characteristics are seen in sudden custody deaths occurring without the use of Tasers.(10) It is recognized that multiple factors can play a role in such fatalities, including the level of

force deployed and certain types of restraints. However, there is a serious question whether taser shocks, together with positional stress, may exacerbate breathing or other difficulties caused by drug intoxication and exertion, as has been found to be the case by some medical examiners. Studies, such as the study commissioned by the United Kingdom's Defence Scientific Advisory Council, have not excluded the possibility that drug or alcohol intoxication and pre-existing heart disease may modify the threshold for cardiac arrhythmias following Taser use. The U.K. study also pointed to the possibility that electro-shocks could have adverse effects beyond direct effect on the heart rhythm, by increasing stress levels more generally.(11)

- A related concern is that many of those who died were subjected to multiple and/or prolonged shocks. This continues to be the case despite warnings by several studies of potential adverse effects from exposure to prolonged or multiple shocks.(12) Our records indicate that most of those who died were shocked more than once and 94 were subjected to between three and 21 shocks. They include Martin Tyler Shaw where, according to the autopsy report, one of the devices had a total firing cycle time of 19 seconds, a second of 12 seconds and a third 10 seconds.(13) Another man died after being shocked for 57 continuous seconds.(14) One officer reportedly used a Taser nine times for 160 seconds against Emily Delafield, a 56 year-old, mentally ill woman in a wheelchair. We believe that the ability to prolong the electrical cycle beyond five seconds, for as long as the officer keeps his or her finger depressed on the trigger, may dangerously increase stress levels, and that the psychological and physiological effects of prolonged or repeated shocks requires urgent review by relevant independent experts. These should include experts in the fields of cardiology and electrophysiology.

- In most of the cases recorded thus far, the deceased is reported to have gone into cardiac arrest or respiratory arrest at the scene, even if death was pronounced later. In many cases it appears that the suspect collapsed immediately or very shortly after being struck by a Taser. Several medical examiners have noted a temporal relationship between taser shocks and the cardiac or respiratory arrest. In at least three cases medical examiners have found Taser shocks were a direct cause of a cardiac arrhythmia; in others that it was a contributory factor leading to sudden collapse. We also note that in some cases the deceased had no drugs or underlying health problems and collapsed after being struck by a Taser, raising a further question about the possible role of the Taser. These cases should form part of studies into Taser safety.

- Many of the deaths have also involved the application of mechanical or other physical restraint and/or pepper spray. We believe that an inquiry must also examine the potential health risks from electro-shocks when used in combination with other restraints, particularly those which could impair breathing.

- AI's research has pointed to the need for further study in a number of areas, including the possible effect from Tasers on metabolic acidosis and on the condition described as "excited delirium". TASER International has suggested that Tasers can actually work to prevent metabolic acidosis because its instant incapacitation cuts short the struggle and thus any dangerous build-up of acid in the blood. However, as we have noted, many people have been subjected to multiple shocks. There is evidence in some of the death cases we have reported on to suggest that the Taser either had no immediate effect on, or increased, agitation.

- A recent report prepared for the Police Service of Northern Ireland noted that the limited research available on the effects of the Taser on children identifies a heightened risk of cardiac arrest resulting from ventricular fibrillation, and a greater risk of injury from the penetrative effects of darts, and notes also the limited research on risks of Taser on women during pregnancy.(15) Amnesty International is concerned that police officers have used Tasers on pregnant women and on children, including children as young as six and nine. We believe that these areas, too, require further study.

- Finally, the degree of tolerable risk involving Tasers, as with all weapons and restraint devices, must be weighed against the threat posed. It is self-evident that Tasers are less injurious than firearms where officers are confronted with a serious threat that could escalate to deadly force. However, the vast majority of people who have died after being struck by Tasers have been unarmed men who did not pose a threat of death or serious injury when they were electro-shocked.(16) In many cases they appear not to have posed a significant threat at all.

We are aware that police officers may face difficult challenges when dealing with people who are disturbed or intoxicated, who resist arrest or who fail to respond immediately to commands -- all instances in which Tasers are commonly employed by US law enforcement officers. However, we find it deeply disturbing that any individual in such circumstances might die unnecessarily from a police weapon that has not been fully tested or strictly controlled and may carry an inherent risk in the case of vulnerable groups. It has been shown that measures such as stricter controls and training on the use of force and firearms, and in dealing with the mentally disturbed, have been effective in reducing unnecessary deaths and injuries from any type of force.

AI acknowledges there may be situations where Tasers in dart-firing mode can effectively be used as "stand-off" defensive weapons as an alternative to firearms to save lives, where no lesser alternatives are available. However, the potential to use Tasers in drive-stun mode -- where it is designed primarily as a pain-compliance tool -- and the capacity to inflict multiple and prolonged shocks in our view makes the weapons inherently open to abuse.

Because of safety concerns and potential for abuse, we do not believe Tasers should ever be used as a low or medium level force option by police officers. Nor should they be permitted for sale to the general public. As a general policy, AI calls on all governments and law enforcement agencies to either cease using Tasers, and similar devices, pending the results of thorough studies into their use and effects, or to limit their use to situations where

officers would otherwise be justified in resorting to firearms where no lesser alternatives are available.

Additional recommendations include:

- Governments should establish benchmarks for the safety of conducted energy devices based on empirical research and should regulate the marketing of such devices appropriately.
- Tasers should be recognized as potentially lethal, particularly for people suffering heart or breathing problems, and their recommended use restricted to a high threshold -- that of preventing use of recourse to firearms in response to a threat of violence.
- Tasers should not be used as a routine weapon to enforce compliance in the absence of a threat of serious injury or death of the subject, a member of the public or a law enforcement officer.
- Clear terms of reference for the use of conducted energy devices should be disseminated to all forces using such weapons.
- Tasers should not be used by untrained officers.
- Tasers should not be exported to countries having a record of torture or other ill-treatment.

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(1) In this document use of the word Taser refers to one or more products of TASER International under the TASER® trademark

(2) CEDs are high voltage, low current electrical weapons designed to cause temporary incapacitation through involuntary muscular disruption and include traditional stun guns and projectile weapons, the latter sold in the USA as TASERS® and Stinger® Handheld Projectile Stun Guns.

(3) The briefing was prepared by the International Secretariat of Amnesty International in London and presented by a staff member of AIUSA.

(4) The NIJ is the Research, Development, and Evaluation Agency of the US Department of Justice.

(5) AI's concerns are described in its reports USA: Excessive and Lethal Force? Amnesty International's concerns about deaths and ill-treatment involving police use of Tasers published in November 2004 (<http://web.amnesty.org/library/index/engamr511392004>) and USA: Amnesty International's continuing concerns about Taser use, published March 2006 (<http://web.amnesty.org/library/Index/ENGAMR510302006>)

(6) Most of the deaths involve use of Tasers, but the study is looking at the impact of other CEDs and it reportedly includes review of at least one death from an earlier Taser model in the 1980s.

(7) <http://www.ojp.usdoj.gov/nij/topics/technology/less-lethal/conducted-energy-devices.htm>

(8) For example, most US police departments have professional codes of conduct and written guidelines on the use of force, although not all of the latter are fully consistent with international standards.

(9) See reference at footnote 4

(10) O'Halloran RL, Frank JG. Asphyxial Death During Prone Restraint Revisited: A Report of 21 Cases. The American Journal of Forensic Medicine and Pathology 2000; 21(1): 39-52; Pollanen MS, Chiasson DA, Cairns JT, Young JG. Unexpected death related to restraint for excited delirium: a retrospective study of deaths in police custody and in the community. CMAJ 1998;158:1603-7.

(11) "Statement on the comparative medical implications of use of the X26 Taser and the M26 Advanced Taser", Defence Scientific Advisory Council Sub-committee on the Medical Implications of Less-Lethal Weapons, Dstl/BSC/DOC/803, 7 March 2005.

(12) The Joint Non-Lethal Weapons Human Effect Center of Excellence suggested that if long periods of Taser activation occurred, "the risk of unintended adverse effects such as cardiac arrhythmia, impairment of respiration or widespread metabolic muscle damage could be severe". Equally, it noted that "the effects of multiple simultaneous exposure" or "sequential exposure" to Taser shocks on the heart needed additional evaluation. The Police Canadian Research Center, reporting in 2005, noted that "police officers need to be aware of the adverse effects of multiple, consecutive cycles of a CED [Conducted Energy Device] on a subject" because "the issue related to multiple CED applications and its impact on respiration, pH levels and other associated physical effects, offers a plausible theory on the possible connection between deaths, CED use and people exhibiting symptoms of CED".

(13) The autopsy in this case found "The cause of death is attributed to an arrhythmia following multiple blunt force

injuries and use of electromuscular incapacitation devices during a state of excited delirium".

(14) Ronald Hasse, 10 February 2005, Chicago.

(15) [http://www.nipolicingboard.org.uk/human\\_rights\\_advisors\\_report\\_on\\_Taser-2.doc](http://www.nipolicingboard.org.uk/human_rights_advisors_report_on_Taser-2.doc)

(16) Out of 291 cases, AI has identified only 25 who were reportedly armed with any sort of a weapon when they were electro-shocked. Such weapons did not include firearms.