

## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Friday, March 22, 2013 7:55 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser use in Vermont

Came in last night.

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**From:** [cathys3sons@aol.com](mailto:cathys3sons@aol.com) [<mailto:cathys3sons@aol.com>]  
**Sent:** Thursday, March 21, 2013 10:39 PM  
**To:** Mary-Kay Swanson  
**Subject:** Taser use in Vermont

Dear Mr. Sorrell,

This email is in reference to the press release on the use of tasers, shown below, which was copied and pasted from your state website.

As the daughter of a former Burlington police officer, parent of (now grown) adopted children who in the past had their share of legal issues, former volunteer for the Greater Barre Area Justice Center's Reparative Board, and, as a mental health worker in Central Vermont, I must speak up against the use of tasers by the police.

It is fact that there have been instances of misuse of tasers in Vermont, as well as in other states, with some leading to the death of the alleged law breakers. I feel that some of these cases could have been treated differently. Yes, I understand that there is the fear of harm and fear of the unexpected when police encounter suspects in risky situations.

Firstmost, I am completely against the use of tasers. Why not make better use of mental health screeners. They are available and have a good history of de-escalating clients. They have the training and experience.

However, IF tasers are to be allowed to be put in use, I believe that a more intense level of training of officers in the use/non-use of tasers should be applied so as to prevent permanent harm or death to suspects. In many cases, suspects are NOT armed and the use of tasers is not warranted. Tasers should be a last-resort effort to prevent the person in crisis from harming someone else.

I could cite some cases that you are familiar with, but I feel it is unnecessary.

Please reconsider this subject from all points of view. Help to stop the unnecessary deaths of these needy citizens.

Thank you for your consideration,

Catherine Trainque  
23 Pike St.  
Barre, VT 05641

## Press Releases

### Vermont Attorney General's Taser Forum

CONTACT: William H. Sorrell, Attorney General, 802 828-3171

**March 11, 2013**

The Panel convened by the Attorney General to consider Vermont law enforcement's use of tasers will accept written comments until March 25, 2013. Please send any comments to [atginfo@atg.state.vt.us](mailto:atginfo@atg.state.vt.us) or to Taser Forum Comments c/o Office of the Attorney General 109 State St., Montpelier VT 05609.

Click to view the [taser policies](#) for VSP, UVM Police Services, the Burlington Police Department, and the [Vermont League of Cities and Towns](#).

## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Friday, March 22, 2013 12:46 PM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Tasers for Vermont Police

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**From:** Ferrell, Deb [<mailto:Deb.Ferrell@state.vt.us>]  
**Sent:** Friday, March 22, 2013 11:52 AM  
**To:** Mary-Kay Swanson  
**Subject:** Tasers for Vermont Police

I am writing in opposition to the use of tasers by Vermont police. A close relative is currently being treated for PTSD and depression as a result of being tasered by Burlington Police five years ago. He came out of a bar on Church Street the night the college kids returned for the fall semester. There was no confrontation with the police – there were 9 policemen gathered at the lower part of Church Street. He was goofy drunk and is a tall/big guy – they told him to stop. While the first taser brought him to his knees and the second taser rendered him powerless, they tasered him 4 times until he was incontinent, drooling, and unable to move.

I equate this to the trauma a woman feels when raped – the feeling of utter powerlessness and violation.

He was scheduled to leave to begin his 3<sup>rd</sup> year in college the next day in pursuit of an engineering degree. He was on a course to a bright future until this incident. I could rant on about the injustice of this, but will leave you with the image of a young man who lives at home, can't hold a job, can't sleep, can't get up – he was violated and rendered powerless by the police.

I would propose that pepper spray is an effective attention-getter/deterrent. Until the police of Vermont are not populated by bullies, it is criminal to allow them to believe that their "alternative" to a gun is harmless. In this incident, their choice of a taser effectively blew this young man's life/future way off course.

D Ferrell  
[dferrell811@gmail.com](mailto:dferrell811@gmail.com)

## What Is Your Opinion On Tasers?

The Vermont Attorney General's Taser Forum Panel Wants to Know:

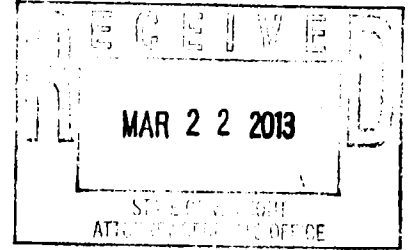
The Taser Forum Panel convened by the Attorney General to consider Vermont law enforcement's use of tasers will accept written comments until Monday, March 25, 2013.

Send written comments to:

E-mail (subject header: Taser Forum Comments): [atginfo@atg.state.vt.us](mailto:atginfo@atg.state.vt.us)

or, submit by postal mail to:

Taser Forum Comments  
c/o Office of the Attorney General  
109 State St. Montpelier VT 05609



*Thank you all,*

*Please open your hearts when reading + thinking*  
**HAPPY Spring.**

For more information, contact:  
William H. Sorrell, Attorney General:  
(802) 828-3171

*Alexis Claine ♀  
895 Salvos  
Huntington VT  
224.0906*

*by 68 year wise OLD  
1 LESBIAN ORGANIZING  
FOR CHANGE.*

*I am glad for this opportunity to speak my heart.*

I AM ALEXIS, 68 years wise and I question from my heart and mind WHY TASERS were ever invented. The only clear answer is HATRED BY MANY who favor such a weapon!

Please ask yourself, would you invite taser guns to be used on you, someone you love, someone you know? Perhaps a human being who is dark skinned, disabled in body or mind - someone 68 years on this earth!

A PERSON with a Badge of permission to use such a disgusting torture device on another - has a gun, probably automatic - perhaps a rifle, a club, handcuffs + other violent weapons - How paranoid + programmed are they, to need more weapons?

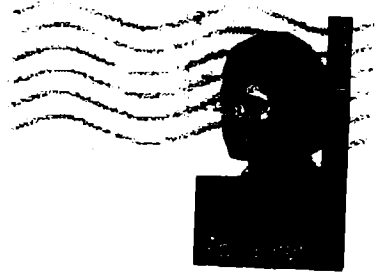
Do these Badge of permission people know how to shoot a weapon of one Bullet to stop, deter, slightly injure another, WITHOUT KILLING THEM?

OUR SOCIETY of "Law + Order" is certainly OUT OF CONTROL.

PLEASE FEEL THIS PERSONALLY. WHEN DECIDING ON taser torture. AS THIS USE IS FORBIDDEN IN MONTPELIER - WHY IS IT NOT FORBIDDEN FOR all of VERMONT? WRONG IS WRONG. ADDICTION to violence against citizens is REALLY deplorable. Respect us - Respect yourself. STOP VIOLENCE NOW.

Alexis

U.S. MAIL  
21 MAR 2013 PM 2 L



Violent taser Awareness  
to our Attorney General BOB  
SORRELL  
109 State ST.  
MONTPELIER 05609  
Vermont

TREAT OTHERS AS YOU  
WANT OTHERS TO TREAT YOU.

WHY ARE SO MANY  
ADVOCATING VIOLENCE

PEACE  
IS  
FEARED  
SO SAD.

WE OUGHT TO BE  
STOPPING VIOLENCE.

WHERE IS OUR  
DECENCY?

## Evan Meenan

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**From:** Mike Barton [mike@sanmik.org]  
**Sent:** Sunday, March 24, 2013 9:47 PM  
**To:** Evan Meenan  
**Subject:** Taser Forum  
**Attachments:** onsite defibrillator.PNG

Forum members,

I think I understand the reason for Taser stun gun use by Vermont law enforcement. This information has been widely disseminated in the press and the Attorney General has made his position crystal clear. However, I don't think potential users of these devices have a sufficient understanding of how and why they work. Stun gun deployment can and has resulted in fatal outcomes. And, it's virtually impossible to foretell who might be fatally affected in a particular circumstance. Because the stated, desired outcome of stun gun deployments is non-fatal, I suggest that each law enforcement officer who has lawful access to a stun gun, also have access to and be trained in the proper use of a single use onsite defibrillator. These devices are inexpensive and can be viewed as insurance against undesirable stun gun outcomes. I've included a picture of a typical onsite defibrillator but there are many others. I'd also like to point out that Taser is a registered trademark of TASER International, Inc.. There's no real reason to provide this corporation with what amounts to free advertising by referring to these devices as Tasers rather than the generic term, stun gun. Also, if this forum had not been held on a work day, in Montpelier which has virtually no available parking, I would have made the effort to attend personally.

Thank you  
Mike Barton

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 25, 2013 7:52 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser policies in Vermont

-----Original Message-----

From: Elizabeth Champagne [mailto:bcham@sover.net]  
Sent: Monday, March 25, 2013 2:06 AM  
To: Mary-Kay Swanson  
Subject: Taser policies in Vermont

RE: Vermont policy on police use of tasers

Police use of tasers, in cases I have learned about, has shown that the taser is being employed in precisely the manner in which the manufacturer directs that it is not to be used: Shooting directly at an individual's chest. It has also been used against mentally ill, epileptic or otherwise disabled individuals to force compliance, even when the individual was incapable of doing as ordered. The taser is employed to enforce the will of the officer. Its use subverts the rule of law and the practice of professional policing. I am opposed to Vermont police using tasers.

I. A taser is not a non-lethal weapon.

Police have tended to use the taser as a means of control. This tendency, I believe, reflects police training and orientation to taking control of situations and of persons. While police may see it as their job to wield authority and to assert control, I believe the job of police is much more than that.

Police need to know how to communicate, especially with disturbed, distraught, or ill individuals who need calm, not orders or threats. (I am recalling a third case in which police demanded that an individual obey their commands, despite the fact that this individual, in his own home, had an illness that rendered him incapable of doing so.)

Firing a taser at a noncompliant, disturbed/disabled person is not only a misuse of the taser but also a violation of human dignity, and of the civil rights of the individual.

Unfortunately, in the Fortunati case (in which State Police killed a mentally ill man in Corinth, after his family called for HELP from police), and in the more recent case of Mason MacAdam in Thetford, police did not demonstrate sophistication around the challenges of communicating with either the families of disturbed individuals or the troubled men in need of help. Fortunati was shot with bullets, and killed, as well as taking two taser shots in the back; MacAdam was killed by a direct shot of a taser into his chest.

II. A taser is not a substitute for competent, professional policing.

Last year, in Randolph, police shot a man in the back with a taser. He was not killed; he was thrown onto the icy pavement when the shock disabled his reflexes and left him stunned. The police, by shooting him in the back with the taser, left him unable even to break his forward fall. Instead breaking his fall with his hands, the man



went into free fall, hitting the pavement face first.

I happen to have had an accident in which I tripped and fell so suddenly that my face hit a stone walkway. Soj, it was easy for mej, on reading the newspaper report of this incident, to imagine the shock and pain this man experienced. The firing of a taser into his back served to humiliate, not to protect public safety, that day. The man was known to have committed nothing but mischief/misdemeanor offenses in the past, had never been known to carry a weapon. He was endangering neither his own or anyone else's life, although he was, if memory serves me rightly, wanted for having failed to appear for some previous minor offense.

This individual was well-known to police, as a resident of the village in this small town. He had no record of no serious offenses, and had never been found to carry a weapon. He was running towards the police station, a block away, across Main St. Had the police no better options than to shoot him in the back, stun him into a free fall, and let him hit the ground face first?

III. What kind of society can withstand the pressures towards becoming a police state?

That question arises, and must be faced, in the course of considering Vermont's policy on police use of tasers.

IV. More and more, states are concluding that it is wrong to kill someone in order to assert that killing is wrong. Vermont, as a state that leads, has the opportunity at this time to reach the conclusion that it is wrong to isolate, shame, and overpower, in order to control, persons whose behavior is concerning.

Violence breeds violence. Civil society exists only to the extent that conflict resolution skills are learned--and skilled, respectful and effective interventions are employed--in relationships. The challenge to us as Vermonters is plain, and it is urgent: We must develop self-control, communication skills, and compassionate hearts.

Bullies violate people whose perceived weakness triggers their own terror. Police need not to be bullies. Police have serious enough challenges in dealing with criminal offenders without dumbing down their profession by substitution the stun gun (aka taser) for the skills, self-control, compassion and respect essential to working in our communities.

V. We now have the opportunity in this state to reject the use of tasers, and to work intensively to strengthen civil society by making social justice our priority.

Elizabeth Champagne  
17 Church St. #8  
St. Johnsbury, VT 05819

## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 25, 2013 7:53 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser Comments

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**From:** bvbernicev [<mailto:bvbernicev@hotmail.com>]  
**Sent:** Sunday, March 24, 2013 5:29 PM  
**To:** Mary-Kay Swanson  
**Subject:** Taser Comments

I oppose the use of tasers and think police should work in pairs, be educated about mental health issues, be trained in de-escalation techniques and involve mental health workers in questionable situations.

Bernice Vogel  
Montpelier

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 25, 2013 7:53 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: taser comments

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**From:** sandy bettis [<mailto:sandyb@pshift.com>]  
**Sent:** Saturday, March 23, 2013 7:54 PM  
**To:** Mary-Kay Swanson  
**Subject:** taser comments

please, please, please do not allow tasers in vt - this is not the kind of (police) state that we want.

sandra bettis  
middlesex

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 25, 2013 7:53 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Citizen Testimony About Tasers

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**From:** Erik Esselstyn [<mailto:erikess@comcast.net>]  
**Sent:** Saturday, March 23, 2013 5:22 PM  
**To:** Mary-Kay Swanson  
**Subject:** Citizen Testimony About Tasers

To Members of the Taser Evaluation  
Committee:

March 23, 2013

While the number of worldwide Taser related deaths continues to climb, the Taser Corporation, like the tobacco companies of an earlier era, will vigorously assert that no study has proved definitively that being shocked by a Taser is the precise cause of death. While hiding behind that painful logic about the lethality of the Taser, the company does recommend that the Taser not be used against the mentally disturbed, pregnant women, and people with cardiac problems.

Keep in mind that swift recognition of a mentally disturbed individual, a pregnant woman, or a person with heart problems is virtually impossible except in the most glaring circumstances. Many cardiac studies point to wide spread measurable heart problems in all the adult US population. Therefore, one must accept that in most instances of Taser use the safety recommendations of the manufacturer are violated. Who among the most highly trained law enforcement officer can accurately assess whether a potential Taser target is emotionally disturbed, newly pregnant, or close to a heart episode? Clearly, any fair minded assessment must therefore accept that most Taser use fails to meet the clear warnings of the manufacturer.

In the face of persistent high pressure marketing by the Taser Corporation and despite the mounting tally of Taser related fatalities, more and more law enforcement agencies have adapted Tasers. And in the Federally funded march toward militarization of local police forces the Taser stands as just one gadget of the armored officer wearing leg guards, body armor, face shields, and neck guards and armed with pepper spray, long batons, tear gas, pistols, and assault weapons – and, of course, badge and name plate covers. The gains of neighborhood policing, the approach of winning the trust of the community, have been largely thrust aside by the fear and intimidation generated by such shock and awe posturing.

The brutal law enforcement crushing of the nation's Occupy Wall Street movement, tightly coordinated by Homeland Security, leaves many citizens fearful and dismayed. Why a bunch of college grads concerned about jobs need to have their heads bashed, their laptops destroyed, their faces pepper sprayed at point blank range, and their aid tents torn down at three in the morning forms a question that directly relates to Taser use. Must our momentum toward a police state with every phone call, letter, and web contact open to warrantless surveillance and every police force arming like modern day gladiators draw Vermont law enforcement into a vortex of similar behavior?

Barre officers Tasered an uncooperative bag lady and a knapsack toting hiker. Brattleboro police Tasered, multiple times, protesters chained to a bench. And a Vermont State Police officer Tasered a man who collapsed and died after being struck. Clearly, if Vermont is to go forward with Taser equipped officers, protocols about Taser use and back up policies must be clarified and then included in recurrent training. It is my understanding that a Vermont police officer undergoes an initial three week training program. And that three week instruction, apart from firearms renewal, endures for the remainder of an officer's working life. In a state where barbers, hair stylists, and transmission mechanics must undergo thousands of hours of training and regular recertification, it seems hauntingly obvious that officers armed with lethal weapons and facing fast changing dangerous encounters might deserve similar high training standards.

Every Vermonter basks in the Vermont *brand*, that image of green pastures, verdant mountains, and a civil society where reasoned deliberation and respect for your neighbor rule the day. I am not the only Vermonter who gasped in disbelief when demonstrators in Burlington were fired upon by local law enforcement. I do not believe that the peace of civil society, the citizens' sense of safety, or the respect for law enforcement is helped in any way by Taser equipped officers. What gets eroded the most - bit by bit - in the senseless indiscriminate use of lethal force is a most important yet intangible reality of that Vermont *brand*, a long standing and hard won respect for law and order.

Respectfully submitted,

Erik C. Esselstyn

Erik Esselstyn  
2850 Route 14 N  
Plainfield, VT 05667  
802-454-7306

[erikess@comcast.net](mailto:erikess@comcast.net)

## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 25, 2013 7:54 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Tasers

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**From:** Elisabeth Hebert [<mailto:mondfrau.ast@gmail.com>]  
**Sent:** Saturday, March 23, 2013 1:55 PM  
**To:** Mary-Kay Swanson  
**Subject:** Tasers

Tasers are seen as „harmless“ weapons to help Police officers who didn't get enough training to begin with to subdue obnoxious people. Being obnoxious is not a case for the death penalty and there have been a few death already reported. Even a well trained officer doesn't know if the person he's aiming at has a for example a pacemaker or any other of the many conditions that would make the use of the taser lethal.

Don't let the police use them and don't allow the sale at the public market.

*Elisabeth Hebert*

*204 Union St., Apt.1, Northfield, VT*

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Wednesday, March 13, 2013 9:58 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser Forum  
**Attachments:** stinson.etal.police.crime.and.less.than.lethal.force.2012.pdf

Received last night.

MK

-----Original Message-----

**From:** Theodore Hoppe [<mailto:dustproduction@gmail.com>]  
**Sent:** Tuesday, March 12, 2013 11:21 PM  
**To:** Mary-Kay Swanson  
**Subject:** Taser Forum

Hello,

My name is Theodore A Hoppe. I was one of the people providing public comments to the Taser Forum. My comments were from this research paper that I am submitting for the panels review.

Thank You,

Theodore A. Hoppe

Running head: The Criminal Misuse of TASERs

**Police Crime & Less-than-Lethal Coercive Force:  
A Description of the Criminal Misuse of TASERs**

**Philip Matthew Stinson, Sr.**

**Bowling Green State University**

**Bradford W. Reynolds**

**Weber State University**

**John Liederbach**

**Bowling Green State University**

Author Note

Philip Matthew Stinson, Sr., Criminal Justice Program, Bowling Green State University.

Bradford W. Reynolds, Department of Criminal Justice, Weber State University.

John Liederbach, Criminal Justice Program, Bowling Green State University.

Correspondence concerning this article should be addressed to Philip M. Stinson, Sr.,  
Criminal Justice Program, 223 Health Center, Bowling Green State University, Bowling Green,  
OH 43403-0148 USA. E-mail: [stinspm@bgsu.edu](mailto:stinspm@bgsu.edu)

**Cite as: Stinson, P. M., Reynolds, B. W., & Liederbach, J. (2012). Police crime & less-than-lethal coercive force: A description of the criminal misuse of TASERs. *International Journal of Police Science and Management*, 14(1), 1-19. doi:10.1350/ijps.2012.14.1.237**

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## The Criminal Misuse of TASERs

### Biographical Sketches

**Philip Matthew Stinson, Sr., J.D., Ph.D.**, is an assistant professor in the Criminal Justice Program at Bowling Green State University. His research interests include the study of police crime and police misconduct. Recent articles of his have been published in *Criminal Justice Policy Review*, *Police Quarterly*, and *The Prison Journal*.

**Bradford W. Reynolds, Ph.D.**, is an assistant professor in the Department of Criminal Justice at Weber State University. His research primarily focuses on victims of crime, especially the intersection of technology and victimization, and opportunities for victimization. His articles have appeared in *Crime Prevention & Community Safety*, *Youth Violence and Juvenile Justice*, and *Police Quarterly*.

**John Liederbach, Ph.D.**, is an associate professor in the Criminal Justice Program at Bowling Green State University. His primary research interests include the study of police behavior across community types, suburban and rural policing, and white collar crime. He has published in numerous journals, including *Justice Quarterly*, *Police Quarterly*, *Policing: An International Journal of Police Strategies and Management*, and *Criminal Justice Review*.

**Police Crime & Less-than-Lethal Coercive Force:  
A Description of the Criminal Misuse of TASERS**

**Abstract**

This study explores and describes the nature and character of cases that involve the criminal misuse of TASERS by police officers through a content analysis of newspaper articles. The news-based content analysis identified 24 police officers who were arrested for crimes that involved inappropriate use of TASERS over a 65 month period from January 2005 through May 2010. Data on these cases are presented in terms of: a) the arrested officer, b) victim characteristics, and c) the situational context of these events. The news-based content analyses were used to identify and describe some factors that were common among these events, especially in regard to the actions and motivations of the arrested officers and how the situational context appeared to influence the criminal misconduct of officers. The findings indicate that the cases examined did not involve much, if any, situational risk to the officer. The criminal misuse of TASERS seems more likely to involve suspects who are already handcuffed, or even citizens who are clearly not criminals at all.

*Keywords:* angry aggression theory, coercive force, conductive energy devices, less-than-lethal force, police crime, police violence, TASER

**Police Crime & Less-than-Lethal Coercive Force:****A Description of the Criminal Misuse of TASERs**

Crimes committed by police officers are by their nature special and deserving of scholarly attention because the law affords police unique rights and responsibilities, including the legal authority to use coercive force, specialized training, and access to weapons not available to ordinary citizens. The position also provides unique opportunities for misconduct and crime, including the use of excessive force against suspects and other citizens, the provision of false courtroom testimony, opportunistic thefts, and "shakedowns" of vice criminals and racketeers. There have been very few studies that provide specific data on the nature and prevalence of police crime, but some scholars have broached the topic within the context of more general studies on police corruption or misconduct (see, e.g., Foster, 1966; Fyfe & Kane, 2006, Reiss, 1971; Ross, 2001).

One aspect of police work that creates unique opportunities for crime is the issuance of special weapons such as conductive energy devices, or CEDs. CEDs have been adopted by law enforcement agencies across the globe because they offer a "less-than-lethal" method for gaining control of suspects (Heal, 2000; Trostle, 1990). The most popular brand of CED is the TASER<sup>®</sup>, which is an acronym for Thomas A. Swift Electric Rifle. The United States Government Accountability Office (2005) estimated that over 7,000 law enforcement agencies in the United States use the TASER, with over 140,000 units issued. More recent industry sources indicate that as many as 11,500 law enforcement agencies utilize CEDs, with the TASER X26 being the preferred model (Amnesty International, 2008).

Research on the use of TASERs shows that they can be used effectively to subdue and control dangerous suspects and reduce injuries to both suspects and police officers (Harris, 2009;

Taylor, 2009; White & Ready, 2007). Similar to other types of weapons such as firearms, batons, or metal flashlights, CEDs can also be used excessively and/or inappropriately. Popular media accounts provide anecdotal evidence regarding the criminal misuse of TASERs by police, including cases that resulted in significant injuries and even deaths to suspects and others (Amnesty International, 2008; White & Ready, 2007); but, we are not aware of any existing empirical research on the criminal misuse of TASERs by police officers.

More data on the criminal misuse of TASERs by police would benefit scholars, police organizations, and the general public. First, more data would provide a modicum of empirical evidence to public discourse on a topic that has become increasingly controversial and inflammatory. The University of Florida TASER incident that involved a student protestor at a political rally for US Senator John Kerry has become a well-worn cultural icon (Hesse, 2007; Nizza, 2007). More recently, Amnesty International published a widely-cited report on the death of 334 persons after being shot with a CED by police (Amnesty International, 2008). These and other highly-publicized sources have increased the public profile of TASER cases; but, the productivity of the ensuing debates has thus far been limited by the absence of sufficient empirical data.

Studies on the criminal misuse of TASERs by police could also inform policy and research. The debate regarding the most effective means to control excessive force and brutality has been increasingly influenced by the development of so-called less-than-lethal technologies including TASERs. These technologies have been touted as providing a safe and effective non-lethal option for incapacitating dangerous suspects (Heal, 2000). The introduction of these weapons has also led to the emergence of some significant problems in regard to safety and the degree to which they may expand the scope of police liability in use of force incidents (Bowling,

Gaines, & Petty, 2003). An officer who chooses to use less-than-lethal alternatives including TASERs can still be sued and accused of using excessive force (Dorsch, 2001). Police organizations have thus far been forced to enact policies designed to govern the use of TASERs and other less-than-lethal weapons absent adequate empirical data and evidence regarding how these weapons can be misused. Research that provides information on arrested officers, their victims, and the context surrounding these crimes could help to develop more effective user guidelines and training to prevent future events.

The purpose of the current study is to explore and describe the nature and character of cases that involve the criminal misuse of TASERs by police through a content analysis of newspaper articles. The news-based content analyses identified 24 police officers who were arrested for crimes that involved the criminal misuse of TASERs over a 65 month period from January 2005 through May 2010. Data on these cases are presented in terms of: a) the arrested officer, b) victim characteristics, and c) the situational context of these events. The news-based content analyses were used to identify and describe some factors that were common among these events, especially in regard to the actions and motivations of the arrested officers and how the situational context appeared to influence the criminal misconduct of officers. The section that follows includes a review of the relevant literature, including an overview of prior research on the use of CEDs and the police use of force more generally. The latter part of the section focuses on research that describes how psychological factors may influence the excessive use of force by police; a line of research that could be used to infer some correlates associated with the criminal misuse of TASERs.

### **Police Use of Force & CEDs**

A number of key issues converge within the context of CED deployments, including the need to define and distinguish CEDs, the manner in which they operate, and the factors that may influence police decisions to deploy them. A number of key legal issues surrounding the use of CEDs have also emerged in regard to when and how they are deployed, and under what conditions their use should be defined as "excessive." Finally, the criminal misuse of CEDs needs to be considered within the context of the more general literature on police violence. This line of research suggests that police violence may be associated with particular situational and psychological factors.

The CED—also commonly referred to as a "stun gun"—has recently become a popular tool in the police arsenal (Adams & Jennison, 2007). These devices offer a less-than-lethal alternative to firearms by allowing officers to temporarily incapacitate dangerous suspects with an electrical shock. The most popular models used by police are the TASER International brand M26 and X26 models. These CEDs are shaped like a handgun and use nitrogen cartridges to fire two barbed projectiles into the target, delivering an electrical current that temporarily overrides the suspect's motor and sensory functions, and thereby temporarily incapacitating the individual (Cronin & Ederheimer, 2006). These particular models can incapacitate targets from up to 35 feet away and penetrate up to one-inch of clothing when they are used in "probe mode." TASERs can also be used at close range in "drive-stun mode" by pressing the barbs directly against the suspect's body.

Prior research surrounding police use of CEDs has generally focused on the decision to deploy (Gau, Mosher, & Pratt, 2010; Sousa, Ready, & Ault, 2010), the degree to which they are effective as a less-than-lethal tool (Jenkinson, Neeson, & Bleetman, 2006; White & Ready, 2007,

2010), policy implications (Bunker, 2009; Smith, Petrocelli, & Scheer, 2007), and potential harms to victims (Levine, Sloane, Chan, Dunford, & Vilke, 2007; White & Ready, 2009). We are aware of no published empirical studies that specifically examine police use of TASERs within the context of police misconduct, police violence, or police crime.

Police scholars have examined the factors that influence the use of force more generally since the 1960s, and quantitative studies have focused on the relationship between police force and a wide range of predictors including situational, individual, organizational, and community-level variables. Of these, situational, organizational, and community-level factors have all been found to influence the decision to use force (Riksheim & Chermak, 1993; Sun, Payne, & Wu, 2008). Most studies have focused on the influence of situational factors in determining use of force and other coercive behaviors, most notably the impact of suspect demeanor (Sun, Payne, & Wu, 2008). Overall, virtually all studies that compare situational factors to others such as officer, organizational, and community-level factors have found that situational factors exert the most powerful influence on the decision to use coercive force (Skogan & Frydl, 2004).

Data have not been sufficiently gathered to identify significant correlates or determine the relative influence of these factors on the specific decision to deploy TASERs; however, the small number of studies that have focused on TASERs suggests that decisions to deploy them may be influenced by the same factors known to influence police use of coercive force more generally. These studies emphasize the influence of situational factors on police decisions to deploy TASERs. Gau et al. (2010) for example found that police decisions to use CEDs are primarily driven by the suspect's resistance to police (both active and assaultive) and to a lesser degree by extra legal factors including suspect and officer race. Sousa, Ready, and Ault (2010) conducted a randomized field training experiment that controlled for levels of suspect resistance to examine

police decisions to use the TASER as a less-than-lethal alternative. They found that officers preferred to use the TASER over either the baton or pepper spray when they confronted physical resistance from suspects, even in cases that involved potentially lethal threats (Sousa, et al., 2010). The existing research also provides evidence in regard to the effectiveness of CEDs as a less-than-lethal tool to subdue criminal suspects. White and Ready (2007) examined all TASER deployments by officers in a large police department over a three year period. They reported that TASERs were primarily deployed against violent suspects, and that TASER use resulted in 85% of suspects being taken into custody without further incident (see also, e.g., Ready, White, & Fisher, 2008; Taylor, 2009). Likewise, another recent study shows that CEDs rank among the most commonly used less-than-lethal tool while the use of batons and empty-hand tactics are becoming less common (Taylor, Alpert, Kubu, Woods, & Dunham, 2011).

### **CEDs & the Use of Force Continuum**

A use of force continuum is a representation of various force options designed to develop understanding of appropriate levels of force, in particular lower levels of force including verbal commands, physical controls, and non-lethal weapons (Walker, 2005). There are no common standards or agreements on how to define CED deployment in terms of the use of force continuums enacted by police agencies across the United States (Adams & Jennison, 2007; United States Government Accountability Office, 2005). In a survey of 40 law enforcement agencies, Amnesty International (2008) found that most of the agencies surveyed have policies stating that officers are allowed to use CEDs when they are faced with “active resistance” to a lawful attempt at control (p. 12). Many law enforcement agencies—and some federal court decisions—locate CEDs on the same level in the use of force continuum as Oleoresin Capsicum (OC) pepper spray and other less-than-lethal weapons (see, e.g., *Lewis v. Downey, et al.*, 2009, p.



476; *San Jose Charter of Hells Angels Motorcycle Club, et al. v. City of San Jose, et al.*, 2005, p. 969, n. 8).

The United States Court of Appeals for the Ninth Circuit recently held that CEDs constitute an “intermediate, significant level of force that must be justified by a strong government interest that *compels* the employment of such force” [emphasis in original] (*Bryan v. McPherson, et al.*, 2009, pp. 774-775). The court reasoned that “non-lethal” law enforcement weaponry is not a “monolithic category of force” because (a) “a blast of pepper spray and blows from a baton are not necessarily constitutionally equivalent levels of force simply because both are classified as non-lethal” and (b) “the physiological effects, the high levels of pain, and foreseeable risk of physical injury [associated with the TASER] X26 and similar devices are a greater intrusion than other non-lethal methods of force” typically used by police officers (p. 774). Thus, at least in the Ninth Circuit, federal courts must now evaluate the nature of the specific force employed in a specific factual situation rather than relying on broad characterizations in the force continuum in reviewing a CED-related claim of excessive force.

#### **Police Use of Force, Violence & CEDs**

The authority to use force is an important part of police work (Bittner, 1978; Klockars, 1985; Reiss, 1971). Police officers are tasked with upholding the law and apprehending those who break it, in some situations exercising broad discretionary powers to do so (Davis, 1971). According to Sherman (1980), police use of physical force is synonymous with police violence, defining police violence as behavior by any police officer—acting pursuant to their authority and/or power as a sworn law enforcement officer—that includes any use of physical force (including, but not limited to, the application of deadly force), whether justified or unjustified, against any person. Based on Sherman’s definition, explanations for police violence in the

existing literature have been quite varied (e.g., Alpert & MacDonald, 2001; Garner, Maxwell, & Heraux, 2002; Griffin & Bernard, 2003; Lersch & Mieczkowski, 2005; Manzoni & Eisner, 2006; Terrill & Mastrofski, 2002; Terrill, Paoline, & Manning, 2003; Terrill & Reisig, 2003). Since we examine cases where police officers were arrested for the criminal misuse of TASERS, the most important correlates influencing the use of force by police for purposes of the current study are situational factors including the level of resistance offered by the suspect and psychological factors including individual levels of officer stress and anger.

Certain situational factors seem to elicit violent police responses during citizen encounters. Police are more likely to engage in violence and use coercive force in encounters that include physically aggressive suspects and citizens who resist officer attempts to control the situation. Researchers have most often investigated the influence of situational factors in cases that involve the use of deadly force by police (e.g., Alpert & Smith, 1999; Binder & Scharf, 1982; Blumberg, 1983; Fyfe, 1981). This line of research has primarily emphasized the direct relationship between the level of situational risk faced by an officer and the specific decision to employ deadly force. Situational risk refers to the immediate scenario within which police must decide to shoot or not shoot. Did the suspect assault the police? Was the suspect armed? Did the suspect shoot at police? These situational factors appear to explain the use of deadly force more directly than other variables. Terrell's (2003) research based on observational data suggests that situational factors are also the primary determinants of the use of non-deadly force by police. He examined the relationship between five levels of suspect resistance (none, passive, verbal, defensive, and active), and four levels of non-lethal force (none, verbal, restraint, and impact) and found that force levels were significantly related to levels of suspect resistance. Overall, this

line of research suggests that situational factors should be among the most influential factors determining the deployment of CEDs and other less-than-lethal weapons.

Research also highlights the importance of psychological factors in explaining the use of excessive force and police violence (Anderson & Lo, 2011; Griffin & Bernard, 2003; Kop & Euwema, 2001; Kop, Euwema, & Schaufeli, 1999; McCarty, Zhao, & Garland, 2007). Policing has been described as a particularly stressful occupation because the work inherently involves dangerous situations, disturbing crime scenes, and stress-inducing bureaucratic rules (Brandl & Strohline, 2003). Police scholars have long recognized the link between occupational stress and a host of negative outcomes and attitudes including job burnout, poor health, absenteeism, alcoholism, and more favorable officer attitudes toward the use of violence against citizens (Gershon, Lin, & Li, 2002; Goodman, 1990; Violanti, 2004).

Angry aggression theory offers one possible explanation for the effects of stress on police violence (Bernard, 1990). Officers under stress often do not have the capability of responding to the sources of that stress, leading to an increased perception of threats and increased aggressiveness in responses to perceived threats (Griffin & Bernard, 2003). In other words, “police officers should tend to see threats more frequently and to respond to threats more aggressively than do other people” (p. 4). When this situation is coupled with the inability to respond to the sources of stress and feelings of social isolation, officers may become more likely to transfer their aggression to nearby targets including suspects, spouses, and any other type of citizen who finds themselves unlucky enough to encounter them (cf. Anderson & Lo, 2011). Studies that describe cases of brutality in terms of angry aggression theory parallel some of the classic scholarship on police socialization and culture, wherein the exercise of force and violence becomes a "righteous" and culturally-accepted behavior used to respond to the inherent dangers

and expectations of police work (Crank, 2004, pp. 97-112; Manning & Van Maanen, 1978; Skolnick, 1994; Westley, 1970). Likewise, angry aggression theory may provide a basis for understanding how job-induced stressors can lead to cases of brutality, in particular those that involve the criminal misuse of TASERS and other types of CEDs.

### **Method**

We sought to locate news articles reporting cases in which sworn law enforcement officers had been arrested for one or more criminal offenses involving the misuse of a CED. Articles for this study were assembled from our unique digital imaging database of news articles reporting criminal arrests of police officers within the United States. The primary source for the articles in our database was the internet-based Google News search engine and its Google Alerts notification tool. Google News is a computer-generated news site developed and operated by Google that aggregates news articles from several thousand news sources (Google, 2008). We used the Google News search engine in conjunction with the Google Alerts tool to locate news articles using 48 different search terms. The Google Alerts tool sends an automated email message that notifies the user whenever the daily search identifies a news article that matches the search terms. The automated alert contains a link to the URL for the designated news article. Articles were located and examined for relevancy, printed, and archived for subsequent coding and content analyses. Google Alerts commonly identified news articles that reported on events that occurred after an officer's arrest, including various court proceedings such as plea bargains, adjudications, appellate court opinions and orders, and/or the subsequent arrest(s) of the same officer(s) in different criminal cases. These articles provided additional data on the arrested officer(s), victim(s), the offense(s), and/or the disposition of the case.

Our database includes news articles describing the arrests of officers during 2005-2010. The 2005-2007 news articles were previously scanned into tagged image file format (TIFF) files, uploaded, and indexed in OnBase, a digital imaging management (DIM) system that provides document digitizing, storing, organizing, and retrieving capabilities. The 2008-2010 news articles were scanned into portable document format (PDF) files but not yet uploaded and indexed in OnBase. The TIFF dataset includes digital images of 11,222 pages of news articles regarding 2,119 cases involving 1,746 sworn law enforcement officers employed by 1,047 state and local (nonfederal) law enforcement agencies representing all 50 states and the District of Columbia who were arrested during the period of January 1, 2005, through December 31, 2007. The PDF dataset includes digital images of 8,119 pages of news article printouts on an unknown number of cases involving sworn law enforcement officers arrested during the period of January 1, 2008, through May 31, 2010.

We searched a total of 19,341 pages of digital images in the combined database of both datasets on the keywords "TASER," "stun," and "stun gun" using the optical character recognition (OCR) capabilities of OnBase 7.2.1 for the TIFF files and those of Adobe Acrobat Professional 9.0 for the PDF files. In the end, news articles relating to 24 sworn law enforcement officers who were arrested during 2005-2010 for one or more crimes involving the misuse of a CED were identified in the database for the instant analysis. Triangulation of data source materials was used to reduce any potential threats to validity in the accuracy of content in the news articles; in most cases there were more than one news article about the incident/arrest previously archived in our database.

Next, we used QSR NVivo 8.0 to facilitate qualitative and quantitative analyses of the content in the news articles. A new case was created in a project-specific environment within the

NVivo application for each individual officer who had been arrested for the misuse of a CED. We then uploaded PDF versions of all of the relevant news articles into NVivo, and sorted them into the appropriate case as “internals” (that is, raw data that are primary sources) within the project area. Coding of the case-specific content involved a two-step process of reading each article and creating, identifying, and tagging “attributes” (i.e., demographic content coded as variables) and “free nodes” (i.e., stand-alone inductively coded content gathered by topic that do not easily fit within a hierarchical structure) for each of the 24 cases within the NVivo project environment. The content coding process resulted in recording data on 15 attributes and tagging content with 20 nodes for our analysis. The quantitative data were then imported into SPSS for calculation of descriptive statistics and cross-tabulations.

### **Strengths & Limitations of the Data**

Our research is within the “newsmaking criminology” paradigm (Barak, 1988, 1995). According to Barak (2007), newsmaking criminology “refers to the conscious efforts and activities of criminologists to interpret, influence or shape the representations of ‘newsworthy’ items about crime and justice” (p. 191). Studies in newsmaking criminology most commonly involve the analysis of news content to gain knowledge about the nature of crime-related media coverage, but news content can also provide valuable information on the nature of the criminal behavior that underlies the media coverage (see, e.g., Beard & Payne, 2005; Denton, 2010; Morris, 2010; Payne, Berg, & Sun, 2005; Payne & Gainey, 2003; Ross, 2000). For our purposes, Google News provided an unparalleled amount of information on CED-related crimes committed by police officers employed by law enforcement agencies across the United States.

Google News is fast becoming the preferred method to conduct news-based content analyses (Carlson, 2007). Since its inception in 2002, Google News has been used to conduct

content analyses of news coverage on a wide range of topics including TASER lawsuits (Adams & Jennison, 2007), human trafficking (Denton, 2010), and a variety of medical and public health-related topics (e.g. Freifeld, Mandl, Reis, & Brownstein, 2008; Lee, Barr, Catherine, & Wicks, 2007; Anema et al., 2010; Seifter, Schwartzwalder, Geis, & Aucott, 2010). Google News also offers some clear advantages over other aggregated news databases (e.g., Dialog<sup>®</sup>, Factiva<sup>®</sup>, LexisNexis<sup>®</sup>) (Cunningham, 2005; Ferguson, 2005; Galbraith, 2007; Ojala, 2002). Google News incorporates Google's automated search algorithms that are the current industry standard. The Google News search engine includes content from over 50,000 news sources (Bharat & Beckmann, 2010). It offers more up-to-date stories since it crawls the internet every 15 minutes and appears to be more likely to locate stories that have not been picked up by news wire services. Finally, the search engine provides multiple links to related news content, so if a particular story provides insufficient information it is relatively easy to locate more relevant news sources. Google does not however provide a publicly-available list of news sources. Google defines the source list as proprietary information that is kept confidential in order to protect the company's competitive interests.

There are four primary limitations of these data. First, our research is limited by the content and quality of information provided on each case. The amount of information on each case varied, and data for some of the variables of interest were missing for some of the cases. Second, it should be recognized that the data are limited to cases that involved an official arrest. We do not have any data on cases of police crime that did not come to the attention of police, nor do we have information on cases that did not result in an arrest. Third, our analyses are limited by the relatively small number of cases identified in the news media. Finally, it should be recognized that these data are the result of a filtering process that includes the exercise of

discretion by media sources in terms of both the types of stories covered and the nature of the content devoted to particular stories (Carlson, 2007). As such, the potential for media bias is a primary concern associated with research using media accounts of TASER incidents because media representations of these events could differ from actual TASER use. White and Ready (2009) however provide compelling evidence as to the accuracy of news accounts in regard to stories focused on the coercive use of TASERs by police. First, research suggests that police organizations are not very effective in "controlling the media message" in events that involve police use of force in general (Chermak, McGarrall, & Gruenewald, 2006; Tuch & Weitzer, 1997). Second, research that compares news reports and official police records on events that specifically involved TASER deployments has found noteworthy "consistencies across data sources with regard to many suspect and incident-related characteristics" (Ready, White, & Fisher, 2008, p. 163). These points do not remove concerns in regard to media bias in this line of research; however, they do provide empirical evidence in support of their accuracy and the degree to which they may be insulated from organizational and other media-based biases.

### **Results**

The news searches identified 24 sworn law enforcement officers who were arrested for one or more crimes involving the misuse of a CED. The news reports for all of the cases specifically mention the TASER as the type of CED employed by the officer arrested; no other brand of CED was mentioned in any of the articles. Tables 1 and 2 provide univariate descriptive statistics on the officers arrested and their agencies.<sup>1</sup> The majority of the officers arrested were males (95.8%) between the ages of 32 and 47 (84.2%). Most held a nonsupervisory rank (83.3%) (i.e., officer, trooper or deputy) and had three or more years of experience (78.9%). Three-fourths of the crimes occurred while the arrested officer was on-duty.



Most of the officers arrested were employed by municipal police departments (75%) or sheriff's offices (16.7%). None of the officers were employed by a special law enforcement agency (e.g., park police, university police, or tribal police). Over one-half of the cases involved officers employed by an agency located within the Southern region of the United States (54.2%), and most of the remaining cases involved officers in either the Midwestern (20.8%) or Western (20.8%) regions. Only one case happened in the Northeastern region (4.2%). The CED-related crimes occurred in 14 states, with Florida ( $n = 5$ , 20.8%), Michigan ( $n = 3$ , 12.5%), Texas ( $n = 3$ , 12.5%), Colorado ( $n = 2$ , 8.3%) and Louisiana ( $n = 2$ , 8.3%) represented most often.

<<< Insert Table 1 and Table 2 about here >>>

Univariate descriptive statistics on criminal charges and final employment sanctions are presented in Table 3. The majority of the officers arrested were charged with assault-related offenses ( $n = 20$ , 83.5%). Half of the officers arrested were charged with misdemeanor offenses (e.g., harassment, simple assault), and half were charged with felony offenses. The most commonly-charged felony was aggravated assault, although one officer was charged with non-negligent manslaughter and another was charged with aggravated sexual assault. The aggravated sexual assault case involved an officer who held a TASER to his victim's leg while he raped her. Over one-half of those arrested (59.1%) ultimately lost their job as cops through either resignation or termination, and all but one of the officers were at least temporarily removed from street duty and either suspended and/or placed on administrative leave or modified duty immediately following the incident. Data on court dispositions were available for 18 of the cases. Criminal convictions were the result in eight cases. There were four cases that resulted in an acquittal by a jury trial, and in five cases criminal charges were eventually dropped by the prosecution. The remaining case ended before trial upon the officer's death by suicide.

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Table 4 presents data on the situational context of the cases, including information on specific locales, other circumstances of the events, and the victim's relationship to the arrested officer. These cases occurred in a variety of different locales, including on a public street ( $n = 4$ , 16.7%), parking lots ( $n = 2$ , 8.3%), and inside a high school classroom ( $n = 2$ , 8.3%). Six cases occurred on or within police property, either inside a police cruiser ( $n = 4$ , 16.7%) or at the stationhouse ( $n = 2$ , 8.3%). Four cases occurred inside the home of the arrested officer. The majority of cases occurred after an officer shocked someone with their TASER ( $n = 17$ , 70.8%) in either the drive-stun mode ( $n = 9$ ) or the probe mode ( $n = 8$ ). The remaining seven cases involved cops who only threatened to stun the victim with a TASER. The victims assumed a variety of different roles, but they were most often handcuffed criminal suspects ( $n = 7$ , 29.2%). Many of the cases involved victims that likely maintained close relationships with the arrested officers, including those who were wives and girlfriends ( $n = 3$ , 12.5%) or friends of the officer's wife ( $n = 3$ , 12.5%). Three of the cases involved officers who illegally tased other cops.

The victim was female in six (25%) of the cases, including one case where an off-duty officer shot his 15 year-old step-daughter in the eye with a TASER, and one case where an on-duty male officer allegedly shot his female partner with a TASER during a dispute about whether to stop and buy a soft drink prior to returning to the police station. This case occurred while the victim was engaged in *driving* the police cruiser. All of the incidents that occurred while the arrested officer was off-duty involved some form of domestic/family violence, and one-third of those cases ( $n = 2$ , 33.3%) involved an intoxicated off-duty officer armed with a TASER. Two cases that involved off-duty cops occurred when the officers tased their female spouse or girlfriend after they were discovered *in flagrante delicto* with another man.

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The news articles concerning some of the cases included direct quotes ascribed to the arrested officer that could be described as "violent ultimatums" (see, e.g., Athens, 1977; Goffman, 1967, 1969). These phrases were identified using content that made reference to: a) the agitated emotional state of the speaker, and b) conditional verbal demands whose rejection would bring about a resort to forceful and/or violent action. These statements most often accompanied or immediately preceded the officer's CED assault. In one such case, an officer admitted that he "might" have prefaced his TASER attack on an innocent homeless man as he stood in a church parking lot with the command, "*Don't move or I'll blow your brains out.*" In another case involving a violent ultimatum the victim reported that the off-duty officer—her estranged husband—pressed a TASER to her leg as he raped her and said, "*You picked a good day to die.*" In a third example, witnesses reported that an officer walked up to another officer's police cruiser, opened the car door, and addressed the handcuffed suspect in the back seat before he attacked the man using a TASER, "*Next time don't run from the police.*"

The narratives in some articles also vividly describe the conduct of out-of-control officers as they engaged in a manner of violence that Bernard (1990) and Griffin and Bernard (2003) would likely describe as products of occupationally-derived "angry aggression." For example, in the case of the homeless man standing in the church parking lot, an article reports that a state investigation found that the officer "fired a TASER [at the homeless man] until it ran out of power, then hit the man with a baton and punched him so hard it crushed bones in his face." In another case it was reported that an officer "repeatedly (nine times) shock(ed) a handcuffed black suspect...with a 50,000-volt TASER..." until he died of a heart attack. The narrative in another

case describes a suspect who was “handcuffed and put in the police car where [the officer] used his stun gun on him after he repeatedly refused to give his correct name.”

There were also cases where off-duty cops engaged in violence associated with the criminal misuse of a TASER. In one such instance, a narrative reported that a deputy sheriff pushed his wife “onto a bed, then took a TASER from his [ ... ] Sheriff’s Office duty belt and used the weapon on her stomach, causing TASER burns ... and then held his gun to her head.” In another case an off-duty police officer arrived home to find his wife in the bedroom engaged in a “consensual physical encounter” with an off-duty deputy sheriff. The officer drew his service pistol on the naked deputy, whereby the officer’s “wife intervened and urged her husband not to shoot.” In deference to his wife’s request, he “reportedly put his gun away but shot [the man] with a stun gun twice.”

Some of the cases included officer behavior that indicated "foolishness," or actions initiated on the basis of folly or a clear lack of judgment. The term appeared in the narratives on some of the cases as a direct quotation of contemporaneous statements made by victims or other witnesses to these crimes. For example, the narrative on one case reported that a deputy sheriff working at a high school career fair acquiesced to the pleas of teenagers to be stunned with the deputy’s TASER. According to the Sheriff, the deputy “foolishly agreed.” He then demonstrated use of the weapon by deploying his TASER in the drive-stun mode on 34 students attending the career fair. One case involved a cop who playfully stunned a fellow officer as they caroused after roll-call. In another case characterized as "foolish" by the victim, an officer stunned a Waffle House restaurant waiter with a TASER after the officer was repeatedly chided by two other officers at the table to "tase" him if he “picked a song they didn’t like on the jukebox or when telling him not to mess up their order.” The officer who attacked the waiter

was arrested for misdemeanor battery and violating his oath and the other officers resigned from the department in lieu of termination. A fourth officer from the same department was also investigated for allegedly pointing his TASER at the same waiter's groin during an earlier incident at the Waffle House.

### **Discussion**

Police crimes can result in considerable damage to police legitimacy, occupational integrity, and the public image of police. Despite the potential for significant negative fallout, surprisingly little is known about the crimes committed by police officers. There are no comprehensive statistics available on the phenomenon, and no government entity collects data on criminal arrests of police officers in the United States (Barak, 1995; Kane, 2007). Our goal was to identify and describe encounters that resulted in the criminal arrest of cops who misused TASERS. The issue recently surfaced as a controversial topic, but there are no existing empirical studies on the criminal misuse of TASERS by police. Some points of discussion emerge from the data.

The 24 cases of police crime identified here are highly unusual. Previous research has demonstrated a direct relationship between situational risk and the deployment of force by police. We know that police are more likely to use force and respond with violence against criminal suspects who are physically aggressive and/or resistant. Levels of situational risk also significantly impact decisions to deploy TASERS, at least in cases where they are used lawfully and appropriately (Gau et al., 2010). But none of the cases examined here involved much—if any—situational risk to the officer. The criminal misuse of TASERS seems more likely to involve criminal suspects who are already handcuffed, or even citizens who are clearly not criminals at all. In these cases, TASERS were commonly deployed against people the officer

knew quite well, including spouses, friends, other relatives, and even other cops. The finding suggests the need to look beyond situational risks and the factors that are most likely to explain both the appropriate use of TASERs and the more general exercise of coercive force by police.

Scholars have most often used psychological factors in addition to factors associated with situational risk to explain cases of police violence and brutality; a strategy of conceptualization that also seems appropriate for purposes of the current study. We have suggested that angry aggression theory may provide a basis for understanding some of these cases, especially those in which the TASER was primarily used as a "tool of torture" (Amnesty International, 2008). In some cases, police used the TASER in conjunction with serious verbal threats or "violent ultimatums" to threaten or further traumatize the victim either prior to or during the attack. The intersection of angry aggression and verbal ultimatums may reference some of the classic police scholarship on how emotions play into the use of coercive force by cops (see, e.g., Crank, 2004; Skolnick & Fyfe, 1993; Van Maanen, 1978). This literature describes how coercive force may hold "seductive qualities" for police who confront citizens who fail to acknowledge their personal authority, or those perceived as "assholes" by the officer. In these cases, the TASER was more likely to be deployed against girlfriends, cheating spouses, or troublesome citizens—persons who needed to be "taught a lesson"—rather than resistant criminal suspects. The TASER may provide emotionally troubled cops a less-than-lethal tool to deliver what Skolnick (1994) and others have termed as "street justice." The weapon may also serve to reinforce some of Crank's (2004) subcultural themes related to machismo and the self-righteous image that cops often bring to citizen encounters.

The TASER and other less-than-lethal technologies were introduced to provide a legitimate and effective level of force somewhere in between more traditional hard empty hand

control techniques and deadly force; however our research shows that cops who criminally deploy TASERs use them as either toys or as tools of torture. Studies on police brutality often explore how rogue cops use other types of weapons in ways that could be defined as *excessive*; but, the criminal misuse of TASERs by cops in our research is most obviously *inappropriate* rather than excessive. Indeed, one reviewer emphasized that none of the arrested officers in our study were even involved in a morally or legally dubious situation, and that use of the weapon in these cases was "plainly unjustified and just wrong." Perhaps more than other kinds of police weapons, TASERs seem to demonstrate a critical disjuncture between the defined intended use of the weapon and how a small number of problem officers use them on the street.

Officer perceptions about how and when to use any sort of weapon are formed and reinforced through training. Training protocols for TASERs were most often developed in the absence of data on how and when to appropriately deploy them. (Adams & Jennison, 2007; Cronin & Ederheimer, 2006). There is some evidence to suggest that the TASER training provided by some police agencies may be inadequate. A survey conducted by the United States Government Accounting Office (2005) found that the total time devoted to TASER training in most agencies ranged from four to eight hours. Alpert and Dunham (2010) found that some agencies provide significantly less than four hours of TASER training, and that close to one in five agencies do not require any retraining of officers who carry TASERs. Additional data derived from interviews of use-of-force trainers indicated that some officers do not feel comfortable using CED's and had difficulty understanding department policies governing their use *after* the completion of departmental training (Alpert and Dunham, 2010).

Still, the unusual nature of the cases identified in our study and the fact that none of them involved significant situational risk limits our ability to develop specific policy recommendations

in regard to training protocols. The existing research does however identify ongoing concern associated with the over-use of these weapons that clearly does apply to the goal of mitigating the criminal misuse of TASERS by a small number of problem officers. The popularity of CED's among police and the fact that they are comparatively easy to deploy can lead to over-use in situations that involve low levels of resistance or even none at all (Alpert & Dunham, 2010; Alpert et al., 2011). Data based on interviews of suspects involved in use-of-force encounters echo these same concerns and suggest that some police use TASERS "too quickly" and in some cases as a form of amusement (Alpert et al., 2011, p. 11).

Problems documented in the existing research on the over-use of TASERS may "bleed-over" to promote a small number of egregious cases in which problem-prone officers over-use these weapons in situations that are clearly inappropriate and more likely to be defined as acts of *criminal* wrongdoing similar to the cases identified in our research. If so, then the criminal misuse of TASERS may be most appropriately dealt with as cases of "bizarre violence" similar to those previously described by Fyfe (1980, p. 77) in his discussion of unusual examples of off-duty police wrongdoing. The mitigation of cases such as these necessarily involves the identification and perhaps termination of officers who misuse TASERS; but also, the development of organizational strategies to identify and help individual officers who may be dealing with extreme psychological pressures. More general programs designed to teach officers strategies to deal with commonly identified occupational stressors in police work may also provide coping strategies for those dealing with common occupational stressors including family demands, public criticism and apathy, exposure to pain and suffering, and demands for high morality (Anderson & Lo, 2011; Swanson, Territo, & Taylor, 2008).



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doi:10.1177/0011128707308099

**Notes**

<sup>1</sup> Data on officer and/or victim race were not provided in the newspaper accounts. Newspaper accounts of crime events do not typically include data on race for either the suspect and/or victim. The purposive omission of information on race in newspaper accounts of crime events is the result of long-standing debates on whether the inclusion of racial descriptions constitutes racial bias and the degree to which this information is necessary for "good reporting." See the Society of Professional Journalists policy statement available at <http://www.spj.org>.

## The Criminal Misuse of TASERS

**Table 1.** Officer Characteristics (*N* = 24)

	<i>n</i>	%	Valid %
<b>Officer Gender</b>			
Male	23	95.8	
Female	1	4.2	
<b>Officer Rank</b>			
Officer / Deputy / Trooper	20	83.3	
Corporal	1	4.2	
Sergeant	2	8.3	
Chief	1	4.2	
<b>Officer Duty Status at Time of Crime</b>			
On-Duty	18	75.0	
Off-Duty	6	25.0	
<b>Officer Age Group</b>			
20-23 years of age	1	4.2	5.3
24-27 years of age	1	4.2	5.3
28-31 years of age	1	4.2	5.3
32-35 years of age	6	25.0	31.6
36-39 years of age	5	20.8	26.3
40-43 years of age	2	8.3	10.5
44-47 years of age	3	12.5	15.8
Missing data	5	20.8	
<b>Officer Years of Service Group</b>			
0-2 years of experience	4	16.7	21.1
3-5 years of experience	2	8.3	10.5
6-8 years of experience	2	8.3	10.5
9-11 years of experience	4	16.7	21.1
12-14 years of experience	2	8.3	10.5
15-17 years of experience	2	8.3	10.5
18-20 years of experience	3	12.5	15.8
Missing data	5	20.8	

## The Criminal Misuse of TASERS

**Table 2.** Agency Characteristics ( $N = 24$ )

	<i>n</i>	%
Agency Type		
Primary State Police Agency	1	4.2
Sheriff's Office	4	16.7
County Police Department	1	4.2
Municipal Police Department	18	75.0
Geographic Region within the United States		
Northeastern States	1	4.2
Midwestern States	5	20.8
Southern States	13	54.2
Western States	5	20.8

## The Criminal Misuse of TASERs

**Table 3.** Criminal Charges & Employment Sanctions against Officers (*N* = 24)

	<i>n</i>	%	Valid %
<b>Criminal Charge Against Officer</b>			
Intimidation / Harassment	3	12.5	
Simple Assault	9	37.5	
Aggravated Assault	10	41.7	
Aggravated Sexual Assault	1	4.2	
Nonnegligent Manslaughter	1	4.2	
<b>Final Employment Sanction</b>			
Returned to Work without Suspension	1	4.2	4.5
Suspension	8	33.3	36.4
Resignation	5	20.8	22.7
Termination	8	33.3	36.4
Missing data	2	8.3	

## The Criminal Misuse of TASERS

**Table 4.** Circumstances & Victims of CED-related Arrests of Officers (*N* = 24)

Case	Location of CED Incident	Event Circumstances	Victim's Relationship	Status	Use of CED
T-1	in a church parking lot	while on patrol backing up another officer <sup>a</sup>	homeless man	on-duty	deployed CED <sup>c</sup>
T-2	in the front seat of a police car	while on patrol in a dispute over a soft drink <sup>a</sup>	another police officer	on-duty	deployed CED <sup>d</sup>
T-3	in a holding cell at a jail	at the jail after making an arrest <sup>a</sup>	handcuffed suspect	on-duty	deployed CED <sup>c</sup>
T-4	in the roll call room at a police station	at the beginning of shift	another police officer	on-duty	deployed CED <sup>c</sup>
T-5	at the officer's home	walked in on wife having sex w/ another man <sup>a</sup>	another police officer	off-duty	deployed CED <sup>c</sup>
T-6	in a house	during questioning at raid on a drug house <sup>a</sup>	handcuffed suspect	on-duty	deployed CED <sup>d</sup>
T-7	at the officer's home	while "demonstrating" use of the TASER	teenaged step-daughter	off-duty	deployed CED <sup>c</sup>
T-8	in the backseat of a police car	during a traffic stop <sup>a</sup>	handcuffed suspect	on-duty	deployed CED <sup>d</sup>
T-9	in the backseat of a police car	while transporting runaway to juvenile center	teenaged suspect	on-duty	threats w/ CED
T-10	at the officer's home	during a domestic violence incident <sup>a,b</sup>	officer's wife	off-duty	deployed CED <sup>d</sup>
T-11	in the street	following a foot chase <sup>a</sup>	handcuffed suspect	on-duty	deployed CED <sup>d</sup>
T-12	in the backseat of a police car	during questioning after stop-and-frisk of a pedestrian <sup>a</sup>	handcuffed suspect	on-duty	deployed CED <sup>d</sup>
T-13	at the officer's home	while brother's children were looking for their dog <sup>a,b</sup>	officer's brother	off-duty	deployed CED <sup>c</sup>
T-14	in the street	when other officers tried to arrest the officer	another police officer	off-duty	threats w/ CED
T-15	in a high school classroom	while stalking a woman	friend of officer's wife	on-duty	threats w/ CED
T-16	in a high school classroom	during a high school career fair	high school students	on-duty	deployed CED <sup>d</sup>
T-17	in the street	while on patrol during an arrest	handcuffed suspect	on-duty	deployed CED <sup>c</sup>
T-18	in a hospital room	while strapped/handcuffed to bed	handcuffed suspect	on-duty	deployed CED <sup>d</sup>
T-19	at the police station	while interrogating youth after arrest	teenaged suspect	on-duty	threats w/ CED
T-20	at the officer's home	while sexually assaulting a woman	officer's wife	off-duty	threats w/ CED
T-21	at the home of former girlfriend	when he found another man in ex's bedroom	officer's ex-girlfriend	on-duty	threats w/ CED
T-22	in a restaurant	as a prank to harass a waiter during breakfast	waiter at restaurant	on-duty	deployed CED <sup>d</sup>
T-23	in a parking lot of the courthouse	during a traffic stop for not wearing a seatbelt	motorist	on-duty	threats w/ CED
T-24	in the street	during a traffic stop	motorist	on-duty	deployed CED <sup>c</sup>

*Note.* <sup>a</sup>Angry aggression exhibited by officer, <sup>b</sup>Officer was intoxicated, <sup>c</sup>CED used in probe mode, <sup>d</sup>CED used in drive-stun mode



**Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Friday, March 15, 2013 8:13 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: TASER proposals -- an informed civil libertarian's perspective  
**Attachments:** pastedGraphic.pdf; ATT81279.htm

**From:** Scott Greenwood [<mailto:law@scottgreenwood.com>]  
**Sent:** Thursday, March 14, 2013 5:13 PM  
**To:** Mary-Kay Swanson  
**Subject:** TASER proposals -- an informed civil libertarian's perspective

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March 14, 2013

Scott T. Greenwood

William H. Sorrell, Esq.  
Attorney General  
Office of the Attorney General  
State of Vermont  
109 State Street  
Montpelier, Vermont 05609

Re: *TASER Use by Vermont Law Enforcement Agencies*

Dear General Sorrell:

I write you to provide an informed perspective on the use of electronic control weapons by law enforcement agencies. I speak for myself only and not for any other person or group. My full biography is available on my website.

I'm a civil libertarian. By profession, I'm a civil rights lawyer, and I've spent much of my career working on issues of police accountability. Bad decisions by police -- or their overseers -- have resulted in many cases I've litigated.

I advocate for the adoption of electronic control weapons because they save lives, reduce injuries to subjects and officers, and drastically reduce the possibility that confrontations will escalate to lethal-force situations. All of these are conclusions I've drawn over a long period of time. From the 7 years I played as lead counsel in the Cincinnati police reform case, *In re Cincinnati Policing*, in which that department became the most-monitored in the nation, I learned that introduction of these weapons had the real potential to change a department with a reputation as one that routinely used excessive force into one that used force much less frequently and much more intelligently. The chief that presided over that transition -- my former adversary turned colleague -- received the Leadership award from the Police Executive Research Forum in 2011 and from the IACP and Major Cities Chiefs Association in 2010. Clearly, we were on to something. A department that had a riot when an officer killed my client's son in an all-too-common use of deadly force now uses barely any deadly force at all -- because well-trained officers are able to defuse confrontations much more quickly and safely before they escalate. They could not do that without ECWs.

My perspective on ECW use is well-informed. I was an invited subject matter expert and presenter on ECW use in the Police Executive Research Forum's executive session and preparation of its 2011 ECW Guidelines, any many of my views and concerns are reflected in the final product. I also served on the first peer expert team with PERF to study the use of force policy and TASER training in the Charlotte-Mecklenburg Police Department. Over the last nine years, I've trained police executives and civilian overseers of law enforcement that the key to a smarter use of force is accountability, transparency, and training. As part of that work, I've twice been through the same training that TASER master instructors (the ones who train the trainers) receive. I am the only civil rights lawyer in the world that has this level of experience and knowledge about these devices. I've twice been exposed to a TASER ECW for a full 5-second probe deployment. I have worked with hundreds of agencies and thousands of command staff, trainers, and officers all over the country, and I have personally reviewed the statistics for perhaps 1000 of the agencies that use these devices. Adopting ECWs requires a strong, sound use of force policy that provides for robust reporting of all force, use of the accountability features built into ECWs (i.e. the download feature on all TASER devices, and the enhanced performance monitoring and use data on newer generation TASER smart ECWs), and leadership that will not tolerate excessive force. Hundreds of law enforcement agencies around the country have experienced significant reductions in injuries to residents and officers as the result of well-designed ECW deployment in the agency. I refer you specifically to the 2011 PERF ECW Guidelines, as well as the two 2011 NIJ reports on ECW use for objective information.

The State of Vermont can achieve the same success, too. Decisions about TASER policies and training shouldn't be made out of ill-founded emotional opposition, ignorance, or misunderstanding about the use of force. They should be made on the basis of the metrics and facts, which are overwhelming.

Please feel free to contact me for any additional information.

Sincerely,

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Wednesday, March 13, 2013 9:58 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: tasers

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**From:** sandy bettis [<mailto:sandyb@pshift.com>]  
**Sent:** Tuesday, March 12, 2013 10:02 PM  
**To:** Mary-Kay Swanson  
**Subject:** tasers

Pls do not allow tasers to be used in the State of Vt - I don't really think that is the kind of portrait that we want to convey.

Sandra Bettis  
Middlesex VT

Statement of A.J. Ruben, Supervising Attorney, Disability Rights Vermont, before the House Government Operations Committee regarding Taser weapon use against people with disabilities

February 27, 2013

Thank you for inviting DRVT to appear before the Committee this afternoon to provide information about the use of Electronic Control Devices, or Taser weapons, as they are more commonly known, against people with disabilities. DRVT is the Vermont Protection and Advocacy System authorized by federal statute to protect and advocate for the rights of people with disabilities in Vermont.

DRVT appreciates and applauds the difficult and often thankless work Vermont law enforcement officers provide every day of the year to us all and especially the great strides the many in the law enforcement community have made to provide more effective, accommodated and informed services to people with disabilities in our State. Our experience demonstrates that clear and consistent standards implemented with effective, independent oversight, results in universally trusted and respected outcomes and that understanding underlies my comments today about Taser weapon use in Vermont.

DRVT has watched over the last ten years as Vermont law enforcement use of Taser weapons began and then proliferated. At first Taser weapons were touted as more humane alternatives to the use of deadly force, a gun, and advocates were hopeful that "suicide by officer" suicides might be reduced or eliminated by the introduction of the Taser weapons. Instead, it quickly became apparent that Vermont law enforcement view and use the Taser weapon as an alternative to both patience, and any physical contact with the people they confront, when deploying the Taser weapon. Undoubtedly you will hear testimony from law enforcement officers that the use of the Taser weapon decreases injuries to them and subsequent worker's compensation and sick time costs. However, through the course of our work DRVT has investigated several cases where people are Tasered during episodes when their disabilities are manifesting in a manner that apparently decreased their ability to reasonably avoid being Tasered and where there was no need for any immediate action, other than engagement and observation, to occur until a non-violent and effective strategy could be identified. DRVT has investigated the use of Taser weapons against teenage patients at the Brattleboro Retreat, against people with mental health challenges in their bedrooms and their communities, against a young man with a developmental disability in his bathroom, and against an elder woman with mental health problems who refused to move along one cold winter morning outside a convenience store. The use of the Taser weapon against Macadam Mason focused the attention of all concerned stakeholders on the fact that the Taser weapon is not necessarily non-lethal and that there is a desperate need for a fully funded Mobile Crisis Capacity for mental health workers in all areas of our State.

Currently in Vermont there is no Statewide policy governing their use and identifying the standards for when they should be used and how, there is no Statewide requirement for training or oversight of their use throughout Vermont, but there is significant evidence that the Taser weapons are used against people with mental health or other disability-related challenges in circumstances where the person is not posing a significant risk of injury to the officer shooting or drive stunning the Taser weapon.

In October 2011 DRVT represented a young man with developmental disabilities and settled a claim he had against the VSP after two troopers participated in using a Taser weapon against him in the bathroom of his state-funded placement because he refused to get dressed and leave the apartment. The result of that case included a series of changes in the VSP Taser weapon policy that should prevent the use of Taser weapons by VSP against people with communication-based disabilities who are not actively posing an imminent threat to the Troopers. However oversight of these policy changes is left up to the VSP and is therefore not independent nor verifiable and this agreement does not apply to all the other law enforcement agencies in Vermont using Taser weapons.

Last August I was asked by VPR to review several dozen VSP Taser Reports from 2011-2012. That review caused me to conclude that in many cases the Taser weapons were used by VSP against people with mental health or other disability-related challenges in situations where the person did not manifest an immediate danger to themselves or the officers that could not have been mitigated in less violent ways. There were certainly examples of Taser weapons being used contrary to policy, without proper warning, when people were in very compromised situations, such as climbing fences, and where the Taser weapon barbs hit people in places that were not advisable, such as the neck. The VSP review did not include any information about how VSP supervisors responded to what appeared to be inappropriate use of the Taser weapons. As noted above, there appears to be no effective, independent and transparent oversight of the use of Taser weapons by law enforcement officers in Vermont at this time.

I have brought a copy of the State of New Jersey's Taser weapon policy from 2009 that I believe is still in place today, although I have not had the opportunity to double check that. I commend this policy to your review because of Section V. of the policy that severely limits the use of the Taser weapon except in circumstances where the subject is known to be an emotionally disturbed person, has a weapon, and is an immediate threat of harm to self or others. The New Jersey statewide policy is a good example of both the reasonableness of having such a policy as well as the parameters of how restrictive or expansive law enforcement use of the Taser weapon can be under such a policy.

In conclusion, concern about the recent pull back of State resources previously designated to overall mental health and disability community service needs, and concern that other important areas of recent improvement, such as Mobile Crisis Teams and treatment courts, may not expand or flourish without increased State funding, leads DRVT to want to highlight that the failure to fully fund these important community based resources may result in the more prevalent, and ultimately unnecessary, use of Taser weapons against people with disabilities. Implementing statewide standards, training, certification and independent oversight of the use of Taser weapons is therefore a prudent and appropriate series of actions for our Legislature to consider at this time.

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Tuesday, March 12, 2013 1:20 PM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: (corrected copy) Federal Judges are no longer ignorant

Just received – I think this is the same guy as this morning.

MK

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**From:** Yahoo [mailto:rich1620@bellsouth.net]  
**Sent:** Tuesday, March 12, 2013 1:15 PM  
**To:** Mary-Kay Swanson  
**Subject:** (corrected copy) Federal Judges are no longer ignorant

Greetings: Honorable Vt. Attorney General

I appreciate your concern for public opinions on tasing and for you giving me a chance to communicate with you. The last six months have been a wide awaking for Federal judges and the public concerning the misuse of high voltage dart guns and the fact that they were misled into believing that the guns were harmless. I search the internet news every 24 hours. The manufactures are making monetary settlements outside of court for various reasons. I personally believe that part of the agreements is that the families will agree under contract to keep quiet about their products.

The Federal Judges are starting to rule in favor of the victims and/or their families. Buyer beware. The days of negligent and ruthless officers is short lived. I believe by the end of the year that officers and their supervisors will not only lose their jobs, but some will serve time. By now after a decade and a half of use, all law enforcement should know that if a person is tased in the chest or has heart trouble or on drugs or drunk they have a high risk of going into cardiac arrest; however, most deaths are caused from head injuries as a result of falling due to the high voltage paralyzing and rendering the subjects helpless and sometimes unconscious. Jail and prison deaths from head injuries are very high because of so much steel present in those buildings. As observed in all live videos viewed, police, deputies, correctional and border patrol officers have never attempted to break the subject's falls. Officers that were standing in positions that could have caught the falling subjects side stepped possibly because they were afraid of the high voltage. However, this is not what they are taught in law enforcement training where videos show that they are taught to use at least 3" padded mats and/or two people to catch the victims when they are tased. Another item of interest is that many officers don't realize how painful and incapacitating tasing can be. This is because training centers use "medium voltage" dart guns that produce only a short 2 second burst.

A few years ago Secretary of Homeland Security Janet Napolitano released a list of groups that her department saw as threats to the United States. On that list was returning Iraq/Afghanistan war veterans. I and many other veterans felt insulted and through the VFW and DAV we managed to get her to retract this. However, since Aug. 2011, I've been involved in studying tasing abuse everywhere because I became a victim of a group of deputies who resentfully returned from Afghanistan. I went into cardiac arrest because I was tased diagonally across my heart and internal organs. I still suffer from a head injury and blurred vision. I had my nose broken and my left hand was stomped until the two center bones from my wrist to my knuckles became disjointed. The police report was falsified and I was charged with resisting arrest in their attempt to make the abuse look justified. I turned in a written request to the court called a "Defendant's request for Discovery as to all items discoverable under Rule 16.1 ARCP". The sheriff's office then immediately dropped the charges and said that the dash cam recordings and the tasing gun video/audio/data recordings were missing?

With all that said this is what I have learned and I would like to share. Many officers who have served tours in Iraq and/or Afghanistan brings back with them two types of profiles:

Many officers suffer mental illnesses from the stress of serving multiple tours in Iraq and/or Afghanistan:

(A) The first profile are those who are suffering from PTSD and/or depression and/or anxiety. They may be doing fine one minute; however, their mental disorders can be triggered in a second by an event or actions of others.

(B) The second profile are those who have become cold and ruthless. They are taking down unarmed fellow Americans with no remorse as if they are were hostile war combatants

It is interesting to note: Many returning veterans who have mental problems may no longer be qualified to carry lethal weapons. By law, while National Guard members are deployed, their seniority continues plus some are eligible for job advancement upon returning. Many of these vets are drawing VA mental disabilities checks. Since the Police departments sometimes are not being told by the returning veterans, the vets are not properly monitored by their supervisors and internal affairs are not doing special reviews. The vets are not telling their departments because they are afraid that they will not get their old jobs back. Most military personnel are discharged from active duty and are referred to a VA doctor at separation who will process the request for VA disabilities. This cuts down the long out processing time that the military requires; however the DD-214 will not show any of these disabilities. These records have to be obtaining from the VA. and may require a court order due to the patient privacy act.

May Peace Be With You,

Robert Richardson PM

## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Tuesday, March 12, 2013 11:29 AM  
**To:** Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Vt Tasing feed back, Federal Judges and the public are getting smarter

F.Y.I. - I forwarded this to Cindy this morning.

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**From:** Yahoo [mailto:rich1620@bellsouth.net]  
**Sent:** Tuesday, March 12, 2013 4:17 AM  
**To:** Mary-Kay Swanson  
**Subject:** Vt Tasing feed back, Federal Judges and the public are getting smarter

Greeting: Honorable Vt. Attorney General

I appreciate your concern and for you giving me a chance to communicate with you.. The last six months have been a wide awaking for Federal judges and the public concerning the misuse of high voltage dart guns and the fact that they were misled into believing that the guns were harmless. I search the internet news every 24 hours. The manufactures are making monetary settlements outside of court for various reasons. I personally believe that part of the agreements is that the families will agree under contract to keep quiet about their products.

The Federal Judges are starting to rule in favor of the victims and/or their families. Buyer beware. The days of negligent and ruthless officers is short lived. I believe by the end of the year that officers and their supervisors will not only lose their jobs, but some will serve time. By now after a decade and a half of use, all law enforcement should know that if a person is tased in the chest or has heart trouble or on drugs or drunk they have a high risk of going into cardiac arrest; however, most deaths are caused from head injuries as a result of falling due to the high voltage paralyzing and rendering the subjects helpless and sometimes unconscious. Jail and prison deaths from head injuries are very high because of so much steel present in those buildings. As observed in all live videos viewed- police, deputies, correctional and border patrol officers have never attempted to break the subject's falls. Officers that were standing in positions that could have caught the falling subjects side stepped possibly because they were afraid of the high voltage. However, this is not what they are taught in law enforcement training where videos show that they are taught to use at least a 3" padded mats and/or two people to catch the victims when they are tased. Another item of interest is that many officers don't realize how painful and incapacitating tasing can be. This is because training centers use medium voltage dart guns that produce only a short 2 second burst.

A few years ago Secretary of Homeland Security Janet Napolitano released a list of groups that her department saw as a threat to the United States. On that list was returning Iraq/Afghanistan war veterans. Which I and many other veterans felt insulted and through the VFW and DAV we managed to get her to retract this. However since Aug. 2011 I've been involved in studying tasing abuse everywhere because I became a victim of a group of deputies who just returned from Afghanistan. I went into cardiac arrest because I was tased diagonally across my heart and internal organs. I still suffer from head injuries. I had my nose broke and my left hand was stomped until the two center bones from my wrist to my knuckles became disjointed. The police report was falsified and I was charged with resisting arrest in an attempt to cover up why I was abused. I turned in a written request to the court called a "Defendant's request for Discovery as to all items discoverable under Rule 16.1 ARCP". The sheriff's office then immediately dropped the charges and said that the ash cam recorders and the tasing gun video/audio/data recordings were missing?

With all that said this is what I have learned and I would like to share. Many officers who have served tours in Iraq and/or Afghanistan brings back with them two types of profiles:  
Many officers suffer mental illnesses from the stresses of serving in the war in Iraq and/or Afghanistan.:(A) The first profile are those who are suffering from PTSD and/or depression and/or anxiety. They may be doing fine one minute; however, their mental disorders can be triggered in a second by an event or actions of others.

(B)The second profile are those who have become cold and ruthless. They are taking down unarmed fellow Americans with no remorse as if they are were hostile war combatants

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weapons. By law, while National Guard members are deployed, their seniority continues plus some are eligible for job advancement upon returning. Many of these vets are drawing VA mental disabilities checks. Since the Police departments sometimes are not being told by the returning veterans, the vets are not properly monitored and internal affairs are not doing special reviews. The vets are not telling their departments because they are afraid that they will not get their old jobs back. Most military personnel are discharged from active duty and are referred to a VA doctor at separation who will process the request for VA disabilities. This cuts down the long out processing time that the military requires; however the DD-214 will not show any of these disabilities. These records have to be obtaining from the VA, and may require a court order due to the patient privacy act.

May Peace Be With You,

Robert Richardson PM

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 10:39 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: your survey

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**From:** Rhonda [mailto:krtayl@worldpath.net]  
**Sent:** Saturday, March 16, 2013 12:52 PM  
**To:** Mary-Kay Swanson  
**Subject:** your survey

Dear AG Sorrell,

There are no words to express how the loss of my son Macadam Lee Mason (Lee to us) has devastated the life I knew before Lee's death...

I will never, ever, be able to hold him, talk to him or see him again. I will never hear his voice again. He will never be able to see his children, his stepfather, brother, aunt or grandmothers again.

I would like to share something with you, so that you may know the Lee (Macadam) that I loved and have lost.

I built an art gallery and website for him after his death, so that people could see how talented he was and know a little about him, his children and family. I am in hopes that you will take the time to look at his site and especially look at his art and read the section I have written: About MacAdam.

Rhonda Mason Taylor, RN, CCRN.

<http://www.macadamart.com/>

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 10:40 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: ban tasers

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**From:** Randall Koch [<mailto:randy@jackhill.org>]  
**Sent:** Saturday, March 16, 2013 6:00 AM  
**To:** Mary-Kay Swanson  
**Subject:** ban tasers

I support a complete ban on tasers whether by police or private citizens. They are too subject to abuse being wrongly considered "non-lethal" They are often used for torture.

Randall Koch  
East Calais

## Evan Meenan

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**From:** Morgan W. Brown [morganbrown@gmail.com]  
**Sent:** Tuesday, March 12, 2013 11:54 AM  
**To:** Cindy Maguire; Evan Meenan  
**Subject:** Fwd: VT Taser Forum Comments: Public Record Submission of VT Signatures: Call for Moratorium on Tasers in Vermont Online Petition  
**Attachments:** VT.pdf

Just making sure you both received this (with apologies if you have already come across it), fyi:

----- Forwarded message -----

**From:** **Morgan W. Brown** <morganbrown@gmail.com>  
**Date:** Tue, Mar 12, 2013 at 10:21 AM  
**Subject:** VT Taser Forum Comments: Public Record Submission of VT Signatures: Call for Moratorium on Tasers in Vermont Online Petition  
**To:** "VT Attorney General, Bill Sorrell" <bsorrell@atg.state.vt.us>  
**Cc:** atginfo@atg.state.vt.us, Allen Gilbert <agilbert@acluvt.org>, Ed Paquin <ed@disabilityrightsvt.org>, William Lippert <wlippert@leg.state.vt.us>, anitka@leg.state.vt.us, Jim Condos <jim.condos@sec.state.vt.us>

Attorney General Bill Sorrell, State of Vermont

Dear Attorney General, Bill Sorrell:

In case it is of interest, below is a forward of my communication of the signatures of those residing within Vermont who signed onto the Call for Moratorium on Tasers in Vermont online petition, thus far, as submitted by e-mail to Governor Peter Shumlin (the forwarded e-mail has been slightly edited to remove a portion of my contact information).

This is the first formal presentation of the signatures to the Governor as well as other officials. If possible, I might attempt to present a printed version of the same to him or his staff as well.

The petition and the Vermont signatures are attached as well (excluding this signatures the petition received from persons who reside out of state).

If you would, please accept on behalf of the Vermont Taser Forum Panel the attached signatures -- which in certain cases also include comments made by some of this who signed the online petition -- as a formal submission for the public record.

Thank you in advance.

Morgan W. Brown  
Montpelier

----- Forwarded message -----

**From:** Morgan W. Brown <morganbrown@gmail.com>  
**Date:** Tue, Mar 12, 2013 at 8:22 AM  
**Subject:** VT Signatures:

Call for Moratorium on Tasers in Vermont Online Petition

To: "Governor Peter Shumlin, State of Vermont" <[GovernorVT@state.vt.us](mailto:GovernorVT@state.vt.us)>

Cc: Jeb Spaulding <[Jeb.Spaulding@state.vt.us](mailto:Jeb.Spaulding@state.vt.us)>, "Lt. Gov. Phil Scott" <[phil.scott@state.vt.us](mailto:phil.scott@state.vt.us)>, Alyson Richards <[alyson.richards@state.vt.us](mailto:alyson.richards@state.vt.us)>, Susan Allen <[susan.allen@state.vt.us](mailto:susan.allen@state.vt.us)>, "Racine, Doug" <[doug.racine@state.vt.us](mailto:doug.racine@state.vt.us)>, Jim Condos <[jim.condos@sec.state.vt.us](mailto:jim.condos@sec.state.vt.us)>

re: VT Signatures: Call for Moratorium on Tasers in Vermont Online Petition

Dear Governor Peter Shumlin, State of Vermont

Attached (excluding those who signed onto the petition who are from out of state), please find as well as accept the roughly over 1000 current signatures of those persons residing within the State of Vermont who have signed onto the online petition, Call for Moratorium on Tasers in Vermont, thus far.

These same signatures can also be accessed and viewed online as well (via Google Drive), [here](#).

The petition remains live and can be found via SignOn.org:

<http://signon.org/sign/call-for-moratorium-on>

Sincerely submitted,

Morgan W. Brown

[...]

Montpelier, VT

[...]

E-mail: [morganbrown@gmail.com](mailto:morganbrown@gmail.com)

120 pages of names not attached, but available

Dear Governor Peter Shumlin,

We are pleased to present you with this petition affirming one simple statement:

**"The undersigned petitioners urge Governor Peter Shumlin to call for an immediate moratorium on the use of Tasers by the Vermont State Police as well as all other law enforcement agencies across the state. This moratorium should remain in place until standardized statewide policies are put into practice that will reduce the risks posed by the use of Tasers, as well as, until all officers across the state whom are armed with Tasers receive standardized, state-approved, training in the use of Tasers, including more extensive, standardized, state-wide and state-approved training for dealing with people in a mental health crisis than is already currently available to police officers."**

Attached is a list of individuals who have added their names to this petition, as well as additional comments written by the petition signers themselves.

Sincerely,  
Morgan W. Brown

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 8:21 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: VT Taser Forum Comments: Public Record Submission: Call for Independent Inquiry

-----Original Message-----

From: Morgan W. Brown [<mailto:morganbrown@gmail.com>]  
Sent: Saturday, March 16, 2013 8:35 PM  
To: Bill Sorrell  
Cc: Mary-Kay Swanson  
Subject: VT Taser Forum Comments: Public Record Submission: Call for Independent Inquiry

For the public record, submitted to the Vermont Attorney General for the Vermont Taser Forum Panel, fyi:

Call for Independent Inquiry

Background (to the best of my knowledge as gleaned from various reports and accounts):

MacAdam Mason (aka Lee), 39-years-old and a resident of Thetford (Vermont), was experiencing a mental health crisis and had reached out for help by calling an area hospital on Wednesday, June 20, 2012. It has been reported that during the phone call he expressed about how he was suicidal and might possibly harm others as well. The hospital, in turn, called the Vermont State Police. It was also reported that after the state police showed up at his residence, he was within the house and when they tried to talk with him, he would not respond. After state police called family members to the scene, reportedly in order to learn more about MacAdam in an attempt to deescalate things and family members arrived, he fled the house and took off into the woods outside the home. It has been reported that family members told state police about how MacAdam had disabilities, including epilepsy and about how, in fact, he experienced a seizure the night before. It appears there was no mental health crisis response team called to the scene in an attempt to potentially aid in deescalating the situation.

Reports have stated about how MacAdam was gone for two hours or so in the woods and could not be located. Since state police had concerns that MacAdam might have had access to firearms or other weapons, upon his return the state police officers on scene confronted him with their firearms drawn and aimed at him. It is reported he was not complying fully with their commands, including that he lay belly down on the ground and he went to the squatting position instead. After noticing that MacAdam was unarmed, one of the officers put down his firearm and took out his Taser. Although there is a dispute about exactly what occurred next, apparently when MacAdam rose from a squatting position and was perceived to be approaching the officer with an intent to harm, the officer then shot him in the chest area with his Taser. MacAdam was unresponsive shortly afterwards and, despite several attempts at resuscitation and upon being transported to the same hospital he had earlier called for help, he was pronounced dead.

At issue:

There is great concern among some within the cross-disability as well as advocacy communities and also others that there has been a pattern of excessive force used against people with disabilities and other vulnerable populations by the Vermont State Police and certain local law enforcement agencies across the state, including in the quick resort to using Tasers and

possibly other so-called non or less lethal weapons by police officers on unarmed persons not posing any actual risk of danger, including in cases of noncompliance or other reasons when the use of certain levels of force, including deadly force, would not otherwise be warranted and in violation of their civil rights.

Need for Independent Public Inquiry:

Therefore there is a great need, along with a growing sense of urgency, for independent public inquiries to be held -- outside the realm of either state or local governments involved -- in order to investigate these matters and not wait for yet another needless and preventable death to occur in order to do so.

Online Petition:

This is why I created and signed onto an online petition of which the signatures will be sent to both the Vermont Human Rights Commission (HRC) and the U.S. Attorney's Office, U.S. Department of Justice (U.S. DOJ), District of Vermont.

The petition calls on both the Vermont HRC and the U.S. DOJ to each perform separate independent public inquiries of their own into the death of MacAdam (Lee) Mason of Thetford, Vermont as well as into whether there has been a pattern of excessive use of force by Vermont State Police and also certain local law enforcement agencies against people with disabilities and other vulnerable populations, including in the quick resorting of Tasers and other so-called non or less lethal weapons by police officers in cases of noncompliance or other reasons on unarmed persons not posing any risk of danger and when deadly force would not otherwise be warranted and in violation of their civil rights. In addition, the petition also calls for the public disclosure of the autopsy report, as well as related records and documents, regarding the death of MacAdam Mason as well as the circumstances leading up to and directly causing his death.

The online petition is available at:  
<http://signon.org/sign/call-for-an-independent>

Morgan W. Brown  
Montpelier



Submitted by Morgan Bowen

TASERS  
ARE  
DEADLY  
WEAPONS

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 10:40 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: tasers

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**From:** Molly OMara [<mailto:mollyo@metrocast.net>]  
**Sent:** Saturday, March 16, 2013 3:16 PM  
**To:** Mary-Kay Swanson  
**Subject:** tasers

How dare tasers be used as an instrument of death. Law enforcement should be held liable for deaths associated with this!

## Evan Meenan

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 7:56 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW:

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**From:** Margo Dearbhail [<mailto:margodearbhair@yahoo.com>]  
**Sent:** Sunday, March 17, 2013 10:37 PM  
**To:** Mary-Kay Swanson  
**Subject:**

Please stop taser use now.... no one else should die...

Peace, Margo

**Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Friday, March 15, 2013 12:09 PM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser Forum Comments

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**From:** Lorie A. Cartwright, Esq. [<mailto:lacesq@sover.net>]  
**Sent:** Friday, March 15, 2013 11:32 AM  
**To:** Mary-Kay Swanson  
**Subject:** Taser Forum Comments

Dear Panel,

I am an attorney in Brattleboro, having received my JD from Vermont Law School in 2002.

I have always been concerned about the use of tasers and the apparent inconsistent policies and most importantly the not terribly clear policies as evidenced by some fairly recent high profile cases in this part of the state, including Mr. Crowell.

The basic doctrine under the law unequivocally is reasonable use of force and use of deadly force only when facing serious bodily harm ("SBH")/to counter use of deadly force. Since tasers are use of deadly force they should not be used except when facing SBH/to counter the use of deadly force. I cannot see how reasonable minds could disagree.

With best regards,  
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## **Evan Meenan**

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**From:** Mary-Kay Swanson  
**Sent:** Monday, March 18, 2013 7:59 AM  
**To:** Cindy Maguire; Evan Meenan  
**Cc:** Mary-Kay Swanson  
**Subject:** FW: Taser Forum

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**From:** Lea Wood [<mailto:leawood@myfairpoint.net>]  
**Sent:** Sunday, March 17, 2013 9:22 PM  
**To:** Mary-Kay Swanson  
**Subject:** Taser Forum

After reading extensively about tasers: I feel in the past officers have been too quick to use them. JUst pointing them and NOT SHOOTING has great effect I understand.

However, the issue needs to be more thoroughly examined. I think it is too easy for Tasers to be used and perhaps as a first response, and somewhat thoughtlessly. I am glad the Attorney General has convened the Taser Forum Panel. I know this isn't the first one, but accidents continue to happen with tasers that should not be. I am aware of the danger police officers can be in, and quick decisions must appear to be necessary. I hope the Forum can come up with what is safer for people as well as officers.

Lea Wood,  
155 Main St., #217  
Montpelier

## **V. Should City Council Approve the Purchase of Tasers, The Following Preconditions To Their Purchase and Use Should Be Adopted.**

Should the Council approve the purchase of Tasers notwithstanding the Committee's recommendation, it is critical that high standards, strict safety measures, extensive training, and vehicles for heightened police accountability be implemented before such purchase and deployment. The Committee believes the following, culled from the major studies of Tasers, are essential preconditions to Taser acquisition by the Montpelier Police Department.

**1. Require Crisis Intervention Team training:** No officer should be allowed to possess or use a Taser until he/she has successfully completed a 40-hour CIT training course. The Committee further recommends this training for our officers even if Tasers are not added to the police arsenal.

**2. Create a police social worker position in the police force:** A police social worker is not a substitute for CIT training, but in the absence of such training for the police force at large, a police social worker would provide the next-best level of crisis intervention and de-escalation skills in confrontational situations involving the police.

**3. Require and develop in-depth police training in the use and dangers of Tasers:** When one reads the major research regarding Tasers, there is virtually universal skepticism regarding the company's assurances of its safety.<sup>1</sup> There is likewise a universal recommendation that local police forces not rely solely on the company's in-house training in the device, but rather supplement it with more in-depth and objectively arrived-at training standards. This is because the Taser company's materials "focus primarily on technical proficiency, but they do not provide use-of-force training. In addition, Taser International's materials have downplayed the risks of injury and death resulting from Taser use."<sup>2</sup>

When presented with this fact, Chief Facos – who has not been trained in the use of the weapon and acknowledged only "scanning" the training materials – took the position that supplemental training would be no problem, in light of the training that Montpelier officers already undergo. This indicates a misunderstanding of the concept of "supplemental training" regarding Tasers, by which is meant training in the device itself, not just, more broadly, in the police practices in which our officers are already trained. Any presence of Tasers in this community must be in conjunction with in-depth training in the device that does not solely or

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<sup>1</sup> See Silverstein, *supra*, at 3-4, who reports that the Securities and Exchange Commission investigated allegedly deceptive statements by the company following reports in the Arizona Republic and the New York Times questioning its safety claims, company reliability studies, and marketing practices. The Taser company agreed to modify its "nonlethal" claims about the weapon, and in 2006 settled a stockholder lawsuit for \$20 million.

<sup>2</sup>"Conducted Energy Devices Guidelines and Limitations", American Civil Liberties Union of Northern California, at 2. Available at [http://www.aclunc.org/docs/criminal\\_justice/police\\_practices/aclu\\_of\\_northern\\_california\\_conducted\\_energy\\_devices\\_guidelines\\_and\\_limitations.pdf](http://www.aclunc.org/docs/criminal_justice/police_practices/aclu_of_northern_california_conducted_energy_devices_guidelines_and_limitations.pdf).

primarily rely on the company's materials – and must be training that requires the officer not just to attend, but to be tested and evaluated, on a yearly basis, as to his/her competency with regard to the device. Officer certification in Taser use should include personal exposure to a full-force and full-duration (five-second) discharge.

**4. Adopt an “imminent threat of serious bodily injury” deployment standard:**

Should the City Council decide to purchase Tasers, it should do so only conditioned on a “threat of imminent serious bodily injury” deployment standard, putting Tasers on a par with firearms. This standard is endorsed by the Stanford Report, Amnesty International Report and the American Civil Liberties of Northern California Report, and is appropriate for this community. By Chief Facos's own admission, the “active resistance” standard is insufficient to the extent it requires only, for example, “stiffening” or “hunching” on the part of the subject. Some reports, such as the Braidwood Inquiry and the Burlington use of force policy (which Chief Facos approves of), purport to go further than “active resistance” by vaguely requiring there be a “risk of bodily injury” or “risk of harm” posed by the subject. The Maryland Report goes a step further by requiring a “risk of physical injury . . . excluding minor injuries”. These standards, in the Committee's view, offer an illusory restraint on the use of the weapon, for what difficult encounter could not be rationalized afterwards as containing a “risk of harm”? The simple “risk of harm” standard is more atmospheric than substantive, and insufficiently protective of the public. Only a “threat of imminent serious bodily injury”, akin to the lethal force standard for firearms, is meaningfully restrictive as to when this weapon may be used, and provides an enforceable restraint against abusive or premature deployment. It would prevent unfortunate Taser incidents that have occurred in Vermont, such as the groundless tasing of a homeless woman outside a convenience store in Barre, the tasing of a 23 year-old man with Downs Syndrome by the State Police for pulling away from an officer during an effort to escort him to a new placement, the tasing of the protesters in Brattleboro, and the tasing of a Fairlee man who was experiencing a seizure. None of these, and other incidents, should have happened, and they are far less likely to happen with a “serious bodily injury” standard of deployment.

**5. Position Tasers immediately below firearms on the force continuum:** The VLCT model policy that Chief Facos has proposed would place Tasers far down the use of force continuum, akin to pepper spray, and below canines, batons and physical measures. Such a placement on the continuum does not appreciate that this device is termed “less lethal” by its manufacturer because it can be lethal. Low placement on the continuum will only encourage the premature resort to the weapon when other, non-lethal weapons and methods would suffice to control a situation. For these reasons, Tasers should be placed immediately below firearms on the use of force continuum.

**6. Equip officers with body cameras:** Tasers should not be adopted without the concurrent adoption of body cameras, such as are used by many police forces, for the protection they offer to everyone involved in police-citizen encounters and to the City itself. Chief Facos told the Committee he had no objection to body cameras. And he agreed that, since body cameras make full recordings of such encounters, they were superior to Taser-mounted cameras, which only begin recording when the weapon's safety is taken off, thereby offering no record that demonstrates the justification of a deployment. The deployment of body cameras must be

with policy rules including that the cameras “on” at the beginning of all “street” encounters.

**7. Carry defibrillators in cruisers and require officer training and competency in their use:** Tasers are especially dangerous for individuals with heart conditions or who are highly agitated. Such agitation is often seen in incidents involving an intoxicated or mentally unbalanced individual. Heart complications, such as ventricular defibrillation, are a serious concern and a prominent suspect in Taser-related deaths. The Committee and Chief Facos agree with the wisdom of placing a defibrillator in every cruiser. Officers must be trained and shown competent in their use.

**8. Collect and preserve data indefinitely:** The VLCT-proposed policy would have Taser-related data kept for no more than 30 days unless an unnamed records employee in the police department determines, for unstated reasons, that some particular data should be kept longer. It is imperative that Taser data be preserved indefinitely. Chief Facos agrees with this.

**9. Add pepper foam to the police arsenal, and consider other non- and less-lethal alternatives to Tasers:** The Montpelier Police arsenal should include pepper foam. This weapon was specifically developed to offset one of the limitations of pepper spray, that it can give off gas that can be drawn into a ventilation system. While not a perfect answer to all pepper spray concerns since even foam gives off some amount of gas, it nevertheless goes a long way to enlarge the capability of oleoresin capsicum to handle difficult encounters and prevent recourse to Tasers. The Committee believes pepper foam would be a wise addition to the police arsenal regardless of whether Tasers are acquired. It also recommends the police department investigate other less lethal and non lethal weapons such as projected bean bags, foam batons, and the newly-developed police devices that immobilize by means of intense light.

**10. Create a Citizen Review Board:** The Committee strongly recommends the creation of a Citizen Review Board to review use-of-force incidents, and Chief Facos agrees such a board could be beneficial.<sup>3</sup>

Such a board would not only be a helpful investigatory tool for the city, but would also help maintain police-community relations, especially in light of the deep division of public opinion regarding Tasers. The Committee recommends a review board regardless of whether Tasers are acquired. Such a board would need sufficient resources, unrestricted access to information, and meaningful powers, for it to have credibility in the community.<sup>4</sup>

**11. Prohibit drive stun mode:** Some reports on Tasers would recommend allowing the drive stun mode in exigent circumstances to prevent death or serious bodily injury. Other studies recommend this mode never be permitted, because in that mode the device does not immobilize, but only causes excruciating pain, which some subjects can “fight through”, with the result of

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<sup>3</sup> In agreeing with this proposal, Chief Facos stated he believed the members of a review board should be educated with regard to use-of-force matters. He also said he would need to consult with legal counsel about this proposal.

<sup>4</sup> A leading resource for understanding and creating citizen review boards is the National Association for Civilian Oversight of Law Enforcement (NACOLE), found at [www.nacole.org](http://www.nacole.org).



the aggravation of the already-tense encounter. The Committee recommends the prohibition of the device in drive stun mode, to prevent both the aggravation of an encounter and to make less likely the potential for abusive deployment of the device.

**12. Prohibit tasing a fleeing or running subject:** All major studies prohibit deploying Tasers on fleeing or running subjects, due to the increased risk of injury or death.

**13. Use specific, descriptive and mandatory language in written policy:** The proposed VLCT policy is replete with suggestive, non-mandatory language that may suit the insurance company but does not protect the officer or the public. The policy makes continual use of “should”, “it is recommended”, “should consider”, and similar vague and non-mandatory language. Police officers must, by necessity, use their discretion in the field. But that discretion must be guided by policy that cabins discretion with mandates (“must”, “shall”) to the extent prudent and possible. The lack of such policy language is an invitation to municipal liability.

**14. Include in any policy the current policy’s humane and cautious principles regarding an escalating use of force:** Our current Use of Force policy, on page one, contains common-sense, humane and cautious principles that the proposed VLCT policy omits. They include:

- “[T]he degree of force employed should generally be in direct relationship to the amount of resistance employed by the person or the immediate threat the person poses to the officer or others.
- “The use of force by officers of the department will generally be progressive in nature.”
- “Officers must weight the circumstances of each case and employ only that amount of force which is objectively reasonable to control the situation or persons.”
- “[T]hey shall, to the extent possible, utilize an escalating level of force . . . .”

These concepts are either missing or severely diluted in the proposed VLCT policy, and in so doing the proposed policy backs away from the injunctions that police use only the force necessary, and only in an escalating fashion to the extent possible. The omission of these principles increases danger to the public and liability to the city. Any Montpelier policy must embrace the principle that “[n]on-force options should be tried where feasible before using an ECW or other force options.”<sup>5</sup>

**15. Fully specify all populations and circumstances relevant to limitations on Taser deployment:** The proposed VLCT policy states: “Officers should consider the particular subject and any vulnerabilities they may have, such as: juveniles, pregnant women, persons who are small in stature, and the elderly. Alternative tactics shall be utilized where the officer has prior information that the subject suffers from a disability which would increase the danger to that person by using the Electronic Restraint Device, i.e., a person at the scene tells an officer that the

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<sup>5</sup> Maryland Report at 69.

subject has a heart condition.” (IV)(F)(b)(xxiii and xxiv). In light of the extensive prohibitions that have developed from the research, any written policy must **specify** the precise vulnerable population categories, as set out *supra*, and reiterate that Tasers may only be deployed against them in the extreme circumstance of a **threat of imminent serious bodily injury or death**.

As alarming as the policy’s lack of specification and guidance regarding vulnerable populations, is its treatment of a recognized one. Section (IV)(F)(b)(vi) states: “Multiple Electronic Control Device deployments against an individual may increase the likelihood of serious injury where the individual is suffering from other [*which?*] symptoms such as cocaine intoxication.” It leaves up to the officer to guess what other symptoms may fall under this section. But then it goes on: “Policy and training should encourage officers to minimize the successive number of discharges against an individual where possible.” In other words, officers are not instructed to refrain from deploying against these unspecified populations unless lethal force would be justified – rather, they are only told not to deploy *successive* discharges. This is at least negligence, if not recklessness, in policy development.

Many other situations and vulnerable populations and prohibited circumstances are unspecified in this policy, too numerous, and perhaps unnecessary, to point out. Suffice to say the itemization of these prohibitions, as set forth earlier in this report, *and including the cognitively disabled*, should be set out with specificity in any Montpelier use-of-force policy.

**16. Require warnings when possible before deployment:** The proposed VLCT policy states: “A warning prior to discharge is preferred but not always necessary for this type of force to be considered reasonable.” (IV)(F)(b)(xvii)). This is insufficient guidance to the officer in the field, causes unnecessary danger, and invites liability. While pre-tasing warnings are not always possible in exigent circumstances, such warnings should be mandatory when they would not clearly jeopardize the law enforcement objective, and written policy should make this clear. (*Accord:* Maryland Report at 71)

**17. Prohibit use of a Taser as a pain compliance weapon or general force tool.** The proposed VLCT policy states: “Officers are prohibited from using the device as a punitive measure.” (IV)(F)(b)(xv). This is insufficient, in light of the view of the major reports on Tasers that go beyond punitive use, to also prohibiting use for compliance and as a general force tool.

**18. Prohibit multiple shots and continuous or prolonged exposure except where lethal force would be justified:** Taser shocks should be as brief as possible. Multiple shots against a subject are significantly associated with Taser-proximate fatalities, particularly if the subject was emotionally disturbed, drug intoxicated or showed continued resistance.<sup>6</sup> “An officer should only administer an additional ECW discharge after the initial discharge if the officer has reevaluated and concluded that the subject still poses an imminent threat of significant physical harm and other options are not appropriate. Repeated or prolonged (*i.e.*, beyond the 5-second standard cycle) discharges should be avoided whenever possible.” (Maryland Report at 71)

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<sup>6</sup> White and Ready, *supra*, at 863.

**19. Prohibit Taser use on subjects in restraints except where lethal force would be justified.** (*Accord*: ACLU of Northern California report at 4). The ability of a subject to cause a threat of harm while in restraints is not eliminated but is greatly reduced. Other forms of control must be used in this circumstance unless the subject poses an ongoing threat of causing imminent serious bodily injury.

**20. Avoid impairment of respiration:** Given the respiratory complications that are associated with Taser use, an officer must, following use of a Taser, not employ a restraint method that could impair a subject's respiration.

**21. Provide emergency medical care immediately after all Taser use:** Emergency care should be provided immediately after all Taser deployments. The subject, who may be intoxicated or mentally ill, cannot be relied on to request or agree to such care. Medical care should be called in advance and on the scene if an officer believes use of a Taser is reasonably possible.

**22. Monitor tased subject's health closely while in custody:** Studies indicate that the in-custody death rate rises after the introduction of Tasers. All tased people must be closely monitored while in custody, even after receiving medical care.

**23. Reporting, supervision and monitoring:** All Taser incidents must be reported on a use-of-force form detailing events leading up to and following the discharge. Data to be reported include but are not limited to: a detailed description of the subject's behavior, the facts and level of aggression presented by the subject, the officer's reasons for concluding there was a likelihood of imminent harm by the subject, the number of cycles and the duration of shock, the duration between shocks, all witnesses, the range, the mode used, the distance fired, the point of impact on the body, whether there was any indication that the subject was a member of any vulnerable population as described earlier in this report, the time and type of medical care provided, and any injuries suffered by any person.

**24. Supervisors should respond to the scene of any Taser deployment as soon as possible:** The quick presence at the scene of a deployment by a supervisor would both ensure to officer and the public the seriousness with which the police force and the city regard Taser deployment, and also assure an immediate assessment of the appropriateness of the deployment.

**25. Conduct rigorous investigation following each deployment:** A supervisory-level or higher inquiry must be conducted to determine the appropriateness of every deployment and whether there was strict adherence to policy and training. Such investigations should include interview of witnesses; review of video, photographic and data evidence, test results on the weapon; and other relevant information. Such investigation must also be conducted externally, by Citizen Review Board or otherwise, when a subject dies or is seriously injured, when there has been a substantial deviation from policy or training, and when the subject is a restrained or a vulnerable person as defined in this report.

**26. Monitor Taser use by the agency:** The police force should use a tracking database that is capable of maintaining detailed information as to each device and each deployment, can reveal the circumstances of every Taser deployment, and shows the extent to which officers are relying on the device compared to other forms and methods of control. This information and data must be available to the public.