

AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA ANSWERS  
TASER INTERNATIONAL'S ATTACKS AND CHALLENGES

In October 2005, the American Civil Liberties Union of Northern California ("ACLU-NC") released a report documenting the increasing number of deaths following Taser use in Northern and Central California and the lack of regulation of Tasers by local law enforcement in the region. The report generated a very positive response from law enforcement agencies and resulted in significant improvements in Taser policies in several departments.

Nearly four months after the release of the ACLU-NC report, Taser International ("TI") published a response attacking the ACLU-NC for "endangering communities" through its calls for more responsible Taser regulation. The TI report is replete with inaccuracies and *fundamental* misrepresentations -- *including a complete mischaracterization of the ACLU-NC's position on Tasers.*

Once again, when faced with well-documented concerns about its Tasers, its marketing practices and its deployment, training and policy recommendations, Taser International has resorted to its all too familiar game of "attack the messenger, obscure the message." Obviously hoping to confuse and distract readers, TI has produced a 41-page "response" report that scrupulously avoids the core findings of the ACLU-NC's initial report. Rather than confront our findings head on, TI has tried to change the topic.

Thus, the most important (and telling) aspect of the lengthy TI "response" is in what chooses to not say. Namely, it is quite apparent that TI does NOT dispute the core conclusions of the ACLU's report:

1. Tasers are largely unregulated throughout Northern and Central California. Only a handful of departments regulate the number of times or duration for which an individual may be shocked.
2. The vast majority of police departments using Tasers in this region rely EXCLUSIVELY on training materials produced by TI itself, and the majority of those departments are using dangerously outdated versions of these TI materials.
3. In several key areas, the TI training materials contain misrepresentations about Taser safety. For example, TI does not dispute that their law enforcement training materials still claim that "there have been no long term injuries caused by the Taser," despite the fact that several officers have sued Taser for significant injuries they incurred after being Tased.

Rather than focusing on these core conclusions, TI chooses to attack the ACLU-NC by claiming the organization is "endangering communities" by calling for regulations. This is consistent with TI's practice over the last several years in responding

to criticism. During that time, TI has sued, threatened to sue, pressured, or dismissed out of hand the conclusions of medical examiners, researchers, news outlets, and civil rights organizations.

In its report, TI dismisses all media reports of potential problems with the Taser device – including those quoting medical and engineering experts – as unreliable and “emotion and innuendo.” Media attention to this issue, however, has been valuable as it has highlighted several important issues that are beginning to be addressed, even by TI. For example, several months ago TI issued new safety warnings regarding multiple exposures to the Taser.<sup>1</sup> These additional warnings come after years of government scrutiny, pressure from advocacy organizations, and, yes, coverage in the media. But for this coverage, it is clear that neither the law enforcement consumers of TI products nor the public in general would have been made aware of emerging problems with taser deployments nor would have various adjustments and reforms been implemented.

Questions about how new and emerging force technologies work and are applied in the real world are issues of public concern and, thankfully, the mainstream press has covered the issue. When law enforcement uses force against members of the public, it is using a “police power” delegated to it by the public. Questions of how these public powers are exercised -- what weapons should be purchased, how they should be deployed, under what policies -- are not private matters strictly between law enforcement agencies and corporate suppliers of use of force products. These are all core matters of public policy... deserving of and demanding close public and media scrutiny. TI may not like that scrutiny. They may not find it “helpful” to their particular objectives. They may even find it deeply inconvenient to their marketing strategies and to their hope for rapid growth in the value of shares of TI stock. However, attacking nearly all critical media coverage of tasers as unreliable and uninformed sensationalism will hardly build confidence in TI’s underlying claims and products. Unfortunately, an “attack the messenger” public relations strategy will, over time, lead people to reasonably wonder if the company fears the message.

TI has tried this many times before. Over the last few years, in the face of mounting concerns about various claims they’ve made about their products, TI has repeatedly lashed out at critics and reporters as ill-informed alarmists... only to be forced later to revise and scale back their sweeping claims about the safety and value of their Tasers in direct response to issues and concerns raised by others. Given TI’s aggressive marketing of Tasers as the best weapon for a stunningly wide variety of law enforcement contexts, these are issues and concerns that were entirely foreseeable... and that should

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<sup>1</sup> Taser International Training Bulletin 12.0-04, June 28, 2005. The bulletin states that “repeated, prolonged, and/or continuous exposure(s) to the TASER electrical discharge may cause strong muscle contractions that may impair breathing and respiration, particularly when the probes are placed across the chest. Users should avoid prolonged, extended, uninterrupted discharges or multiple discharges whenever practicable in order to minimize the potential for over-exertion of the subject or potential impairment of full ability to breathe over a protracted time period.”

have been painstakingly and forthrightly addressed before the sales pitch and elaborate marketing scheme was launched by the company.

The time has long since passed for obfuscation. It's time for TI to stop questioning the motives and ethics of those who have raised serious concerns about their products and marketing practices. It's time for TI to deal directly with those concerns rather than twist and misrepresent them.

The TI report contains many inaccuracies and misrepresentations. While this paper will not respond to each and every one of them, it will respond to some of the more significant issues.

1. Misrepresentation of ACLU-NC position on Tasers: The ACLU-NC supports the responsible use of less lethal weapons. The organization recognizes that there are times when police officers must use force to protect their lives and the lives of others. However, before a new weapon is introduced for general use, it should be fully tested and proven safe on the populations it is most likely to be used on and in the manner in which it is likely to be used.

Further, weapons that are used should be regulated to guard against misuse and abuse. In light of the current available safety studies – discussed in more detail below – the ACLU-NC believes that Tasers should only be used in life threatening situations, or at the very least, regulated with regard to multiple applications, vulnerable populations, restrained or unconscious individuals, and passively resisting protesters.

TI claims that the ACLU-NC report states that “law enforcement should be forbidden to use the TASER weapon on children or pregnant women” and that multiple shocks be “forbidden.”<sup>2</sup> These statements are completely inaccurate. The ACLU-NC report does not call for a prohibition of Tasers in these circumstances rather the report calls for legislation that would require “departments to adopt policies *regulating* the number of shocks that can be administered on an individual, the use of Tasers on juveniles, the elderly, pregnant women...”<sup>3</sup> The ACLU-NC calls for sensible regulations in light of the many unanswered questions about the effects of Tasers.

TI devotes nearly half its report to providing examples where Tasers were used in life-threatening situations to “save” lives. Regardless of whether good verbal communication skills could have potentially diffused many of these situations, the examples are irrelevant, as the ACLU-NC does not advocate for a prohibition on Taser use.

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<sup>2</sup> Taser International, *Deadly Rhetoric: How the ACLU of Northern California's right Against Law Enforcement Control Tools Endangers Communities*, January 20, 2006, p. 16 (“Taser Report”).

<sup>3</sup> American Civil Liberties Union of Northern California, *Stun Gun Fallacy: How the Lack of Taser Regulation Endangers Lives*, September 2005, p. 15 (“ACLU-NC Report”) (emphasis added).

2. Spinning Safety Studies: TI mocks the ACLU-NC's claim that there are no independent safety studies on several critical issues. It states "this would be alarming were it not completely false," and goes on to cite a list it has compiled of "more than 80 studies or reviews of TASER-type devices or related basic science."<sup>4</sup> Contrary to the implication made by TI in its' report, the overwhelming majority of these "studies or reviews" are not unique independent medical safety studies at all, but rather are either (1) reviews of existing medical safety studies, (2) documentation of Taser use by public safety agencies, (3) studies of older generation weapons that even TI claims function in a different way, or (4) studies funded by TI.<sup>5</sup>

While TI denigrates the ACLU-NC's characterization of the current state of safety studies, it is worth looking at what some of the 80 studies cited by TI actually say:

International Association of Chief of Police ("IACP"). The IACP is a leading law enforcement organization. It issued a report in April 2005 on Tasers and concludes that "independent data does not yet exist concerning in-custody deaths, the safety of EMDT [Electro Muscular Disruption Technology] when applied to drug or alcohol-compromised individuals, or other critical areas."<sup>6</sup>

The IACP also called for local law enforcement agencies to adopt policies regulating the use of Tasers, stating that "it is not enough however, to establish rules that address only when to use EMDT. Policies should also be explicit as to when its use is inappropriate."<sup>7</sup> Another law enforcement organization – the Police Executive Research Forum –also called for regulation of Tasers following the release of the ACLU-NC report.<sup>8</sup>

The Joint Non-Lethal Weapons Human Effects Center of Excellence ("HECOE Study"): This study was conducted in 2005 by the HECOE, a division of the Department of Defense. While the study concludes that Tasers would "generally be effective in inducing the desired EMD effect without presenting a significant risk of unintended severe effect," it also pointed to "key data gaps," and highlighted several areas where more research is needed and pointed to several potential problems.<sup>9</sup> The report stated for example:

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<sup>4</sup> Taser Report, p. 14

<sup>5</sup> The list can be found at <http://www.taser.com/documents/compendium-final.pdf>.

<sup>6</sup> International Association of Chiefs of Police, *Electro-Muscular Disruption Technology: A Nine Step Strategy for Effective Deployment*, April 4, 2005 ("IACP Report"), p. 4

<sup>7</sup> IACP Report, p. 13.

<sup>8</sup> Guidelines available at

[http://204.183.84.178/upload/PERF-CED-Guidelines-Updated-10-25-05%5B1%5D\\_715866088\\_1230200514040.pdf](http://204.183.84.178/upload/PERF-CED-Guidelines-Updated-10-25-05%5B1%5D_715866088_1230200514040.pdf).

<sup>9</sup> Joint Non-Lethal Weapons Human Effects Center of Excellence, *Human Effectiveness and Risk Characterization of the Electromuscular Incapacitation Device – A Limited Analysis of the Taser*, March 1,

Regarding animal tests on pigs: “Due to the assumptions made in selecting uncertainty factors and the absence of specific threshold information in young children, the elderly, individuals with underlying heart conditions, or individual with concurrent drug use, *it is not known whether there are highly sensitive individuals in these groups that could experience VF (ventricular fibrillation) under normal EMI exposure conditions.*”<sup>10</sup>

Regarding multiple or prolonged Taser shocks: “If long periods of uninterrupted EMI activation did occur, the risk of unintended adverse effects such as cardiac arrhythmia, impairment of respiration, or widespread metabolic muscle damage (rhabdomyolysis) could be severe.”<sup>11</sup>

Regarding the relevance of existing electrical safety standards to Tasers: “These comparisons are not appropriate since the underlying dose metric used in the development of these standards is not directly comparable to the Taser waveform, and such comparisons are outside of the intended use of the published standards. Based on these considerations, comparison of the Taser output to the existing VF thresholds noted above was not included in the HERC.”<sup>12</sup>

The risk analysis also relied on data provided by TI, which the HECOE acknowledged was a biased sample: “The records are not a statistically representative sample and are potentially influenced by a number of sources of bias.”<sup>13</sup>

It concludes more research is required: “*Several areas require further evaluation or data collection before a conclusion can be reached regarding potential effects. Suggestions...include...determine the effect of drugs (i.e. ethanol, cocaine, phencyclidine) on the dose response to EMI...*”<sup>14</sup> Once again, individuals under the influence of these drugs are the very same individuals most likely to resist police, to be shocked by tasers... and who have occasionally, in fact, subsequently died.”

UK Defense Scientific Advisory Council (DASC Sub-Committee on the Medical Implications of Less-Lethal Weapons (DOMILL)): DOMILL did a series of reports on Tasers. While it concluded that the overall risk of life-threatening injury from a Taser was “very low,” the studies also highlight

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2005 (“HECOE Study”), p. xiii.

<sup>10</sup> HECOE Study, p. xvi (emphasis added).

<sup>11</sup> HECOE Study, p. 19.

<sup>12</sup> HECOE Study, p. 27-28.

<sup>13</sup> HECOE Study, p. 71.

<sup>14</sup> HECOE Study, p. 74 (emphasis added).

areas where little is known. These areas correspond with the very populations police are most likely to use Tasers on (i.e. drug users).

The DOMILL states, “*The possibility that other factors such as illicit drug intoxication, alcohol abuse, pre-existing heart disease and cardioactive therapeutic drugs may modify the threshold for generation of cardiac arrhythmias cannot be excluded.*”<sup>15</sup>

The Association of Chief Police Officers (“ACPO”) approved regulations allowing the use of Tasers *only by firearms officers... and only in life-threatening situations.*<sup>16</sup> DOMILL deemed Tasers safe to use *in light of that guidance*: “DOMILL reaffirms its view that it does not consider it essential from medical perspective that the experimental studies are completed before approval is considered for the extension of the M26 trial *under the terms of the ACPO Guidance.*”<sup>17</sup>.

3. Claims that Deaths are Attributed to Excited Delirium and Drugs in System: TI claims that the vast majority of the deaths following Taser use are the result of drug ingestion resulting in excited delirium. Thus, TI maintains that Tasers did not contribute to the many reported deaths following Taser use. They also claim that if Tasers were a cause, the individuals would have died immediately following a Taser shock.

These claims are problematic for several reasons. First, the HECOIE study outlines several effects that could result from multiple applications or prolonged exposure to the Taser including cardiac arrhythmia, impairment of respiration, or widespread metabolic muscle damage.<sup>18</sup> Others have advanced the theory that ventricular fibrillation may be delayed for up to 24 hours following an electrical injury.<sup>19</sup> And, the Department of the Army in a memorandum found that of the people where medical examiners found Tasers

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<sup>15</sup> DOMILL Statement on the Comparative Medical Implications of the Use of the X26 and the M26 Taser, March 7, 2005, para 21 (emphasis added).

<sup>16</sup> Association of Chief Police Officers (“ACPO”), Operation Use of Taser Policy, p. 4 (“Taser will only be deployed in circumstances where firearms officers are authorized to carry firearms. Taser will be readily available and will only be deployed alongside conventional firearms.”); ACPO, Operational Use of Taser Operational Guidance, p. 3 (Authorized Firearms Officers (AFOs) are, in accordance with the ACPR Manual of Guidance on Police Use of Firearms, issued with firearms – where the authorizing office has reason to suppose that they, in the course of their duty, may have to protect themselves or others from a person who is in possession of a firearm, or has immediate access to a firearm, or is otherwise so dangerous that the officer’s use of a firearm may be necessary.”) Both available on-line at <http://www.westmercia.police.uk/800/mognuf/mognuf2.htm>.

<sup>17</sup> DOMILL Second Statement on Medical Implications of the Use of the M26 Advanced Taser, July 2004, para A 28 (emphasis added).

<sup>18</sup> HECOIE Study, p. 19.

<sup>19</sup> Peter Jorn Jensen, et. al., “Electrical Injury Causing Ventricular Arrhythmias,” *Br. Heart J* 1987;57:279-283. Also see Robert Anglen, “Taser Shocks Ruled Cause of Death,” *Arizona Republic*, July 30, 2005 (citing a medical examiner report in Chicago that indicated Taser was the primary cause of death).

a contributing factor in death, “the Taser probably caused convulsions, ventricular fibrillation, elevated body temperature, and dramatic changes in blood flow and blood pressure.”<sup>20</sup> In light of these concerns, the Army does not recommend its members receive a Taser shock during training.<sup>21</sup>

To date, *the ACLU-NC is not aware of any independent medical studies that demonstrate the safety of Tasers on individuals under the influence of drugs.* In fact, most studies – including those referenced above – indicate that this is one area where more research is needed. The simple fact is that not enough is known about the interplay between the electrical shock, the physical incapacitation (lengthy instances of multiple or prolonged applications), drugs, and the heart. That is a major reason why the ACLU-NC proposes strong regulations on Tasers at this time and further study.

4. Claims that Law Enforcement Data Were Ignored: TI claims that the ACLU-NC study ignores law enforcement data purportedly demonstrating Tasers decrease injuries, shootings, and use of force. While Tasers may decrease shootings and officer injuries, there is conflicting evidence on the effects on use of force after Tasers are introduced and more study is needed to assess the impact.

While there is data from some departments indicating Tasers may decrease injuries and shootings, evidence from other departments indicates this may not be the case. In the course of our study, for example, one department the ACLU-NC surveyed – the Monterey County Sheriff – reported a nearly 100% increase in reportable force following the introduction of the Taser.<sup>22</sup> Another Northern California agency – the San Jose Police Department – showed an increase in fatal officer-involved shootings following the introduction of the Taser.<sup>23</sup>

After reviewing analyses by some law enforcement agencies showing a decrease in injuries after Taser deployment, the HECO study concluded that the “results are preliminary,” and that “additional study is needed...to support these initial comparisons.”<sup>24</sup> To the extent that Tasers decrease officer-involved shootings, however, the ACLU-NC recommendations would capture this benefit as ACLU-NC recommendations permit the use of the Taser as an alternative to a firearm.

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<sup>20</sup> Memorandum from Donna M. Doganiero, CIH, US Army Center for Health Promotion and Preventive Medicine, February 7, 2005.

<sup>21</sup> Id.

<sup>22</sup> ACLU-NC Report, p. 15.

<sup>23</sup> Coalition for Justice and Accountability, *Tasers: A Reassessment*, March 10, 2005, p. 6.

<sup>24</sup> HECO Study, p. 56.

TI cites a Potomac Institute study for the proposition that, the ratio of lives saved to lives lost exceeds 70:1; however the data used to create this ratio was supplied by “one stun device manufacturer,” presumably TI, and is questionable at best.<sup>25</sup> TI claims 7000 lives saved as a result of Tasers. This number is hugely flawed and is based on TI estimates. Additionally, given the high level of skill and professionalism of many in law enforcement, it is quite possible that a good number of these lives could have also been “saved” by officers with good communications skills and/or other force deployments. TI should not assume that skilled police are incapable of dealing with hostile subjects without a Taser.

The Potomac study also relied on information supplied by TI in determining the total number of Taser deployments. Potomac cites tens of thousands of officer volunteer exposures to Tasers.<sup>26</sup> However, a large number of these exposures differ markedly from those deployed in the field both in duration, context, and location of the shock. They are simply not a valid comparison.

TI claims that research by Dr. Jeffrey Ho demonstrates that Tasers are not a significant contributing factor to in-custody deaths that do not involve the use of firearms.<sup>27</sup> Dr. Ho conducted a review of in-custody deaths obtained from media sources and analyzed factors that were common in the deaths. He concluded that since Tasers were *only* a factor in 27% of these deaths whereas drugs were a factor in 53% of the cases, the “police weapon” does not appear to be a predictive factor for in-custody death.”<sup>28</sup>

What Dr. Ho apparently failed to account for, however, is that based on TI’s claimed market penetration, as of February 2005, less than 10% of the officers in the U.S. carried Tasers.<sup>29</sup> Given this low percentage, the fact that such a large number of deaths involved the Taser – 27% – especially when compared with other much more widely deployed less-lethal force options – 11% of deaths involved chemical spray and 8% were hit with batons<sup>30</sup> – Dr. Ho’s findings suggest a harmful impact of TI’s weapon.

Finally, though TI neglects to mention it in their report, Dr. Ho’s research was funded by TI.<sup>31</sup>

5. Defense of Business Practices: In its report, TI defends its practices of employing active duty police officers as trainers and the granting of stock

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<sup>25</sup> Denis K. McBride and Natalie Tedder, *Efficacy and Safety of Electrical Stun Devices*, Potomac Institute for Policy Studies Report :No. 05-04, March 29, 2005, (“Potomac Report”) p. 14.

<sup>26</sup> Potomac Report, p. 14.

<sup>27</sup> Jeffrey D. Ho, “Sudden In-Custody Death,” *Police Magazine*, August 2005, p. 50

<sup>28</sup> *Id.*, p. 55.

<sup>29</sup> Aaron Smith, “Taser: An Unwelcome Shock,” *cnnmoney.com*, February 8, 2005.

<sup>30</sup> Jeffrey D. Ho, p. 50.

<sup>31</sup> <http://www.taser.com/documents/compendium-final.pdf>.



options as compensation, as well as its practice of compensating its medical researcher with stock options. TI claims that no officers who received options “were involved in their agency’s purchasing departments and that all had appropriately disclosed to their agency that they were being compensated by Taser International for off-duty work.”<sup>32</sup>

This is misleading at best. Sgt. Ron Bellendier, for example, received stock options as a master instructor and at the same time served as the Minneapolis Police Department’s point person on Tasers.<sup>33</sup> Sgt. Jim Halstead made a presentation to the Chandler City Council urging their purchase of Tasers, but never disclosed to the Council that he had received stock options and therefore had a financial stake in the purchase outcome.<sup>34</sup> When discussing or presenting research conducted by TI employees, TI does not regularly disclose the fact that it compensates its medical researcher with stock options.

The ACLU-NC is not suggesting that companies should be prohibited from granting employees stock options. However, when people in such critical positions as medical researchers and police officers make representations about Taser’s safety without disclosing that they have a very real financial interest in product being sold, that raises serious concerns.

Taser claims that the SEC concluded their review of TI with “no enforcement action.” However, what it does not state, is that prior to that determination, TI made a number of changes to its marketing materials as part of a separate agreement with the Arizona Attorney General.<sup>35</sup>

6. Response to TI “Challenges”: At the conclusion of its report TI issues a number of “challenges” to the ACLU-NC and calls on that the ACLU-NC “demonstrate the sincerity [of its’] motives” by responding. While it is ironic that a company that aggressively markets its product and sues or threatens those who voice dissenting opinions about the safety of its weapons would question the motives of others, the ACLU-NC will nonetheless respond to each of TI’s “challenges.”

*Challenge 1: Demonstrate Lack of Financial Motive:* The ACLU-NC has no financial stake in any litigation against TI and has no cases pending against TI. The author of the ACLU-NC study – Mark Schlosberg – does not own any stock or interest in TI or any of its competitors. As for the litigation brought by the ACLU of Nevada, the ACLU-NC learned about the filing of that case

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<sup>32</sup> Taser Report, p. 3.

<sup>33</sup> Beth DeFalco, “Taser Gave Stock Options to Chandler Sergeant Who Pitched Stun Guns to Council,” *Arizona Republic*, March 19, 2005; Thor Valdmanis, “Taser Gave 4 Police Officers Stock Options,” *USA Today*, January 12, 2005.

<sup>34</sup> DeFalco, March 19, 2005.

<sup>35</sup> Dawn Gilbertson, “SEC Ends Probe of Taser on 2 of 3 Concerns,” *Arizona Republic*, December 14, 2005.

the same way we assume TI did – from an Associated Press reporter the morning we released our report. Since TI is questioning the ACLU-NC’s motives, it is worth noting the obvious: the extremely large financial stake of TI, its directors, and its employees in their product being perceived as safe by law enforcement, medical examiners, and the general public.

*Challenge 2: Define Medical Studies that Need to be Done:* There are several areas that need additional independent study, as noted in the IACP and HECO reports cited above. These include the effect of Tasers on individuals under the influence of drugs, the effects of multiple shocks, the impact of Tasers on the complex set of factors that can combine to produce a death in custody, specific threshold information for young children and the elderly, and the amount of power and current actually produced by Tasers when used in the drive-stun mode.<sup>36</sup>

*Challenge 3: Name Members to a Scientific Arbitration Panel:* Creating an arbitration panel to review existing literature is not necessary. Several reviews of the Taser literature that have already been done – some of which are cited above – outline various areas where additional research is necessary. There are several doctors and engineers who have raised questions about various aspects of the current Taser studies, many of whom quoted in various media reports.

*Challenge 4: Name Every Subject Directly Killed by a Taser Device:* There have been several cases where Tasers have been listed as a cause of death, a contributing factor, or medical examiners indicated that it could not be ruled out as a cause of death. Out of 50 autopsy reports in deaths following Taser use reviewed by the *Arizona Republic*, 27 cases fell into one of those categories.

Given our regional focus in Northern California, one case of great concern to the ACLU-NC is the death of Andrew Washington. Washington died after being shocked with a Taser 17 times over a three-minute period by a Vallejo, CA police officer and died shortly after. Washington did not have a history of heart problems and the medical examiner found only trace amounts of cocaine in his system. Is it TI’s position that the Taser did not play a role in his death? Does TI believe that subjecting an individual to near continual Taser shocks over a three-minute period is safe? Does TI advocate departmental policies that encourage such uses? Why did Andrew Washington die? What warnings

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<sup>36</sup> One study recently published in a peer reviewed engineering journal indicates that the Taser produces significantly more power and current than claimed by the manufacturer when used in the drive-stun mode. James Angelo Ruggieri, “Forensic Engineering Analysis of Electro-Shock Weapon Safety,” *Journal of the National Academy of Forensic Engineers*, December 2005, p. 19. See also Robert Anglen, “Study Raises Concerns Over Tasers’ Safety,” *Arizona Republic*, February 13, 2006.

did the TI give to the Vallejo Police Department regarding the dangers of prolonged Taser exposure prior to Andrew Washington's death?

Ultimately, TI poses the wrong question by asking in which cases Tasers "directly" caused death. The real question to be answered is: To what extent can Tasers contribute to death and what effect do they have on an individual where other factors are present including drugs, mental illness, heart problems, or other force options? These issues have not been studied sufficiently, even as the number of deaths following Taser use has increased.

*Challenge 5: List Every Law Enforcement Tool the ACLU-NC Approves:* The ACLU-NC recognizes that there are times when police officers will have to use force to effectuate a lawful arrest or to protect the safety of themselves and others. Various force tools regularly employed by law enforcement agencies include firearms, Tasers, the baton, the asp, pepper spray, hands, and verbal commands. The ACLU-NC does not object to any of these force options so long as there are sufficient regulations and training in place and they are used in the appropriate circumstances. The ACLU-NC report demonstrated that throughout Northern and Central California, policies and training on Taser use are grossly inadequate.

*Challenge 6: Explain How Law Enforcement Agencies Should Handle a Minor With a Knife:* There are many ways law enforcement officers can potentially deal with this situation. Police in many departments receive extensive training in "verbal judo" communications skills. Often containing a potential threat, talking with the person, and waiting can defuse a situation. Police also have other force options. However, if the situation develops into a life-threatening situation where the alternative is use of a firearm, the ACLU-NC has no objection to an officer using a Taser in this hypothetical situation.

As we hope TI recognizes, every situation depends on the particular details. Presumably, TI would not argue that every minor with a knife should always be immediately tased anymore than the ACLU-NC would argue that a minor with a knife whose conduct has created an imminent danger of loss of life or grave bodily injury should never be tased.

*Challenge 7: Address Data Regarding Injury Rates Following Taser Deployment:* This is addressed above.

*Challenge 8: How Can the ACLU-NC Support Diversity in Law Enforcement While Questioning Taser Safety:* The ACLU-NC strongly favors efforts to increase diversity within police departments and for years has supported efforts to include more women and people of color in all levels of policing.

It is unfortunate that TI would imply that women are incapable of being police officers without Tasers. Moreover, TI seems to assume that the only way a

woman police officer is able to handle a potentially violent situation is by using force. The company ignores, however, the substantial body of research indicating that women police officers are often able to de-escalate situations with superior communication skills.

According to a report by the National Center for Women and Policing, “studies show that because of their less authoritarian personalities, there is less likelihood of escalation of potentially violent situations with women police officers than with men. Researcher Carol Ann Martin found that ‘Women have proven that they have excellent communication skills which can be extremely helpful in police-citizen encounters where there may be potential violence.’” The Christopher Commission, which reviewed policing in Los Angeles post Rodney King, found the same. It found low levels of use of force involving women police officers and noted, “many officers, both male and female, believe female officers are less personally challenged by defiant suspects and feel less need to deal with defiance with immediate force or confrontational language.”<sup>37</sup>

For at least 30 years now, women have been entering law enforcement in ever greater numbers and have been serving the public very effectively and safely.

Not coincidentally, the gender integration of American policing has taken place simultaneously with the larger “professionalism” movement within law enforcement generally. Women police officers have not only made our law enforcement agencies more fully reflective of the communities they serve, they have improved these agencies in a variety of tangible ways. The increased feminization of policing long predates the introduction of Tasers and the current hyper-aggressive marketing practices of TI. Rather than cynically trying to tie the safety and success of women officers to their own products, TI should acknowledge the obvious – women have thrived in law enforcement for quite a long time now and will surely continue to thrive regardless of the outcome of the policy debate on Tasers.

*Challenge 9: State the Exact Number of Shocks that Should Be Allowed:* Of the increasing number of deaths following Taser use, a large percentage involve multiple applications of the Taser. There have not been sufficient safety studies in this area, but one study that has been done shows multiple applications increase blood acid levels and the enzyme Troponin T. The HECO study cited above indicates a number of potential hazards from multiple or prolonged Taser applications. TI itself states in a training bulletin that repeated or prolonged exposure “may impair breathing and respiration.”<sup>38</sup> In light of this, it is odd that TI would be asking the ACLU to state the limits for safe exposures to their own product. The real challenge is for TI to name

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<sup>37</sup> National Center for Women & Policing, *Police Use of Excessive Force: Taking Gender Into Account*, June 1999, p. 4.

<sup>40</sup> Taser International Training Bulletin 12.0-04, Fn. 1, supra.

any number of shocks that, in a non-deadly force situation, that would constitute an improper use of its product.

*Challenge 10: Explain Why the ACLU-NC Prevented the San Francisco Police Department from Purchasing Tasers:* In 2004, TI gave a presentation to the San Francisco Police Commission on Tasers as the department was considering purchasing the weapon. The ACLU-NC weighed in with a letter to the Commission urging that, if the Department purchased Tasers, they be used only in life-threatening situations. The ACLU-NC did not call for a Taser ban.

As part of the TI presentation, a Phoenix City Council member testified before the Commission about the Phoenix experience with Tasers. Although TI paid him to give his presentation, neither TI nor the Phoenix council member disclosed that fact to the Commissioners and the public at the meeting. According to then-Commissioner Peter Keane, “we found it a little bit curious that a sitting city official was being brought along as part of the sales pitch.”<sup>39</sup>

TI claims that the “ACLU-NC organization effectively stopped” Tasers in San Francisco. This assumes too much about the weight of the ACLU-NC and too little about the effect of the overblown and exaggerated safety claims by the manufacturer. When the Commission decided to hold off on purchasing Tasers last year, Commissioner Joe Veronese cited the “one-sided medical testimony from Taser,” and the need for more research on the “long-term effects the weapon has on the heart and the brain.”<sup>40</sup> Instead of blaming the ACLU-NC for San Francisco’s decision not to purchase Tasers, the company should take a look at its marketing and promotional practices.

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<sup>39</sup> Robert Anglen, “Firm Paid Phoenix Councilman to Push Stun Guns,” *Arizona Republic*, March 28, 2005.

<sup>40</sup> Alison Soltau, “S.F. Police Panel Wants Inquiry Into Taser Safety,” *San Francisco Examiner*, April 6, 2005.