

Fact Sheet

THIS FACT SHEET WAS PREPARED BY THE FEDERATION OF COMMUNITY LEGAL CENTRES (VIC) INC

Alternatives to Lethal Force: *Tasers* are not the answer

The Federation of Community Legal Centres has long been concerned that *Tasers* should not be seen as the panacea to police use of a firearm.

There are substantial dangers that *Tasers* can kill or harm when used on vulnerable groups or in particular ways. These are the same vulnerable groups that are overrepresented in statistics about police use of lethal force in Victoria.

Evidence from overseas, and increasingly from Australia, suggests that *Tasers* are prone to misuse. We also know that use of lethal force by police can be avoided in most instances with tactical communication, non-violent intervention and other lower use of force strategies.

Victoria Police were first authorized to use *Taser* in 2003 as a 12 month trial.¹ In 2009, *Taser* use by Victoria Police is limited to two specialist police units, the Special Operations Group and Critical Incident Response Teams, part of the Force Response Unit. Chief Commissioner of Victoria Police Simon Overland and his predecessor Christine Nixon have both ruled out expansion of *Taser* use to general duties police.² Whilst this is in contrast to other police services in Australia and generally opposed by Police Associations, the decision is strongly supported by the Federation for the reasons outlined below.

What are *Tasers*?

A *Taser* is a brand of stun gun that uses electricity to subdue people. *Tasers* are promoted by their proponents around the world as an alternative to police use of lethal force to resolve a critical incident. *Tasers* can be used in two modes.

1. In Probe Mode a *Taser* shoots two barbed darts into a victim or their clothing following the release of compressed nitrogen. These two darts are connected to insulated wires that deliver multiple pulses of a 50,000 volt electrical current lasting over 5 seconds. The electrical current causes involuntary stimulation of the sensory and motor nerves, resulting in muscle contractions and severe pain. The muscle contractions are intended to immobilise the victim by causing him or her to fall to the ground, regardless of the pain tolerance or mental focus of the individual.
2. In Drive-Stun Mode the weapon is pressed directly against the skin of a victim causing intense pain (and sometimes burns), but not causing any electro-muscular disruption. In this second mode, the *Taser* is intended as a pain compliance tool.

Tasers can kill

The causal link between *Tasers* and death is hotly contested by researchers and advocates. Nevertheless the sheer numbers of *Taser* proximate deaths raises questions about the safety of the weapon. Amnesty International reported in December 2008 that more than 330 people had died after police *Taser* shocks in the USA since 2001.³ Canadian Broadcasting Corporation claims that there have been over 26 deaths attributable to *Taser* in Canada since 2003.⁴

Deaths in Australia proximate to Taser use:

1. In May 2002 in New South Wales 56 year old Gary Pearce died of a heart attack 12 days after being shot three times with a *Taser*. He had reportedly threatened police with a fry pan. The death certificate references that Mr Pearce had long term heart disease, a thyroid problem, hepatitis C, schizophrenia and was a heavy smoker.⁵
2. In Western Australia, Mark Conway reportedly died in Royal Perth Hospital after being arrested and *Tased* by police in Fremantle on 14 August 2007.⁶
3. In Queensland, Andrew Bornen, a 16 year old boy was run over by a car and killed in Ipswich, west of Brisbane, on 7 February 2009. He was run over after he was handcuffed and police told him to lie down on the road or he would be *Tased*. Reportedly, police were responding to a complaint of a man carrying a machete. Mr Bornen was unarmed but according to police "obviously aggressive".⁷
4. In the Northern Territory a 39 year old man died in Alice Springs on 16 April 2009 after police were called to a domestic dispute and the man was sprayed with capsicum spray and *Tased*. The man reportedly stopped breathing shortly after he was *Tased* by police and died a short time later in Alice Springs hospital.⁸
5. Most recently in Queensland, Antonio Galeano, 39, died of a heart attack at Brandon, Townsville after reportedly being *Tased* 28 times by police on 12 June 2009. Allegedly Mr Galeano assaulted a woman and was wielding a metal bar when confronted by police. Mr Galeano was initially targeted with the *Taser* through a broken window of the unit, before being sprayed with capsicum spray and then hit repeatedly with the *Taser* after he backed into the bathroom. Reportedly, Mr Galeano had earlier been discharged from hospital where he had undergone a psychiatric assessment.⁹

There is an emerging body of evidence that people with existing heart conditions, people who are drug and alcohol affected, the young and the elderly, pregnant women, the mentally ill and others are at significantly greater risk of serious injury or death from *Taser*. The reasons for this greater risk are not yet properly understood.¹⁰ Office of Police Integrity Victoria has concluded that "people with a mental disorder are clearly over-represented in critical incidents that result in fatal police shootings," with 17 of the 32 people fatally shot by Victoria Police between 1 January 1990 and April 2005 considered to have a mental disorder at the time of the shooting.¹¹ Given this statistic and that people with mental health issues are at significantly greater risk of serious harm from *Taser*, *Taser* cannot be assumed to be a safe alternative to police use of lethal force in Victoria.

Evidence also suggests that there are significant risks of serious injury or death of people who are *Tased* by multiple shocks.¹² Again these risks are not yet clearly understood, but as a result, the International Association of Chiefs of Police recommends that police be required "to justify any instance where subjects are energized (*Tased*) more than three times".¹³

Tasers can injure

The NSW Ombudsman has summarized the types of *Taser* related injuries that have been reported into three broad types as follows.

- Injuries from darts, including minor burns, lacerations, eye injuries.
- Injuries from falls as a person loses coordination and control when incapacitated by a *Taser*. For example shoulder injuries, chipped teeth and head injury which can be more serious if a person is located in an elevated position when *Tased*.
- Injuries arising from the electric shock including spinal and muscle injuries as a result of intense muscle contractions cause by the application of the *Taser*.¹⁴

Tasers are also a known source of ignition and significant injuries have been reported where people have caught on fire after being *Tased* in the presence of a fuel.

*On 20 July 2009 an Aboriginal man reportedly burst into flames after being Tased at a remote West Australian community, 1540km northeast of Perth. Ronald Mitchell, 36, suffered third degree burns to his neck, face, arms and chest, and was treated in Royal Perth Hospital. It is reported that police went to a house where Mr Mitchell was sniffing petrol and that he had a container of fuel and a cigarette lighter with him when shot by police with a Taser.*¹⁵

Tasers are misused by police

There is evidence to suggest that where police have ready access to *Taser*, over time it is used in situations that would not otherwise have justified police use of force. This is the phenomenon commonly described as “mission creep” or “usage creep”. The United Nations Human Rights Committee has noted concerns about mission creep in Australia and elsewhere and has stated that *Tasers* should only be used in situations “where greater or lethal force would otherwise have been justified”.¹⁶

One noted cause of mission creep is that recourse to less-lethal or less-than-lethal weapons can lead to a decline in police skill and experience in strategic tactical intervention. Queensland Police Service acknowledges that one of the key risks associated with the use of *Tasers* is over-reliance, namely “the risk that officers will use *Tasers* as a weapon of first choice rather than considering other options to de-escalate a situation.”¹⁷ Mental health experts have also expressed concern that police access to *Tasers* is a barrier to the development of skills and experience in methods of negotiation.¹⁸

In Canada, the Braidwood Inquiry is investigating this incident:

*At Vancouver airport in October 2007, 40 year old Robert Dziekanski died after he was Tased by Royal Canadian Mounted Police. Following a 14 hour flight from Poland, Mr Dziekanski waited 10 hours in the baggage collection area. He did not speak English and his mother had asked him to wait in the baggage collection area thinking that this was accessible to the public. His mother asked the whereabouts of her son after she failed to locate him, and was advised that he was not there and to go home, a six hour drive away. She left but was very concerned about her son. Meanwhile he was unable to communicate with anyone and was in a confused and agitated state. Footage shows him being approached by four police officers who Tased him within 30 seconds. He was Tased a second time and collapsed, dying of suspected heart failure.*¹⁹

In Australia there are a number of prominent incidents that have come to the public's attention which appear to be blatant misuse of *Taser*.

- In Brisbane on 11 August 2007, Nathan Cook was reportedly *Tased* 3 times while he was handcuffed.²⁰
- In Brisbane on 11 April 2008, a 16 year old girl defied a move-on order and was sitting down in a garden bed waiting for an ambulance to treat her sick friend. She was then reportedly held down by two security guards while an officer shot her in the thigh with a *Taser* and arrested her.²¹
- In Sydney on Sunday 29 March 2009 reportedly a 38-year-old man was *Tased* twice by a police officer on Oxford Street, when it appears from a closed-circuit video camera that he was complying with instructions from the officer to get off the road and onto the footpath.²²

There are numerous reports overseas of Tasers being used on people who were unarmed, not threatening police or not resisting arrest. Footage of some incidents is available following these links:

- *A man is Tased while in police custody and refusing to comply with police orders.*
<http://www.youtube.com/watch?v=8FRnh9f1NnU>
- *A police officer uses a Taser to arrest a retreating shopper.*
<http://www.youtube.com/watch?v=ZdCUdR8qNF4&feature=related>
- *A police officer Tasers a woman repeatedly in a night club car park. The officer Tasers her when she is in his car. He tells her to get out of the car and walk to another police car. She follows his directions and is Tased again.*
<http://www.youtube.com/watch?v=KMpEr-MOSyk>
- *Pittsburgh police taser a woman protester who is lying on the ground.*
http://www.youtube.com/watch?v=si3y9gVxJtE&feature=PlayList&p=B9FA2F0AA618F21B&playnext=1&playnext_from=PL&index=8
- *In Nottingham in June 2009 a man on the ground is Tased by one police officer while another looks on. Another two officers arrive and all officers attempt to put handcuffs on the man. The man is not resisting but is Tased again.*
<http://www.guardian.co.uk/politics/2009/jun/16/police-shoot-man-with-taser>

Police don't need stun guns to stop killing or injuring themselves and other people

The Office of Police Integrity (OPI) "Review of the fatal shootings by Victoria Police" recommended that Victoria Police can and should seek to avoid and minimise use of force by applying their own ten Operational Safety Principles, currently included in the Victoria Police Manual.²³ The findings of this review and the subsequent OPI "Review of the Use of Force by and against Victorian police", July 2009 make similar recommendations which include a reemphasis on training in tactical communication skills rather than equipment and a focus on making sure police have the crucial skills to identify and take appropriate action when someone may have a mental health problem.²⁴ In response to these findings, the OPI has said that Victoria Police officers "should not be trusted with *Tasers*".²⁵

Internal reviews undertaken by Victoria Police but not publicly released reportedly concord with the OPI's findings and recommendations. Chief Commissioner Overland has stated that following a review by former Victoria Police member, Superintendent Mick Williams into critical incident response, there needs to be a "refocus on the core elements of police

operational tactics and safety. ... This would include enhancing tactical communication and awareness training, the ability to effectively engage with vulnerable people and cordon and containment skills.”²⁶ It is in the context of these reviews that the Chief Commissioner has stated that *Tasers* will not be made available to general duties officers.

Overseas, multidisciplinary teams assist to resolve complex situations involving people in mental health crises. One such program was provided by the Police Crisis Support Units, (CSUs) which existed in Melbourne from 1989-1994. CSU’s were a specialised police team, comprising of specially trained officers paired with mental health professionals, travelling together to provide immediate response to a crisis situation, involving people with psychiatric and other disabilities. PCU’s not only worked to diffuse the situation where a person was at risk but also to assess the person and make an instant and appropriate referral to support services.

Police are the only mobile 24 hour crisis intervention service. Police are demanded to act in ways far beyond their training and skills in dealing with people in mental health crises. Not only must police be adequately trained but they must also have appropriate support in order to deal with these complex crisis situations, by acting in tandem with mental health professionals and not with *Tasers*.

Tasers don’t stop police injuring themselves or the public:

- *In Alice Springs in February 2009, a police Taser malfunctioned when it hit the knife blade of a man they were trying to arrest. The police then shot the man with a gun.*²⁷
- *Video depicts an officer accidentally Tasering himself.*
<http://www.youtube.com/watch?v=uOVku86WfVg&feature=related>
- *Police claim this 17 year old pulled a knife on them. When the teenager refused to drop the knife, the police shot him with a Taser. However, the Taser failed so they shot him with a gun.* <http://www.youtube.com/watch?v=xYoejBVuZlo&feature=related>

¹ Victoria Government Gazette, G48, 27 November 2003.

² Victoria Police Online News Centre - Chief urges a "return to basics" 7/06/09.

³ 'Less than Lethal' The use of stun weapons in US Law Enforcement, December 2008, available <http://www.amnesty.org/en/news-and-updates/report/tasers-potentially-lethal-and-easy-abuse-20081216>

⁴ <http://www.cbc.ca/news/interactives/tasers/index.html>

⁵ New South Wales Ombudsman, *The use of Taser by New South Wales Police Force*, November 2008, Case study 10, page 62. Available at www.ombo.nsw.gov.au.

⁶ Reported in *The West Australian*, on 15th August 2007 by Luke Eliot. As of April 2009 the West Australian Coroner had not set a date for this inquest.

⁷ <http://www.brisbanetimes.com.au/news/queensland/dead-teenager-chose-road-over-taser/2009/02/09/1234027898326.html>

<http://www.news.com.au/couriermail/story/0,27574,25044828-3102,00.html>

⁸ <http://www.abc.net.au/news/stories/2009/04/17/2545521.htm?section=justin>

<http://www.theaustralian.news.com.au/story/0,25197,25346179-12377,00.html>

⁹ <http://www.theaustralian.news.com.au/story/0,,25673705-28737,00.html>

¹⁰ National Institute of Justice, *Study of Deaths Following Electro Muscular Disruption: Interim Report*, June 2008, page 4. Available at www.ojp.usdoj.gov/nij. New South Wales Ombudsman, *The use of Taser by New South Wales Police Force*, November 2008, page 16. Available at www.ombo.nsw.gov.au

¹¹ Office of Police Integrity Victoria, *Review of fatal shootings by Victoria Police*, November 2005, Page 35.

¹² National Institute of Justice, *Study of Deaths Following Electro Muscular Disruption: Interim Report*, June 2008, page 4.

¹³ IACP National Law Enforcement Policy Center, *Electronic Control Weapons Concepts and Issues Paper*, Revised edition August 2005, page 2.

¹⁴ New South Wales Ombudsman, (2008). *The use of Taser by New South Wales Police Force*, November 2008, pp.20-21.

¹⁵ <http://www.theaustralian.news.com.au/story/0,25197,25817896-5006789,00.html>

<http://www.theaustralian.news.com.au/story/0,25197,25811723-2702,00.html>

-
- ¹⁶ UN Human Rights Committee Report on Australia, 2nd April 2009, para. 21 (CCPR/C/AUS/CO/5).
- ¹⁷ Queensland Police Service, *Review of the Queensland Police Service Taser Trial*, July 2009, page 42. Available at <http://www.police.qld.gov.au/News+and+Alerts/campaigns/taser/review.htm>
- ¹⁸ Kellett, C. (2009). 'Tasering of mental patients shocks Qld health experts' *Brisbane Times*, <http://www.brisbanetimes.com.au/queensland/tasering-of-mental-patients-shocks-qld-health-experts-20090626-czo8.html>
- ¹⁹ The Thomas Braidwood QC Commissions are inquiring into and reporting on the use of conducted energy weapons in British Columbia and inquiring into the death of Mr Dziekanski. The Phase 1 Report, *Restoring Public Confidence, Restricting the Use of Conducted Energy Weapons*, June 2009, provides the most comprehensive analysis of Tasers to date, outlining the most recent medical literature, other evidence, and a framework for a detailed analysis of police operational policies, regulatory frameworks, training and monitoring processes around Taser use. Available at <http://www.braidwoodinquiry.ca/report/>. Footage of the incident involving Mr Dziekanski is available at: <http://www.youtube.com/watch?v=Y0bc856G5qY&feature=related>
- ²⁰ www.news.com.au/couriermail/story/0,23739,25634712-952,00.html
- ²¹ <http://www.news.com.au/couriermail/story/0,23739,25137988-3102,00.html>
<http://www.theaustralian.news.com.au/story/0,25197,24660334-5006786,00.html>
- ²² <http://media.smh.com.au/tased-on-oxford-street-569275.html>
- ²³ Office of Police Integrity Report, *Review of fatal shootings by Victoria Police*, November 2005, Recommendation 1.
The Thomas Braidwood QC Commissions are inquiring into and reporting on the use of conducted energy weapons in British Columbia and others and inquiring into the death of Mr Dziekanski. The Phase 1 Report, *Restoring Public Confidence, Restricting the Use of Conducted Energy Weapons*, June 2009, provides a detailed analysis of the most recent medical literature and other evidence, and a framework for a detailed analysis of police operational policies, regulatory frameworks, training and monitoring processes around Taser use. Available at <http://www.braidwoodinquiry.ca/report/>. Footage of the incident involving Mr Dziekanski is available at: <http://www.youtube.com/watch?v=Y0bc856G5qY&feature=related>
- ²⁴ Office of Police Integrity, *Review of the Use of Force by and against Victorian police*, July 2009, Key Findings, page 14.
- ²⁵ 'No Tasers' for deadly police, *The Australian*, 13 July 2009.
<http://www.theaustralian.news.com.au/story/0,25197,25770795-5006785,00.html>.
- ²⁶ Victoria Police Online News Centre - Chief urges a "return to basics" 7/06/09.
- ²⁷ http://www.ntnews.com.au/article/2009/02/24/35151_ntnews.html