



**CAJ**

**Committee on the  
Administration of Justice**

*CAJ's position paper on*

**TASER**

**April 2009**

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**Promoting Justice / Protecting Rights**

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The Committee on the Administration of Justice (CAJ) was established in 1981 and is an independent non-governmental organisation affiliated to the International Federation of Human Rights. CAJ takes no position on the constitutional status of Northern Ireland and is firmly opposed to the use of violence for political ends. Its membership is drawn from across the community.

The Committee seeks to ensure the highest standards in the administration of justice in Northern Ireland by ensuring that the government complies with its responsibilities in international human rights law. The CAJ works closely with other domestic and international human rights groups such as Amnesty International, Human Rights First (formerly the Lawyers Committee for Human Rights) and Human Rights Watch and makes regular submissions to a number of United Nations and European bodies established to protect human rights.

CAJ's activities include - publishing reports, conducting research, holding conferences, campaigning locally and internationally, individual casework and providing legal advice. Its areas of work are extensive and include policing, emergency laws and the criminal justice system, equality and advocacy for a Bill of Rights.

CAJ however would not be in a position to do any of this work, without the financial help of its funders, individual donors and charitable trusts (since CAJ does not take government funding). We would like to take this opportunity to thank Atlantic Philanthropies, Barrow Cadbury Trust, Hilda Mullen Foundation, Joseph Rowntree Charitable Trust, Oak Foundation and UNISON.

The organisation has been awarded several international human rights prizes, including the Reebok Human Rights Award and the Council of Europe Human Rights Prize.

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**Promoting Justice / Protecting Rights**

*Winner of the Council of Europe Human Rights Prize*

# CAJ POSITION PAPER – TASER

29<sup>th</sup> April 2009

## Executive Summary

The Committee on the Administration of Justice (CAJ) is a non-governmental human rights organisation that opposes the use of violence. CAJ does not support the deployment of Taser in Northern Ireland. However, since Taser has been deployed our concern is to ensure the use of Taser, as with any use of force, is carried out with due regard for human rights. CAJ maintains that Taser is a dangerous, potentially lethal weapon which can violate Articles 2 (right to life) and 3 (freedom from torture and cruel, inhuman or degrading treatment) of the European Convention on Human Rights (ECHR).

CAJ recognizes the very difficult job of policing but maintains the following:

- *Taser should only be used when absolutely necessary to prevent death or serious injury.*
- *Taser discharges should continue to be referred to the Office of the Police Ombudsman for investigation.*
- *Taser use must be tightly controlled and there should be no attempt to extend their availability.*
- *Taser should be confined to the smallest necessary number of specialist and authorised firearms officers and should never be used to augment lethal force, to attain compliance, or in public order situations.*
- *Taser use should never be disproportionate or indiscriminate.*
- *Training methods should continue to teach officers to think of the weapon as a firearm, a weapon that is potentially lethal.*
- *Training should also continue to give special emphasis on procedures to reduce adverse impacts on the equality groups.*
- *In no circumstance should Taser be used on children.*

## Introduction

The Committee on the Administration of Justice (CAJ) is a non-governmental human rights organisation that works to secure the highest standards in the administration of justice by holding the government to account for its human rights obligations.

With respect to policing, CAJ works to ensure that policing structures, policies, practices, and conduct conform to best practice and internationally recognised human rights standards. CAJ is mindful that police reform takes a long time, involves transforming power relations in a society, and requires changes in police culture, structures, doctrine and practice. CAJ recognizes the positive changes that have occurred to policing culture as well as the deficit of trust that still informs community-police relations. Taser has the potential to damage public confidence, cause fear, and ultimately contribute to tensions between communities and the police if use is perceived to be indiscriminate, widespread, and abusive. CAJ will continue to scrutinize any use of force by police and will be vigilant with respect to 'mission creep' - Taser use to secure compliance, in public order situations, and/or where conflict resolution techniques would be effective. We do not want to see the international experience replicated here nor the widespread and abusive practices most recently associated with plastic baton rounds. There can be no excuses, nor exceptions, for the unlawful use of any type of force.

There are two overriding concerns with respect to every use of force by police. The first is whether it is lawful. With respect to Taser CAJ has expressed concerns which relate to procedural fairness and questioned how the Policing Board can be convinced of the legality of Taser in the midst of ongoing judicial review. CAJ awaits the outcome of the review and a statement will then be forthcoming.

The second is whether the use of force is carried out with due regard for human rights. This paper focuses on the use of Taser as a 'less lethal' device and considers the medical research, the international and domestic experience of deployment, the guidance and deployment in Northern Ireland, and concludes with CAJ's current position.

## TASER: Thomas A. Swift's Electronic Rifle

### ***Taser is a dangerous and potentially lethal weapon.***

Initially classed as a firearm, Taser now utilizes nitrogen propellant rather than gunpowder and thus was re-categorized. The Taser was first invented by a NASA researcher and the term is an acronym for Thomas A. Swift's Electronic Rifle. (Tom Swift, a fictional character, is a genius inventor in several series of juvenile adventure novels.) Taser works by delivering a high voltage (50,000 volts), low current, electrical charge designed to disrupt the central nervous system. A person struck by a Taser experiences stimulation of his/her sensory and motor nerves resulting in strong involuntary muscle contractions. Its manufacturer, Taser International, calls the effects "neuromuscular incapacitation" through the use of "Electro-Muscular Disruption (EMD) technology". The effect is excruciatingly painful, causing a person to fall to the ground and, at times, lose control of their bodily functions. There are

two main police models, the M26 and X26. The latter, newer model is currently utilized by the PSNI.

### Medical Research: The Effects of Taser

***Research literature confirms Taser as a dangerous and potentially lethal weapon. The findings confirm the need for independent research and testing of the device with respect to at-risk populations. The research is also limited in that it does not involve the civic sector and therefore the social dimension, including community-based thinking on acceptability, accountability, abusability, and the social and political implications of these factors.***

Two main concerns exist with respect to research on the effects of Taser use. Human rights organizations, domestic and international, cite the need for full, independent, and rigorous medical research into the impact and effect of Taser. The lack of medical evidence is of particular concern with respect to vulnerable populations. Most of the studies have been funded by stun-gun manufacturers of and have found the risk of serious injury or death to be generally low in healthy adults.

Medical advice is provided to the Home Office by the Defense Scientific Advisory Council's Sub-Committee on the Medical Implications of Less Lethal Weapons (DOMILL). While criticized for not being independently funded, the research is comprehensive and does not give a blanket 'green light' to Taser usage but notes limitations to study population; risks associated with Taser-induced falls; recommendations for on-going quarterly reviews in view of the uncertainties in population characteristics; and amendments to strengthen ACPO Guidance to include medical reviews of those subjected to Taser use. The most recent report, affirmed the Committee's view that the risk of death or serious injury from use of the M26 and X26 Taser *within* Association of Chief Police Officer (ACPO) Guidance and Policy is very low (November 2008). However the report noted that the risk was not zero and cited two reported incidents in the United States in which individuals sustained fatal head injuries as a result of Taser-induced falls. The report also concluded that there is insufficient data to evaluate any potential risks to the foetus in pregnant women.

A study conducted at the trauma centre in Chicago's Cook County hospital found that the use of electro-shock weapons can cause fatal arrhythmias in pigs.<sup>1</sup> The team of doctors and scientists stunned 11 pigs with Taser guns in 2006, hitting their chests with 40-second jolts of electricity, pausing for 10 to 15 seconds, and then hitting them for 40 more seconds. The research reports that, when the jolts ended, every animal was left with heart rhythm problems. Two of the animals died from cardiac arrest, one three minutes after receiving a shock.

The existing body of research is limited in scope with respect to vulnerable populations specifically children; people of small stature; women, including those

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<sup>1</sup> Cardiac arrhythmia is abnormal electrical activity in the heart resulting in a heart beat that is too fast or too slow, regular or irregular.

who may be pregnant; the elderly; people with medical conditions or in poor health generally; and, people under the influence of alcohol and/or drugs.

The current research is also devoid of any involvement from the civic sector – community activists, victims, human rights organizations, or the public at large, and in this absence a wealth of organic wisdom, knowledge, and experience remains untapped. The process of developing ‘less-lethal’ weaponry is not limited to the sphere of technology and should be informed by community thinking on acceptability, accountability, abusability, and the potential risk of serious injury or death. By extension, Equality Impact Assessments should be driven by a comprehensive, inclusive, community-based focus to evaluate potential social and political impacts and to inform any decision process on less-lethal technologies.

#### The Use of Taser: The International Experience

***The international experience of Taser use indicates a strong correlation between reactive, security-focussed policing with negligent procedures and guidelines and a frequency of Taser use and abuse. In countries where Taser has been in longer term use, the device is not restricted to usage as an alternative to live rounds but is utilized in a wider variety of situations. As a weapon Taser is susceptible to high levels of abuse that allow policing to go beyond what is lawful and facilitate human rights violations.***

Internationally the use of Taser is not restricted to limited circumstances where it is strictly necessary to protect life or avoid serious injury. The North American experience reflects hundreds of deaths as a result of indiscriminate Taser use, its use on vulnerable populations, and the use of Taser to systematically inflict torture. In Canada at least 25 people have died after police officers shocked them with a Taser. The majority of these deaths were linked to repeated Taser shocks.

Most U.S. police departments allow Taser use at a level of threat well below that at which officers would be authorised to use lethal force; some place them at the level of “hands-on” force or just above “verbal comments”. In the U.S. Taser is not restricted to specially trained officers but are “standard issue”. In December 2008 Amnesty International published a detailed report on the safety of Taser indicating the number of people who died in the United States after being shocked with the device reached 334 (between 2001 and August 2008). Since the device was deployed to police forces in 1999 there have been 398 deaths. The deficits in American procedures, practices, and training are reflected in the study which includes information from 98 autopsies. The research found that 90 per cent of those killed were shocked multiple times, were not armed, and many did not appear to present a serious threat.

Without a rights-based approach to policing and appropriate training Taser is conducive to abuse because it is small and lightweight and therefore easy to carry; are a ‘point and shoot’ device and therefore easy to use; and, inflict severe pain rendering incapacitation at the push of a button. Furthermore, the device recharges quickly and the Amnesty research found that many individuals in the U.S. were subjected to repeated or prolonged shocks - far more than the five-second “standard” cycle - or by more than one officer at a time. Some people were subjected to a further shock for failing to comply with police commands after they had been incapacitated by a first shock.

Based on incidents in Portugal, the UN Committee Against Torture (CAT) stated the use of Taser "...causes acute pain, constituting a form of torture." Following from this the use of the weapons would be a violation of Article 1 (meaning of torture), Article 2 (measures to prevent torture and ill-treatment), and Article 3 (freedom from torture and cruel, inhuman or degrading treatment) of the ECHR. By extension the use of Taser would not be compliant with the Human Rights Act 1998 (Section 6), the Police (NI) Act 2000, nor the Convention on the Rights of the Child.

### The Use of Taser: The Domestic Experience

*It must be recognized that the domestic experience in Great Britain and Northern Ireland is not currently one of widespread or routine deployment of Taser. This is directly linked to restrictions on their deployment to highly trained officers only; strict guidelines; training, review, and evaluation; the development of a human rights culture amongst police; and, internal and external accountability mechanisms. In this context leading human rights organizations domestically have not opposed the use of Taser when deployed by limited numbers of highly-trained officers responding to life-threatening or very dangerous situations. However, there remains a need for vigilance as both international and domestic experiences of Taser raise the issue of 'mission creep' and whether the device may be utilized in situations to secure compliance and/or where conflict resolution techniques would be effective.*

In Great Britain, the Home Office maintains that in four years of tests and 3,000 uses of the Taser, there have been no deaths or serious injuries. However in October 2006 a man died in Co. Durham three days after he was shot with a Taser and a baton round. He is believed to be the first person in the UK to die after being shocked. However in a post-mortem independent pathologists ruled that he died from long-term heart disease.<sup>2</sup>

In November 2008 Home Secretary Jacqui Smith announced that £8m would be made available to increase the supply of Taser and to train 30,000 officers to use them. The decision followed a 12-month trial of Taser by frontline officers in 10 police forces by specialist firearms officers. However the proposal has met with opposition from the Metropolitan Police Authority (MPA) which noted "...the potential to cause fear and damage public confidence if the use of Taser is extended to non-specialist trained police officers and is perceived by the public to be indiscriminate." The MPA further noted that Taser use "...must be tightly controlled and we have seen no case made out to extend their availability."

This concern was echoed by Amnesty International UK's Arms Programme Director, who stated that the Home Secretary should urgently review this decision. The organization has stated it is not opposed to the use of Taser but notes that "wide deployment" is dangerous:

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<sup>2</sup> The autopsy report found that the individual's coronary artery was narrowed to the size of a pinhole and pathologists stated that sudden death was not uncommon in such cases. The family have refused to accept this verdict. In this case Taser was deemed appropriate after a two-and-a-half hour siege at the individual's home. The man had threatened to chop up his cousin's daughter and bury her remains.

Amnesty recognises the very difficult job police officers have to do and we don't actually oppose the use of Taser as long as it's by a limited number of highly-trained specialist officers, responding to genuinely life-threatening or very dangerous situations. <...> Taser are potentially lethal weapons which are already linked to numerous deaths in North America and that's why wide deployment without adequate training is a dangerous step too far for British policing.

Among human rights organizations in the north the response has been mixed. Some groups, such as the Children's Law Centre and Save the Children, echo the concerns raised by the UN Committee on the Rights of the Child with regard to the use of Taser that the Government should, "...put an end to the use of all harmful devices on children." The Chairperson of Relatives for Justice (RFJ) stated that the pilot deployment of Taser was "...a black day for human rights in our post-conflict society" and called on the Policing Board to immediately reverse the deployment on the basis of Section 6 of the Police (NI) Act 1998.

The Northern Ireland Human Rights Commission (NIHRC) has claimed Taser could potentially violate Articles 2 (right to life) and 3 (freedom from torture and cruel, inhuman or degrading treatment) and of the European Convention on Human Rights (ECHR). However NIHRC's chief commissioner stressed the commission was not opposed to police officers having access to less lethal alternatives than firearms, but noted, "There remains genuine concern about the safety of Taser." Amnesty International's Northern Ireland office recognized that police officers have a "...duty to protect themselves and others from serious life-threatening incidents, and in these situations a Taser is clearly a less-lethal alternative" but also noted that "People are at serious risk of injury, or in some cases death if the Taser is used without adequate safeguards." Echoing concerns expressed by Amnesty UK the Northern Ireland office also expressed apprehension with respect to 'mission creep' and potential compromises to training requirements:

We're worried that this could be the start of a slippery slope towards further arming of the police with Taser.<...> Because these weapons are potentially lethal, police officers must be trained to the same high standard as they are for using a firearm, receiving intensive, ongoing training to ensure that they only use these dangerous weapons in very limited circumstances.

Experientially mission creep is a legitimate concern. In March 2005, following trials and medical testing, the Home Secretary made Taser available to all forces in England and Wales but limited its use to Authorised Firearms Officers (AFOs). Taser was further limited for use *only* in situations where a firearms authority has been granted.<sup>3</sup> However in July 2007, the Home Secretary approved a one year trial by ten police forces of the use of M26 and X26 Taser by Specially Trained Units (STUs) and AFOs at incidents *where firearms authority had not been granted*. Here operational deployment of Taser was extended to incidents involving violence, or threats of

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<sup>3</sup> In accordance with Association of Chief Police Officers (ACPO) guidelines.



violence, of such severity that AFOs and STUs would need to use force to protect the public, themselves, or the subject.

Currently all police forces in England, Scotland and Wales, deploy Taser. In the Republic of Ireland, following Cabinet approval in September 2008, Taser were approved for use by the Garda's new Regional Support Units (RSUs). Previously in 2007 the devices were restricted to use only by the plain-clothes unit which deals with serious armed crime.

### Taser: Guidance and Deployment in Northern Ireland

***Taser should only be used when absolutely necessary to prevent death or serious injury. Taser should be confined to the smallest necessary number of specialist and authorised firearms officers and should never be used to augment lethal force, to attain compliance or in public order situations. Training methods should teach officers to think of the device as a firearm, a weapon that is potentially lethal. Training should continue to give special emphasis on procedures to reduce adverse impacts on the equality groups. In no circumstance should Taser be used on children.***

In Northern Ireland the permanent issue of Taser X26 model is limited to officers from Specialist Operations Branch (SOB) and authorised firearms officers in Armed Response Vehicle units (ARV's).<sup>4</sup> In practice this means that Taser is limited to between 2% - 3% of PSNI officers. Policy Directive 12/08 Police Use of Firearms states: "The use of Taser will be justified where the officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury."<sup>5</sup> This means that Taser usage is set at a "slightly lower threshold" than for the use of lethal force, which requires the honest belief that lethal force is *absolutely* necessary to prevent death or serious injury. PSNI Operational Use of Taser states that this threshold is, "...intended to cover a situation where an officer honestly believes that a situation is in immediate danger of escalating to a point where the use of lethal force will be required."<sup>6</sup> The PSNI's Equality Impact Assessment (EQIA) states that Taser is for use as "...an alternative to more lethal options" and that Taser "... will not be used as a compliance tool or in public order situations."<sup>7</sup>

The EQIA notes there are potentially adverse impacts on all of the nine equality groups identified in Section 75.<sup>8</sup> The EQIA states that the decision to introduce Taser included incorporating "mitigating actions" into the Taser Service Procedure and training to reduce adverse impacts on the equality groups. This involves training on the specific impact of Taser on the groups who may have different needs and/or expectations; the responsibility of a Bronze Firearms Commander to make a dynamic risk assessment at the scene on the use of Taser; the documentation of the use of Taser; and, medical training of officers in medical conditions and medical equipment.

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<sup>4</sup> This decision was supported in principle by the Policing Board.

<sup>5</sup> *PSNI Operational Use of Taser: Notes for Guidance on Police Use*, p. 2

<sup>6</sup> *Ibid*, section 10.4, p.10

<sup>7</sup> PSNI Final EQIA, *Proposals to Introduce Taser* (November 2008). p. 7

<sup>8</sup> The nine equality groups include: people from black and minority ethnic groups; children and young people; men; women; pregnant women; people with poor mental health; people with heart problems or who wear a pacemaker; people with epilepsy; and people with hearing loss.

Additionally, the EQIA states “for all groups consideration was given to monitoring and reviewing the use of Taser regularly; ensuring that all persons subjected to Taser discharge should be examined by a medical practitioner at the earliest practical opportunity and referral to the Office of the Police Ombudsman for Northern Ireland of all Taser discharges.

The Office of the Police Ombudsman has confirmed that Taser has been discharged on four occasions. All four discharges are being actively investigated and the Ombudsman’s Office could not comment further on any of the circumstances. Attempts to uncover additional information from local political leaders and community activists have not yielded any further information at this time.

### CONCLUDING POSITION

*CAJ does not support the deployment of Taser and maintains that Taser is a dangerous, potentially lethal weapon which can violate Articles 2 (right to life) and 3 (freedom from torture and cruel, inhuman or degrading treatment) of the European Convention on Human Rights (ECHR). Since Taser has been deployed our concern is to ensure the use of Taser is carried out with due regard for human rights. Therefore, Taser should only be used when absolutely necessary to prevent death or serious injury. CAJ maintains that discharges of Taser should continue to be referred to the Office of the Police Ombudsman for investigation. Taser use must be tightly controlled and there should be no attempt to extend their availability. Taser should be confined to the smallest necessary number of specialist and authorised firearms officers and should never be used to augment lethal force, to attain compliance, or in public order situations. Taser use should never be disproportionate or indiscriminate. Training methods should continue to teach officers to think of the weapon as a firearm, a weapon that is potentially lethal. Training should also continue to give special emphasis on procedures to reduce adverse impacts on the equality groups. In no circumstance should Taser be used on children.*