

# NOT THERE YET

## The Need for Safer TASER Policies in North Carolina

A REPORT BY THE NC TASER SAFETY PROJECT

2008

### Law Enforcement use of TASER stun guns

#### Introduction

Law enforcement use of TASER stun guns has increased dramatically in recent years in North Carolina and throughout the country. TASER International, the manufacturer of these weapons, claims they are in use in over 11,000 law enforcement agencies nationwide, and almost a third of those agencies give TASERs to every patrol officer.<sup>1</sup> Touted by the company as a device that saves lives, TASER use has resulted in numerous injuries and has been proximate to several deaths in North Carolina and hundreds across the country.<sup>2</sup>

Since 2001, when deployment of the device became increasingly popular due to technological advances and innovative marketing strategies, more than 280 people have died after being stunned with a TASER. Ten deaths have occurred in North Carolina alone since 2006,<sup>3</sup> and in that year, the state had the unfortunate distinction of having the third highest number of TASER-proximate deaths in a one-year period, behind California and Florida.<sup>4</sup>

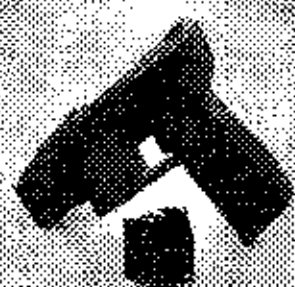
Purchase and deployment of the TASER are exempt from the regulatory oversight required

for firearms, and state and federal legislation on TASERs is nonexistent, which places the onus on law enforcement agencies to set their own standards for appropriate use. North Carolina law enforcement – starting with sheriffs' offices – must take the lead to adopt proper safety standards for TASER use that protect the public as well as the deputy sheriffs who use TASERs, given the increasing number of deaths associated with TASER use, the lack of independent studies on critical safety issues involving vulnerable populations, and the lack of appropriate policies regulating the use of the weapon.

In 2007 several organizations working throughout North Carolina came together to discuss these issues in light of increasing news reports involving the TASER. They formed the TASER Safety Project (the Project), a coalition of concerned groups who serve the state's vulnerable populations including children, people with

physical disabilities, people with mental illness, and the elderly. Multiple reports of contact with TASERs came from these various communities and led the group to conclude that more public education was needed on the matter, which led to a statewide survey of TASER use in sheriffs' offices. Following up on





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the survey with sheriffs' offices statewide has led to productive dialogue with many members of law enforcement as well as amended policies in several counties. This project, with its publication of survey results and policy recommendations, is intended to lead local advocates, organizations, and individuals to use the information provided to begin building bridges with law enforcement in local towns, cities and counties, resulting in better TASER policies in North Carolina.

This report is divided into three sections: Section I provides an overview of TASER technology and the weapons' use in North Carolina. Section II offers a description of populations especially vulnerable to the effects of TASERs and sets forth the results of our coalition's survey of all 100 North Carolina sheriffs' offices, comparing the policies and procedures of offices that use TASERs with guidelines nationwide, with a special spotlight series on issues through stories. Section III concludes the report with a summary and suggests opportunities for continued action.

## SECTION I: A Brief Overview of the TASER

The TASER, invented in 1969, works by delivering a high-voltage, low-current electrical shock to temporarily paralyze a person by causing electrical interruption of the body's normal energy pulses. TASER stands for "Thomas A. Swift's Electric Rifle" a nod to inventor and adventure hero Tom Swift, the central character in several series of young adult science fiction novels.<sup>5</sup> In the 1990s the TASER was made more powerful and marketed to law enforcement by Air Taser, a company that later changed its name to Taser International.<sup>6</sup> TASERs designed for use by law enforcement now cost between \$800 to \$1300 per weapon<sup>7</sup> and are increasingly popular. Other models, which cost around \$350.00<sup>8</sup> and are designed for the public, are also currently on the market.

The TASER is shaped like a gun and is loaded with cartridges that shoot two small hooked metal electrodes capable of reaching a target up to 35 feet away in law enforcement models, and up to 15 feet away in models created for the general public. When fired, the electrodes hook into the skin or clothing to prevent removal and distribute a charge of about

1200 volts in electrical pulses at a rate of 19 pulses per second.<sup>9</sup> After the first shock, which usually lasts five seconds, the device is controlled manually and can be activated for any amount of time. Law enforcement models also enable an officer to remove the cartridge and hold the device directly against an individual's body to produce the charge; this is commonly known as the TASER's "drive stun" mode.

The TASER was initially marketed as completely safe but within the first decade of its use there were multiple injuries, deaths and lawsuits stemming from real-world TASER applications.<sup>10</sup> In a 2003 investigation of the Miami Police Department, the United States Department of Justice evaluated the TASER for its place on the continuum of force and suggested it be located just below deadly force and described as a "less lethal" instead of a non-lethal weapon.<sup>11</sup> As a result, the company produced additional warnings; one cautioned that the risk of death to an individual — especially one who is under the influence of drugs — is greater if shocked multiple times with a TASER.<sup>12</sup>

The original TASER used gunpowder to propel the electrodes and was thus regulated by the United States Bureau of Alcohol, Tobacco and Firearms (ATF). However the 1990s overhaul of the weapon replaced gunpowder with nitrogen cartridges, at which time the agency certified that the TASER was no longer a firearm, rendering it exempt from ATF regulation. This shifted the responsibility of TASER regulation to the agencies that deploy the weapon. Policies and procedures now vary widely across the state and the nation.

In North Carolina, road deputies in 70 counties carry TASERs. Two additional counties use TASERs only in county jails, and 28 counties reported that TASERs are not currently in use.<sup>13</sup> County guidelines regarding TASER use range from no policy at all in four counties<sup>14</sup> to a few counties with comprehensive policies that provide guidance for a multitude of situations. In general, however, North Carolina trails significantly behind the national averages with respect to TASER regulation.

## Spotlight on TASERs in North Carolina schools

The proliferation of TASERs in North Carolina public schools is one indicator of a long quest for the lack of standards for TASER use. Instead of law enforcement agencies deciding whether school resource officers employed by a local law enforcement agency, but working within the school, are permitted to carry the device. And while the majority of communities have already prohibited use of the device against minors, only 21 counties restrict or prohibit TASER use against youth in North Carolina. As a result, North Carolina has seen a growing number of incidents involving officers and TASERs. These are just a few examples:

- Some school administrators have viewed the device as a disciplinary tool. In Franklin County, a school resource officer arrested a teenage girl, taking her multiple times. When witnesses went to the media to report, claiming the girl offered no aggression toward the officer, the Principal of Hiram High in denied the officer's actions, saying that TASERs could be used on students whenever they did not obey a specific rule.
- According to court records, police in Apex, North Carolina, threatened a 16-year-old boy with a TASER after he allegedly used profanity on school grounds.
- School board members in Tennessee unsuccessfully attempted to prohibit school resource officers from entering school property if the sheriff didn't agree to stop officers or deputies with TASERs. "The risk of jeopardizing the life of any child is too great for us to touch it in this case," school members told the Tennessee News & Herald.
- In December 2007, police in Hedgesville Middle School in Mecklenburg County reportedly tased a 14-year-old special needs child four times, after the girl threw an object at the officer, and the officer being ordered to return to a classroom she fled as a result of harassment from a fellow student. The child, who was known to be an intense learner, had been in an arrangement with the school guidance counselor in which she was permitted to call her mother after another if the harassment became overwhelming. According to the child's mother, Diana Taylor, on the day of the incident, the counselor was not at work. Taylor says the incident caused immeasurable pain to and significantly aggravated an already deeply wounded child. She has since transferred to another school.



Minors in the U.S. constitute only a small percentage of those being arrested in TASERs, as law enforcement agencies increasingly restrict or prohibit use of the device against them. Nevertheless, a number of North Carolina school districts still insist on using the device to maintain order. While a number of teenagers under the age of 18 have died in TASER-related arrests, including a 17-year-old teenager in March 2008, there has yet to be an incident where a child died as a result of being tased at school. However, concern continues to mount as some school districts become increasingly reliant on the device to settle typical schoolyard disputes that in the past would not have resulted in full-blown arrest.



# Health Concerns

## SECTION II: TASER's Human Toll

Over the past year the TASER Safety Project (the Project) conducted a survey on the issue of TASER use in North Carolina and the consequences of potential misuse. The Project's main concerns, detailed below, revolve around stun gun use in certain circumstances and against particularly vulnerable populations.

The Project surveyed all 100 North Carolina sheriff's offices to inquire as to whether or not their deputies use TASERs, and if so, to obtain a copy of the relevant policies governing their deployment. Responses were received from all 100 counties, 72 of which reported TASER use. Among the provisions the Project looked for in the policies reviewed were prohibitions or restrictions on tasing obviously pregnant women, children, the elderly, persons with disabilities, passively resisting suspects, and suspects already in handcuffs or shackles. The majority of sheriff's offices nationwide currently prohibit the use of TASERs on these groups or restrict their use to the most extreme of circumstances.<sup>21</sup>

In addition, the Project investigated whether policies placed restrictions on multiple tasings, the deployment of TASERs against suspects operating motor vehicles, deployment against sus-

pects standing in elevated positions (i.e. atop a staircase), or use of a TASER in the presence of flammable materials. These, too, are relatively standard provisions, found in most TASER policies nationwide.

## Pregnant Women

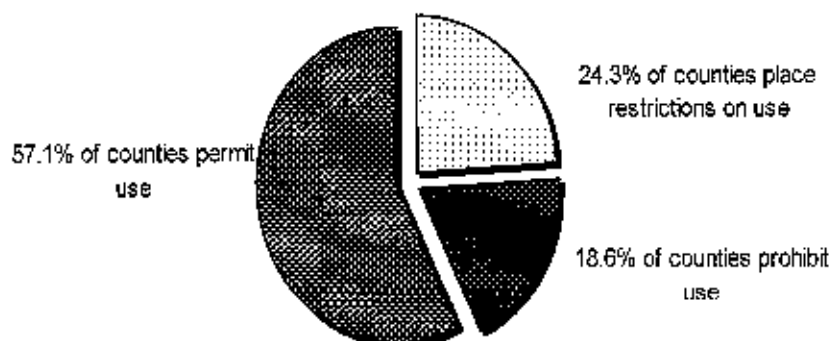
Ever since police in Chula Vista, California paid \$675,000 to Cindy Grippi, a pregnant mother who delivered a stillborn girl in December 2001 after being shot with a TASER,<sup>22</sup> law enforcement offices nationwide have reached the conclusion that tasing pregnant women presents such a profound risk that its practice must be limited to only the most extreme of circumstances. To that end, at least 82.5% of sheriffs nationwide restrict or prohibit the use of TASERs against obviously pregnant women.<sup>23</sup> North Carolina, in contrast, lags almost 50% behind the national average, with only 42.9% of TASER-deploying counties reporting restrictions on use against pregnant

women in the 2007 survey.

Even TASER International itself quietly acknowledges the danger TASERs pose to pregnant women. According to the *TASER International Instructor and User Warnings, Risks, Liability Release and Covenant Not to Sue*, a document the company requires law enforcement officers to sign before subjecting themselves to TASER exposure, "Persons who are . . . pregnant are among those who may be at higher risk" of "serious injury or death."<sup>24</sup> The electrical current from contact with a TASER poses unique dangers to fetal development, and the risk of a fall connected with associated muscle contractions could be dangerous. As Fabrice Czarnecki, an emergency physician and staff doctor with the Police Policy Studies Council, has warned, "If you are hit by a TASER you are likely to fall. We know even minor trauma during pregnancy, like a fall, is dangerous and could be fatal to the fetus."<sup>25</sup>

Not only does the TASER's electrical current pose unique dangers to fetal development, the risk of a fall connected with being tased could also be dangerous to someone who is pregnant.

TASER Use Against Pregnant Women in NC\*



\*2007 Survey Results

## Minors

The last few years have seen numerous instances of children and teenagers being killed or seriously injured in TASER-proximate encounters. Dr. Wayne McDaniel, who led a TASER International study to examine the weapon's effect on the heart, has said he "didn't design the experiments with kids in mind," and that he did not think the TASER would be used on small children.<sup>26</sup>

Unlike most TASER arrests involving adults, media accounts relating to the stunning of children often make note of the fact that TASER use is known to induce vomiting. In 2005, Miami police were heavily criticized after firing a TASER at a six-year-old boy at school, whose mother said he subsequently vomited from the shock.<sup>27</sup> Seventeen-year-olds Kevin Omas and Roger Holyfield also reportedly vomited before each of them died after being stunned with a TASER.<sup>28</sup> In the case of Omas, Tarrant County, Texas Medical Examiner Dr. Nizam Peerwani made public his belief that the use of the TASER was "a contributory factor in the death."<sup>29</sup>

Nationally, TASER regulation with respect to use on children still has much room for improvement, with just 61.1% of counties reporting restrictions on using TASERs against minors. As of Fall 2007, North Carolina restricted the use of TASERs against children in just 35.7% of counties in which TASERs were deployed. At a minimum, the TASER Safety Project recommends that every sheriff's office in the state restrict use against minors to only the most extreme of circumstances, if not opt to ban their use outright as many counties have already done.<sup>30</sup>

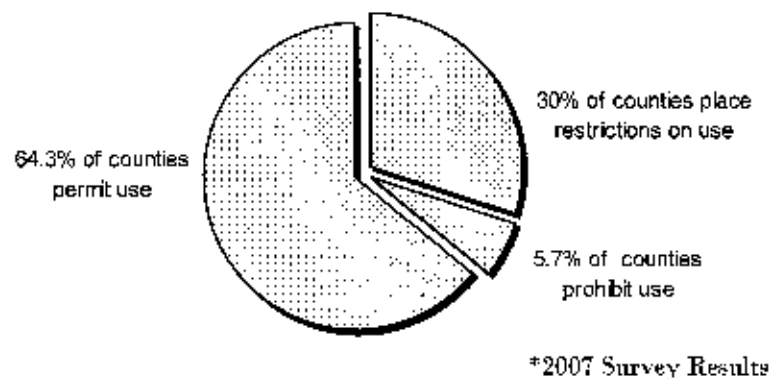
## The Elderly, People with Disabilities, and People with Mental Illness

The Project has similar concerns about the effects of TASERs on elderly persons, people with disabilities and people with mental illness. Last year, Jacksonville, Florida Associate Medical Examiner Valerie Rao ruled that TASER use

survey, six counties prohibited the practice outright. Similarly, while at least half of all sheriffs nationwide restrict use against persons with disabilities, fewer than one in three North Carolina sheriffs' policies have similar restrictions.

In addition, while conducting the statewide survey, the Project asked numerous law enforcement agencies for copies of their policies for apprehending individuals thought to have or identified as

TASER Use Against Minors and the Elderly in NC\*



was a "contributing factor" in the death of a 56-year-old Green Cove Springs woman who was confined to a wheelchair.<sup>31</sup> TASER International's aforementioned liability release also addresses the potential dangers associated with firing a TASER at "those with pre-existing conditions and/or special susceptibilities," noting that "it is conceivable that the muscle contractions [associated with TASER use] may impair a subject's ability to breathe."<sup>32</sup>

North Carolina sheriffs are well below the national average with respect to TASER regulations governing use on the elderly and people with disabilities. More than six in ten sheriffs nationwide restrict or prohibit their deputies from using TASERs on the elderly, while in North Carolina only 35.7% of TASER-deploying counties reported similar restrictions. In the 2007

persons with mental illness. Unlike the Project's other requests, the response rate for this inquiry was very low. For reasons of public safety, all counties that currently deploy TASERs should also have in place policies and guidelines that instruct law enforcement on best practices for defusing difficult situations involving people with mental illness. As it stands, many sheriffs' policies currently recommend TASERs as an ideal tool for dealing with this population and its use is quite common. Currently only one county restricts the use of TASERs against persons with mental illness. The Project has concerns that in some circumstances, TASERs are being used in lieu of equally effective, less violent means, particularly against persons with mental illness.

# Spotlight on TASERs and Multiple Firings:

Shannon Lane Johnson • Siler City, NC

Shannon Lane Johnson, a 39-year-old married father of two, served as a deacon in his church and ran a successful masonry business in Siler City, NC. He was by all accounts a devoted family man and well liked in his community, including by members of the local police department, at least one of whom had hired him to work on his home. On July 23, 2006, however, Mr. Johnson's life ended tragically, leaving his family and loved ones searching for answers.

Early that morning, police responded to a call from two female motorists who reported that a man standing in the middle of downtown Pittsboro needed help. That individual was Mr. Johnson. Unfortunately, although Mr. Johnson had no criminal record, he had begun abusing drugs after the recent sudden death of his father. On the night of July 22, he had abused cocaine. When police arrived to check out the situation, he jumped into his truck. According to reports from police officers involved in the incident that night, as well as a police videotape recording of the pursuit, which has been viewed by Project members, Mr. Johnson led the police on a chase that lasted for more than half an hour and spanned multiple jurisdictions. When deputies were finally able to catch up to him, deploying spike strips to stop his car, Mr. Johnson had just crossed the Chatham County line and entered Randolph County.

As can be seen on the police video-

tape, when Mr. Johnson's truck finally stopped, it was flipped in a ditch on the right side of the road, the driver's side door jammed shut by the impact. Johnson, unable to escape, kicked out the window of his truck and crawled feet first out of the vehicle. As several officers began to approach, Mr. Johnson raised his hands up in the air, as if to surrender. Officers involved in the incident later reported that at this point, it became clear to them that Johnson was unarmed.<sup>43</sup> Indeed, one of the officers can be seen on video moving his hand away from his holster.

Eight officers in all were on the scene. Johnson, clearly agitated, then turned and attempted to run from the officers. Chatham County Deputy Raymond Morgan can be seen pulling his TASER before he, Johnson, Merritt, and other officers disappear momentarily behind the front of the truck. At 5:43 a.m., despite the fact that there were several officers on hand to restrain Mr. Johnson without the use of a TASER, Deputy Morgan tased Shannon Johnson, not once, but twice in "drive stun" mode on the backside of his body.<sup>44</sup> At 5:44 a.m. the officers pulled Mr. Johnson away from the front of the truck, handcuffed him behind his back and placed him by the side of the road. One officer's report on the incident notes that while Mr. Johnson laid on the side of the road waiting for paramedics to assist, police were unable to tell if he was still breathing or not. However, de-

spite the fact that paramedics were on the scene by 5:51 a.m., Johnson was not placed in the ambulance or administered first aid until approximately 6:02 a.m., nearly twenty minutes after he was first tased.<sup>35</sup> Two minutes later, radio transmissions captured by the open microphone of Officer Ronald Creason recorded officers inquiring as to whether or not CPR was being administered.<sup>36</sup> A short time later, someone buzzed back to reply that it was not. Within minutes, Shannon Lane Johnson was declared dead by Randolph County authorities.

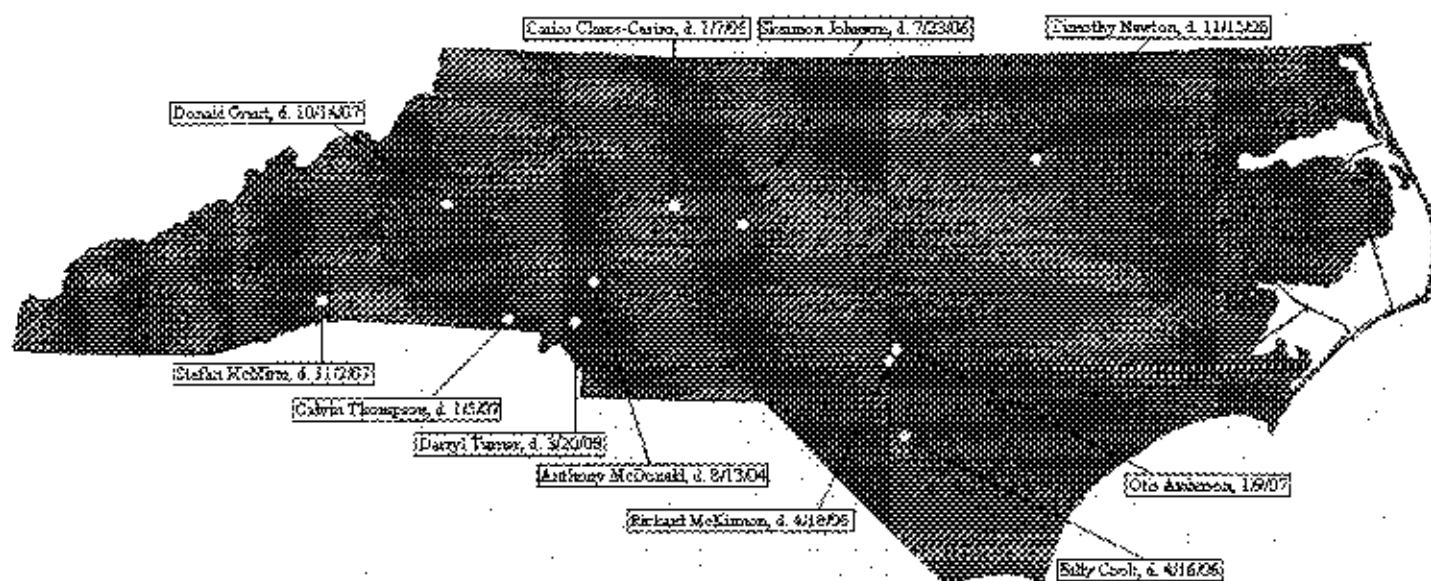
The death of Shannon Lane Johnson raises two significant questions. First, why did authorities determine it necessary to fire a TASER multiple times at an unarmed suspect who was outnumbered 8-to-1? And secondly, after the TASER had been deployed and the suspect restrained in cuffs, why did it take nearly twenty minutes to administer much needed aid? In connection with this second question, certain law enforcement departments around the country, including at least one North

Carolina police department, have policies in place that advise officers to call the paramedics immediately if the officer is responding to an incident with a supposedly agitated person. In such a case, the paramedics can be in place and ready to administer aid if the agitated individual suffers severe adverse effects from a potential TASER application.

Meanwhile, Shannon's mother, Deborah Stout, is dealing with questions of her own—namely those from her two grandchildren, who are still too young to understand why their father is never coming home. More than anything, she says, she fears the day when they are old enough to discover that their father died at the hands of police and paramedics, and start to question what he did to deserve such a fate. News articles in the wake of Shannon's death said little of the man himself—only that he was on cocaine at the time of his arrest and that his actions necessitated a use of force. His family is concerned that those articles misrepresent what actually occurred that night and do not speak to Shannon's true character.

*Why was a  
TASER fired  
multiple times  
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suspect who  
was  
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8-to-1?*

### North Carolina TASER-proximate deaths as of March 2008



# Situational Concerns

## Passive Resisters

Currently in most jurisdictions there is nothing that prevents law enforcement officers from deploying a TASER against a completely non-violent individual. The TASER Safety Project has fielded numerous complaints from people around the state who report being tased or threatened with a TASER for doing nothing more than "going limp." Last year the Greensboro Police Department was heavily criticized for abuse after one of their officers elected to fire a TASER at an anti-war protestor who "refused to move" from a city intersection. Officer K.B. Johnson told the *Greensboro News-Record*, "I told him I would TASER him if he did not move. . . . When you have a crowd situation like that, you have to start with someone."<sup>37</sup> It is the position of the Project that the

stances. Since the beginning of 2008, Davidson, Hoke, Sampson and Union counties have modified their policies to prohibit the practice. Seven additional counties have language in place to prohibit the use of TASERS against passive resisters, but those policies are filled with caveats that make adhering to the policy difficult because it is hard to understand. The Project believes that the public and law enforcement are best served by unambiguous policies that clearly delineate what constitutes appropriate and inappropriate use of a TASER when at all possible.

## Multiple Firings

The lack of regulation in North Carolina with respect to multiple TASER firings is alarming. While some sheriffs' offices place restrictions on the number of successive times a TASER may be deployed against a single individual, most do not. In North Carolina, the Project has confirmed that at least three of the six people who died in 2006-07 in the course of TASER-proximate arrests were fired upon multiple times.

TASER International itself cautions users that multiple firings can be hazardous to human health. In a 2005 Training Bulletin, the company warned that "[r]epeated, prolonged, and/or continuous exposure(s) to the TASER electrical discharge may cause strong muscle contractions that may impair breathing and respiration."<sup>39</sup> But the dangers are not limited to respiratory problems. The *New York Times* reported in the fall of 2007 that a healthy 38-year-old North Carolina police officer suffered numerous spinal fractures from a single 5-second TASER discharge during a training exercise.<sup>40</sup> According to the *Annals of Emergency Medicine*, which did a case study on the officer, the fractures were caused by the intense muscle contractions induced by the TASER.<sup>41</sup>

Members of the Project have fielded numerous complaints from across North Carolina from citizens who have been hit with a TASER more than once. In almost all of these cases, the individuals asserted that after the first firing they wanted and attempted to comply with police orders but were physically unable to do so in the seconds after tasing due to extreme muscle contractions. One complainant, Kyle Ross of Asheville, who was struck three times with a TASER (and subsequently received a monetary settlement from the Asheville Police Department) in a case of mistaken identity, asserts that despite her best efforts she was physically unable to follow officers' demands to move herself into a submissive position. Because of this, the officers fired the TASER at Ms. Ross again for lack of compliance. Due to the overwhelming

Raw Numbers: NC TASER deployment rates	
Average mean rate of deployment within North Carolina sheriffs' offices (i.e. percentage of law enforcement officers authorized to utilize TASERS)	46.6%
Percentage of North Carolina sheriffs' offices that reported deploying TASERS to all of their officers	19.2%
Percentage of North Carolina sheriffs' offices that reported deploying TASERS to 50% or more of their officers	49.8%
Percentage of North Carolina sheriffs' offices that reported deploying TASERS to less than 1/3 of their officers	36.7%
Percentage of North Carolina sheriffs' offices currently utilizing TASERS that participated in this survey	70.0%

use of a TASER on an individual who is doing no more than offering passive resistance to an officer is inappropriate and constitutes an excessive use of force.

The good news is that there is evidence to suggest that many departments are starting to prohibit the use of TASERS in similar circumstances. Of the 25 largest police departments in the state, nearly 30% have explicitly instructed their officers not to use the device on passive resisters.<sup>38</sup> The number is lower among North Carolina sheriffs' offices, with only 18.6% of TASER-deploying counties reporting in 2007 that they restricted or prohibited the practice in their use of force policies. Only six counties (Alexander, Columbus, Dare, New Hanover, Richmond and Rockingham) reported going so far as to issue an explicit prohibition in all circum-



uncertainty surrounding the safety of successive TASER deployments, the Project would like to see a workable policy solution that would serve both the interests of law enforcement and the general public.

## Flammables

Given the recent death of Richard McKinnon, the Cumberland County man who died as a result of burns that he sustained after being shot with a TASER in the presence of flammable materials, there is good reason for all sheriffs' offices that deploy TASERs to have written policies in place prohibiting the use of the devices in situations where they may cause someone's body or clothing to ignite. While it may strike many as common sense not to fire a TASER under similar circumstances, just last year a Texas man, Juan Flores Lopez, "burst into flames after dousing himself in petrol and then being shot with a TASER."<sup>42</sup> Like Mr. McKinnon, Mr. Lopez subsequently died of his injuries.

While nationally more than 91% of sheriffs' offices maintain policies that explicitly prohibit the use of TASERs around flammables, in North Carolina only 61.4% of counties that employ TASERs reported doing the same in the 2007 survey.

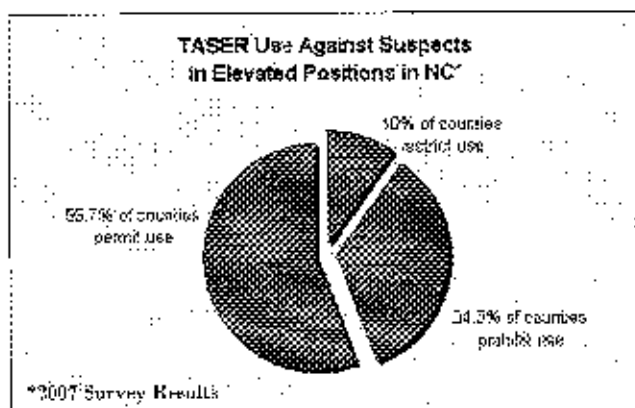
## Restrained Suspects

The Project also has grave concerns about the use of TASERs on handcuffed persons, considering recent deaths in Georgia,<sup>43</sup> Nevada,<sup>44</sup> Oklahoma,<sup>45</sup> and North Carolina in which officers subjected suspects to multiple firings of the TASER even after they had been restrained. Nationwide, sheriffs have become increasingly aware of the danger—not to mention liability—inherent in firing a device that induces muscle contractions at someone in a position of

limited mobility.<sup>46</sup> To that end, 69.1% of sheriffs nationwide have adopted policies restricting the use of TASERs against people in handcuffs or restraints. In North Carolina, a mere 20% of counties have taken similar steps.

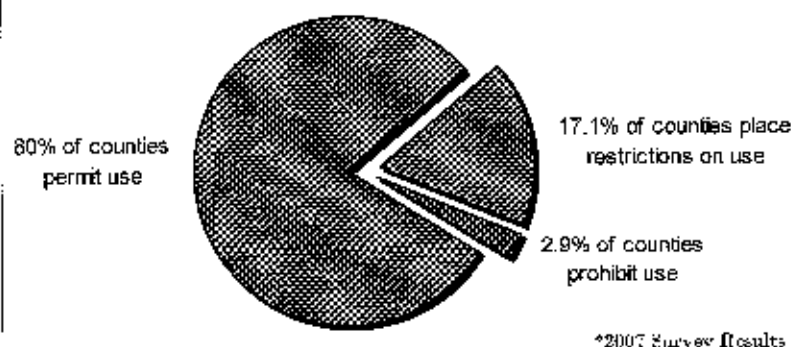
## People in Elevated Areas

Because TASERs induce severe muscle contractions, there is a strong associated risk of injury from a fall if the individual is in a precarious position when stunned. As TASER International itself has warned, "[t]his loss of control, or the inability to catch oneself, can in special circumstances increase the risk(s) of serious injury or death."<sup>47</sup> Fewer than half of North Carolina counties



(44.3%) reported placing restrictions on firing TASERs at people in high places, and most of those prohibited the practice outright. Comparatively speaking, North Carolina is well behind the national average, as nearly three in four sheriffs nationwide (73.8%) restrict the use of TASERs on people in elevated areas. Somewhat like the use of the device around flammables, regulation of the weapon might seem unnecessary because of common-sense operation in such scenarios. But these situations have occurred before—in the case of 43-year-old Bruce Bellemore, it cost Mesa, Arizona police over \$2 million dollars to settle the associated legal claims after Bellemore was paralyzed as a result of such an injury.<sup>48</sup> Simple and practical steps could be taken to reduce the likelihood of the next person suffering a fall-related injury as a result of being stunned with a TASER. Most departments nationwide are taking this precaution. Law enforcement in North Carolina should do so as well.

**TASER Use Against Handcuffed Suspects In NC\***



# Spotlight on TASERs and Flammables:

Richard McKinnon • Cumberland County, NC

A third of the counties in North Carolina that deploy TASERs still do not prohibit their use in the presence of flammable materials, while nationwide more than 9 in 10 sheriffs have such a policy in place.

*"Cumberland, I need a 10-52, 10-82. Suspect burst in flames when I hit him with [the] TASER. We've got the flames out . . . (inaudible) . . . male, conscious and alert."*<sup>49</sup>

The call came into Cumberland County dispatch at 11:25 p.m. on October 19, 2005.<sup>50</sup> Then-Deputy Bradley Dean had attempted to pull over a 1993 Green Mercury Villager that was driving low to the ground with a broken taillight. Dean suspected the van might be carrying bags of concrete that had recently gone missing from an unattended construction site. The van's driver, 52-year-old Richard McKinnon, refused to pull over. After a short chase, the van wrecked in a cul-de-sac and Mr. McKinnon emerged from the car.<sup>51</sup> Exactly what happened next is unclear. What is known, however, is that 36 seconds after Deputy Dean's initial radio communication was transmitted over the airwaves, dispatch received the above transmission advising them to send assistance. Mr. McKinnon, who had a can of gasoline in his car, had been struck with Deputy Dean's TASER and had gone up in flames.

Months later, in the burn ward at

the University of North Carolina, Mr. McKinnon succumbed to his injuries. He died April 18, 2006.

Cumberland County Sheriff's Office (CCSO) Investigators initially told ABC News the TASER was used only after McKinnon "lunged at the deputy."<sup>52</sup> But a day later, WRAL News reported the sheriff's office had claimed "McKinnon tried to get away and Dean used a TASER gun to stop him."<sup>53</sup> The Associated Press seemed to confirm this version of events, reporting that Dean fired the TASER at McKinnon after he "tried to get away."<sup>54</sup>

In an attempt to make sense of the disparate accounts, the ACLU of North Carolina filed numerous public records requests with the Cumberland County Sheriff's Office seeking access to the video from Corporal Dean's vehicle camera to determine whether or not McKinnon "lunged at the deputy," as ABC News reported, or whether he was running away from the deputy when the fatal TASER probes were fired. The vast majority of departments nationwide (81%) do not permit the use of a TASER against a non-violent suspect who is simply being non-compliant,<sup>55</sup> and sheriffs' offices generally pro-

hibit tasing fleeing suspects. At the time, Cumberland County had neither policy in place.

Negotiations provided no additional clarity on this issue, as the County refused to release the videotape or Deputy Dean's use of force report, stating that "in the opinion of the Cumberland County Sheriff's Office, the use of force report... is a confidential part of a law enforcement officer's personnel file. The purpose of the report is to evaluate the performance and fitness for duty of an officer following an incident...."<sup>56</sup> The report remains sealed, but a subsequent public records request did reveal that the CCSO awarded Dean a raise and promotion just a few months after the encounter.

The CCSO handling of the investigation did not sit well the McKinnon family, who stayed faithfully by Richard's side before he ultimately succumbed to his burns. "He was my best friend, husband, and a terrific father," his wife Sylvia recounted. "In some eyes, he may not have been a saint, [but] I honestly know that a faulty taillight or a

few bags of concrete was no reason for my husband to receive this kind of treatment. . . they have taken a part of me that can never be replaced."<sup>57</sup> McKinnon's brother, Warren McKinnon, added, "He meant the world to my family and I . . . Those of us who loved him so much will mourn his passing not just today but forever."<sup>58</sup>

Richard's family has lobbied for TASER policy reform after learning that North Carolina lags significantly behind the national norms with respect to nearly every facet of TASER regulation. As of March 2008, 24 counties in North Carolina – 34% of all counties that currently deploy TASERs – still do not prohibit the use of the device in the presence of flammable materials. Nationwide, however, more than 9 in 10 sheriffs already have such a policy in place.



Richard McKinnon at a family outing. Photo courtesy of Deborah Blackmon.

# Survey Results

of all 70 North Carolina

Sheriff's Department	Elderly	Young	Pregnant	Disabled	Flammable	Driving	High Places	Shackled	Passive
Alamance	NR	NR	P	NR	P	P	NR	NR	NR
Alexander	NR	NR	NR	NR	P	NR	NR	NR	P
Alleghany	NR	NR	P	NR	P	NR	NR	NR	NR
Anson	P	P	P	R	P	R	P	R	R
Asha	R	R	P	NR	P	NR	NR	NR	NR
Avery	NR	NR	NR	NR	NR	NR	NR	NR	NR
Beaufort	R	R	R	R	P	R	P	R	R
Bertie	R	R	R	R	P	R	P	NR	NR
Bladen	NR	NR	NR	NR	NR	NR	NR	NR	NR
Buncombe	NR	NR	P	NR	P	NR	P	R	NR
Burke	R	R	R	R	P	R	P	NR	NR
Cabarrus	NR	NR	P	NR	P	NR	NR	NR	NR
Caldwell	NR	NR	NR	NR	NR	NR	NR	NR	NR
Catawba	NR	NR	NR	NR	P	NR	R	NR	NR
Chatham	NR	NR	NR	NR	NR	NR	P	NR	NR
Cherokee	P	P	P	P	P	P	P	R	NR
Chowan	R	R	R	R	P	R	P	P	NR
Cleveland	P	P	P	R	P	NR	NR	NR	NR
Columbus	R	R	R	R	P	NR	NR	NR	P
Craven	R	R	R	NR	R	R	R	R	NR
Cumberland	NR	NR	NR	NR	P	NR	NR	NR	NR
Currituck	NR	NR	NR	NR	NR	NR	NR	NR	NR
Dare	NR	NR	NR	NR	NR	NR	NR	NR	P
Davidson	R	R	P	R	P	P	P	R	P
Davie	R	R	NR	R	P	NR	P	R	NR
Edgecombe	R	R	R	NR	P	P	P	R	R
Forsyth	NR	NR	NR	NR	P	P	NR	NR	NR
Franklin	NR	NR	NR	NR	NR	NR	NR	NR	NR
Gaston	P	P	P	R	P	NR	NR	R	R
Granville	R	R	R	R	P	R	P	R	R
Guilford	NR	NR	R	NR	P	NR	R	NR	NR
Harnett	NR	NR	NR	NR	NR	NR	P	NR	NR
Henderson	NR	NR	R	NR	P	R	R	NR	R
Hertford	R	R	NR	R	NR	NR	NR	NR	NR
Hoke	R	R	R	R	P	R	P	R	P

†Updated since the 2007 TASER Safety Project Survey to include amended policies as of March 2008

NR: No Restrictions on TASER use

P: TASER use prohibited

R: TASER use restricted



## Counties Reporting TASER Use in the Field

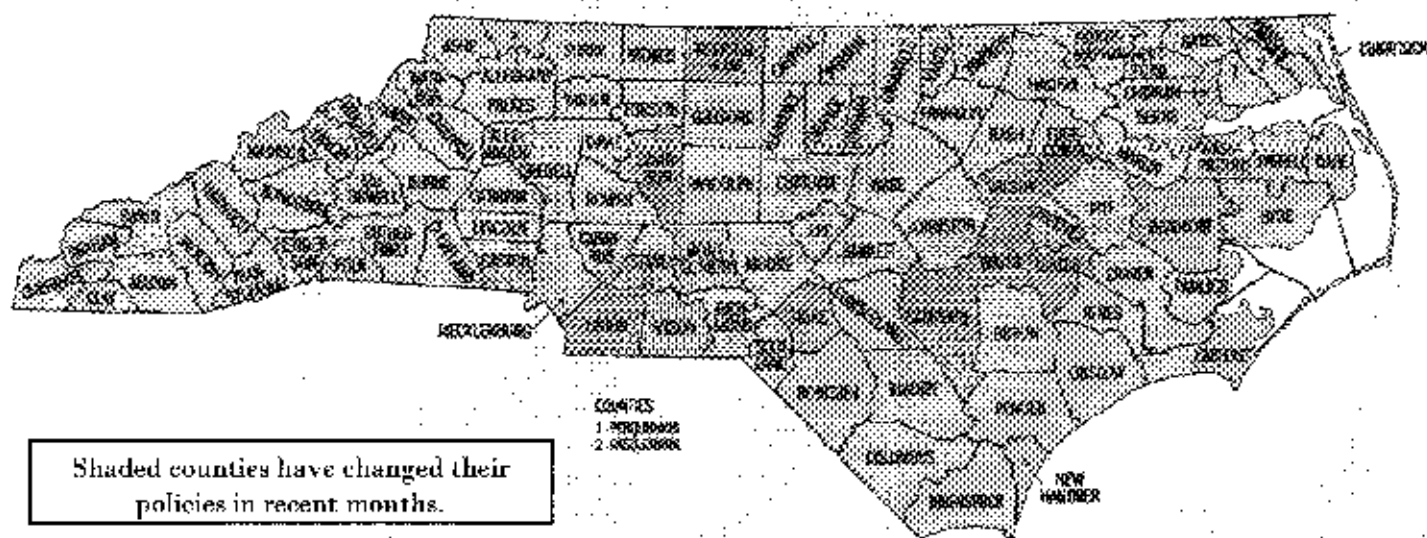
Sheriff's Department	Elderly	Young	Pregnant	Disabled	Flammable	Driving	High Places	Shackled	Passive
Iredell	R	R	NR	R	P	NR	P	R	NR
Jones	R	R	NR	R	P	P	P	NR	NR
Lenoir	R	R	P	R	P	R	P	P	R
Lincoln	NR	NR	NR	NR	NR	NR	NR	NR	NR
Macon	NR	NR	NR	NR	NR	NR	NR	NR	NR
Madison*	NR	NR	NR	NR	NR	NR	NR	NR	NR
Martin	R	R	R	R	P	R	P	NR	NR
McDowell	R	R	R	R	P	R	P	NR	NR
Mecklenburg	NR	NR	NR	NR	NR	R	NR	NR	NR
Mitchell	R	R	NR	R	NR	NR	P	NR	NR
Montgomery	R	R	R	R	P	P	P	R	R
Moore	NR	NR	NR	NR	P	NR	NR	NR	R
New Hanover	NR	NR	NR	NR	R	NR	NR	R	P
Onslow	NR	NR	NR	NR	P	NR	P	R	NR
Orange*	NR	NR	NR	NR	NR	NR	NR	NR	NR
Pasquotank	NR	NR	R	NR	P	NR	R	NR	NR
Person*	NR	NR	NR	NR	NR	NR	NR	NR	NR
Pitt	NR	NR	P	NR	P	NR	P	P	NR
Polk	NR	NR	NR	NR	NR	NR	NR	NR	NR
Randolph	NR	NR	NR	NR	NR	NR	NR	NR	R
Richmond	NR	NR	NR	NR	NR	NR	NR	NR	P
Rockingham	R	R	R	R	P	R	R	R	P
Rowan	NR	NR	NR	NR	NR	NR	NR	NR	NR
Rutherford*	NR	NR	NR	NR	NR	NR	NR	NR	NR
Sampson	P	P	P	P	P	P	P	NR	P
Stanly	NR	NR	NR	NR	NR	NR	NR	R	NR
Swain	NR	NR	NR	NR	NR	NR	NR	NR	NR
Transylvania	NR	NR	R	NR	P	R	R	NR	R
Tyrrell	R	R	R	R	P	R	P	NR	NR
Union	R	R	R	R	P	R	R	P	P
Watauga	NR	NR	NR	NR	P	NR	NR	NR	NR
Wayne	P	P	NR	NR	P	P	NR	NR	NR
Wilkes	NR	NR	NR	NR	NR	NR	NR	NR	NR
Wilson	R	R	P	NR	P	P	P	NR	NR
Yadkin	R	R	R	R	P	R	P	R	NR

\* When Contacted by the TASER Safety Project, these counties indicated no TASER policy in place.

Source: NC Taser Safety Project 2007 survey.

## Changes to TASER Policies in NC Since the 2007 Launch of the TASER Safety Project

County	Old Policy	New policy
Anson	Prohibited tasing the elderly, minors, pregnant women, people in the presence of flammables, and people standing in elevated positions; and restricted TASER use against people with disabilities and people operating motor vehicles.	Retains all the positive aspects of the previous policy but adds provisions limiting multiple tasings to three and restricting use against handcuffed suspects and passive resisters.
Beaufort	Prohibited use of the device in the presence of flammables and against suspects standing in an elevated position; and restricted use of the device against the elderly, minors, pregnant women, people with disabilities, and people operating motor vehicles.	Retains all the positive aspects of the previous policy but adds provisions limiting multiple tasings and restricting use against handcuffed suspects and passive resisters.
Chowan	Prohibited use of the device in the presence of flammables and against suspects standing in an elevated position; and restricted use of the device against the elderly, minors, pregnant women, people with disabilities, and people operating motor vehicles.	Retains all the positive aspects of the previous policy but adds a provision prohibiting the use of the device against handcuffed suspects.
Davidson	Prohibited tasing pregnant women and restricted use against minors and the elderly.	Retains the positive aspects of the previous policy but adds prohibitions on tasing passive resisters and people in the presence of flammable materials, standing in elevated positions, or operating motor vehicles. It also restricts use of the device against people with disabilities and handcuffed suspects to situations in which the suspect is armed or attempting to cause injury to others. The new policy also includes language prohibiting "excessive cycles of the Taser M26/X26 against a person."
Edgecombe	Prohibited use of the device in the presence of flammables and against suspects standing in an elevated position; restricted use of the device against handcuffed suspects.	Retains the positive aspects of the previous policy but adds a prohibition on tasing people operating motor vehicles as well as restrictions on use against pregnant females, the elderly, minors, and passive resisters. In addition, the policy adds new language on multiple tasings, now requiring officers to "give the subject a chance to comply" after the initial deployment of the TASER.
Hoke	Prohibited use of the device in the presence of flammables and against suspects standing in an elevated position; and restricted use against the elderly, minors, pregnant females, people with disabilities, and people operating motor vehicles.	Retains all the positive aspects of the previous policy but adds a prohibition on tasing passive resisters as well as a restriction on tasing handcuffed suspects. In addition, the policy adds some restrictions on multiple tasings, requiring officers to attempt different techniques to get the suspect under control before the device can be used a second time.
Lenoir	Prohibited use of the device in the presence of flammables and against handcuffed suspects, people standing in an elevated position, and pregnant females; restricted use of the device against the elderly, minors, people with disabilities and suspects operating motor vehicles.	Retains all the positive aspects of the previous policy but adds a restriction against using the device against fleeing suspects.



County	Old Policy	New policy
Montgomery	Restricted use against passive resisters.	Retains restrictions on tasing passive resisters and adds restrictions on using the device against pregnant women, minors, the elderly, people with disabilities, people with mental illness, and handcuffed suspects. It also prohibits use of the device in the presence of flammables and against suspects operating motor vehicles or standing in elevated positions. It also prohibits officers from using the TASER more than two times on a single suspect.
Rockingham	Prohibited use of the device against passive resisters and people in the presence of flammables; and restricted use against the elderly, minors, pregnant women, people with disabilities, and people standing in elevated positions.	Retains all the positive aspects of the previous policy but adds restrictions limiting use against handcuffed suspects and suspects operating motor vehicles. Policy also cautions against using the device more than 4 times against a single suspect.
Sampson	Prohibited use of the device in the presence of flammables.	Retains prohibition on use in the presence of flammables and adds prohibitions (absent deadly threat from the suspect) against tasing pregnant women, minors, the elderly, people with disabilities, passive resisters, people in elevated positions, and suspects operating motor vehicles. In addition, it also prohibits officers from using the device more than 2 times against a single suspect.
Union	Restricted use of the device against suspects operating motor vehicles.	Retains restriction on use of device against suspects operating motor vehicles and adds restrictions on tasing pregnant women, minors, the elderly, people with disabilities, handcuffed suspects, and people standing in elevated positions. In addition, it also prohibits use of the device in the presence of flammables and against passively resisting suspects.
Wayne	Prohibited use of the device in the presence of flammables and against suspects operating motor vehicles.	Retains the positive aspects of the previous policy but adds prohibitions on tasing minors (defined as under 18) and the elderly, absent them posing a deadly threat to others.
Wilson	Prohibited use of the device in the presence of flammables and against pregnant females, suspects operating motor vehicles, and suspects standing in elevated positions.	Retains the positive aspects of the previous policy but strengthens the reporting and accountability standards for TASER use, requiring officers to file a report justifying use of the device in the context of the overall arrest, taking into account the suspect's age, the size differential between the suspect and the officer, and other factors.

## Section III: Conclusion

In October 2007, representatives of the Project met with the North Carolina Sheriffs' Association (NCSA) to discuss the status of TASER regulation in the state, and the possibility of a joint or NCSA-drafted model policy to suggest best practices throughout the state. The Project received notice after an NCSA Executive Committee meeting in February 2008 that the NCSA decided not to draft a model policy for counties to use as a standard, stating that the "North Carolina Sheriffs' Association recognizes the authority of each Sheriff to establish policies as deemed appropriate by that Sheriff."<sup>59</sup>

In the meantime, the Project followed up with all sheriffs to share with them the results of the survey and to suggest changes that might be made to their respective policies in the interest of public safety. A number of offices have been receptive to these efforts, and have notified the Project of their intent to review and make changes to their current policies. At press time, the Project has received revised policies from a dozen out of 70 sheriff's offices statewide that report using TASERs, with many positive changes that recognize the special needs of vulnerable populations and the complexity of safety issues in certain situations.

Several newly amended TASER policies would serve law enforcement well in the design or modification of their own, and are available through the TASER Safety Project. A policy on TASER use must clearly define situations for appropriate firing of the TASER as well as circumstances in which TASER use is limited or prohibited. Specifically, policies must address use of the weapon in consideration of health concerns, limiting use against children, obviously pregnant women, senior citizens and people with disabilities. Additionally, policies should be amended to address situations in which TASER use has increased the risk of injury, restricting multiple firings and use against passive resisters, people in elevated areas, restrained individuals and people in the presence of flammables. As TASER International states, it is the "responsibility of each agency to set their own policy upon their community standards."<sup>60</sup> TASER regulation is in the hands of the North Carolina sheriffs who deploy them, and they must consider public safety and expectations in potentially health- and life- threatening circumstances, as well as the safety and liability of their own officers.

## Endnotes

<sup>1</sup>TASER International web site, <[www.taser.com/research/Pages/LawEnforcementFAQs.aspx](http://www.taser.com/research/Pages/LawEnforcementFAQs.aspx)>.

<sup>2</sup>Robert Anglen, "167 cases of death following stun-gun use," The Arizona Republic, January 5, 2006 (Reporting a study of TASER-proximate deaths nationwide conducted by the Arizona Republic in 2006).

<sup>3</sup>This number is derived from media accounts of TASER-proximate in-custody deaths and correspondence with the NC State Bureau of Investigation.

<sup>4</sup>Based on reports of all known TASER-proximate deaths from January 2006 to January 2007 – 6 total – catalogued by the Arizona Republic newspaper and the New York office of Amnesty International.

<sup>5</sup>TASER International web site, Company Trivia, <[www.taser.com/company/Pages/trivia.aspx](http://www.taser.com/company/Pages/trivia.aspx)>.

<sup>6</sup>Rick Smith, CEO Taser International, Taser International Website, History of TASER Devices, <[www.taser.com/research/Science/Pages/HistoryofTASERDevices.aspx](http://www.taser.com/research/Science/Pages/HistoryofTASERDevices.aspx)>.

<sup>7</sup>Stanley B. Chambers, Jr., "Durham police review Taser policy," News and Observer, March 6, 2008 (Reporting that the city of Durham, NC has purchased 100 Tasers at a cost of \$135,000); Ian Bauer, "Police will use grant to buy more Tasers," Milpitas Post, January 30, 2008 (City of Milpitas, CA reported to purchase 19 Tasers at \$1,266 each); Susan L. Oppat, "Ypsilanti Police to get Tasers," Ann Arbor News, September 17, 2007 (City of Ypsilanti, MI reportedly plan to purchase 45 tasers at a total cost of \$50,000); David Hench, "Tasers join arsenals," Portland Press Herald, July 10, 2007 (Reporting that addition of Tasers to Portland, ME police agencies cost about \$800 each, plus \$400 each for additions such as video attachments).

<sup>8</sup>Taser International Web Site, Products for Consumers, <[www.taser.com/products/consumers/Pages/default.aspx](http://www.taser.com/products/consumers/Pages/default.aspx)>.

<sup>9</sup>Mark W. Kroll and Patrick Tchou "How a Taser Works," IEEE [Institute of Electrical and Electronics Engineers] Spectrum Online; For Tech Insiders, December 2007, <[www.spectrum.ieee.org/dec07/5731](http://www.spectrum.ieee.org/dec07/5731)>.

<sup>10</sup>For example, see Alan Gathright, "Taser sued over 'non-lethal' claim," San Francisco Chronicle, March 1, 2004; Matthias Galini, "Autopsy Reveals Taser Use," Velejo Times-Herald, January 6, 2005; Robert Anglen and Dawn



## NOT THERE YET

### The Need for Safer TASER Policies in North Carolina

## The North Carolina TASER Safety Project Member Organizations

Advocates for Children's Services  
Legal Aid of North Carolina  
P.O. Box 2101  
Durham, NC 27702  
[www.legalaidnc.org](http://www.legalaidnc.org)

Mental Health Association in  
North Carolina  
1331 Sunday Drive  
Raleigh, NC 27607  
[www.mha-nc.org](http://www.mha-nc.org)

American Civil Liberties Union  
of North Carolina  
P.O. Box 28004  
Raleigh, NC 27611  
[www.acluofnorthcarolina.org](http://www.acluofnorthcarolina.org)

National Alliance on Mental Illness  
North Carolina  
309 West Millbrook Road, Suite 121  
Raleigh, NC 27609  
[www.naminc.org](http://www.naminc.org)

The Arc of North Carolina  
343 East Six Forks Road, Suite 320  
Raleigh, NC 27609  
[www.arcnc.org](http://www.arcnc.org)

National Association of  
Social Workers — NC Chapter  
P.O. Box 27582  
Raleigh, NC 27611  
[www.naswnc.org](http://www.naswnc.org)

Common Sense Foundation  
P.O. Box 10808  
Raleigh, NC 27605  
[www.common-sense.org](http://www.common-sense.org)

North Carolina Justice Center  
P.O. Box 28068  
Raleigh, NC 27611  
[www.ncjustice.org](http://www.ncjustice.org)

Covenant with North Carolina's  
Children  
P.O. Box 28268  
Raleigh, NC 27611  
[www.nccovenant.org](http://www.nccovenant.org)

North Carolina Mental Health  
Consumers' Organization  
P.O. Box 27042  
Raleigh, NC 27611  
[www.naminc.org/consumer.htm](http://www.naminc.org/consumer.htm)

Disability Rights North Carolina  
2626 Glenwood Avenue, Suite 550  
Raleigh, NC 27608  
[www.disabilityrightsnc.org](http://www.disabilityrightsnc.org)

National Association for the  
Advancement of Colored People,  
North Carolina Conference  
P.O. Box 20547  
Raleigh, NC 27611  
[www.naacpnetwork.org](http://www.naacpnetwork.org)

El Pueblo, Inc.  
4 North Blount Street, Suite 200  
Raleigh, NC 27601  
[www.elpueblo.org](http://www.elpueblo.org)

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