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## **TASER International News Bulletin**

### ***Topic: In-Custody Deaths***

February 2002

Recently, there have been several in-custody deaths involving incidents where the ADVANCED TASER M26 was used to subdue violent suspects. Unfortunately, we've seen many stories appear in the news prematurely concluding or implying that the ADVANCED TASER *caused* these deaths.

Let me first iterate that we would like to express our sincere regrets to the families of the deceased. Nothing in this bulletin is intended to offend or to make judgment regarding the individuals involved, and we certainly all wish that the situations had turned out differently. Speaking on behalf of myself, and the entire team of people that work at TASER International, we have engaged in the endeavor to develop safer, more effective less-lethal weapons in order to save lives wherever possible. However, respect for the deceased and regret at loss of life should not be used as rationale for making unfounded conclusions that would impair the availability of this life saving technology. Hasty, unfounded assumptions could lead to poor decisions, and poor public policy, and greater loss of life in the future.

As was pointed out to me by Captain Sid Heal of the Los Angeles Deputy Sheriff's Department, "Does the cock's crow make the sun rise?" The fact that two things happen simultaneously does not mean they are causally related.

According to the National Center for Health Statistics<sup>1</sup>, there were 19,102 deaths from drug induced causes in 1999, of which at least 61.6% were caused directly by the drug overdose (this number excludes car accidents, interactions with known medical disorders, etc. – these are pure overdoses).<sup>2</sup> Accordingly, there are approximately 11,766 deaths each year in the United States that can be attributed directly to drug overdoses.

Some of the predominant early symptoms of a toxic drug overdose include:

- **Excited delirium** - a state wherein the subject exhibits irrational, violent, aggressive behavior
- **Hyperthermia** – elevations in body temperature which frequently lead the individual to take their clothes off, even in colder temperatures

It is, therefore, inevitable that police officers will be called to scenes to deal with individuals who have already consumed toxic doses of illegal (or legal) drugs. These officers are charged to protect other citizens and property from the dangerous, irrational and violent behavior associated with Excited Delirium in the early stages of the chemical reactions from a drug overdose that will inevitably lead to the death of the subject.

It is highly likely that traditional pain compliance techniques such as chemical irritants or blunt impacts these will not effect these individuals. Therefore, police officers will use the ADVANCED TASER M26 in the majority of these situations as it is the most effective less-lethal weapon against motivated, pain tolerant subjects. As a result, it is clearly anticipated that our M26 will be employed on significant numbers of the 11,000 + people who overdose each year, particularly with the explosive adoption of the ADVANCED TASER by over 1,100 law enforcement agencies.

***If a subject has ingested toxic levels of narcotics, the application of the ADVANCED TASER will NOT stop the ongoing biochemical reactions that will lead to the subject's death.***

If we assume that 20% of the people who overdose on drugs will exhibit excited delirium as one of the early symptoms, and that 20% of the time the police will use TASERs to subdue these people prior to the final stages of the toxic overdose, we can

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<sup>1</sup> National Vital Statistics Reports, Vol. 49, No.8. <http://www.cdc.gov/nchs/fastats/druguse.htm>

<sup>2</sup> Drug Abuse Warning Network Annual Medical Examiner Data 1999, Office of Applied Studies, U.S. Department of Health and Human Services. [www.samhsa.gov](http://www.samhsa.gov)

anticipate that approximately 470 people each year who have overdosed on toxic levels of drugs will be hit with the TASER prior to their eventual death.<sup>3</sup>

Therefore, it is simply not reasonable to draw a causal relationship between the use of a TASER and a drug overdose fatality. Using the simple mathematics above, the two will coincide for easily understood reasons that do not imply any causal impact of the TASER in the death.

This leads to the next area of discussion: **Could the TASER in some manner exacerbate the effects of drugs and plays a causal role in any specific fatality?**

First, let me provide some background information on this topic. When we conducted the pre-release animal testing of the ADVANCED TASER, we sponsored a series of tests at the University of Missouri Cardio-thoracic Surgery Center. Using test animals, the researchers sought to see if high doses of various drugs would sensitize the heart such that the application of the TASER could cause a fatal arrhythmia<sup>4</sup> or fibrillation<sup>5</sup>. These tests were extremely aggressive in nature. Surgical needles were implanted through the chest wall so that the output from the ADVANCED TASER was applied directly to the surface of the beating heart. Then two ADVANCED TASERS were applied at the same time to the surface of the heart. Under these extreme conditions, the animals were administered the leading drug candidates that could exacerbate the effects of the TASER. Specifically, the animals were administered high levels of:

- Epinephrine (similar to the “adrenaline rush” a subject might experience in a confrontation)
- Ketamine (a tranquilizer agent which is sometimes used as a recreational drug known as “Special K” – and a drug with very similar cardiac effects to PCP)
- Isoproterenol (a drug that greatly enhances the sensitivity of the heart to electrical stimulation – this drug is used on heart patients who are experiencing dangerous heart rhythms. The isoproterenol is administered to make the heart more sensitive to electrical stimulation such that an external electrical pacemaker can be applied to the chest to control the heart rhythms with minimum electric charge and minimum discomfort).

Even while the heart was stimulated by simultaneous application of two ADVANCED TASERS directly to the surface of the heart and while the above drugs were administered, there were no cases of fibrillation. The reasonable conclusion:

***If two leading cardiologists applying the TASER output directly to the heart while administering drugs to try to cause a disturbance could not find a dangerous or fatal disturbance, it is highly unlikely that a situation in the field would occur where the application of the TASER to the surface of the chest could randomly or spontaneously cause a fatal arrhythmia.***

Now, let’s look at how one can analyze any given situation to see if the highly unlikely event could have occurred. For input on this subject, we inquired with Dr. Robert Strabucker, a court recognized expert who has testified in over 50 court cases regarding electrical safety, electrocution, and less-lethal weapons. Dr. Strabucker is widely accepted as the leading medical expert in this field, and has engaged his consulting services as our Medical Director to assist in evaluating the medical risks of the TASER technology. According to Dr. Strabucker:

*“I am unaware of any pathophysiological mechanism whereby the application of a TASER-like electrical stimulus anywhere on the body surface could be the cause of that person’s death some 45 minutes later. The only plausible cause of death from electrical injury not leaving tell-tale skin lesions -- clearly not present in any of the cited cases - is ventricular fibrillation, a fatal disturbance of heart rhythm which ensues immediately upon shocking the heart with greater-than-threshold, non-Taser-like electric current pulses. Specifically, if the TASER output were to cause cardiac arrest, it would be immediate.*

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<sup>3</sup> 20% x 20% x 11,766 deaths = 470

<sup>4</sup> Arrhythmia is a disturbance in the normal beating pattern of the heart

<sup>5</sup> Fibrillation is a severe disturbance in the heart rhythm such that the heart tissue can no longer beat in a coordinated fashion. During fibrillation, blood flow stops and the person will die within several minutes unless the heart is Defibrillated – a process where a large electrical discharge is administered to the heart, “resetting” all of the tissue so that it can begin to beat in a coordinated fashion again.

*I believe that in the Ohio case at issue (referring to an in-custody death in Hamilton OH), the recorded time lag of minutes (rather than a few seconds) between application of the TASER and pulseless collapse of the subject proves beyond reasonable doubt that the TASER was not the cause of death.”*

Accordingly, when looking at any specific incident to determine whether the TASER stimulation could have played a causal role in a fatality, the following rule applies:

***If the electrical stimulation of the TASER were to play a causal role in a death, the death would be immediate.***

***If there is a significant delay between of the application of the TASER and a death, there is no plausible way the electrical stimulation from the TASER could have been a causal factor.***

The time between TASER application and the time of death is the key factor in determining whether the TASER can reasonably be excluded as a cause of death, or whether a case is simply one of the 11,000 + drug overdose fatalities that happen each year.

**SPECIFIC CASE ANALYSES:** There have been three specific cases in the past 3 months that have received significant media attention: Hamilton, OH; Hollywood, FL; and Philadelphia, PA. Given the recent nature of these cases, there is much information that is not yet available. However, the information below is the best we can construct from various sources within the police agencies, media, and medical community.

**HAMILTON, OH**            December, 2001

Paramedics were assisting Marvin Hendrix, 27, who was violent and throwing up blood. Hendrix fought with paramedics and police arrived to assist. Officers applied the ADVANCED TASER two times in a touch stun mode to Hendrix’s scapula to subdue him. After the TASER applications, Hendrix was conscious and lucid and was led downstairs to an ambulance. During transport to a hospital Hendrix went into cardiac arrest and died at a local hospital. Initial media publicity headlines implicated the TASER in the death. However, upon subsequent review, the coroner found the cocaine levels in Hendrix’s blood were “off the scale.” Investigators found that Hendrix had swallowed an “8-ball” of crack cocaine in a bag in order to conceal it from police during a traffic stop earlier in the morning. The bag ruptured, releasing toxic levels of cocaine leading to Mr. Hendrix’s death.

**Final coroner’s report listed cocaine overdose as the cause of death. TASER not listed as contributing factor.**

**HOLLYWOOD, FL**            January, 2002

A motel operator in Hollywood, Florida called 911 operators to request police assistance, saying “we have a man on drugs, crazy. . . He is breaking down our door.”<sup>6</sup> Vincent Del Ostia, 31, who was previously convicted of second-degree murder was exhibiting violent, bizarre behavior when police arrived leading them to conclude, “it sounded and looked like he was under the influence of PCP.” Del Ostia had a tracheotomy at 13 and had a variety of medical problems. According to his grandfather, “Vinnie was not mentally ill. Drugs were his downfall, when he got on drugs, you couldn’t talk to him,” supporting the preliminary conclusion that Del Ostia was under the influence of various narcotics. Apparently, he was off his inhalant medication leading to shortness of breath. Del Ostia was violent, moaning, groaning, unresponsive to verbal commands and not speaking english.

It appears there may have been several TASER shots. Our best information indicates that the first shot was a single probe hit, which allowed Del Ostia to pull out the probe. There is debate about whether there was a second set of darts fired, whether the front of the TASER was applied as a stun gun, or whether police simply used physical force to subdue him. If there were no subsequent shots, it is clear that the TASER current was never delivered, hence there would be absolutely no chance of it causing any adverse health effects. However, we believe there probably was a second shot or a stun gun application that helped to subdue Del Ostia. He was responsive during and immediately after being restrained with handcuffs. According to the Miami Herald, “police had subdued and handcuffed Del Ostia when he began to have trouble breathing.”

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<sup>6</sup> All quotes in this section are from the Miami Herald, “Police Defend Use of TASER Gun” Jan. 29, 2002 by Sara Olkon and Wanda DeMarzo

Accordingly, the fact that Del Ostia was conscious and responsive after the TASER use shows that he did not go into fibrillation from the TASER discharge. This clearly rules out the TASER as a potential cause of death as outlined in this paper.

Lt. Anthony Rode, the Press Information Officer of Hollywood PD stated, “We whole heartedly believe it (death) had nothing to do with the TASER. Obviously not the case. It will be a drug, PCP, or whatever. The man was already short of breath and moaning prior to the shooting. There was no malfunction at all. We’ve been quite clear and lucid with the press on this issue. No TASERs have been removed from service, no officer has been suspended. It is still an excellent product.”

Dr. Czarnicki, Medical Director for the American Society of Law Enforcement Trainers opines: “My differential diagnoses regarding the Hollywood PD in-custody death include:

- excited delirium (caused by drugs or psychosis, and steroids did not help)
- asthma
- a lot of other medical conditions (much less likely)”

We are awaiting the results of the medical examination of Mr. Del Ostia. We are confident that the TASER was not the cause of death and that the coroner’s report will clear the TASER completely.

#### **PHILADELPHIA, PA** February, 2002

Due to the ongoing internal investigation, it has been extremely difficult to get any information out of the Philadelphia PD. But, we have been able to learn the following:

At 1:00 a.m. on February 2, 2002, a 6-foot, 280-lb man is standing naked outside his house in 22-degree weather with a 7-inch folding knife with the blade open. It is well below freezing outside – an indication that this person is likely experiencing hyperthermia related to acute drug intoxication. After being hit with the TASER, he was handcuffed and placed in a patrol wagon for the ride to the hospital. According to Captain Thomas Lippo of the Philadelphia Police Department Homicide Division, “He was conscious at the time. He was talking the whole time, ranting the whole time on the way to the hospital. At some point, he became unconscious and expired.”

Cocaine and alcohol were found in the deceased’s blood samples. Final coroner’s report is yet to be issued.

Again, the time lag between the application of the TASER and the death clearly rules out the TASER as a cause of death. The suspect’s behavior (naked in sub-freezing weather and violent) and the presence of cocaine in his preliminary blood samples support the conclusion that this fatality is the unfortunate result of a drug overdose. We anticipate it will be several weeks before the final report is available.

#### **CONCLUSION**

The TASER has already been cleared in one of these three cases. It appears imminent that the TASER will be cleared in the other cases as well. Unfortunately, Amnesty International has again used these incidents to call for a ban on TASER use until “further study.” While we at TASER International are supportive of additional safety testing of the ADVANCED TASER (and have made great efforts to support such testing), we view this suggestion with great suspicion. There is enough documentary evidence to show clearly, and beyond statistical doubt, that the TASER is a safer alternative than traditional techniques such as impact blows from a baton or impact munition.

Again, there has never been a death caused by a TASER. However, there have been many deaths caused by the blunt force trauma of baton strikes and less-lethal impact rounds. These techniques are valuable tools for law enforcement, but they inevitably lead to predictable tissue damage that can and will include fatality depending on the location and dynamics of the projectile impact. It is completely unsupportable to demand that a weapon with a long track history such as the TASER without one causal link to a fatality should be withdrawn from the field while a nebulous and undefined “independent test” is construed. Amnesty International has called for a world-wide ban on this technology for reasons that are beyond me. The call for a withdrawal of this technology for testing is clearly another means to obtain the same political aims: the end of this life saving less-lethal technology.

Over the past 2 years since we introduced the ADVANCED TASER, over 1,100 police agencies have deployed this weapon. We have a database of over 1,400 fully documented uses of the TASER in the field. We estimate that there have been over 5,000 uses – most of which are not reported to us (the larger agencies such as LA Sheriffs, LAPD, etc. treat their use of force reports as confidential to private entities). Based upon these reports, we estimate that a very conservative estimate would be that 10% of these uses actually saved a life because the officers would have had to resort to lethal force if not for the TASER.

An example of these cases occurred in Westminster, CO. Officers came to a scene where an emotionally disturbed 13-year-old girl had barricaded herself in her bathroom. She was armed with two butcher knives and was in the act of slashing her own wrists, self-mutilating. The officers broke through the door – when the girl then charged the officers with the knives raised above her head. The officers could easily have justified shooting her with a firearm because she represented a clear, lethal threat. However, they were able to drop her to the ground with the ADVANCED TASER, subdue her, and get her to a hospital for medical attention. Clearly, this girl would not have been stopped by pepper spray, rubber bullets, or any other pain compliance technology. The fact that she was actively self-mutilating showed that she would not be deterred by pain. Every officer on the scene concurred: if the TASER had not been there, she would be dead today. In fact, a department lawyer on scene stated, “You don’t know how close we came to killing her.”

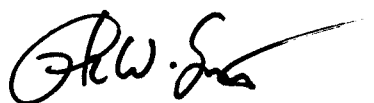
By our estimates, 10% of the 5,000 estimated uses of the TASER would have ended with fatal outcomes had the TASER not been present. That’s 500 lives saved. It’s not a statistical trick, it’s a powerful, life saving technology. If public officials were to take Amnesty International’s suggestion and put these weapons on the shelf, we can predict with a high degree of statistical confidence that there would be hundreds of unnecessary injuries and fatalities in the coming years.

Again, we do not intend any disrespect to the deceased in these incidents. But, these types of drug overdose fatalities will continue to occur at a rate of over 10,000 per year for the predictable future. As TASERs become more widespread in law enforcement, more of these cases will occur where people with drug overdose induced psychosis will be subdued with TASERs. Many of them will die. Whether the TASER is used or not, this fact will not change.

The ADVANCED TASER will be able to change the outcome of thousands of situations over the coming years, where the ability to safely subdue violent people will enable them to survive dangerous confrontations that would otherwise have fatal conclusions.

I apologize for the length of this document, but this is a very important and complex issue. We would be happy to send more information upon request. If you would like additional information, please select what items you would like to receive on the following page email your request to me at [Rick@TASER.com](mailto:Rick@TASER.com).

Sincerely,



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Rick Smith  
CEO  
TASER International

## Request for Additional Information

Name: \_\_\_\_\_

Please send me the following information (check all that apply):

Newspaper Articles on Hamilton, OH incident (2 pages)

Dr. Robert Stratbucker letter of opinion regarding Hamilton, OH incident and TASER related fatalities in general (3 pages)

Medical Studies on the ADVANCED TASER (over 25 pages)

Journal of Forensic Sciences 1991 article "TASER Related Fatalities": examines 16 TASER related fatalities. The TASER was not found to have been the cause of death in any of the cases. (15 pages)

Philadelphia Inquirer Article on Philadelphia Incident (1 page)

Newspaper Articles on Hollywood Florida Incident (10 pages)

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