



THE USE OF TASER® WEAPONS BY THE WESTERN AUSTRALIA POLICE

SUMMARY REPORT

October 2010



**CORRUPTION
AND CRIME
COMMISSION**

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This document is a summary version of the report “THE USE OF TASER® WEAPONS BY THE WESTERN AUSTRALIA POLICE” tabled in the Parliament of Western Australia in October 2010. The full report contains a glossary of defined terms, more detail in relation to the analysis and a thorough literature review in relation to Taser weapon use nationally and internationally.

The full report is available on the Corruption and Crime Commission website at www.ccc.wa.gov.au.

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INTRODUCTION

Taser weapons were provided for the general use of WAPOL officers in June 2007. At that time the Commissioner of Police stated that the “goal is to have sufficient [Taser weapons] for all tasking officers on duty who need them at any particular time ... The major driver behind it is the increasing violence towards officers, and police officers are not punching bags for the criminal element in our community”.¹

Despite some adverse media and the publication of several controversial reports on Taser weapon use, both nationally and internationally, the WAPOL Commissioner remains committed to the view that Taser weapons are appropriate for use by WAPOL officers, stating in August 2009 that: “The feedback from police on Tasers as a tool has been enormously positive. They save lives. If you make a mistake with a Taser it’s much better than making a mistake with a [firearm]. But they are not there to be used as compliance tools. Use them properly and they are very good”.²

Taser weapon use is governed by a policy which dictates that the weapon is not to be used for compliance. The threshold for use stipulates the focus on preventing injury (to both officers, and to the public).

The Corruption and Crime Commission (“the Commission”) examined Taser weapon use in Western Australia from 2007 to 2009. This involved three main data sources:

- WAPOL data about Use of Force reports from 2007 to 2009;
- the Commission’s assessment and review³ work, pursuant to section 18 of the *Corruption and Crime Commission Act 2003* (“the CCC Act”); and
- detailed analysis of Use of Force reports for the periods December 2007, July 2008 and between July and September 2009.

The majority of Taser weapon use by WAPOL is reasonable and the Taser weapon is an effective tool to assist police perform their duties. However:

- firearm use has increased since the introduction of Taser weapons, and injuries to police officers have remained the same;
- Taser weapons are being used for compliance, including against indigenous people and those suffering mental illness, contrary to the intention of the WAPOL policy;
- Taser weapons are causing injury. There is a risk that Taser weapon use will lead to a death; and
- there is evidence in Western Australia that Taser weapons are being used in situations for which they were not intended to be used and where such use is potentially excessive or improper. This appears to be an increasing trend. The threshold for Taser weapon use and related policy environment needs to be changed to avert this trend.

1. Carroll, M., 2007, “Tasers for the Front Line”, *Police Journal*, December 2007, p.22.

2. “Police one of best performing agencies: COP”, *WAPOL News*, August 2009.

3. The Commission assesses and acts upon allegations of misconduct received by the Commission. The Commission can either investigate these allegations or refer them to the relevant agency for investigation. In the latter case, the Commission may then review these completed investigations.

What is a TASER®?

A Taser electronic control device is a weapon which uses a high voltage, low power charge of electricity to either induce involuntary muscle contractions that cause temporary incapacitation or to cause pain.

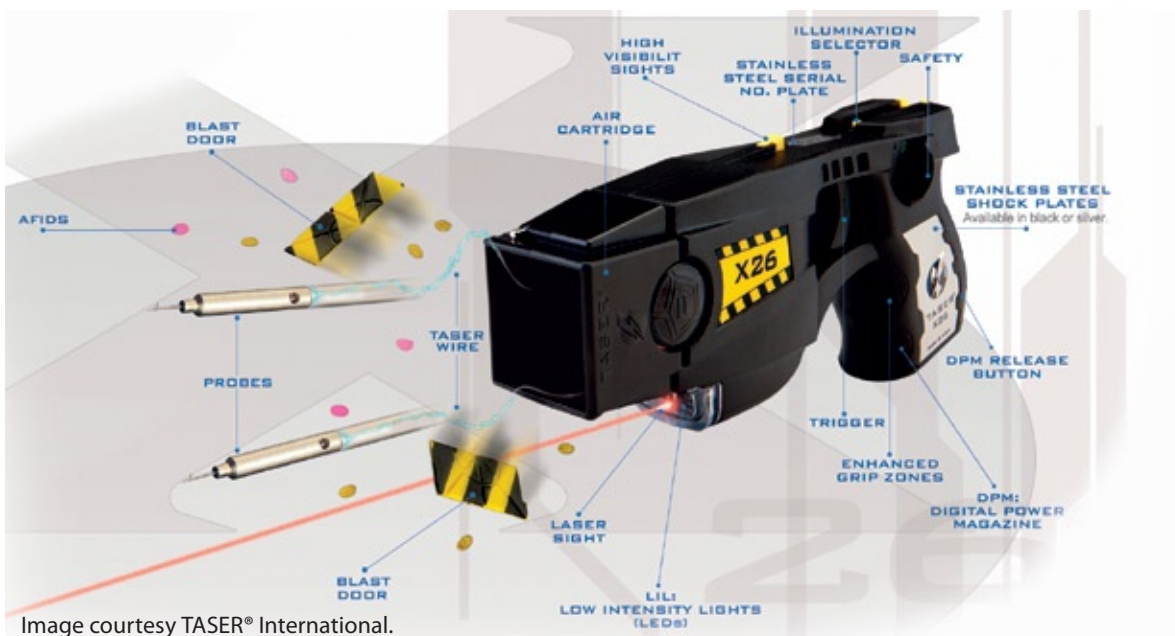


Image courtesy TASER® International.

The Taser™ X26 (currently used by WAPOL officers) is deployed by pulling a trigger. There are two modes of deployment. “Probe” deployment involves the firing of two darts or “probes” which upon attachment to the subject’s skin deliver a 50,000 volt electric shock to the body by a series of brief, repetitive electrical pulses. These pulses prevent effective muscular activity.

The second mode of deployment is called “drive stun” or “stun” mode, and involves the delivery of electricity to a small surface area of the subject’s body. The charge is delivered by the Taser weapon making direct contact with the subject’s skin or clothing. Stun mode causes pain to the subject. It does not achieve incapacitation in the same manner as probe mode.

The Taser X26 has a download function that records the time, date and duration of each deployment of the Taser weapons. Downloaded to a computer, this information can be used as an accountability measure.

Why police carry Taser weapons

Police officers carry Taser weapons as a force option to minimise injury to themselves and members of the public when confronted with violent situations.

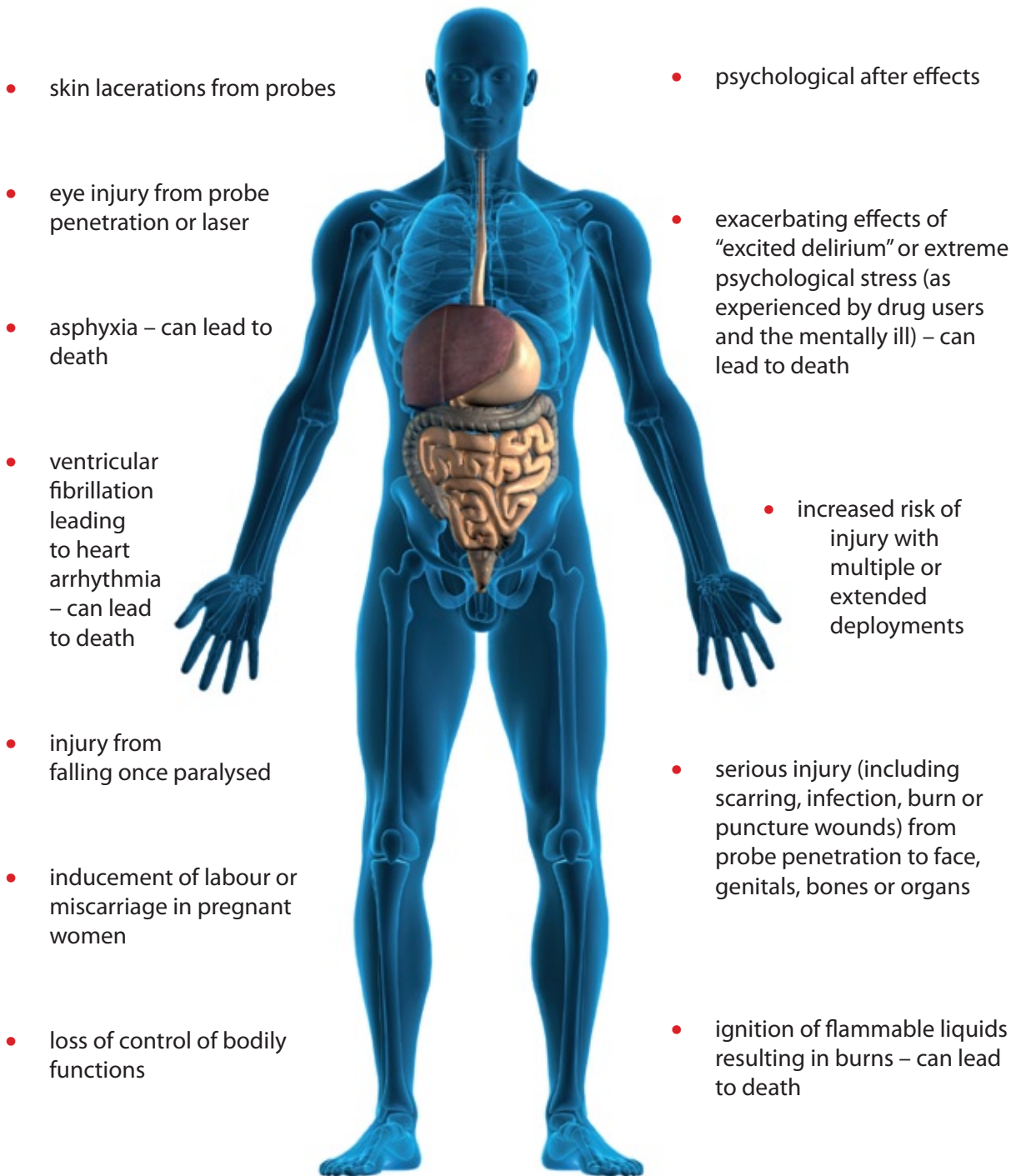
A Taser weapon is considered a non-lethal option to be preferred in serious situations instead of resorting to lethal force, such as firearms. The introduction of Taser weapons in other parts of the world has led to a reduction in injuries to members of the public.⁴

4. In 2009 an unpublished National Institute of Justice study (United States of America) concluded that the chance of a subject being injured decreased by almost 60% when a Taser weapon was used. The study examined 24,000 use of force cases across the United States.

Terminology note
Taser weapon “use” includes deployment and drawing the Taser weapon from its holster to threaten

Risks of Taser weapon use

The identification and measurement of risks always involves some subjective analysis. This subjectivity is important in relation to questions about the use of force, powers to search, and powers of arrest. Assessment of the risks involved in Taser weapon use cannot be undertaken in isolation. There are also risks involved in not using Taser weapons.



Taser weapon use in Western Australia

Taser weapons were provided for the general use of WAPOL officers in June 2007. Essentially, the weapon was introduced:

1. as an alternative to firearms; and
2. to reduce injuries sustained by officers when dealing with violent confrontations.

In addition to a Taser weapon, each WAPOL officer also carries a firearm, Oleoresin Capsicum spray (OC spray), a baton and handcuffs. Officers receive instruction in Taser weapon Use as part of their initial training at the WAPOL Academy, and then receive requalification training every year.

In August 2009, the Police Commissioner stated that Taser weapons were to be used to replace physical force: "I don't expect any police officer to get involved in a hand-to-hand combat fight in 2009 ... They have a Taser; they have OC spray. They can make the choice to use it. They shouldn't be grappling and fighting and punching".⁵



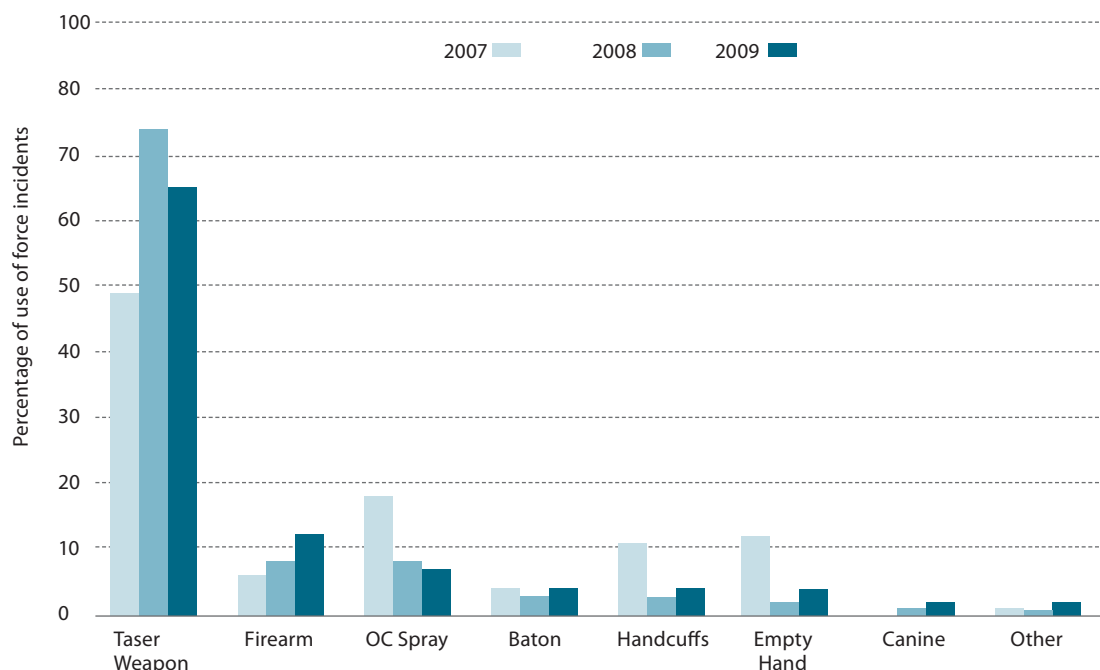
Firearms and other weapons

Taser weapons have become the force option of "choice" in Western Australia resulting in significant decreases in the use of OC spray, handcuffs and empty hand techniques (Figure 1). Taser weapon use increased from 49% in 2007 to 74% in 2008 and declined to 65% in 2009. This represents an overall increase in Taser weapon use of 25%.

However the use of firearms has doubled during the same period. Firearm use increased from 6% of all reported uses of force in 2007 to 8% in 2008 and 12% in 2009.

The use of firearms has doubled since the introduction of Taser weapons – from 6% in 2007 to 12% in 2009.

Figure 1: Types of force used by WAPOL officers 2007 – 2009



5. "Tasers to be filmed by police to beat legal action", Perth Now, 22 August 2009

The Commission’s analysis of Taser weapon uses revealed that most Taser weapon use occurred on Fridays, Saturdays and Sundays, with the majority of use occurring between 9 pm and 3 am.

There were common situations in which a Taser weapon was deployed, including domestic violence incidents, disturbances, fights and brawls, traffic stops, vehicle pursuits, and reports of weapons and/or assaults. There were interesting (if perhaps foreseeable) trends in relation to the type of Taser weapon use at various types of incidents. For example, a Taser weapon was almost four times more likely to be threatened than deployed at domestic violence incidents, while they were almost twice as likely to be deployed as threatened in fights or brawls.

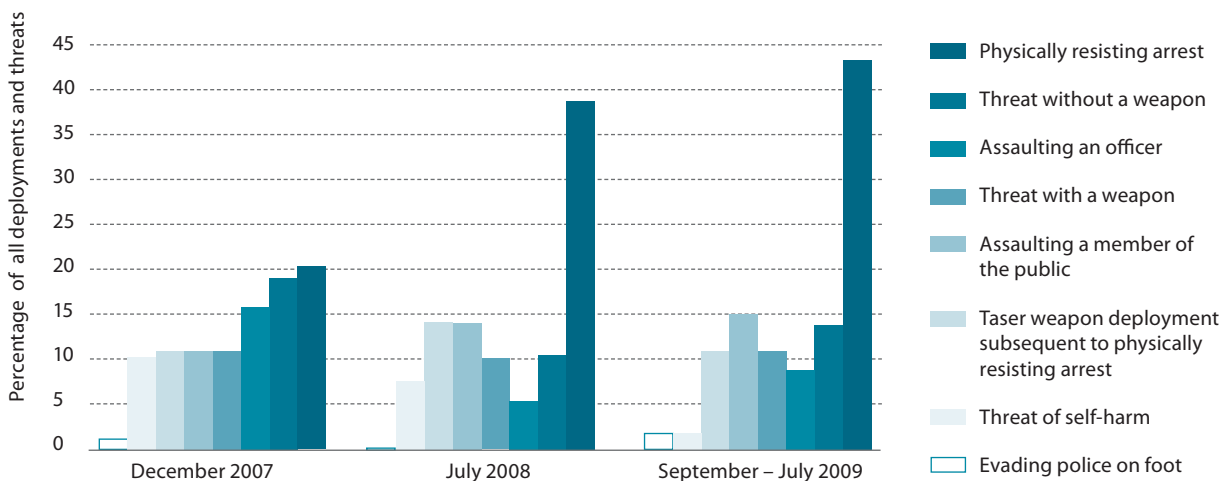
In seeking to establish the reasons for Taser weapon deployment, the Commission identified the actions of the person or the particular circumstances that led immediately to the deployment of a Taser weapon. Each incident was categorised into a particular category of reason (see Figure 2).

Most Taser weapon use occurred on weekends between 9pm and 3am.

The most significant trend (from 20% in 2007 to 38% in 2008 and 42% in 2009) was the increase of Taser weapon deployment against people who were physically resisting arrest.

The analysis indicated that WAPOL officers are using Taser weapons as directed by the Police Commissioner, to avoid physical confrontations.

Figure 2: Reason for Taser weapon deployments 2007 – 2009



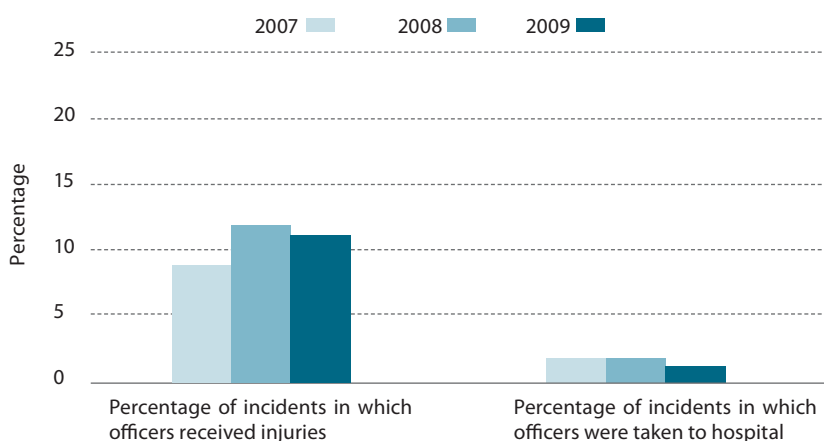
Injuries

The frequency or seriousness of injuries sustained by police officers has not decreased with increased Taser weapon use.

Figure 3 shows the percentage of all use of force incidents in which police officers were injured, not just situations where a Taser weapon was used. Given that Taser weapons were expected to reduce the number of situations involving physical altercations, it was expected that injuries would decrease overall. This did not occur. Injuries to officers increased from 8.6% of reported use of force incidents in 2007, to 11.6% in 2008 and 11.0% in 2009. That is, overall injuries to WAPOL officers have increased by 22% from 2007 to 2009.

The number of hospitalisations between 2007 and 2009 remained relatively stable, from 1.7% in 2007 and 2008, to 1.3% in 2009.

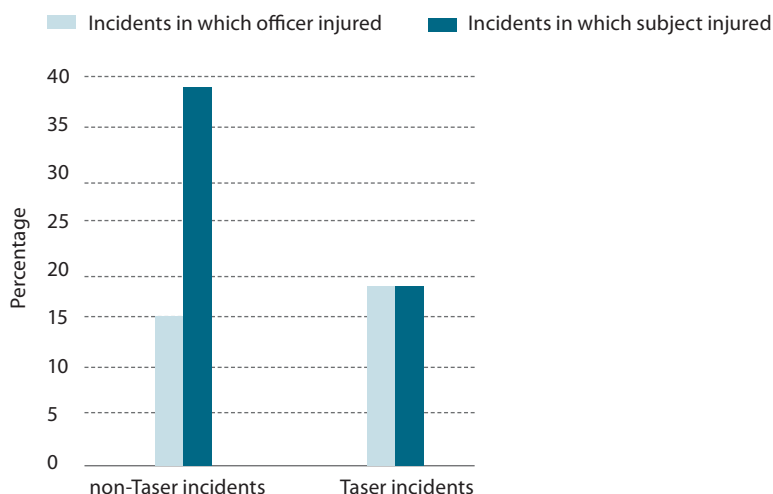
Figure 3: Injuries sustained by officers as a result of incidents involving a use of force.



A detailed analysis of injuries was conducted for the period of July to September 2009. Generally speaking, the injuries received by police officers were minor – for example, bruises, abrasions or minor lacerations and muscular sprains. In all cases these injuries resulted from an assault by another person or from struggling with a person. As seen in Figure 4, police officers actually received more injuries in Taser weapon related incidents than in non-Taser weapon related incidents, 17% of cases compared to 15% of cases. Of course, this statistic does not account for injuries that were avoided because a Taser weapon was used.

Figure 4 also shows the percentage of injuries received by subjects during the period of July to September 2009. This shows that subjects are 54% less likely to be injured as a result in Taser weapon incidents (17%) than other use of force incidents (37%). Of the injuries received by subjects in Taser weapon incidents, 67% were sustained as a result of the initial situation or occurrence (for example, fighting with another person), or through struggling with police officers while resisting arrest. Most of these injuries were minor.

Figure 4: Injuries sustained by police officers and subjects during use of force incidents July 2009 – September 2009



Injuries directly resulting from Taser weapon use included minor lacerations caused by the Taser weapon's probes piercing the skin or minor abrasions caused by falling after deployment. This does not trivialise the serious injuries that have, on occasion, resulted from Taser weapon use in Western Australia.

Notwithstanding the evidence that the introduction of Taser weapons has not resulted in a reduction of officer injuries, an examination of specific incidents shows there will be situations in which a Taser weapon protects officers from violent offenders and protect the public.

For example, in one of the incidents analysed, two police officers were attacked while in a police vehicle by a man wielding two 30 centimetre long knives. The man attempted to stab one of the police officers through the closed vehicle window with such force that the officer believed the window would break. The police officer subsequently managed to exit the vehicle and deployed a Taser weapon just as the man lunged at him with one of the knives. The man was incapacitated and disarmed.

In another incident, while attending at a house where a large number of people were involved in a dispute in the front yard, officers heard the sound of breaking glass and entered the house. They saw two women struggling with each other, and one of the women had possession of a kitchen knife. One of the police officers drew his Taser weapon and warned that he would deploy it if the woman did not put down the knife. The woman with the knife gave it to the other woman who put it on the floor. The Taser weapon was not deployed.

TASER WEAPON POLICY

Taser weapon thresholds in Australia and elsewhere

A threshold is a point at which police can use a Taser weapon. A low threshold means a Taser weapon can be used in a large number of situations, whereas a high threshold means Taser weapon use is more restricted.

Taser weapon thresholds vary around the world.

Table 1: Taser weapon use in other jurisdictions

Jurisdiction	Used by	Threshold	Level
Western Australia	General duties	To prevent injury. Not to be used for compliance	Low
New South Wales	General duties	To protect people when violent confrontation or resistance is occurring or imminent	High
Queensland	General duties	To prevent serious injury to a person	Medium
Victoria	Only by Special Operations Group	Situations of violent and serious physical confrontation or when such confrontation is imminent	High
Northern Territory	General duties	Situations in which there is a real and imminent risk of serious harm	High
South Australia	About to be rolled out to General duties	For the protection of members of SAPOL, offenders and the community while disarming or apprehending a person armed with a weapon	High
Tasmania	Only by Special Operations Group	Other less lethal options must be considered first	Low
Australian Capital Territory	Only by Advanced Warrant Team	To prevent physical injury and a less forceful option is unreasonable	Medium
United States of America	Used by police forces for over two decades	Varies from state to state	Varies
Canada	General duties within the Royal Canadian Mounted Police and within several provincial police services	(British Columbia) Situations where bodily harm is occurring or is imminent, no lesser force option will be effective including crisis or de-escalation techniques	Medium
New Zealand	General duties (Most New Zealand police do not carry firearms)	Violent situations. Not for compliance	Low
United Kingdom	General duties (Most United Kingdom police do not carry firearms)	Varies	Varies

From this table it can be seen that the Western Australia threshold is low by comparison to others. It is similar to the threshold for some police services in which officers do not generally carry firearms. In police services in which police officers generally do carry firearms (as is the case in Western Australia), higher thresholds normally apply.

TASER WEAPON USE AS COMPLIANCE

WAPOL policy specifically states that a Taser weapon can only be used to prevent injury. They can not be used for the purpose of gaining compliance, but there is a grey area between compliance and preventing injury.

The grey area is particularly evident in cases in which a subject had a Taser weapon deployed on them for physically resisting arrest. In these cases obtaining compliance may be necessary to prevent injury. Such cases seem to be acceptable under the current policy when the intention of the police officers is to prevent injury and the police officers' perception that injury *could* occur seemed reasonable. On the other hand, it is potentially easy for a police officer who has deployed a Taser weapon for the purpose of compliance alone to justify their use of the Taser weapon by reporting a perception that the person was going to cause injury, even when such injury was, in fact, unlikely.

The four case studies that follow illustrate the spectrum of Taser weapon use in which compliance and perception about preventing injury are intertwined.

Western Australia Taser weapon policy

The Police Manual contains specific policy related to Taser weapon use. The policy states that Taser weapon use must be reasonable and appropriate. Taser weapons can only used to prevent injury. They cannot be used as a compliance tool. The policy also considers risks from deployment to the face/genital area, to the back of a running person, or near flammable liquids or fumes. A verbal warning "Taser, Taser" is required prior to deploying the Taser weapon.

The "Use of Taser" policy states:

The use of Taser should be reasonable and appropriate in the circumstances and members will be accountable for any excessive use of force.

The Taser shall only be used to PREVENT INJURY to any person and shall not be used as a compliance tool.

Deploying a Taser weapon on the driver of a vehicle

Police attempted to pull over a stolen van but the driver refused to stop. The van had a flat front tyre and smoke was coming from the wheel. The police officers tried several times to get the van to stop but the driver refused. The police officers were driving with their lights and siren sounding.

The tyre of the van degraded and the van was travelling on the rim of the wheel, and sparks were showered along the street. The pursuit continued at slow speed.

The van collided with a car and then with a police vehicle. The van headed towards a busy nightclub. There were pedestrians in the area and the van posed a danger to the public. The police officers determined the van needed to be brought to an immediate stop in order to prevent possible injury to pedestrians.

The van slowed and there was an opportunity for the police vehicle to pull alongside. The police officer aimed his Taser weapon at the driver through the open van window, calling "stop the vehicle, stop the vehicle".

When the driver did not stop, the police officer deployed his Taser weapon in probe mode at the driver. The wires disconnected because of the movement of both vehicles and probe contact was not fully effective. However the action caused the driver to veer off the road and the van stopped against a wall.

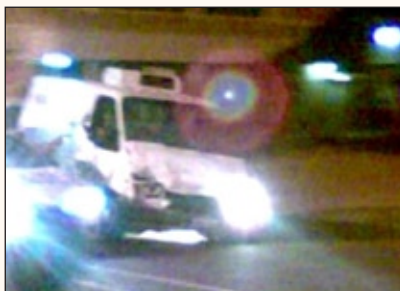
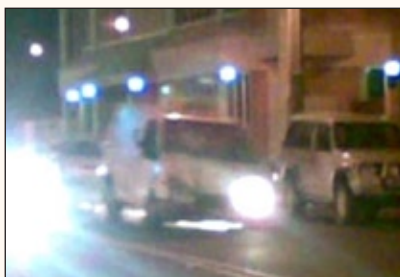
The weapon use was investigated. The police officer considered the risk factors of deploying the Taser weapon and did so to prevent injury. It was found the officer had deployed the Taser weapon in circumstances that were justified in law and within WAPOL policy. It was also found the police officer had not deployed the Taser weapon in circumstances that endangered public safety. ■



CASE STUDY

(Case Study 12 in full report and DVD)

In some cases, compliance and preventing injury are so intertwined that they can not be separated.



CASE STUDY

(Case Study Three in full report)

Police have to make instant decisions about whether or not to use a Taser weapon when compliance and prevention of injury are intertwined.

The circumstances are sometimes complex.

Sometimes there are no positive outcomes.

Ignition of flammable liquids

Police officers in a remote community received a complaint that a group of people were sniffing petrol. When police arrived at the house, the occupants locked the doors. The police officers spoke through a window, asking them to come out. Police could see people inside the house sniffing petrol. One man told the officers he would not come out of the house. He told police officers to go away and that he would come to the police station later. The man asked for a lighter from another person inside the house. The man had a previous conviction for attempting to set other people alight. He also had a record of Assault Public Officer offences.

The man came to the front door of the house carrying a container which appeared to contain petrol. He walked towards the officer at the front door, until he was approximately three to four metres away from the police officer. He was shouting aggressively and his arms were raised in the air.

The police officer told the man to back off and calm down. The police officer believed the man was going to throw petrol on him. A witness heard the man threatening to burn the police officer.

The man was warned "that he would be Tasered if he did not comply". The man moved closer to the police officer, to a distance of about two metres and he continued to close the distance to the police officer in an aggressive manner.

The police officer deployed his Taser weapon. Both probes struck the man – one in the lower chest and the other on the nose. The man caught fire. It is not known if the Taser weapon caused the fire or if the lighter was struck at the same time.

The police officer dropped his Taser weapon and pushed the man to the ground, using his hands to smother the fire. Another person ran up behind the police officer and began to throw rocks at him while he was attempting to extinguish the fire. Another person also threw rocks at the police officer. The police officer continued to try and put the fire out using his hands.

The man suffered 10% burns to his face, neck and upper torso. He was provided with immediate medical treatment at a nearby clinic. The probe that struck the person's face was removed by medical staff. The man was then taken to hospital for further treatment.

The police officer received a head wound that required five stitches after being hit with rocks. The Taser weapon use was justified and was deemed within policy because of the risk of injury. ■

Deploying a Taser weapon on a fleeing person

A man was outside a hotel when he was approached by a male and a female police officer. The police officers asked the man his name and he refused to tell them. When the man turned and ran away, the male police officer fired a Taser weapon at him and the man fell heavily to the ground receiving a broken tooth and extensive abrasions to his face. The man had a Taser weapon deployed on him twice more after he fell. Security footage of the incident shows the man on the ground at the time of the second and third deployments. He was not struggling and did not appear to pose a risk of injury to police or members of the public.

The security footage showed the man's leg kicking sporadically while he was on the ground.

The investigation found the police officer had used a Taser weapon in a manner that was not in accordance with current WAPOL policy, in that a Taser weapon had been discharged at a fleeing arrested person. The police officer was made the subject of a Management Action Plan for the first Taser weapon use.

In relation to the second and third use, the police officer said he deployed the Taser weapon on the man because of a threat of injury to himself and his female partner. He said he did not feel safe when he was accompanied by female police officers. The police officer was provided with counselling and guidance in relation to his attitude to his fellow police officers. ■



CASE STUDY

(Case Study One in full report and DVD)

This case highlights the problem that can arise when using a Taser weapon for compliance instead of to prevent injury. Rather than prevent injury, the Taser weapon use resulted in injury.



CASE STUDY



(Case Study Five in full report and DVD)

A Taser weapon was used 13 times in a controlled environment in which many police were on hand after a man refused to undergo a strip search.

Deploying a Taser weapon in a controlled environment

A man was sitting on a bench at the Perth Watch House. The man's actions indicated that he was likely to be suffering from a mental illness and/or substance abuse. The man had been compliant, removing his belt and earring when requested by police officers. However, the man refused to comply with a strip search and held onto the armrest of the bench.

One police officer kicked out at the man in an attempt to "startle" him into letting go of the bench. Another officer drew his Taser weapon and said "let go or be Tasered". The man did not let go and a Taser weapon was deployed on him. The man fell to the ground and was restrained by other police officers. The man began to struggle and the Taser weapon was deployed on him without warning, and he increased his struggling.

The man broke free from the police officers and stood up. A second police officer then deployed his Taser weapon in probe mode, causing the man to fall to the ground. On the security recording the police officer can be heard saying "do you want to go again?" and the officer deployed the Taser weapon twice more.

A senior police officer entered the area and told the other police officers to restrain the man and carry him to a padded cell. The man continued to resist and the Taser weapon was twice more deployed on him in stun mode. On the security recording a voice can be heard shouting "stop stop".



The information downloaded from the Taser weapon indicated five further deployments during the search procedure. There was no security footage of the padded cell. The police officers stated the man was resisting by trying to bite, kick and punch out at police while officers were attempting to restrain and search him.

Although at the time of the first deployment the man was sitting on a bench and appeared to be compliant, the man had been acting in a violent manner in the van during the journey to the watch house. The man also had warnings on the police computer system, indicating that he could become violent when intoxicated. The officers indicated that immediately prior to the incident the man had made comments along the lines of "I am the devil", and that he was moving his head from shoulder to shoulder and rolling his eyes. The police officers believed the man was capable of acting violently towards police, and therefore presented a significant risk of harm to themselves and other police officers.

The WAPOL investigation found that a Taser weapon was deployed on the man 13 times, 11 occasions in drive stun mode and twice in probe mode (five second cycle). Taser weapons were used by more than one police officer. The investigation found the Taser weapon had been used for compliance rather than to prevent injury. Two police officers were found to have used undue and excessive force against the man. One police officer has lodged an appeal against the disciplinary outcome.

Two police officers were found to have used undue and excessive force against the man.

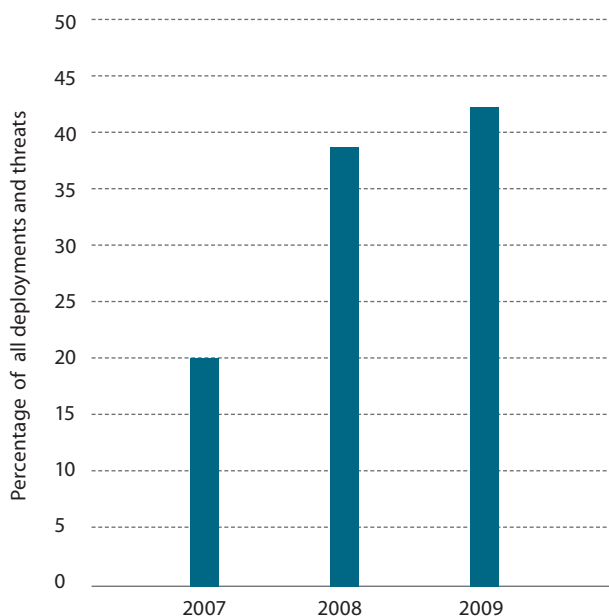
Criminal charges were not recommended against the police officers because the man did not recall the incident and would not be able to present evidence in court. The Commission had not completed its review of this matter at the time of publication of this report. ■



Resisting arrest

Analysis of the reasons for Taser weapon use demonstrated that some reasons for use are increasing over time, while others are decreasing and some remained relatively stable.

Figure 5: Physically resisting arrest 2007 – 2009



The most significant trend is the marked increase in Taser weapon use against people who are physically resisting arrest (see Figure 5). Such use has increased significantly over two years: from 20% of use in December 2007, to 38% of use in July 2008, to 42% of use between July and September 2009. That is, they have more than doubled.

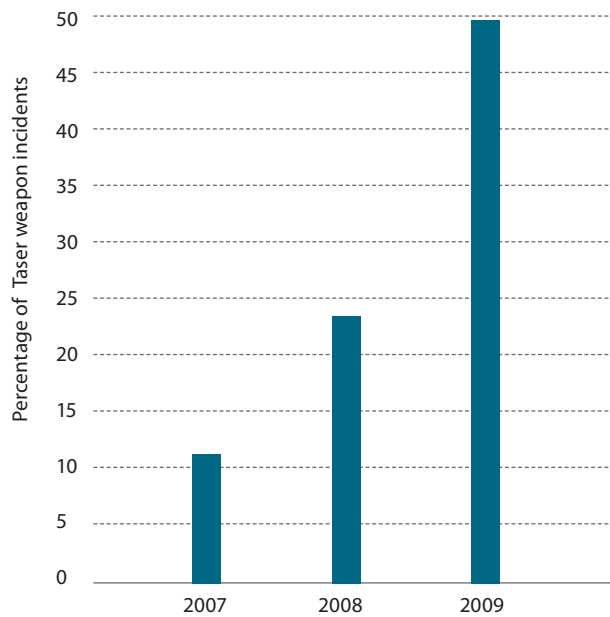
A subject who has a weapon and is threatening to use it, or who is assaulting or immediately about to assault an officer or another person, is clearly about to cause harm. However, the incidents in which a subject had a Taser weapon deployed on them for physically resisting arrest, or for threatening or behaving in a threatening manner, but with no weapon, are more difficult to assess.

There was a wide spectrum of described actions associated with these categories. For example, from “wildly kicking out” in the direction of officers’ faces, and “violently struggling” with an officer immediately next to a very busy freeway, to “throwing his arms about” and “struggling”. On the face of it, deploying a Taser weapon in the cases at the milder end of this spectrum may have been more for the purpose of obtaining compliance than for preventing of injury.

Threat versus deployment

As seen in Figure 6, a Taser weapon was used as a threat but not deployed 13% of the time in 2007, 24% of the time in 2008 and 49% of the time in 2009. That is, police officers were nearly four times more likely to threaten someone with a Taser weapon in 2009 than they were in 2007.

Figure 6: Percentage of Taser weapon incidents in which a Taser weapon was drawn but not deployed 2007 – 2009



WAPOL believe this trend is evidence that Taser weapons are working, that incidents are being resolved because of the manner in which police officers are using the weapon.

However, the Commission is not convinced. Another interpretation is that Taser weapons are being used for compliance, and increasingly so.

If police officers are using a Taser weapon as a compliance tool, they will draw the weapon more readily in situations where a verbal or physical presence is all that would otherwise be required. Therefore, consistent with the data, Taser weapon use as a threat would increase.

Taser weapon use and indigenous people

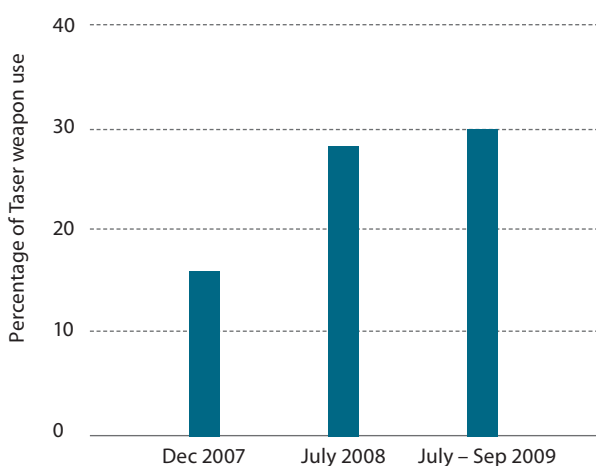
Overall, in Western Australia there is a disproportionate level of interaction between police officers and indigenous people when compared to interactions between police and other ethnic and racial groups. There are a number of complex reasons for this level of interaction.

Figure 7 shows that Taser weapon use, either as a threat or deployment, against indigenous subjects has almost doubled in the three years Taser weapons have been used in Western Australia. Taser weapons were used against indigenous subjects in 16% of uses of force incidents in December 2007, 27% in July 2008 and 30% between July and September 2009.

Further, Taser weapon against an indigenous person was more likely to be a deployment than a threat, whereas Taser weapon use against a caucasian person was more likely to be a threat than a deployment. Of the indigenous people subjected to Taser weapon use, 40% were threatened and 60% had the Taser weapon deployed on them. Of the caucasian people subjected to Taser weapon use, 56% were threatened and 44% had a Taser weapon deployed on them. That is, during a Taser weapon incident, an indigenous person was almost 30% more likely to have the Taser weapon deployed on them compared to a caucasian person.

The case study that follows is an example of Taser weapon use when resisting arrest, and Taser weapon use against an indigenous person, initially as a threat but leading to deployment.

Figure 7: Taser weapon use against indigenous people 2007 – 2009



Deploying a Taser weapon when resisting arrest

A police officer was on his own, on duty and in full uniform. He was in the lift of a city building. As he reached the lobby, he heard an indigenous man shouting loudly and swearing. A security guard, who was on the phone, gestured to the man. The man left the building and pushed away members of the public using both hands.

The police officer called for back up on his radio. He believed the man was suffering from a mental health problem as a result of methamphetamine abuse or alcohol abuse. Because of the body language and posture of the man, the police officer believed the man was liable to become violent at any moment. The police officer was concerned the man would be unusually strong in proportion to his size and would not react in a rational manner because of drug or alcohol use.

The police officer followed the man into the street. The man went into a café and spoke offensively to the person behind the counter.

The police officer decided to act because he thought the man would continue the behaviour towards other members of the public. The man noticed the police officer and his body language became aggressive towards the police officer.

The police officer drew his Taser weapon and shouted “police, don’t move”. The police officer ordered the man to show his hands. The man raised his hands and shouted abuse at the police officer. The police officer ordered the man to turn around and face the wall, and then get to his knees and place his hands on his head. The man did as he was told. The police officer then stepped forward, placing his foot onto one of the man’s feet and placed his Taser weapon against the man’s upper right shoulder. The man put his hands on his head, but continued to shout abuse. The police officer again radioed for priority backup.

The police officer took hold of one of the man’s hands to place handcuffs on him. The police officer noticed a bulky bandage on the man’s arm which made it difficult to handcuff him. The man pulled his arm from his head and twisted in an attempt to stand up.

The police officer deployed his Taser weapon into the man’s upper right shoulder. The man stopped resisting and the police officer supported him as he dropped sideways to the ground. Other police officers arrived and the man was taken away.

A report completed by an instructor at the Police Academy found the Taser weapon use was in accordance with policy. ■



(Case Study 14 in full report and DVD)



The young, elderly people, and pregnant women

The 198 Taser weapon incidents between July and September 2009 analysed in detail by the Commission showed a total of 212 people had a Taser weapon used against them. Analysis of the incidents indicated that 77% were males between the ages of 18 and 34.

Only 7.5% were female. There were no incidents in which a Taser weapon was used or threatened against a pregnant woman – or at least none in which it was identified that the woman was pregnant.

Analysis of these use of force incidents involving Taser weapon deployment on children indicates that in each instance the use of Taser weapon appeared to be justified by a threat of serious injury to an officer or member of the public.

Table 2: Age of people subjected to the threat or deployment of a Taser weapon by WAPOL officers July – September 2009

Age	Number	Percentage
5 – 14	1	0.5%
15 – 17	15	7%
18 – 24	65	30.5%
25 – 34	84	40%
35 – 44	32	15%
45 – 54	7	3%
55 – 64	0	0
65 – 75	0	0
Unknown	8	4%
Total	212	100%

Deploying a Taser weapon on a young person

A 12 year old student was in a high school staff room armed with two knives. The student had threatened to kill several staff members. Police were called and were met by the school principal.

Two police officers entered the staff room. One of the police officers had already drawn his Taser weapon, but kept it out of sight. The student was sitting in the chair at one end of the staff room. The student had a long bladed knife in one hand with the point resting on his thigh.

The police officer asked the student several times to drop the knife. The student refused saying that the police officer would "Taser him anyway". The police officer told the student that the Taser weapon would only be deployed against him if he didn't drop the knife.

The student said that he was "going to stab himself" and he lifted the knife above his right thigh.

The police officer discharged his Taser weapon at the student. One probe struck the student on the chest, while the other probe struck the chair. The student fell to the floor and was handcuffed.

The officers' supervisor did not identify any issues in the Use of Force report. ■

CASE STUDY

(Case Study Six in full report)

Excited delirium

International experience is that the mentally ill, drug users and people in a state of extreme psychological stress and/or dysfunction are more at risk of sudden death following Taser weapon deployment. Death is said to result from “excited delirium”. On the other hand, it is clear that Taser weapon use has prevented deaths in situations where police officers would otherwise have resorted to use of firearms.

The risk of death following Taser weapon deployment in excited delirium incidents can be reduced if medical assistance is provided to the individual after a Taser weapon deployment. There were only 10 incidents in which a Taser weapon was deployed between July and September 2009 where the individual was suffering a mental illness. Therefore seeking medical assistance in these types of cases does not appear to be unreasonable.

A Taser weapon is not always effective on people who are psychotic. An imperviousness to pain means probe mode is preferable to drive stun mode. This is because probe mode causes incapacitation, while drive stun mode seeks to control through the application of pain. During the coronial investigation discussed in the case study below, the Deputy Coroner expressed a concern about Taser weapon use against people who are suffering from extreme psychological disturbances.

Drug use and excited delirium

A man was seen by several witnesses exhibiting bizarre behaviour, stuffing a white food-like substance into his mouth, talking loudly and incoherently, and waving his hands in the air.

Police were called after a witness saw the man shadow boxing and walking in and out of traffic without any concern for his own safety. When police officers arrived the man was still walking in and out of traffic on a busy road.

The police officers called out to the man and he ran away. Two other police officers joined in the chase, during which the man placed a small yellow package into his mouth. The man tripped and was apprehended by the police officers. The man began struggling.

One police officer went to the man's head and attempted to remove the package from his mouth. The police officers had trouble trying to control the man. They managed to apply a handcuff to one of his wrists, but were unable to handcuff the other wrist. A decision was made to deploy a Taser weapon, due to the safety concerns relating to the passing traffic. Police officers also believed that it would assist remove the package from the man's mouth.

The Taser weapon was deployed in drive stun mode, but had little effect. The man's shirt was lifted and the Taser weapon was again deployed in drive stun mode, this time to the man's skin. There was a brief pause in the man's struggling and officers were able to apply the handcuffs to his other wrist.

Plastic was removed from the man's mouth.

Upon arrival at the lock up, the man was checked and was breathing. However, a short time later he lost consciousness. An ambulance was called and the man was taken to hospital where he was declared dead approximately 30 minutes later.

A post mortem determined the cause of death was cardiac arrhythmia precipitated by a large amount of methamphetamine which the man had swallowed. The blood methamphetamine level of the man was more than twice the level considered to be lethal.

The post mortem did not explicitly consider the Taser weapon use as a contributory factor to the death. While giving evidence at the coronial inquiry the pathologist was asked whether the Taser weapon had contributed to the death. He replied that in his opinion it had not. The Deputy Coroner declared the death was as a result of misadventure.

The WAPOL internal investigation used the post mortem results as the basis to find that the Taser weapon use did not contribute to the death. The WAPOL investigation found that the apprehension of the man was lawful and justified. It was also concluded that the Taser weapon use was justified. ■

(Case Study Four in full report)

The community needs to help police determine the threshold for Taser weapon use in Western Australia.

MISSION CREEP IN WESTERN AUSTRALIA

Mission creep refers to the use of a weapon (or other application of force) in situations that extend beyond those for which the weapon was originally designed or introduced. In a broad sense, the term refers to the increasing use of a weapon to deal with situations for which the use of that weapon does not appear warranted. Mission creep can cause police to rely on one weapon more than another, or at the expense of non-weapons based approaches.

If over-reliance on Taser weapons occurs, non-weapons based policing skills can be lost. These include, for example, verbal de-escalation techniques or physical crisis management skills. Traditionally, police rely heavily on these types of skills. There does not appear to be any discernible benefit to the community of diminishing these traditional skills in favour of Taser weapon usage.

In the context of Western Australia, evidence of mission creep in relation to Taser weapon use can be seen in two main areas:

- the four-fold increase from 2007 to 2009 in use of Taser weapon threats; and
- the doubling in Taser weapon deployments against indigenous people from 2007 to 2009.

In an indigenous context, some evidence of the loss of non-weapons based policing skills may also be seen in data demonstrating that Taser weapon use escalates to deployment more often for indigenous people than it does for non-indigenous people.

The doubling of Taser weapon use when people physically resist arrest may also indicate evidence of mission creep.

Based on the data, in Western Australia at the current time mission creep has real potential to redefine the boundary between acceptable Taser weapon use and the use of non-weapons based policing tactics, at the expense of non-weapons based policing tactics. That is, there is a genuine risk in Western Australia of increasing reliance on Taser weapons to resolve incidents in which no bona fide risk of injury exists. This is fundamentally at odds with the reasons behind implementing an otherwise effective weapon to police. It also runs the risk of alienating police from the wider community.

Various solutions have been proposed to address mission creep, but the central solution is to determine and stipulate an appropriate threshold for Taser weapon use. This is no easy matter and has been extensively debated in the literature. Based on the literature, this issue is one in which community involvement in determining the right threshold is critical.

If the cooperative relationship between police and the wider community is to be maintained, community views about acceptable Taser weapon use, and the threshold for Taser weapon deployment, need to be taken into account.

ACCOUNTABILITY AND TRAINING

Mission creep and misuse of Taser weapons can also be controlled through training, reporting, monitoring and reviewing usage in the light of an appropriate threshold and policies.

WAPOL officers are provided broad Taser weapon training through a combination of operational training and theory. Operational Taser weapon training includes an interactive training facility where officers interact with pre-programmed scenarios. Additionally, officers train in physical role playing and conflict management. There is scope to increase the effectiveness of this training.

WAPOL currently has mechanisms in place for reporting use of force incidents, which allows effective monitoring of operational Taser weapon use.

It is the Commission's view that WAPOL's capacity to monitor Taser weapon use could be enhanced by forming a committee to identify and address mission creep and to make recommendations about policy and training. Such a committee should include community representation. The committee could review all incidents of Taser weapon use that occur:

- against a juvenile;
- against an elderly person;
- against a pregnant woman;
- against a person with a pre-existing serious health condition;
- against a person who is mentally ill;
- within a confined area or against a person who is handcuffed;
- near flammable liquids or gases;
- in elevated or otherwise dangerous locations;
- against the driver or operator of a vehicle; or
- resulting in injury.

The committee should focus on subtle issues such as: mission creep; use against indigenous people; use against people with a mental illness or in psychological stress; and use against people affected by drugs.

It would also be reasonable for this committee to keep abreast of developments in knowledge about Taser weapons and the risks involved in Taser weapon use as such developments occur in Australian or other policing jurisdictions.

CONCLUSION

Taser weapons were introduced in Western Australia in the hope they would become an alternative to firearms and reduce the number of injuries to police. Since their introduction, firearm use has increased and the number of injuries to police has remained the same.

The overwhelming majority of Taser weapon use by WAPOL officers are reasonable. The research shows that a Taser weapon is a very effective tool in situations where there is a real risk of serious injury to an officer or others.

Notwithstanding the high percentage of reasonable use, analysis of Taser weapon incidents has led to the identification of some concerns.

Taser weapons are being used disproportionately against indigenous people. This pattern of use is increasing.

Analysis shows that Taser weapons are being used by WAPOL officers in situations where such use is potentially improper or excessive, including against people whose level of resistance appears to present only a small chance of injury to officers and/or solely for compliance. This pattern of use appears to be increasing.

Between July and September 2009, potential misuse was involved in 7% of Taser weapon incidents. Of these, 38% involved using the Taser weapon as a threat. The remaining 62% involved potentially improper or excessive Taser weapon deployment.

Although WAPOL officers use Taser weapons effectively and reasonably in the overwhelming majority of situations, not all of the remaining incidents are identified and addressed through WAPOL misconduct management systems.

WAPOL response

A draft of the full version of this report was provided to WAPOL for comment. WAPOL provided a response, making extensive reference to WAPOL's *Post-Implementation Review on Tasers* (PIRT review).

There is broad agreement between the Commission and WAPOL on:

- the general effectiveness and usefulness of Taser weapons;
- probe mode being the preferred method of Taser weapon use;
- after care procedures;
- some accountability and training measures; and
- some policy recommendations.

Disagreement exists between the Commission and WAPOL on:

- a suitable threshold for Taser weapon use;
- risks inherent in Taser weapon use;
- Taser weapon use for compliance;
- Taser weapon use against vulnerable groups;
- some accountability and training measures;
- mission creep; and
- specific policy recommendations.

The Commission stands by the conclusions made in the report, and no changes have been made to the final recommendations.

RECOMMENDATIONS

The following recommendations have been developed after considering of national and international trends and are aimed at:

- decreasing the potential for mission creep of Taser weapon use;
- preventing excessive or improper Taser weapon use;
- maintaining public confidence in Taser weapon use; and
- reducing the risk of serious injury or death of both police and members of the public during violent confrontations.

RECOMMENDATION 1

That the Western Australia Police include in the Taser weapon policy an acknowledgement that Taser weapons have the capacity to cause death or serious injury.

(WAPOL did not find the evidence in the Commission's report "sufficiently compelling" to support this recommendation.)

RECOMMENDATION 2

That the Western Australia Police threshold for Taser weapon use be increased. The Western Australia Police Taser weapon policy (FR 1.6.4) include wording such as:

The use of a Taser weapon is reserved to those situations where no other option would bring about a safe resolution. The use of a Taser weapon is reserved for those situations where there is a real and imminent risk of serious harm either to a member of the public, a police officer or (in the case of self-harm) the person on whom the Taser weapon will be used.

(WAPOL disagrees that a threshold of "serious" risk or harm should be applied in the use of a Taser weapon.)

RECOMMENDATION 3

That the Western Australia Police Taser weapon policy include the following “use of force principle”:

An officer is prohibited from deploying a Taser weapon unless the officer is satisfied, on reasonable grounds, that:

- no lesser force option has been, or will be effective in eliminating the imminent risk of serious injury; and
- de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the imminent risk of serious injury.

(WAPOL does not support this recommendation, stating that “there is no hierarchy of force option ... force options other than Taser have the capacity to cause more pain and injury over longer periods of time than a Taser”.)

RECOMMENDATION 4

That probe mode be the preferred method of deployment of Taser weapons by Western Australia Police, and this is to be reflected in policy and training.

(WAPOL supports this recommendation in principle.)

RECOMMENDATION 5

That the Western Australia Police Taser weapon policy (FR 1.6.4) outline specifically where Taser weapon use is restricted, including that Taser weapon use be avoided in the following situations (except in extreme circumstances).

- (1) When there is an elevated risk of the subject falling and sustaining serious injury.
- (2) Against a person in or near water where there is a risk of drowning.
- (3) In the vicinity of flammable liquids or gases.
- (4) Against drivers of vehicles or operators of machinery, where there is a risk that the vehicle or machinery may go out of control.
- (5) Against persons who are handcuffed or in a secure environment.
- (6) Against children, the elderly and persons of small body stature.
- (7) Against women who are reasonably suspected to be pregnant.
- (8) Against persons who are known to have or suspected to have serious pre-existing health conditions.

(WAPOL supports all points except the restriction of Taser weapons in a secure environment and those of small body stature.)

RECOMMENDATION 6

That the Western Australia Police Taser policy (under FR1.6.7) require Western Australia Police officers to call for the assistance of ambulance officers or other health officers in situations where a Taser weapon has been deployed on people with a mental illness or those suffering from extreme psychological distress.

(WAPOL supports this recommendation.)

RECOMMENDATION 7

That the Western Australia Police Taser weapon policy outline the risks involved in multiple deployments, and emphasise:

- (1) multiple deployments will be scrutinised; and
- (2) each deployment must result from a new assessment of the circumstances and the need for use of force, and be justified accordingly.

(WAPOL does not support this recommendation, stating that every use of force is scrutinised and not just multiple deployments.)

RECOMMENDATION 8

That the Western Australia Police ensure interactive Taser weapon training includes appropriate Australian scenarios.

That the Western Australia Police Taser weapon training includes situations where a person is physically resisting arrest or behaving in a threatening manner to assist officers to identify where serious injury may occur.

(WAPOL states proposed developments to the interactive Taser weapon training will result in part one of the recommendation being implemented. WAPOL states existing training is adequate to meet part two of the recommendation.)

RECOMMENDATION 9

That Western Australia Police introduce additional verbal and de-escalation training for officers, including the use of specific verbal statements prior to Taser weapon use. Specific verbal statements are to be stipulated in the Western Australia Police Taser weapon policy and provided in training.

(WAPOL does not support this recommendation.)

RECOMMENDATION 10

That Western Australia Police form a committee to continually monitor and examine Taser weapon use in order to identify potential misuse and make recommendations about policy and training. The committee is to include some level of community involvement, and is not to replace current incident management and misconduct management processes. The committee is to particularly consider all Taser weapon incidents:

- against a juvenile;
- against an elderly person;
- against a pregnant woman;
- against a person with a pre-existing serious health condition;
- against a person who is mentally ill;
- within a confined area or against a person who is handcuffed;
- near flammable liquids or gases;
- in elevated or otherwise dangerous locations;
- against the driver or operator of a vehicle; and
- resulting in injury.

(WAPOL supports the development of a committee but suggests an operational focus, no community involvement, and that there is no requirement for a particular Taser weapon use to be referred to the committee.)

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CORRUPTION
AND CRIME
COMMISSION