



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

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BY FACSIMILE AND U.S. MAIL  
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Mr. Richard Dormer, Commissioner  
Suffolk County Police Department  
30 Yaphank Avenue  
Yaphank, NY 11980

Dear Commissioner Dormer,

We write today to express concerns about the Suffolk County Police Department's ("SCPD") frequent use of Tasers and to clarify whether a use-of-force policy exists at the SCPD which governs the use of Tasers. A November 17, 2009 *Newsday* article reports that Suffolk County police officers are using Tasers with an alarming frequency.<sup>11</sup> As reported, Suffolk police have six-hundred sixty-nine (669) Tasers currently in use, and "supervisors hope to arm most patrol cops with one." The article further reports that Taser usage in Suffolk has been steadily increasing over the past several years: in 2006, Tasers were used forty-four (44) times; they were used fifty-three (53) times in 2007; sixty-five (65) times in 2008; and one-hundred forty-six (146) times so far this year. As reported in the article, you justify the large number of Taser incidents in Suffolk as compared to Nassau "because [Suffolk] is geographically twice the size and officers often cannot wait for Emergency Service officers to arrive." It is also reported that you said that Tasers "are used many times without adverse effects."

These comments have raised much concern over the SCPD's frequent and widespread use of Tasers. We would respectfully request that the SCPD provide any and all documents setting forth a use-of-force policy or policies with regard to the use of Tasers, any and all documents setting forth any SCPD policy or policies related to Taser usage, and any and all documents describing training of SCPD officers with regard to the use of Tasers. If the SCPD currently lacks a use-of-force policy with regard to Taser usage, we request that the department institute one that reflects the potentially lethal nature of these devices. The NYCLU would be happy to work with you to ensure that any proposed use-of-force policies address these concerns.

<sup>11</sup> Bart Jones, "Taser approaches in Nassau, Suffolk sharply split," *Newsday* 17 Nov. 2009. Available at <http://www.newsday.com/long-island/nassau/taser-approaches-in-nassau-suffolk-sharply-split-1.1592813>.

## Tasers are Potentially Lethal Weapons

Tasers fire twin metal barbs that emit a 50,000-volt charge into an individual's body, causing them to collapse from a loss of muscular control. The National Institute of Justice, Amnesty International, and TASER International have all documented numerous cases of people being wounded or dying after being Tasered by police. Most recently, on November 14, right here in Suffolk County, Daryl Bain was Tasered by an SCPD officer. Shortly after being Tasered, Mr. Bain stopped breathing. He was taken to the hospital, where he died a short time later.<sup>2</sup>

Despite your belief that Tasers are often used without any adverse effects, the case of Mr. Bain proves that they are, in fact, dangerous and potentially deadly weapons. In June 2008, the National Institute of Justice, the research arm of the Department of Justice, released its interim report on deaths of individuals who had been Tasered. It found that there was an increased risk of death associated with the Tasered of an individual who is under the influence of drugs or alcohol.<sup>3</sup> According to the local news reports, the responding police officers in the Bain case were informed by Mr. Bain's brother that Mr. Bain was likely under the influence of cocaine at the time. Despite the risks involved, the responding officers Tasered Mr. Bain.

Mr. Bain's story is unfortunately not unique. In 2006, Amnesty International released a report highlighting the dangers of Tasers.<sup>4</sup> The report stated that since 2001, one-hundred fifty (150) people in the United States have died as a result of being Tasered. According to the report, most of those who died were in an agitated state and or under the influence of drugs. Many of these individuals died as a result of cardiac or respiratory arrest. The publication also reports that coroners are increasingly listing "Tasered" as a cause of death or a contributing factor to death.

Research on the dangers and medical implications associated with the use of Tasers is constantly being updated, published and dissected by experts on the subject. A recent press release by TASER International, issued October 12, 2009 reveals new research indicating that there is an increased risk of heart attack for those who are Tasered in the chest region. This research concluded that the "close distance between the ECD dart and the heart is the primary factor in determining whether an ECD will affect the heart."<sup>5</sup> Given that the product warnings and recommendations for proper usage of Tasers is constantly changing as we learn more about these devices, police departments must be vigilant in updating their use-of-force policies and in ensuring that all officers are aware of the dangers of the use of Tasers.

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<sup>2</sup> Michael M. Martino, Jr. "Coram Man Dead After Struggle With Cops," *Long Island Press* 14 Nov. 2009. Available at <http://www.longislandpress.com/2009/11/14/coram-man-dead-after-struggle-with-cops/>.

<sup>3</sup> National Institute of Justice, *Study of Deaths Following Electro Muscular Disruption: Interim Report* (Washington: U.S. Department of Justice, 2008).

<sup>4</sup> Amnesty International, USA *Amnesty International's continuing concerns about Taser use*, 27 Mar. 2006. Available at <http://www.amnestyusa.org/document.php?id=engamr510302006>.

<sup>5</sup> TASER International, Training Bulletin 15.0 Medical Research Update and Revised Warnings, 12 Oct. 2009. Available at [http://www.policeone.com/policeone/data/pdfs/TASER\\_Media\\_Bulletin.pdf](http://www.policeone.com/policeone/data/pdfs/TASER_Media_Bulletin.pdf).

The Suffolk County Police Department should adopt and implement a clear use-of-force policy governing Tasers.

As we have searched the SCPD's Rules and Procedures, updated as of June 2009, policies on Taser usage are included on the SCPD's policies on *Prescribed Uniform/Equipment, Designated Insignia*; one allowing the use of Tasers for officers who "are properly trained in the appropriate use of the device as specified by the manufacturer and the Department,"<sup>6</sup> and a policy directing an officer to secure his or her Taser, describing what an officer should do with a Taser after it is used, and when an officer should return the Taser due to low battery life.<sup>7</sup> Notably, these policies do not include a use-of-force policy which would direct and guide officers on the appropriate and safest use of Tasers. While I applaud the SCPD's initiative to put in place at least minimal policies requiring training on the usage of Tasers specified by the "manufacturer and Department,"<sup>8</sup> the dangers of Taser use described above make it clear that a use of force policy that accounts for those dangers is necessary.

To that end, the NYCLU officially requests that, if a SCPD use of force policy exists governing Taser usage, the SCPD produce that policy to us. Additionally, the NYCLU officially requests any and all documents setting forth any SCPD policy or policies related to Taser usage, and any and all documents describing training of SCPD officers with regard to the use of Tasers. If necessary, please consider this request a formal request under the Freedom of Information Law, Article 6 of the Public Officers Law.

If a SCPD use of force policy governing Taser usage does not exist, we ask that your office prepare such a policy, taking into account the dangers outlined in this letter and in the reports mentioned herein, particularly the recent revelations by TASER International of the danger of Taser use aimed at the chest area. The NYCLU would appreciate an opportunity to comment on any proposed use of force policy if one is drafted.

It is our intent, by drawing your attention to this matter, to open up a dialogue on the proper use of Tasers, on policies that will ensure such proper use, and the alarming increase in the use of Tasers in Suffolk County. If we do not hear from you beforehand, we will follow up with your office either after we have reviewed any existing policies that are produced to us, or within a few weeks to discuss the SCPD's intentions with regard to developing new policies. We look forward to your response.

Very truly yours,  
  
Andrea Callan

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<sup>6</sup> Police Department County of Suffolk, Rules and Procedures. Chapter 4: Uniforms and Equipment, Section 1: Prescribed Uniform/Equipment Designated Insignia, V.F.1.h.

<sup>7</sup> Police Department County of Suffolk, Rules and Procedures. Chapter 4: Uniforms and Equipment, Section 1: Prescribed Uniform/Equipment Designated Insignia, V.F.3.a-d.

<sup>8</sup> Police Department County of Suffolk, Rules and Procedures. Chapter 4: Uniforms and Equipment, Section 1: Prescribed Uniform/Equipment Designated Insignia, V.F.1.h.