

RESOLUTION 03-02-2007

DIGEST

Tasers: Police Training and Restrictions on Use

Amends Penal Code section 835 and adds Penal Code section 13514.6 to mandate training and to restrict the use of tasers by peace officers.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend section 835 of the Penal Code and to add section 13514.6 of the Penal Code, to read as follows:

- 1 §835
2 (a) An arrest is made by an actual restraint of the person, or by submission to the
3 custody of an officer. The person arrested may be subjected to such restraint as is reasonable
4 for his arrest and detention.
5 (b) A peace officer, or a person acting in a peace officer's presence and at the
6 officer's direction, is justified in using a Taser and similar weapons designed to temporarily
7 incapacitate a person against another person only if the officer or person is in fear of
8 imminent danger of death or great bodily harm.
9
10 §13514.6
11 (a) By July 1, 2008, the Commission on Peace Officer Standards and Training, using
12 available funding, shall develop a course to be made available to all law enforcement
13 agencies in California on the use of Tasers and similar weapons designed to temporarily
14 incapacitate a person. The course shall include information on the proper use of such
15 weapons and the circumstances under which they can be deployed. In developing the
16 course, the commission shall consult subject-matter experts which may include, but must not
17 limited to, manufacturers of Tasers and similar weapons.
18 (b) Every state law enforcement agency, and every local law enforcement agency
19 must provide the course to its peace officers.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: National Lawyers Guild, San Francisco Chapter

STATEMENT OF REASONS

Existing Law: Current California law does not provide any guidance to law enforcement in the use of Taser guns.

This Resolution: Would permit the use of Taser weapons only if the officer or person is in fear of imminent danger of death or great bodily harm rather than as a means to subdue a person who

may disobey police commands. It would require mandatory training in the use of Taser weapons.

The Problem: A Taser gun is a hand-held gun that fires a projectile up to a range of 30 feet. The projectile is an electrode connected by wires to the gun and uses a high-voltage, low-amperage current to induce temporary paralysis. It is used by police throughout California as a way of subduing people who do not respond to police commands and is considered to be an alternative to the use of force.

Despite the intention of using Tasers as an alternative to force, many incidents of use around the nation, and in California, have resulted in serious injury or death for people shocked by a Taser. An investigative article in the Arizona Republic dated October 12, 2004 identified 73 incidents from September, 1999 to October, 2004 in which a person shocked by a Taser had died shortly after. Nine deaths occurred in California. One of those included a six-month old fetus whose mother was subjected to a Taser shock in Chula Vista.

The American Civil Liberties Union of Northern California completed a study of Taser use throughout northern and central California in September, 2005. That study showed the death rate after a Taser shock had risen dramatically to 148 since the Arizona Republic investigation. Most of those deaths occurred between 2004 and 2005, including an additional fifteen deaths in California. In many cases, people received multiple Taser shocks.

California coroners have identified Taser use as a contributing cause of death in at least two cases, one involving a 30-year old man in San Mateo County on January 2, 2005 and a second involving a 38-year old man in Santa Clara County on November 18, 2005.

Many incidents of Taser use show that police use these weapons in cases where they are not an alternative to deadly force. Two egregious examples from around the country include using a Taser in Santa Rosa on an helpless 18-year old man in a wheelchair and a six-year old in Florida.

The ACLU study also showed that, despite the rising rate of injury and death, only four of 79 northern California police departments had developed their own training materials where all the others relied on training materials from the manufacturer, Taser International.

Only four departments had policies advising against the use of multiple shocks. Even though Taser International itself recommends against the use of Tasers on pregnant women, only 23 departments prohibit that use.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

AUTHOR: Richard P. Koch, 760 Market Street, #524, San Francisco, CA 94102, voice 415-397-1060, fax 415-397-3077, email message: rpkoch1@sbcglobal.net

RESPONSIBLE FLOOR DELEGATE: Richard P. Koch