



# Peace Movement Aotearoa

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## **Act now: taser gun decision due soon**

The Commissioner of Police, Howard Broad, is currently considering the police's evaluation of the TaserX26 trial, and is expected to make a decision early next year about whether or not the taser, or 'electromuscular incapacitation device' as it is otherwise known, will be issued permanently to frontline police officers around the country. But there are big questions about whether this is a desirable addition to the police arsenal.

Many of these questions were raised in the Campaign Against the Taser (CATT) report 'Stun guns in Aotearoa New Zealand? The shocking trial'<sup>1</sup> published last week.

CATT monitored the taser trial throughout and the report points out, among other things, that more than 40% of incidents between just September 2006 and March 2007 were in breach of the Standard Operating Procedures (SOP) drawn up to regulate taser use during the trial period. The report also highlights the increasing concern and controversy over the use of tasers overseas as the death toll among those struck by police tasers continues to rise; and the United Nations Committee Against Torture's recent description of the use of TaserX26 weapons as constituting a form of torture which could in certain cases cause death<sup>2</sup>.

Yet the decision about whether or not tasers will be permanently deployed here will be made by the Commissioner of Police alone, based on the police's own evaluation of the trial - there will be no independent evaluation of the trial or effects of taser use. There will be no opportunity for informed public discussion as to whether or not it is desirable or necessary for frontline police officers to be issued with a potentially lethal weapon. Neither will there be public input into whether tasers might be used in certain circumstances, what those circumstances might be, and how such use should be regulated.

This action alert has five sections with information about: the New Zealand Police taser trial, overseas and international concerns, the taser deployment decision, where you can get more information, and what you can do. Please act on it to do what you can to ensure tasers are not issued to frontline police officers before the big questions have been asked and answered satisfactorily. If you do not have time to read the full alert, there is a summary of the main points in the 'what you can do' section.

### • The New Zealand Police taser trial

Tasers are battery operated units resembling hand guns that fire two barbed electrodes on 21 foot long copper wires at 180ft/sec. The barbs embed themselves in the victim's skin and deliver up to 50,000 volts of electricity in rapid pulses over a period of five seconds. The taser can also be used in drive stun mode like a cattle prod, that is, held against the victim and fired. The shock from a taser causes uncontrollable muscle contractions and overwhelming pain, and anyone who is tasered

is knocked to the ground. An electrical charge of such intensity can be fatal in itself, and injuries can occur from the muscle contractions and being knocked to the ground.

From 1 September 2006 to 1 September 2007, the TaserX26 was trialed by frontline police officers in Waitemata, Auckland City, Counties Manukau, and Wellington (including Wairarapa) police districts.

Incidents involving the use of a taser, as outlined in this alert, cover the range of possible deployments of the weapon - presentation (taking the taser out of its holster and pointing it), laser painting (training the taser's target light on someone), arcing (pulling the taser's trigger when it is not loaded with a cartridge which causes an electrical charge between its contact points and produces a distinctive crackling bright electrical discharge, something like lightning albeit on a smaller scale), drive stun (direct body contact shock) and discharge (firing the barbs which carry the electrical charge).

As there is a thorough analysis of the issues raised by and around the trial in the CATT report, this action alert is intended to provide a summary of them.

In the first section of the CATT report there is analysis of the trial based on police media releases and incident reports provided for incidents occurring between September 2006 and March 2007 (later incident reports have not yet been received), media reports, and anecdotal evidence provided to CATT by affected persons.

While it was anticipated that police officers would be careful about their taser use knowing that they would be subject to more scrutiny during the trial period, the analysis revealed that was unfortunately not the case.

As mentioned above, more than 40% of incidents between September 2006 and March 2007 were in breach of the SOP. The SOP stated that the taser could only be used in situations within and beyond the 'assaultive range'<sup>3</sup>, as outlined in the police Tactical Options Framework<sup>4</sup>, but 40% of deployments were in situations below that range. Some of the incident reports raised the question of whether or not police officers were correctly assigning situation descriptions to incidents<sup>5</sup>, so the percentage of situational breaches of the SOP may actually be higher.

In addition, there were at least two incidents when tasers were deployed at petrol stations (the SOP stated the taser should not be used in situations where the proximity of flammable liquids or vapours may present a risk of ignition).<sup>6</sup>

Furthermore, in at least two other incidents, the taser was used to induce compliance (the SOP state that "under no circumstances is the device to be used to induce compliance with an uncooperative but otherwise non-aggressive person")<sup>7</sup> - in both of these cases, the person was tasered twice, the second time while lying on the ground<sup>8</sup>.

As well, a number of blunders with tasers are described in the report<sup>9</sup>. In the most serious, a police officer deployed the taser five times in an incident on 1 October 2006 and repeatedly missed his target. Instead, he tasered the alleged offender's 16 year old son, shocked himself while attempting to reload the weapon, and after resorting to OC spray, sprayed the target's daughter rather than the alleged offender. The police incident report did not include any of these details - it came to light in a story in the New Zealand Herald six weeks after the incident occurred<sup>10</sup>.

In a different incident, a police officer accidentally fired a taser while using it as a torch.<sup>11</sup>

Another issue raised in the CATT report relates to the use of tasers on persons in mental health crisis. As at August 2007, at least 14% of the people who were tasered since the trial began had mental health issues or were suicidal<sup>12</sup>. A deeply disturbing incident involving a woman in crisis who was tasered twice in a wet bathroom (which presents a further safety issue), even though there were three officers present, is referred to in the CATT report<sup>13</sup> and in more detail in the New Zealand Herald<sup>14</sup>.

Te Ao Maramatanga / New Zealand College of Mental Health Nurses, who were strongly opposed to the taser trial because of the general safety concerns about its use and the specific targeting of people in mental health crisis<sup>15</sup>, released a public statement about the trial last week<sup>16</sup>. They pointed out that the taser had been fired in 50% of cases of mental health emergency as compared with 11% of incidents which could be described as 'criminal' cases. They refer to two incidents when tasers were fired in inpatient mental health services as "an unexpected and alarming development" and called for tasers to be banned completely from inpatient mental health services.

A further issue raised in the CATT report relates to racial discrimination in the deployment and use of tasers. In a media release at the end of the trial, the Maori Party pointed out that Maori were the targets in 29% of incidents and Pacific people in 27% - when taken together, 56% of taser gun use<sup>17</sup>.

The CATT report summarises the above as follows:

"That such incidents have occurred in the heightened monitoring environment of a trial period intensifies concern that breaches will also occur once Tasers are considered a 'normal' part of the police arsenal. There is nothing to guarantee that there will not be instances of misuse by individual police officers, or a more general slippage of Taser use into situations outside of regulations. There is a risk that people will be subjected to frightening, painful and potentially lethal treatment which is entirely disproportionate to their behaviour.

The Taser is especially open to such abuse (more so than firearms, for example) because of its promotion as a 'low risk', 'less lethal' option in public relations exercises by police agencies and its manufacturer, Taser International Inc., as well as internally in the training programmes delivered to police personnel.

It is important to note that those who have engaged in the New Zealand debate as 'pro-Taser' almost invariably understand that the Taser will be used in situations that would otherwise require deadly force – a gun. That is the kind of situation that draws public support for the Taser. If the Taser really had been used only in these very restricted scenarios, there would perhaps be less cause for concern. However, the analysis reveals that, even in the trial situation when police officers are likely to be more careful about how they use the weapon, this has not been the case.

The vast majority of shocks fired by police officers, here and overseas, are not actually alternatives to using firearms, but rather alternatives to other, non-life threatening forms of law enforcement apprehension, control and force techniques – such as negotiation, batons, or pepper spray. The police argument, made in initial reports, that 'failure to have a range of less lethal weaponry options available automatically necessitates the recourse to a lethal weapon option' simply cannot stand in the face of evidence from the trial."<sup>18</sup>

The second section of the CATT report covers issues around the trial - the lack of transparency and openness<sup>19</sup>, and the police media campaign:

"Police spokespersons have made their preferred outcome of the Taser trial very clear throughout its course. However, a trial is intended to precede a decision - theoretically, any decision made should be based on trial findings, and not concluded prior to the trial's end and subsequent careful assessment. Yet over the trial period police spokespersons have consistently advocated for the Taser, while dismissing

any criticism of its deployment and use. For example, Police Commissioner Howard Broad stated in October 2006 that there were 'strong forces' that wanted police armed with guns if the trial failed, words which he later conceded were inappropriate.

... In addition, a great deal of emphasis has been put on perceived increases in violent assaults on police, which are not borne out by statistics. The overall impression has been that the public relations efforts of police are aimed at promoting the Taser, preceding its inevitable introduction, rather than neutrally observing the trial and reserving judgment until it has been assessed. Indeed, on the 26 October this year, Damien O'Connor, then Minister of Corrections, told the House that the Police Commissioner acknowledged 'that the police are hoping the Taser trial is successful.'<sup>20</sup>

Prior to, during, and after the taser trial, those campaigning to have tasers added permanently to the police arsenal have often referred to the police shooting of Steven Wallace. Those who use this argument ignore the fact that it is unlikely Steven would have been killed if police procedure regarding the use of lethal force had been followed correctly - something we, and others, who have worked on that since 2000 have said from the beginning; a belief confirmed by the report of the Coroner's Inquest (3 August 2007)<sup>21</sup> which identified clear failures to follow policy and procedure in that case. Rather than a reasonable argument to justify the deployment of the taser, what happened to Steven is more of a warning about the fatal consequences when police procedures are not followed - and the repeated breaches of the SOP during the taser trial period, makes any hasty ill considered decision on deploying this potentially lethal weapon even more undesirable.

A further point raised in the CATT report relates to police training, in the light of the admission by the Commissioner of Police last year that police officers are gradually losing their ability to engage in dialogue in tense or hostile situations<sup>22</sup> - a situation which could, and should, be remedied by proper police training; yet the Commissioner has consistently advocated for the introduction of the taser. In this context, the weapon seems to be viewed as a quick fix 'solution' to cover shortfalls in police training, rather than dealing with the wider issues around the loss of policing skills to defuse tension.

Police recruits have only 19 weeks basic training - is this really adequate for a profession involving complex, and often dangerous, situations which require a level of maturity and skill to avoid harm to all involved? To look at one example, are police officers sufficiently trained to cope with those in mental health crisis - if poorly trained to identify and manage such situations and faced with unfamiliar behavioural patterns, they are likely to react with fear and force. As the Royal Australian and New Zealand College of Psychiatrists (RANZCP) stated prior to the taser trial beginning:

"The Police are often called to assist the process of transferring patients suspected of suffering from a mental illness, to a place of safety for further assessment and management. The RANZCP is very concerned that should tasers be introduced and readily used for ensuring compliance of disturbed persons then those suffering from psychiatric illness, coming to the attention of the police could be administered painful and potentially lethal electrical shocks for no other reason than the fact that they have become mentally unwell.

The College is not assured that Police policies surrounding the use of tasers are such that they will ensure that all other methods of de-escalating tension or conflict have been used and that the taser is used as the "last resort" nor that there are sufficient processes in place to ensure that taser use (or misuse) will be monitored or audited."<sup>23</sup>

The concerns outlined in the last paragraph unfortunately appear to have been fully justified given the way tasers were used on those in mental health crisis during the trial.

To conclude this section, it has to be said that police officers do resolve difficult and violent situations every day using skills of negotiation and tension de-escalation - rather than introducing a 'quick fix' potentially lethal weapon, surely it would be more productive to extend police training and focus on transferring the skills learned from those positive outcomes in difficult situations.

- Overseas and international concerns

The third section of the CATT report is focused on the heightened and acute concern over taser use internationally<sup>24</sup>. The renewed concern is in part because of the steadily increasing toll of taser-related deaths. Since July 2003, there have been 18 taser-related deaths in Canada; and in the United States, 291 people have died after being struck by police tasers since 2001.

There are a number of enquiries currently underway in overseas jurisdictions where tasers have been used by police forces. For example, in Canada, the RCMP is reviewing its taser policy "in response to new medical data and to provide more precise instructions [on their use]", the Royal Newfoundland Constabulary has suspended the use of tasers, and the Commission for Public Complaints Against the RCMP (CPC) has also announced its own independent investigation. There have been calls for moratoriums on taser use in Britain, and in the United States where the Justice Department continues to investigate deaths in custody following taser use - that two year investigation was launched in June 2006.<sup>25</sup>

As the CATT report states:

"Any decision made in New Zealand needs to take developments overseas into account. Experience and evidence from other jurisdictions must inform the decision making process. The fact that the taser is becoming increasingly controversial in jurisdictions where it has been in use for some time, causing crises of legitimacy for police forces in Canada, the United States and the United Kingdom indicates that it has the same potential in New Zealand. This should be of real concern to New Zealand Police."<sup>26</sup>

Adding impetus to the calls for a reassessment of taser use, in November 2007 the United Nations Committee Against Torture, in its Concluding Observations on Portugal, stated that: "the use of TaserX26 weapons, provoking extreme pain, constituted a form of torture, and that in certain cases it could also cause death, as shown by several reliable studies and by certain cases that had happened after practical use."<sup>27</sup>

As New Zealand is a signatory to the International Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee's comments are of direct relevance to the decision about introducing tasers here. In addition to the International Convention Against Torture, any taser deployment could involve breaches of other international human rights instruments, as well as the NZ Bill of Rights Act.

- The taser deployment decision

Another big question around the decision as to whether or not tasers should be issued to frontline police officers on a permanent basis is who will make the decision.

At the moment the Commissioner of Police will do so because the Minister of Police has consistently refused to take responsibility for it, as has the Prime Minister earlier this week<sup>28</sup>. The

Minister maintains the introduction of tasers is an operational matter and therefore a decision to be made by the Commissioner.

The Auckland District Law Society has expressed concern about the decision being made by the Commissioner alone. They have pointed out the lack of balance inherent in a decision by the Commissioner: "those conducting the taser trial, are the same as those who report on the use of the weapons, and are in turn the same as those who will ultimately decide if tasers are to become a permanent part of policing in New Zealand."<sup>29</sup>

The constitutional relationship between the Minister of Police and the Commissioner has recently been reviewed as part of the Review of the Police Act, under the heading 'Governance and Accountability'. In September 2007, the Cabinet Minute relating to this was agreed, and it outlines the relationship as follows:

"5. agreed that the Commissioner of Police be responsible to the Minister of Police for:

1. carrying out the functions and duties of Police;
2. effective, efficient and economical management of Police;
3. general conduct of Police;
4. tendering advice to the Minister of Police and other Ministers; and
5. giving effect to any lawful directions by the Minister of Police.

6. agreed that the Commissioner of Police is to act independently, and not be subject to direction by the Minister of Police regarding:

1. maintenance of order or enforcement of the law in relation to any individual or group of individuals;
2. investigation and prosecution of offences;
3. decisions about individual Police employees."<sup>30</sup>

While the introduction of new weapons to the police arsenal is not referred to specifically above, it seems obvious that it is the Minister of Police, not the Commissioner, who is responsible for such a decision as it comes within points 5.1, 5.2 and 5.3; while 5.4 indicates that the Commissioner would have an advisory role in the decision. It is after all a decision which as CATT put it, "is likely to change the face of policing in New Zealand"; it must therefore "be subject to a rigorous democratic process and public scrutiny, which cannot be achieved if the decision is made by the Police Commissioner alone".<sup>31</sup>

#### • Where you can get more information

The CATT report, statements and media releases by a number of organisations - including CATT, Te Ao Maramatanga / New Zealand College of Mental Health Nurses, Royal Australian and New Zealand College of Psychiatrists, the Maori Party, Global Peace and Justice Auckland, Public Issues Committee (Auckland District Law Society) and the Green Party, media reports, and other resources are available on the web page at <http://www.converge.org.nz/pma/taser.htm>

#### • What you can do

Please contact the Minister of Police, Annette King, the Prime Minister, Helen Clark, the Commissioner of Police, Howard Broad, and your Member of Parliament (see contact details below) as soon as possible to let them know what you think about the taser being issued to frontline police officers, and about how the decision should be made.

Points you can include in your letter or message are<sup>32</sup>:

- the trial has demonstrated the probability of the taser being used in inappropriate situations, and raises concern that tasers will be used as a tool of routine force rather than one of last resort;
- there is concern around the fact that vulnerable groups - such as those with mental health issues or children - have been subjected to electric shocks; and this is likely to occur in future if the taser is introduced. This would amount to cruel, inhuman and degrading treatment, and in some cases, torture;
- a general lack of transparency has marked the trial and confidence in the trial process has been eroded;
- the taser should not be introduced as a part of the New Zealand police arsenal solely on the basis of the police report on the trial;
- the steadily increasing death toll overseas, as well as the number of investigations now underway both here and in other jurisdictions, require a suspension of the decision to issue tasers to frontline police officers until thorough and independent investigations into taser use and its effects have been undertaken; and
- any subsequent decision must be made at Ministerial level with every effort made to ensure a meaningful democratic process, which must include actively involving those communities most likely to be adversely affected by any taser deployment in the decision making process.

If you wish, you could also raise other points included in this action alert, such as the wider issues around police training, and the crucial need for an opportunity for informed public debate on whether or not introducing the taser is necessary and desirable - before any decision is made.

It is very helpful for our work if you can send a copy of any fax or message you send, and of any replies you receive, to: Peace Movement Aotearoa, PO Box 9314, Wellington 6141; fax (04) 382 8173; or bcc to pma@xtra.co.nz Thank you.

### **Contact details**

- Helen Clark, Prime Minister, Freepost Parliament, PO Box 18-888, Wellington; fax 04 473 3579 or email pm@ministers.govt.nz Electoral office: 65 Sandringham Road, Mount Eden, Auckland 1024, fax 09 846 4354 or email joan@labour.co.nz
- Annette King, Minister of Police, Freepost Parliament, PO Box 18-888, Wellington; fax 04 495 8445 or email aking@ministers.govt.nz Electoral office: PO Box 14-533, Kilbirnie, Wellington 6241, fax 04 387 2714 or email kilbirnieo@xtra.co.nz
- Howard Broad, Commissioner of Police, Office of the Commissioner of Police, PO Box 3017, Wellington; fax 04 498 7400 or email maria.di.mattina@police.govt.nz - please state that your fax or email is for Howard Broad.
- Contact details at parliament for all MPs are at <http://www.parliament.nz/en-NZ/MPP/MPs/MPs/> or, with electoral office details, at <http://www.parliament.nz/NR/rdonlyres/5858C8A5-ACDF-4B35-8D7A-3ABB7B19ACDB/68480/listofmembers0511091.pdf>

## • References

- <sup>1</sup> Stun guns in Aotearoa New Zealand? The shocking trial: A Report on the New Zealand Police taser trial, 1 September 2006 to 1 September 2007, Campaign Against the Taser, 14 December 2007 - <http://www.converge.org.nz/pma/tasertrial.pdf>
- <sup>2</sup> 'Committee against Torture Concludes Thirty-ninth Session', UNOG, 23 November 2007 - [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/D3DD9DE87B278A87C125739C0054A81C?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/D3DD9DE87B278A87C125739C0054A81C?OpenDocument)
- <sup>3</sup> For an explanation of this, see 'Stun guns in Aotearoa New Zealand? The shocking trial', pp 7 and 8
- <sup>4</sup> For a graphic illustration of this, see 'TASER - As a Tactical Option for NZ Police' at <http://www.police.govt.nz/resources/2006/taser-trial/taser-tactical-options-card.pdf>
- <sup>5</sup> 'Stun guns in Aotearoa New Zealand? The shocking trial', p 9
- <sup>6</sup> as above, p 7
- <sup>7</sup> as above, pp 7, 9 and 10
- <sup>8</sup> as above, p 9
- <sup>9</sup> as above, 10
- <sup>10</sup> as above, pp 10 and 14
- <sup>11</sup> as above, p 10
- <sup>12</sup> as above, p 11
- <sup>13</sup> as above, p 9
- <sup>14</sup> 'Unarmed woman Tasered twice in wet bathroom', Stephen Cook, 25 March 2007 - [http://www.nzherald.co.nz/feature/story.cfm?c\\_id=1501075&objectid=10430737](http://www.nzherald.co.nz/feature/story.cfm?c_id=1501075&objectid=10430737)
- <sup>15</sup> Position statement on police proposal to introduce taser stun guns into New Zealand, Te Ao Maramatanga / New Zealand College of Mental Health Nurses, 1 June 2006 - [http://www.nzcmhn.org.nz/uploads/21290/files/Taser\\_June\\_1\\_2006.pdf](http://www.nzcmhn.org.nz/uploads/21290/files/Taser_June_1_2006.pdf)
- <sup>16</sup> Position Statement on 2006-7 trial of Taser stun guns into New Zealand, Te Ao Maramatanga / New Zealand College of Mental Health Nurses, 14 December 2007 - <http://www.converge.org.nz/pma/ta141207.pdf>
- <sup>17</sup> 'To Taser or not to Taser: Maori Party Relieved at the Right Answer', Dr Pita Sharples, 31 August 2007 - [http://www.maoriparty.com/index.php?option=com\\_content&task=view&id=1251&Itemid=2](http://www.maoriparty.com/index.php?option=com_content&task=view&id=1251&Itemid=2)
- <sup>18</sup> 'Stun guns in Aotearoa New Zealand? The shocking trial', p 5
- <sup>19</sup> as above, p 13
- <sup>20</sup> as above, p 15
- <sup>21</sup> See, for example, 'Plan needed' before fatal police shooting', NZPA, 3 August 2007 - <http://www.converge.org.nz/pma/sw030807.htm> and 'Probe into shooting highlights control lack', Lyn Humphreys, 4 August 2007 - <http://www.converge.org.nz/pma/sw040807b.htm>
- <sup>22</sup> 'Tasers seen as valuable addition to crime fighting arsenal', NZPA, 9 November 2006 - [http://www.nzherald.co.nz/category/story.cfm?c\\_id=30&objectid=10409890](http://www.nzherald.co.nz/category/story.cfm?c_id=30&objectid=10409890)
- <sup>23</sup> Position statement on Taser trial, Royal Australian and New Zealand College of Psychiatrists, August 2006 - [http://www.nzcmhn.org.nz/uploads/21290/files/RANZCP\\_position\\_statement.doc](http://www.nzcmhn.org.nz/uploads/21290/files/RANZCP_position_statement.doc)
- <sup>24</sup> 'Stun guns in Aotearoa New Zealand? The shocking trial', p 17
- <sup>25</sup> as above, p 16
- <sup>26</sup> as above, p 17
- <sup>27</sup> 'Committee against Torture Concludes Thirty-ninth Session', UNOG, 23 November 2007 - [http://www.unog.ch/unog/website/news\\_media.nsf/\(httpNewsByYear\\_en\)/D3DD9DE87B278A87C125739C0054A81C?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/D3DD9DE87B278A87C125739C0054A81C?OpenDocument)
- <sup>28</sup> 'Clark waiting for police decision on police tasers', NZPA, 17 December 2007 - <http://www.converge.org.nz/pma/ta171207.htm>
- <sup>29</sup> Less lethal? The trial of tasers as part of policing in New Zealand, Auckland District Law Society Public Issues Committee, 29 January 2007 - <http://www.adls.org.nz/doclibrary/public/committees/LessLethal-TaserGunPaper.pdf>
- <sup>30</sup> 'Areas of independence and responsibility', Minute of Decision, Cabinet Policy Committee POL Min (07) 22/4, 19 September 2007 - <http://www.policeact.govt.nz/pol-minute-07-22-4.html>
- <sup>31</sup> 'Stun guns in Aotearoa New Zealand? The shocking trial', p 13
- <sup>32</sup> Based on 'Stun guns in Aotearoa New Zealand? The shocking trial', Conclusion, p 19