

## Drawing the line on taser deployment: international responses

"Central to the debate is the principle that decisions around when to deploy the weapon should be based on the principle of proportionality: the amount of force used should bear some reasonable relationship to the threat the member is facing and its impact on public safety."

— *RCMP Use of the Conducted Energy Weapon (CEW)*, Final Report of the Commission for Public Complaints Against the Royal Canadian Mounted Police, 6/12/08  
[https://www.cpc-cpp.gc.ca/cnt/tpsp-tmrs/cew-ai/cew\\_fin\\_rp-eng.aspx](https://www.cpc-cpp.gc.ca/cnt/tpsp-tmrs/cew-ai/cew_fin_rp-eng.aspx)

Applying European human rights law, the Human Rights Advisors to the Policing Board of Northern Ireland concluded:

The proper test under Article 2 of ECHR [European Convention on Human rights] and the Human Rights Act 1998 for the use of Taser is that its use will be lawful where it is immediately necessary to prevent or reduce the likelihood of recourse to lethal force (e.g.: conventional firearms).

IX. This is a test that is just below that for the use of lethal force (such as conventional firearms), but a much stricter test than that which applies for other uses of non-lethal force. It means that Taser can be used in circumstances where there is a threat to life or a threat of serious injury, but that threat has not quite reached the threshold where lethal force (such as conventional firearms) could be justified.

-- p. 3, *The PSNI's [Police Service of Northern Ireland's] Proposed Introduction of Taser: Human Rights Advice*, Keir Starmer, QC, and Jane Gordon, 2007  
[http://www.nipolicingboard.org.uk/intro\\_of\\_taser.pdf](http://www.nipolicingboard.org.uk/intro_of_taser.pdf)

Article 3 of the 1979 United Nations General Assembly resolution Code of Conduct for Law Enforcement Officials

(<http://www.un.org/disarmament/convarms/ATTPrepCom/Background%20documents/CodeofConductforLawEnfOfficials-E.pdf>) states that "[l]aw enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty."

In applying Article 3:

"... [C]are needs to be taken to avoid the misuse of non-lethal incapacitating weapons. Some weapons of this nature deliver such high levels of force that they are appropriate for use only in those situations where firearms may otherwise be lawfully deployed. For example, taser guns can deliver electric shocks of a magnitude that causes very severe pain, and they are life threatening when used against some individuals. The potential for abuse of non-lethal incapacitating weapons is very high, and the circumstances under which they may be used needs to be strictly regulated and supervised."

-- *Human Rights and Policing*, 2nd Ed. (2006), Raoul Wallenberg Institute Professional Guides to Human Rights

[http://books.google.com/books?id=buxqomvV\\_3AC&printsec=frontcover#v=onepage&q=taser&\\_false](http://books.google.com/books?id=buxqomvV_3AC&printsec=frontcover#v=onepage&q=taser&_false)

The authors of *Human Rights and Policing* are a former Chief Superintendent, a retired senior detective at Scotland Yard, police college Commandant and former Deputy Chief Constable, and a former superintendent and 32 year veteran of the force. They were aware of the situations confronting officers in the field. Nevertheless they advocated a threshold for taser deployment similar to the standard originally articulated in H.225.

In 2009, the state of Victoria, Australia set standards for its Force Response Unit and Special Operations Group, which had been equipped with taser devices. The policies, which can be accessed at [http://www.communitylaw.org.au/cb\\_pages/taser\\_trap\\_.php](http://www.communitylaw.org.au/cb_pages/taser_trap_.php)), limit use of Tasers to the following:

"In situations of violent and serious physical confrontation

In situations where a member believes on reasonable grounds a violent and serious physical confrontation is imminent

Where a person is involved in violent or other physical conduct likely to seriously injure themselves or result in suicide

Where it is appropriate to deter attacking animals

Tasers should not be used in pregnant women, elderly or children unless extreme circumstances exist"

On the application of that standard:

"Critical Incident Response Team and Special Operations Group policies should require that each individual Taser use meet the threshold test and that subsequent use of Taser be justified only in exceptional circumstances.

— *Taser Trap: Is Victoria Falling For It?* Federation of Community Legal Centres, 2010  
[http://www.communitylaw.org.au/cb\\_pages/taser\\_trap\\_.php](http://www.communitylaw.org.au/cb_pages/taser_trap_.php)

The Thomas R. Braidwood, Q.C., Commissions of Inquiry Under the Public Inquiry Act, SBC 2007, c. 9, investigated the use and safety of tasers, and the death of Robert Dziekanski at Vancouver Airport in 2007. The two reports and transcripts of the proceedings can be found at <http://www.braidwoodinquiry.ca> and provide much valuable material relevant to the Vermont debate. Besides the evidence and testimony given (I recommend that of Drs. Vallance, Webster and Noone) and the findings and recommendations issued, both the Commissions of Inquiry and the Commission for Public Complaints Against the RCMP provide striking examples of oversight of law enforcement practice. Such oversight and complaint mechanisms are lacking in Vermont.