

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Eugene Police Department Taser Policy

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Meeting Date: June 14, 2010

Department: Eugene Police Department/Police Commission  
*www.eugene-or.gov/policecommission*

Agenda Item Number: B

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### ISSUE STATEMENT

This is an opportunity for the Police Commission to present recommendations it has made to the Chief of Police for a revised Taser policy, and answer questions the City Council has about the recommendations.

### BACKGROUND

The Eugene Police Department (EPD) first began exploring the idea of Electronic Control Devices (ECD), specifically Tasers, in early 2005. Police Chief Robert Lehner asked the Police Commission for assistance in researching and reviewing the use of Tasers for possible implementation. A six-member Use of Force Committee was formed to determine whether this community would see the same benefits of adding Tasers to the tools available to Patrol officers as have other communities. In addition, the committee was asked to ensure that the policy would monitor the safety and effectiveness of the device in taking resistive people into custody. The committee held public forums and invited conversations with members of the community to gauge the interest of incorporating Tasers into the department. The committee's findings were forwarded in September 2007, to the Chief of Police and the final policy was adopted in December 2007.

The Taser Pilot Project policy that was approved by Police Chief Lehner included all of the commission's data point recommendations and further restricted the policy by stating that the number of Taser discharges (where the activation is successful) against a person should not exceed three. This policy was developed for the Taser Pilot Project which ran from January 2008, through March 2009.

### Taser Pilot Project

Following the training of approximately half of the Patrol Division's officers and sergeants, 40 Tasers were issued and the Taser Pilot Project began in January 2008. Equipment and training were funded via a no-match federal grant.

In May 2009, the Police Department presented the Police Commission with a detailed analysis of the Taser Pilot Project. This report was a compilation of data and conclusions following 15 months of the pilot project. One significant result from the pilot project was that more than three-quarters of the potentially violent encounters that could have resulted in injuries to officers or suspects ended safely by a display or warning that a Taser would be used. In addition, six incidents where deadly force by the officer could have been authorized were resolved with minimal injury when the Taser was activated.

Data from the pilot project compared injury rates from OC spray (pepper spray) to the rates for individuals where the Taser was activated or a warning was given that the Taser would be used. The large portion of Taser incidents resolved simply with a non-contact display and preliminary data from the department showing a decrease in injuries to subjects and officers was both encouraging and consistent with academic studies on the use of Tasers in the United States. The department's Taser report outlined specific next steps in moving forward with the use of Tasers by EPD, including an emphasis in training in non-violent techniques to de-escalate potentially violent situations. Existing training opportunities such as crisis intervention training and "Verbal Judo" offer good examples of de-escalation techniques.

### **Recent Commission Involvement**

Another element of the report's conclusions included the need for the Police Commission's review of the Taser policy. The Use of Force Committee took on this task in June 2009, with a specific focus on assessing the data from the pilot project. The committee created an aggressive work plan to review the Taser policy, meeting twice each month. In March 2010, the committee completed its review of the Taser policy and forwarded its recommendations to the full Police Commission. The full commission spent two meetings reviewing the committee's findings and in April approved an amended draft of the Taser policy.

The two sections of the policy receiving the most attention were authorized and restricted uses. The threshold levels of authorized use were critically examined by the commission. Specifically, the use of Taser must meet the following requirements: a credible threat of serious physical injury; or an immediate credible threat of physical injury and active resistance to a lawful police action; or a subject who is fleeing and is involved in a felony or certain misdemeanors; or a person assaulting or attempting to assault a police officer.

Similarly, the commission spent considerable time reviewing the restrictions of Taser use. The commission accepted the committee's recommendation that a Taser shall not be discharged against a person engaged only in passive or static resistance. The recommendation also states that a Taser shall not be discharged at a demonstration or other event for crowd control purposes. The full commission voted 10-2 to forward the final Taser policy recommendations to Police Chief Pete Kerns for his consideration. Some members of the Use of Force Committee also put together a "minority report" on the policy recommendation. This supplemental document is a compilation of considerations from individual committee members on specific areas of the policy where consensus was not met. This report is part of the commission's recommendation to the Chief, and is provided here as Attachment C.

### **Community Involvement**

The Use of Force Committee met over a period of 10 months to review the Taser policy, including two months at the full Police Commission level. Other Police Commission members not on the committee also attended these meetings, as well as the Police Auditor, City Councilors and Human Rights Commission members. Significant community involvement was also part of the review process as each meeting included a public comment and public dialogue portion of the agenda (the public dialogue part of the meeting is a unique aspect when the committee invites all members of the audience to engage in an open conversation at the table.) In June 2009, the Use of Force Committee held a public forum to begin the discussions on the pilot project policy. On May 4, 2010, the Police Commission held a special Taser Public Forum to present the final recommendations to the community on the Taser policy. The purpose of this forum was to educate the public on the recent changes to the commission's

recommendation, as well as provide an open forum for questions on the policy. Approximately 40 people attended the forum to comment on the commission's recommendation. (Please see Attachment D for the minutes from the forum.)

### **Statistics**

Between January 1, 2008, and December 31, 2009, there were 49 incidents where a Taser was activated and 146 incidents where a Taser use was warned, but a Taser was not activated. (These incidents represent less than one percent of all arrests occurring during this time period.)

### **RELATED CITY POLICIES**

The Police Commission's policy review of the Taser program supports the City Council's Safe Community goal: A community where all people are safe, valued and welcome.

### **COUNCIL OPTIONS**

None; this is an information item only.

### **CITY MANAGER'S RECOMMENDATION**

None; this is an information item only.

### **SUGGESTED MOTION**

None; this is an information item only.

### **ATTACHMENTS**

- A. Police Commission Recommended Taser Policy, Red-Lined Version, April 8, 2010
- B. Police Commission Recommended Taser Policy, Clean Version, April 8, 2010
- C. Appendix A: Minority Report to Recommended Taser Policy, April 8, 2010
- D. May 4, 2010 Taser Public Forum Minutes

### **FOR MORE INFORMATION**

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**Police Commission Recommended Draft  
Amended April 8, 2010**

Eugene Police Department  
**Policy 309 - Taser™ Guidelines**

**309.1 PURPOSE AND SCOPE**

When properly applied in accordance with this policy, the Taser™ is considered a less-lethal device which is intended to temporarily incapacitate and permit control of a violent or potentially violent individual, or an individual demonstrating the intent to harm himself/herself, without causing serious injury. While it is anticipated that the appropriate use of such a device will result in fewer serious injuries to officers and suspects, it is important to remember that the discharge of a Taser has the potential to result in serious injury or death. The use of the Taser must comply with other relevant department policies, including those involving use of force, and is a reportable use of force.

**309.1.1 DEFINITIONS**

**AFID** (Anti-Felony Identification Device): Small confetti-like ID tags which are ejected every time a Taser cartridge is fired which contain the serial number of the cartridge.

**Discharge:** Any release of the Taser's electrical energy by firing it at an animal or human being even if the probes miss the intended target, or by using it in the drive stun mode.

**Drive stun:** A secondary function of the Taser designed to stun a subject by making direct contact with the body after the air cartridge has been expended or removed. Drive stun can be used to complete a two-point immediate action or a three-point contact.

**Display:** To display or present an unholstered Taser in a manner intended to inform an individual that the Taser may be discharged against him/her.

**Use:** When referring to the Taser, may refer to either display of the Taser, discharge of the Taser, or both.

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**309.2 GENERAL GUIDELINES**

An officer who has completed department approved training may be issued a Taser for use during his/her current assignment. An officer leaving a particular assignment may be required to return his/her issued device to the department's inventory.

Officers will only use a Taser and cartridges that have been issued by the Department. The device will normally be carried as a part of an officer's equipment in an approved holster. Alternatively, a plainclothes officer or an officer working a specialized assignment may carry the Taser secured in the officer's vehicle so that it is readily accessible at all times.

(a) If the Taser is carried as a part of a uniformed officer's equipment, the Taser will be carried on the side opposite from the officer's duty weapon.

(b) All Tasers ~~will~~ shall be clearly and distinctly marked to differentiate them from the duty weapon and any other device.

(c) Whenever practical, officers should carry at least two Taser cartridges on his/her person at all times while carrying a Taser.

(d) Each officer is responsible for insuring that his/her issued Taser is properly maintained and in good working order at all times. If the Taser does not appear to be functioning properly, remove it from service and submit it for examination/repair. Each Taser will be checked biannually for proper functioning by a department-designated Taser armorer.

(e) An officer should never hold both a firearm and the Taser at the same time unless lethal force is justified.

### 309.3 VERBAL AND VISUAL WARNINGS

(a) Unless it would otherwise endanger the safety of an officer or another person or is impractical due to circumstances, an explicit verbal announcement of the intended use of the Taser will shall precede the discharge application of a Taser in order to:

(1a) Provide the individual with a reasonable opportunity to voluntarily comply.

(2b) Provide other officers and individuals with warning that a Taser may be ~~discharged~~ deployed.

If, after a verbal warning, an individual continues to express by word or conduct an unwillingness to voluntarily comply with an officer's lawful orders and it appears both reasonable and practical under the circumstances, the officer may, but is not required to, display the electrical arc (provided there is not a cartridge loaded into the Taser) or the aiming laser in a further attempt to gain compliance prior to discharging the application of the Taser. The laser should never be intentionally directed into the eyes of another as it may permanently impair his/her vision.

(b) The fact that a verbal and/or other warning was given, or reasons it was not given prior to discharging the Taser, will shall be documented in any related reports.

### 309.4 USE OF THE TASER

As with any law enforcement equipment, the Taser has limitations and restrictions requiring consideration before its use. The Taser should only be used when its operator can safely approach the subject within the operational range of the Taser. Although the Taser may be generally effective in subduing most individuals, officers should be prepared with other options in the event it is not effective.

Because the discharge application of the Taser in the "Ddrive sStun" mode (i.e., ~~direct contact without probes~~) affects a smaller area of the body and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited. Application of the Taser in the Ddrive Sstun mode is effective as a method to complete the circuit when one of the probes fails to connect with the subject.

#### 309.4.1 AUTHORIZED USE OF THE TASER

(a) Officers should consider the severity of the offense, the degree of threat the person poses to himself/herself or others, the person's history of violent behavior, what other less-intrusive options (including de-escalation) are available to apprehend the individual, and any other relevant circumstances to determine whether the discharge of a Taser is reasonable for the situation. Authorized personnel may discharge the Taser only when the totality of the circumstances known to the individual officer at the time indicate that the application of the Taser is reasonable to subdue or control:

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(a1). a person who, by his/her words or conduct, the officer reasonably believes creates an immediate, a credible threat (coupled with the means and ability to carry out the threat) to the serious physical safety of injury to the person himself/herself, the officer, or another person; or

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(b2) a person who, by his/her words or conduct, the officer reasonably believes creates an immediate credible threat (coupled with the means and ability to carry out the threat) of physical injury to the person himself/herself, the officer, or another person; and who engages in, or displays the intent to engage in, aggressive active physical resistance to a lawful police action; or

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(c3). a person who has been placed under arrest or is so advised but engages in active physical resistance exceeding officers' ability to control him/her using strength or control holds. A Taser may be used to gain control of such a person in lieu of engaging in a struggle with him/her that would risk greater injury to the subject or officers than use of the Taser; or

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(d) who flees from arrest for a crime for which a person would normally be taken into custody, in lieu of using another force option more likely to result in injury to the subject or officer, such as tackling or striking. The fact that a person is fleeing should not be the sole justification for discharge of a Taser, and the crime involved must be either (a) a felony, or (b) a misdemeanor involving:

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- Injury, or threat of injury, to a person;
- A sex crime in violation of ORS 163.305 to 163.479 or an equivalent violation of the Eugene Code;
- A violation of a court protective order (e.g. restraining order, stalking protective order); or.

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Officers should consider the severity of the offense, the threat the person poses to others, the person's history of violent behavior, what other options are available to apprehend the individual, and other relevant circumstances to determine whether the use of a Taser is reasonable for the situation.

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"Aggressive physical resistance" as used in this section means physical actions which attack or threaten to attack the officer, coupled with the ability to carry out the attack, which may result in physical injury.

(4) a person assaulting, or attempting to assault, a public safety officer.

(b) In determining whether a Taser should be used in a situation involving a large number of people, the officer should consider whether the use of the Taser may escalate the situation.

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(c) For purposes of this policy, "arrest" includes situations in which a juvenile is being taken into custody for an offense constituting a crime or in which a person is being taken into custody as a danger to self or others under the authority of ORS 426.228.

### 309.4.2 RESTRICTIONS ON TASER USE

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Even if authorized by §309.4.1, the ~~discharge~~use of the Taser is restricted under the following circumstances:

(a) The Taser should not be ~~discharged~~used against the individuals listed below, who may be more susceptible to injury, unless one of the listed exceptions exists.

- Females who are known to be, or who obviously are, pregnant
- Elderly individuals or young children (e.g., obviously less than 12 years of age)
- Individuals who are known to be, or who obviously are, medically fragile
- Individuals who have been recently sprayed with alcohol-based OC Spray or who are otherwise in close proximity to, or contaminated with, flammable liquids or gasses
- Individuals whose position or activity may result in collateral injury (e.g., falls from height, operating vehicles, in or near a pool or body of water)

Exceptions that would permit the ~~discharge~~use of the Taser in these circumstances are:

- The person is armed with a dangerous weapon;
- The person is in imminent danger of harming himself/herselfengaging in suicidal behavior; or
- The person cannot be safely controlled with other available force options.

~~(b) A Taser shall not be used at a demonstration or protest without authorization of the Chief of Police or designee unless its use is reasonably necessary to prevent injury to the officer or another person.~~

~~(c) A Taser shall not be discharged used against persons engaged only in verbal or passive or static resistance. For purposes of this policy, "passive resistance" means non-compliance with an officer's orders unaccompanied by any active or physical resistance. A Taser may be used against an individual who has been advised that s/he is under arrest and who is resisting arrest by holding onto an object if the only other option(s) available to the officer to take the person into custody would likely result in significant injury to the person, an officer, or another person. In this circumstance, the Taser should be used in "drive stun" mode, and only to the extent required to have the person release his/her hold.~~

~~(c) A Taser shall not be discharged at a demonstration or other event for crowd control purposes.~~

~~(d) TheA Taser shallwill not be discharged against a used on individuals who are handcuffed or secured prisoner, otherwise restrained, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot be reasonably be addressed bydealt with in any other less intrusive and readily available meansfashion. Officers dischargingusing the Taser againston a restrained individual should consider using the Taser in "drive stun" mode and only to the extent required to gain control of the person.~~

~~(e) Individuals suspected of being under the influence of drugs/alcohol or exhibiting symptoms~~

of "excited delirium" (e.g. nudity, profuse sweating, irrational behavior) may be more susceptible to certain medical problems and should be closely monitored following the application of the Taser until they can be examined by paramedics or other medical personnel. Following use of a Taser, officers should use a restraint technique that does not impair respiration and will summon EMS to examine the individual as outlined in §309.5.

(f) — A Taser shall not be discharged used as a prod or escort device, or to arouse unconscious, impaired, or intoxicated individuals.

(fg) Officers should not intentionally aim for the head, neck, chest or groin.

(gh) The Taser shall not be used punitively, to elicit statements, or to harass or inflict undue pain on any individual.

### **309.4.3 MULTIPLE DISCHARGESAPPLICATIONS OF THE TASER DEVICE**

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A standard Taser discharge is five seconds in duration. Multiple Taser dischargesactivations or dischargesactivations exceeding the standard five-second duration may increase the risk of injury or death and should be avoided when possible.

If, after a single dischargeapplication of the Taser (which should normally be of five seconds duration), an officer is still unable to gain control of an individual and circumstances allow, the officer should consider whether or not the Taser is making proper contact, whether the Taser is limiting the person's ability to comply, or if other tactics may be more appropriate or effective. After each dischargeapplication of the Taser, the officer should weigh the circumstances involved to determine whether an additional Taser discharge would be appropriate under provisions of this policy. When practical, officers should give a verbal warning prior to each dischargeactivation.

Only one officer at a time should discharge his/her Taser at a person. If more than one Taser is unholstered for potential use, officers should communicate with each other in order to prevent multiple discharges or a sympathetic discharge of additional Tasers. If practical, officers assisting a Taser operator will attempt to gain physical control of a subject while the Taser is being activated or immediately thereafter.

The number of Taser dischargesapplications against a person should not exceed three, or a total duration of 15 seconds. For purposes of this section, "application" means that the Taser probes or contacts appear to have effectively connected with the subject as intended. If officers have not achieved reasonable control of the person following three dischargesapplications of the Taser, when it appears that the Taser probes have effectively connected with the subject as intended and that the Taser is functioning property, other options should be employed.

### **309.4.4 REPORT OF USE**

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All Taser discharges willshall be documented in the related arrest/crime report and on the Taser report form. Accidental discharges of a Taser cartridge will also be documented on the Taser report form. Any report documenting the discharge of a Taser cartridge will include the serial number(s) of the cartridge(s) used and an explanation of the circumstances surrounding the discharge.



Specific details will be included articulating the rationale for Taser discharge use when, during a given incident:

- A Taser is discharged applied more than once, or the Taser is discharged applied for a total length of time exceeding 15 seconds, during an incident;
- More than one Taser is discharged used against an individual; or
- A Taser is discharged used against an individual fitting one of the categories outlined in §309.4.2(a).

The Taser report form will also be used to report the display of a Taser (as defined in §309.1.1) or a situation in which a verbal warning of potential Taser use was issued and compliance gained without an actual Taser discharge or display.

In the case of a Taser discharge, the on-board Taser memory will be downloaded through the dataport by the supervisor, and saved with the related arrest/crime report.

#### **309.4.5 TASER CAM™**

The Taser TASER can be equipped with a Taser TASER Cam™ which is an audio-video recording device integrated into the power supply. The Taser TASER Cam is activated any time the safety selector switch is in the up ("off") position. The safety selector switch should normally remain in the down ("safe") not be in the off position unless the officer intends to discharge the use the device and the guidelines established in sections §309.3 and §309.4 are met. If the officer reasonably believes that audio and/or video recording from the Taser Cam™ would be helpful to document the situation before the safety would normally be taken off, the officer may activate the Taser Cam™. In this circumstance, the officer should balance the value of the audio/video record against the reduced safety of having the Taser safety in the "off" position. If the TASER Cam is recording audio, the person should be advised that the incident is being recorded, unless to do so would compromise officer safety.

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Any time the Taser TASER Cam™ has been activated, the video and audio data should be downloaded in accordance with current department evidence procedures and referenced in any related report(s).

Taser Cam data will be handled and retained in the same way as in-car video data, except for those provisions which by their nature cannot apply (refer to General Order 301.4).

#### **309.4.6 SUPERVISOR RESPONSE**

Whenever feasible, a sworn supervisor will respond to all incident scenes where a Taser is actually discharged used against a person.

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#### **309.4.7 DEFENSE AGAINST TASER**

If a person armed with a Taser or similar device uses or threatens to use the device against an officer, the officer or another officer may use reasonable force to defend the officer in order to avoid becoming incapacitated and risking the possibility that the person could gain control of the incapacitated officer's firearm and/or seriously injure the incapacitated officer or another person.

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#### **309.4.8 USE WITH ANIMALS**

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The Taser may be discharged used to defend against an aggressive animal which poses a threat to the officer, another person, a police service dog, or an assistance animal as defined in ORS 346.680, or which is attacking another animal.

### **309.5 AFTERCARE MEDICAL TREATMENT**

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Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser probes shall be medically cleared prior to being booked at a correctional facility. EMS will be summoned to examine individuals who have been subjected to the electric discharge of a Taser and/or struck by Taser probes when:

- the person is suspected of being under the influence of controlled substances and/or alcohol;
  - the person is younger than 12 years of age, or older than 60 years of age;
  - the person is known to be, or is obviously, pregnant;
  - the person is known to be, or is obviously, medically fragile;
  - the person is exhibiting symptoms of hyper-stimulation or excited delirium;
  - the person has received more than three Taser activations, the combined length of Taser activations has exceeded 15 seconds, or multiple Tasers were used simultaneously against the person;
  - a Taser probe is lodged in a sensitive area (e.g., groin, female breast, near the eyes);
  - the officer observes that the individual is experiencing any distress beyond what would normally be expected under the circumstances; or
- the person requests medical treatment or EMS response.

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Persons suspected of being under the influence of drugs/alcohol or who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain (sometimes called excited delirium) or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable.

Because the Taser can cause neuromuscular incapacitation causes a person to undergo involuntary muscle spasms, officers should also be aware of the possibility of injuries due to falls, or from sudden or excessive muscular tension.

Officers who are trained to do so may remove the metal probes from a person struck with the Taser probes. If a person requests that the probes be removed by a medical professional, the person's request will be honored by having the removal done by EMS personnel or another medical professional unless removal of one or more of the probes prior to arrival of EMS personnel is clearly necessary. If a person is struck with the probes in a sensitive area, the probes should be removed by a medical professional.

Following use of a Taser, officers should use a restraint technique which does not impair respiration.

Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser probes will be medically assessed prior to being booked at a correctional facility. Prior to transitioning custody of a person who has received a Taser discharge to a correctional facility, hospital, or other facility, officers should advise the appropriate receiving party of the Taser discharged deployment and any after care provided.

### **309.6 ACTIONS FOLLOWING TASER DISCHARGE USE**

If the Taser probes have contacted the person's skin, or if the Taser has been used in drive stun mode against the person's skin, take color photographs of the locations where the device was applied, as well as any other injuries related to the incident. Consent should be obtained before photographing personally sensitive areas. If a person does not consent to adamantly opposes photographs of a sensitive area, document the refusal in the police report.

Absent extenuating circumstances, the cartridge(s), probes, and wires used should be discarded in an appropriate manner. Probes which have penetrated the skin should be considered biohazards, and disposed of in the appropriate manner. At least three Anti-Felon Identification Tags (AFIDs) from each cartridge used should be collected and submitted as evidence.

### 309.7 REVIEW OF TASER USE

Each report of use of a Taser will be reviewed by the lieutenant in the officer's chain of command to determine whether the use was in compliance with department policy. the Watch Commander. Reports will be forwarded to the Defensive Tactics Coordinator, who will make a recommendation to the involved officer's division manager or designee as to whether the use was in compliance with department policy, and will identify any relevant training or other issues.

### 309.8 TRAINING

In addition to the initial department approved training required to carry and use a Taser, any personnel who have not carried a Taser as a part of their assignment for a period of six months or more shall be recertified by a department approved Taser instructor prior to again carrying or using the device. personnel carrying the Taser must receive annual recertification. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Manager.

- The Training Manager should ensure that all training is documented and includes the following:
- A review of this policy
- A review of the Use of Force Policy 300
- Target area considerations, to include techniques or options to reduce the intentional application of probes near the head, neck, chest and groin; and
- De-escalation techniques

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***Police Commission Recommended Draft  
Amended April 8, 2010***

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**309.1 PURPOSE AND SCOPE**

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- (a) If the Taser is carried as a part of a uniformed officer's equipment, the Taser will be carried on the side opposite from the officer's duty weapon.

- (b) All Tasers will be clearly and distinctly marked to differentiate them from the duty weapon and any other device.
- (c) Whenever practical, officers should carry at least two Taser cartridges on his/her person at all times while carrying a Taser.
- (d) Each officer is responsible for insuring that his/her issued Taser is properly maintained and in good working order at all times. If the Taser does not appear to be functioning properly, remove it from service and submit it for examination/repair. Each Taser will be checked biannually for proper functioning by a department-designated Taser armorer.
  
- (e) An officer should never hold both a firearm and the Taser at the same time unless lethal force is justified.

### **309.3 VERBAL AND VISUAL WARNINGS**

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  - (1) Provide the individual with a reasonable opportunity to voluntarily comply.
  - (2) Provide other officers and individuals with warning that a Taser may be discharged.

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### **309.4 USE OF THE TASER**

As with any law enforcement equipment, the Taser has limitations and restrictions requiring consideration before its use. The Taser should only be used when its operator can safely approach the subject within the operational range of the Taser. Although the Taser may be generally effective in subduing most individuals, officers should be prepared with other options in the event it is not effective.

Because the discharge of the Taser in the "drive stun" mode affects a smaller area of the body and requires close proximity to the subject, additional caution should be exercised and the controlling effects may be limited. Application of the Taser in the drive stun mode is effective as a method to complete the circuit when one of the probes fails to connect with the subject.

#### **309.4.1 AUTHORIZED USE OF THE TASER**

- (a) Officers should consider the severity of the offense, the degree of threat the person poses to himself/herself or others, the person's history of violent behavior, what other options (including de-

escalation) are available to apprehend the individual, and any other relevant circumstances to determine whether the discharge of a Taser is reasonable for the situation. Authorized personnel may discharge the Taser only when the totality of the circumstances known to the individual officer at the time indicate that the application of the Taser is reasonable to subdue or control:

(1) a person who, by his/her words or conduct, the officer reasonably believes creates a credible threat (coupled with the means and ability to carry out the threat) of serious physical injury to the person himself/herself, the officer, or another person; or

(2) a person who, by his/her words or conduct, the officer reasonably believes creates an immediate credible threat (coupled with the means and ability to carry out the threat) of physical injury to the person himself/herself, the officer, or another person; and who engages in active resistance to a lawful police action; or

(3) a person

(i) who flees from arrest for a crime for which a person would normally be taken into custody, in lieu of using another force option more likely to result in injury to the subject or officer.

The fact that a person is fleeing should not be the sole justification for discharge of a Taser, and the crime involved must be either (a) a felony, or (b) a misdemeanor involving:

- Injury, or threat of injury, to a person;
- A sex crime in violation of ORS 163.305 to 163.479 or an equivalent violation of the Eugene Code;
- A violation of a court protective order (e.g. restraining order, stalking protective order); or

(4) a person assaulting, or attempting to assault, a public safety officer.

(b) In determining whether a Taser should be used in a situation involving a large number of people, the officer should consider whether the use of the Taser may escalate the situation.

(c) For purposes of this policy, "arrest" includes situations in which a juvenile is being taken into custody for an offense constituting a crime or in which a person is being taken into custody as a danger to self or others under the authority of ORS 426.228.

### **309.4.2 RESTRICTIONS ON TASER USE**

Even if authorized by §309.4.1, the discharge of the Taser is restricted under the following circumstances:

(a) The Taser should not be discharged against the individuals listed below, who may be more susceptible to injury, unless one of the listed exceptions exists.

- Females who are known to be, or who obviously are, pregnant
- Elderly individuals or young children (e.g., obviously less than 12 years of age)
- Individuals who are known to be, or who obviously are, medically fragile
- Individuals who have been recently sprayed with alcohol-based OC Spray or who are otherwise in close proximity to, or contaminated with, flammable liquids or gasses
- Individuals whose position or activity may result in collateral injury (e.g., falls from

height, operating vehicles, in or near a pool or body of water)

Exceptions that would permit the discharge of the Taser in these circumstances are:

- The person is armed with a dangerous weapon;
- The person is in imminent danger of harming himself/herself; or
- The person cannot be safely controlled with other available force options.

(b) A Taser shall not be discharged against persons engaged only in passive or static resistance.

(c) A Taser shall not be discharged at a demonstration or other event for crowd control purposes.

(d) The Taser will not be discharged against a handcuffed or secured prisoner, absent overtly assaultive, self-destructive, or violently resistive behavior that cannot reasonably be addressed by other less intrusive and readily available means. Officers discharging the Taser against a restrained individual should consider using the Taser in “drive stun” mode and only to the extent required to gain control of the person.

(e) A Taser shall not be discharged as a prod or escort device, or to arouse unconscious, impaired, or intoxicated individuals.

(f) Officers should not intentionally aim for the head, neck, chest or groin.

(g) The Taser shall not be used punitively, to elicit statements, or to harass or inflict undue pain on any individual.

### **309.4.3 MULTIPLE DISCHARGES OF THE TASER DEVICE**

A standard Taser discharge is five seconds in duration. Multiple Taser discharges or discharges exceeding the standard five-second duration may increase the risk of injury or death and should be avoided when possible.

If, after a single discharge of the Taser (which should normally be of five seconds duration), an officer is still unable to gain control of an individual and circumstances allow, the officer should consider whether or not the Taser is making proper contact, whether the Taser is limiting the person’s ability to comply, or if other tactics may be more appropriate or effective. After each discharge of the Taser, the officer should weigh the circumstances involved to determine whether an additional Taser discharge would be appropriate under provisions of this policy. When practical, officers should give a verbal warning prior to each discharge.

Only one officer at a time should discharge his/her Taser at a person. If more than one Taser is unholstered for potential use, officers should communicate with each other in order to prevent multiple discharges or a sympathetic discharge of additional Tasers. If practical, officers assisting a Taser operator will attempt to gain physical control of a subject while the Taser is being activated or

immediately thereafter.

The number of Taser discharges against a person should not exceed three, or a total duration of 15 seconds. If officers have not achieved reasonable control of the person following three discharges of the Taser, when it appears that the Taser probes have effectively connected with the subject as intended and that the Taser is functioning properly, other options should be employed.

#### **309.4.4 REPORT OF USE**

All Taser discharges will be documented in the related arrest/crime report and on the Taser report form. Accidental discharges of a Taser cartridge will also be documented on the Taser report form. Any report documenting the discharge of a Taser cartridge will include the serial number(s) of the cartridge(s) used and an explanation of the circumstances surrounding the discharge.

Specific details will be included articulating the rationale for Taser discharge when, during a given incident:

- A Taser is discharged more than once, or the Taser is discharged for a total length of time exceeding 15 seconds, during an incident;
- More than one Taser is discharged against an individual; or
- A Taser is discharged against an individual fitting one of the categories outlined in §309.4.2(a).

The Taser report form will also be used to report the display of a Taser (as defined in §309.1.1) or a situation in which a verbal warning of potential Taser use was issued and compliance gained without an actual Taser discharge or display.

In the case of a Taser discharge, the on-board Taser memory will be downloaded through the dataport by the supervisor, and saved with the related arrest/crime report.

#### **309.4.5 TASER CAM™**

The Taser can be equipped with a Taser Cam™ which is an audio-video recording device integrated into the power supply. The Taser Cam is activated any time the safety selector switch is in the up ("off") position. The safety selector switch should normally remain in the down ("safe") position unless the officer intends to discharge the device and the guidelines established in §309.3 and §309.4 are met. If the officer reasonably believes that audio and/or video recording from the Taser Cam™ would be helpful to document the situation before the safety would normally be taken off, the officer may activate the Taser Cam™. In this circumstance, the officer should balance the value of the audio/video record against the reduced safety of having the Taser safety in the "off" position.

Any time the Taser Cam™ has been activated, the video and audio data should be downloaded in accordance with current department evidence procedures and referenced in any related report(s).

Taser Cam data will be handled and retained in the same way as in-car video data, except for those provisions which by their nature cannot apply (refer to General Order 301.4).

#### **309.4.6 SUPERVISOR RESPONSE**

Whenever feasible, a sworn supervisor will respond to all incident scenes where a Taser is



discharged against a person.

### **309.4.7 DEFENSE AGAINST TASER**

If a person armed with a Taser or similar device uses or threatens to use the device against an officer, the officer or another officer may use reasonable force to defend the officer in order to avoid becoming incapacitated and risking the possibility that the person could gain control of the incapacitated officer's firearm and/or seriously injure the incapacitated officer or another person.

### **309.4.8 USE WITH ANIMALS**

The Taser may be discharged to defend against an aggressive animal which poses a threat to the officer, another person, a police service dog, or an assistance animal as defined in ORS 346.680, or which is attacking another animal.

### **309.5 AFTERCARE**

EMS will be summoned to examine individuals who have been subjected to the electric discharge of a Taser and/or struck by Taser probes.

Persons suspected of being under the influence of drugs/alcohol or who exhibit extreme agitation, violent irrational behavior accompanied by profuse sweating, extraordinary strength beyond physical characteristics, unusually high tolerance to pain (sometimes called excited delirium) or who require a protracted physical encounter with multiple officers to bring under control may be at an increased risk of sudden death and should be examined by qualified medical personnel as soon as practicable.

Because the Taser can cause neuromuscular incapacitation, officers should also be aware of the possibility of injuries due to falls, or from sudden or excessive muscular tension.

Officers who are trained to do so may remove the metal probes from a person struck with the Taser probes. If a person requests that the probes be removed by a medical professional, the person's request will be honored by having the removal done by EMS personnel or another medical professional unless removal of one or more of the probes prior to arrival of EMS personnel is clearly necessary. If a person is struck with the probes in a sensitive area, the probes should be removed by a medical professional.

Following use of a Taser, officers should use a restraint technique which does not impair respiration.

Any person who has been subjected to the electric discharge of a Taser and/or struck by Taser probes will be medically assessed prior to being booked at a correctional facility. Prior to transitioning custody of a person who has received a Taser discharge to a correctional facility, hospital, or other facility, officers should advise the appropriate receiving party of the Taser discharge and any aftercare provided.

### **309.6 ACTIONS FOLLOWING TASER DISCHARGE**

If the Taser probes have contacted the person's skin, or if the Taser has been used in drive stun mode against the person's skin, take color photographs of the locations where the device was applied, as well as any other injuries related to the incident. Consent should be obtained before photographing personally sensitive areas. If a person does not consent to photographs of a

sensitive area, document the refusal in the police report.

Absent extenuating circumstances, the cartridge(s), probes, and wires used should be discarded in an appropriate manner. Probes which have penetrated the skin should be considered biohazards, and disposed of in the appropriate manner. At least three AFIDs from each cartridge used should be collected and submitted as evidence.

### **309.7 REVIEW OF TASER USE**

Each report of use of a Taser will be reviewed by the Watch Commander. Reports will be forwarded to the Defensive Tactics Coordinator, who will make a recommendation to the involved officer's division manager or designee as to whether the use was in compliance with department policy, and will identify any relevant training or other issues.

### **309.8 TRAINING**

In addition to the initial department approved training required to carry and use a Taser, personnel carrying the Taser must receive annual recertification. A reassessment of an officer's knowledge and/or practical skill may be required at any time if deemed appropriate by the Training Manager.

- The Training Manager should ensure that all training is documented and includes the following:
- A review of this policy
- A review of the Use of Force Policy 300
- Target area considerations, to include techniques or options to reduce the intentional application of probes near the head, neck, chest and groin; and
- De-escalation techniques

**APPENDIX A.****USE OF FORCE INDIVIDUAL POLICE COMMISSION COMMITTEE MEMBER  
MINORITY REPORTS/DISSENTING OPINIONS/OTHER CONSIDERATIONS****Section 309.3 – Verbal and Visual Warnings**

Juan Carlos Valle:

This section continues to be one of the most troublesome to me. This section (a), and (b) both need to explicitly say the totality of the circumstance to be consistent with the rest of the policy.

Section (b1, 2, and 3), refers to verbal warnings as mean of compliance on situations when it may escalate to a higher threshold. I particularly do not endorse the manner in which the Taser would be used as compliance mechanism. In ANY situation, something can escalate to a difficult situation; however, the use of the Taser, as defined in 309.1.1, needs to meet a higher threshold.

We have heard from the public and at least some members of the Police Commission that the Taser should not be used to intimidate people in order to comply. This, in my opinion, directly connects to the overall goal of improving or re-establishing relationships between the Eugene Police Department and the community. The community will not embrace the Taser as a possible intimidation tool in the manner being proposed in the policy.

**Section 309.4.1 – Authorized Use of a Taser**

John Ahlen:

The committee went back and forth trying to decide whether we could come to agreement on general use of the Taser on non-fleeing suspects in one or more subsections. The committee eventually agreed upon the language currently in place as 309.4.1(a)(1) and (2). My understanding is that there was universal agreement that there should be at least a credible threat of physical injury in every situation in which a Taser is discharged. Our discussion centered around how restrictive this threshold of a threat of injury should be. Here are some possible thresholds and examples:

1. “a credible threat of physical injury” – a lower standard than we started with, but useful as a baseline. A credible threat is “a threat that someone has good grounds for believing will be carried out,” which generally means there is a good hunch that someone will follow through with the perceived

threat. Physical injury is “an impairment of physical condition,” which generally means something that causes pain but doesn’t rise to the level of a serious physical injury. An (admittedly simplified) example would be someone tensing up and looking like they might try to wrestle away from an officer if approached.

2. “an immediate credible threat of physical injury” – The same standard as above, but with the expectation that the officer will have to make a quick decision whether to use force, and make a snap judgment of which tool to use if necessary. An example would be someone who appears to be preparing for a struggle that is within close range of the officer.

3. “a credible threat of serious physical injury” – Serious physical injury is defined by statute as, “physical injury which creates a substantial risk of death or which causes serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.” An example would be someone who looked big and strong, who balled their hands into fists and took up a fighting stance after noticing an officer across the street.

4. “an immediate credible threat of serious physical injury” – Combines all of the restrictions above. An example would be someone who looked big and strong, with balled up fists and looking ready to fight, and was within striking range of an officer.

We also discussed whether these thresholds should or should not include an additional threshold of “active resistance” or “active physical resistance”. Active resistance is a term used by DPSST that means, “the subject physically attempts to pull away, attempts to escape, or attempts to power through a control hold.” It can also include verbal threats, such as threatening a violent act on an officer. Active physical resistance doesn’t have a working definition, but assumedly could mean the same without including verbal threats.

Finally, if more than one subsection is chosen, they need to be either separated by “and” (a more restrictive threshold meaning every set of conditions must be met), or “or” (a looser threshold meaning any set of conditions could be met.) The committee decided on two thresholds separated by or. These were threshold 3, as well as threshold 2 including active resistance.

In the committee, I voted against the two thresholds currently put forward in our draft recommendation. I favor only one threshold for Taser use because I think it would be clear and I favor more restrictive language because I think it is what our community demands. The threshold I propose is stronger than the pilot policy or the current recommendation, but is consistent with several other cities and agencies. Most notably, my recommendation is similar to the policy language initially reviewed by the Braidwood Inquiry, which included “active resistance”, a “threat to officer or public safety”, and “assaultive behaviour”. Also of note, the Braidwood Inquiry recommended tightening up their policies even further than that initial threshold.

I propose substituting the following language for 309.4.1(a)(1) and (2), which I believe creates a simple, strong threshold for Taser use in our community:

*“a person who, by his/her words or conduct, the officer reasonably believes creates an immediate, credible threat (coupled with the means and ability to carry out that threat) of physical injury to the person himself/herself, the officer, or another person, and engages in active resistance to a lawful police action; or”*

This standard gives anyone an opportunity to voluntarily comply with an officer’s orders before the Taser would be discharged. I strongly feel that a Taser should not be used without warning or without giving someone the opportunity to comply with an officer’s commands.

The threshold of “active resistance” is not particularly high, yet the committee’s policy recommendation often would not require it. In the time it takes an officer to yell, “Stop, Police!” the threshold of active resistance can be reached. Someone can actively resist either verbally or physically. This could be making a verbal threat to an officer, talking about continued non-compliance, running away, or otherwise disobeying an officer besides merely acting as dead weight. Even remaining totally still and silent the threshold of active resistance could be met. For example, someone might be totally non-responsive, not moving or talking – but if an officer says, “Drop the knife” or “On the ground, now!” and someone just stands there, they could have reached the threshold for Taser use if all of the other criteria has been met. If police officers don’t have time to announce their presence on a scene or even issue a simple command, I am hesitant to say that they would have time to even pull out their Taser, let alone use it. In truly violent encounters, and for reasons I will describe shortly, I believe Taser use is already rightfully authorized by policy. Because of this, I believe active resistance remains a necessary threshold. We should also be mindful that there are plenty of other tools that currently do not need to meet the threshold of active resistance. I think it has been made abundantly clear that the public wants the Taser treated differently than the other tools available to officers, and 309.4.1(a)(1) is where we can do that in a meaningful way. Obviously there are circumstances in which an officer should use force first and ask questions later, but I feel like they are already addressed in other policies. We are looking at when (in addition to those circumstances) a Taser should be used before any other options are explored.

If a situation is particularly heated, or “life and death” as many examples that have been given to us are, no Taser policy restrictions would ever prevent an officer from using their Taser. This is because in these circumstances, lethal force and therefore all available tools would be authorized by another policy. Of course I acknowledge and understand that officers should use what they determine to be the best tool at their disposal, including Tasers, in life and death situations. I feel this is already clearly defined and only distracts us from the other types of encounters we are really writing policy for. However, I have heard from department representatives that it could be helpful to include language authorizing Taser use when an officer is being attacked or assaulted. Though I don’t feel it is necessary, I wholeheartedly agree with the intent of including such language and would not oppose its inclusion. I have requested suggestions but thus far have not received any proposals for language that captures this. As my own suggestion and to start discussion, I offer this language for possible inclusion as a subsection to 309.4.1(a):

*“a person assaulting a public safety officer; or”*

Assaulting a public safety officer is defined by statute as: “A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly causes physical injury to the other person, knowing the other person to be a peace officer, corrections officer, youth correction officer, parole and probation officer, animal control officer, firefighter or staff member, and while the other person is acting in the course of official duty,” and is considered a class C felony. Hopefully we could use this or alternative language that would address any lingering concerns that an officer might feel hesitant to use their Tasers while being attacked.

## **Section 309.4.5 – Taser Cam**

Juan Carlos Valle:

While I continue to support the notion that recording incidents is to the benefit of all and would expedite if not bring some clarity to incidents, I am not convinced that the Taser Cam is the best manner to accomplish the goal. The Taser Cam only records limited information and might not come close to capturing the whole incident. The next best option is a shoulder mounted camera as this would get EPD to get closer to the goal.

The ideal and best option is to use head mounted cameras. Some Police Departments in the state of California are already testing a similar device and would not be hard to get a copy of their report. One of the main reasons I like this option is because the head mounted camera would have less possible view blocking, officers have the freedom of using both hands freely and, most importantly, wherever the officer’s head is pointing at will record.

## **Officers to be Tased as training (proponent & opponent arguments)**

Marilyn Nelson:

Another training consideration I would like the Use of Force Committee to consider adding its list of supplemental issues in its recommendation to the full Police Commission is this:

Officers in their training to use and become qualified to carry a Taser should be tasered as part of that training. As has been noted in recent newspaper coverage of local Taser issues, local law enforcement training varies in what is allowed or required for Taser training. Springfield Police Department allows officers to voluntarily be tasered; Lane County Sheriffs Department requires deputies to be tasered; Eugene Police Department does not allow officers receiving Taser training to be tasered. Currently the officers who have been certified by Taser International to be instructors in Taser use have undergone

tasering. I understand there is some liability for departments that include tasering as part of officer training. However, I believe the benefits outweigh the risks. Disallowing tasering as part of officer training undermines the assertion that Tasers reduce injury to officers and suspects. If one of the great benefits of Tasers is their ability to reduce injury, then it is a contradiction for the department to be concerned by the risk of liability from officer injury if officers are tasered as part of training in a highly structured environment with officers who are physically fit, not medically fragile, and unimpaired by intoxicants. It would give officers first-hand knowledge of the effects of a Taser, which would aid in their use of it. Including tasering as part of Taser training is consistent with other defensive tactics training, including use of OC spray. Furthermore, I believe the community will think officers more conscientious in their use of a Taser if they are aware that officers know what it feels like to be tasered.

Frank Travis:

I would second what Marilyn wrote & would support something along this line. I think it would show the community our officers were not talk. They can all have said they know exactly what it feels like and would also give the officer some insight to the after care.

Juan Carlos Valle:

I also recommend that ALL officers carrying Tasers be required to be Tasered. This would add a perspective and remind of the impact to the public on the use of the device. Should EPD accept this recommendation, please consider creating real life situations when Tasering officers. That is, if an officer is being held by two others when he/she is being Tasered, it does not give nearly enough of the real impact of using a Taser on people. The possibility of injuries to officers being Tasered as part of their training should not be a determining factor in accepting this recommendation.

Tamara Miller:

I am against requiring officers to have a Taser discharged against them as part of their training. I believe requiring such would potentially expose the City to liability, increase costs, and could cause unnecessary harm to officers. There are currently lawsuits pending against Taser International for just such required discharge against officers during training in other jurisdictions. Police officers use many different tools when use of force is necessary and appropriate, and officers are not required to be subjected to their use during training on those tools in order to carry them; such tools include batons, other less lethal weapons, dog bites, control holds and firearms. EPD currently prohibits officers from even being voluntarily subjected to a Taser discharge during training and I fully support this position.

## **RAPID Response Team**

Juan Carlos Valle:

With the continuous goal of improving relations with the community, specifically communities of color, I recommend that a RAPID Response Team that includes at least one Captain, the Chief of Police and members of the community be formed to address concerns from concerned community members regarding an incident involving Taser use and/or Use of Force.

## **State Advocacy**

John Ahlen:

We spent some time trying to figure out how to adequately define a “serious crime”. We eventually agreed upon alternative language, but our work could potentially have been easier if Oregon defined a serious crime by statute as other states have done. As I’m satisfied with the language we have chosen, I’m largely indifferent to exploring this further. However, it is possible that the issue could come up again in our use of force or other policy discussions, and other groups or agencies may face similar struggles.

## **Dialogue and Direct Input from Human Rights Commission**

Juan Carlos Valle:

I urge this committee, the Police Commission and the Eugene Police Department to consider the further inclusion and to facilitate direct input from the Human Rights Commission on this policy. This can be done through a special joint meeting.



## MINUTES

Eugene Police Commission  
Use of Force Committee: Taser Public Forum  
Bascom/Tykeson Room, Eugene Public Library

May 4, 2010  
5:30 p.m.

PRESENT: Joe Alsup, Chair; Tamara Miller, Vice Chair; Marilyn Nelson, Juan Carlos Valle.

ABSENT: John Ahlen, Frank Travis.

### 1. Introductions and Explanation of Forum Format

Chair Joe Alsup opened the meeting, introducing himself as a member of the Police Commission and Chair of the Use of Force Committee that had been looking at policy language and making adjustments and recommendations to the chief for the pilot project Taser policy.

Mr. Alsup requested that members of the public who wished to speak at this public forum fill out a blue "Request to Speak Form." Each speaker would have a three-minute time limit to speak. After all the speakers were heard, there would be time for an open discussion. He noted that the committee had not had an official note taker, but that tonight's meeting did have a minutes recorder in order to capture the concerns and suggestions presented by the public for the Police Chief's review.

Mr. Alsup explained that the committee had now presented its draft policy to the full commission where it had been discussed, with some minor changes and alterations being made, and then forwarded to the chief. In addition to the policy, he noted, there was a collection of documents and opinions from the committee and other members of the commission also submitted to the chief.

He remarked that the committee's work had included research into policies of other cities, hearing testimony from various sources, and after eleven months had created a drafted document to present to the full Police Commission.

Mr. Alsup introduced other members of the committee present for the forum: Juan Carlos Valle, Tamara Miller, Vice Chair, and Marilyn Nelson.

### 2. Brief Overview of Commission's Taser Policy Recommendation

Vice Chair Miller commented that the Eugene Police Department first began exploring the use of Tasers as a tool under Chief Lehner in early 2005. Chief Lehner tabled the discussion following a Taser incident in 2006. The subject was reopened in 2007 and the

Police Commission was asked to assist with a Taser policy for a pilot project. The pilot project began in January of 2008 with the arming of 40 officers with the tool and continued until May of 2009. Updates were given to the Police Commission in August 2008 and May 2009 showing the use of force statistics and how Tasers had been used in Eugene during that time. A permanent policy was seen to be needed, and the committee was commissioned to draft this policy, continuing its work for ten months and bringing it to the public at tonight's meeting.

The drafted policy was available for all to read at the meeting, a document titled *Police Commission Recommended Draft, Amended April 8, 2010*. All revisions and additions to the earlier draft were printed in red. Mr. Alsup read through the document, explaining the revisions and additions that had been made by the committee. He described in detail the four recommended conditions under which Tasers were authorized for use.

### **3. Public Forum**

Mr. Alsup opened the floor for public comments, noting that comments were welcome on any aspect of the use of Tasers.

Vice Chair Miller clarified that since June 2009 the Police Commission Use of Force committee had met over twenty times to work on the policy update, and that meetings had included time for public dialogue and comment. As well committee members had attended third party forums for discussion of Taser use, she said. She explained that each speaker would have three minutes to make comments or ask questions.

**James Black** remarked that the history of Taser use went back to the Republican administration that had validated torture. He understood the use of Tasers to amount to torture. He remarked about an incident he had heard about where a "partially naked" person had received four Taser shots and had died. Another incident he had heard about occurred at an airport where four officers shot their Tasers at an individual, and Mr. Black believed the tased person had also died. He felt that Taser use should be banned, that communities should be "fixed" rather than "threatened."

**Jack Radey** said that the reason for the Taser policy being created related to three incidents: 1) a bipolar and suicidal young man was killed by five shots from an assault rifle, which led to the city's wanting a less drastic tool and the adoption of Tasers, 2) a man who was on the ground with his hands secured was Tasered by a police officer who felt threatened by other nearby demonstrators, and 3) a foreign exchange student who spoke no English was tased when an officer mistakenly thought the student was threatening him. Mr. Radey applauded the committee for its work, but felt the more important point was that when police officers became excited during an incident, they tended to see threats where there really were none, and would be backed up by authorities for use of force with whatever weapon they had at their disposal. He felt this was an issue that needed addressing, more than the use of Tasers.

**Robert Horn** introduced himself as an armed private security officer who was licensed to carry firearms. He was also a major stockholder in the manufacture of Tasers, he said. He agreed with the policy as written and recommended that Eugene police officers used Tasers.

**Robert Roth** said he had worked for the Oregon Department of Justice for fourteen years, now retired, had been admitted to the bar in four states and practiced law for forty years. He had no problem understanding the Taser policy document, but was unsure whether it was either fair or responsible to require police officers to understand its meaning. He remarked that the Attorney General of Maryland had done an extensive study of the use of “electronic control weapons” and concluded that these weapons should be used only when individuals posed an imminent threat of physical injury to themselves or others. He was concerned about the removal of the word “immediate” before the kind of threat that needed to be posed before a Taser could be used. Although Tasers were thought of as less than lethal weapons, he understood that they were actually sometimes lethal, and that it could not be understood in advance which people would die from being shot with a Taser. He said that 350-400 people had died from Taser shootings in the US, and he preferred that Tasers be banned, although he believed that a practical stance was for Tasers to be used only when lethal force was justified.

**Ruth Duemler** said that she would like to know how often Tasers had been used in Eugene, which she thought was approximately 30 times. She was concerned that Tasers were a deadly force, and she had noticed law suits being filed in Portland and in San Jose regarding excessive force being used. She felt that Tasers needed to be considered as deadly force, and that police officers needed more extensive testing before being allowed to use Tasers, and that not all officers should use them.

**Randy Prince** commented that he was the chief petitioner for Curb Tasers. He remarked that two assumptions were made in the drafted policy: 1) that Tasers were to be in general use by officers and 2) that their use was to be controlled by internal policies of the Police Department rather than broad governmental laws. He felt that the discussions undergone by the committee were necessary because of not using the simple deadly force guidelines which were well established to limit Taser use and the desire to retain the 90% of Taser uses in which deadly force was not justified. He noted that the UN had declared the use of Tasers to be considered as torture and the ACLU had called for the use of the deadly force guidelines for Tasers. He added that discussion about limiting the use to deadly force situations was outside the scope of this committee’s deliberations. Curb Tasers believed, he said, that Tasers do kill and that certain individuals were more likely to die from Taser use. Officers could not know which individuals were likely to die from Taser use, he argued. He said it was obvious that there was a risk of death with their use because the policy called for the dispatch of emergency medical services in every use of Tasers. The line was fuzzy, he remarked, for determining the appropriateness of the use of Tasers, and would likely be stretched.

**David Eason** commented that he believed in the use of Tasers as a necessary and positive tool for protecting police officers and the general public. When officers were asked to

react in life and death situations, he said, mistakes were sometimes made. With a few exceptions, he said, Tasers stopped situations from becoming deadly. He felt that people were focusing on the exceptions to the rule, rather than the general rule. He wanted to see the policy statement about Taser use not being appropriate when a suspect was running from an officer to be tightened up to allow the use of Tasers when someone was running away and there was a threat of a fight and possible greater harm either to the officer or the person running that what would result from use of a Taser.

**Samantha Chirillo** from Curb Tasers remarked that she was a witness of a Taser incident in which she felt the Taser was used instead of verbal communication, and that she believed the Tasering escalated the situation. She felt the policy should include the consideration of whether Taser use would escalate a situation. She believed that some of the policy changes were positive, although there was still too much discretion allowed, especially around the term “immediate credible threat.” In the situation she witnessed, she believed the Taser’s use was an excessive use of force, and she believed that Tasers needed to be defined as deadly weapons.

**Mike Quillin** thanked the committee for its hard work and the community for showing up to share views. He spoke against the use of Tasers as video recording instruments, since this required activating the weapon and he felt it was only safe if the functions of video and weapon were separated. He requested that there be a mandatory refer policy to the Civilian Review Board (CRB) for comment about whether the use of force was justified for each Taser use. He questioned the term “reasonable, credible belief” in the drafted document, asking who was making the judgment about whether use of force was necessary. He felt that the Police Chief should not have sole judgment about what constituted appropriate use of force.

**Chris Calef** said he was representing the Civil Liberties Defense Center. He thanked the committee for its hard work on the Taser policy, and felt the drafted policy was now reasonable if the city had a well disciplined police force that was accountable to the community, which he did not believe was the case. He felt Tasers should be used only for deadly force situations.

**Hope Marston** commented that the committee had learned a lot during its deliberations: how the prongs entered the body and needed to be removed, how some people cannot tolerate Tasering, and how emergency vehicles need to come to tend to people who have been Tasered. She expressed concern over use of a weapon that could be deadly and considered as torture. She mentioned that the United Nations had called Tasering “torture” and that community members were expressing that Taser use needed to be curbed and considered a deadly force. Several situations in Eugene clarified the lack of ability of Eugene police officers to properly handle the use of Tasers, she said. She urged community members to sign petitions against the use of Tasers in the Eugene community.

**Kathy Ging** said she believed Tasers should be termed “more or less lethal” rather than “non-lethal” since there had now been 375 deaths in Canada and the US with their use. She expressed concern about the militarization of police. She was editing a book, she

said, written by a New York woman who had been experimented on with microwave and laser-pulse weapons after she did some whistle-blowing at a US government agency for whom she had worked for thirty years. She suggested that in 90% of reported Taser incidents the weapons had been used for inappropriate reasons. She felt the City of Eugene should not open itself further to lawsuits resulting from the use of Tasers. She asked the committee to recommend to the City that a public vote be taken on Taser use if petitions failed to curb their use.

**Oliver Thornton** said he had worked 28 years in law enforcement and wanted to share some of his experiences. He noted that Taser weaponry had replaced the use of pepper spray. In his law enforcement work, he noted, he felt he had acted less rationally in situations on days when he was feeling emotionally overwrought or tense and had caused pain to people that he later regretted. On days when he felt more composed and thoughtful, he said, he had tended to find other alternatives and not to use force. He suggested that training of law enforcement officers needed to emphasize how to first use communication methods to understand a situation rather than immediate use of force.

**Leslie Relle** said she was a survivor of traumatic brain injury from 1970, and would be interested in serving the community, although she had problems with reading comprehension and some cognitive problems. She felt that Tasers should be considered as lethal weapons.

**Majeska Seese-Green** said she represented A Community Together (ACT)-Lane County, and that she had appreciated having some involvement in the committee's process. She was concerned about this process, noting that this forum was held after the Police Commission had finalized its recommendation regarding Taser use. She generally supported the committee's recommendations, although she did support the ACLU's position that tighter restrictions needed to be enforced. Some key questions that had not been addressed, she noted, were 1) the question of whether or not the Eugene Police Commission should have Tasers at all, and the need for a ballot measure to determine the community's will around this topic, 2) the issue of the use of video cameras being used with the Tasers had not been properly addressed, and 3) what the City Council's process would be.

**Mat Beecher** said he was a member of the Human Rights Commission, although the views he would express were his own and not those of the Commission. Through conversations with community members and his own thinking he had come to see that the Taser cam had provided little information about the evidence garnered from video camera use. He felt a camera on an officer's helmet or shoulder would make some sense, where having the camera attached to the weapon and only becoming usable when the weapon's safety mechanism was removed was dangerous. The public needed to know more about the findings of whether Tasers were being used appropriately, he said.

**Erica Benedict** said she was undecided about whether to sign the petition for curbing Taser use. Her ultimate concern was about the use of force of any kind, and the lack of

oversight she perceived the Police Commission as having, giving way to lack of trust from the community.

#### **4. Next Steps on Taser Review Process**

Mr. Alsup opened the floor for members of the committee to respond to the public comments.

**Juan Carlos Valle** thanked the speakers for their input. He expressed his support for recommendations put forth by the ACLU and said he wanted to help the Police Department to improve their relations with the community. He wanted to make sure that police officers thoroughly understood the impact of Tasers on individuals, and also to ensure that officers were appropriately protected from harm in their work. He commented that there was still time for community members to submit questions to the Police Commission and City Council.

**Tamara Miller** thanked the attending community members participating in tonight's forum, and also during earlier forums. She also thanked Police Department members for their ongoing aid to the committee.

**Joe Alsup** remarked that when he had applied to work with the Police Commission four and half years earlier, officers had no alternatives to using deadly force. He had seen the need for better options, especially in cases of people experiencing a mental health crisis. He had also hoped to see crisis intervention training implemented, which was begun in the past few years and had become mandatory for all officers to receive. He commented that he viewed the Taser as a serious weapon, yet felt it was superior to the use of a blunt instrument with which to strike someone on the head.

**Marilyn Nelson** also thanked community members for their comments, and noted that the many comments around accountability would also be appropriate for further work of this committee around use of force policies.

With extra time in the agenda, Mr. Alsup then passed the microphone to several anonymous people in the audience.

One commenter noted that Tasers had been over-marketed, and he felt its use had been rushed into police work.

Another comment noted that it was a year ago this month that Ryan Salisbury had died and that it had been said that if Tasers had been available to police officers then, Ryan would still be alive.

A further comment noted that for public use of Tasers there was no training or permit required. This person felt that Tasers should be defined as deadly weapons and be banned for public use.

Another commenter clarified that the City Council planned to have a second work session on Tasers before the Chief made his final policy decision. She wondered if there would be any opportunity for public comment at this work session.

One person commented that there would probably be more public support of Taser use if there was trust that there would be consequences for police officers who misused the weapon. He felt that consequences in the past had been out of line with the seriousness of the behavior.

Another person commented that he felt officers needed a non-lethal tool, and that since the Taser could have lethal results, it was obvious that a different tool was needed.

It was clarified that public comment time for the City Council occurred on second and fourth Mondays at 7:30 pm, with each speaker allowed three minutes. And it was noted that the Council wished to reflect community values with this issue, and had already spent a good deal of time discussing the issue.

The meeting was adjourned at 7:56 pm.

*(Recorded by Judy Burton)*