

Taser Policies in Iowa

Empirical Assessment and Recommendations

October 19, 2014



TASER USE POLICIES IN THE STATE OF IOWA

ACKNOWLEDGEMENTS

Who We Are

The American Civil Liberties Union of Iowa is the state's premier guardian of liberty, working daily in the courts, Iowa legislature and communities statewide to defend and advance individual rights and freedoms guaranteed to all by the Constitution and the laws of the United States and Iowa. The ACLU of Iowa is the state affiliate of the American Civil Liberties Union, the largest civil liberties organization in the country, with more than 500,000 members nationwide.

This special report is designed to educate the public, policymakers, and peace officers about the need to implement meaningful and uniform reforms to TASER policies and practices in our state.

Acknowledgments

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I. EXECUTIVE SUMMARY

In recent years, TASERs have become widespread tools for police officers in Iowa. More than 265 Iowa law enforcement agencies are currently using TASERs,¹ and that number is only on the rise.² State agents under the jurisdiction of the Iowa Department of Public Safety will now also carry TASERs.³ With TASERs in the hands of more officers, stricter guidelines and more uniform policies are essential. This report considers the conflicting and frequently inadequate policies governing the use of TASERs by Iowa law enforcement and suggests changes that would help to ensure the safe and appropriate use of TASERs.

TASERs are praised as a safer alternative than the use of physical combat or deadly force to resolve confrontations between police and members of the public. In fact, in many cases they are used appropriately and provide a safe alternative to more dangerous or harmful alternatives. However, TASERs are weapons, and they are dangerous, causing excruciating pain in all instances, and sometimes, causing serious or even fatal injuries. Risks associated with TASERs have come to light over time in the years since law enforcement began adopting the weapons. The risks inherent in TASER use demand careful and uniform regulation. However, no current law requires comprehensive uniform policies or governs the content of TASER training and reporting.⁴

In 2013 the University of Iowa Legal Clinic (“the Clinic”) and the ACLU of Iowa sent Open Records Requests to the sheriffs’ departments of all 99 Iowa counties and several municipal police departments, requesting copies of their TASER and use-of-force policies. The Clinic and the ACLU of Iowa followed up the initial requests in 2014 with further requests for TASER incident reports.

Included in this report is information provided by all 99 county sheriff offices in Iowa in 2014 to the Clinic and ACLU of Iowa. It is possible that some counties have adopted changes to their policies since providing information to the Clinic and ACLU of Iowa that are not reflected in this report.

This report combines that empirical investigation done by the Clinic and ACLU of Iowa with academic research regarding the functioning and physiological effects of TASER technology, and an analysis of pertinent legal issues. This report addresses TASER usage by law enforcement in the field. Although there are also Eighth Amendment concerns that arise when officers use TASERs in detention facilities, this report is limited to the use of TASERs during apprehension, not the use of TASERs in jails and prisons. The report concludes with recommendations for uniform, statewide TASER use policies, including appropriate placement on use of force continuums, clear guidelines regarding proper parts of the body to target, clear definitions of when and on whom TASER use is appropriate, what circumstances preclude TASER use, and requirements for medical attention and incident documentation following TASER use.

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EXECUTIVE SUMMARY *continued*

EFFECTS ON HEALTHY PEOPLE

Physiological effects of tasers *on healthy people* include: excruciating pain, puncture and burning of the skin, disruption of heart rhythm, effects on blood chemistry, impaired respiration, and secondary risks resulting from falling.

EFFECTS ON VULNERABLE POPULATIONS

In some cases, especially for vulnerable populations, there is a significantly greater risk of injury, cardiac arrest, seizure, and even death. Many policies in Iowa did not provide any mention or protection for vulnerable populations with known health and safety risks from tasers. Tasers should not be deployed on vulnerable populations unless absolutely necessary for safety of officers, others, or the subject.

WHO IS VULNERABLE?

Vulnerable populations are the elderly, young children and people with low bodily weight, pregnant women, people with heart and respiratory problems, individuals experiencing so-called excited delirium, people who are already restrained, people who have already been tased (risk of medical harm and risk of death increase with multiple tases), people with mental health problems, and people with disabilities like seizure disorders and other medical conditions that prevent their compliance with police. In addition, people who are unconscious, at a height creating a fall risk, or in an environment that poses a risk of fire or explosion should not be tased; police should not tase without first giving a warning, and should not tase sensitive body parts such as the head, face, genitals, female breasts, or existing wounds.

NOTABLE FINDINGS

- **LACK OF UNIFORMITY:** The risks inherent in TASER use demand careful and uniform regulation in Iowa. However, **there is no law** in our state that requires comprehensive uniform policies or governs the content of TASER training and reporting.
- **FAILURE TO PROTECT VULNERABLE POPULATIONS:** Taser policies in Iowa showed profound variation and lack of consistency in regulating officer behavior. **Some are far better than others, but NO single policy (0) in the state is adequate.** For example:
 - Of the counties in Iowa that reported having taser policies, only **8** (less than 10 percent) outright prohibited the use of a taser on a woman known to be pregnant.
 - Only **1** policy prohibited tasing an elderly Iowan.
 - Only **2** prohibited the use of tasers on young children.
 - Only **7** prohibited use on a person who is already restrained.
 - Only **5** policies in Iowa prohibited the use of tasers on sensitive body parts. **35** allowed with some restriction. **29** made no mention of these most sensitive body parts, providing no information, guidance, or rules for officers.

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II. INTRODUCTION AND DEFINITIONS: DART MODE AND DRIVE STUN MODE

Electronic Control Devices (“ECDs”)—commonly referred to as TASERs, the leading brand of ECDs—have become commonly carried police tools. As the prevalence of TASERs increases, so does our understanding of the risks and problems associated with their use. Better understanding of the risks and problems, in turn, reveals the need for uniform and strict TASER regulation, which does not currently exist.

Developed in the 1960s as a non-lethal alternative to the handgun, the Thomas A. Swift Electric Rifle, or TASER, is used by law enforcement officers to subdue criminal suspects⁵ “who are exhibiting active aggression or who are actively resisting in a manner . . . likely to result in injuries to themselves or others.”⁶ TASERs, or ECDs, are handheld devices that can be used in two ways: “drive stun” mode and “dart” or “probe” mode. The most popular model used by law enforcement, corrections, and the military today is the TASER International model X-26.⁷

Dart Mode

In dart mode, the TASER device uses compressed nitrogen to fire two 9–12mm darts, connected to the device by wires, into someone’s clothes or skin.⁸ The darts separate from each other in flight, and when they connect to a person’s flesh, the device delivers an initial shock of 50,000 volts, followed by 100 microsecond pulses at approximately 19 Hz, 2 to 4 amps, and 1,200 volts.⁹ The cycle typically lasts for five seconds, but can be halted earlier, prolonged, or repeated by the TASER user.¹⁰ The cycle of pulses activates motor neurons and triggers the violent contraction of the majority of the body’s skeletal muscles, resulting in an excruciating pain and physical incapacitation.¹¹

Drive Stun Mode

In drive stun mode, the exposed electrodes on the TASER are pressed directly against the skin.¹² In this mode, however, the electrodes are too close together upon contact to create the same neuromuscular override effect as the fired darts.¹³ Unable to incapacitate subjects, drive stun mode is used solely as a pain-compliance measure.¹⁴ The use of drive stun mode is only rarely warranted, because a person subjected to the drive stun mode is typically less threatening, as the officer must be close enough to apply the TASER device directly to the subject’s skin. Because of these reasons, there are only two scenarios where drive stun mode has accepted use: (1) to complete a circuit when the use of force is still justified and a prior probe deployment was ineffective because of failure to lodge in the skin; and (2) when the use of force is justified in close quarters and use of the TASER in drive stun mode is necessary to create safe distance between the officer and the subject.¹⁵

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III. METHODOLOGY

In 2013 and 2014, the Clinic and the ACLU of Iowa sent open records requests to the sheriffs' departments of all 99 Iowa counties and several municipal police departments, requesting copies of their TASER and use-of-force policies. Nearly two-thirds of the departments responded to the initial request made in 2013, and the ACLU of Iowa followed up with the remaining counties in 2014 to obtain all 99 policies.

Subsequent Changes to Policies Possible:

Included in this report is information provided by all 99 county sheriff offices in Iowa in 2014 to the Clinic and ACLU of Iowa. It is possible that some counties have adopted changes to their policies since providing information to the Clinic and ACLU of Iowa that are not reflected in this report.

Evaluation Standards:

Each policy was evaluated to determine whether it adequately addressed certain considerations. Specifically, policies should have addressed thirteen different pre-deployment factors and two post-deployment factors. Also, policies were assessed on whether they addressed TASER usage on individuals exhibiting passive-compliant behavior. There are five main marks that a policy could receive: (1) Not Mentioned ("NM"); (2) Allowed Without Restrictions ("A"); (3) Allowed with Restrictions ("R"); (4) Prohibited ("P"); and (5) Ambiguous ("Amb"). If a policy was deemed ambiguous, an explanation of why it was ambiguous can be found in Appendix C.

Two additional categories were created after reviewing all of the policies to give counties credit for two additional situations. The first category is denoted by a "P+" and signifies that the policy used "should not" or "may not" language—which is not mandatory language as this report recommends—but in the context of the entire policy or the tone of the sentence, the Clinic and ACLU of Iowa researchers could discern a likely intent (albeit unsuccessful) to communicate that the provision was mandatory to officers. A policy that used "should not" language was not given P+ credit unless the context would lead most readers to determine the instruction was not optional (i.e. the words "should not" were bold or underlined, appeared in all capital letters, etc.). The second additional category is denoted by "A^" and was used when a policy seemed to allow without restrictions the use of a TASER, but did provide language that advised officers to "take into consideration" the characteristic or situation described.

Lastly, Appendix A notes if a county was in the process of acquiring TASERs or developing a policy at the time this report was being developed. Some counties were in the process of actually acquiring TASERs when this report was being developed and did not yet have governing policies in place. Other counties are in the process of developing new policies

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or revamping a current policy with assistance from the ACLU of Iowa. These counties have indicated their willingness to incorporate emerging best practices following this report. Appendix A notes these two situations with an asterisk.

General Methodology Considerations:

The following are a list of general issues that arose when evaluating the TASER policies provided by Iowa county sheriff's offices and how Clinic and ACLU researchers classified the policies in those circumstances. In all instances, the goal was to accurately describe the policy provided by the county. In some cases, policies were internally inconsistent, ambiguous, or vague. This list should be used to supplement the Appendixes as it provides a better description of general problems that arose throughout multiple policies and why certain marks were given.

- **Conflicting Language:** Occasionally a policy addressed a particular criteria multiple times and provided conflicting guidance to officers. The most common situation fitting this description occurred when a policy provided officers a list of "considerations" to reflect upon before they deploy a TASER (which would receive an A⁺), but later the policy put a more stringent restriction on the criteria. **In these situations, the policy was given the benefit of the more restrictive score.** As counties consider changes to existing policies in light of this report, they should eliminate conflicting less restrictive language to make it clear to officers when they can and cannot use a TASER.
- **Jail Policies:** Some counties provided us with their jail TASER Policy as well as their general TASER policy. **Unless there was only one policy that guided both the jail and deputies in the field, this report did not review jail policies.**
- **"Prohibited" and "Allowed With Restrictions":** Although generally a "P" or an "R" is a good rating for a county to receive, just because a policy received a "P" or an "R" does not mean that it had the best possible language. Moreover, an "R" may be just as favorable as a "P" if the policy uses mandatory language but provides a narrow exception for exigent circumstances. Alternatively, an "R" may reflect mandatory language is used along with overbroad or inappropriate exceptions. **If a policy used prohibitive language such as "shall not" or "will not" but added an exception, it received an "R," rather than a "P".** For example, "The X26 TASER will not be used: (c) Against a person already restrained unless physical aggression has to be overcome, or a subject fails to obey a lawful order."¹⁶ Here, the policy received a "R" because it allowed for two exceptions to a the general prohibition, even though it used prohibitive language.
- **Mentioned in Passing:** Some policies mentioned an important criterion only in a definition section, or in passing. In these instances, the policy was not credit for the brief mention if it did not provide any guidance to officers. This happened frequently for the categories "Sensitive Body Areas" and "Drive Stun Mode". Many policies defined

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Drive Stun Mode but did not provide any guidance to offices regarding appropriate and inappropriate uses of drive stun mode. Similarly, in some policies, Sensitive Body Areas were addressed in the section addressing probe removal, but the policy did not prohibit or restrict officers from tasing someone in a sensitive area in the first place.

Methodology Considerations for Specific Categories:

Highly Vulnerable Areas of the Body: Head and Face, Eyes, & Reproductive Organs

- **Allowed with restrictions (“R”):** In this category, a policy that received an “R” used non-mandatory language, like “should not” instead of “shall not” and it may or may not have included a non-exhaustive list that included the sensitive areas.
- **Prohibited (“P”):** If a policy received a “P,” it used mandatory language, such as “shall not,” and gave a list of all of the sensitive areas. The list did not have to be non-exhaustive to receive a “P.” However, the policies should be changed to use non-exhaustive language since there may be more sensitive areas than just the ones generally listed. For example, a person may have a serious wound, which would be seriously aggravated if struck by a TASER prong. A policy that prohibits TASER usage on sensitive areas “*including but not limited to* the head, face, eyes, neck, groin and female breasts” would properly be read to include case-by-case sensitive areas, such as a wound.
- **Ambiguous (“Amb.”):** If a policy received an “Ambiguous” it used prohibitive language, but only gave a partial list of sensitive areas, leaving ambiguity as to unlisted vulnerable areas.
- **Not Mentioned (“NM”):** If a policy received an “NM,” it did not mention sensitive areas that should be avoided. Some policies provided officers with a primary point on the body of the target to aim the Taser at, such as the center mass of the subject or the legs, but failed to advise officers of sensitive areas to avoid. In these cases, the policy received an “NM” for the Sensitive Body Areas category. In general, policies should avoid language that just refers to an officer’s training instead of clearly prohibiting TASER usage on sensitive areas.

Secondary Risks: Injuries, Falls, and Dangerous Deployment Environments

In order for a policy to receive a “P” in the category of Risk of Fall, the policy needed to have two components. First, the policy needed to use mandatory language, such as “shall not” “will not” or “must not.” Second, the policy needed to prohibit the use of a TASER where there is a risk of serious injury and death. Even if a policy had mandatory language, but only prohibited tasing a subject in situations of death – the policy was scored only an “R.” Some policies only prohibited the use of a TASER in situations when an individual might die from

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falling, but policies should also prohibit TASER use when a subject could receive a serious injury from falling.

Heart and Respiratory Problems

Policies with the following language received a “P” or “P+” depending on whether the verb was advisory, *e.g.*, “should,” or mandatory, *e.g.*, “shall”: “[TASERs] are not to be used on persons known to have implanted medical devices such as pace makers or timed medical dispensing mechanisms.” While this language is good because it prohibits the use of TASERs on individuals with implanted medical devices, broader language specifying heart, breathing and other health problems would be more appropriate.

Mental Health Issues

When policies listed “aggressive mental health patients” as approved instances to use a TASER, they received an “R” (Allowed with Restrictions) because the policy allowed use on individuals with mental health issues with restrictions. In most such policies, use of the TASER was restricted to individuals being aggressive or suicidal. This language is inadequate to guide officers’ interactions with seriously mentally ill persons. Policies should prohibit the use of TASERs on individuals who exhibit serious mental health issues unless in extraordinary circumstances justifying the use of force, and all other alternatives have been exhausted.

Warning Provided Before Deployment

Most counties had language that specifically required officers to direct a verbal warning to the suspect to try and convince the suspect to comply with lawful orders prior to deploying the TASER. Policies also received credit for loud verbal warnings that were not necessarily directed at the suspect – but would in effect warn the suspect. For example, some policies would require officers to yell “TASER!” before firing in order to inform other officers that they were firing a TASER and not a firearm. These policies still received credit for a warning, but should add language that instruct officers to warn suspects in order to give them one more opportunity to comply before being tased.

Other policy language that received credit under the Warning category was language that instructed officers to “spark test” the TASER in front of the suspect in order to warn the suspect that officers were going to use the TASER if the suspect did not comply. While this language is sufficient to receive credit in the report, policies should also require verbal warnings in circumstances where it is feasible and will not endanger the officers. Presumably, if officers have time to spark test the TASER, they have time to provide a simultaneous verbal warning.

Some policies mentioned warning or spark testing in the reporting requirement section, but did not have a section that explicitly instructed officers to give warnings when feasible. Other policies discussed warning suspects before using deadly force. Finally, some counties discussed warnings in their Use of Force policies in a broad sense, but did not directly relate the requirement to TASER usage. None of these policies received credit for the Warning criteria in Appendix A. Counties should explicitly instruct officers to warn suspects before using a TASER when circumstances allow (without jeopardizing the safety of the officers).

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Medical Attention

Most counties mentioned the need to provide medical attention to an individual who has been tased. The question then became whether the policy adequately informed officers how to provide medical attention. If a county provided a comprehensive description of what an officer should do after a person is tased it received a “Y” (Yes); if it mentioned the need for medical attention but did not give any direction to the officer as to what steps to take, it received a “Y*” (Yes, but with a note that additional instruction is required).

The distinction between “Y” and “Y*” was sometimes difficult to make. Language regarding medical considerations was evaluated for clarity and ease of use from the position of an officer. Language that did not give an officer enough guidance to know what he/she should do in most situations regarding medical considerations was given a “Y*”. Language regarding medical considerations that gave enough information to guide officers in most situations was given a “Y”. If there was not much language regarding medical considerations, but the policy specified that a medical professional/EMS should be called to evaluate the individual or the individual must be taken to the hospital, the policy received a “Y”. Language referencing procedures “outlined in training” was not marked as adequate because it did not give enough guidance to officers.

Near Flammables

A handful of policies had the following language addressing TASER usage near and around flammable liquids and materials: “Extreme Caution should be taken to not fire the X-26 near flammable liquids and/or fumes.” This language received an “A^” because it did not prohibit or restrict the use of the TASER when near flammable liquids and/or fumes. Rather, the language used by the policy only guided the officer to “use caution” while around flammable liquids. For the safety of the officers, the suspect, and bystanders, Iowa policies should prohibit the use of TASERS near flammable liquids or fumes unless there are exigent circumstances warranting the officer’s undertaking the risk to himself, the suspect, and others.

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IV. PHYSIOLOGICAL EFFECTS OF TASERS

In order to understand the importance of strict and uniform regulation, it is important to understand the effects of TASERS on the human body.

Primary and secondary physiological effects of TASER use on human targets are uncertain and potentially quite varied. Scientific data regarding the safety of TASER use is limited, and there are certain factors that cannot be replicated in clinical tests, such as illicit and psychoactive drug use, combination of TASER application with physical restraint techniques, underlying diseases, and the state of “excited delirium.”¹⁷ The implications of the presence of these factors are not well documented, yet are often present in those individuals who prompt TASER use.¹⁸

Further, much of the available scientific data may be skewed by conflicts of interest. A substantial number of the human clinical investigations on TASER use were performed by groups funded by TASER International, Inc.¹⁹ An expert review of the available literature in 2011 found that research funded by TASER International, Inc. was 18 times more likely to conclude that the technology is safe, compared to independent research.²⁰

The following are the known health and safety risks of TASERS.

Infliction of Extreme Pain

Used as designed, TASERS cause their targets excruciating pain. Because of that, many jurisdictions restrict TASER use to situations when the target poses a direct threat of physical harm to herself, the officer, or others. Many others, however, improperly permit TASER use on people who are not resisting.

Law enforcement officers should not use painful electric shocks as punishment or to induce compliance in people who are not being violent and pose no threat of harm to themselves, officers, or others. Sheriffs’ offices and police departments should prohibit the use of TASERS on individuals who are only displaying passive-resistant behavior or compliant behavior. Moreover, sheriff’s offices should carefully calibrate their use of force policies to ensure that TASERS are used only in self-defense or defense of others.

When Policies Fail to Instruct Officers to Use Tasers Appropriately, they Put the Public at Risk and Expose Law Enforcement to Liability

For instance, Iowa police used a TASER on a “confused and dazed” man who was behaving strangely and taking off his clothes in a convenience store in Waterloo. Although the man failed to quickly follow police instructions to get on the ground, he replied “with statements that sound[ed] nonaggressive in tone and language such as, ‘I’m relaxed,’ and ‘I’ll stop, sir. Please.’” The man accompanied this language with a gesture of surrender, putting his hands in the air, but the officer tased the man twice anyway. According to the Waterloo Police Chief, the man’s behavior, though nonviolent, was enough to justify the use of a TASER under the department’s policy.

Source: Jason Clayworth, *Waterloo: Twice, police tase man after seizure*, DES MOINES REGISTER, Dec. 22, 2013, available at <http://archive.desmoinesregister.com/article/20131222/NEWS14/312220067/Waterloo-Twice-police-tase-man-after-seizure>

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Risk of Death

TASERs can cause injury, cardiac arrest, and death.²¹ According to Amnesty International, more than 500 people in the United States have died following TASER use since 2001.²²

Effect on the Skin

The skin is the first organ affected by TASER exposure. TASER application in both modes can leave friction abrasions and minor burns on the skin.²³ In dart mode, the TASER will leave puncture wounds that may scar, as well as possible cauterization of surrounding and underlying tissue.²⁴

Effect on the Heart

Data regarding the effect of the TASER on heart rhythm and rate is difficult to gather during TASER application because the shock from the TASER also disrupts measuring equipment. Multiple studies have shown that subjects experience increased heart rates *following* exposure to a TASER, however, whether due to the electrical shock or to the stress of the experience.²⁵

Studies have also shown that TASER exposure affects heart rhythm and causes ventricular fibrillation.²⁶ Those studies also show that the risk of ventricular fibrillation (potentially life-threatening abnormality in heartbeats) increases under specific conditions such as prolonged exposure to a TASER current, the presence of underlying heart disease or other medical conditions, or increased proximity of the TASER to the heart.²⁷ Researchers have even hypothesized that the sudden and powerful muscle contractions of TASERs in dart mode cause blunt force traumas potentially capable of causing dysrhythmias (abnormal heart rhythms) through agitation of the heart.²⁸

Effect on Blood Chemistry

Exposure to TASER currents can skew blood chemistry as well. Studies have shown a sharp increase in lactate concentration in the blood following exposure to a TASER current; abnormally high blood lactate concentration can have negative effects on many organs, especially if prolonged.²⁹ Researchers have also observed increases in blood potassium concentration following prolonged exposure to a TASER current in animal testing.³⁰ Increased blood potassium concentration, a condition known as ‘hyperkalemia,’ is a potentially severe medical complication.³¹

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Effect on Breathing

TASER currents also affect respiration. The abdominal wall, intercostal muscles, diaphragm, and various accessory muscles all work together to achieve respiration, and all of these can be affected directly by local or general neuromuscular disruption following TASER application.³² In one study, roughly 20 percent of subjects reported being unable to breathe during TASER application.³³ Even when subjects were able to breathe, the total volume of air moved decreased dramatically during both inspiration (breathing in) and expiration (breathing out).³⁴ Subjects in many studies held their breath during the first several seconds of TASER application in response to the pain.³⁵

Effect on Musculoskeletal System

TASER exposure creates risks for the musculoskeletal system. The powerful skeletal muscle contractions caused by a TASER in dart mode cause extreme tension, which can in turn lead to muscle cell damage and the release of creatine kinase—an enzyme that marks heart attack, severe muscle breakdown, and muscular dystrophy.³⁶ An extreme increase in creatine kinase can also be dangerous in itself, leading to severe medical complications such as rhabdomyolysis—severe muscle breakdown.³⁷ Further, the extreme tension in the musculoskeletal system can cause vertebral crush fractures, and pain after being exposed to TASER shocks is not uncommon.³⁸

Secondary Risks: Injuries, Falls, and Dangerous Deployment Environments

Injuries following the application of TASERs are often secondary results of the dart mode's neuromuscular incapacitation. Injuries from falls are very common, as a subject can hurt himself even from a standing position when he is temporarily paralyzed and unable to break his fall. If the subject is paralyzed while standing on an elevated surface, a fall can mean serious injury or death.³⁹ Falls can also prove especially dangerous if the subject is, for example, around sharp objects, in motion or operating a vehicle, or around water or mud.⁴⁰

In addition, the use of a TASER can result in fires or explosions if flammable

Dangerous Deployment Environments or Conditions Can Increase Taser Risks

In Iowa, one Clay County Taser report indicated that a person was injured because he was running and the TASER caused him to fall. Other counties, including Grundy County, Butler County, and Linn County, have reported injuries to the skin such as puncture wounds, needle-like marks, or injuries sustained by the TASER probes in someone's back.

Sources: Clay County Supervisory Taser Use Report, Nov. 12, 2014; Grundy County Taser Reports, Butler County Taser Reports, and Linn County Taser Reports, all on file with the University of Iowa Legal Clinic.

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fumes, vapors, liquids, or materials are present.⁴¹

Highly Vulnerable Areas of the Body: Head and Face, Eyes, & Reproductive Organs

In order to induce neuromuscular disruption, TASER darts must attach to their target a certain distance away from each other. In order to achieve the required spread, TASER darts fan out away from each other after being fired. This makes it difficult for the TASER user to aim with precision comparable to a firearm. Even with a laser sight, movement of the user or target, improper cartridge deployment, or strong air currents can affect probe trajectory.⁴² The lack of precision can cause problems when TASER darts strike sensitive areas of the body.

At 9–12mm in length, the barb on a TASER dart is long enough to penetrate the human cranium and the outer layer of the brain. If a TASER dart penetrates into the brain, it puts the target at serious risk of brain infection and severe, life-threatening after-effects such as epileptic seizures.⁴³ Even if a dart does not penetrate the brain, however, seizures have been reported following a single probe striking the head.⁴⁴ If a dart were to strike an eye, the resulting injury would be severe and have devastating effects on the subject's vision.⁴⁵ Additionally, the reproductive organs provide an exceptionally vulnerable target for a TASER dart, and puncture wounds to these areas—such as the testicles—can cause lasting damage.⁴⁶

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V. VULNERABLE POPULATIONS SUBJECT TO KNOWN INCREASED MEDICAL RISKS FROM TASERS

Vulnerable populations face additional risks from TASERS.⁴⁷ The following are known categories of persons with increased risk of harm to medical health or safety resulting from exposure to TASER deployment.

The Elderly

Given the limits of ethical research, it has not been definitively established that the electrical shock from a TASER itself poses a greater risk to the elderly. However, the presence of overall declining health in the elderly, including increased risk heart attack, stroke, and breathing problems, expose an individual to greater risk. Additionally, underlying medical and health conditions associated with advanced age, such as osteoporosis, makes secondary risks—especially falling—more dangerous.

Young Children and People with Low Body Weight

In a 2008 report on the risk of death associated with TASERs, the National Institute of Justice found that “the purported safety margins of ECD deployments on normal, healthy adults may not be applicable in small children...”⁴⁸ No studies have shown that the use of TASERs on children is safe. People with a lower body weight have reduced margins of safety when exposed to an electrical current before the induction of ventricular fibrillation.⁴⁹

Pregnant Women

Similarly, although no study on the direct effects of TASER deployment on pregnant women or their pregnancies has been completed (nor could such a study be undertaken ethically), there is no evidence that it is safe to tase a pregnant woman. Additionally, a pregnant woman and her pregnancy are both in greater danger with regards to secondary risks—especially falling.

Excited Delirium

Those suffering “excited delirium” face a greatly increased risk of sudden death following TASER application. “Excited delirium” refers to a syndrome independent of TASER exposure but exhibited by many subjects who have died after being subjected to a TASER current.⁵⁰ The syndrome is increasingly recognized as a contributor to TASER-related deaths and includes clinical and behavioral characteristics such as delirium, high pain tolerance, agitation, paranoia, hostility, hyperthermia, and hyperactive behavior.⁵¹

Excited delirium is often associated with drug use, especially stimulants, or psychiatric illness.⁵² It is often observed prior to death following TASER use or found evidenced in autopsy afterwards.⁵³ The exposure to TASER incapacitation is widely considered as a contributing factor in these deaths.⁵⁴

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Restrained Individuals

Restrained individuals also face an increased risk of harm from TASER application. The greatest risk pertains to respiration. Some types of submission maneuvers that police use compromise the subject's capacity to breathe. When combined with a TASER shock, restraints can therefore compound the respiratory effects of TASER deployment.

Persons with Mental Health Problems

People with "abnormal mental status in a combative or resistive state may face risks for sudden death," unless their conditions are immediately treated. For instance, in eight documented cases of sudden cardiac arrest resulting from TASER use, none of the individuals had pre-existing cardiac problems that might help to explain their adverse reaction. Several, however, had non-cardiac-related medical problems such as alcohol abuse, attention deficit disorder, mental confusion, depression, and schizophrenia."⁵⁵

Troubling Reports of Officers Tasing People Who Are Already Restrained Are Too Common in Iowa

For example, in Chariton, Iowa, police used a TASER on a woman who was handcuffed and wearing leg restraints lying in the backseat of a police car. In Burlington, Iowa, a Des Moines County deputy tased a man who was already on his knees with his hands behind his head. When the deputy continued to threaten the man with the TASER, the man asked him if he was "for real." The officer replied, "Yep, I'm real," after deploying the TASER.

Sources: Jason Clayworth, *Register Investigation: Iowans sue, collect after Taser shocks*, Dec. 22, 2013.

Persons with Seizure and Other Medical Conditions Preventing Compliance with Police

Tasers Should Not Be Used on People with Seizure Disorders

In Coralville, Iowa, police used a taser multiple times on a man experiencing seizures after he became combative with medical responders. The man, who was found to have high levels of methamphetamine in his system, died the following day.

Source: Jason Clayworth, *Questions remain in Taser case despite new information*, DES MOINES REGISTER, available at <http://www.desmoinesregister.com/story/news/investigations/2014/04/06/mother-son-coralville-taser-jolt-died-information-records-mckee-police-martinez-zubrod-worth-county/7375133/>.

Medical conditions such as seizure disorders which cause noncompliant behavior and "continued resistance for an indeterminate amount of time" also increase the likelihood of multiple TASER shocks and increase the risk of complications following TASER use.⁵⁶

TASER USE POLICIES IN THE STATE OF IOWA

Additional Risks Stemming from Multiple Tases

Multiple and/or continuous exposure to electrical currents from the TASER increase the risk of primary and secondary injuries.⁵⁷ Most deaths associated with TASER use involve multiple or prolonged deployment.⁵⁸ Silence in policies guiding officer behavior invites guesswork and misuse.

An independent determination regarding the appropriate use of force should be made for each subsequent deployment of the TASER.

Multiple Taser Shocks Increase Risks

In Worth County, Iowa, deputies tased a man three times, believing the TASER was ineffective. The 39 year old man later became unresponsive and died. The cause of death was listed as “cardiac arrhythmia following an altercation with law enforcement in the setting of acute methamphetamine intoxication.”

Source: Jason Clayworth, *Death of northern Iowa man shocked by deputies’ Tasers ruled a homicide*, DES MOINES REGISTER, available at <http://blogs.desmoinesregister.com/dmr/index.php/2013/12/14/autopsy-northern-iowa-man-shocked-by-deputies-tasers-had-meth-in-system-died-of-cardiac-arrhythmia/article>.

VI. EXCESSIVE FORCE, CONSTITUTIONAL PROTECTIONS, AND TASERS

Both constitutional and statutory guidelines shape citizens’ legal protections and the duties of police officers when it comes to TASERS. The Fourth Amendment protects citizens against excessive force and the Eighth Amendment prohibits cruel and unusual punishment. The Fourteenth Amendment extends these protections to state and local governments.⁵⁹ In addition, while there is no state Supreme Court decision that directly deals with TASERS, the Iowa Supreme Court has found that Article I, Sections 8 and 17 of the Iowa Constitution often provide even greater protection than the Fourth Amendment and Eighth Amendments to the U.S. Constitution.⁶⁰

Despite these protections for citizens, officers are often protected by the affirmative defense of qualified immunity and immunity under the Iowa State Torts Claims Act and Iowa Municipal Tort Claims Act.⁶¹ However, officers are not immune from liability when their conduct violates clearly established constitutional or statutory rights, which a reasonable person would have known.⁶² In one decision by the Eighth Circuit Court of Appeals – which is the federal Circuit encompassing Iowa – the Court held “it is now clearly established that an officer is not entitled to qualified immunity if his use of force in deploying a TASER is excessive in the circumstances, even if the injury inflicted was minor.”⁶³ Additionally, as pertaining to city police departments, the Iowa Supreme Court has found that any immunity conferred with respect to claims against state employees for assault, battery, false arrest, and malicious prosecution by the Iowa Tort Claims Act (ITCA) did not protect county sheriff's office and municipal law enforcement officials from being sued for these same claims by an arrestee under the Iowa Municipal Tort Claims Act (IMTCA).⁶⁴

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Courts have increasingly begun to acknowledge that TASERs inflict extreme pain, can cause injury and death, and should be used only in limited situations. As one court found, “[t]he physiological effects, the high levels of pain, and foreseeable risk of physical injury lead us to conclude that the X26 and similar devices are a greater intrusion than other non-lethal methods of force we have confronted.”⁶⁵ The Eleventh Circuit Court of Appeals found that when “deputies repeatedly shot [the man] with a taser gun . . . the pain and injuries he suffered [were] actual harms.”⁶⁶ Encompassing Iowa, the Eighth Circuit Court of Appeals described this pain and accompanying injuries as a “torment,” finding that a “stun gun inflicts a painful and frightening blow, which temporarily paralyzes the large muscles of the body, rendering the victim helpless.”⁶⁷

Having acknowledged that there are risks associated with TASER use, Eighth Circuit courts have further begun to find that TASER use may constitute excessive force by a police officer. An individual who feels she has been inappropriately⁶⁸ tased may file an excessive force claim against the officer under 42 U.S.C. § 1983, “[which] gives a cause of action to someone who has been deprived of his or her constitutional rights by someone acting under the color of law.”⁶⁹ In *Brown v. City of Golden Valley*, for instance, the Eighth Circuit Court of Appeals found that the use of a TASER was not objectively reasonable and constituted excessive force.⁷⁰ The Court emphasized that it was not appropriate to use a TASER against a nonviolent criminal committing a misdemeanor who was not “actively resisting arrest or attempting to flee” but just refused to end her 9-1-1 call.⁷¹

Courts in Iowa’s federal Circuit have also begun to realize that these risks of injury and misuse are especially great with newer models and drive stun mode use of TASERs. For example, the Eighth Circuit Court of Appeals suggested that “[t]he developing law on Taser use must consider the unique nature of this type of weapon and the increased potential for possibly lethal results created by newer models.”⁷² The law, the Court suggested, must be more nuanced to reflect the different primary and secondary risks posed by TASERs in drive-stun mode versus dart mode.⁷³

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VII. FINDINGS: CURRENT IOWA TASER POLICIES

The foregoing sections show the negative physiological effects of TASERS on even healthy people, the additional risks TASERS pose to vulnerable people such as pregnant women or the mentally ill, and the secondary factors such as the possibility of a fall that increase the potential of injury or death resulting from TASER use. A comprehensive policy would therefore prohibit the use of drive stun mode, restrict multiple and extended charges on the same person, require law enforcement to verbally warn an individual before deploying a TASER, and would limit the use of TASERS on individuals who are:

- Pregnant;
- Young children or Elderly;
- Already Restrained;
- Unconscious;
- At risk for fall;
- Suffering from heart or respiratory problems;
- Mentally ill; or,
- Near flammable objects

Unfortunately, the policies governing TASER use by Iowa law enforcement agencies are alarmingly varied and inadequate.⁷⁴ No single policy addresses all of the factors mentioned above. Policies should instruct officers when and how they should deploy TASERS in order to minimize potentially negative effects in manner that is clear and easy for officers to administer in the field under difficult circumstances and time pressures.⁷⁵

To determine the current holistic status of Iowa law enforcement policies, the Clinic and the ACLU of Iowa submitted requests under Iowa's Open Records law to the Sheriff's Offices of each of the 99 counties to obtain their current TASER policies. All 99 counties responded by either sending their TASER Policy, Use of Force Policy, both, or a note that the department does not currently carry TASERS.⁷⁶

The Clinic and the ACLU compiled the data to show how many policies mention each of these factors, as well as what the policy says about each factor. On the following page is a chart⁷⁷ summarizing current Iowa TASER policies for the 89 counties that have policies addressing TASER use. Additionally, a chart of each county's individual TASER policy provisions is included as Appendix A.

TASER USE POLICIES IN THE STATE OF IOWA

A. Summary of Iowa Taser Policies (Chart)

CATEGORY	<u>Mentioned</u>	<u>Allowed without Restrictions</u>	<u>Allowed with Restrictions</u>	<u>Prohibited</u>
	Even if ambiguous	Including policy language instructing officers to merely take a category into consideration (A and A^)	(R)	Including policy language that improperly used “should not” or “may not”, rather than “shall not” or “must not”, but in context would sound mandatory to a reasonable officer (P and P+)
Warning	42	NA	NA	NA
Pregnancy	44	12	23	8
Young Children	40	20	14	2
Elderly	38	20	14	1
Restrained	44	1	34	7
Multiple/ Extended Tases	57	12	42	1
Drive Stun Mode	30	14	13	0
Unconscious	22	0	1	18
At Risk for Fall	48	11	21	14
Heart/Respiratory Problems	25	11	4	8
Mental Health Issues	21	4	7	0
On Sensitive Body Parts	60	3	35	5
Near Flammables	63	6	5	50
Reporting Requirements	89	NA	NA	NA
Medical Attention	86	NA	NA	NA

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B. Inconsistency in Placement of TASER on Use-of-Force Continuum Across the State

Iowa law enforcement agencies have not reached a consensus on the placement of TASERs on the use of force spectrum. “Use of force spectrum” means the “amount of effort required by police to compel compliance by an unwilling subject.”⁷⁸

The use of force spectrum establishes levels of force on a continuum, to guide officers in the appropriate amount of force to use in a given situation. The continuum ranges from verbal commands to deadly force. Officers are trained not to use an amount of force that is excessive relative to the incident, meaning the amount necessary to conduct a lawful arrest, protect themselves or others.

In some cases, discrepancies exist between a county’s use of force policy and its TASER policy. For example, the Sioux County Use of Force Policy permits the deployment of a TASER at what the policy designates as “LEVEL 4” (designated as appropriate force when confronting assaultive behavior posing a threat of bodily harm). Yet its Taser Policy clearly permits deployment of a TASER in a “LEVEL 3” situation (designated as appropriate force when confronting active resistance).

C. Examples of Adequate and Inadequate Taser Policy Language: Where Real Iowa Policies Got it Right and Wrong

Simply mentioning the special risk factors is not enough. Policies must use the appropriate language to give correct, clear guidance to officers.⁷⁹ What follows is a table of examples of language from real Iowa policies that were effective or adequate, as well as examples of weak or otherwise ineffective language.

Criteria	Inadequate Language	Adequate Language
<u>Warning Prior to Use:</u> Does the policy require that officers give a warning to the individual in circumstances where it is feasible and will not endanger the officers?	“The deploying officer shall inform other officers of the planned use of the T[ASER] as tactically prudent and practical, so the T[ASER] shot is not mistaken for a firearm or gunshot.” ⁸⁰ This language is good because it uses mandatory language, but it should be improved by instructing officers to also warn the subject who is about to be tased so that he/she may comply before the officer has to use the TASER.	“Whenever a T[ASER] is to be deployed it is the responsibility of the deploying officer and on-scene supervisor to make certain officers on scene understand that the T[ASER] is being deployed and not lethal force, prior to the deployment of the T[ASER] if at all possible. This shall be accomplished through the warning announcement “TASER!” to alert other officers, as well as to provide the subject an additional opportunity to cease the conduct that has given rise to the deployment of the T[ASER].” ⁸¹ This language is good because it uses mandatory language and clearly establishes whose responsibility it is to warn other officers and the suspect.

Criteria	Inadequate Language	Adequate Language
<p><u>Pregnancy:</u> Does policy restrict or prohibit the use of a TASER on a woman who is or appears pregnant?</p>	<p>“[S]hould not be used in the following areas of the body: . . . [s]tomach of a pregnant woman.”⁸² A pregnant woman’s stomach is not the only concern. TASERS typically cause targets to fall to the ground, and any fall is a risk to a pregnant woman and the safety of her pregnancy. Further, this policy merely says, “should not,” rather than “shall not.” A proper policy will prohibit any use on a pregnant woman unless she is threatening her own life or the life of an officer or bystander and the use of a taser is absolutely necessary and the least forceful option.</p>	<p>“Except in situations where a deputy is facing an imminent risk of serious bodily injury or death, TASERS will not be used on people who: a) deputies reasonably believe to be pregnant.”⁸³ This language is effective because it instructs officers that they are not to use TASERS on pregnant women unless they can justify the use of the TASER as necessary in the face of serious imminent risk. This allows for the greatest safety of the officer as well as greatest protection of the pregnant woman and her pregnancy, and gives clear guidance—rather than soft, merely advisory language such as “should not.”</p>
<p><u>Young, Elderly, Disabled, and Health Problems:</u> Does the policy prohibit the use on young children, the elderly, and persons who are disabled or have heart or respiratory problems, unless it is absolutely necessary and the least forceful option?</p>	<p>“Officers may be expected to provide increased justification for use of force, including ECDs, involving <i>known or suspected</i>: . . . Children; Senior citizens.”⁸⁴</p> <p>This language is lacking because it does not discourage use on children or the elderly, but merely tells officers that they must be ready to provide justification for such use. A good policy will prohibit the use on children and the elderly unless it is absolutely necessary and the least forceful option.</p>	<p>“T[ASER]s should not be used on the elderly, persons weighing less than 80 lbs., disabled persons, persons with known heart problems and persons who obviously have or are known to have neuromuscular disorders.”⁸⁵</p> <p>This is mostly effective, concise language that covers several factors. It clearly delineates that officers should consider old age, weight less than 80 pounds, and certain health issues before firing their TASER.</p> <p>However, it does use soft language by stating “should not” rather than “will not”, “shall not” or “must not,” and does not give guidance as to when these factors can be ignored. This language should be further strengthened by adding language such as Bremer County’s “[e]xcept in situations where a deputy is facing an imminent risk of serious bodily injury or death, TASERS will not be used on...”⁸⁶</p> <p>Additionally, the language above should include respiratory problems, unless covered elsewhere in the policy.</p>

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Criteria	Inadequate Language	Adequate Language
<p><u>Restrained Individuals:</u> Does the policy forbid officers from using TASERS on restrained individuals unless the individual is “overtly assaultive” and the behavior “cannot be reasonably dealt with” by less forceful means?</p>	<p>“Due to societal perception(s) of people within these groups, deputies using an ECW on any of these individuals will foreseeably be placed under heightened scrutiny and will likely be required to provide additional justification. These groups include ... Restrained Subjects.”⁸⁷</p> <p>This language is inadequate because it allows the use of a TASER on individuals already restrained even if there are not exigent circumstances.</p>	<p>“[I]t is forbidden to use the device . . . [o]n a handcuffed or secured prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.”⁸⁸</p> <p>This policy uses strong language, forbidding officers from using TASERS on restrained individuals. However, it also gives officers the option to use a TASER if the individual is “overtly assaultive” and the behavior “cannot be reasonably dealt with” by different means, which is an acceptable approach so long as the use of force is justified by an imminent risk of serious injury.⁸⁹</p>
<p><u>Multiple or Extended Applications:</u> Does the policy clearly state that officers shall never use multiple or extended TASER applications except for in extreme situations when the risk cannot be reasonably dealt with by different means?</p>	<p>“The M26/X26 is programmed to deliver a 5-second EMD current. The officer can shorten or extend this time.”⁹⁰</p> <p>This policy indicates that officers may extend the time past that recommended by TASER International, and does not give any guidelines as to when it is appropriate. A good policy will, at a minimum, indicate when it is and is not appropriate to exceed this guideline, as well as when it is appropriate, if ever, to apply a second (or more) cycle of current.</p>	<p>“[U]nless deadly force would be justified, members shall never use multiple ECDs concurrently on a single individual, or deploy one or more devices for more twice [sic] or for more than a total of 10 seconds in any arrest incident on a single individual.”⁹¹</p> <p>This is a good example because it uses strong language, stating that officers shall never use multiple or extended TASER applications in normal situations. It also gives officers the option to do so in extreme situations if needed.</p>
<p><u>Mental Health Problems:</u> Does the policy prohibit the use of TASERS on individuals who exhibit serious mental health issues unless necessary to prevent imminent bodily harm?</p>	<p>“It shall be the policy of the Jefferson County Sheriff’s Office, to use the T[ASER] primarily as a self-defense weapon or control device for the following reasons: ... The control of violent/aggressive mental patients.”⁹² While this policy does restrict the use of TASERS to individuals with mental health issues who are aggressive or violent, it should clearly prohibit the use of the TASERS on these individuals unless they pose an imminent threat.</p>	<p>There were no policies that had adequate language that addressed mental health. Language like the following should be added to Iowa Sheriff Offices’ TASER policies:</p> <p>Except as necessary to prevent imminent bodily harm, TASERS shall not be used on people who deputies reasonably believe to be suffering from serious mental health issues.</p>

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Criteria	Inadequate Language	Adequate Language
<p><u>Drive Stun Mode:</u> Does the policy clearly prohibit the use of TASER applications in drive stun mode unless specific exigencies exist?</p>	<p>“The X26 [TASER] may be used in the ‘drive stun’ mode. In this mode, the X26 [TASER], without a live cartridge, is placed in direct contact with the skin. In this mode the X25 [TASER] [sic] is primarily a pain-compliance tool only due to lack of probe spread. The effectiveness of the X26 Taser is likely to be reduced compared to conventional deployment.”⁹³</p> <p>Although there is a lot of good information here, it gives no guidance as to when officers should or should not use drive stun mode.</p> <p>Additionally, it seems to indicate support for use of a TASER as “pain compliance,” which is never appropriate in the absence of a justified use of force.</p>	<p>“The device may also be used in exigent circumstances in a ‘touch stun’ mode.”⁹⁴</p> <p>This policy is almost effective because it discourages the use of TASERs in drive stun mode unless there are exigent circumstances. It could be strengthened, however, by noting that it “shall” only be used, rather than “may also” be used, in exigent circumstances.</p> <p>Moreover, the policy should make clear what qualifies as an exigent circumstance.</p> <p>It should clarify the two scenarios where drive stun has accepted use: (1) to complete a circuit when the use of force is still justified and a prior probe deployment was ineffective because of failure to lodge in the skin; and (2) in close quarters when the use of force is justified and the use of drive stun mode is necessary to create safe distance between the officer and the subject.⁹⁵</p>
<p><u>Unconscious, Impaired, or Intoxicated Individuals:</u> Does the policy clearly prohibit officers from using TASERs on individuals that are unconscious, impaired, or intoxicated?</p>	<p>Many policies fail to clearly prohibit or even mention the use of TASERs on individuals who are unconscious.</p> <p>Although it may seem obvious to an officer that a TASER should not be used on an individual who is not conscious, it should be clearly prohibited in the TASER policy.</p>	<p>“ECDs should not be used . . . [t]o awaken or motivate unconscious, impaired, or intoxicated individuals.”⁹⁶</p> <p>This is a good policy because it clearly encourages officers to not use TASERs on individuals that are unconscious, impaired, or intoxicated.</p> <p>However, changing “should not” to “shall not” would strengthen the policy by removing any ambiguity.</p> <p>The policy should also remove the words “[t]o awaken or motivate,” in order to clearly prohibit all uses of the TASER on individuals who are unconscious.</p>

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Criteria	Inadequate Language	Adequate Language
<p><u>At Risk for Fall or Flammable Environments:</u> Does the policy forbid the use of TASERs in these situations, specifically where flammables may exist or where an individual may fall leading to death or serious injury?</p> <p>(These two factors are often listed together in Iowa policies.)</p>	<p><u>At Risk for Fall:</u> “Due to potential secondary injuries from falling, the T[ASER] is not to be used on a female known to be pregnant ... The T[ASER] X26 may be used in or around water. However, great care should be taken to retrieve a subject immediately should they fall or if their ability to move is restricted.”⁹⁷</p> <p>The language in this policy only mentions falling with respect to pregnancy and water hazards. When there is a risk that an individual may fall, causing fatal or serious bodily injury, policies should restrict use of a TASER unless the subject poses an imminent risk of bodily harm.</p> <p><u>Flammable Environments:</u> “The probes are electrically charged when deployed and may ignite gasoline, flammable liquids, fumes and self-defense sprays including OC sprays. DO NOT USE IN CONJUNCTION WITH OC SPRAY.”⁹⁸</p> <p>This policy does a good job of listing examples of flammable liquids that could ignite when a TASER is used near them; however, it only prohibits use of TASERs in conjunction with OC Spray and does not clearly prohibit the use of TASERs in conjunction with the other flammable liquids listed.</p>	<p>A good example of only one factor is as follows:</p> <p>“[I]t is forbidden to use the device . . . [in] any environment where an officer knows that a potentially flammable, volatile, or explosive material is present [or] [i]n any environment where the subject’s fall could reasonably result in death.”⁹⁹</p> <p>This policy uses strong language by forbidding the use in these situations.</p> <p>However, it only forbids use when the fall could reasonably result in death, so the policy should be expanded to include reasonable risk of serious injury from a fall as well.</p>

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Criteria	Inadequate Language	Adequate Language
<p><u>Sensitive Body Parts</u>: Does the policy prohibit officers from firing a TASER at a sensitive body part? And does the policy provide a non-exhaustive list of what areas are considered sensitive?</p>	<p><u>“Avoid chest/breast shots</u> whenever possible. For frontal shots, it has been found to be more effective if the probes are in the abdominal to pelvic region.”¹⁰⁰</p> <p>Although the emphasis is good, this policy does not prohibit officers from firing a TASER at the sensitive areas listed and it does not list all of the sensitive areas that should be avoided. The language should provide a non-exhaustive list of sensitive areas, including but not limited to the groin, the chest/breasts, the face, eyes, and neck, open mouth, and large blood vessels and instruct officers that they shall never fire at those areas.</p>	<p>“T[ASER]s should never be fired at the eyes, face, neck or groin. The laser sight will not be intentionally aimed at any persons [sic] eyes.”¹⁰¹ This language gives good guidance for which areas to be avoided. However, it uses soft language, stating that officers “should” never fire at those areas. Changing “should” to “shall”, “will” or “must” to clarify the policy for officers would strengthen it.</p>
<p><u>Heart or Respiratory Problems</u>: Does the TASER policy prohibit officers from using a TASER on a person who is known to have heart or breathing problems? Does it give accurate information to officers about the risks?</p>	<p>The following language was used in a handful of policies and received “Allowed without Restrictions” for the Heart/Respiratory Classification: “There is no medical evidence that the TASER T-Waves causes or contributes to heart or respiratory failure. If a subject suspected of drug intoxication, there is a risk that the drugs may cause drug induced delirium, which can result in potential heart or breathing problems.”¹⁰²</p> <p>Studies show an increased heart rate <i>following</i> exposure to a TASER.¹⁰³ Studies have also shown that TASER exposure affects heart rhythm and causes ventricular fibrillation, and that the risk of ventricular fibrillation increases when TASER use is prolonged, when the TASER is applied close to the heart, and when an individual has an underlying heart disease or other medical conditions.¹⁰⁴</p>	<p>Language like the following should be added to Iowa Sheriff Offices’ TASER policies:</p> <p>‘TASERS pose additional serious risks to people with heart and breathing problems. Except as necessary to prevent imminent bodily harm, TASERS shall not be used on people who deputies reasonably believe to be suffering from heart or respiratory problems.’</p>

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D. Passive/Compliant Language Considerations

Policies should prohibit completely the use of TASERs on individuals who are only demonstrating passive resistance or complying with an officer's commands. This does not mean, though, that once someone is actively resisting, a policy should unqualifiedly allow TASER use. Rather, if someone is actively resisting, the use of force continuum kicks in and TASER use may still be inappropriate because of some characteristic or other factor (*i.e.* the person is 120 pounds and there are three officers on the scene who can in the circumstances subdue the person without risking bodily injury.) In order to guide officers on when TASER use is acceptable, policies must provide clear definitions of "compliant," "passive resistor," and "active/violent resistor." Moreover, policies must make it clear that the use of a TASER is not even an option when an individual is only exhibiting passive or compliant behavior.

Currently, Iowa TASER policies vary immensely in how they address passive resistive or compliant behavior. This is illustrated in Appendix D of this report, which compiles all of the passive/compliant language found in Iowa policies. Because nearly every policy had different language, it was hard to compare one policy to another. Moreover, it was difficult to determine where TASER usage fell on the use of force continuum for many of the policies. Rather than evaluate passive/compliant language the same way as the other criteria, the report used a two-question test to determine whether the language was adequate.

The threshold question for passive/compliant language is: Does the TASER policy prohibit the use of a TASER on persons who are compliant and passive-resistant? If no, the language was scored as inadequate. If yes, the evaluator moved to the second question: Where the person is actively resistant, aggressive, or assaultive, does the policy prohibit the use of TASERs when it would constitute an excessive use of force (*i.e.*, the use of force is not reasonable/exceeds unreasonably the amount of force necessary to secure the safety of all persons or effect a lawful detention or arrest?) If yes, the language is adequate. If no, the language is inadequate. Note that these questions should be examined from the position of an officer in the field who may have to make a split-second decision. Counties did not get credit for the second question when it only included stock definitions of "reasonable force" without making a connection to TASERs or TASER usage.

The following counties were the only Iowa counties that had adequate language that addressed passive/compliant behavior and restricted the use of the TASER in situations of active resistance: Bremer, Cass, Clay, Clinton, Montgomery, Polk, Sioux, Warren Counties.

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VIII. RECOMMENDATIONS

The research to support this report shows a troubling lack of consistency among TASER policies in counties across the state of Iowa. Iowa policies should be uniform and meet certain safety benchmarks. In addition, the state should require uniform training and oversight that includes consideration of vulnerable populations and situational ethics. The following section makes recommendations for both the content of model policies and the kinds of additional training officers should receive.

A. Policy Recommendations

On one end of the spectrum, counties have sparse TASER policies without much information, comprising only a page or two and lacking any clear, detailed guidelines. On the other end, many TASER policies are lengthy, undoubtedly taken from a model policy, and sometimes even contained language that contradicted other parts of the departments' policies. The absence of uniformity among TASER policies throughout Iowa, coupled with a lack of clear and concise case law and guidance from the courts, exposes a need for a modification of TASER policies. Over time, counties in Iowa should work towards a completely consistent, statewide policy. Our recommendations reflect the most important sections to include in all policies.

Appropriate, Situational Placement on the Use of Force Continuum

In order to work towards uniformity of TASER policies across Iowa, county sheriff departments must come to a consensus on where TASERs fall on the Use of Force Continuum. The Use of Force Continuum is a resource that law enforcement officials utilize to determine how much force appropriately may be used against a resisting subject in any given situation. Without agreeing on a determination of where TASERs fall on this spectrum, TASER use will vary greatly across Iowa. The Use of Force Continuum should contain a scale that contains each type of tactic—verbal commands, soft hands, hard hands, TASERs, chemicals (such as pepper spray), police batons, other less-lethal tactics, and lethal force—and what behavior by a suspect warrants the use of each level of force. With consistent guidelines in this area, police officers will thus be able to decide when to use a TASER and citizens will likewise understand the consequences of resisting an officer.

However, the placement of TASERs on a use of force continuum must also allow for variance in the case of vulnerable persons who are at increased health and safety risks. Thus, in all cases, TASERs should be placed after verbal commands and soft hands, and in most applications after hard hands; similarly, TASERs should be placed prior to lethal force on the continuum. However, for particularly vulnerable populations discussed in this report, the use of a TASER may fall close to, or at the point of, deadly force on the continuum depending on the risk factors of the person.

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Considerations of Where to Aim the Taser on the Human Body

TASER policies must address where on the body a police officer should aim a TASER and where to avoid aiming a TASER. While most policies at least referred to this in some way, some, surprisingly, did not. TASER policies should lay out clear guidelines for target considerations: 1) when aimed at the front side of the body, TASERs should be directed at the subject's torso, low enough to avoid being too close to the heart; 2) when aimed at the back side of the body, TASERs should be directed at the base of the subject's back, low enough to avoid being too close to the heart; 3) TASERs should never be aimed at the head, groin/genitals, face, neck, open mouth, large blood vessels, pre-existing wounds, eyes, or female breasts. Additionally, TASER policies should incorporate a clear and pictorial depiction of these target considerations to eliminate any confusion or disagreement. None of the policies in Iowa contained a visual depiction of target considerations.

Restricted Use of TASERS

All TASER policies should clearly define those situations in which TASER use is not acceptable. In order to create a uniform policy, counties must first agree on which circumstances constitute unacceptable situations for TASER use. These circumstances should include, for example: TASER use around flammable gases or chemicals; on young children, the elderly, and individuals under 80 pounds; on already restrained persons; on passive or compliant persons; on a person with a known heart or breathing condition; on individuals with mental health issues; on unconscious persons; in dangerous surroundings, such as water or heights; or on pregnant women. Regardless of which circumstances counties agree on, the minimum restricted uses of TASERs should be uniform across the state, and clearly delineated so officers know when they are not to use TASERs.

Additionally, appropriate restrictive language should read "shall not", "will not", or "must not" rather than "should not." The research to support this Report found a roughly even split on the terminology among reporting Iowa counties. This may seem like a small difference, but "shall not" denotes an action that an officer should never take and "should not" indicates that an officer may be able to use his/her discretion in some circumstances. This ambiguity in the language fails to provide clear, easy to follow guidance to officers in the field who need to react quickly. Rather than use "should not" language, "shall not" language may be accompanied by exceptions providing for those situations that do warrant use of TASER if the individual poses a serious threat to himself or herself or another person, including the officer. Agreeing on the terminology will provide clear guidelines and rules for police officers.

Limited Uses of TASERS

TASER policies in Iowa should also *stress* that a TASER should not be used frivolously or instead of verbal de-escalation methods. Iowa TASER policies should emphasize that police

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officers should work to resolve confrontations without violence, and that officers should use TASERs only as appropriate according to placement on the use of force continuum. Police officers should only consider using TASER on violent resisters.

In order to communicate this message clearly, Iowa TASER policies must work on an agreed, clear definition of a “passive resistor” versus an “violent resistor.” “Violent resistor” is a better description of the type of behavior justifying the use of a TASER than “active resistor.” These terms should be clearly defined in the policy so as to eliminate confusion and promote non-violent resolutions.

The policies across the state should be consistent and uniform. Without such uniform limitations, two neighboring counties could—and do—have completely different ideas of when TASER use is appropriate.

Medical Attention

TASER policies should also clearly explain the steps to be taken for the provision of medical care after a TASER discharge. Currently, some do and others do not. Iowa TASER policies should mandate, for example, that if the TASER is accidentally shot at any sensitive area on the body delineated above, medical attention must be sought. Similarly, when the victim clearly asks for medical attention, police officers should be required to facilitate medical assistance. Lastly, the officer should be trained to use his discretion in other medical cases: when the victim of a TASER is acting irrationally or seems to be in constant pain, medical assistance should be sought. Appropriate medical attention could prevent deaths following TASER use.

Reporting Guidelines

Across the board, Iowa TASER policies need more reporting requirements following a deployment. In general, a law enforcement officer who uses a TASER must fill out a form describing the incident after its use. Ideally, this form should be submitted to a supervisor or a sheriff. Iowa county sheriffs’ offices and police departments will have to work together to decide what else is necessary for the report to contain and should consider the following: officers should collect the probes and save them as evidence, take pictures of the scene/victim/TASER, and submit the TASER product number. The report should be filled out within twenty-four hours of the TASER discharge. Preferably, police departments should try to gather as much evidence as possible in order to document the use. This practice must be consistent in order to maintain uniform and safe usage and regulation of TASERs across Iowa.

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The importance of thorough reporting requirements is best explained by a real Iowa county Use of Force Policy:

“In incidents involving the use of force, all officers assist in every way possible with the investigation. Any report required by this policy receives executive review in an effort to:

1. Protect the integrity of the facts and the evidence;
2. Ensure that the officer’s use of force complied with all appropriate state and federal laws, and agency policy;
3. Determine if the officer’s use of force indicates a need for special counseling, training, or disciplinary action;
4. Determine whether the situation requires further action; &
5. Evaluate the need for additional, or future, training.”¹⁰⁵

Although many policies required a written report, most of them did not give a detailed explanation of what should be included in the report and why the report is an important requirement. Iowa policies can be improved by adding language that explains what is required in reports and why detailed reports are important.

Sanctions

Currently, TASER policies across Iowa do not delineate sanctions for failure to follow TASER use policy. Without written sanctions included in the documents, it appears that many TASER policies act as “guidelines” for TASER use instead of clear rules and requirements. A policy must have clear sanctions when officers violate the policy so as to incentivize compliance. This is crucial in working towards creating a uniform, clear, and complete TASER policy in Iowa.

B. Training and Oversight Recommendations

Better policies are not enough without better training and oversight. Trainings should show officers not only how to mechanically use a TASER but also train officers on the risks for vulnerable populations, situational ethics, and the possible psychological and physiological implications of TASERs. For instance, law enforcement agencies should train their officers on the risks that TASERs uniquely pose to pregnant woman, children, and the elderly as well as the proper placement of TASER probes on the body.

In training, officers should also specifically learn how to identify those who may be mentally ill and especially vulnerable. Training should emphasize that multiple/repeated discharges can cause adverse physiological effects. Officers should learn which specific situations call for prompt medical attention. For example, medical care should always follow multiple discharges, when the subject is part of a vulnerable population, or exhibits signs of agitation or hyperactivity.¹⁰⁶

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Finally, there should be oversight to ensure that police officers receive refresher training and that supervisors have adequate qualifications to conduct the training.¹⁰⁷ Reports based on routine inspections should be released to the public and may recommend modifications to training and policies.¹⁰⁸ Combining better policies with training and oversight will create safer use of TASERs.

IX. CONCLUSION

Although TASERs often work as an alternative to lethal force, they pose unique risks. The recommendations made in this Report reflect the steps necessary to lower the risk associated with TASER use in the state of Iowa. Over time, counties in Iowa should work towards a completely consistent, adequate, statewide policy both in TASER use and in training and oversight.

X. ENDNOTES

¹ Jason Clayworth, *Taser Use Has Senator's Attention*, DES MOINES REGISTER (Jan. 11, 2014), <http://www.desmoinesregister.com/viewart/20140112/NEWS14/301120062/Taser-use-has-senator-s-attention>.

² For instance, Altoona police chief recently stated a desire to add TASERs to his police force. See Christopher Pratt, *Altoona Police Chief Wants to Buy Tasers*, DES MOINES REGISTER (Feb. 5, 2014), available at <http://www.desmoinesregister.com/article/20140205/ALTOONA01/302050105/Altoona-police-chief-wants-to-buy-Tasers?Frontpage>.

³ Jason Clayworth, *State Officers Will be Given Tasers*, DES MOINES REGISTER, Jan. 28, 2014, available at <http://www.desmoinesregister.com/article/20140129/NEWS/301290042/1001/news/State-officers-will-given-Tasers>.

⁴ William Petroski, *Iowa Senate OKs bill requiring Taser training standards*, DES MOINES REGISTER, Feb. 24, 2014, available at <http://blogs.desmoinesregister.com/dmr/index.php/2014/02/24/iowa-senate-oks-bill-requiring-taser-training-standards/article>.

⁵ Vidisha Barua Worley, Michael S. Vaughn, & Robert M. Worley, *"Shocking" Consequences: Police Officer Liability for the Use of TASERs and Stun Guns*, 48 CRIM. L. BULLETIN 4 (2012) [hereinafter Worley et al., *Shocking Consequences*].

⁶ Ian A. Mance, *Power Down: TASERs, the Fourth Amendment, and Police Accountability in the Fourth Circuit*, 91 N.C. L. REV. 606, 609 (2013) [hereinafter *Power Down*].

⁷ Douglas Zipes, *Sudden Cardiac Arrest and Death Following Application of Shocks From a TASER Electronic Control Device*, 125 CIRCULATION 2417, 2417 (2012) [hereinafter Zipes, *Sudden Cardiac Arrest*].

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

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¹¹ S.N. Kunz, N. Grove, & F. Fischer, *Acute Pathophysiological Influences of Conducted Electrical Weapons in Humans – A Review of Current Literature*, 221 FORENSIC SCI. INT’L, Feb. 2012, at 2.

¹² Zipes, *Sudden Cardiac Arrest*, *supra* note 7, at 2417.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Police Executive Research Forum & Community Oriented Policing Services, U.S. Department of Justice, 2011 Electronic Control Weapon Guidelines (2011).

¹⁶ Palo Alto County Sheriff’s Office Taser Policy, July 12, 2005 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁷ M. Pasquier, P.N. Carron, L. Vallotton, & B. Yersin, *Electronic Control Device Exposure: A Review of Morbidity and Mortality*, 58 ANNALS EMERGENCY MED. 178, 185 (2011).

¹⁸ *Id.* at 183.

¹⁹ *Id.* at 180.

²⁰ Ata Soleimanirahbar, et al., *The TASER Safety Controversy*, 8(6) EXPERT REV. MED. DEVICES 661, 662 (2011).

²¹ See Douglas P. Zipes, *Taser Electronic Control Devices Can Cause Cardiac Arrest in Humans*, 129 CIRCULATION 100 (2014) [hereinafter Zipes, *Taser Electronic Control Devices*].

²² Suzanne Trimel, *Amnesty International Urges Stricter Limits on Police Taser Use as U.S. Death Toll Reaches 500*, AMNESTY USA (Feb. 15, 2012), <http://www.amnestyusa.org/news/press-releases/amnesty-international-urges-stricter-limits-on-police-taser-use-as-us-death-toll-reaches-500>.

²³ Mazda Biria et al., *Multi-Organ Effects of Conducted Electrical Weapons (CEW) – A Review*, Engineering in Medicine and Biology Society (EMBC), 2010 ANN. INT’L CONF. IEEE 1266, 1268 (2010).

²⁴ *Id.*

²⁵ Kirsten VanMeenen et al., *Respiratory and Cardiovascular Response During Electronic Control Device Exposure in Law Enforcement Trainees*, 4 FRONTIERS IN PHYSIOLOGY, Article 78, April 2013, at 6.

²⁶ James Jauchem, *Pathophysiologic Changes Due to Taser Devices Versus Excited Delirium: Potential Relevance to Deaths-In-Custody?*, 18 J. FORENSIC & LEGAL MED. 145, 147 (2011) [hereinafter Jauchem, *Pathophysiologic Changes Due to Taser*]; Zipes, *Sudden Cardiac Arrest*, *supra* note 7, at 2419.

²⁷ Zipes, *Sudden Cardiac Arrest*, *supra* note 7, at 2420.

²⁸ Jauchem, *Pathophysiologic Changes Due to Taser*, *supra* note 26, at 147.

²⁹ James Jauchem, *Blood Lactate Concentration After Exposure to Conducted Energy Weapons (including TASER Devices): Is It Clinically Relevant?*, FORENSIC SCI. MED. PATHOL. 386, 391 (2013) [hereinafter Jauchem, *Blood Lactate Concentration After Exposure*].

³⁰ Jauchem, *Pathophysiologic Changes Due to Taser*, *supra* note 26, at 146.

³¹ *Id.*

³² *Id.* at 147–48.

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³³ VanMeenen et al., *supra* note 25, at 1–2.

³⁴ *Id.* at 5.

³⁵ Jauchem, *Pathophysiologic Changes Due to Taser*, *supra* note 26, at 148.

³⁶ S.N. Kunz et al., *Acute Pathophysiological Influences of Conducted Electrical Weapons in Humans: A Review of Current Literature*, 221 FORENSIC SCI. INT’L 1, 3 (2012).

³⁷ *Id.*

³⁸ Biria et al., *supra* note 23, at 1268.

³⁹ Kareem Fahim & Christine Hauser, *Taser Use in Man’s Death Broke Rules, Police Say*, NEW YORK TIMES (Sep. 25, 2008), http://www.nytimes.com/2008/09/26/nyregion/26taser.html?_r=1&.

⁴⁰ TASER INT’L, INC., TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement 3–4 (2013) available at <https://www.taser.com/images/resources-and-legal/product-warnings/downloads/law-enforcement-warnings.pdf>.

⁴¹ *Id.* at 6.

⁴² *Id.*

⁴³ Isabelle Le Blanc-Louvry et al., *A Brain Penetration After Surgery: Controversies Regarding Taser Gun Safety*, 221 Forensic Science International e7, e11 (2012).

⁴⁴ Kunz, *supra* note 36, at 2.

⁴⁵ Jennifer Li et al., *Catastrophic Globe Disruption as a Result of a TASER Injury*, 44 J. OF EMERGENCY MED. 65, 67 (2013).

⁴⁶ *Mahamed v. Anderson*, 612 F.3d 1084, 1086 (8th Cir. 2010).

⁴⁷ See Robert J. Bunker, *Should Police Departments Develop Specific Training and Policies Governing use of Multiple TASER Shocks Against Individuals Who Might be in Vulnerable Physiological States?* 8 CRIMINOLOGY AND PUBLIC POLICY 893, 894 (2009) (emphasizing that when using a taser police officers must identify a non-compliant individual “who might be in vulnerable physiological and psychological state . . . [but t]his identification requirement would require patrol officer to have an ‘a priori’ knowledge of the physiological and psychological state of noncompliant individuals encounter.”); Jay M. Zitter, *Liability of Police Officer for Assault and Battery Arising From the Use of Stun Gun or TASER Device*, 52 A.L.R.6th 623, introduction (2010) (finding that injuries may be exacerbated when they are sustained by sick or otherwise vulnerable individuals).

An Iowa example includes an instance of police using a taser, twice, on a man who was showing signs of confusion and behaving in an unusual way following an epileptic seizure in Waterloo. The Waterloo Police Chief justified the use of the taser: “Just imagine walking into a gas station and you see a guy standing there in his underwear. That’s odd and now we know why it’s so odd, because of this health issue ... but it’s a peculiar situation.” Jason Clayworth, *Waterloo: Twice, police tase man after seizure*, DES MOINES REGISTER, Dec. 22, 2013, available at <http://archive.desmoinesregister.com/article/20131222/NEWS14/312220067/Waterloo-Twice-police-tase-man-after-seizure>.

⁴⁸ US Dept. of Justice, Study of Deaths Following Electro Muscular Disruption: Interim Report 4 (2006), available at <http://www.ojp.usdoj.gov/nij>

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⁴⁹ Dr. Wayne McDaniel, Univ. Missouri-Columbia, *Cardiac Safety of Neuromuscular Incapacitating Defensive Devices*, Pacing and Clinical Electrophysiology (2005).

⁵⁰ Jason Payne-James, Sheridan, and Smith, *Medical Implications of the Taser*, 240 BRIT. MED. J. 608, 609 (2010).

⁵¹ Pasquier et al., *supra* note 17, at 184.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Zipes, *Taser Electronic Control Devices*, *supra* note 21, at 101. See also Michael D. White and Justin Ready, *Examining Fatal and Nonfatal Incident Involving the Taser*, 8 CRIMINOLOGY AND PUBLIC POLICY 865, 866 (2009) (stating that “[m]ore research is needed to explore the relationship between mental illness, drug use (illicit or therapeutic), continued resistance, and increased risk of death. In the meantime, police departments should develop specific policies and training governing the use of multiple TASER shocks against individuals who could be in these vulnerable physiological and psychological states”).

⁵⁶ White et al., *supra* note 55, at 896.

⁵⁷ James Cronin et al., *Conducted Energy Devices: Development of Standards for Consistency and Guidance*, U.S. Department of Justice Office of Community Oriented Policing Services and Police Executive Research Forum (Washington: U.S. Department of Justice, 2006) 7.

⁵⁸ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, NIJ Special Report: *Study of Deaths Following Electro Muscular Disruption* (Washington: U.S. Department of Justice, May 2011) ix.

⁵⁹ The Eighth Amendment also protects prisoners against cruel and unusual punishments. Punishments that are “repugnant to the Eighth Amendment [are those] incompatible with ‘the evolving standards of decency that mark the progress of a maturing society,’ or which ‘involve the unnecessary and wanton infliction of pain.’” *Estelle v. Gamble*, 429 U.S. 97, 102–03 (1976) (citations omitted). Even when the force does not cause serious injury, it may still constitute cruel and unusual punishment. *Hudson v. McMillian*, 503 U.S. 1, 4 (1992). What a prisoner must show to establish an Eighth Amendment violation depends on the type of violation because analysis of the Amendment turns on “evolving standards of decency.” *Id.* Therefore, courts consider the circumstances and context of the alleged behavior with regard to ‘contemporary standards of decency.’ *Id.* However, federal courts “have held that the use of a TASER or similar stun gun is not per se unconstitutional when used to compel obedience by inmates.” *Hunter v. Young*, 238 Fed. Appx. 336, 339 (10th Cir. 2007) (citing *See Draper v. Reynolds*, 369 F.3d 1270, 1278 (11th Cir. 2004); *Jasper v. Thalacker*, 999 F.2d 353, 354 (8th Cir. 1993); *Caldwell v. Moore*, 968 F.2d 595, 602 (6th Cir.1992); *Michenfelder v. Sumner*, 860 F.2d 328, 336 (9th Cir.1988); *Soto v. Dickey*, 744 F.2d 1260, 1270 (7th Cir.1984))

⁶⁰ While not specific to excessive force claims, on Fourth Amendment claims and state claims under Iowa Const. Art. 1 Sec. 8, see, e.g. *Ochoa*, 792 N.W.2d at 291 (rejecting under article I, section 8 of the Iowa Constitution the approach of *Samson v. California*, 547 U.S. 843, (2006), which authorized suspicion-less searches of homes of parolees under the Fourth Amendment); *State v. Cline*, 617 N.W.2d 277, 292 (Iowa 2000) (rejecting under article I, section 8 of the Iowa Constitution the holding of *United States v. Leon*, 468 U.S. 897 (1984), which recognized a good faith exception to the exclusionary rule

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under the Fourth Amendment), *overruled on other grounds by State v. Turner*, 630 N.W.2d 601, 606 & n. 2 (Iowa 2001). Indeed, as laid out recently by Justice Appel in his concurrence in *State v. Kurth*, 813 N.W.2d 270, 282-83 (Iowa 2012), the Iowa Supreme Court “jealously” guards the right to take an independent approach under the provisions of the Iowa Constitution. *Zaber v. City of Dubuque*, 789 N.W.2d 634, 654 (Iowa 2010); *State v. Hoskins*, 711 N.W.2d 720, 725 (Iowa 2006).

⁶¹ In Iowa, the Iowa State Tort Claims Act protects officers. Under the Act, state employees, including law enforcement officers, are protected by claims “caused by the negligent or wrongful act or omission of any employee of the state while acting within the scope of the employee's office or employment.” *Thomas v. Gavin*, 838 N.W.2d 518, 521 (2013) (citing Iowa Code § 669.2(3)). However, there are several exceptions to the immunity, including “[a]ny claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or interference with contract rights.” *Id.* (citing *Id.* § 669.14(4)).

Similarly, on Eighth Amendment claims and Iowa Const. Art. 1, Sect. 17, *see, e.g., State v. Ragland*, 836 N.W.2d 107 (2013), *State v. Pearson*, 836 N.W.2d 88 (2013), and *State v. Null*, 836 N.W.2d 41 (2013).

⁶² *See Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982); *Brown v. City of Golden Valley*, 574 F.3d 491, 495 (8th Cir. 2009).

⁶³ *La Cross v. City of Duluth*, 713 F.3d 1155, 1158-59 (8th Cir. 2013).

⁶⁴ *Thomas v. Gavin*, 838 N.W.2d 518 (Iowa 2013).

⁶⁵ *Bryan v. MacPherson*, 630 F.3d 805, 825 (9th Cir. 2010).

⁶⁶ *Zivojinovich v. Barner*, 525 F.3d 1059, 1070 (11th Cir. 2008).

⁶⁷ *Hickey v. Reeder*, 12 F.3d 754, 757, 758 (8th Cir. 1993).

⁶⁸ The Court in *Graham v. Connor* used a four-prong test to determine whether an officer’s actions in arresting a suspect were objectively reasonable. These prongs are 1) the severity of the crime at issue, 2) whether the suspect poses an immediate threat to the safety of the officers or others, 3) whether she is actively resisting arrest, and 4) whether she is attempting to evade arrest by flight. *Graham v. Connor*, 490 U.S. 386, 395 (1989).

⁶⁹ Shaun H. Kedir, *Stunning Trends in Shocking Crimes: A Comprehensive Analysis of TASER Weapons*, 20 J.L. & HEALTH 357, 368 (2007).

⁷⁰ *Brown v. City of Golden Valley*, 574 F.3d 491, 496–98 (8th Cir. 2009).

⁷¹ *Id.* (citing *Parker v. Gerrish*, 547 F.3d 1, 8–11 (1st Cir. 2008); *Zivojinovich v. Barner*, 525 F.3d 1059, 1071–73 (11th Cir. 2008); *Casey v. City of Fed. Heights*, 509 F.3d 1278, 1282–87 (10th Cir. 2007)).

⁷² *McKenney v. Harrison*, 635 F.3d 354, 361 (8th Cir. 2011) (J. Murphy, concurring).

⁷³ *Id.* at 364.

⁷⁴ *See infra* Good Policy Examples and Bad Policy Examples (examining the language of select Iowa TASER policies.)

⁷⁵ *Id.*

⁷⁶ *See* TASER Current Master List of Policies, University of Iowa Legal Clinic, last updated October 28, 2013 (listing the current status of each county in Iowa’s response to the Open Records Request, including date request was sent and whether or not the county has responded.)

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⁷⁷ Language that received an “Ambiguous” was counted in the “Mentioned” category of the chart.

⁷⁸ Definition by the Int’l Assn. of Chiefs of Police, <http://www.theiacp.org>.

⁷⁹ *Id.*

⁸⁰ Fremont County Sheriff’s Office, Taser Policy.

⁸¹ Des Moines County Sheriff’s Office, Use of Taser Policy, August 1, 2005 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸² Franklin County Sheriff’s Office, Electronic Restraint Device Policy, July 1, 2013 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸³ Bremer County Sheriff’s Office TASER Policy, September 5, 2012 (emphasis in original) (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁴ Sioux County Sheriff’s Office, Electronic Control Device Policy (emphasis in original) (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁵ Keokuk County Sheriff’s Office TASER Policy, Revised October 27, 2009 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁶ Bremer County Sheriff’s Office, TASER Policy, September 5, 2012 (emphasis in original) (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁷ Worth County Sheriff’s Office, Electronic Control Weapon Policy, July 11, 2008 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁸ Union County Sheriff’s Office, Use of Force/ECWs (TASERS), revised December 21, 2009 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁸⁹ *Id.*

⁹⁰ Buena Vista Sheriff’s Office, X-26 TASER Procedure (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹¹ Woodbury County Sheriff’s Office, Electro-Muscular Device (TASER) Use, October 9, 2013 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹² Jefferson County Sheriff’s Office, Electronic Control Devices (Taser), January 1, 2013 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹³ Cedar County Sheriff’s Office, TASER Policy, May 1, 2013 (public document, available from the Palo Alto County Sheriff’s Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

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⁹⁴ Crawford County Sheriff's Office, Electronic Control Device Policy, April 1, 2009 (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹⁵ Police Executive Research Forum & Community Oriented Policing Services, U.S. Department of Justice, 2011 Electronic Control Weapon Guidelines (2011).

⁹⁶ Sioux County Sheriff's Office, Electronic Control Device Policy (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹⁷ Chickasaw County Sheriff's Office, TASER/Electronic Control Device Procedures, June 26, 2008 (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹⁸ Emmet County Sheriff's Office, Taser Policy (emphasis in original) (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

⁹⁹ Winnebago County Sheriff's Office, Use of Deadly Force (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁰⁰ Buchanan County Sheriff's Office, Use of Force Policy, February 1, 2010 (emphasis in original) (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁰¹ Emmet County Sheriff's Office, Policy Statement for Less Lethal X26 TASER (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁰² See e.g. Decatur County Sheriff's Office, Taser Policy, April 4, 2005 (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁰³ VanMeenen et al., *supra* note 25, at 6.

¹⁰⁴ Jauchem, *Pathophysiologic Changes Due to Taser*, *supra* note 26, at 2419-20.

¹⁰⁵ Montgomery County Sheriff's Office Use of Force Policy (public document, available from the Palo Alto County Sheriff's Office and on file with the ACLU of Iowa and University of Iowa Legal Clinic).

¹⁰⁶ See Bunker *supra* note 47, at 898.

¹⁰⁷ See, e.g., Taser Use by law Enforcement, 98-0358, Ill. Laws 98th General Assembly, Sec. 10.14 (2013) which requirements this type of oversight.

¹⁰⁸ See *Id.*

APPENDIX A: Taser Use Policies in Iowa (by County)

Pre-Deployment Measures

County Sheriff	Use Tasers?	Policy Sent?	Warning Given?	Pregnant Women	Young Children	Elderly	Already Restrained	Multiple/ Extended	Drive Stun Mode	Un-conscious	Fall Risk	Heart/ Breathing Problems	Mental Health Problems	Sensitive Body Parts	Near Flamm-ables
Adair	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	Amb.	NM	R	P
Adams	Y	N*													
Allamakee	Y	Y	Y	A^	A^	A^	NM	A^	R	NM	A^	NM	NM	R	A^
Appanoose	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	NM	A^	R	P
Audubon	Y	Y	Y	P+	R	R	NM	P+	NM	P+	P+	NM	NM	NM	P+
Benton	Y	Y	Y	A^	A^	A^	NM	R	NM	NM	NM	NM	NM	NM	NM
Black Hawk	Y	Y	NM	R	NM	NM	P	NM	NM	NM	NM	NM	NM	NM	P
Boone	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Bremer	Y	Y	Y	R	NM	NM	NM	NM	NM	Amb.	NM	P	NM	NM	P
Buchanan	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	R	NM
Buena Vista	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	P
Butler	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Calhoun	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	R	NM	NM
Carroll	Y	Y	Y	R	NM	NM	R	R	R	P	Amb.	NM	NM	R	Amb.
Cass	Y	Y	NM	NM	A^	A^	NM	NM	NM	Amb.	NM	P	Amb.	NM	NM
Cedar	Y	Y	NM	R	NM	NM	P	R	A	NM	R	NM	NM	Amb.	P+
Cerro Gordo	Y	Y	NM	A^	A^	A^	R	R	A	NM	R	A^	Amb.	NM	P
Cherokee	Y	Y	NM	A^	NM	NM	R	NM	NM	NM	R	NM	NM	R	R
Chickasaw	Y	Y	Y	R	R	R	NM	NM	R	NM	A^	NM	Abm.	R	R
Clarke	Y	Y	NM	A^	A^	A^	R	R	R	NM	R	A^	Amb.	NM	P
Clay	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	P	NM	Amb.	A^
Clayton	Y	Y	Y	NM	NM	NM	NM	A^	A^	NM	NM	NM	NM	NM	NM
Clinton	Y	Y	Y	R	R	R	R	R	A	NM	A^	P	NM	R	P
Crawford	Y	Y	NM	NM	NM	NM	NM	NM	R	NM	A^	NM	A^	A^	NM
Dallas	Y	Y	Y	NM	NM	NM	NM	R	Amb	P+	P+	NM	NM	R	P+
Davis	Y	Y	NM	R	Amb.	R	NM	R	NM	NM	P+	R	R	R	P+
Decatur	Y	Y	Y	NM	R	R	NM	R	NM	NM	R	A	NM	R	P
Delaware	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Des Moines	Y	Y	Y	R	R	R	R	R	NM	P	P	NM	NM	R	P
Dickinson	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Dubuque	N*														
Emmet	Y	Y	NM	A^	NM	NM	NM	NM	NM	NM	A^	NM	A^	P+	Amb.
Fayette	Y	Y	Y	R	A^	A^	NM	R	A	Amb.	R	NM	NM	R	P
Floyd	Y	Y	NM	R	NM	NM	P	NM	NM	NM	NM	R	NM	NM	P

Legend: NM=Not Mentioned | A=Allowed Without Restrictions | R=Allowed With Restrictions | P=Prohibited | Amb. = Ambiguous | Y = Yes | N = No

County Sheriff	Use Tasers?	Policy Sent?	Warning Given?	Pregnant Women	Young Children	Elderly	Already Restrained	Multiple/ Extended	Drive Stun Mode	Un-conscious	Fall Risk	Heart/ Breathing Problems	Mental Health Problems	Sensitive Body Parts	Near Flamm-ables
Franklin	N														
Fremont	Y	Y	Y	R	NM	NM	R	NM	A	NM	R	NM	NM	R	P
Greene	Y	Y	Y	R	R	R	R	R	A	NM	A^	Amb.	NM	Amb.	R
Grundy	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Guthrie	Y	Y	Y	P+	NM	NM	NM	R	Amb	P+	P+	NM	NM	P	P+
Hamilton	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	P
Hancock	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Hardin	N														
Harrison	Y	Y	Y	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	R	NM
Henry	Y	Y	Amb.	P	NM	NM	R	R	R	NM	P	NM	R	R	P
Howard	N														
Humboldt	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	P
Ida	Y	Y	Y	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	R	NM
Iowa	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	Amb.	NM
Jackson	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	R
Jasper	Y	Y	NM	R	R	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Jefferson	Y	Y	Y	P	NM	NM	R	R	R	NM	P	NM	Amb.	R	P
Johnson	Y	Y	NM	R	NM	NM	Amb.	R	A	NM	R	NM	NM	R	P
Jones	Y	Y	Y	R	Amb.	Amb.	R	Amb.	A	NM	P	NM	NM	NM	P
Keokuk	Y	Y	NM	NM	Amb.	R	P	R	NM	NM	P+	R	R	NM	P
Kossuth	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	P
Lee	Y	Y	Y	R	R	R	R	Amb.	NM	P	P	NM	NM	R	P
Linn	Y	Y	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	NM	NM	NM
Louisa	Y	Y	NM	R	NM	NM	P	R	A	NM	R	NM	NM	Amb.	P
Lucas	Y	N*													
Lyon	Y	N*													
Madison	Y	Y	NM	R	R	R	P	NM	NM	NM	NM	NM	NM	NM	P
Mahaska	Y	Y	NM	P	NM	NM	R	R	R	NM	P	NM	R	R	P
Marion	Y	Y	Y	A^	A^	A^	NM	NM	NM	NM	A^	NM	NM	P	P
Marshall	N*														
Mills	Y	Y	Y	R	R	R	R	R	R	P	P	NM	NM	Amb.	P
Mitchell	N														
Monona	N														
Monroe	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	A	NM	R	P
Montgomery	Y	Y	NM	NM	A^	A^	NM	NM	NM	NM	NM	P	NM	NM	NM
Muscatine	Y	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	R	NM

Legend: NM=Not Mentioned | A=Allowed Without Restrictions | R=Allowed With Restrictions | P=Prohibited | Amb. = Ambiguous | Y = Yes | N = No

County Sheriff	Use Tasers?	Policy Sent?	Warning Given?	Pregnant Women	Young Children	Elderly	Already Restrained	Multiple/ Extended	Drive Stun Mode	Un-conscious	Fall Risk	Heart/ Breathing Problems	Mental Health Problems	Sensitive Body Parts	Near Flamm-ables
O'Brien	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	A^
Osceola	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	A^
Page	Y	Y	NM	NM	NM	NM	P	NM	NM	NM	NM	NM	R	NM	P
Palo Alto	Y	Y	NM	NM	NM	NM	R	A	NM	NM	NM	NM	NM	Amb.	P
Plymouth	Y	Y	NM	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	Amb.	NM
Pocahontas	Y	Y	NM	NM	NM	NM	R	A	NM	P	NM	NM	NM	Amb.	P
Polk	Y	Y	Y	R	R	R	NM	R	NM	NM	R	NM	NM	NM	NM
Pottawattamie	Y	Y	Y	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM	R	NM
Poweshiek	Y	Y	NM	R	R	NM	NM	NM	NM	NM	NM	NM	NM	NM	NM
Ringgold	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	A	NM	R	P
Sac	Y	Y	Y	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	R	NM
Scott	Y	Y	Y	NM	NM	NM	NM	NM	NM	NM	A^	NM	NM	R	NM
Shelby	Y	Y	Y	NM	NM	NM	NM	R	NM	NM	NM	NM	NM	R	NM
Sioux	Y	Y	Y	A^	A^	A^	R	R	A	R	A^	P	A^	R	A^
Story	Y	Y	Y	R	R	R	R	R	NM	NM	R	NM	NM	P	P
Tama	Y	Y	NM	A^	A^	A^	R	R	R	NM	R	A^	Amb.	NM	P
Taylor	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	A	NM	R	P
Union	Y	Y	NM	A^	A^	A^	R	R	R	NM	R	A^	Amb.	R	P
Van Buren	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	A	NM	R	P
Wapello	Y	Y	Y	P	P	P	R	R	R	NM	P	P	NM	Amb.	P
Warren	Y	Y	NM	P	R	R	NM	NM	NM	NM	NM	NM	NM	R	P
Washington	Y	Y	NM	R	NM	NM	R	NM	NM	NM	NM	R	R	Amb.	P
Wayne	Y	Y	Y	NM	A^	A^	NM	R	NM	NM	R	A	NM	R	P
Webster	Y	Y	Y	NM	NM	NM	R	A	Amb	P	NM	NM	NM	R	P
Winnebago	Y	Y	NM	A^	A^	A^	R	R	A	NM	R	A^	Amb.	NM	P
Winneshiek	Y	Y	Amb.	Amb.	Amb.	Amb.	R	R	A^	NM	A^	NM	Amb.	NM	P
Woodbury	Y	Y	Y	P	P	Amb.	Amb.	R	R	P	P	P	Amb.	P	P
Worth	Y	Y	NM	A^	A^	A^	A^	R	A	NM	A^	NM	NM	A^	A^
Wright	Y	Y	NM	NM	NM	NM	R	NM	NM	P	NM	NM	NM	A^	R

* The County is either in the process of acquiring TASERS or has TASERS but is in the process of creating a policy.

P+ The + signifies that the policy used “should not” or “may not” language, which isn’t mandatory language, but in the context of the entire policy or the tone of the sentence, an intent for the advisory to be understood as mandatory could be discerned (i.e. the word “not” was bold or underlined, it was in all capital letters, etc., as in “The officer should **NOT** use the TASER on pregnant women!”). These policies should be changed to use clear, mandatory language.

A^ “Take into Consideration” Language: A^ will be used when a policy seems to allow without restrictions the use of a TASER, but uses language that advises officers to “take into consideration” the characteristic or situation described. This is inadequate to provide sufficient clarity to officers in the field or the public.

Legend: NM=Not Mentioned | A=Allowed Without Restrictions | R=Allowed With Restrictions | P=Prohibited | Amb. = Ambiguous | Y = Yes | N = No

APPENDIX B: Taser Use Policies in Iowa (by County)

Post Deployment Measures

County Sheriff	Medical Procedures	Incident Report
Adair	Y	A
Adams		
Allamakee	Y	A
Appanoose	Y	A
Audubon	NM	O
Benton	Y	A
Black Hawk	Y	A
Boone	Y*	A
Bremer	Y*	A
Buchanan	Y*	A
Buena Vista	Y	A
Butler	NM	A
Calhoun	Y	A
Carroll	Y	A
Cass	Y*	A
Cedar	Y*	A
Cerro Gordo	Y*	A
Cherokee	Y*	O
Chickasaw	Y*	A
Clarke	Y	A
Clay	Y	A
Clayton	Y	A
Clinton	Y	A

Medical Procedures Legend: NM=Not Mentioned | Y=Policy provides medical procedures | Y*=Policy provides vague medical procedures

Incident Report Legend: NM=Not Mentioned | A=Always Required | O=Only Required in Certain Situations

County Sheriff	Medical Procedures	Incident Report
Crawford	Y*	A
Dallas	Y*	A
Davis	Y	A
Decatur	Y	A
Delaware	Y*	A
Des Moines	Y	A
Dickinson	Y*	A
Dubuque		
Emmet	Y*	A
Fayette	Y	A
Floyd	Y	A
Franklin		
Fremont	Y*	A
Greene	Y	A
Grundy	Y*	A
Guthrie	Y	A
Hamilton	Y	A
Hancock	Y*	A
Hardin		
Harrison	Y	A
Henry	Y	A
Howard		
Humboldt	Y	A
Ida	Y	A
Iowa	NM	A
Jackson	Y	A (except accidental discharges)

Medical Procedures Legend: NM=Not Mentioned | Y=Policy provides medical procedures | Y*=Policy provides vague medical procedures

Incident Report Legend: NM=Not Mentioned | A=Always Required | O=Only Required in Certain Situations

County Sheriff	Medical Procedures	Incident Report
Jasper	Y	A
Jefferson	Y	A
Johnson	Y	A
Jones	Y	A
Keokuk	Y	A
Kossuth	Y	A
Lee	Y	A
Linn	Y*	A
Louisa	Y*	A
Lucas		
Lyon		
Madison	Y	A
Mahaska	Y	A
Marion	Y	A
Marshall		
Mills	Y*	A
Mitchell		
Monona		
Monroe	Y	A
Montgomery	Y*	A
Muscatine	Y*	A
O'Brien	Y	A
Osceola	Y	A
Page	Y	A
Palo Alto	Y	A
Plymouth	Y*	A

Medical Procedures Legend: NM=Not Mentioned | Y=Policy provides medical procedures | Y*=Policy provides vague medical procedures

Incident Report Legend: NM=Not Mentioned | A=Always Required | O=Only Required in Certain Situations

County Sheriff	Medical Procedures	Incident Report
Pocahontas	Y	A
Polk	Y	A
Pottawattamie	Y	A
Poweshiek	Y	A
Ringgold	Y	A
Sac	Y	A
Scott	Y*	A
Shelby	Y	A
Sioux	Y	A
Story	Y	A
Tama	Y	A
Taylor	Y	A
Union	Y	A
Van Buren	Y	A
Wapello	Y	A
Warren	Y	A
Washington	Y	A
Wayne	Y	A
Webster	Y	A
Winnebago	Y*	A
Winneshiek	Y	A
Woodbury	Y	A
Worth	Y*	A
Wright	Y	A

Medical Procedures Legend: NM=Not Mentioned | Y=Policy provides medical procedures | Y*=Policy provides vague medical procedures

Incident Report Legend: NM=Not Mentioned | A=Always Required | O=Only Required in Certain Situations

Appendix C: Ambiguities by County

Adair: Heart/Respiratory Problems

- The policy was problematic because it prohibited use of a TASER on “any inmate with a known heart condition,” but then went on to say “there is no medical evidence that the T[ASER] T-Waves causes or contributes to heart or respiratory failure.” The policy should clearly prohibit the use of TASERs on individuals – not just inmates - who have known heart or respiratory problems. Moreover, the language disputing medical evidence that the TASER can contribute to heart or respiratory failure should be removed.

Bremer: Unconscious

- Taser Policy Language: “Except in situations where a deputy is facing an imminent risk or serious bodily injury or death, TASERS will not be used on people who ... have obvious infirmities which deputies should reasonably believe would render the subject unable to provide a significant physical threat.” This language could be interpreted to restrict the use of TASERs on individuals who are unconscious; however the language itself was not clear.

Buena Vista: Sensitive Areas

- Taser Policy Language: “Never aim the M26/X26 at the eyes or face. “This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Carroll: (1) Fall Risk; (2) Near Flammables

- (1) Taser Policy Language: “Officers should attempt to avoid deploying the Taser X26 on known pregnant women. This concerns the potential for secondary injury from a fall.” This language acknowledges the risk of injury from falling; however, it only acknowledges the danger in cases of pregnant women. The policy should include broader language that prohibits or restricts use of a TASER when there is a risk of a secondary injury from falling for any individual.
- (2) Taser Policy Language: “The T[ASER] X26 will not be deployed on a person who is in direct contact with flammable liquids, i.e., fuel. Care shall be taken not to deploy the T[ASER] X26 in flammable conditions, i.e. clandestine laboratories. This language is good because it prohibits deployment when the subject is in “direct” contact with flammable conditions, but it

should prohibit using a TASER when a subject is near flammable materials as well, not just when someone is in “direct” contact with flammable materials.

Cass: (1) Unconscious; (2) Mental Health Problems

- Taser Policy Language: “The amount and degree of force officers may use to achieve an objective takes into consideration the following possible issues, if time and circumstances allow ... Age, physical condition, and behavior of the suspect.” If construed liberally, the language quoted could be construed as a restriction on TASERs in situations where individuals are unconscious, or appear to have mental health problems. This language should be developed further to make clear that officers should refrain from using a TASER on the aforementioned individuals.

Cedar: Sensitive Areas

- Taser Policy Language: “The X26 Taser shall not be aimed at the head.” This language prohibits aiming a TASER at one sensitive area, but should delineate other sensitive areas, including but not limited to the eyes, groin, neck, and breasts.

Cerro Gordo: Mental Health Issues

- Language in the policy advises officers to take into consideration individuals who are “in obvious ill health” when using the TASER. It should specify mental health and clearly prohibit or restriction the situations when officers can use TASERs on an individual who has mental health issues.

Chickasaw: Mental Health Issues

- If construed liberally, there is some language in the policy could be construed as mentioning mental health issues - individuals who are suicidal and “emotionally disturbed” individuals were mentioned in the policy. These brief statements did not provide enough guidance for officers though and there should be a section added that prohibits the use of TASERs on individuals with mental health issues unless there are exigent circumstances.

Clarke: Mental Health

- Language in the policy advises officers to take into consideration individuals who are “in obvious ill health” when using the TASER. It should specify mental health and clearly prohibit the use of TASERs on individuals with mental health issues unless there are exigent circumstances.

Clay: Sensitive Areas

- Taser Policy Language: ‘Never aim the M26/X26 at the eyes or face.’ This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Dallas: (1) Drive Stun Mode

- Taser Policy Language: “Under some circumstances, and at the discretion of the Deputy, [Drive Stun mode] could be used to convince a subject to comply with orders given by Deputy and assist in taking the subject into custody.” This language is too vague to effectively advise officers as to which situations Drive Stun Mode is appropriate. While it vaguely restricts the use “under some circumstances,” those circumstances should be described and should be limited to either (1) drive stun is necessary to connect the circuit after normal deployment due to an ineffective or dislodged probe, if the justification for the use of force continues to exist; or (2) the officer is in close quarters to the subject and the use of the TASER in drive stun mode is necessary to create a safe distance between the officer and the subject.

Davis: Young

- The policy restricts the use of a TASER on individuals weighing less than 80lbs. This could be construed as including children; however, some children are larger than 80lbs and so “youth” should also be listed as a factor that should restrict officers’ use of the TASER.

Emmet: Flammables

- Taser Policy Language: “The probes are electrically charged when deployed and may ignite gasoline, flammable liquids, fumes, and self-defense sprays including OC sprays. DO NOT USE IN CONJUNCTION WITH OC SPRAY.” This language is ambiguous because it lists but does not clearly prohibit the use of TASERS in conjunction with all flammable liquids, only OC Spray.

Fayette: Unconscious

- Taser Policy Language: “In less-than-lethal situations, Officers will not deploy the CED(Taser): When apprehending persons who are not an imminent threat to the public or Officer(s).” The language could be interpreted by a reasonable officer to prohibit the use of a TASER on an individual who is unconscious or intoxicated, but the policy could be improved by adding a specific section prohibiting the use of a TASER on an unconscious individual.

Green: (1) Sensitive Areas; (2) Heart/Respiratory Problems

- (1) Taser Policy Language: “The T[ASER] shall not be aimed at the heads or face.” This language is good because it prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.
- (2) The policy states that officers shall not tase “A person known to be, or is obviously medically fragile.” The policy later states that EMS should be called when “A person known to be, or is obviously medically fragile. Examples include diabetes, seizure disorders, emphysema, asthma, heart disease, history of pacemakers or defibrillators or cancer.” Between these two statements heart/respiratory problems are mentioned but it is unclear to officers whether deploying a TASER on someone with a heart/respiratory problem is prohibited or restricted. This should be clarified.

Guthrie: Drive Stun Mode

- (1) TASER Policy Language: “Drive Stun – Contact is made with the front of the TASER (cartridge removed) to the body of the subject and the T[ASER] spark is activated. Under some circumstances, and at the discretion of the Deputy, this could be used to convince a subject to comply with orders given by Deputy and assist in taking the subject into custody.” While it vaguely restricts the use “under some circumstances,” those circumstances should be described and should be limited to either (1) drive stun is necessary to connect the circuit after normal deployment due to an ineffective or dislodged probe, if the justification for the use of force continues to exist; or (2) the officer is in close quarters to the subject and the use of the TASER in drive stun mode is necessary to create a safe distance between the officer and the subject.

Hamilton: Sensitive Areas

- Taser Policy Language: “The T[ASER] shall not be aimed at the eyes or face.” This language is good because it prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Henry: Warning

- The Henry County Use of Force Policy had a brief section on the Nova Stun Gun. In that section, the policy provided that an officer should give a warning before using the stun gun. This should be added to the TASER policy as well. Moreover, any other inconsistencies between the two policies should be clarified to be sure that officers know the differences between restrictions on TASERS and restrictions on the Nova Stun Gun.

Humboldt: Sensitive Areas

- Taser Policy Language: “Never aim the M26/X26 at the eyes or face.” This language is good because it prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Iowa: Sensitive Areas

- Taser Policy Language: “The stun gun or [TASER] will not be used on or about the head area of any person. The ideal application point is any area of the torso immediately above the belt line, however, application of the stun gun or [TASER] is effective anywhere on the body including the arms and legs.” This language is good because it prohibits aiming a TASER at the head area, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Jefferson: Mental Health Issues

- The policy was problematic because it had contradictory statements regarding the use of TASERs on individuals with mental health issues. It first states that TASERs can be used on “aggressive” individuals with mental health issues, which seems to restrict the use of TASERs to instances where someone with mental health issues is being aggressive. Later though, the policy states that “The Stun Gun is effective on: mentally disturbed persons.” These statements should be removed and the policy should clearly prohibit the use of TASERs on people who deputies reasonably believe to be suffering from mental health problems except in situations where a deputy is facing an imminent risk of serious bodily injury or death.

Johnson: Already Restrained

- Taser Policy Language: “The X26 T[ASER] shall not be used on a person who is already subdued.” This language seems to implicate the category of Already Restrained but is not adequate because it does not clearly prohibit or restrict the use of TASERs on individuals who are already restrained.

Jones: (1) Young; (2) Elderly; (3) Multiple Extended

- (1) and (2): The policy restricts use of a TASER “when the subject is at extreme ages.” This language should be clarified to specifically restrict the use of a TASER when the individual is a child or elderly.

- (3) The policy language states “The TASER is most effective when the cartridge is fired and both probes make direct contact with the subject with a probe distance of greater than four inches, or with probe deployment with a second drive stun follow up.” In addition, the policy states that “Officers must assess the effectiveness of each application and determine whether further applications are warranted or a different tactic should be employed.” This language seems to allow multiple or extended use of the TASER in certain cases, but does not clearly restrict or prohibit extended use. The policy should clearly prohibit or restrict multiple or extended use of the TASER.

Keokuk: Young

- The policy restricts the use of a TASER on individuals weighing less than 80lbs. This could be construed as including children; however, some children are larger than 80lbs and so “youth” should also be listed as a factor that should restrict officers’ use of the TASER.

Kossuth: Sensitive Areas

- Taser Policy Language: “Never intentionally aim the X26 at the eyes or face.” This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Lee: Multiple/Extended

- The policy states “Excessive use of the X26 in subduing a subject is forbidden.” This language is good because it is prohibitive, but it is unclear what “excessive” means. Does it mean multiple deployments of the TASER or long deployments, or only a certain number of deployments? The policy should keep the prohibitive language, but clarify the definition of “excessive,” to provide clear guidelines for officers in the field.

Louisa: Sensitive Areas

- Taser Policy Language: “The X26 T[ASER] shall not be aimed at the head. This language is good because it prohibits aiming a TASER at one sensitive area, but should delineate other sensitive areas, including but not limited to the eyes, groin, neck, and breasts.

Mills: Sensitive Areas

- The policy advises officers to avoid sensitive areas in the section that discusses using the TASER in Drive Stun Mode, but does not advise officers to avoid sensitive areas when using the probes as well. Clear and explicit language should be added prohibiting officers from aiming at sensitive areas included but not limited to the head, face, eyes, groin, breasts and neck.

O'Brien: Sensitive Areas

- Taser Policy Language: "Never aim the X26 at the eyes or face." This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Osceola: Sensitive Areas

- Taser Policy Language: "Never aim the X26 at the eyes or face." This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Palo Alto: Sensitive Areas

- Taser Policy Language: "Never aim the X26 TASER at the eyes or face." This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Plymouth: Sensitive Areas

- Taser Policy Language: "The Taser will be used only below the neck area, avoiding the chest area when possible, and will be used only to immobilize the suspect/inmate long enough to be restrained or placed in a cell. Prolonged contact of the Taser shall be prohibited." This language is because it doesn't give a list of the sensitive areas that should be avoided. Although it is clear that above the neck is off limits, it should also prohibit use of the TASER on genitals including the breasts and groin.

Pocahontas: Sensitive Areas

- Taser Policy Language: "Never aim the X26 at the eyes or face." This language prohibits aiming a TASER at two sensitive areas, but should delineate other sensitive areas, including but not limited to the groin, neck, and breasts.

Tama: Mental Health

- Language in the policy advises officers to take into consideration individuals who are “in obvious ill health” when using the TASER. It should specify mental health and clearly prohibit or restriction the situations when officers should use TASERs when an individual has mental health issues.

Union: Mental Health

- Language in the policy advises officers to take into consideration individuals who are “in obvious ill health” when using the TASER. It should specify mental health and clearly prohibit or restriction the situations when officers should use TASERs when an individual has mental health issues.

Wapello: Sensitive Areas

- In one place the policy states “The ESD is not to be intentionally discharged at the head, neck or genital area.” In another place the policy states, “Avoid the facial area of the head, neck, groin and female breast if possible.” The first sounds prohibitive and the second does not. The policy should clearly prohibit the intentional firing of a TASER at sensitive areas, including but not limited to the face, head, neck, groin, female breast and eyes.

Washington: Sensitive Areas

- Taser Policy Language: “The T[ASER] shall not be aimed at the head.” This language prohibits aiming a TASER at one sensitive area, but should delineate other sensitive areas, including but not limited to the groin, eyes, neck, and breasts.

Webster: Drive Stun

- The Use of Force Policy states that a TASER “shall be first deployed in its most effective and safest mode (i.e., the Probe), if at all practicable.” This language is confusing because it seems to suggest that Drive Stun mode is acceptable, but does not give clear guidance. The policy should explicitly prohibit drive stun mode unless either (1) drive stun is necessary to connect the circuit after normal deployment due to an ineffective or dislodged probe, if the justification for the use of force continues to exist; or (2) the officer is in close quarters to the subject and the use of the TASER in drive stun mode is necessary to create a safe distance between the officer and the subject.

Winnebago: Mental Health

- Language in the policy advises officers to take into consideration individuals who are “in obvious ill health” when using the TASER. It should specify mental health and clearly prohibit or restriction the situations when officers should use TASERs when an individual has mental health issues

Winneshiek: (1) Young; (2) Old; (3) Pregnant; (4) Mental Health Issues; (5) Warning

- (1) – (3): Taser Policy Language – “Use of the ECD on juveniles, elderly persons and pregnant females shall be generally prohibited.” The word “generally” before the word “prohibited” muddies the distinction between prohibited and restricted. The policy should clearly state that tasing individuals with these characteristics is prohibited, unless there are specifically defined exceptions, in which case those should be listed.
- (4) The policy instructs officers to take into consideration the suspect’s “emotional state.” This should clearly instruct officers that it is prohibited or restricted to tase someone in a questionable emotional state, AND it should define emotional state to include serious mental health issues.
- (5) The policy states that “when tactically appropriate deploying deputies will announce ‘clear’ to alert others of the ECD use.” It is good that this policy requires a warning when feasible; however, this warning should also be obvious to the suspect so that he/she may have one last opportunity to comply. Instead of “clear,” the policy should suggest “TASER, TASER, TASER” or something similar that will also warn the suspect of the impending use of a TASER.

Woodbury: (1) Already Restrained; (3) Elderly; (4) Mental Illness

- (1): The Policy states that TASERs shall not be used “on a non-violent person once the person has been secured in handcuffs.” This is inadequate because the policy should clearly prohibit tasing an individual who is already restrained, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion.
- (2) & (3): The policy first advises officers to take into consideration ‘at-risk’ population when considering whether to use a TASER. In this context, the policy gives the following examples of ‘at-risk’ populations: “for example: elderly persons, persons with heart problems, the mentally ill, drug addicts, persons in a state of ‘excited delirium’ and the like.” The policy later prohibits the use of a TASER “7. on persons known to be, or should be known to be ‘at-risk’ (e.g., persons with apparent debilitating illnesses, neuromuscular disorders, infirmities, heart problems, serious ill-health, persons exhibiting signs of ‘excited delirium’, drug addicts). The policy should combine the list of ‘at-risk’ examples and prohibit the use of TASERs on all at-risk populations – including but not limited to individuals with serious mental health issues and the elderly.

Appendix D: Passive Compliant Language In Iowa TASER Policies

- A. "It is forbidden to use the device as follows ... (c) On any suspect who does not demonstrate an overt intention (1) to use violence or force against the officer or another person, or (2) to flee in order to resist or avoid detention or arrest (in cases where officers would pursue on foot)."
- B. Purpose: "To protect corrections personnel from bodily harm during the performance of their duties when persons become aggressive, violent or combative, and to bring these individuals under situational control without serious injury to themselves or others."
- C. Policy: "It shall be the policy of the [NAME] County Sheriff's Office to use the T[ASER] primarily as a self-defense weapon, control device and the use thereof shall be restricted to the following reasons: (1) Self-defense; (2) Defense of another; (3) Effecting the arrest of violent/aggressive persons when peaceful attempts to effect the arrest have failed; (4) The control of violent/aggressive inmates within the custody of the [NAME] County Jail; (5) The control of violent/aggressive mental patients"
- D. "THE TASER WILL NEVER BE USED TO INTENTIONALLY PROVOKE A NONVIOLENT INDIVIDUAL AND WILL NOT BE MISUSED!"
- E. "ECDs should only be used against persons who are actively resisting or exhibiting active aggression, or to prevent individuals from harming themselves, officers or others; i) ECDs may be used when force is legally justified to prevent the reasonably foreseeable threat or actual attempted assault, battery, and or injury to officers, other person, and/or the subject; or ii) In cases where officer / subject factors reasonably indicate that the officers, offender, and/or other person(s) are likely to be endangered by the use of passive and/or active force by the subject; and iii) It is understood that deployments against humans may be very dynamic in nature and the probes may impact unintended areas."
- F. "The T[ASER] should only be deployed in circumstances where it is deemed reasonable: To overcome a subject's combative intent, physical resistance, and/or assaultive behavior. To control, disable or subdue subjects that are or are believe[d]to be a potential danger to themselves or others. There is a reasonable expectation that it would be unsafe for responding enforcement personnel to approach within contact range of the offender/subject."
- G. "A T[ASER] shall not be used ... on a person that is presently controlled."
- H. "The X-26 Taser is considered a less-lethal weapon. A Taser may be used by a deputy to include, but is not limited to, the following situations. 1. To protect themselves or another from physical harm. 2. To restrain or subdue a resisting person. 3. To bring a situation safely and effectively under control. 4. To effect a lawful arrest as a certified peace officer."
- I. "Although each incident will be unique, the X-26 should be used in lieu of physical contact, when individuals are violent and don't comply with verbal commands."

- J. Purpose: "... guidelines for the use of the X-26 TASER through techniques that are designed to allow them to defend themselves against physically aggressive subjects, to compel uncooperative subjects to obey a legal order and to prevent or stop a subject's self destructive behavior."
- K. **"The TASER will not be used against any subject who: a) submits peacefully and complies with lawful commands; b) is merely expressing verbal disagreement or verbal threats without the ability and/or opportunity to carry out those threats."**
- L. "The TASER may be used on persons who refuse to comply with lawful orders under the following circumstances: a) The deputy has attempted all other reasonable means of control and persuasion (which can include verbally warning of the imminent deployment and/or aiming a TASER at the subject); b) the deputy reasonably believes other means of control would be ineffective or would increase the risk of injury to the deputy, subject or a third person."
- M. **The Flow of Responses – placing TASER on #4 – only in response to assaultive behavior (not okay when compliant, passively resisting, or actively resisting). See full description below.**
- N. "The M26/X26 will NOT be used: a. In cases of passive resistance unless the totality of circumstances warrants that a lesser level of force would be ineffective; or attempting to use a lesser level of force may jeopardize the safety of the subject and/or others."
- O. "If the subject is noncompliant and/or does not follow verbal direction the Taser can be used to gain control of the subject."
- P. Deputy Actions: Restraint Devices, E.R.C., Impact Weapons, Chemical Agents, Taser VERSUS Individual's Actions: Active Physical Resistance, Intermediate Weapons.
- Q. "The desired outcome from the use of the T[ASER] X26 is to change the behavior and gain control of a resistive or potentially resistive subject and reduce the potential for causing injury to the Officer or subject ... 2. The T[ASER] X26 may be deployed to control a potentially dangerous or violent subject when the subject, through words or actions, communicates that they may soon resist, oppose or attempt to flee from an Officer who is making a lawful arrest or detention. The T[ASER] X26 may also be used if the person poses a risk of harm to self, such as self-inflicted injury or a suicide attempt."
- R. "...the X26 T[ASER] shall be utilized only when the officer objectively believes the level of force to be reasonable and necessary, taking into account ... whether the suspect or inmate poses an immediate threat to the safety of officers and others, and whether the suspect or inmate is actively resisting or attempting to evade arrest or break custody."
- S. "Immediate use of the T[ASER] should be avoided with suspects who are merely passively or verbally resistive."
- T. "A. [The TASER] may be used to control suspects, inmates or other persons who are dangerous, resisting arrest, or violent, to include suspects fleeing on foot. It may also be used on persons threatening to commit suicide. B. It is not to be used for punishment, or coercion, but only to control subjects who are posing a physical threat or perceived physical threat, example; *'posturing.'*"
- U. See Below.

- V. PURPOSE: "To protect the deputy from bodily harm when making an arrest, apprehension or subduing a combative, aggressive, resisting or non-compliant person and to bring these individuals under control without serious injury to themselves or others."
- W. POLICY: "It is the policy of this agency to use only that level of force reasonably necessary to control or otherwise subdue violent or potentially violent individuals."
- X. "The TASER may be used for defense or control purpose or to protect Deputies or others from persons that pose a threat directed towards the Deputy, other persons, or themselves when that threat is less than deadly force.
- Y. POLICY: "The T[ASER] shall be deployed only in circumstances where it is deemed reasonably necessary to control a dangerous or violent suspect. The T[ASER] shall be deployed when deadly force does not appear to be justified and/or necessary, and attempts to subdue the subject by other conventional tactics have been, or will likely be, ineffective in the situation at hand; or there is a reasonable expectation that it will be unsafe for officers to approach within contact range of the subject."
- Z. "TASER may be used on those subjects that are non-compliant with verbal commands or resist light physical restraint."
- AA. "The Taser is authorized for use to control subjects engaged in or exceeding verbal resistance."
- BB. "In less-than- lethal situations, Officers will not deploy the CEW (Taser): ... c. On a subject who is complying with an officer's command without hesitation; d. During any instance where the subject is only offering passive resistance."**
- CC. The TASER shall not be used on subjects exhibiting compliant or passive restraint behavior.**
- DD. The Taser may be used in situations where non-deadly or deadly force is justified to control aggressive and/or combative and/or non-compliant subjects, thereby reducing the likelihood of injury to officers and subjects.
- EE. The Taser may be used in the following circumstances pursuant to the outlined procedures: A person engages in or displays the intent to engage in physical resistance to a lawful police action. Physical resistance is actions that prevent or attempt a member's attempt to control a subject, but do not involve attempts to harm the member. A person engages in or displays the intent to engage in aggressive physical resistance to a lawful police action. Aggressive physical resistance is physical actions of attack or threat of attack, coupled with the ability to carry out the attack, which may cause physical injury. A person engages in or displays the intent to engage in suicidal behavior.
- FF. "An officer may draw and discharge the X26 on a subject when the officer reasonably believes the subject is threatening the officer or a third party with bodily harm; and the officer reasonably believes that the subject possesses the ability or apparent ability and opportunity to carry out that threat."
- GG. "A device may not be used indiscriminately or in anticipate against mere verbal threats of violence or resistance, and may not be used to harass or punish a suspect. It shall be used only in situations where the employee believes non-lethal tactics Have failed or will likely be ineffective, or there is a reasonable expectation that it will be unsafe for officers to approach the subject."
- HH. "The T[ASER] X-26 is considered a non-lethal weapon used to change the behavior and gain control of a resistive person and reduce the potential for causing injury to deputy, person, civilian or fellow assisting officers."

- II. "M26 and X26 T[ASER]s are designed to restrain violent individuals, where Alternative restrain tactics have been or are reasonably likely to fail, and/or where it would be unsafe for officers to approach the subject."
- JJ. "Stun gun or T[ASER] may be used when performing an arrest of a combative suspect and only when necessary."
- KK. "The TASER may be used when a subject is displaying active, aggressive or lethal resistance to another subject or officer, or when the officer feels that the use of empty hand techniques will pose a safety risk when attempting to conduct legal law enforcement activities."
- LL. "The X26 Advanced T[ASER] will not be used on a restrained person to alter cooperation or to stop passive resistance."**
- MM. "(1) The TASER X26 may be used when a person appears to be a danger to himself/herself or others. (2) The TASER X26 may be used to control a dangerous or violent person when deadly force does not appear necessary or justified. (3) The TASER X26 may be used for protection of the deputy or another from assault. (4) The TASER X 26 may be used while effecting an arrest of an actively resistant individual."
- NN. "The TASER X26 shall not be used on a passive resistive subject meaning a subject who does not comply with verbal commands and shows no active resistance, assaultive or threatening behavior."**
- OO. "The X26 T[ASER] may be used when one or more of the following apply: (1) the subject is punching or kicking or threatening to punch or kick; (2) Lesser force options are ineffective or likely to be ineffective; (3) the deputy or jailer reasonably believes that the subject is a credible threat to harm him/herself or others; (4) the subject is a threat from a distance and the deputy or jailer is at risk of injury if he/she attempts to advance towards the deputy or jailer; (5) the subject is an imminent threat to other officers, staff, or persons; (6) the subject is actively resisting arrest; (7) circumstances are tense, uncertain and rapidly evolving into a possible physical altercation between the officer/subject or subject/bystander; (8) The subject is attempting to evade or fight."
- PP. "The TASER shall not be used: (a) against passive demonstrators"
- QQ. "The TASER may be used when a suspect is displaying active, aggressive resistance to an attempt to conduct lawful law enforcement duties."
- RR. "An electronic weapon is only be used to protect persons from assault or to subdue persons unlawfully resisting arrest."
- SS. "The primary purpose for utilizing this device is to reduce and prevent injuries to combative suspects and arresting officers."
- TT. "The Taser device may be applied to suspects/individuals under the following circumstances with respect to the definitions of reasonable force and use of force by a peace officer under Iowa Code sections 708.1, 708.2 and 804.8: (1) Aggressively resisting arrest under any circumstance; (2) Aggressively resisting custody pursuant to a court order; (3) Resisting arrest for assault while participating in a felony; (4) Resisting arrest for an offense of serious misdemeanor assault or worse; (5) Suspicion of possessing a dangerous weapon and/or aggressively interfering with the lawful duties of a peace officer, jail officer or correctional staff; (6) Any individual who poses a threat to their self under circumstances of suicide, inebriation by alcohol and/or narcotics or mental illnesses, which by their actions threaten the physical well being of responding peace officers, emergency medical technicians,

fire fighters or medical staff.”

UU. “Electronic Control Weapons (ECW) should only be used against subjects who are exhibiting active aggression or who are actively resisting in a manner that, in the deputy’s/officer’s judgment, is likely to result in injuries to themselves or others. ECWs should not be used against passive subjects.”

VV. “ECW’s shall not be deployed against any individuals who demonstrate passive resistance or non-physical resistant behavior without authorization of a supervisor. These types of occurrences shall be evaluated on a case by case basis.”

WW. “The T[ASER] X26 may be deployed to control a potentially dangerous or violent subject when the subject, through words or actions, communicates that they may soon resist, oppose or attempt to flee from an Officer who is making a lawful arrest or detention. The T[ASER] X26 may also be used if the person poses a risk of harm to self, such as self-inflicted injury or a suicide attempt.”

XX. “ECDs may be used when an individual is actively aggressive, actively resisting, or when an individual is acting in a manner that may be harmful to themselves or others.”

YY. “Officers may be expected to provide increased justification for use of force, including ECDs, involving known or suspected ... Passive protesters; or Non-threatening arrestees.”

ZZ. “Electronic Control Device [ECD] – A non-deadly force weapon designed to stop an attack; subdue fleeing, belligerent, or potentially dangerous subjects; or stop a perceived threat of suicide or self inflicted injury.”

AAA. “An ECD may be used only when necessary to overcome actual or threatened physical resistance encountered in the discharge of an official duty where it is reasonably believed that the use of a less obtrusive method would either allow the individual to escape, or would expose the officer or others to imminent danger. The act of simply fleeing from an officer does not in itself justify the use of an ECD without the above conditions present. An ECD may be used to incapacitate a subject that is either attempting to injure themselves or commit suicide.”

BBB. “DO NOT USE IN ANY OF THE FOLLOWING SITUATIONS: ... To gain compliance from persons who are demonstrating passive resistance.”

CCC. “The T[ASER] is not recommended to be used on a person who is already restrained or subdued.

DDD. “The ECD shall not be used when a subject displays solely passive resistance/simple disobedience (i.e. peaceful protest, refusal to stand, non-aggressive verbal resistance ETC.)”

EEE. “Unless circumstances would justify the use of deadly force, TASER devices shall not be used: ... on a non-violent person once the person has been secured in handcuffs.”

FFF. “ECW USE PROHIBITED ... On passively-resisting subjects.”

GGG. “Approved target zones on the body include torso, legs, and arms. The head/neck area should be avoided whenever possible ... These target zones are not to be used on persons who are only verbally/passively resistive.”

HHH. “Electrical devices may be used on a subject who fails to follow repeated verbal commands, or is uncooperative, or physically

resists arrest, or makes threats towards the deputy(s) themselves or another party. Electrical Devices may be used in an effort to stop the threat and gain control of the subject(s) and situation prior to using physical control options or striking instruments in an effort to prevent potential injury to the deputy(s) or suspect(s)."

III. "...designed to repel, subdue, or incapacitate combative subjects."

County Sheriff	Passive/Compliant Category
Adair	B
Adams	In progress.
Allamakee	E
Appanoose	V
Audubon	F, H*
Benton	HHH
Black Hawk	G, H, F*
Boone	I, J
Bremer	K, L, M
Buchanan	H
Buena Vista	J, N, II, FF
Butler	H*, O
Calhoun	B, C, D, P
Carroll	Q
Cass	M, RR
Cedar	R
Cerro Gordo	A
Cherokee	U
Chickasaw	H*, S, T, GGG
Clarke	A
Clay	J, N, M, RR, II, FF
Clayton	III
Clinton	M, II, FF
Crawford	W
Dallas	F*, H*
Davis	B*, C, D
Decatur	V
Delaware	X
Des Moines	Y

County Sheriff	Passive/Compliant Category
Dickinson	Not Mentioned
Dubuque	In progress.
Emmet	Z, AA
Fayette	B*, BB
Floyd	W, H*
Franklin	Does not use TASERs.
Fremont	CC, DD
Greene	EE
Grundy	O
Guthrie	F, H*
Hamilton	J*, N, FF
Hancock	GG
Hardin	Does not use TASERs.
Harrison	HH, Q
Henry	B, C, D, JJ
Howard	Does not use TASERs.
Humboldt	FF, N, J*, II
Ida	H*, HH, Q*
Iowa	JJ
Jackson	O*, Y*
Jasper	GG*
Jefferson	B, C, D, P
Johnson	R
Jones	KK
Keokuk	B, C, D
Kossuth	J*, N, II, FF
Lee	Y
Linn	X, LL
Louisa	R

Legend: * indicates that the language for the county was not identical to the corresponding language but it was nearly identical. | Bold Font indicates that the language met the threshold question: Does the TASER policy prohibit the use of a TASER on persons who are compliant, passive, or passive-resistant? 7

“M” Continued:

Tactics, Applications, & Officer’s Perceptions:

Level 1 – (Compliant). No or Slight Apparent Potential for Harm

Arrival & Presence: Officer present at the scene. This includes proper voice and/or other identification, body language, and awareness by the subject that he is dealing with an officer of the law. May also include presence of the officer’s vehicle, seeing the officer in his uniform, hearing officer identification, etc. A reasoning person seeing and hearing these things will normally alter their behavior, and respond to the officers instructions.

Interview Stance: The officer adopts a stance outside his danger zone that provides appropriate protection and forms the basis of an effective physical response if attacked.

Level 2 – (Passively Resistant). Moderate Potential for Physical Harm

Dialogue Between Parties: A two way, controlled, non-emotional communications between the officer and the subject, aimed at a problem identification and/or resolution.

Verbal Direction: Officer asks, advises, or commands subject to engage in, or refrain from, a specific action or non-action.

Soft Hand Techniques: Officer may choose to employ some assistance in movement, compliance, or removal from the immediate scene.

Level 3 – (Actively Resistant). Moderate Potential for Physical Harm

Restraint Devices: Mechanical tools used to restrict a subject’s movement and facilitate searching such as, handcuffs, flex cuffs, leg irons, belly chains, optional nylon restraining devices etc.

Chemical Agents Individual Protection Devices: CS/OC spray agent used to subdue or bring a subject into compliance.

Transporters: Techniques used to control and/or move a subject from point A to point B with the minimum effort by the officer or, to gain and retain control over the subject.

Takedown: Techniques that redirect a subject to the ground in a controlled manner to limit physical resistance and to facilitate the application of a restraint device, and to prevent intentional injury to the subject.

Pain Compliance: Techniques that force a subject to comply with an officer, as a result of the officer inflicting controlled pain upon specific points in the subject's body, such as pressure point techniques, Taser.

Level 4 – (Assaultive & A Threat to Bodily Harm). Serious Potential for Physical Harm

Electronic Stun Device: Is a Level 4 applications of force, when properly employed. Such devices will not be used on persons suspected to have implanted medical devices such as pace makers or time medical dispensing mechanisms.

Incapacitation: Techniques intended to stun or render a subject temporarily unconscious. These techniques may be an impact weapon, such as a strike to a major nerve area.

Intermediate Weapon: Impact weapons that are primarily used to control a subject such as a baton, expandable baton, Taser, and/or police canine.

Level 5 – (Assaultive & Serious Threat of Bodily Harm or Death). High Potential for Great Bodily Harm or Death

Deadly Force: Techniques and implements that by their very nature are known to cause death or serious injury. To employ deadly force officers must perceive that an imminent threat to their life or the life of another is present.

Firearm Special Munitions: Special munitions fired, launched, or discharged from a service handgun, shoulder weapon, or vehicle mounted weapon constitute a Level 5 application of the use of force, and must be used with extreme care. Although often referred to as *less-lethal*, officers know that the *less* refers to *less of a chance of causing death or serious bodily injury*. Special munition rounds must not be deliberately fired or thrown at the face, chest, neck, or spine of any individual [For more information See: Policy 05.03 Special Munitions – Distraction Devices, & 05.04 Special Munitions – Less Lethal].

It is important to remember that almost all incidents faced by police are not scripted, easy to understand, or predictable as to outcome. Officers use their best effort to determine the threat level and apply the corresponding response. Time permitting, officers must use care in evaluating a suspect's actions and perceived threat level. If there is reasonable doubt and time permits, seek assistance before acting. Justification for the use of force and deadly force must be limited to what is *known or reasonably perceived* by the officer at the time of the incident. Facts unknown at the time force is used should not be considered later to determine whether the force was justified.

Officers may not intentionally use more force than is necessary and reasonable under the circumstances. Officers may never use force in response to mere verbal provocation or abusive language directed at the officer. Officers must never use deadly force, except to protect his life, or the life of other human being.

“U” Continued:

Deployment Procedures

1: TASERS may be used for any of the following situations:

- a: When a subject is being placed under lawful arrest after establishing probable cause or a warrant exists.
- b: To apprehend an escaping prisoner or subject escaping an institution where the subject is to be held.
- c: To apprehend a subject attempting to allude officers attempting to arrest or detain the subject.
- d: To restrain or control a subject before arrest, after arrest, or in a correctional setting.
- e: To restrain or control a subject being placed into custody by court order.
- f: To restrain or control a subject that is engaged in or verbal non-compliance, or passive resistance.
- g: To restrain or control a subject that is engaged in an act or believed act of self-injury or suicide.
- h: In lawful defense of self or others.

AND

a: The subject exhibits any of the following as defined above:

- 1. Psychological Intimidation
- 2. Verbal Noncompliance
- 3. Passive Resistance
- 4. Defensive Resistance
- 5. Active Aggression
- 6. Deadly force