

Recommendations of the Panel Convened by Attorney General Sorrell on Taser Use by Vermont Law Enforcement Agencies

On March 11, 2012, Attorney General Bill Sorrell hosted a public forum to evaluate the use of tasers by law enforcement agencies in Vermont. At the forum various speakers presented information to the public and a panel that included the Attorney General, Senator Alice Nitka, Representative Bill Lippert, ACLU Executive Director Allen Gilbert, and Vermont Disability Rights Director Ed Paquin. Members of the public were also invited to provide comments at the public forum and to submit written comments after the forum.

The majority of public comments heard at the forum either did not support taser use or encouraged the adoption of a statewide law enforcement policy on taser use. Most informative were the public comments concerning the need for law enforcement to better understand the perceptions that individuals with cognitive impairments often have with respect to their interactions with law enforcement officers and their abilities to comply with law enforcement direction during confrontations in which they might be acting out as a result of their impairment or disability. The speakers stressed the need for additional or better training that would assist law enforcement officers in dealing with these individuals during stressful events and to better understand effective methods of de-escalating these encounters. Another common theme was the perceived need for better reporting and supervision of taser use, as well as public access to information about when and how police have used tasers.

The panel thanks everyone who presented or offered comments at the forum. The forum underscored the value and importance of continued and balanced public discussion on this topic.

After the forum, the panel requested that the Attorney General obtain updated information from the law enforcement agencies across the state that issue tasers to their officers. The Attorney General requested information from the 38 police agencies in Vermont known to issue tasers to its officers. A majority of departments responded promptly by providing copies of their current use of force and/or use of taser policies and information about their training requirements and reporting policies.

In summary, the panel identified three distinct issues that need further review and possible action by the law enforcement community: 1) training, particularly

with respect to interactions with persons with cognitive impairments; 2) the development of clear, consistent and appropriate state-wide standards for the use of tasers; and 3) uniform reporting and review of taser display and deployment, including a method for making the reports available for public review.

I. Training

Two basic types of training are available to law enforcement officers in Vermont – the training provided at the Vermont Police Academy and on-going or in-service training for certified law enforcement officers. In light of the changes to the curriculum at the Academy over time, law enforcement officers have received varied levels of training regarding interacting with persons with cognitive impairments or disabilities.

There is value in ensuring that law enforcement officers have received consistent training that reflects present best practices for law enforcement. In order to ensure that such training is available and present, the panel recommends that the Attorney General request the Vermont Criminal Justice Training Council (VCJTC) conduct a comprehensive review of the current curriculum and resources available in Vermont for training law enforcement in both the use of tasers and in interacting with persons with cognitive impairments or disabilities.

The review should make recommendations regarding improvements in, or additions to, the training currently provided to law enforcement officers. The panel recommends that the VCJTC consult with the Vermont Department of Mental Health, Disability Rights VT, and other appropriate professional and advocacy groups when conducting this review.

(Note: this recommendation could be effectuated by the Vermont Criminal Justice Training Council initiating such a review – the Attorney General is a member of the Council and would advocate for such a review. In the alternative, the Legislature could mandate such a review by the Council.)

II. Use of Force/Deployment

A law enforcement agency's policy regarding the use of tasers is necessarily related to the agency's use of force policy. Such policies vary among Vermont law enforcement agencies. In order for consistent standards to apply to the use

of tasers in Vermont, there must be an understanding of and consideration of use of force policies in Vermont.

By statute the Law Enforcement Advisory Board is directed to recommend best practices for Vermont law enforcement agencies. The panel recommends that the Board develop and draft a standard use of force policy that could be adopted by all law enforcement agencies in the State. Any such policy should set forth a standard for the use of tasers by law enforcement agencies that decide to issue them to their officers.

III. Reporting and Accountability

The panel has concluded that public confidence in law enforcement's use of tasers could be significantly bolstered if the public had the opportunity to review and understand how, when, and why law enforcement displays and deploys tasers. As is often the case, only those situations with bad outcomes generally gain widespread public notice. If all situations in which tasers are displayed or deployed were reported, the public would be better able to assess both the benefits and the risks associated with their use. The panel recommends that the Law Enforcement Advisory Board include in its standard policy reporting standards and a uniform use-of-force report form for tasers that include:

1. That law enforcement agencies complete a use-of-force report whenever a taser is displayed or deployed by a law enforcement officer.
2. That the report contain, at a minimum, the following information:
 - a. Date, time, location of incident;
 - b. Whether the incident involved display or deployment;
 - c. A description of the incident and the identity of all witnesses;
 - d. The number and duration of taser activations, if any, and the mode used;
 - e. Any weapons possessed by the subject;
 - f. The type of crime/incident the subject was involved in;
 - g. The range at which the taser was used;
 - h. The point of impact of probes on a subject in probe mode;
 - i. Medical care provided to the subject; and
 - j. Any injuries incurred by personnel or the subject.

3. That such reports be available for public inspection and copying after redaction of (a) identifying information regarding the subjects and witnesses and (b) other information that could constitute an unwarranted invasion of personal privacy.
4. That in the case of a municipal police department a copy of such report be kept on file with the select board or other municipal body for that municipality.
5. That in the case of the Vermont State Police a copy of such report be kept on file with the State Police Advisory Commission.

The Panel decided to extend an invitation to the law enforcement community to consider and develop a statewide policy regarding use of tasers and to review the current training provided to law enforcement both with respect to taser use and interacting with persons in crisis or with cognitive disabilities or impairments, prior to next legislative session. The expectation is that the legislative committees will be taking up the issue early on in the session.

Individual panel members shared their view as to the questions and issues that they hope will be considered by law enforcement through this process, including: recognition that tasers are potentially lethal; development of clear guidance and definition as to the threshold for use; consideration of a requirement that officers complete Act 80 training prior to being issued a taser; consideration of the manufacturer's guidelines as the standard with exceptions developed as appropriate.

Attorney General Sorrell agreed to meet with the Law Enforcement Advisory Board, the Vermont Criminal Justice Training Council, the Chiefs of Police and Sheriffs' Associations to encourage development of a statewide policy and a review of training.