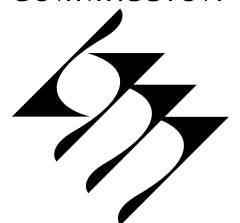


Evaluating Taser reforms

A review of Queensland Police Service
policy and practice

April 2011

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND

SUMMARY AND RECOMMENDATIONS

Background to the evaluation

Tasers were first introduced by the Queensland Police Service (QPS) in 2002, when they were allocated to the service's Special Emergency Response Team. Following a trial in 2007–08, the QPS expanded their use into the general policing environment.

In June 2009, a 39-year-old man in Brandon, north Queensland, died after being tasered by police. In response, the Minister for Police, Corrective Services and Emergency Services, the Hon. Neil Roberts MP, initiated a joint QPS–Crime and Misconduct Commission (CMC) review to ensure that QPS policy, procedures, training and monitoring processes reflected best practice. The review made 27 recommendations intended to improve policy, training and monitoring practices. It was agreed that the recommendations would be treated as interim recommendations for 12 months, subject to continuous monitoring by the QPS and the CMC.

Significant policy changes represented in these recommendations included:

- restricting the use of Tasers to situations where there is a risk of serious injury to a person
- prohibiting officers, unless in exceptional circumstances, from deploying Tasers for multiple or prolonged cycles, and against people who are handcuffed or are of particularly small body mass
- emphasising the possible link identified in the literature between Taser deployments and death, particularly where multiple and/or prolonged discharges are involved or where the person has underlying health problems, is under the influence of alcohol or drugs, or has already been exposed to oleoresin capsicum (OC) spray.

These policy changes were also reflected in new training initiatives.

In April 2010, the then Queensland Attorney-General and Minister for Industrial Relations, the Hon. Cameron Dick MP, asked the CMC to undertake this independent evaluation.

To address our terms of reference, we sought to determine:

- whether each of the 27 recommendations from the QPS–CMC review has been implemented
- what effects the revised policy and training have had on Taser use
- how QPS officers used Tasers in the 10 months after the introduction of the revised policy, particularly in relation to risk factors identified in the literature
- whether there are any emerging trends in use, including 'mission creep' (the tendency for police to, over time, use Tasers in situations for which they were not intended)
- what monitoring and continuous improvement processes are in place in the QPS with respect to Tasers
- what recent advances have been made in international best practice, and whether there are any gaps in QPS policy and practices.

As the first formal review of QPS Taser use since the introduction of the revised policy and training, the CMC regarded this evaluation as a starting point that would provide baseline data for further monitoring and review.

Since the QPS would necessarily be the primary source of data in the first instance, we relied mostly on information from a range of QPS sources, including a formal submission, policies, procedures and training materials, consultations with officers, and QPS Taser usage data. We will consult more widely in future reviews of Taser use in the QPS.

Possible limitations of the data used in this evaluation include the potential for inaccuracies and incompleteness in the Taser usage data.

Key findings

We found that the QPS has demonstrated a firm commitment to implementing the 27 recommendations from the 2009 QPS–CMC review, investing considerable time and resources to do so. To date, 24 recommendations have been implemented, including all recommendations related to Taser policy and training. Progress continues on the three recommendations related to Taser monitoring and continuous improvement processes that are outstanding.

The introduction of the revised policy seems to have had some positive effect on how QPS officers are using Tasers. This is encouraging since even modest improvements, if sustained, can lead to substantial change over the longer term. For example:

- The frequency of Taser uses — particularly presentations and probe deployments — decreased considerably, and drive stuns now represent only a very small proportion of Taser uses.
- Most uses appeared appropriate in the circumstances, with no evidence of widespread misuse.
- There was some reduction in the proportion of people who were the target of multiple or prolonged Taser discharges.
- There was a noticeable decrease in Taser deployments against handcuffed people, with only two such deployments in the 10 post-policy months.
- The Taser usage data we examined provided no indication of mission creep in terms of officers using Tasers in less serious situations.

Nevertheless, some aspects of Taser use in the QPS continue to concern the CMC:

- Despite some improvements in this area since the revised policy was introduced, 40 per cent (28 people) of those who had a Taser deployed at them in the 10 months after the introduction of the revised policy were the targets of multiple and/or prolonged discharges. (Half of such cases involved two discharges.)
- Despite the revised policy highlighting the possible risks of Taser deployments against people in potentially ‘vulnerable’ or ‘at-risk’ groups, deployments since its introduction were generally *more* likely to involve a person suspected of having an underlying mental or physical health condition, or believed to be under the influence of alcohol or drugs. These findings are difficult to reconcile with the aim of the revised policy, though they might reflect the higher threshold for use and a possible increase in the seriousness of situations in which Tasers were used.
- Over 20 per cent of Taser uses were targeted at Indigenous people. Not only does this indicate that Indigenous Queenslanders are over-represented as subjects of Taser uses, but it also raises concerns considering Indigenous people are more likely to suffer from illnesses such as heart disease and lung disease that may place them at greater risk of harm following a Taser deployment.
- There are suggestions that some officers may increasingly be using the threat of the Taser to control situations without actually presenting or deploying the weapon (for example, drawing and holding the weapon at their side, or verbally threatening people with a Taser deployment). If these behaviours are indeed occurring, there would be concern about mission creep.
- Despite an initial reduction, the rate of possible Taser-related injuries or medical complications to subjects increased considerably over the 10 months following the introduction of the revised policy. This trend needs to be monitored, although such injuries are still relatively uncommon, affecting 11 per cent of people targeted by a Taser deployment (eight people in total). Half of these people sustained injuries after falling on a hard surface while incapacitated by the Taser.

In our examination of best practice policy, training and monitoring, we found that, in many areas, developments in other Australian and overseas jurisdictions have not advanced beyond existing QPS policy and practices. For example:

- QPS policy is consistent with most other policies in many of the restrictions it places on the use of Tasers, particularly against certain groups of people (for example, juveniles) and in circumstances where there is a risk of secondary injury from Taser-induced falls or where flammable materials are present.
- QPS training is longer and more comprehensive than that in many other jurisdictions, and incorporates scenario-based exercises to improve officers' decision making.
- Consistent with approaches in other jurisdictions, the QPS applies several layers of scrutiny to all Taser uses and has examined various other avenues to facilitate monitoring and continuous improvement.

However, in other areas, existing QPS policy, training and monitoring processes do not reflect suggested best practice in other jurisdictions. In particular:

- In comparison to other jurisdictions, the QPS policy specifies a medium-level threshold for Taser use, whereas some jurisdictions (for example, the Northern Territory, Victoria and the Royal Canadian Mounted Police) have elevated the threshold to the *imminent* risk of serious injury or harm.
- The QPS policy does not place restrictions on drive stun deployments as many other jurisdictions do.
- Trainee feedback is not sought as part of the evaluation and continued development of the QPS's training courses.
- One of the current training scenarios is rather 'black and white' in that a Taser deployment in the circumstances is clearly prohibited by the QPS policy. This arguably does not provide trainees with the best opportunity to develop their decision-making skills.
- There have been moves in other jurisdictions to ensure that all people who experience a Taser deployment receive a medical assessment from a qualified medical practitioner. No such protocol yet exists in the QPS.
- Monitoring and continuous improvement processes that are widely recommended and adopted in other jurisdictions — including regular audits of Taser download data, electrical output testing and monitoring reports on Taser usage — are not presently undertaken in Queensland.

We also identified some problems with the Significant Event Review Panels (SERPs) that review all Taser uses. These included possible deficiencies in decision-making processes; inconsistency and insufficient detail in reports; and the lack of a mechanism to collate their findings, share learnings throughout the QPS, and effect changes to policy, training and other practices. These problems need to be rectified to ensure that these review panels are able to drive QPS-wide organisational improvement. Some of these problems should be addressed through the QPS's proposed SERP Quality Control Committee, but further improvements are possible.

Our recommendations

Our recommendations are intended to address the areas of concern we have identified and bring the QPS further into line with suggested best practice.

Given our concerns about multiple and prolonged discharges, deployments against people from vulnerable groups and Taser use against Indigenous people, we believe it is particularly important for the QPS to:

- examine the feasibility of seeking mandatory medical assessments whenever a Taser is deployed against a person

- use the Post Arrest Risk Assessment (PARA) Scale as a way of determining whether a subject is at risk of adverse health effects and should be referred for additional medical treatment
- ensure that QPS Taser policy and training emphasise to officers that Indigenous people are more likely to have underlying health conditions that may place them in an ‘at-risk’ group when it comes to the effects of Taser deployments.

In addition to these efforts, we believe that the QPS should develop a community engagement strategy targeting people who have underlying health conditions that may place them at greater risk of physical harm from a Taser deployment. In doing so, the QPS should collaborate with non-government organisations and advocacy groups representing these people, such as the Queensland Alliance for Mental Health and the Aboriginal and Torres Strait Islander Legal Service (ATSILS). The ultimate aim of the strategy should be to decrease the likelihood that Tasers will be deployed against at-risk people.

We have also made several recommendations aimed at improving the SERPs. In particular, we believe that the quality of their decision making may be improved if:

- all review panels receive input from a person with expertise in police tactics and use of force
- all members are qualified in the use of Tasers
- the review panels consider information from other police at the scene or possible witnesses (in addition to the report from the officer concerned), as well as review any available objective evidence such as CCTV footage.

We believe that the QPS should examine the feasibility of these actions.

Our other recommendations are aimed at ensuring QPS policy and procedures are in line with suggested best practice, and addressing other areas for improvement identified.

Recommended improvements include:

- prohibiting the use of drive stun mode unless there are exceptional circumstances
- ensuring that trainee feedback is included as part of a program of ongoing evaluation of Taser training
- incorporating into Taser training more ‘grey area’ scenarios that will better assist officers to develop their decision-making skills
- placing specific emphasis in training on the risk of fall-related injuries to people standing on hard surfaces when a Taser is deployed against them
- ensuring that all instances where an officer draws their Taser to resolve a situation is subjected to the usual reporting and review processes
- conducting regular audits of Taser download data
- regularly testing the electrical output of Taser weapons
- providing annual monitoring reports on Taser usage to the CMC.

The CMC recognises that implementing some of our recommendations — particularly regular electrical output testing and the compilation of regular monitoring reports — will have resource implications for the QPS. We nevertheless believe that these improvements are important.

The way forward

Overall, the CMC sees some signs of improvement in how QPS officers are using Tasers, and no evidence of widespread misuse. Furthermore, Taser use in the QPS appears to be supported by policy, training and monitoring processes that are largely in line with suggested best practice. The QPS’s implementation of the recommendations of the QPS–CMC review and the reviews already undertaken by the QPS and the CMC demonstrate a continuing commitment to ensuring the appropriate use of Tasers.

Nevertheless, our interest in Taser use in the QPS does not end with this review. We have some ongoing concerns, which we will address in a further review to be commenced by the end of 2011. This will examine key concerns identified by this current evaluation, including Taser use against people from vulnerable groups, multiple and prolonged Taser discharges, and Taser monitoring and review processes. It will also consider any relevant issues arising from the coronial inquest into the death at Brandon, due to conclude later in 2011.

Along with the CMC's ongoing complaints and investigations functions, this review will help to ensure that Taser use in the QPS continues to be scrutinised, and that the associated policy, training and accountability frameworks fully reflect best practice.

Recommendations

We have made 21 recommendations based on our findings.

Recommendation 1

See page 13

That:

- a. the QPS Taser policy (Section 14.23 of the OPM) be revised to include clear definitions of relevant terms, specifically including 'use', 'deployment' and 'presentation'
- b. these terms be used consistently throughout QPS policies, guidelines, training materials and review reports.

Recommendation 2

See page 21

That the QPS consider incorporating scenarios in the revised 2012 Taser training courses that cover more of the 'grey areas' in relation to Taser use — that is, scenarios that challenge officers and help them to further develop their skills in decision making and conducting continual threat assessments.

Recommendation 3

See page 53

That the QPS:

- a. develop a short trainee evaluation form that officers can complete at the end of each Taser training course; the form should include enough questions to allow the QPS to assess trainees' views about the appropriateness and effectiveness of Taser training and to identify aspects of the training that might be improved, particularly in light of trainees' operational experiences
- b. ensure that trainee feedback is included in part of a program of ongoing evaluation of Taser training designed to ensure that QPS Taser training courses are current, relevant and consistent with best practice.

Recommendation 4

See page 56

That the QPS Taser policy (Section 14.23 of the OPM) be amended to explicitly prohibit the deployment of Tasers in drive stun mode unless exceptional circumstances exist.

Recommendation 5

See page 73

That:

- a. the QPS Taser policy (Section 14.23.3 of the OPM, under 'Deployment of a Taser') be amended to include the following statement after '(v) a combination of these factors existed': 'Officers should be aware that Indigenous people are more likely to suffer from underlying health problems such as heart disease, lung disease and other illnesses that may increase their risk of experiencing adverse health effects when a Taser is deployed against them.'
- b. the QPS Taser training be amended to address the above policy change.

Recommendation 6

See page 78

That the QPS Taser training specifically highlight for officers the risk of fall-related injuries to subjects who are standing on hard surfaces (such as concrete, gravel, roadways) when a Taser is deployed against them.

Recommendation 7

See page 82

That the QPS amend the Taser policy (Section 14.23 of the OPM) to require officers to report instances where they draw their Taser from the holster in the presence of a person to demonstrate a capacity to deploy the Taser as a use of force option, even if the Taser is not pointed in the direction of a person.

Recommendation 8

See page 83

That the QPS examine the feasibility of seeking a medical assessment by a qualified medical practitioner for any person who has a Taser deployed against them.

Recommendation 9

See page 83

That the QPS amend the OPM to require any person exposed to a Taser deployment to be assessed by an officer according to the Post Arrest Risk Assessment (PARA) Scale immediately after being restrained.

Recommendation 10

See page 84

That the QPS develop an updated community engagement strategy for Tasers in light of the significant changes that have been made to policy, training and monitoring processes since the initial Taser rollout. The strategy should:

- target people who have underlying health conditions that may put them at greater risk of physical harm from a Taser deployment
- be developed in consultation with peak bodies — including non-government organisations and advocacy groups such as the Queensland Alliance for Mental Health and the Aboriginal and Torres Strait Islander Legal Service (ATSILS) — to determine the most appropriate and effective ways of engaging with different parts of the community.

Recommendation 11

See page 91

That Section 14.23.10 of the OPM be modified to allow any appropriate supervisor, preferably a Commissioned Officer, to fulfil the responsibilities currently allocated to OICs only.

Recommendation 12

See page 92

That the QPS Taser policy (Section 14.23.20 of the OPM) be modified to state: 'All incidents involving the use of a Service Taser will be reviewed by the relevant Chief Superintendent, who is to consider any use of a Taser within 72 hours of the event.'

Recommendation 13

See page 94

That the QPS examine the feasibility of requiring all SERPs to include a standing representative who is a qualified Operational Skills and Tactics instructor.

Recommendation 14

See page 95

That the QPS examine the feasibility of requiring all SERP members to be operationally trained in the use of Tasers.

Recommendation 15

See page 95

That the QPS examine the feasibility of integrating alternative perspectives into SERP deliberations.

Recommendation 16

See page 96

That the SERP minutes template being developed by the QPS capture sufficient information about SERP processes and deliberations to allow the SERP Quality Control Committee to effectively monitor the SERPs' activities and decisions. At a minimum, the minutes should note for each matter considered by the SERP:

- the specific comments made by the Regional Education and Training Coordinator, Professional Practice Manager and Operational Skills and Tactics instructor (if applicable)
- any other substantive comments from individual panel members noting concerns or good work
- a conclusion and/or recommendation that highlights the substantive issues considered by the SERP and provides a specific assessment of the individual incident.

Recommendation 17

See page 98

That the QPS Taser policy (Section 14.23 of the OPM) be modified to require station OICs to ensure that data are downloaded from all station Tasers and a sample of the data is cross-checked against the Taser register and reported Taser deployments at least every six months, with a view to identifying any unreported deployments.

Recommendation 18

See page 99

That the SERP Quality Control Committee to be established by the QPS disseminate findings and trends from SERPs across the service where relevant so that individual regions and commands are aware of important usage trends, innovations and activities emerging in other areas.

Recommendation 19

See page 101

That, subject to independent testing to ensure the accuracy of the device, the QPS purchase CEW Electrical Testing Units. Once acquired, the QPS should ensure that electrical output testing is conducted:

- on every Taser before it is put into training or operational use
- annually on a sample (at least 10%) of all Tasers in the QPS's inventory (ensuring geographical representation)
- where a person has died or suffered serious injury after being exposed to the effects of a Taser.

The purpose of these tests should be to ensure that the weapons are operating within the technical parameters specified by the manufacturer.

Recommendation 20

See page 102

That the QPS's Operational Research and Advisory Unit be tasked to maintain a watching brief for future developments in CEW technology, with a particular emphasis on ensuring that the QPS uses the most operationally effective, safe and accountable technology. In particular, the QPS should continue to seek a weapon that has the ability to record trigger pulls, limits the length of cycles and restricts the number of times that the weapon can be cycled during an individual incident.

That the QPS:

- a. provide annual monitoring reports on Taser usage by QPS officers to the CMC; the monitoring reports should at least include analysis of:
 - aspects related to mission creep:
 - the number of operational Taser uses, both in total and according to the nature of the use (that is, presentation, probe deployment, drive stun deployment, probe and drive stun deployment)
 - the percentage of Taser uses that involve a subject who reportedly posed a risk of serious injury
 - the kinds of situations and subject behaviours that Tasers are used in response to
 - the percentage of Taser uses that are judged appropriate by the SERP
 - aspects related to the use of Tasers in ways that may increase the risk of subjects experiencing adverse health effects:
 - the percentage of subjects against whom a Taser is deployed who are the target of multiple and/or prolonged discharges
 - the percentage of Taser uses that involve a subject who was previously sprayed with OC spray
 - the percentage of subjects with a suspected underlying mental and/or physical health condition
 - the percentage of subjects suspected to be under the influence of alcohol and/or drugs
 - the percentage of subjects who are Indigenous
 - the percentage of subjects against whom a Taser is deployed who sustain a possible Taser-related injury or complication
 - the number of accidental Taser deployments.

Each of the above areas should be examined with a view to identifying any trends over time.
- b. report the number of Taser uses (in total and according to the nature of the use) each year in the QPS Annual Statistical Review.