



School of Law
UNIVERSITY OF GEORGIA

Digital Commons @ Georgia Law

Popular Media

Faculty Scholarship

1-8-2014

Electroshock Injustice: Fatal and Non-Fatal Taserings By Police

Donald E. Wilkes Jr.

University of Georgia School of Law, wilkes@uga.edu

Lauren Farmer

Repository Citation

Wilkes, Donald E. Jr. and Farmer, Lauren, "Electroshock Injustice: Fatal and Non-Fatal Taserings By Police" (2014). *Popular Media*. 187.

https://digitalcommons.law.uga.edu/fac_pm/187

This Article is brought to you for free and open access by the Faculty Scholarship at Digital Commons @ Georgia Law. It has been accepted for inclusion in Popular Media by an authorized administrator of Digital Commons @ Georgia Law. [Please share how you have benefited from this access](#)
For more information, please contact tstriepe@uga.edu.

Electroshock Injustice

Fatal and Non-Fatal Taserings By Police

By [Donald E. Wilkes, Jr. and Lauren "Elle" Farmer](#)

At least 618 people have died after being tasered by American police from 2001 to Oct. 13, 2013. After years of research we have established a [website which catalogues these fatalities](#).

We have examined virtually every news report we can find about taser incidents, most of which are not fatal, but many of which, perhaps even a majority, are frightening abuses of authority and exercises of violent power.

Tasers are electroshock weapons which disable persons by a combination of extreme pain and muscular disruption. "Taser" itself is a brand word, like Kleenex or Band-Aid. Tasers are referred to with a multitude of Orwellian euphemisms both in the press and by law enforcement organizations: "stun weapons," "stun guns," "electronic control devices," "conducted-energy devices," and "conducted-energy weapons," that "[administer] an electrical shock" and that utilize an "electro-muscular-disruption technology." In this article we will use a few names interchangeably, including "electroshock weapon," and most often simply "taser." The word "taser" is nowadays also used as a verb.

Sixteen thousand United States law enforcement agencies—89% of all American local, state and federal police forces—issue tasers to their officers.

Originally conceived and accepted on the premise of its being a rarely-used weapon for extreme circumstances, the Thomas A. Swift Electric Rifle—whose acronym is "taser"—is now used by police in a wide range of situations: on [Alzheimer's patients who wander out of nursing homes](#); on [college students asking questions of political leaders](#); on [cyclists who refuse ridiculous orders not to ride their bikes](#); on [pregnant women who refuse to sign traffic tickets](#); on [pregnant women trying to regain custody of their young children](#); on [72-year-old women who refuse to sign speeding tickets](#); and on [fathers holding their newborn children when the family tries to leave the hospital](#). Police have used tasers on pregnant women multiple times (to some media attention and public disgust), over [parking tickets](#) and speeding tickets, and [when they respond to the scene of fender-bender accidents](#).

Police officers have become so desensitized to administering taser electroshocks that they have been heard to say such things as "it's taser time!" shortly before they taser a citizen.

Unbelievably, some police departments now make people they shock with a taser pay the costs of the tasing!

It is now apparent that police regularly apply tasers to any situation where they perceive themselves not to have absolute control over the other people present. These cases often occur where women (especially women or girls of color) are not immediately passive in the face of police officers—perhaps they curse, or refuse to sign a ticket, or get angry and shout, or none of those things—but the police response is increasingly to inflict electroshock violence on people who don't submit to their authority as soon as the police demand they do so.

While it was impossible to find concrete data on the frequency with which police taser men of color, our extensive observations lead us to conclude that African-American men and Latino men are tasered (both fatally and nonfatally) at a disproportionate rate. This conclusion is also commensurate with the well-documented rates at which American police apply other forms of violence against people of color.

All over the country tasers are now the go-to weapon police use in any situation where they decide that someone is acting disrespectfully or inappropriately or out-of-line. On Aug. 3, 2013 in Wrightsville, PA police tasered a man during a traffic stop [when he tried to comfort his child in the back seat](#). Last June 19, [Nebraska police held tasers against the hearts and necks of Oglala Lakota activists](#). Last June 18, police in New Hampshire [tasered an unarmed heckler](#) at a political rally. Last June 10, police in Illinois [fatally tasered naked Mark Koves in a park](#). Police in Florida [tasered naked Thomas Edwards for alleged spitting at an officer](#). In Colorado they repeatedly tasered a man lying naked on the ground at a music festival, [shocking him at least three times, even after paramedics arrived](#), in front of a crowd angrily denouncing their conduct. [An Orlando, FL police officer tasered a young black man for the offense of holding out his arms](#) after the officer shoved him twice on camera. In 2008 an NYPD lieutenant [caused a man to fall 10 stories to his death](#) after tasing him for threatening suicide on a building ledge. In September 2011, [Arizona police tasered a mentally-ill man with his hands already up](#).

An “off-duty” Syracuse, NY police officer moonlighting as a security guard [tasered a disabled man for holding onto a standing safety pole on a transit bus](#); he dragged the man off the bus, breaking his hip, and then tasered him again. Rehoboth Beach, DE police officers tasered a man with his hands in the air [for refusing to talk to them and then tasered him at least four more times](#) once he was handcuffed on the ground.

Police now regularly use tasers on children, [like the 10-year-old boy who refused to clean an officer's car](#) at his school's career day; on [middle-school girls who get into fights](#); and on [“non-compliant” 10-year-olds having tantrums](#); police have become so inured to using the weapon on minors [that they will “demonstrate” them on teenagers at birthday parties](#).

When police use tasers on people there are often consequences beyond the fact of administering a painful, debilitating electrical shock. They cause people to lose control of their muscles and to convulse and collapse; they probably caused Alejandro Sanchez-Escoto to [fall to his death off a highway overpass](#). Police and guards regularly use tasers on “unruly” prisoners and inmates, like 20-year-old Danielle Maudsley, who tried to flee from a police station while already handcuffed and now lies brain-dead in a persistent coma caused by striking her head on the ground after the electroshock. Law enforcement officers also see no problem in tasing people who are already physically restrained, as when [two Idaho police officers threatened to taser a handcuffed man in the anus and genitals after already having tasered him](#); or when jailers tasered a prisoner who was already [tied into a “restraint chair”](#) (another frightful coercive device widely used against prisoners in jails). The combination of tasers and extreme restraints [happens frequently](#), and [this has been going on](#) across the country [for many years](#).

[Police cornered non-violent Robert Guerrero in a closet](#) and tasered him five times in under a minute, killing him; police [tasered a handcuffed James Borden six times](#), killing him; police tasered 18-year-old Antonio Wheeler twice [while kneeling on his chest as he was strapped to a hospital bed](#) and having a catheter forcibly inserted into his penis. Two police officers [tasered the naked Samuel DeBoise seven times in 97 seconds](#), then knelt on his chest until he was dead on his own front lawn; two police officers electroshocked [Emily Delafield, who was wheelchair-bound and having a schizophrenic episode](#), 10 times for a total of 165 consecutive seconds, killing her; and police tasered Maurice Cunningham, while he was having a psychotic episode, five times for six to nine seconds each time, then followed with a [single continuous shock lasting two minutes and 49 seconds](#) that killed him.

(Here in Georgia police across the state are armed with tasers and possess a willingness to use them on virtually anyone, of any age, that they deem uncooperative or unsavory.

[George Harvey died in front of his children on June 29, 2013 when three sheriff’s deputies in Augusta](#) shocked him, all of whom [were cleared of wrongdoing by the GBI only 10 days later](#); last June 21, [Alpharetta police tasered a teenager fleeing arrest for “shouting obscenities” and “exposing himself”](#) to officers; Georgia police have tasered school children for being disobedient: [in 2010, Savannah police tasered and kicked in the teeth of an autistic teen](#) who “seemed drunk.” Also in 2010, Richland police [tasered a school teacher multiple times for calling the police](#) after someone broke into her home; in 2011, College Park police [sent a mentally disabled man with the mind of a small child to the hospital for two weeks](#) after tasing him while he was standing peacefully in his own front yard with his hands in his pockets. Our research has documented 17 fatal police taserings in Georgia since 2003, nine of which occurred in the last six years.)

Perhaps equally as disturbing is the knowledge that police officers regularly taser people multiple times in a single incident; and perhaps equally prevalent are incidents where multiple police surround and taser a single individual one or more times. These incidents are especially troubling because tasers can be applied to a person in the “drive stun” mode (placing the head of the taser against someone’s body), permitting the victim to be shocked multiple times until the officer stops depressing the trigger.

In his 2012 *UCLA Law Review* article, "[Shocking the Conscience: What Police Tasers and Weapon Technology Reveal About Excessive Force Law](#)," Aaron Sussman describes how tasers function: “Tasers can be deployed in either dart mode or drive-stun mode—a property raising legal questions that continue to vex courts and commentators. In dart mode, compressed nitrogen is used to propel two barbs with enough force to penetrate two inches of clothing, at which point an electrical pulse of fifty thousand volts is delivered to the target’s body for either the standard five-second duration or however long the officer chooses to depress the trigger. The electrical current causes involuntary muscle contractions on the body mass between the two barbs, which lodge in the body an additional thirteen inches apart for every seven feet of distance between the shooter and the target.”

As documented above, police now frequently use tasers on people who they say are “non-compliant” or “refuse to follow orders” or are “uncooperative.” What police officers *actually* mean is that they regularly use tasers on people who do not show them what they believe to be the appropriate level of respect, deference or docility. This leaves open the question of just how often, in situations where police shock people with tasers more than once, the “refusing orders” line of thinking is applied to people who, after tasing, are rendered physically incapable of doing anything other than falling to the ground and convulsing violently.

Sussman further notes: “In drive-stun mode, the taser is pressed against the subject’s body, which causes a painful current to run through the specific body area to which the taser is applied but does not cause neuromuscular incapacitation. In some instances, a taser in drive-stun mode can cause permanent burn marks and scars. In both modes, tasers inflict pain that has been described in the severest of terms.”

The above quote brings us to one of the unacceptable and frightening ways in which tasers are used: pain-compliance. Benjamin Whipple wrote in a 1991 *San Diego Law Review* article, "[The Fourth Amendment and the Police Use of 'Pain Compliance' Techniques on Nonviolent Arrestees](#)": “‘Pain compliance’ is a catch-all phrase used to categorize a variety of pain-inducing techniques available to officers to ‘persuade’ an uncooperative arrestee [or other person] to comply with their demands.” Pain-compliance, wrote one reporter, “[\[t\]hat's a euphemism for inflicting pain to get someone to do what you want.](#)” There might be a few rare situations where tasing a citizen to force him or her to obey a police officer’s command would be

acceptable, but our studies convince us that police wildly overuse tasers as a pain-compliance device. We are now in a situation where police use of painful electric shocks, or threats of painful electric shocks, to coerce citizens to obey police orders, is vastly out of control. The only way to prevent this, absent abolishing all police use of tasers, is to prohibit police use of tasers as a method of pain-compliance—to forbid police from electroshocking citizens or threatening to electroshock them, when the sole purpose of the police conduct is to compel the citizens to follow a policeman’s orders. What can be said about a nation that continues to permit law enforcement officers to force citizens to obey their orders by administering painful, paralyzing electrical shocks to those citizens?

Most people don’t even realize that the famous videotaped 2007 tasing of Andrew Meyer, an excitable 21-year-old student at the University of Florida, is a textbook example of inappropriate use of tasing for pain-compliance purposes.

Then-Sen. John Kerry was giving a speech; during the period allotted for questions Meyer went to the microphone and began asking his questions excitedly but nonviolently. Within a few minutes he was grabbed by two, then three, then four police officers and dragged away from the microphone. In the video he tries to get away from their grasping hands a few times and is subsequently tasered while lying on the ground unarmed, partially handcuffed and surrounded by four armed officers, because he is not submitting to handcuffing. Meyer shouts the much-parodied “Don’t tase me, bro!” shortly before he is tasered.

There are on the Internet, particularly YouTube, numerous videos of police tasing citizens, and we urge our readers to take a look at them and see for themselves how police abuse their power to deploy electroshock weapons.

We have seen that police and jail guards are more than willing to deploy their tasers on people already restrained, even to chairs which lock down every part of their body. What possible word exists for conduct intended to punish people for disobedience, to cause them pain “described in the severest of terms,” when they are unable to resist and have no ability to escape? The word for that conduct is torture. *Torture*.

No less than an institution than the United Nations Committee Against Torture, the body charged with overseeing international agreements banning torture, labeled electroshock weapons as such, saying [“The use of these weapons causes acute pain, constituting a form of torture.”](#)

It should be noted here, if only briefly, that nearly all the police misconduct involving use of tasers which we have examined is never redressed in the court system. Criminal prosecutions of police officers who abusively use tasers on citizens are extremely rare—and when they occur may often result in acquittals.

Few citizens are in a position to sue police for damages after being abusively tasered, and if they do file a law suit they find the state of the law favors the power of law enforcement officers over the rights of citizens, making it extremely difficult to prevail. The citizen must hire an attorney, whereas police are represented without charge by government attorneys. The federal courts, including the United States Supreme Court, act on long-standing institutional biases which favor government arguments and government agents of all types.

In the last several decades these courts have erected substantive and procedural legal rules which make it surprisingly difficult for a citizen whose rights have been violated to sue and obtain damages. The Fourth Amendment, which is supposed to restrict the power of police, has been so weakened and watered down by right-wing judges that much police misconduct—including misconduct involving use of tasers—is no longer constitutionally protected against. Under the doctrine of qualified immunity, which is designed to protect police against lawsuits, including police who act unlawfully, you cannot obtain damages even if police did violate your rights unless the right was clearly established. Under recent decisions, the courts have expanded the qualified immunity doctrine so that it now protects “all [police] but the plainly incompetent,” and so that police misconduct can no longer be redressed with damages unless legal precedents make the question of the misconduct at issue “beyond debate.”

It is rare for police officers to be administratively disciplined by their departments for abusive use of tasers, and any administrative punishment is usually little more than a slap on the wrist.

Our own research has revealed many troubling aspects of what happens when police use tasers on people. One of the most striking is the language that police spokespeople, police officers, and reporters use when purporting to explain, or when writing reports about, questionable fatal or nonfatal incidents involving police deployment of tasers.

Many of the news reports do little else besides repackage whatever was written in an officer’s report of the incident or was contained in the statements made by police department spokespersons. Frequently the police explanations, as well as the news reports, contain the phrase “[the suspect] *became combative*,” or “*became violent*” or “*behaved in a threatening manner*” or “*continued to resist officers*” or “*refused to follow [officer’s] orders*” or “*refused to leave their car/home/apartment/business/public place*” or “*attacked/lunged at/struck officer.*” This boilerplate phraseology appears hundreds of times, in various combinations, in most of the reports we have read—and almost all of them appear to be centered around framing the officer’s actions as not only completely justified, but even laudable. These phrases are *intentionally* vague or legally conclusory, because they give police officers a wide berth in justifying their conduct to review boards, lawyers, judges, and victim’s families.

In videos of police taserings we have often seen [groups of police gathered around a suspect](#) lying on the ground, usually with one or more officers holding them down as police officers demand the person “*stop resisting*” while repeatedly tasering them.

The specific phrasing in police accounts of what happened when they tasered a citizen does come with some variation, but the word “combative” appears with astounding regularity—and according to police versions of events their use of a taser in a situation that ended with a suspect or inmate dead or comatose or otherwise seriously injured always appears to be justifiable. These types of conclusory statements are non-factual assertions of justifiability which police make in order to shield themselves from criminal or civil liability, and to placate the public conscience in the face of ever-mounting police violence against the citizenry. The press faithfully reproduces these statements—often taken verbatim from police reports or press releases and printed as gospel truth—with little context or critical analysis of past conduct by police on use-of-force issues. It is as though each new incident is a first occurrence of its type, with no recognizable patterns or similarities. We write now to dispel that dangerous assumption.

The unique, extreme pain caused by tasers often leads victims to have strong, almost primal responses to this form of torture. As Sussman writes, “the strangeness of the pain caused by a taser—that is, the fact that a taser’s incapacitating cycles of electrical current are unlike anything most people have experienced—exacerbates fear because the brain does not know the extent of the bodily threat. Moreover, failing to suppress the instinctual ‘urge to escape [the pain]’ in this context is usually a criminal act (resisting arrest) and will likely result in further pain (being subdued by officers), thus creating an internal conflict that can trigger panic and enhance the experience of pain and fear.” Many victims of nonfatal police taserings have spoken of the severe pain they experienced when tasered.

Therefore many people, even if they were initially “behaving in a threatening manner” for whatever reason, are reduced to some of the most basic aspects of their humanity—deep fear of intense pain and attempts to make the pain stop and/or to flee. It is akin to if, instead of tasers, police kept lions on chains and unleashed them on people, all the while shouting at the suspect to “stop resisting” while the lion pinned them to the ground and clawed at their chests.

As the number of police carrying these electroshock weapons has grown (almost to saturation at this point, in the United States) so has their use on people who police find to be uncooperative. Following this increase, the last 12 years have seen a dramatic rise in the number of people who die immediately or shortly after police taser them.

It is almost impossible to find the necessary numbers for comparison, because as a rule police departments do not keep or distribute records of taser use, or taser-related deaths; neither

does either the Bureau of Justice Statistics (BJS) or the FBI, the federal agencies that keep the widest range of data on crime and criminal law enforcement procedures. It is truly incredible that the government does not keep official statistics on American police use of tasing.

The BJS, the FBI and state and local police agencies should and must be required by law to collect and make available data on the entire breadth of issues relating to police use of tasers, including how many people *are* tasered; how many people die or suffer serious physical injuries after being tasered; how many people are hospitalized after being tasered; how many times people are tasered in a single incident; how frequently citizens are tasered, or threatened with tasing, for pain-compliance purposes; how many people are charged with resisting arrest after being tasered; how often police are criminally prosecuted or administratively disciplined for improper use of tasers; and how often police officers are civilly sued, and with what results, for illegal use of tasers. Currently none of these statistics exist except to the limited extent researchers like us have compiled them.

It strains credulity to believe that this gaping data-hole is the product of error or oversight; rather, it reflects an intentional unwillingness on the part of these agencies to provide objective information which, should it become known to the public, might lead to restrictions on the use of one of their favorite instruments for inflicting physical pain to instill obedience. *The absence of official statistics on police use of tasers bespeaks a deep-seated institutional determination to obscure and downplay abuses of power by the law enforcement establishment.*

These electroshock weapons are dangerous and inflict severe physical pain; these weapons have resulted in hundreds of deaths; and the weapons can be abused with near impunity by the sadistic or authoritarian-minded. Our government agencies have an absolute duty to the public to collect and disseminate comprehensive data about the weapon's use.

Because of the government inaction we have described, almost all the data on the specific topic of fatal taserings of Americans by our police has been compiled by academics or private researchers.

One website, [TruthNotTasers](#) has dedicated itself to documenting fatal taserings by American police. Their data puts the total at over 800.

Another website, [Electronic Village](#), has documented 545 fatal police taserings since 2001.

Amnesty International [published a report in 2008](#) stating that between 2001 and 2008, 351 people died in the United States after being shocked by police with electroshock weapons.

Our data, compiled during three years of intense research primarily via news and media reports, shows 618 deaths resulting from police taserings between 2001 and October 13, 2013.

Our investigation reveals that many people die within minutes, hours or days of being electroshocked with a taser. Some *go into cardiac arrest*; some *fall off highway overpasses or buildings or out of windows*; some *collapse and hit their head on the pavement or a curb*; some *“stop breathing”* or are *“discovered”* to be *“unconscious”* or *“become non-responsive”* or *“turn blue”* as the first signs of their distress. Whatever the discrepancies among private researchers concerning the exact number of deaths that have been caused by police use of tasers, it is clear that over the last dozen years there have been hundreds of taser-related deaths. *Hundreds of people have died unexpectedly, suddenly, or shortly after being electroshocked by American police with a supposedly nonlethal weapon.*

Because it is dangerous to the health of human beings for them to be subjected to painful electroshocks, and because serious physical harm resulting from an electroshocking is not always immediately apparent, every person tasered by police should promptly be taken to a hospital. That this practice is not followed is another manifestation of the evils of the current system under which police use tasers. Many fatal taserings might have been avoided, we believe, if the victims had been immediately taken to an emergency room.

Taser electroshock weapons are said to be “nonlethal” or “less than lethal” (as opposed to lethal) weapons. But this does not mean they may not result in fatalities. “The term ‘nonlethal’ refers to the goal, which is to avoid fatalities,” [Lt. Col. James C. Duncan wrote in his article on nonlethal weapons, published in the Naval Law Review in 1998](#). “The public should be aware that the use of a nonlethal weapon always raises the possibility of serious injury, death, or destruction of property.” (As for destruction of property, taser use has sometimes started fires.)

Our research leads us to the conclusion that the current system of police use of tasers is intolerable and in need of immediate reform. We conclude that the only realistic, adequate way to bring an end to the evils of the current system is to take one or the other of two alternative reform steps.

The first possible reform would be simply to forbid—effective immediately—any further use of tasers by police, on the grounds that experience has demonstrated that police simply cannot be trusted to not abuse their powers in the way they deploy the electroshock weapon. Use of tasers by police would be permanently prohibited.

The other possible reform would be to immediately declare a nationwide moratorium on police use of tasers and to permit police to again use tasers only after the following: (1) the carrying out of extensive and impartial scientific and medical studies on the dangers and consequences for human beings of using tasers to administer painful, paralyzing electrical shocks; (2) the passage of nationwide legislation restricting, regulating and establishing strict standards governing police use of tasers (which would necessarily include a flat prohibition on use of

tasers for pain-compliance purposes); and (3) the implementation of nationwide programs for training and educating police about the proper and the forbidden uses of tasers.

Having done research which has revealed the appallingly frequent cruelties committed by American police in their taserings of citizens and having catalogued hundreds of unnecessary and tragic deaths resulting from police taserings, we favor the first reform.

Donald E. Wilkes, Jr. is a Professor of Law Emeritus at the UGA School of Law.

Lauren "Elle" Farmer is an attorney and activist in Athens, Georgia.