

CITY OF MADISON
INTER-DEPARTMENTAL
CORRESPONDENCE

DATE: April 1, 2005

TO: Members of the Public Safety Review Board

FROM: Noble Wray, Chief of Police

SUBJECT: **Police Department Report – Resolution File Number 00572**

As you know, Resolution #00572, sponsored by Alderpersons Andrew Heidt, Jean MacCubbin, and Judy Olson, was introduced to the Common Council on February 22, 2005. Resolution #00572 requested that the Madison Police Department cease the use and rescind the authorization to purchase Tasers until such time as their safety can be confirmed or alternative devices of proven safety and effectiveness can be utilized.

The resolution was referred to the Public Safety Review Board as lead, as well as the City Attorney's Office and Police Department. The Public Safety Review Board placed the item on its March 8, 2005 meeting agenda; however, it delayed final action until the report of the City Attorney and Police Department had been submitted. The Public Safety Review Board has placed the issue on its meeting agenda for April 12, 2005.

The Madison Police Department has utilized Taser technology since 2003, when a small number of Tasers were deployed. The Department has provided an annual report on use and experience with Tasers to the Public Safety Review Board since the introduction of these devices. The first report was presented on May 12, 2003, and the second report was presented the following year, on May 11, 2004.

Since the inception of this program, the Department has monitored usage of the devices, upgraded to a newer version of the technology, and amended Department policy and training regarding authorized use of Tasers.

While Tasers have been in use by authorized Department personnel since 2003, a deployment in January of this year, involving an Educational Resource Officer and a juvenile at a local high school, served as a catalyst for local debate regarding the use of Tasers by Madison Police Officers.

In the aftermath of that event, the Department took a series of steps to address community concerns and provide information to the public. These include the following:

- Conducted two separate press conferences to share information.
- Circulated a comprehensive report on the use of Tasers.
- Responded to a series of open records requests.
- Initiated on-going discussions with the Madison Metropolitan School District.
- Submitted a written request to the Wisconsin Department of Justice, Training and Standards Bureau, requesting the creation of a uniform statewide policy for law enforcement on Tasers.
- Accepted feedback from community members through a number of different venues.

- Lt. Wahl, a certified Taser instructor, appeared on public radio and television to discuss Tasers and answer questions.
- Conducted a Community Forum on Tasers on March 2, 2005 to present information and receive public input on Tasers.
- Department staff attended the Public Safety Review Board meeting on March 8, 2005 to discuss Tasers, answer questions and hear public comment.
- Convened Department Management Team meetings to discuss Department policy on Tasers.

The public discussion and input has been valuable and reflects my commitment to continue to engage the community in an open dialogue with police about important issues. The community has high expectations of our Department, and we remain committed to providing highly skilled and professional police officers that have the maturity and wisdom to police Madison in a manner that the public has been accustomed to. I also recognize that there are a number of underlying issues and trust gaps that exist within the community, and we will continue to work in earnest to overcome them.

I want to make it clear that we believe that the Taser is a device that has proven to be a safe and effective use of force tool. We believe that Madison Police Officers have deployed the Taser in an appropriate manner and that the deployment of the Taser has reduced injuries to officers and suspects resulting from use of force encounters. The Department's use of the Taser has also reduced the use of deadly force by Madison Police Officers.

It is incumbent upon law enforcement to be accountable to the community and to review and improve upon police practices as a matter of routine. After careful review and consideration, I am prepared to take a series of steps with respect to the Department's use of Taser technology. This decision is based upon our own research and experience, a review of other scientific and medical research, and discussions with certified law enforcement trainers. It also takes into account the input that we have received from the community and the discussions that I have held with the Management Team of the Police Department. Additionally, I have reviewed the policies of a number of other law enforcement agencies and considered the commitment on the part of the Wisconsin Department of Justice to adopt a uniform statewide policy on the use of Tasers by law enforcement. Subsequently, I am prepared to take the following action:

- Post Madison Police Department use of force data on the Department website in 2006.
- Continue to monitor and evaluate scientific and medical research on Tasers.
- In the future, improve Taser accountability by requiring Taser data to be downloaded each time a Taser is used in the field.
- Provide Department-wide training on Excited Delirium and in-custody death.
- Provide additional training to Taser-certified Officers regarding use of force decision-making, and share and review our experience with Taser technology.
- Provide annual training to Police Officers on defense and arrest tactics and use of force decision-making.

Madison Police Department Policy 6-200, "The Use of Non-Deadly Force," has been modified to reflect the following changes:

6-200 Degrees of Non-Deadly Force

This provision states "Officers shall only use the degree of force reasonably believed to be necessary to control a situation considering the following factors:"

- 1) The existence of alternative methods of control.
- 2) Physical size, strength, and weaponry of the person as compared to the officer.
- 3) The nature of the encounter.
- 4) Actions of the person.
- 5) Exigent conditions (i.e., the availability of backup, number of persons involved, etc.).

These three factors have been added to the provision:

- 6) **The severity of the offense.**
- 7) **Whether the suspect poses a threat to the safety of the officer or citizens.**
- 8) **Whether the suspect is actively resisting arrest or attempting to evade arrest by flight.**

Intervention Options

Taser use in the Intervention Options matrix had been placed at a level higher than passive countermeasures and just below active countermeasures. Active countermeasures are used to create dysfunction through the use of focused strikes by the officer, to overcome violent/assaultive behavior or its threat. **The use of a Taser by MPD Officers has been elevated on the Intervention Options matrix to the level of active countermeasures. The Taser Use policy with the amendments highlighted, is as follows:**

- 1) An approved Taser device may only be utilized by officers who have successfully completed training in its use. Deployment and use of the Taser will be in accordance with departmental training and procedure.
- 2) The Taser is not a substitute for deadly force—in cases where a subject is believed to be armed with a dangerous weapon, an officer may not arm him or herself with a Taser unless another officer at the scene has the immediate ability to deliver deadly force. Officers armed with a Taser should continuously monitor and evaluate the ability of other officers present to deliver deadly force.
- 3) **An officer may only display, present, or threaten to use the Taser if the officer reasonably believes that the potential for its authorized use exists.**
- 4) Deployment of the Taser will be evaluated using the criteria in this policy and within the framework of the State of Wisconsin's Use of Force Intervention Options. **The Taser may only be used under the following circumstances:**
 - a. **To overcome violent or assaultive behavior or its threat.**
 - b. **To control persons in order to prevent them from harming themselves or others.**

- 5) **Use of the Taser under the following circumstances is prohibited, unless exigent circumstances are present:**
 - a. **Against handcuffed subjects.**
 - b. **Against subjects fleeing on foot.**
 - c. **Against subjects operating a motor vehicle.**

- 6) **The Taser will not be used under the following circumstances:**
 - a. **For coercion or intimidation.**
 - b. **To escort or prod subjects.**
 - c. **To awaken unconscious or intoxicated subjects.**
 - d. **From a moving vehicle.**
 - e. **Against subjects who are offering only passive resistance.**

- 7) Taser probes may not be intentionally fired at the face, head, neck or groin unless deadly force would be justified.

- 8) Officers shall evaluate all subjects against whom the Taser has been deployed, and should provide emergency medical treatment if needed or requested. If the Taser probes have penetrated the skin in a sensitive area (head, neck, groin or breast of a female), the subject will be conveyed to an emergency room for removal. If the probes are embedded in non-sensitive areas, a trained officer may remove them.

I have attached a copy of the amended Department policy for your review. I am also providing a copy of a report that was distributed on March 29, 2005 by the Potomac Institute for Policy Studies. The report is entitled "Efficacy and Safety of Electrical Stun Devices." I believe that you will find the information in this report useful and informative.

While the Madison Police Department is prepared to take the action that I have outlined, I wish to make it clear that the Madison Police Department is opposed to the adoption of Resolution #00572. I believe that the response that I have articulated is responsive to the community and sensitive to the needs of the Department in fulfilling its law enforcement mission.

Noble Wray
Chief of Police

Enclosures

cc: Mayor Cieslewicz
Common Council