

# Brief Research Findings on Tasers

March 2020



## Background

According to a recent news report, the Hong Kong Police Force (HKPF) is considering the introduction of tasers as part of the police's general equipment in response to protests. Such guns are said to be able to make the targeted person feel dizzy, thereby making it more difficult for him or her to resist the police and facilitating the control of the person. Secretary for Security John Lee Ka-Chiu did not give a direct answer when he was questioned about this in the Legislative Council meeting on 15 January 2020. He stated that the Security Bureau would support any measures that could help "handle rioters' violence" more effectively and would reduce the risk of injuries to both sides.<sup>1</sup> In the Central and Western District Council meeting on 16 January 2020, Commissioner of Police Chris Tang Ping-keung admitted that HKPF was studying the introduction of various weapons to replace live rounds to reduce the overall level of force used. He did not confirm whether tasers will be introduced<sup>2</sup>.

In the 2020-2021 Budget, the budget for the HKPF to purchase specialist supplies and equipment, including guns and ammunition, will increase nearly two times to over 610 million Hong Kong dollars<sup>3</sup>. Whether the expenses would be used on the purchase of tasers was not stated in the documents.

According to a news report, a source claimed that tasers will only cause deaths or serious injuries to 13.1 persons for every one million people. In some cities in the United States, tasers are even classified to be lower than the baton and the same as pepper spray in terms of the level of force.<sup>4</sup> Nonetheless, the use of tasers has been controversial internationally. People have been killed by tasers. In accordance with the principles on the use of force, the police can only use the minimum, necessary force and stop once the objective is achieved. However, since the series of conflicts triggered by the anti-extradition bill movement in June last year, the Hong Kong Government has been using HKPF to deal with political issues and relying on force to suppress protests and assemblies. The Hong Kong Government has failed to carry out its responsibility to facilitate the exercise of the right to hold and participate in peaceful assemblies under international human rights law and local law- such responsibility has been confirmed by the Hong Kong Court of Final Appeal.

- 1 "Support to arm cops with new weapons" The Standard, 15 January 2020. Available at <https://www.thestandard.com.hk/breaking-news/section/4/140150/Support-to-arm-cops-with-new-weapons>
- 2 "Hong Kong police considering introduction of electroshock weapons Chris Tang Ping-keung: Search for weapons to replace live rounds (警研引入電槍 鄧炳強：尋武器代替開真槍)"Ming Pao, 16 January 2020. Available at <https://news.mingpao.com/ins/%E6%B8%AF%E8%81%9E/article/20200116/s00001/1579165037833> (Chinese only)
- 3 "Hong Kong Budget 2020: Democrats angered as police receive HK\$25.8 billion boost in manpower and gear" Hong Kong Free Press, 27 February 2020. Available at <https://www.hongkongfp.com/2020/02/27/hong-kong-budget-2020-democrats-angered-police-receive-hk25-8-billion-boost-manpower-gear/>
- 4 "Hong Kong police considers introducing stun guns, human rights organisations ask for public consultation. Source: serious in resisting arrest, Reuters:1081 deaths in US in 19 years. (警研引入電槍 人權組織促諮詢 消息：拒捕嚴重 路透統計：美 19 年奪 1081 命)"Ming Pao, 16 January 2020. Available at <http://www.mingpaocanada.com/TOR/htm/News/20200116/HK-gca1.htm?m=0> (Chinese only)

Moreover, the Hong Kong Government has used excessive and unlawful use of force. This also raises concern over the use of tasers where convenient but not necessary if tasers are introduced. With the limited information available at this stage, Civil Rights Observer (CRO) thinks that the introduction of tasers is not necessary, and is deeply concerned over the government's study about the introduction of new weapons and its decision-making.

### **What are tasers and how do they operate?**

A taser makes muscles contract and inactive with electric stimulation, allowing the police to subdue targeted persons more easily. Generally, a taser can operate in two main modes: (i) The "probe" mode allows the gun to eject two wire-connected metal probes and release electric charges when the probes have pierced the skin. This causes temporary neuromuscular incapacitation to the target's body. The shooting range is over six meters and the electric charge is strong enough to move through clothing that is two-inch thick.<sup>5</sup> The "drive stun" mode causes localised pain by direct electric shock, in order to force targeted persons to succumb<sup>6</sup>.

### **Health hazards**

In the United Nations *Guidance on Less-lethal Weapons and Related Equipment in Law Enforcement* released last August, it is stated that tasers can injure human bodies directly or through the penetration of the metal probes. In order to avoid continuous electric shock, tasers should be designed automatically cut off the electric charge. The duration of a continuous electric shock should be set to five seconds maximum. Law enforcement officers should not aim their tasers at a high position, because those who have been shocked will lose their mobility and may fall or hit a hard object, at the same time being unable to support themselves with their hands. Injuries may result. Law enforcement officers should also avoid electric shocks in the anterior thorax near the heart to reduce the risk of injury and death. People with heart diseases and those who consume drugs or alcohol are at higher risk. Children and thin people are prone to be injured by metal probes. Electric shock can also cause seizures.

In addition, the use of tasers near flammable liquids or explosive gases can lead to fire, deflagration and even explosion.<sup>7</sup> The tear gas and pepper spray commonly used by the HKPF are flammable. In France, the police once set the body of a suspect on fire by deploying tear spray and a taser at the same time.<sup>8</sup>

---

5 Terry McGuinness, "Taser use in England and Wales Briefing Paper Number 7701" House of Commons Library, 12 September 2016, p. 5. Available at

<http://researchbriefings.files.parliament.uk/documents/CBP-7701/CBP-7701.pdf>

6 United Nations Office of the High Commissioner for Human Rights, "Guidance on Less-Lethal Weapons in Law Enforcement" United Nations, August 2019, para. 7.4.2. Available at

<https://www.geneva-academy.ch/joomlatools-files/docman-files/Geneva%20Guidelines%20on%20Less-Lethal%20Weapons%20and%20Related%20Equipment%20in%20Law%20Enforcement.pdf>

7 *Ibid*, para. 7.4.8.

8 "Hong Kong police considers introducing stun guns, which caused a thousand deaths in US.

French police used stun guns with tear spray causing a fire. (香港警方欲引入電槍 美國千人被電死亡 法警曾用催淚劑致起火)"HK01, 18 January 2020. Available at

<https://www.hk01.com/%E7%A4%BE%E6%9C%83%E6%96%B0%E8%81%9E/423276/%E9%A6>

## The classification of tasers in terms of the force level and how it should be used

According to Reuters, at least 1,081 people in the United States have been killed by in the past 19 years. Among them, at least 49 people were killed by tasers by the police in 2018 alone, at least half of the which involved drug users, persons with mental illnesses or heart disease as well as young, old or frail persons. About 90% of the people killed by tasers in 2017 did not possess any weapons. Nearly a quarter of them had had a mental illness<sup>9</sup>. Amnesty International found that 18 people have been killed by tasers in the United Kingdom<sup>10</sup>. The British House of Commons stated that the elderly, children, pregnant women, people with heart diseases, medicine users, people with asthma or other lung diseases are more likely to be impacted by tasers<sup>11</sup>.

According to the United Nations' guidance, tasers could be more dangerous than other less-lethal weapons, and in some cases, tasers are considered to be a replacement of live rounds.<sup>12</sup> United Nations Convention Against Torture has found that that police officers should only use tasers when their lives are under a direct and immediate threat or when they are seriously injured, and tasers should only be used as an alternative to lethal weapons<sup>13</sup>.

According to the United States Federal Court of Appeal, although a taser is not a lethal weapon, it can cause severe pain, paralysis, disorientation, and loss of balance. It is more invasive than other non-lethal weapons. Unless the suspect resists and continues to threaten the safety of others, the use of tasers by the police would be unreasonable. If police officers repeatedly shock an unarmed subdued person that does not resist and whose ability to move has been restricted by multiple police officers, it would be considered excessive and unreasonable use of force. The court has held that not following police instructions or non-violent resistance is not continuous threat.<sup>14</sup>

[%99%E6%B8%AF%E8%AD%A6%E6%96%B9%E6%AC%B2%E5%BC  
%95%E5%85%A5%E9%9B%BB%E6%A7%8D-%E7%BE%8E%E5%9C%8B%E5%8D  
%83%E4%BA%BA%E8%A2%AB%E9%9B%BB%E6%AD%BB%E4%BA%A1-  
%E6%B3%95%E8%AD%A6%E6%9B%BE%E5%90%8C%E7%94%A8%E5%82%AC  
%E6%B7%9A%E5%8A%91%E8%87%B4%E8%B5%B7%E7%81%AB](https://www.reuters.com/article/us-usa-taser-deaths-insight/as-death-toll-keeps-rising-u-s-communities-start-rethinking-taser-use-idUSKCN1PT0YT) (Chinese only)

- 9 Tim Reid, Peter Eisler, Grant Smith "As death toll keeps rising, U.S. communities start rethinking Taser use" Reuters, 4 February 2019. Available at <https://www.reuters.com/article/us-usa-taser-deaths-insight/as-death-toll-keeps-rising-u-s-communities-start-rethinking-taser-use-idUSKCN1PT0YT>
- 10 "UK: Public should 'resist drum-beat of calls for all police to carry a Taser'" Amnesty International UK, 13 December 2018. Available at <https://www.amnesty.org.uk/press-releases/uk-public-should-resist-drum-beat-calls-all-police-carry-taser>
- 11 McGuinness, p. 11.
- 12 Note 6 above para. 7.4.3.
- 13 "Concluding observations on the seventh periodic report of the Netherlands" Committee against Torture, CAT/C/NLD/CO/R.7, para. 43(b). Available at [https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NLD/CAT\\_C\\_NLD\\_CO\\_7\\_33166\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NLD/CAT_C_NLD_CO_7_33166_E.pdf)
- 14 "Appeal from the United States District Court for the Middle District of North Carolina" United States Court of Appeals for the Fourth Circuit, No. 15-1191, 11 January 2016. Available at <http://www.ca4.uscourts.gov/opinions/published/151191.p.pdf>

The British House of Commons has stated that the use of tasers must be based on the principles of proportionality, legality, accountability and absolute necessity. Police officers should give warning to the targeted person and give them enough time to respond before using a taser. All people who have been shocked by tasers should have their metal probes removed by medical professionals to avoid the risk of infection. Those who may be at particular risk such as persons with cardiac pacemaker or other implanted device, should be immediately referred to hospital. All arrested persons who have been subjected to the discharge of tasers should be examined by medical staff as soon as practicable after arrival at the custody suite<sup>15</sup>. Unless used to mitigate the threat of violence, the use of tasers may violate the European Convention on Human Rights, which prohibits torture and cruel, inhuman or degrading treatment or punishment. Such a right is also guaranteed under the International Covenant on Civil and Political Rights as well as the Hong Kong Bill of Rights Ordinance.<sup>16</sup>

### **Human rights issues related to the use of tasers**

The United Nations guidance provides that tasers should not be used to overcome purely passive resistance to an official's instructions through the infliction of pain. Especially when the "drive stun" mode is used to cause direct shock, as it relies on pain compliance and does not result in neuromuscular incapacitation. This may be considered torture or cruel, inhuman or degrading treatment or punishment. Therefore, repeated, prolonged or continuous electric shock should be avoided.<sup>17</sup>

The Committee against Torture stressed that tasers should not be used on vulnerable persons such as pregnant women and people with mental illnesses and detainees should be banned. Law enforcement officers should consider the necessity and proportionality in accordance with the United Nations' Basic Principles on the Use of Force and Firearms by Law Enforcement Officials when using tasers.<sup>18</sup> The United Nations Committee on the Rights of the Child has repeatedly called for an international ban on the use of tasers against children in 2008 and 2016.<sup>19</sup>

### **Abuse by law enforcement officials in different countries**

The Independent Police Complaints Commission (IPCC) in the United Kingdom stated in 2014 that the public and the police viewed tasers differently. The public considered tasers be high-level force to be used only when confronting with the most threatening violence whilst the police considered it less harmful than tear sprays, batons or physical restraint. The IPCC warned that the use of tasers should only be used when necessary and not when convenient, and that tasers should not be used to make a person follow police instructions by causing pain. It stated the use of

---

15 McGuinness, p. 8-9.

16 "International Covenant on Civil and Political Rights" Article 7 and "Hong Kong Bill of Rights Ordinance" Article 3

17 Note 5 above, para. 7.4.2 and 7.4.12.

18 Committee against Torture, CAT/C/NLD/CO/R.7, para. 43(c)-(d).

19 McGuinness, p. 3.

tasers in custodial settings could be justified only in the most exceptional circumstances<sup>20</sup>.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has also questioned the necessity of the police's use of the "drive stun" mode, because when they are close to a suspect, they can subdue the suspect by other means.<sup>21</sup>

In a case at the United States Federal Court of Appeal, a man with schizophrenia and bipolar disorder chewed some grass outside the hospital. The police used a taser on him, causing five electric shocks for two minutes in total. He was killed. The police's action violated the guidelines issued by the government and the manufacturer, which prohibited repeated electric shocks. The court ruled that the use of the taser was unreasonable and excessive as the man had already been surrounded by three police officers and two security guards.<sup>22</sup>

In another case, a man was stopped by a police officer for speeding and not wearing a seat belt while driving. The man became agitated and was then shocked by the police officer with a taser without any warning. He fell forward and four of his teeth were broken and his face injured. The court held that the man did not pose any immediate threat to the police officer, and the police officer's use of force was therefore excessive and unlawful.<sup>23</sup>

In the United Kingdom in 2016, a black former footballer Dalian Atkinson was killed with a taser by the police while he was having a tantrum outside his father's home. After investigations by the Independent Office for Police Conduct, the police officers involved were charged with murder, manslaughter and assault occasioning actual bodily harm in November 2019.<sup>24</sup>

### **Comparison to the situation in Hong Kong and conclusion**

The HKPF stated that the rationale for introducing new weapons was to provide more alternatives. However, the police force is already well equipped with tear gas, sponge grenades, rubber bullets, bean bag rounds and live ammunition. The introduction of tasers is not necessary. Civil Rights Observer believes that the Hong Kong Government's attempt to look for options closer to lethal force among non-live ammunition and less-lethal weapons violates the principle of avoiding casualties by force, as provided by the United Nations' Guidance on Less-lethal Weapons and Related Equipment in Law Enforcement.

---

20 *Ibid*, p. 13.

21 Amnesty International UK.

22 United States Court of Appeals for the Fourth Circuit, No. 15-1191.

23 "Carl BRYAN, Plaintiff-Appellee, v. Brian McPHERSON; Coronado Police Department; City of Coronado, a municipal corporation, Defendants-Appellants" United States Court of Appeals, Ninth Circuit, No. 08-55622, 28 December 2009. Available at [https://caselaw.findlaw.com/us-9th-circuit/1498993.html#footnote\\_15](https://caselaw.findlaw.com/us-9th-circuit/1498993.html#footnote_15)

24 Vikram Dodd "Dalian Atkinson death: police officer charged with murder is named" The Guardian, 13 November 2019. Available at <https://www.theguardian.com/uk-news/2019/nov/13/dalian-atkinson-police-officer-charged-murder-named>

The HKPF has a record of violating internationally recognized codes of conduct and guidelines in their use of various weapons. In addition, some frontline police officers have become increasingly hostile towards demonstrators, people holding different political opinions, journalists and first-aiders. For example, some police officers call demonstrators with dehumanizing terms such as “cockroach” and journalists “black/dirty journalist”. In the absence of fully publicly-available guidelines, rather than lowering the level of force used by the HKPF, the introduction of new weapons such as tasers may make it easier for police officers to use excessive and unlawful force.

Since June last year, the HKPF has been repeatedly suspected of using excessive and unlawful force in the anti-extradition bill protests or related activities. No police officer has been demoted, fired or prosecuted, showing that the current mechanism fails to hold the police accountable. With the lack of accountability mechanism and disclosure of guidelines on the use of force and firearms to the public, if the HKPF introduces new more forceful weapons such as tasers, it will show to the public that the HKPF continues to dismiss the public’s dissatisfaction with police violence. Under these circumstances, in future, when handling conflicts, the HKPF may tend to use tasers instead of weapons that are less harmful, which will in turn increase in overall level of force used.

The introduction of tasers as daily equipment by the HKPF is a major policy change. If the HKPF considers introducing tasers, they must publish the relevant details and research findings, including the model of the taser, the manufacturer, the impact on the human body and the environment, and instructions for use. Public consultation is also necessary.