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Memorandum**

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**To:** Chairman  
Education and Home Affairs  
Scrutiny Panel

**From:** Attorney General

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**Education and Home Affairs Scrutiny Panel Review:  
Police Use of Tasers**

**1. Introduction**

- 1.1. A Taser is a single shot weapon designed temporarily to incapacitate a subject with the use of an electrical current. That electrical current interferes with the body's neuromuscular system.
- 1.2. It is laser-sighted and uses cartridges attached to the end of the cartridge bay. Cartridges project a pair of barbs or darts attached to insulated wires. The maximum range of the device is 6.4 metres (21 feet) which is the length of the wires that can carry the current. A taser can only be used in a "*drive stun*" mode where the device is used in direct contact with the subject.
- 1.3. By whichever method used, it delivers a sequence of high voltage pulses of very short duration through the wires. A normal reaction of a person exposed to those pulses is the loss of some voluntary muscle control. The subject may fall to the ground or "*freeze*" on the spot. The device relies on physiological effects other than pain alone to achieve its objective, although pain is the main object when it is used in "*drive stun*" mode<sup>1</sup>.

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<sup>1</sup> ACPO Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Operational Guidance, para. 3.

- 1.4. Tasers are widely used in the UK. The initial trial took place in 2003 and they were, at that time, used only by firearms officers. They were made available to all *firearms* officers in Police Forces following the trial in 2004 and in 2007 they were trialled for use by Specially Trained Units (STUs) and were made available for use by STUs in 2008.

## **2. What would be the appropriate test for a decision by the States of Jersey Police to deploy Tasers to deal with a violent or potentially violent incident?**

- 2.1. In relation to the deployment of conventional firearms, the States of Jersey Police do, I understand, adopt the principles of national guidelines, including the '*Home Office Codes of Practice on the Police use of Firearms and Less Lethal Weapons*' together with the '*National Firearms Training Curriculum*.' These guidelines and procedures are not binding in Jersey but are adopted as good practice and supplemented by the '*States of Jersey Police Firearms Policy*.'
- 2.2. The test used by the States of Jersey Police for deploying firearms as set out in the *States of Jersey Firearms Policy*, is the same test as set out in UK '*Association of Chief Police Officers (ACPO) Manual of Guidance on The Management and Command and Deployment of Armed Officers*<sup>2</sup> it is therefore likely that the States of Jersey Police would also adopt the same test as the UK in relation to the use of Tasers.

### **Deployment with Firearms Officers**

- 2.3. The test in the UK for the deployment of Tasers with firearms officers is wider than the deployment of conventional firearms and is given in the '*ACPO Operational Use of Taser by Authorised Firearms Officers Operational Guidance*' which states that:
  - Tasers will be deployed in circumstances where firearms officers are authorised to carry firearms; or
  - Where the authorising officer has reason to suppose that they, in the course of their duty, may have to protect the public, themselves and/or the subject(s) at incidents of violence or threats of violence of such severity that they will need to use force<sup>3</sup>.

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<sup>2</sup> ACPO Manual of Guidance on The Management and Command and Deployment of Armed Officers, para 4.20

<sup>3</sup> ACPO Operational Use of Taser by Authorised Firearms Officers Policy, para 4.2

## **Deployment with Specially Trained Units**

- 2.4. As mentioned above, the use of Tasers in the UK was extended to STUs in 2008. STUs include officers who are not firearms trained but have received special training in the use of Tasers. The deployment of Tasers by these officers is guided by the '*ACPO Extended Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Policy*.' The test for deployment of Tasers by STUs is the same as the test applied to firearms officers outside of firearms situations:
- Tasers are to be deployed with Specially Trained Officers, where the authorising officer has reason to suppose that they, in the course of their duty, may have to protect the public, themselves and /or the subject(s) at incidents of violence or threats of violence of such severity that they will need to use force<sup>4</sup>.
- 2.5. The F26 ASP Baton and CS Spray which are currently available to States of Jersey Police officers do not require special authorisation to be deployed and are carried by officers.

## **Use of Tasers**

- 2.6. The test for using a Taser is different to the test for deployment. Once a Taser has been issued to a firearms officer or STU the decision to use a Taser is an individual one for which the officer will be accountable. The UK guidelines dictate that the duration of the initial discharge and any subsequent discharge must be proportionate, lawful, appropriate, necessary and non-discriminate, in all the circumstances. The '*Conflict Management Model*' should assist officers in making such judgements<sup>5</sup>.
- 2.7. '*The Police Service of Northern Ireland Guidelines on the Operational Use of Taser*' state that the test for the use of Tasers will be as follows:
- 'The use of Tasers will be justified where the officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury.'*<sup>6</sup>
- 2.8. In my view, the national guidance set out above would be the appropriate measure for the deployment and use of Tasers by the States of Jersey Police.

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<sup>4</sup> ACPO Extended Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Policy, para 4.2

<sup>5</sup> ACPO Operational Use of Taser by Authorised Firearms Officers Operational Guidance, para 10.2

<sup>6</sup> Police Service of Northern Ireland Guidelines on the Operation Use of Taser (January 2008), para 1.5

**3. In what way, if any, might this test differ from a decision to deploy conventional firearms?**

- 3.1. As I have noted above, the ACPO Taser Guidance allows the deployment of Tasers where the criteria for the deployment of firearms has not been met, by both firearms officers and STUs where the authorising officer has reason to suppose that they, in the course of their duty, may have to protect the public, themselves and/or the subject(s) at incidents of violence or threats of violence of such severity that they will need to use force<sup>7</sup>.
- 3.2. As I have also noted, the criteria for the States of Jersey Police's decision to deploy conventional firearms are contained in the *States of Jersey Police Firearms Policy*. Section 9 sets out the criteria for the deployment of Authorised Firearms Officers (**AFOs**) (this is the same criteria as under the UK *ACPO Manual of Guidance on The Management and Command and Deployment of Armed Officers*):
- Where the officer authorising the deployment has reason to suppose that officers may have to protect themselves or others from a person who:
    - is in possession of, or has immediate access to, a firearm or other potentially lethal weapon, or
    - is otherwise so dangerous that the deployment of armed officers is considered to be appropriate; or
  - As an operational contingency in a specific operation based on the threat assessment; or
  - For the destruction of animals which are dangerous or are suffering unnecessarily.
- 3.3. The decision to deploy Tasers does not require a person to be so dangerous that the deployment of armed officers is considered appropriate, only that the situation involves violence or threats of violence of such severity that the police will need to use force. The test in the UK for the deployment of Tasers therefore requires a lesser threat of violence than the test for the decision to deploy conventional firearms.
- 3.4. In the first trial of Tasers in the UK, the use of Tasers was restricted to deployment alongside conventional firearms and in circumstances in which it was judged appropriate for firearms officers to carry firearms. An

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<sup>7</sup> ACPO Extended Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Policy, para 4.2 and ACPO Operational Use of Taser by Authorised Firearms Officers Policy, para 4.2

independent evaluation of the trial reported that many of those in the trial – senior as well as operational officers – considered that this restriction meant that opportunities to use Tasers to resolve violent or potentially violent incidents, that did not meet the criteria for firearms deployment, had been missed<sup>8</sup>. This indicates that different tests for Taser and firearms deployment may be considered appropriate.

- 3.5. The circumstances of the incident will further influence the decision to deploy Tasers rather than conventional firearms and there will be situations where its use will not be appropriate. For example, the distance over which a Taser can be used is restricted to the length of the wires (6.4 meters) and a Taser should not be used where the subject has been exposed to flammable material (including CS Spray).
- 3.6. There are also dangers associated with using Tasers on an armed suspect. A Taser normally causes immediate incapacitation and its effect may also cause muscles to contract. This may result in immediate and involuntary clenching of the fingers and/or arms rising uncontrollably. This potential reaction should be factored into any decision to use a Taser against a subject holding a weapon. If it is believed to be a firearm, the application of a Taser may cause the subject to unintentionally and indiscriminately discharge the firearm. Additionally, it has been shown that it is possible, in certain circumstances, for some individuals to maintain enough control to attack with a weapon whilst under the effects of a Taser. However, if the weapon is merely close to hand a Taser may be useful in preventing the subject gaining access to the weapon<sup>9</sup>. This indicates that there are practical considerations to take into account when deciding whether Tasers should be deployed and that Tasers should not be considered a substitute for conventional firearms in many cases.

#### **4. How is a violent or potentially violent incident defined?**

- 4.1. In the UK, ACPO Taser Guidance restricts the deployment of Tasers (outside of incidents where it would be appropriate to deploy firearms) to incidents of violence, or threats of violence of such severity that officers will need to use force<sup>10</sup>. There is no definition of what amounts to 'violence' contained in these policies.

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<sup>8</sup> Association of Chief Police Officers: Independent Evaluation of the Operational Trial of Taser, (May 2004), para 78

<sup>9</sup> ACPO Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Operational Guidance, para 6.7

<sup>10</sup> ACPO Extended Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Policy, para 4.2 and ACPO Operational Use of Taser by Authorised Firearms Officers Policy, para 4.2

- 4.2. As the ACPO Taser Guidance states, due to the diverse nature of policing operations it is not possible to provide a definitive list of circumstances where the use of Tasers would be appropriate<sup>11</sup>.
- 4.3. The decision as to whether an incident is violent, or involves threats of violence of such severity that officers will need to use force, is taken by the authorising officer. *'The National Decision Model'* may assist in this decision<sup>12</sup>.
- 4.4. Situations in which the use of Tasers in the UK have resulted in complaints to the Independent Police Complaints Commission (IPCC) include the following:
- Jeffrey Evans and Geoffrey Evans were subjected to a Taser on 15 August, 2009. The weight of evidence indicated that both men offered aggression and resistance when officers attended at their property, and they were Tasered when the officers feared for their own safety. The Taser was used to prevent the men from causing injury and to enable them to be arrested. The two men had their complaint dismissed by the IPCC who found "*the officers acted properly and used reasonable force to arrest*" the men<sup>13</sup>.
  - The use of Tasers by Police in Nottingham in June 2009 was investigated and found to be *'lawful and proportionate'* by the IPCC. Police used the Taser to assist them in the arrest of a man who was violently struggling. An officer received a bite mark and facial bruising during the struggle<sup>14</sup>.
- 4.5. Tasers are not currently approved by ACPO for use in public order situations. Tasers were not used during the riots in UK cities in 2011 and have so far not been used for crowd control in the UK. However, a report into the said riots confirmed that the future use of Tasers is being considered as part of the *'ACPO Firearms and Less Lethal Working Group.'*<sup>15</sup>
- 4.6. During the initial trial of Tasers in the UK (by firearms officers in firearms situations) Tasers were used in situations involving domestic incidents, shootings, robberies, abductions/kidnappings, assaults, threatening police, threatening neighbours, possession of a gun, possession of a knife

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<sup>11</sup> ACPO Extended Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Policy, para 4.2

<sup>12</sup> ACPO Manual of Guidance on The Management and Command and Deployment of Armed Officers, para 6.1

<sup>13</sup> Independent Police Complaints Commission at [http://www.ipcc.gov.uk/news/Pages/pr120312\\_evans\\_taser.aspx](http://www.ipcc.gov.uk/news/Pages/pr120312_evans_taser.aspx)

<sup>14</sup> Independent Police Complaints Commission at [http://www.ipcc.gov.uk/news/Pages/pr\\_110210\\_nottstaser.aspx](http://www.ipcc.gov.uk/news/Pages/pr_110210_nottstaser.aspx)

<sup>15</sup> Metropolitan Police Service, "4 Days in August" Strategic Review into the Disorder of August 2011, (March 2012) p. 121

and suicides. The most common situation in which Tasers were used was when the subject was in possession of a knife or gun<sup>16</sup>.

**5. Would it ever be appropriate to extend the use of Tasers to any situations where the use of conventional firearms would not be authorised by the States of Jersey Police?**

5.1. According to the evaluation of the '*ACPO Strategic Firearms & Conflict Management Taser Trial by STUs*' there are benefits of using Tasers in situations where firearms would not be authorised. The evaluation reported that these benefits included:<sup>17</sup>

- Reducing the level of injuries sustained to a subject in these incidents.
- Reducing the level of injuries sustained to officers in these incidents.
- Reducing the level and nature of complaints against police officers arising from these incidents.
- Improving the accountability for the use of force through effective monitoring/subsequent evaluation of incidents when a Taser is deployed.
- The requirement to record the use of force involving Tasers (including figures for aiming the weapon, arcing and actual firing).
- Improving public confidence in the police service when dealing with violent situations.

5.2. The term '*use of a Taser*' includes any of the following actions carried out in an operational setting:<sup>18</sup>

- Drawing of a Taser in circumstances where any person perceives the action as a use of force.
- Sparking of the Taser commonly known as 'arcing'.
- Aiming of the Taser or placing the laser sight red dot onto a subject.
- Firing of a Taser so that the barbs are discharged at a subject.
- Application and Discharge of a Taser in 'drive stun mode' to a subject.

5.3. Figures for Taser usage in the UK indicate that a Taser was discharged in around 25% of incidents when a Taser was available, and applied in drive stuns in around 4% of incidents. Therefore, in the majority of cases, the Taser was not discharged and the act of 'arcing,' aiming the Taser or placing the laser sight dot onto a subject, or simply drawing the Taser was

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<sup>16</sup> Association of Chief Police Officers: Independent Evaluation of the Operational Trial of Taser, (May 2004), para 32

<sup>17</sup> ACPO Strategic Firearms & Conflict Management Taser Trial by STUs, Appendix A, para 28.1

<sup>18</sup> ACPO Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Operational Guidance, para 10.8

enough to deal with the situation<sup>19</sup>. Tasers might diffuse potentially violent situations without needing to be discharged, and therefore, could be beneficial in both firearms and non firearms situations.

- 5.4. Amnesty International argue that due to the Tasers' potential to cause fatality, Tasers should only be used as an alternative in situations where police would otherwise consider using firearms<sup>20</sup>.
- 5.5. Evaluations of the effects of Tasers and their potential to cause fatality are varied. Amnesty International claims that at least 500 people in the United States have died since 2001 after being shocked with Tasers either during their arrest or while in jail. Although it is not stated that Tasers directly cause these deaths, Amnesty maintain that it is likely that Tasers were an important contributory factor<sup>21</sup>.
- 5.6. The Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-lethal Weapons (DOMILL), set up to provide the Secretary of State for Northern Ireland with advice relating to less-lethal weapons, concluded that the risk of death or serious injury from the use of M26 and X26 Tasers within ACPO Guidance and Policy is "*very low*."<sup>22</sup>
- 5.7. While the UK's experience appears to have shown that there are benefits of using Tasers in non-firearms situations, such usage remains controversial because of its potential to cause fatality.

**6. It has been shown in the UK that, in a high percentage of cases, Tasers have been used against vulnerable groups (e.g. those suffering from mental illness, those using drugs and/or in a state of excited delirium). What is the duty of police officers to mitigate the use of Tasers in such circumstances?**

- 6.1. The ACPO Taser Guidance states that an assessment of additional risk factors, such as drug or alcohol use, mental illness and other medical conditions, should be made in determining the appropriate option<sup>23</sup>.

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<sup>19</sup> Home Office figures on the reported and recorded uses of Taser by police forces in England and Wales, All uses of Taser in England and Wales from 1 April 2009 to 31 March 2010.

<sup>20</sup> "Amnesty International Urges Stricter Limits on Police Taser Use as U.S. Death Toll Reaches 500" (February 2012) at <http://www.amnestyusa.org/news/press-releases/amnesty-international-urges-stricter-limits-on-police-taser-use-as-us-death-toll-reaches-500>

<sup>21</sup> Ibid

<sup>22</sup> DSTL/BSC/27/01/07 DSCA Sub-Committee on the Medical Implications of Less-lethal Weapons (DOMILL) (November 2008), para 14

<sup>23</sup> Ibid, para 8.4



- 6.2. DOMILL's evidence suggests that excited, intoxicated individuals or those with pre-existing heart disease could be more prone to adverse effects from Tasers compared to unimpaired individuals<sup>24</sup>.
- 6.3. Where an occasion arises where it is necessary to use a Taser on a person who is exhibiting violent behaviour and who is also suffering from a mental disorder or illness, ACPO Taser Guidance recommends that where it is possible, options should be discussed with mental health professionals. In pre-planned operations the guidance states that consultation with friends and relatives as well as health authorities and social services could also assist in deciding the most appropriate use of force<sup>25</sup>.
- 6.4. ACPO Taser Guidance states that all arrested persons who have been subjected to the discharge of a Taser must be examined by a Forensic Medical examiner as soon as practical. Anyone who has been subjected to a Taser charge is issued with an information leaflet<sup>26</sup>.
- 6.5. Where a Taser has been used, particular attention should be given to detained persons who are known to have, or are suspected to be suffering from diabetes, asthma, heart disease, epilepsy or any other condition (including alcohol and/or illicit drug intoxication) which may influence the individual's fitness to be detained and which, in some cases may warrant transfer to hospital<sup>27</sup>.

**7. In the absence of Tasers, could the States of Jersey face criticism from the European Court of Human Rights for not providing the police with a full range of less lethal options for dealing with violent or potentially violent incidents?**

- 7.1. Under the Human Rights Act (Jersey) Law 2000 the European Convention on Human Rights (**ECHR**) is given effect in Jersey law.

Article 2 of the Convention - Right to Life states:

1. *Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*

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<sup>24</sup> Dstl/BSC/BTP/DOC/803 DOMILL Statement on the comparative medical implications of use of the X26 Taser and the M26 Advanced Taser, (March 2005), para 23

<sup>25</sup> ACPO Operational Deployment of Taser for Specially Trained Units (excluding firearms incidents) Operational Guidance, para 8.2

<sup>26</sup> Ibid, para 12.7

<sup>27</sup> Ibid

2. *Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is not more than absolutely necessary –*
  - (a) *in defence of any person from unlawful violence;*
  - (b) *in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
  - (c) *in action lawfully taken for the purpose of quelling a riot or insurrection.*
  
- 7.2. The requirement that the use of force ‘*is not more than is absolutely necessary*’ requires police to exhaust less lethal options before resorting to conventional firearms. The availability of Tasers for use by the States of Jersey Police would, in some situations, provide an alternative to conventional firearms.
  
- 7.3. In the case of *Simsek v Turkey*<sup>28</sup> the European Court of Human Rights (ECtHR) ruled that Turkey had breached Article 2 ECHR when in order to disperse a crowd, ‘*officers shot directly at the demonstrators without first having recourse to less life-threatening methods, such as tear gas, water cannons or rubber bullets.*’ This case suggests that the ECtHR will hold countries responsible in situations where less-life threatening alternatives would have been appropriate but were not used.
  
- 7.4. Although a general principle (rather than a legal obligation) Article 2 of the *UN Basic Principles on the use of Force and Firearms* states that ‘*Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated used of force and firearms.*’<sup>29</sup>
  
- 7.5. An argument could also be made that the provision of Tasers would protect police officers’ right to life under Article 2 of the Convention, because Tasers may offer protection to officers in situations which could otherwise be life threatening.
  
- 7.6. The following ‘less lethal’ options are currently available to the States of Jersey Police:
  - L104A1 Launcher (baton rounds)
  - F26 ASP Baton
  - Police Dog (General Purpose and not Passive Attack)
  - CS Spray

<sup>28</sup> *Sinsek and Others v. Turkey*, Application Nos 35072/97, 37194/97, Judgement of 26 July 2005

<sup>29</sup> *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

## **8. How would an individual officer, and the States of Jersey Police in general, be held accountable for any use of Tasers outside policy guidelines?**

8.1. The use of force by States of Jersey Police is governed by:

- Police Force (Jersey) Law 1974 (Article 2)  
*It shall be the duty of a police officer to the best of his or her power to cause the peace to be kept and preserved and prevent all offences, whether common law or statutory, against the person and property of Her Majesty's subjects and to take all such lawful measures as may be necessary for the purposes of bringing offenders with all due speed to justice.*
- Police Procedures and Criminal Evidence (Jersey) Law 2003 (Article 109)  
*Where any provision of this Law confers a power on a police officer and does not provide that the power may only be exercised with the consent of some person, other than a police officer, the officer may use reasonable force, if necessary, in the exercise of the power.*
- Police (Complaints and Discipline Procedure) (Jersey) Order 2000 (Schedule 1 (5))  
*Officers must not use more force than is reasonable, nor should they abuse their authority.*

8.2. The Human Rights Act (Jersey) Law 2000 will be relevant where the use of a Taser is alleged to have breached a Convention right (e.g. Article 2 – the right to life, Article 3 – the right not to be subjected to inhuman or degrading treatment, or Article 5 – the right to liberty). A general principle of human rights is that where a public authority is exercising a power that has the potential to engage human rights, it should do so in a way that can be justified as being necessary and proportionate in the circumstances. Therefore, providing the Police with appropriate powers to use Tasers should not offend human rights, but it is possible that the exercise of that power could do so in some cases.

### **Accountability of Individual Officers**

8.3. The ACPO Guidance on the use of Tasers states that '*the final decision to use a Taser rests with the individual officer who will be accountable for his actions.*'<sup>30</sup> If similar Jersey guidance was established and subsequently breached, a police officer might face internal disciplinary measures.

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<sup>30</sup> ACPO Operational Use of Taser by Authorised Firearms Officers Operational Guidance, para 10.2

- 8.4. A complaint made by a member of the public, that a police officer has used unreasonable force (whether with a Taser or otherwise), should be dealt with under the Police (Complaints and Discipline) Jersey Law 1999. That Law provides that where suitable, the Chief Officer may resolve the complaint informally (Article 7). However, the Chief Officer may refer the matter to the Jersey Police Complaints Authority (**JPCA**) (established under Article 2) if it appears to the Chief Officer that a member of the Force may have committed a criminal offence or an offence against discipline (Article 8(a)). The allegation would then be investigated by the JPCA and a report submitted and copied to the Chief Officer and, in the case of a criminal allegation, to the Attorney General (Article 10(3) Police (Complaints and Discipline) Jersey Law 1999). Following this, the Attorney General would advise whether criminal proceedings should be initiated (Article 11(2)) and in the event that they are not, the Chief Officer would send the JPCA a memorandum, stating whether he intends to prefer disciplinary charges (Article 11(3)).
- 8.5. Under the Police Procedures and Criminal Evidence (Jersey) Law 2003, a failure on the part of a police officer to comply with any provision of a code shall not of itself render the officer liable to any criminal or civil proceedings (Article 62(6)), however a code shall be admissible in evidence in all criminal proceedings (Article 62(7)).

### **States of Jersey Police**

- 8.6. Under Article 21 of the Police Force (Jersey) Law, 1974, the Chief Officer of Police is liable in tort for the negligent actions of a police officer using a Taser. This is mirrored in Article 25 of the new draft Law. The Minister is responsible for providing funds to meet any award in damages.
- 8.7. Article 7 Human Rights Act (Jersey) Law 2000 makes it unlawful for a public authority to act in a way which is incompatible with a convention right. Under Article 7(2) a public authority includes '*any person certain of whose functions are functions of a public nature.*' Therefore, the actions of police officers must be compliant with the ECHR. If a Taser is used outside of policy guidelines it may potentially breach Article 2 and/or Article 3 of the ECHR.
- 8.8. Under Article 2 ECHR (See 7.1), deprivation of life shall be regarded as inflicted in contravention of Article 2 when it results from the use of force which is more than absolutely necessary in pursuit of one of the permitted objectives. Therefore, if death results from the use of a Taser in a situation where its use would not be regarded as absolutely necessary, or where the duration of the discharge or number of discharges is excessive, it may constitute a breach of Article 2.

8.9. Article 3 ECHR states:

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment.*

Therefore Tasers may not be used by police officers other than for proper lawful purposes in the performance of official duties. The use must not be excessive or disproportionate.

8.10. If a person believes that the States of Jersey Police have violated his or her Convention rights, there are two options for seeking redress under the Human Rights Act (Jersey) Law 2000. Firstly, proceedings could be instigated against the Chief Officer of Police or, secondly, the Convention right or rights concerned could be relied on in any legal proceedings (Article 8(1)(b)). In terms of a remedy, *'the court may grant such relief or remedy, or make such order, within its powers as it considers just and appropriate'* (Article 9).

8.11. Public authorities must not only act in compliance with the ECHR but in some circumstances, a state also has a positive obligation to ensure that the rights and freedoms guaranteed by the ECHR are protected. Therefore, the States of Jersey Police would need to implement clear and robust policies (which are ECHR compliant) to regulate the use of Tasers. Whereas, Article 2 ECHR also imposes a positive obligation whereby a death resulting from the use of force, for example by use of a Taser, would have to be investigated.

8.12. In summary, therefore, if the wrongful use of the Taser could, in some cases, amount to a criminal offence or to a disciplinary offence or to a matter that would justify a civil claim.

## 9. Conclusion

9.1. It is apparent that the proposed use of Tasers by the States of Jersey Police would have human rights implications. However, based on the legal research undertaken, and the UK's experience in this matter, there appears to be no legal reason to prevent the introduction of Tasers in this jurisdiction in a properly controlled manner.

