IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA IN AND FOR THE COUNTY OF MIAMI-DADE

FINAL REPORT OF THE MIAMI-DADE COUNTY GRAND JURY

SPRING TERM A.D. 2005

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FILED
February 2, 2006

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TASERS: DEADLY FORCE?

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I. INTRODUCTION

Nationwide, more than 150 people have died after being stunned by Electronic Control Devices ("ECD") commonly referred to as Tasers. Information regarding many of the deaths was highly publicized with attention grabbing headlines such as, "Man Dies in Miami-Dade Jail After Police Stun Him With Taser", "Woman Dies After Deputies Shock Her With Taser," and "Man Dies After Police Use Taser Gun To Subdue Him." Several such incidents occurred during our term of service on this Grand Jury and we soon discovered that this was not just a huge issue for our community, it was one that had taken on national significance. One of the most publicized incidents involved the decision by police to use an ECD on a 6-year old emotionally challenged Miami-Dade Public School student.[1] It brought worldwide attention to our community and heightened the concerns of many regarding law enforcement's ever-increasing use of these stun guns.

Locally, there was a great public outcry. The Miami-Dade County Board of County Commissioners (BCC) wanted answers. Organizations such as the National Association for the Advancement of Colored People (NAACP) and the American Civil Liberties Union (ACLU) used the incident to draw attention to concerns they had been raising on the local and national level **before** this incident (such as the safety of ECDs, use of ECDs on vulnerable members of the population and deaths that were attributed to ECDs). We discovered that subcommittees of the Miami-Dade County Community Relations Board (CRB) were conducting meetings and holding workshops to educate its members and the public at large about the use of ECDs. The CRB and its Police and Community Relations Task Force were working with local law enforcement to modify and, in some instances, develop policies and guidelines for the police departments whose officers were using ECDs. In the midst of all of this, Taser International began marketing ECDs to the general public and civilians began purchasing them, nationwide and in our communities.

[1] This incident is discussed in greater detail later in this report. See p. 3.

To put it succinctly, there was a lot going on in our community regarding this issue. We decided that the community might benefit from our review of several questions that appeared to be of greatest concern to Miami-Dade County residents. Were the ECDs causing deaths? Are they safe? Have they been sufficiently tested? What policies and guidelines are in place to govern the use of ECDs by law enforcement? This report tries to answer many of those questions.

II. REVIEW OF PRIOR GRAND JURY REPORT

To start a review of these issues, we decided to take a look at the Spring Term 2004 Grand Jury Report.[2] The Report, entitled Mental Illness And The Criminal Justice System: A Recipe For Disaster / A Prescription For Improvement, primarily reviewed the criminal justice system and how it deals with persons suffering from mental illness. A portion of that report also covered how the use of Tasers by certain law enforcement agencies had significantly reduced the number of deadly shootings of aggressive mentally ill subjects who were coming into contact with the police. The Fall Term 2004 Grand Jury made a number of recommendations in its report and a number of those recommendations have been implemented.[3]

One of the major developments after the release of the report was the decision of the Miami-Dade Police Department (MDPD) to: (1) implement Crisis Intervention Team (CIT) Training for its officers;[4] and (2) expand the level and number of officers who would be trained and thereafter, be issued ECDs. As MDPD is the largest law enforcement agency in the county, this decision was obviously going to significantly increase the number of officers who were carrying Tasers and concomitantly, increase the use of Tasers in Miami-Dade County. All officers who receive a Taser are required to undergo extensive training in the use and operation of the ECD. Their training also educates them on their department's policies and guidelines that govern when, how and

[2] The report is available on-line at MiamiSAO.com

[3] In 2005, Miami-Dade County Mayor Carlos Alvarez convened a Mayor's Mental Health Task Force that has been charged with implementing the recommendations from that Grand Jury Report.

[4] The CIT Training program is a 40-hour course that educates police officers about mental illness and trains them on the different tools they can use to de-escalate confrontations when they come into contact with persons suffering from schizophrenia, bipolar disorder or other severe mental illness.

under what circumstances they can use their ECDs. Two specific incidents brought a great deal of public scrutiny to electronic control devices and the policies that governed their use.

III. USE OF ECDs ON VULNERABLE POPULATION GROUPS

Our review of the Spring Term 2004 Final Report reminded us of those two highly publicized incidents that occurred in our community. The first was referred to earlier in this report: the stunning of a six-year old student in an elementary school. As reported, the student was emotionally challenged and teachers, administrators and others had attempted to calm the situation before the child broke a picture, picked up a piece of glass, threatened others and threatened to harm himself. Police were called to the school. MDPD officers who responded to the scene observed the child with blood on various portions of his body. He was holding a shard of glass. They attempted to de-escalate the situation by asking the child to drop the piece of glass. He refused to do so. Out of fear that the child would further injure himself, the officers called their supervisor and received authorization to stun the child with the ECD. The ECD was discharged, the child was grabbed and the glass was removed from his hands.

Following this incident, Miami-Dade County's Independent Review Panel conducted a review of MDPD's handling of the incident to determine whether the officers' actions were in accordance with then-existing departmental policies and guidelines on use of ECDs. The Panel noted that the officers in this situation did not unilaterally make the decision at the scene. They called and got input and direction from their supervisor. As reported to the Grand Jury, all of the policies were followed with the exception of the removal of the barbs after the child was stunned. Notwithstanding compliance with the then existing policies and guidelines, many in the community were at a loss to understand why the police department had a policy that would allow for the stunning of a small child. Concerns were also raised that the ECD was used on school grounds. Following the incident, several bills were issued by the Florida Legislature.[5] If enacted, the law would prohibit the use of Tasers on certain minors who were on school grounds.

[5] See, Senate Bill 0318 and House Bill 0287.

Shortly after the six year old was stunned, a MDPD officer was involved in another incident with a child. The officer in question came upon a twelve-year old girl who was playing hooky from school. The officer decided to treat the girl as a truant and attempted to take her into custody. She ran. In an effort to apprehend the child, the officer stunned her with his department-issued ECD. Afterwards, it was reported that the officer discharged the ECD in an effort to protect the child because she was about to run out into the traffic. Very shortly thereafter, the Director of the MDPD publicly denounced the actions of his officer, determined that the officer had violated the department's policies and administrative action was taken against the officer and his supervisor. Even with the department's quick and decisive action, many members of the public were outraged that officers would be using stun guns on children, particularly when it was routinely reported that the ECDs delivered 50,000 volts when discharged.[6]

Several things occurred as a result of these two incidents. Several commissioners on the BCC demanded review of MDPD's policies on the use of ECD. A number of hearings and meeting were held in that regard. Some members of the community and several organizations called for moratoriums on the continued use of Tasers in Miami-Dade County. Others called for specific prohibitions that would ban the use of ECDs on children. At the same time those events were occurring, the CRB's Police and Community Relations Task Force[7] was conducting a series of meetings trying to get input from the police and the community, all in an effort to provide additional information for the BCC to consider before it took any action.

All of the parties involved agreed there needed to be strong policies and guidelines in place to govern the use of Tasers on children. Similar policy concerns were also raised regarding what circumstances should be present for the appropriate use of an ECD on any person. In other words, based on a particular department's use of force matrix,[8] was it appropriate to use an ECD on a subject simply for his failure to comply

[6] We address this "voltage" issue later in the report. See p. 9-12.

[7] The Task Force is comprised of members of the Community Relations Board, police brass and line officers from a number of police departments in Miami-Dade County, the Dade County Association of Chiefs of Police, representatives from the State Attorney's Office, Public Defender's office, NAACP, ACLU, and other civil rights and community activist groups.

[8] A Use of Force Matrix is a guideline used by police departments to educate their officers on the different levels of force they can use when encountering subjects. The Matrix contains an escalation on the types of

with an order given by an officer? After a subject has been taken into custody and handcuffed, is it appropriate to stun her with an ECD again? Is it ever appropriate to repeatedly stun a subject? These were some of the questions raised by members of our community and questions also of critical importance to this Grand Jury.

The issue involving the use of ECDs on children raised a number of questions. If there was a total ban, would there be any stated age limitation? If so, what should the age be? Should the prohibition apply to all minors? Should it simply govern "small children?? The same concerns apply to each of these proposals. The policies are designed to give guidelines to the police as they face encounters on the street. If a policy prohibits use of an ECD on anyone under the age of 12, what guidance does that give an officer? We believe there are difficulties in trying to follow such a policy. Surely, it is no easy task to be able to guess whether the subject in a police encounter is 11, 12, 13 or 16 years of age. We are aware that there are 11 and 12 year olds who are as large as some high school football players and who would create more of a risk to an officer than someone older.

The same concern ensues for a policy that prohibits use of an ECD on all minors. First, the age guesstimate "simply" involves larger numbers. Is the person involved in the conflict with the officer 16, 17, 18 or 19 years of age? Regardless of age, does the subject still pose a risk of danger to the officer or to others? If so, we think the officer should be able to use an ECD. An alternative, assuming an ECD ban were in place, would allow an officer to use a metal baton to strike the minor, in certain situations. Given the choice between being stunned, getting up and walking away and being beaten with a baton and risk having bruises and possible broken bones, we think use of the ECD is the better alternative. Our comments in this regard are solely applicable for subjects, regardless of age, who are large enough to pose credible threats to law enforcement officers or others. Similarly, we believe there should be a ban on the use of ECDs on "small children." Such a prohibition precludes the officer from having to make an age "guesstimate" and allows him to assess the appropriateness of whether to use an ECD

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force which can be used and offers examples of the types of behavior that would legally justify the use of specific types of force.

based on the totality of the circumstances confronting the officer. We believe these guidelines would serve to protect the officers and the community.

We think the same guiding principles should govern the use of ECDs on other vulnerable populations, such as the elderly, the infirm and pregnant women. Although we can all think of scenarios where it might be totally appropriate to use an ECD on a member of one of these groups, (i.e., the person is brandishing a large knife and threatening others) we expect that this would clearly be the exception and not the rule. We also believe that absent such exigent circumstances, ECDs should not be used on these target populations.

The police agencies have also wrestled with how to guide their officers. They have each developed policies, however, they are not uniform in their policy language on these issues. For instance, the Aventura Police Department's "Officer/Suspect Factors that may be considered" include the following:

(a) Age: The [Taser] X-26 should not be used on any juvenile under the age of 12 and/or a juvenile who appears to be physically under the age of 12.

(b) Pregnancy: The X-26 shall not be used on females who are known to be pregnant and/or who appear to be pregnant.

(c) Number of suspects and number of Officers;

(d) Relative strength of officers vs. the Suspect(s).

The Aventura Police policy also includes the following Special Considerations that may be taken into account when an officer is deciding whether it is appropriate to use his ECD:

(a) Closeness or possession of a weapon by the suspect;

(b) Injury or exhaustion of an officer;

(c) Officer on the ground;

(d) Distance between the officer and the suspect;

(e) Special knowledge relative to the suspect;

(f) Availability of other options.

The Miami-Dade Police Department's Procedures for Use of the Taser (Revised December 2004) includes a section for Taser Prohibition. It includes a prohibition against pregnant women:

E. Taser Prohibition:

The Taser shall not be used on women who are known to be pregnant and/or women who appear to be pregnant.

MDPD does not have a specific prohibition as to children or minors. Instead, it includes the following under its Taser Deployment Policy:

I. Taser Deployment Policy:

Tasers are issued to officers for utilization to neutralize potentially combative subjects, as an alternative to physical control in arrest or custodial situations…. No policy or guideline can anticipate every situation that officers might face, but in general terms the following deployment procedures are established:

l. An officer's response level to subject resistance should always depend upon subject/officer factors such as age, size, weight, and the subject's apparent ability to physically challenge the officer or do harm to himself or others, balanced against the seriousness of the incident.

Each of the departments has tried in its own way to address the concern of using ECDs on children and other vulnerable members of our population.

In an effort to provide guidance to the police departments in Miami-Dade County, the Dade County Association of Chiefs of Police has created an Electronic Control Device Model Policy. We have reviewed that model policy and attached a copy hereto as Exhibit A to this Report. In light of our agreement with the contents of the Dade Chiefs' Model Policy we make the following recommendation:

1. We recommend that all police departments in Miami-Dade County adopt and enact an Electronic Control Device policy that is, at a minimum, consistent with and, at a minimum, as stringent as the Dade Chiefs Model Policy. While we hesitate to advise law enforcement on the particulars of their training, based on the testimony and other information we received, we the Grand Jury do strongly recommend that whenever possible, Tasers be employed by a team or pair of officers – one employing the ECD and the rest available to restrain the suspect.

We realize that use of ECDs on children or other vulnerable population groups is a highly sensitive and emotionally charged issue. We also recognize the necessity of having strong policies and procedures in place to govern the use of ECDs on such individuals. In that regard we make the following additional recommendations:

2. We recommend that police departments continue with the deployment of Tasers to its officers and that the officers receive adequate training on proper use of Tasers.

3. To the extent they do not have them, we recommend that all police departments in Miami-Dade County that issue Tasers to its officers adopt policies and procedures that require, at a minimum:

   (a) Documentation and/or written reports of every discharge of a Taser, including but not limited to exclusive use of ECDs that contain a manufacturer provided internal documentation function;

   (b) Random testing to ensure that officers are documenting all discharges of their Tasers;

   (c) Severe discipline for any officer who inappropriately uses a Taser or engages in abusive behavior with the Taser;

   (d) Specified guidelines on target populations for whom Tasers should not be used (i.e., small children, the elderly, the infirm, women who are obviously pregnant);

The information we received from training officers and other witnesses leads us to conclude that the use of ECDs has been a benefit to law enforcement officers in our community. We note that it has led to a reduction of injuries to officers in police departments that are using Tasers. It has similarly led to a reduction in the number of subjects who have been injured. Although some believe the expansion of CIT Training is solely responsible for this reduction, we do not share that view. We recognize that Florida has a very liberal law as it relates to an officer's use of deadly force.[9] This Grand Jury understands that, absent the availability of these ECDs, many more of our citizens would have been shot by police in violent and aggressive situations. The training officers and line officers corroborate this statement. Although we do not view ECDs as strictly an alternative to deadly force, we frankly believe that effective use of ECDs by law enforcement officers should continue the reduction of the use of deadly force in Miami-Dade County.

[9]Deadly force, as defined by Florida Statute 776.06 (1), means force that is likely to cause death or great bodily harm. Florida law allows an officer to use deadly force to prevent death or serious bodily injury to the officer or some other person. It also allows the officer to use deadly force against "fleeing felons" or those resisting arrest (when done to defend himself or another from bodily harm while making an arrest). Florida Statute 776.05, (1).

IV. ARE TASERS CAUSING DEATHS?

The overall conclusion one can reach from all of this good news is that use of the Taser has been a benefit to law enforcement, the communities and the subjects who have encounters with the police. However, one disturbing trend has been noted. As the number of law enforcement agencies using ECDs has increased, so too the number of persons dying after they have been stunned. Is there a connection? Tasers and other ECDs were marketed as non-lethal or less than lethal weapons. Are they responsible for the deaths of more than 150 persons nationwide? Are they responsible for the deaths that have occurred here in our own community? The Spring 2004 Grand Jury strongly recommended the use of Tasers by police as a "less than lethal" weapon? Is it? We decided that we would take a look at this issue also. However, before we could adequately address that issue we had to first review some general information about ECDs, what they are designed to do and how they operate.

A. ELECTRONIC CONTROL DEVICES AND HOW THEY OPERATE

Taser International is the manufacturer of an ECD that many refer to by the brand name, Taser. It has been called a stun gun, a Taser stun gun or an ECD. Just as we have in this report, many use the terms interchangeably. Electronic Control Devices were widely marketed to law enforcement in the early 1990's. Over the years, the number of police agencies using ECDs increased dramatically.

Tasers are used by officers to temporarily immobilize and incapacitate subjects so that officers are able to dissipate threats or effectively and safely apprehend otherwise unruly subjects. The popular models used by local departments fire two probes that are attached to wires. The probes can be fired from a distance of up to 21 feet. In close physical struggles, the Taser will also deliver an electrical charge by direct placement of the Taser against the subject. Upon contact with the probes or direct contact with the Taser, the individual receives 50,000 volts at very low amperage that neurologically causes the individual to lose control of his motor functions. The "stunning" effect usually lasts only about five seconds and after that 5-second time period, the individuals have total and complete control of their body and can continue whatever activity they

were engaged in before they were stunned. ECDs deliver an electric charge that directly affects the central nervous system.

B. ELECTRICITY

Many of us have a misunderstanding about electricity and what it can do. Most of us have at one time or another suffered the shock from static electricity or a brief "buzz" from touching an electrical appliance that was not well grounded. Walking across a carpet on a dry day and touching a metal door handle can give you an electrical shock. The shock occurs because your body becomes electrically charged with billions of electrons as you walk across the carpet. The shock occurs as the electrons are jumping from your body to the metal doorknob. Sometimes you can actually see a spark associated with this transfer of electrons.

Some of us even recall the game machines that were present at carnivals and amusement parks where you placed your coin in, grabbed the two metal rods attached to the machine and allowed the machine to intentionally give you an escalating electrical shock. The challenge was to see how long you could hold on to the metal rods. Yes, someone actually designed a game where people shocked themselves. It was all in fun and a way for males to test their manhood. We do not know how many volts were given but we know it did not kill anyone.

Many of us also recall the Plasma Globes that were exhibited at science fairs. They looked like crystal balls with colored arcs of electricity flowing within the globe. The globes supplied an alternating, high voltage, high frequency, yet small electrical current. The excitement occurred when someone placed a hand on the globe. The electrical current would draw the electrical arcs to that area of the globe and would generate a small shock. On some people, it would cause the hair on their head to stand on end. According to the science of this invention, the 5,000 to 10,000 volts of electricity being generated within the globe flowed through the globe to and over the body of the person touching the globe. Why don't you get a shock from the globe? An electrical shock is caused by electric current flowing through body parts. The larger the current, the more severe the shock. The current from the plasma globe is very small, but more

importantly, it is a high frequency **alternating current**. This type of current flows on the outside of a conductor (including a body), **not through it**.

Notwithstanding all of these familiar experiences that most of us have had with electricity over the years, its properties still remain a mystery to many. In 1986, this lack of knowledge resulted in a tragedy in our community. A businessman, Prentice Rasheed grew tired of burglars breaking into his store. The burglar's *modus operandi* for breaking in was to enter through the ceiling. Mr. Rasheed attempted to deter further burglaries by placing a metal grate in the ceiling, attaching an electrical cord to the grate and plugging the cord into an electrical outlet. He anticipated that a burglar who attempted to come through the ceiling would get a mild shock and change his mind about breaking in. The electrified booby-trap was successful in preventing the burglary. Unfortunately, it was also successful in killing the burglar. He died from electrical shock from a 115-volt alternating current delivered at 4 amps[10] (in other words, from a regular house current).

The case was presented to the Grand Jury to determine whether criminal charges would be filed against Mr. Rasheed for using deadly force to protect his property. The Grand Jury did not find any evidence that he intended to kill or cause great bodily harm when he wired the grills in his place of business. Mr. Rasheed's ignorance about electricity contributed to the Grand Jury's decision to not file charges against him. As the report advised:

> We heard from experts in the physical and medical aspects of electrocution, Dr. Agustin A. Recio, Associate Professor, Department of Electrical Engineering and Computer Sciences at the University of Miami and Dr. Joseph Davis, Dade County Medical Examiner. The deceased was electrocuted by a current of 115 volts. That is the current in our homes. Each of us has been shocked by such a current. None of us were seriously hurt by such shocks. The experts agreed that the majority of citizens would expect a shock from the device arranged by Prentice Rasheed but would not expect it to cause death or great bodily harm. As average citizens we agree with this finding. This was not a sophisticated device. A person with knowledge of electricity wishing to kill or cause great

[10] Electrical current is measured in amperes (amps) and is a measure of how much electricity passes a given point in a certain amount of time.

> injury would have designed this device in a different manner. This device was a crude device meant to prevent entry not to kill.
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> …We caution citizens who would protect either their persons or property with electrical devices such as rigged by Mr. Rasheed. **We have learned just how dangerous a household current can be.** Everyone is now on notice that electrical devices designed to "jolt" you can kill you and laws against such devices should be reviewed and enforced.[11]

Most, if not all, of the news reports issued regarding ECD stunning incidents point out that the ECDs issue 50,000 volts. Though factual, the information is useless without some information regarding how many amps are used to deliver the charge. For instance, the burglar mentioned above was electrocuted with only 115 volts. It is not just the 115 volts that killed him. It is the fact that those volts were delivered at 4 amps. So too, in the past the State of Florida was using the electric chair to execute convicted murderers. "Old Sparky" effectively dispatched the task with only 2,000 volts delivered at 14 amps. Those persons died immediately from the electrical shock. Each of these examples involves voltage amounts that are only a fraction of that delivered by a stun gun. However, because the amperage is so high, the individuals are more likely to experience death or serious injury from the electrical charge. On the other hand, Tasers deliver a voltage amount that is significantly higher than the regular house current and Florida's electric chair. However, because it only uses less than 4 milliamps, it does not cause death from electrocution.

As another comparison, the amount of electrical energy delivered by a defibrillator is 50 – 360 joules. The electrical energy delivered by the Taser is only 1.76 joules. Thus, even with the 50,000 volts one can not use a Taser to jump-start someone's heart. In conclusion, it is clear that ECDs do not deliver enough electrical energy to cause death in and of themselves.

C. THE AUTOPSY RESULTS

We are aware of the numerous media reports that have aired regarding persons who have died after being stunned by Tasers. The implication in many of those reports was that the Tasers directly caused the deaths. In all of the instances we followed,

[11] Interim Report, Dade County Grand Jury, Spring Term 1986.

autopsy reports revealed the cause of death to be drug overdoses and/or other underlying medical conditions.

In an effort to address the issue of stun guns in Miami-Dade County, the Grand Jury decided to tackle the matter head on: speak to the official who has the legal responsibility to determine the cause of death – Dr. Bruce Hyma, Chief Medical Examiner in the Miami-Dade County Medical Examiners Office. His testimony was both instructive and enlightening.[12]

The Medical Examiner's duties include providing professional death investigation and toxicology services to the citizens of Miami-Dade County, as well as education, consultation and research for local and national medical, legal, academic and law enforcement communities. To perform this function, autopsies are performed on the bodies of the deceased. The autopsy consists of physical examination of the body and organs. Injuries, wounds, disease and toxicological results are noted as part of the autopsy. From these findings, coupled with the circumstances surrounding the death of the deceased, the Medical Examiner determines the cause of death (multiple gunshot wounds, asphyxiation, drug overdose, blunt force trauma, etc.) and the manner of death (homicide, suicide, natural, accidental or undetermined).

One of the ironies from our examination is that many of the persons who died after being stunned were found to have died from the same or similar cause. Moreover, their cause of death, and maybe more importantly, their actions immediately preceding death, were entirely consistent with other persons who died and were not stunned. They all died as a result of Excited Delirium Syndrome ("EDS").[13]

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[12] We are aware that other deaths across the nation do not mirror those that have occurred in our county. For a fairly exhaustive report on the circumstances surrounding most of the other deaths that occurred nationwide, please see the Amnesty International article, UNITED STATES OF AMERICA/Excessive and lethal force? Amnesty International's concerns about deaths and ill-treatment involving police use of Tasers.

[13] Over the years there have been similar medical conditions that do lead to death. They include Cocaine Induced Delirium Syndrome, Cocaine Intoxication and Acute Exhaustive Mania.

D. EXCITED DELIRIUM SYNDROME

EDS is a medical emergency that is fatal if left untreated. Persons experiencing an episode of EDS will be paranoid of things in their environment. In addition, their behavior and demeanor will appear irrational, psychotic, agitated and combative. They may also exhibit super human strength. These symptoms are not gender specific. Very often, they also rip off their own clothes. Why? As a result of the delirium, the "excitement" and the intense physical activity they are engaged in, the subjects are developing dangerously high internal body temperatures. In addition to creating dangers for others while in this state, the subjects unwittingly are creating great danger to themselves.

We are all aware that the normal body temperature is 98.6 degrees F. For persons suffering from EDS, their internal body temperature (sometimes hours after their death) is in the 106 – 107 degree range! Neither the human body nor its organs can function at those temperatures. As a result of these extreme temperatures, the body and bodily functions begin shutting down. With the rising temperature, the subjects reach a point of no return. If they reach that point, regardless of what they do (run around in circles until they collapse), what is done to them (stun them with 50,000 volts from an ECD or tackle and handcuff them) or what medical intervention is attempted (pack them in a bed of ice or push "iced" saline into veins), they will die. It is inevitable and it cannot be circumvented. An irreversible chain of events begins once the temperature reaches a certain level. This cause and mechanism of death is not a recent phenomenon.

In 1947, Marvin L. Adland, M.D., a psychiatrist, identified a medical condition common to some mental patients in psychiatric hospitals. He labeled it Acute Exhaustive Psychosis ("AES"). [14] The symptoms of Acute Exhaustive Psychosis, as described by Dr. Adland in 1947, included "Violent motor excitement… continual aimless activity and unrest with sudden impulsive outbursts of assaultiveness or suicidal attempts."[15] Some of those patients also died. Over a quarter of a century later, these symptoms began

[14] Psychiatric Quarterly, Kluwer Academic Publishers, Issue: Volume 21, Number 1, January 1947, Pages: 38 - 69

[15] Ibid at p. 38.

proliferating in this country and in our community. The driving force behind this increase was a substance called cocaine.

In the early 1980's, cocaine use, abuse and addiction became a major problem in our community. After years of abusing cocaine and other illicit drugs, some of the addicts started exhibiting some of the same behavior and symptoms as Dr. Adland identified with the Acute Exhaustive Mania. They died. The first reported cases of Excited Delirium came from Miami in 1985. The toxicology results were very similar for the deceased subjects. They had used cocaine recently, had metabolites from cocaine or low levels of cocaine in their system. Usually, there was also a long history of chronic cocaine use. The subjects exhibited bizarre psychotic behavior, experienced hyperthermia, hyperactivity, used extreme exertion while fleeing or being subdued by police and died suddenly. In 1986, officials in the Dade County Medical Examiner's Office began tracking the deaths due to Excited Delirium, also sometimes labeled Cocaine Induced Psychosis. The Medical Examiner's Office also tracked the number of deaths directly caused by drug overdose or complications from taking illicit drugs.

E. ACUTE EXHAUSTIVE MANIA

Everything appeared fine (and consistent) regarding Cocaine Induced Psychosis until 2001. On May 14, 2001, at approximately 11:30 a.m., Marc Dorvil was driving a vehicle on the North Bay Causeway (commonly referred to as the 79th Street Causeway). While driving his SUV, he crashed into an exterior wall of the Benihana Restaurant. After the accident he got out of his car and started walking away. He was well dressed, wearing a suit. Persons who witnessed this later saw an officer on bicycle patrol, reported the accident to him and advised that the driver was acting strangely in the middle of the street.

The police officer approached and attempted to speak with Mr. Dorvil. According to the officer, Mr. Dorvil was waiving his arms in the air, appeared agitated and kept shouting that he was from Haiti. He continued to run away from the officer and the accident scene. Additional officers were summoned to the scene to assist the first officer in taking Mr. Dorvil into custody. The four officers were unable to calm him and had great difficulty in physically restraining him. No weapons were used in taking Mr.

Dorvil into custody. The officers all described Mr. Dorvil as having super-human strength. During the struggle Mr. Dorvil kicked, scratched and bit two of the officers. They were bleeding on the scene. As a result of those injuries, Fire Rescue was called to the scene.

Eventually, they were able to overpower Mr. Dorvil and applied flex cuffs (plastic handcuffs used to restrain the wrists) on him. In fact, they had to use several sets of cuffs linked together to gain control of his hands. Flex cuffs were used to restrain his legs also. The flex cuffs on the wrists were then attached to the flex cuffs on the legs. Mr. Dorvil was able to snap the flex cuffs attaching his wrists to his legs. The officers applied another set of cuffs securing Mr. Dorvils's wrists and legs. After being re-cuffed Mr. Dorvil was placed in the back seat of the police car. While in the police car he broke the flex cuffs again and attempted to kick out the windows of the police car. The officers handcuffed Mr. Dorvil again (with metal cuffs), sat him upright on the back seat, placed the seatbelt around him and cuffed his ankles to a metal bar located at the rear bottom of the front seat of the police car. The officers noticed that he might have sustained a scratched knee from the struggle. He calmed down and did not appear to be in any physical distress.

Fire Rescue responded to the scene regarding the bites to the officers. While at the scene they also observed Mr. Dorvil who initially was struggling with the officers and being cuffed, and later, was sitting in the rear of the police car in no apparent physical distress. After Fire Rescue left the scene, two officers transported Mr. Dorvil from the scene. They were taking him to Ward D of the Jackson Memorial Hospital to be checked out following the struggle and also to have his blood drawn to determine what was in his system that was causing him to behave in this manner. While enroute (at approximately 12:13 p.m.), they noticed that Mr. Dorvil was unconscious in the backseat. Resuscitation attempts were made to no avail and he was rushed to the JMH Emergency Room. The victim could not be revived and was pronounced dead at 12:45 p.m.

The Medical Examiner became involved because of the "in-custody" nature of Mr. Dorvil's death. As members of law enforcement were familiar with the symptoms for Cocaine Induced Psychosis (CIP), they opined (before the autopsy was conducted)

that CIP was the cause of death for Mr. Dorvil. These statements were primarily made in response to attacks from some members of the public that Mr. Dorvil's death was due to police brutality.

The autopsy confirmed the eyewitness accounts and statement from the police, namely, that there had been no police brutality. Surprisingly, however, the autopsy conclusively refuted the initial opinion as to the cause of death. Although the circumstances preceding his death were strikingly similar to the other local incidents of Cocaine Induced Psychosis, the toxicology report was negative for any illegal drugs or metabolites. Moreover, the Medical Examiner's investigation (which included discussions with Mr. Dorvil's family members) confirmed that Mr. Dorvil had started engaging in bizarre behavior before the actions that resulted in the police being called. The family also advised (and the Medical Examiner accepted as fact) that Mr. Dorvil was not a drug user and had no history of illicit drug use.

Because of the unique nature of this case, Dr. Hyma sent specimens of Mr. Dorvil's brain to Dr. Deborah Mash at the University Of Miami School Of Medicine. Dr. Mash is a renowned expert in the area of chemical pathology of the brain. Dr. Hyma wanted Dr. Mash to conduct further studies of the brain tissue.

Further investigation and examination of his brain tissue revealed that Mr. Dorvil's psychotic behavior mirrored that of the patients Dr. Adland had identified as suffering from Acute Exhaustive Mania in his 1947 report. The Medical Examiner determined that Mr. Dorvil's symptoms were brought on by a brain disorder. His body experienced the same physiological changes felt by those whose deaths were labeled Cocaine Induced Psychosis.

As was explained to us, the brain has certain receptors that use specific chemicals to send out signals for normal functioning of the body. The receptors also allow the brain to regulate our body temperature. For those who are chronic cocaine users, they actually have fewer dopamine receptors in their hypothalamus. Some scientists believe this is why those who die are often hyperthermic. When receptors in the brain begin to malfunction, the brain is unable to maintain the body at a proper temperature. The body begins to overheat, as if one is experiencing a raging fever. However, contrary to any

debilitating effect, persons experiencing these symptoms become delusional. The brain is no longer sending out the correct signals. At some point, the internal body temperature becomes too high for the organs to continue their normal function. Breathing stops and the person dies. That is what happened to Mr. Dorvil. The Medical Examiners Office determined that Mr. Dorvil died as a result of Acute Exhaustive Mania due to a brain disorder.

His bizarre behavior started well before his contact with the police. He was yelling and screaming at his family members and banging on the walls of his home six hours before the automobile accident. He had never engaged in such behavior. He had worked as a carpenter at the same company for more than twenty years. His employer found it "highly unusual" that he did not report to work on May 14, 2003. All of the indicators corroborate the scientific findings that Mr. Dorvil was suffering from a medical condition that caused him to engage in very unusual behavior. That medical condition also led to his death.

As previously indicated, the officers did not use any weapons in subduing Mr. Dorvil. Had they used a stun gun, this would have been another instance where many would be asserting some relationship between the ECD and the death. Use of an ECD in this incident would have allowed the officers to take Mr. Dorvil in custody more quickly (and without injuries suffered by the officers), however, it probably would not have affected the end result. He probably was already past the point of no return.

F. EXCITED DELIRIUM SYNDROME CASES, 1986 TO PRESENT

Since 1986, the Medical Examiner's Office has investigated forty-seven cases where the cause of death was determined to be CIP or EDS.[16] During that same time period, more than 1,400 cases were investigated where the cause of death was found to be due to drug overdoses. Since 1986, the instances of CIP/EDS have averaged approximately four cases per year. The use of ECDs in Miami-Dade County began in

[16] Former and present doctors in the Miami-Dade County Medical Examiner's Office have written numerous articles on this subject. (See, The History of Excited Delirium, Characteristics, Causes and Proposed Mechanisms for Sudden Death by Charles V. Wetli, MD for National Association of Medical Examiner Interim Meeting, San Francisco, CA 2/10/98; Cocaine-Induced Psychosis and Sudden Death in Recreational Cocaine Users, Charles V. Wetli, MD and David A. Fishbain, MD, Journal of Forensic

earnest in the late 90's. Since that time, many more departments have issued stun guns to their officers and there has been no appreciable increase in the number of persons who have died as a result of CIP/EDS. Of the 47 cases identified, only a few involved cases where the subject was stunned before death. Most of the 47 deaths occurred before police began using Tasers in Miami-Dade County. These findings would tend to indicate that the stun guns are not causing, nor are they contributing to these deaths. In fact, the circumstances surrounding the instances where someone was stunned and later died tend to corroborate the Medical Examiner's opinion that electric stun guns are not to blame for the deaths.

For instance, in cases handled by the ME's office where electrocution has been the cause of death, the scene for their initial investigation is usually the place where the deceased was electrocuted. Why? Because they died right there on the spot. Electrocution is not usually a delayed death situation. It is more often than not instantaneous and the autopsy findings reveal injuries and trauma consistent with electrocution. The burglar in the Prentice Rasheed case (referred to earlier in this report) is proof of that. His deceased body was discovered on the electrified grates in the ceiling. As we understood, the deaths that occur are after Taser electrical delivery rather than during or immediately thereafter.

In the cases reviewed here in Miami-Dade County, the doctors have not detected any evidence during the autopsies that would indicate a contributing cause of death from use of stun guns. In fact, absent their review of reports and discussion with police officers and fire rescue personnel, often, the only physical evidence that an electrical stun gun has been used is the presence of barbs still imbedded in the flesh of the deceased, or when the barbs have already been removed, doctors note the presence of the small puncture wounds where the barbs made contact. For the doctors, there is a complete absence of physical evidence of electrical shock revealed during these autopsies.

To corroborate our conclusion that Tasers are not causing the deaths, we are also encouraged by the work of Deborah C. Mash, Ph. D., Professor of Neurology and

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Science, July 1985; Death Caused by Recreational Cocaine Use, Charles V. Wetli, MD, Ronald K. Wright, MD, Journal of American Medical Association, June 8, 1979.)

Molecular and Cellular Pharmacology at the University of Miami School of Medicine. Dr. Mash is also the Director of the University of Miami's Brain Endowment Bank. She has worked extensively on matters affecting the brain, particularly the consequences of long term drug addiction. Based on the research, scientists have learned a great deal about the biochemical, cellular and molecular bases of addiction. They have determined that addiction is a disease of the brain. Dr. Mash has specifically examined cases of persons who have been users and abusers of cocaine and other illicit drugs.

As previously stated, the psychiatric symptoms associated with cocaine use and abuse may include euphoria, dysphoria, psychomotor agitation, persecutory delusions, and agitated delirium. Cocaine delirium may occur within 24 hours after using that drug. This delirium is not due to any physical or mental disorder. Dr. Mash has also studied cases involving Excited Delirium. Based on a report she issued in conjunction with a number of Medical Examiners[17] and in comparison to victims of accidental cocaine overdose without delirium, they determined that Excited Delirium is almost always a fatal event that more frequently occurs in the summer, involves males (usually African-Americans) with a significant body mass index who die in police custody.[18] For those who die from Excited Delirium they have a longer survival time than those who actually die from a cocaine overdose. Based on their research, the fatal event is usually due to cardio respiratory arrest (the heart stops and breathing stops), hyperthermia and rhabdomyolysis (metabolic muscle damage). The deaths are preceded by bizarre and violent behavior that may be characterized by aggressiveness, combativeness, hyperactivity, extreme paranoia, unexpected strength and incoherent shouting. Although many of the deceased have drugs in their systems, the amounts of drugs are not sufficient to have caused an overdose or death.

What Dr. Mash has discovered is long-term drug use or addiction actually causes a re-wiring of the brain to occur. Chronic cocaine users develop neurochemical abnormalities, particularly involving dopamine receptors. These discoveries were made

[17] National Association of Medical Examiner's Position Paper on the Certification of Cocaine-Related Deaths, by Boyd G. Stephens, MD, Jeffrey M. Jentzen, MD, Steven Karch, MD, Charles V. Wetli, MD, and Deborah C. Mash, PhD, THE American Journal of Forensic Medicine and Pathology, Volume 25, Number 1, March 2004.
[18] Ibid, p. 25

after years of study of brain tissue and brain segments that are removed during various autopsies and sent to the lab. In fact, the Medical Examiner has specifically sent the samples to Dr. Mash for testing based on her experience and knowledge in this area. As a result of this practice, Dr. Mash has examined the brain segments and the cellular and molecular structure of the brains for a number of persons who died as a result of EDS. She has determined that there is no difference in brain chemistry between the persons who were stunned with an electric stun device before they died and those who were not. In other words, Excited Delirium Syndrome is clearly a brain disorder, is usually caused by drug abuse, **if left untreated,** is fatal and is not affected by use of an electrical control device on the subject experiencing the delirium.

G. Can These EDS Deaths Be Prevented?

We believe some of them can. As we discussed earlier, hyperthermia (the elevated body temperature) is a very common sign of excited delirium. The physical violence, hyperactivity and thrashing about only makes the condition worse and **without medical attention**, will most certainly lead to death. The key is administering treatment before the subject's body gets to the point of no return. This poses a host of problems for law enforcement officers who respond to these scenes.

At the beginning of this report we discussed Crisis Intervention Team (CIT) Training that has been ongoing in a number of police departments in our communities over the past several years. This training is specifically designed to assist officers in dealing with mentally ill subjects in crisis and helping officers identify such persons. Once they have identified the person as one who is likely suffering from some mental instability, they use the tools they were given in CIT Training to de-escalate the situation, secure control of the subject and take the subject to a facility where he can receive medication and other treatment. ECDs have been effective in assisting in taking persons into custody who were experiencing mental crisis. The Electronic Control Devices have obviated the need to use deadly force in many of those situations.[19]

The presentment to the officers from subjects suffering from some type of mental health crisis is often very similar to the presentment from persons experiencing an EDS

[19] Final Report of the Miami-Dade County Grand Jury, Spring Term A.D. 2004

episode. Both are engaged in bizarre and, at times, destructive behaviors. As unexpected and superhuman strength accompanies EDS, the potential risk of serious injuries to both officers and the subject is significant. The availability of an ECD is a two-fold blessing in this regard.

First, using the ECT to temporarily immobilize and take the EDS subject into custody is a far safer route than having four to six officers involved in a knock-down drag out fight with the subject. Moreover, the former will lessen the subject's hyperactivity and physical exertion; the latter will greatly increase it, and thereby further aggravate the subject's hyperthermic condition.

Second, using an ECD will probably be the quickest manner to gain control of the subject. Obtaining control is the obvious prerequisite to providing medical treatment. We are also mindful of the fact that even after being subdued, many individuals experiencing ECD continue to thrash about, sometimes necessitating cuffing of their feet and ankles (and even, at times, cuffing the handcuffs together). As explained in the literature, even after being subdued and placed in the police cars, many subjects continue with their hyperactivity and physical violence and knock out the windows of the police cars.

Once the subject is taken into custody, the question of whether he lives or dies may already be determined, whether an ECD has been used or not. Has he reached "the point of no return" with his elevated body temperature? If the answer to that question is "yes", there will be very little that can be done to save his life. If the answer is "no", his actions will make it difficult to try to save him. However, there are treatment options that may improve his chance for survival.

Just as police officers have been trained to identify persons suffering from mental crises, Emergency Medical Technicians ("EMTs") and Fire Rescue Personnel have been educated to recognize persons experiencing EDS. As they are aware of the immediate need to lower the body temperature of these subjects, they have tried several types of intervention.

One of the older efforts involved packing the subject's body in ice. The 21st Century version of this is to "ice" the saline and inject the iced saline into the subject's

body via a regular IV line. Many, if not all, of the EMT and the Fire Rescue vehicles now carry iced saline for this purpose. As reported to the Grand Jury, it is an effective method of quickly lowering the subject's body temperature. On a totally different front, medical personnel have also identified drugs that can be administered intravenously to help sedate the subject, thereby reducing his physical activity substantially. Injecting these drugs will also assist in lowering the body temperature. Unfortunately, both interventions suffer from the same shortcoming: They cannot be administered to a patient/subject who, though physically subdued, continues to fight, kick and thrash about.

It is not uncommon for doctors in the ME's office to discover contusions and abrasions on the ankles and wrists of some of the EDS deceased subjects. Those findings corroborate witness accounts at the scenes of the arrests that indicate even after apprehension, the subjects continue to thrash around and move about.

Because this type intervention requires the use of needles and must be administered intravenously, the physical activity of the in-custody subject makes it impossible for the emergency medical personnel to even attempt these potentially life-saving efforts: risks of broken needles and biohazards from body fluids would occur with snatched out or ripped out IV lines. Fire Rescue personnel may very well be on the scene. However, in these circumstances, they are totally useless due to the behavior of the subject. However, all is not lost.

A more effective treatment option is now being studied. It involves use of a drug called Versed (midazolam). Versed is a fast-acting hypnotic sedative. When administered, the drug causes the almost immediate sedation of the subject. The novelty of this treatment option is the drug can be administered via a nasal spray. The risks of broken needles and biohazardous contamination to officers and rescue personnel are eliminated with this treatment. Once the subject lapses into a more relaxed state, medical personnel can then begin other treatment options, which, if administered timely, may save the subject's life. Because of the sedative qualities of the drug, some subjects may experience difficulty in breathing. As a result, fire rescue personnel and EMTs must be alert to this possibility and must be prepared to intubate the subject.

In that regard, we make the following recommendations. We recommend that:

(1) Police officers, Emergency Medical Technicians and other "first responders" be trained to recognize the symptoms of Excited Delirium Syndrome. Once the symptoms are recognized, efforts need to be made to cool the body and reduce the subject's internal body temperature.

(2) EMTs and Fire Rescue Personnel carry "iced saline" in their rescue vehicles to have it available for EDS patients/subjects.

(3) Studies and testing be accelerated to develop the treatment option of administering Versed via nasal spray.

(4) Once the studies and testing have concluded, that EMTs and Fire Rescue Personnel also have Versed available for use in situations where ECD is identified.

H. CALLS FOR MORE TESTING OF ECDs

An increase in the number of Taser-involved deaths and an explosion in the number of law enforcement agencies who are now using the devices has led to close scrutiny from, among others, organizations, associations and individuals who have been in the forefront on issues relating to civil rights, human rights and civil liberties. During our investigation we heard from representatives of some of these groups.

Members of the local and national chapters of the American Civil liberties Union (ACLU) and the National Association for the Advancement of Colored People (NAACP) shared the concerns of their respective organizations regarding the use of Tasers and other ECDs. Similar to what has been occurring in Miami-Dade County, concerns have been raised regarding:

(1) a number of deaths that appear to follow use of ECDs;

(2) abuse and misuse of the devices;

(3) the lack of independent testing of the devices as to the medical effects on the human body

The American Civil Liberties Union of Northern California published a Taser Study in September 2005. The study, entitled Stun Gun Fallacy: How The Lack of Taser Regulation Endangers Lives, addresses in great detail a number of the concerns and issues of that organization and discusses in great detail, the policies, training and experiences of many of the police departments in California that use Tasers. Several "Taser related fatalities are also highlighted in the study. Many of the scenarios in the study involved subjects who were stunned repeatedly before they died. As was the case

for many of the Miami-Dade County fatalities, the subjects appeared to be under the influence of drugs and behaving violently before they were stunned. According to the Study, in one case, the medical examiner found that "a combination of high levels of cocaine, the struggle with the police and the Taser contributed to [the] death."[20]

The use of Tasers in some of the instances described in the Study would violate departmental policies and guidelines for many of the police agencies in Miami-Dade County. For instance, it is a violation of policy to use an ECD on a subject simply for failure to follow a verbal command. Similarly, absent exigent circumstances, it is a violation to stun a subject after he has been handcuffed. However, using Tasers on persons already in custody, inappropriate coercing or intimidating subjects with threatened use of an ECD and repeated stunning in a short period of time have occurred across the nation. An increase in the number of such incidents does cause concern for organizations such as the ACLU, NAACP and this Grand Jury.

Given the increasing number of deaths, the lack of independent medical studies and uncertainty about the effects of Tasers, the ACLU – Northern California Chapter recommends that the weapons should only be used in life-threatening situations.[21] Although we appreciate the concerns, we do not agree with this recommendation. Our police officers are involved in confrontations with subjects on a daily basis. The incidents are not always life-threatening. However, many of those encounters involve the threat of serious bodily injury to officers, subjects and sometimes-innocent bystanders. ECDs offer a quick and efficient option to dissipate such threats, thereby minimizing injuries to everyone.

Other civil rights organizations have called for a moratorium on the use of Tasers until further testing is done, or in some instances, until certain police agencies adopt policies governing its use. For the reasons stated above, we also disagree with the recommendation for a moratorium.

Notwithstanding the disagreements, we do join such organizations in their recommendation that more testing be done. Specifically, we recommend that:

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[20] Stun Gun Fallacy: How the Lack of Taser Regulation Endangers Lives, p. 3
[21] Ibid, p. 15

(1) Law enforcement agencies using Tasers and other ECDs demand rigorous, independent testing of the devices.[22]

(2) More scientific studies be conducted to determine whether persons under the influence of drugs are more prone to suffer adverse and unintended consequences when ECDs are used on them.

Further, to encourage police officers to be more judicious in their use of Tasers and other ECDs, we recommend:

(3) Training Officers advise their police officers of the fact that many people who received repeated stunnings from an ECD or were under the influence of drugs at the time they were stunned died shortly thereafter.

V. CONCLUSIONS

In conclusion, we hope that the information in this report has assisted in answering questions that many in our community have been asking. Although we know there are many with opposing views to some of our findings and recommendations; we hope that the result will be more debate, a heightened awareness and maybe even more testing and study of these devices.

Tasers are still a tremendous benefit and tool for use by law enforcement for all of the reasons stated above: Reduction in injuries (both sides) and a reduction in the use of deadly force have occurred. We believe the information on Excited Delirium Syndrome will be beneficial to our community. It should help everyone to understand why many of these deaths are occurring and may lead to less tension between the police and citizens in our communities. It may also help save the lives of persons experiencing EDS.

We understand that there are still many unanswered questions not addressed in this report. Many persons who died after being stunned with ECDs also used drugs or were under the influence of illicit drugs. Does the ECT affect them differently? Are they more susceptible to complications because of their prior or present drug use? Is there a heightened danger from repeated cycles of stunning in a short period of time? Is the danger heightened for persons who have not used drugs? We do not know the answers to these questions presently. Again, we hope that this report may lead to further studies in these areas, for the benefit of law enforcement and the citizens in our community.

[22] Of course, such testing would not be conducted on members of vulnerable population groups.

DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE
ELECTRONIC CONTROL DEVICE MODEL POLICY

I PHILOSOPHY:

Electronic Control Devices (ECD) are issued to officers for utilization to neutralize potentially combative subjects, as an alternative to physical control in arrest or custodial situations. Only those employees who have completed the approved electronic control device user certification course may utilize the electronic control device.

II TRAINING:

Electronic Control Device Certification

A. Basic certification for the use of an ECD shall consist of no less than the manufacturer's minimum recommendation.

B. Re-certification shall be conducted once a year.

C. Training topics for both the basic certification and annual re-certification should consist of, but are not limited to, the following topics:

1. Manufacturer's Recommendations / Maintenance

2. Deployment /Use / Documentation

3. Response to Resistance Matrix Levels and other Tactical Options

4. Electronic Control Device Retention and Transition Drills

5. Scenario Based Training

6. Recognition of Symptoms: Excited Delirium, Medical Concerns, etc.

D. Only current Manufacturer Certified Instructors are eligible to instruct officers in the use of an ECD.

III. MEDICAL PROTOCOL / EXCITED DELIRIUM TRAINING

A. Introduction: Law enforcement agencies may utilize an electronic control device (ECD) as a non-lethal method to incapacitate individuals. Under certain circumstances, Fire Rescue should be summoned to evaluate and treat the victim. Typically it is not the "ECD" itself that leads to the need for transport to the hospital; it is rather the events that have led up to the officer deploying the ECD on an individual, such as in cases of "Excited Delirium".

B. Excited Delirium: A condition in which a person is in a psychotic state and/or extremely agitated state. Mentally the subject is unable to focus and process any rational thought or focus his/her attention to any one thing. Physically the organs within the subject are functioning at such an excited rate that they begin to shut down. These two factors occurring at the same time cause a person to act erratically enough that they become a danger to themselves and to the public. This is typically where law enforcement comes into contact with the person. Possible causes of excited delirium may include, but are not limited to;

1. Overdose on stimulant or hallucinogenic drugs. NOTE: This is the cause in the majority of cases where an ECD is needed.

2. Drug withdrawal.

3. Psychiatric patient off medication.

4. Illness

5. Low blood sugar

6. Psychosis

7. Head trauma

C. Symptoms of excited delirium include:

1. Bizarre and aggressive behavior.
2. Dilated pupils.
3. High body temperature.
4. Incoherent speech.
5. Inconsistent breathing patterns.
6. Fear and panic.
7. Profuse sweating.
8. Shivering.
9. Nakedness.

D. High body temperature is a key finding in predicting a high risk of sudden death. Another key symptom to the onset of death while experiencing excited delirium is “instant tranquility”. This is when the suspect has been very violent and vocal and suddenly becomes quiet and docile while in the car or sitting at the scene.

E. Monitoring of the subject must take place regardless of whether Fire Rescue was called or not until the subject is released to a receiving facility. Care must be taken to avoid positional asphyxia. No person should be restrained and left in any position that may restrict the airway for an extended period of time.

IV. FIRE RESCUE RESPONSE

A. Under certain circumstances, Fire Rescue should be summoned to evaluate and treat the victim. Police Officers must provide Fire Rescue personnel with as much information as possible (i.e. history of the original incident, behavior observed, symptoms, etc.). These instances include but are not limited to:

1. Probe embedded in the eyeball or inside the mouth.
2. Unconscious even for short period.
3. Visible seizure when ECD is NOT being discharged.
4. Display of signs consistent with excited delirium
5. Obvious significant injury from fall or take-down.
6. Person volunteers that they are having chest pain or trouble breathing.
7. Persistent confusion or altered mental status more than one minute after application of the ECD.
8. Victim of an ECD used by a member of the public (i.e., non-police use).
9. If the victim requests EMS.
10. Any use of an ECD on a juvenile (17 years of age or younger).
11. If an officer has any doubt as to the health of the person based on:

a) The officer's training.
b) The officer's previous use of an ECD.
c) The subject exhibits any of the conditions and/or symptoms above.
d) The subject exhibits any unusual behavior.

B. DEPLOYMENT:

1. An officer's response level to subject resistance should always depend upon subject/officer factors such as age, size, weight, and the subject's apparent ability to physically challenge the officer or do harm to himself or others, balanced against the seriousness of the incident.

2. An officer's decision to deploy the ECD shall involve an arrest or custodial situation wherein the subject is escalating resistance from passive physical resistance towards active physical resistance.

3. The primary purpose in the decision to deploy the ECD is to prevent a continuing escalating subject resistance or violence and to minimize injury to both the officer(s) and subject(s). The ECD shall not be used as a tool of coercion to intimidate an individual into compliance with simple requests or directives by an officer.

4. Prior to deployment of the ECD, officers must take into consideration environmental factors which may contribute to serious injury. These factors, include but are not limited to; subjects standing on or near the edge of a roof, stairwells, next to a window or body of water.

5. No policy or guideline can anticipate every situation that officers might face, but in general terms, the following deployment procedures are established. An ECD can be utilized under the following circumstances:

6. When the subject is exhibiting threatening body language associated with verbal threats or refusing to comply with the officer's instructions, and the subject has the apparent ability to physically challenge the officer. Threatening body language includes, but is not limited to:

a) blading the body
b) assuming a "boxer stance"
c) circling the officer
d) moving the hands from open to closed, forming a fist, etc.

7. When a subject makes physically evasive movements to defeat an officer's attempt to control. This may be in the form of:

a) bracing or tensing of the body
b) attempts to kick, push, or pull away
c) not allowing the officer to get close to him/her

8. When a subject makes overt, hostile, attacking movements, which may cause injury, but are not likely to cause death or great bodily harm to the officer or others.

9. When subject makes overt, hostile, attacking movements with or without a weapon with the intent and apparent ability to cause death or great bodily harm to the officer or others.

10. When lesser force options may be ineffective.

V. SPECIAL CONSIDERATIONS:

A. **Flammable Liquids**: Officers shall not discharge an ECD near flammable liquids or fumes. The ECD shall not be discharged if flammable self-defense spray has been deployed.

B. **Pregnancy:** The ECD should not be used on women who are known to be pregnant and/or women who appear to be pregnant unless exigent circumstances are present.

C. **Handcuffed Subjects**: An officer should not utilize an ECD on an in-custody handcuffed subject unless exigent circumstances exist.

D. **Fleeing Subjects**: An officer's decision to deploy the ECD on fleeing person(s) who are subject to arrest, should be predicated upon the totality of the circumstance and the considerations outlined above.

E. **Baker Act**: An officer's decision to deploy the ECD on a subject whom officers are attempting to take into custody pursuant to the Baker Act, should be predicated upon the subject clearly exhibiting behavior that would cause harm to themselves or others and who has the apparent ability to carry out those intentions.

F. **Vehicles**: The ECD should not be deployed on subjects in physical control of a motor vehicle while the engine is running.

G. **Animals**: ECD's can be used on animals in circumstances where the use of such device, is necessary for the safety of the officer, public or the animal.

VI TREATMENT:

Aftercare Procedures: Officers shall adhere to the following procedures when deploying an ECD, where probes or drive stun impacts a subject.

A. If there is a secondary injury or complaint of injury or other medical necessity (i.e.; alcohol / drug induced state) Fire Rescue will be requested and advised that the subject has been impacted by an ECD.

B. If an officer is uncomfortable removing probes anywhere on the body the officer may request Fire Rescue to respond and medically assess the situation. (Note: It may be Fire Rescue's policy not to remove any probes, but they should assess the patient and assist in getting transportation to a medical facility for removal. If transported to a medical facility an officer shall remain with the prisoner.

Only certified ECD user officers will remove probes, using department issued safety gloves. An adhesive bandage will be applied to the affected area if necessary.

C. Any adult prisoner impacted by an ECD shall be transported to a detention facility via Ward "D" of Jackson Medical Center. Upon written medical release the prisoner will be transported to a detention facility.

D. Any juvenile prisoner impacted by an ECD shall be transported to a hospital emergency room for evaluation. Upon written release from the medical facility the juvenile prisoner shall be transported to the JAC.

VII DOCUMENTATION:

A. ECD's that have a record storage function which maintain records of the time and date the ECD is fired are recommended. This data provides complete and accurate documentation on each firing. These records provide invaluable information in the event of an allegation of the misuse of the device.

B. Officers discharging an ECD shall notify the supervisor that the device was deployed. The officer shall document the incident pursuant to their department's policy. This documentation should clearly articulate the circumstances surrounding the ECD deployment as well as any additional discharges. Supervisors should also document the incident pursuant to departmental policy. The specific minimum information to be contained in the ECD documentation will be left with the individual agency.

C. Photographs should be taken of the probe penetration sites and any secondary injuries. The photos should be marked and included with the ECD documentation packet. The officer will request Fire-Rescue to examine the person if the probes cannot be removed because of an unusual penetration, or if penetration is made to the area above the clavicle, groin, or sensitive area of the breast. Fire-Rescue shall also be notified if any secondary injuries that require examination. If practicable, photographs should be taken of those areas.

D. Officers shall not remove the probe(s) if the probes are located in the sensitive areas mentioned above. If Fire-Rescue is called to the scene, they will make the determination if the person should be transported to a medical facility for further evaluation. If this is necessary, appropriate medical clearance procedures will be utilized prior to transporting the subject to a detention facility.

E. Officers removing the probe(s) will wear protective gloves to protect against any biohazard transference.

F. The cartridge will be collected from the scene and impounded in accordance with individual agency policy. When collecting the cartridge, the wires shall be wrapped around the cartridge. The probes shall be inverted into the portals they originally were deployed from (this will prevent the sharp ends from penetrating the packaging). Tape shall be placed over the portals to secure the probes. If practical, the coded material shall be collected from the scene and impounded.

G. Officers who have deployed the ECD will submit their device in accordance with agency policy for downloading the information from the ECD program. This report will be printed and included with the ECD documentation packet. When more than one officer is on an ECD deployment scene, consideration should be given to downloading all officers' ECD. Further, monthly or random data port downloads should be considered for review.

H. The officer's and supervisor's ECD documentation packet will be forwarded and reviewed by the chain of command. Consideration should be given to these reports also being reviewed by ECD instructors and/or ECD supervisors. A process for semi-annual or annual reviews of ECD documentation packets should also be considered.

VIII ADMINISTRATIVE FUNCTIONS:

ECD Program Supervisor (s): An ECD Program Supervisor (s) should be appointed to handle ECD related functions. These duties may include, issuing the ECD units / cartridges, record keeping, training, documentation review, etc.

A. Issuing / Replacement of Cartridges:

The Program Supervisor (s) shall be responsible for logging in all cartridges purchased by the department via the bar coded serial number listed on each cartridge.

1. Each officer should be issued two (2) cartridges upon the successful completion of their ECD training. Upon receipt of the ECD cartridges, the assigned officer shall write their police department ID number and initials on the cartridge.

2. When a cartridge is issued to an officer, the program supervisor will document the specific cartridge(s) issued to that officer. All deployed or defective cartridges will be returned to the Program Supervisor and logged in as used or defective, noting the date used, or returned if defective and the case number.

B. Repairs:

1. Upon receipt of issued equipment the receiving officer is required to check the equipment to ensure it is in working order. Officers shall not use any equipment related to the ECD that has not been issued or approved by the department.

2. If at any time an officer or supervisor determines that an electronic control device, battery or cartridge is defective and/or damaged, that unit or part shall be taken out of service immediately. The ECD, or part, shall not be used until such time as it has been repaired and/or replaced by the Program Supervisor or an ECD Instructor. In the event the unit, or part, cannot be repaired or replaced immediately, the affected officer shall be issued a spare unit or part if possible.

3. Any officer with a defective or damaged ECD, or part, shall notify his/her supervisor immediately. The supervisor shall take possession of the electronic control device, or part, and retain possession of it until such time as they can turn it into the Program Supervisor, or an Electronic Control Device Instructor, to have the

equipment repaired or replaced. Once repaired, or replaced, the officer will return any spare equipment.

4. Prior to any ECD being sent for repairs, a final download of the data shall be made for record purposes.

C. Testing:

1. Only a properly functioning and charged ECD shall be carried in the field. In order to insure the ECD is functioning properly, officers will conduct a routine test / inspection of their ECD based on the manufactures' recommendations and individual department policy. All tests will be documented at the time of the test based of the department's policies.

2. These tests will be conducted in a safe location out of public view according to manufacturer specifications.

3. In the event an officer has to test their ECD, other than the routine test, the officer shall first notify the on-duty supervisor. In the presence of the supervisor, the appropriate testing procedure will be followed and documented by the supervisor according to the department's policy.

D. Review:

1. If an ECD has been deployed against a subject, the ECD Supervisor ('s) should review the documentation to determine if all procedures have been followed, and that the date and time of deployment from the ECD correlate with the information contained in the reports and/or documents. Once reviewed, the Program Supervisor ('s) should issue documentation that supports his / her findings. This documentation shall be reviewed and forwarded by the Chain of Command, based on departmental policies.

Updated: 01/05/2006

NAME OF DEFENDANT	CHARGE	INDICTMENT RETURNED
CAMERON COTTON, (A) and ERNEST LAFRANCE (B)	Murder First Degree Murder/Premeditated/Attempt/Firearm Deadly Missile/Shooting, Throwing Firearm/Possession by Minor (A) Firearm/Possession by Minor (B)	True Bill
RAUDEL EDWARDS ROBINSON (A) KEON DEMETRIC THOMAS (B)	Murder First Degree Robbery/Armed/Attempt Firearm/Weapon/Posn by Convicted Felon/ Delinquent Firearm/Use Display While Committing A Felony	True Bill
TORRELL EUGENE HARRELL	Murder First Degree Murder/Premeditated/Attempt/Dweapon Murder/Premeditated/Attempt/Dweapon Murder/Premeditated/Attempt/Dweapon Firearm/Weapon/Posn by Convicted Felon/Delinquent	True Bill
TIMOTHY STEWART	Murder First Degree Attempted First Degree Murder Shooting Into an Occupied Dwelling	True Bill
TYRONE DANIEL CLARK	Murder First Degree Robbery/Armed/Deadly Weapon Attempted Felony Murder/Deadly Weapon	True Bill
DERRICK ANDRE HOLMES	Murder First Degree Burglary/Armed Grand Theft Third Degree	True Bill
DAVON CHEROD POTTER (A), GREGORY LEROY JOHNSON (B) and DONALD B. LOWE (C)	Murder First Degree Robbery/Armed/Attempt/Mask	True Bill
JOEY JEROME KENNEDY (A) and JAEMAR KENNEDY (B)	Murder First Degree Murder First Degree Murder First Degree Murder First Degree	True Bill
GIULLAUME SAM	Murder First Degree Child Abuse/Aggravated/Great Bodily Harm/Torture	True Bill

NAME OF DEFENDANT	CHARGE	INDICTMENT RETURNED
(A) COREY LAMONT EDWARDS, (B) RICHARD BERNARD LATSON, (C) CHARLIE THOMAS, (D) DAVON MONTRELL FRANCIS, and (E) NATHANIEL EARL ROBERSON	Murder First Degree Murder/Premeditated/Attempt/Firearm Attempted Felony Murder/Deadly Weapon Murder/Premeditated/Attempt/Firearm Attempted Felony Murder/Deadly Weapon Robbery/Armed/Firearm Assault/Aggravated/With a Firearm	True Bill
(A) AHED HBAIU, (B) THOMAS R. HEHMANN, (C) KEVIN ALLAN KENEUKER and (D) PAUL VINCENT BRANDRETH	Murder First Degree Murder First Degree/Conspire Grand Theft Second Degree/$20,000 or more, Under $100,000	True Bill
LEVI JESSIE MEDINA (A) and MODESTO GUSMAN (B)	Murder First Degree (A & B) Criminal Mischief / $1,000 or More (A & B) Tampering With Physical Evidence (A & B) Firearm/Use, Display While Committing a Felony (A & B)	True Bill
(A) RAUL MACEDA DOMINGUEZ and (C) JEAN CARLO BATISTA-PEREZ, also known as JEAN CARLOS BATISTA-PEREZ	First Degree Murder (A) First Degree Murder (A) Attempted Second Degree Murder (C) Murder/Premeditated/Attempt/Deadly Weapon (A)	True Bill
(A) BRANDI NICOLE SMITH (B) GERARD WILLIAMS and (C) CHANTALE WILSON	Murder First Degree Kidnapping/With a Weapon Robbery/Armed/Firearm Arson Second Degree Firearm/Use, Display While Committing a Felony (“B” only) Firearm/Possession by Convicted Felon (“B” only)	True Bill
TULIO JESUS ARIAS	Murder First Degree	True Bill
RONALD ERIC SALAZAR	Murder First Degree Sexual Battery/Victim Under 12 Years	True Bill
MICHEL ESCOTO	Murder First Degree	True Bill

NAME OF DEFENDANT	CHARGE	INDICTMENT RETURNED
(A) BRANDI NICOLE SMITH (B) GERARD WILLIAMS and (C) CHANTALE WILSON	Murder First Degree Kidnapping/With a Weapon Robbery/Armed/Firearm Arson Second Degree Firearm/Use, Display While Committing a Felony ("B" only) Firearm/Possession by Convicted Felon ("B" only)	True Bill
RICHARD BENITEZ, also known as PEDRO PIAL, also known as "BLANCA"	Murder First Degree	True Bill
KATHERINE IVETTE CRUZ	Murder First Degree Child Abuse/Aggravated/Great Bodily Harm/ Torture	True Bill
BLADIMIR SOTO	Murder First Degree Attempted Armed Robbery	True Bill
LAWRENCE S. BRYANT	Murder First Degree Burglary/With Assault or Battery Therein While Armed Robbery Using Deadly Weapon or Firearm Aggravated Battery/Deadly Weapon Kidnapping with a Weapon Attempted Armed Robbery	True Bill
DAVID PIERRE	Murder First Degree Robbery Using Deadly Weapon or Firearm	True Bill
ROBERTO CAMARA	Murder First Degree	True Bill
MARIUS FILS	Murder First Degree Attempted Armed Robbery	True Bill
YUSIMIL HERRERA	Murder First Degree Child Abuse/Aggravated/Great Bodily Harm/ Torture	True Bill
FRANK MIQUEO	Murder First Degree Resisting an Officer Without Violence	True Bill
MORRIS FOWLES	Murder First Degree Murder/Premeditated/Attempt/Deadly Weapon Child Abuse/No Great Bodily Harm Firearm/Weapon/Possession by Convicted Felon or Delinquent	True Bill
MARTIN LIVINGSTONE	First Degree Murder Attempted Armed Robbery	True Bill

NAME OF DEFENDANT	CHARGE	INDICTMENT RETURNED
RICHARD OMAR RAMBARAN (A) and DANNY BINS PIERRE-LOUIS (B)		
	Murder First Degree (A&B)	
	Murder/Premeditated/Attempt (A&B)	
	Burglary/With Assault or Battery/ Armed (A&B)	
	Murder/Premeditated/Attempt/D Weapon (A & B)	
	Murder/Premeditated/Attempt/D Weapon (A & B)	
	Burglary/With Assault or Battery/Armed (A)	
	Firearm/Weapon/Possession by Convicted Felon/Delinquent (A)	True Bill
MICHAEL DOHERTY LOCASCIO (A) and EDWARD STANTON LOCASCIO		
	Murder First Degree	
	Burglary/With Assault or Battery/Armed	
	Robbery/Armed/Deadly Weapon	
	Murder First Degree/Conspiracy	True Bill

ACKNOWLEDGMENTS

We are proud and honored to have had the opportunity to serve the Miami-Dade County Grand Jury for the Spring Term 2005 and encourage our citizens to participate in this honorable civic duty when our local government calls our citizens to serve.

We would like to take this opportunity to thank Chief Assistant State Attorney Don Horn for his professionalism and dedication. We citizens who participated as jurors are now better citizens after sharing his broad knowledge of our judicial system. We received an introduction into our justice system and would recommend that future jurors be given a broader education, not just on our duties as grand jurors but how our duties and responsibilities fit into that system. We also would like to extend a warm thanks to Rose Anne Dare, Administrative Assistant, Nelido Gil, our Bailiff and our court reporters for their dedication and commitment.

The investigations completed on Tasers and other Electronic Control Devices have revealed professional police departments, competent and willing to accept new technological advances in Taser technology. As the Spring 2005 term ends, the Taser report is submitted and we feel our local police authorities are conscious that Tasers could be misused and are prepared to scrutinize any misuse. After examining the technology behind the Taser, we strongly feel they offer a less lethal alternative to conventional weapons.

It has been a privilege and an honor to serve our community.

Respectfully submitted,

Raul G. Recinos, Foreperson
Miami-Dade County Grand Jury
Fall Term 2005

ATTEST:

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Maria J. Llanes
Clerk

Date: February 2, 2006