

## Taser Use of Force #2 – Incident 08-1777

**Arrestee's Complaint.** During the pendency of the criminal case, the man from the van complained that the PAPD officers had used the Taser on him in violation of the PAPD policy on Taser use and that the video evidence from the case had been tampered with. The auditor viewed these as significant issues independent of the criminal case and evaluated them in light of all of the evidence relating to the arrest. At this juncture, we continue to conclude that the use of the Taser by both officers complied with the Department's Taser policy. Each time a Taser was used, whether in projectile mode or drive stun mode, the suspect appeared to meet or surpass the "active resistance" threshold. The complainant's concern about videotape tampering concerned "gaps" present in the Taser video tapes. We consulted independent experts as well as Department experts and their conclusion is not that the Taser tapes had been tampered with but that the "gaps" in the tape were consistent with the activation and deactivation of the Taser during normal use or while switching modes. Furthermore, there was little relevant information lost, as other continuous videotape retrieved from the in-car video recordings recorded the same actions.



## POLICE AUDITOR'S FINAL REPORT

Presented to the Honorable City Council  
City of Palo Alto  
April 13, 2009

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- A fully charged battery will provide enough power for approximately 100 five-second firings at 77 °F (25 °C) and 2 hours of video/audio recording. **Note:** Only the last 1.5 hours of video will be stored.
- The TASER CAM system records both video and audio any time the safety is in the up (ARMED) position, and stops recording when the safety is in the down (SAFE) position. **Note:** There is an approximately 1.5-second delay between the safety being placed in the up (ARMED) position and when the TASER CAM begins to record.
- The TASER CAM recorder stores the video and audio records; the X26 device stores the firing records. Because these data are kept in different places, it is preferred to use the same TASER CAM recorder and X26 device together.
- There is a distinct difference between the TASER CAM battery and a DPM/XDPM. The TASER CAM battery supplies less voltage to the X26 device than a standard X26 DPM/XDPM, so the X26 device's Low Intensity Lights may flash when the unit is firing. This is normal and DOES NOT indicate a low battery or a low power output.

10:10:33  
15-03-08



The above image depicts an electrically charged taser wire from Burger's taser gun. This image was taken four seconds after Burger fired his taser gun.

A taser camera records video footage at all times that the safety is in the armed position, thus at all times that electricity is being discharged.

There is no corresponding video of the above image on Burger's taser video, for his video camera was not recording at the time according to Michael Gennaco.

Additionally, the taser gun Data Port did not document the above discharge of electricity.



17:04:56

The corresponding section of video footage from Officer Burger's Taser video to that of the 10:10:33 mark of the MAV video is 17:04:56.

At what should be the 17:04:56 mark of of Burger's Taser video, **the camera was turned off according to Michael Gennaco** and therefore there is no video footage as depicted at left from the blank filler applied by the Santa Clara County District Attorney.



**Burger's taser video actually jumps from the 17:04:54 mark to the 17:05:02 mark.**

**MAV VIDEO**



**TASER VIDEO**



Since there is electricity being discharged as documented in the MAV video, there should be video footage recorded onto the Taser camera.

**WHERE IS THE VIDEO FOOTAGE MR. GENNACO?**

**WHY DOES BURGER'S DATA PORT NOT DOCUMENT THIS DISCHARGE OF ELECTRICITY?**

It appears that the above incident wasn't the first time that Michael Gennaco has lied about the use of taser guns by police officers.

#### Taser Use of Force 2010-002

aspect of Taser use in other jurisdictions. One officer even had the presence of mind to use his Taser camera to document part of the struggle even though he chose not to activate the Taser as a weapon. Potential shortcomings in the report are not related to the Tasers but to the K-9. The handler's report does not sufficiently explain his reasons for re-deploying the dog on the suspect who was trapped in a confined space. The incident does raise the Taser-related issue of equipment maintenance and quality control. One of the two Tasers deployed did not seem to work at all. After the incident, there were problems downloading the data and getting an accurate time stamp on it. The Department has acknowledged these issues from previous Taser uses and we will continue to monitor its efforts to perfect maintenance and infrastructure for this weapon.

successfully handcuffed the suspect. During this time, the sergeant fired Taser darts at the suspect's back but the Taser appeared to have no electrical power and no effect. Then a supervising officer fired her Taser at the suspect's chest and cycled it for 10 seconds. This had a minimal effect so she tried to disable the suspect more effectively by applying the Taser device in drive stun mode directly to his upper back. This did not work, but the officers were eventually able to handcuff the suspect and pull him out of the fenced in area. At that point, the suspect showed signs of breathing distress and appeared to have seizures. He was placed on his side as a precaution by the supervising officer who monitored him until paramedics arrived. When paramedics got there, the supervising



## POLICE AUDITOR'S FINAL REPORT - 2010

Presented to the Honorable City Council  
City of Palo Alto  
March 7, 2010

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