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## TASED AND CONFUSED

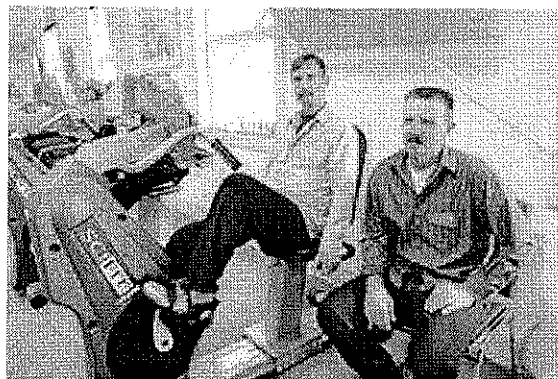
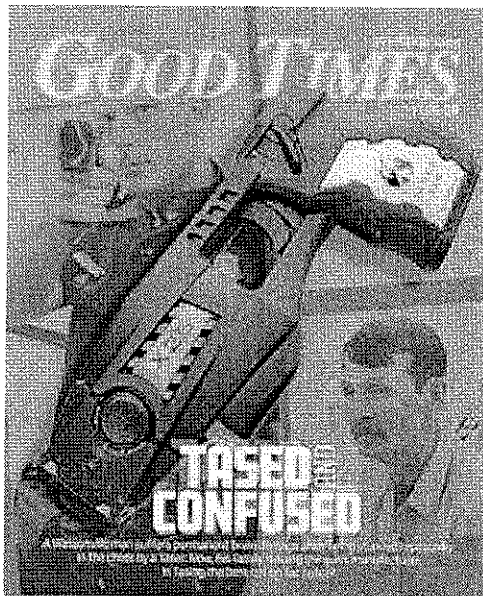
A Watsonville man suffers permanent brain damage after being stunned repeatedly in the chest by a Taser. Now, his family is suing the gun's manufacturer. Is Tasing the best option for police?

## Tased and Confused

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WRITTEN BY LAUREL CHESKY

WEDNESDAY, 05 NOVEMBER 2008

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A Watsonville family says a stun gun stopped Steve Butler's heart, resulting in brain damage. Now they're suing the manufacturer in what could be the first case of cardiac arrest caused directly by shocks from a Taser gun.

When Steve Butler stumbled onto the bus, the driver was less than thrilled. He didn't want to deal with a drunk on the bus disturbing his driving, harassing or falling on passengers, perhaps barfing all over the seats and floor. So he called the police and sat tight. Within minutes, a Watsonville Police Department patrol car arrived. According to police reports, at 4:15 p.m. on Oct. 7, 2006, two officers stepped into the bus and found Butler slumped on the back seat.

"Hey, how you doing?" one of the officers asked Butler.

With slurred speech, Butler replied, "Are you here to ride the bus?"

"No," the officer said.

"Sit down or get the fuck out!" Butler responded. "Sientese aqui!"

Butler jumped up and assumed a fighting stance. His fists were clenched and raised to shoulder level. He planted his legs apart, knees bent, and snarled at the officers. He took two steps toward them. One of the officers withdrew his Taser X26 stun gun from its holster. He told Butler to relax and ordered him to turn around and put his hands on his head.

"If you touch me," Butler threatened, "I'll fucking deck you!"

The second officer reached for Butler in an attempt to handcuff him. A scuffle ensued and the first officer shouted, "Taser, Taser, Taser!" and then pulled the trigger. Two probes charged with 50,000 volts of electricity pierced Butler's chest. The struggle continued and the officers, unsure whether Butler was packing a weapon or not, took no chances. The officer with the Taser gun shocked Butler again and then a third time before he dropped to the bus floor.

When Butler didn't make it home that night, his mother was frantic. (At 48, Butler lived with his parents.) Very early the next morning, she received a call from Watsonville Community Hospital saying that her son was there and in intensive care. She called David, one of her three sons, who headed straight to the hospital, where he found his brother comatose. Butler's sister, Laura Plumlee, also went to the hospital.

Family members were not allowed to see him at first. "A nurse came out and said, 'I can't tell you anything. All I can tell you is that the police got him off the bus and he collapsed,'" Plumlee says. "I went to pieces, but my brothers were there for me."

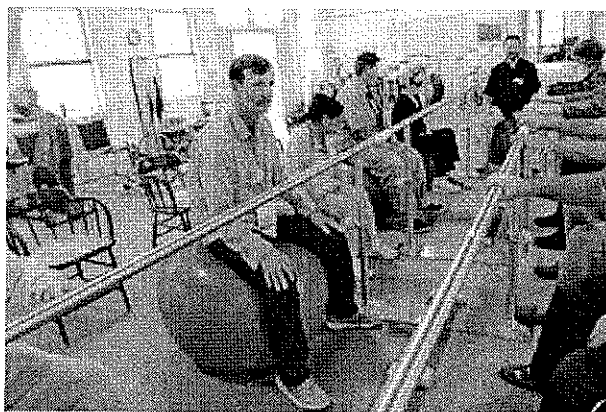


Soon the family was permitted to see him, two at a time. David and Plumlee went in together. They pulled back the bed sheet and looked over Butler's body. They found two, pea-sized red burns on his chest, directly over his heart. David took pictures of the marks with his cell phone.

"David asked the nurse, 'Did they tase him?'" Plumlee says. "She said, 'I can't lie to you. Yes, they did.'"

After the third Taser shock, Butler's heart stopped. Police officers on the scene immediately carried him off the bus and called the paramedics. When the EMTs arrived, they used a defibrillator machine to jump-start Butler's heart. After five attempts, his heart began beating on its own again.

It's unclear how long Butler's heart lay still. But one thing is certain: It was long enough to starve his head of oxygen and cause permanent brain damage. According to a Jan. 26, 2007 assessment conducted by a neurologist at Santa Cruz Medical Foundation, Butler suffers from "severe anoxic encephalopathy [brain degeneration due to lack of oxygen] status post cardiac arrest induced by a Taser gun."



Steven Butler in rehab

Butler had his share of problems before the Taser incident. He suffers from bipolar disorder, borderline paranoid schizophrenia and alcoholism. Before the brain damage, and when he took his medication, he worked as gardener. Sometimes he worked with the elderly at his mother's church. When he refused to take his meds, as he occasionally did, he drank excessively and acted erratically.

His police record includes arrests for DUI, resisting arrest and battery to a peace officer. His most serious offense was armed robbery in Tulare, for which he spent six years in prison. (Butler claimed innocence and his brother, David, believes the court convicted the wrong man.) He had been in Tulare to take care of his grandmother after she suffered a stroke.

About a year and a half ago, Plumlee says, he was off his meds and stole a truck. "He was manic and psychotic, and he saw a truck with a Raiders stickers on it that had the keys in it," Plumlee says. "He thought the truck was there for him, so took off in it." Eventually he was caught and arrested, but the charges were dropped on the condition that he get back on his meds and observe a curfew at his parents' home in Watsonville, Plumlee says.

But for all his drinking and bizarre antics, Butler's brother, David, and sister say they never saw him act violently, even when he'd been drinking. "I've never, ever seen him violent," Plumlee says. "Once he got upset with one of our brothers and he hit the fence. That's the only time. He wouldn't hurt a flea."

According to police reports about the bus incident, Butler did not brandish a weapon, strike an officer or wage any serious threat to the officers' safety. His family has a difficult time believing that two police officers couldn't gain control of an extremely drunk, possibly stoned, 132-pound man without the use of electrical shock.

"They could have subdued him with pepper spray, they could have manhandled him," says David, who is now Butler's full-time caregiver and legal conservator. "At first I was blaming the police, but now I blame Taser because they arm these cops with these Taser guns and say they're safe to use, that they won't harm anybody. The police are not properly informed about the Tasers, I believe."

## Holding Taser Accountable

Shortly after the third shock with the Taser gun, Butler's heart went into ventricular fibrillation (VF), a condition in which the heart beats out of sync and is unable to pump blood. Cardiac arrest followed, leading to the brain damage. The Butler family believes that the repeated shocks to the chest from the Taser gun interfered with the electrical signals within the heart that prompt it to beat at a regular rhythm, causing the VF. While the cause may seem obvious, the stun gun's manufacturer, Taser International, Inc., maintains that its products do not cause VF or cardiac arrest.

Just shy of two years after the bus incident, Butler's family filed a lawsuit against Taser International. David Butler filed a product liability suit against Taser in Santa Cruz County Superior Court on Sept. 17. David chose not to sue the Watsonville Police Department. He believes that police officers were acting under false information—that the Taser is safe.

The lawsuit contends that Taser falsely claimed that its product is not capable of causing cardiac arrest when, in fact, according to the lawsuit, it can and did. The suit charges that Taser failed to warn police of that danger.

"Taser International put this product on the market without it being tested," says Dana Scruggs, one of the Butlers' two attorneys. "They say that it's non-lethal and safe, and they didn't know whether that's true or not."

Because officers believe the Taser gun is harmless, Scruggs says, they tend to use it cavalierly. Taser, he says, should warn police that the device can cause heart failure.

Taser International is no stranger to lawsuits. Amnesty International reports more than 300 people have died at the hand of a Taser gun since 2001. The company has been sued more than 100 times over deaths and injuries. Armed with well-paid experts and company-sponsored research studies that confirm its products safety, Taser has been extremely successful at deflecting liability. About 70 of those lawsuits Taser has either won or settled out of court. More than 30 cases are still pending.

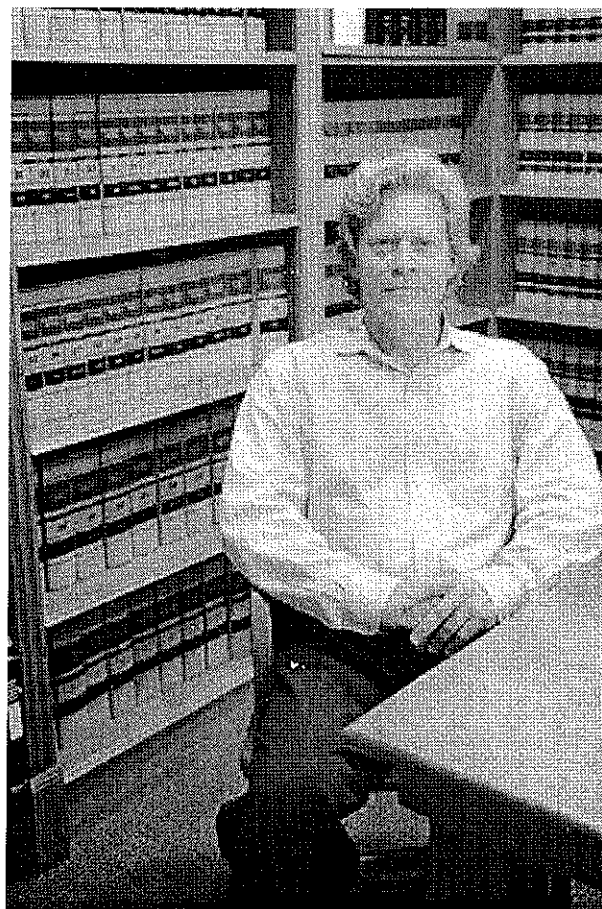
The company had never lost a case—until June, when a federal jury in San Jose awarded Betty Lou Heston of Salinas a \$6.2 million judgment. Heston's son, Robert Heston, died after Salinas police officers shocked him 25 times with Taser guns. At the time, he was, like many Taser victims, high on methamphetamine. The jury found Taser 15 percent responsible for Heston's death. Heston himself, they concluded, was 85 percent responsible for his own demise. The Salinas Police Department was also named in the suit but the jury found it not liable.

The case is significant not only because it marks Taser's first loss in civil court, but because the jury awarded Heston punitive damages—\$5.2 million of the settlement—based on the manufacturer's failure to warn police agencies that repeated Taser shocks can cause cardiac arrest. However, last month a federal judge dismissed the punitive damages.

In cases of in-custody deaths involving Taser guns, the company argues that their product is an innocent bystander in an inevitable outcome. A controversial diagnosis of "excited delirium," Taser argues, caused the deaths. Excited delirium is a muddled concept used to explain why some people—who are often high on drugs or alcohol—die suddenly while in police custody. Symptoms are said to include extreme agitation, aggression, raised body temperature, violent behavior and incoherence. The suspect's state may be exacerbated by the use of force, including a Taser gun, pepper spray and physical restraint, or a combination of those tactics, but the excited delirium is the cause of death, Taser argues. The American Medical Association and the Canadian Medical Association rejects the excited delirium diagnosis, although some medical examiners have, in the past few years, begun using it as an official cause of death.

(Taser sometimes sues medical examiners who disagree. In May, a judge in Ohio ordered the removal of Taser's name from three autopsy reports.)

Other cases involve victims who died from a Taser-induced fall, like the incident in Brooklyn in September where a New York Police Department officer tased a suicidal man standing on a third floor fire escape. The man fell to his death. Days later, the



Dana Scruggs

officer who ordered the tasing killed himself.

The Butler case, say the family's attorneys, is the first case brought to civil court in which a victim suffered cardiac arrest as a direct result of being shocked with a Taser. Butler was very drunk at the time of the incident. His blood alcohol level was 3.5 (.08 is legally drunk in California). He had THC in his bloodstream, but no stimulants that would have caused his heart to race were found in his system. Although thin—at 5'11, he weighed just 132 pounds at the time—he was healthy and had no history of heart disease. In fact David says he was an avid cyclist and often rode his bike from Watsonville to Santa Cruz and back.

"Most of the previous cases against Taser have been multi-factorial," says John Burton, the Butlers' other attorney, who also represented the plaintiff in the Heston case. "Butler's cardiac arrest was directly caused by Taser current. There is no question, based on the medical history in this case, that the Taser stopped his heart. ... There's no other reason that he would go into cardiac arrest."

Taser International, however, contends that its products cannot directly cause cardiac arrest and that they have the science to back it up. "We do not discuss ongoing litigation or lawsuits," Steve Tuttle, vice president of communications for Taser, wrote in an email to GT, "but we have a record of 74 cases, that we have either won or have been dismissed and/or given summary judgment in our favor concerning wrongful death and product liability cases and have had one loss to date.

"We know that our Taser technology protects lives throughout the world and that medical experts studying Taser devices have concluded that they are among the safer alternatives to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves compared to traditional use-of-force tools," Tuttle continues. "We stand firm behind the safety of Taser technology and will rigorously and aggressively defend any lawsuit filed against or by the company vigorously."

## A Safer Alternative?

Taser International sprang to life in 1993 in Scottsdale, Ariz. at the hands of company founders and brothers Rick and Tom Smith, who vied to develop a non-lethal alternative to the handgun. They began marketing the Taser gun first to private citizens as a personal protection device and later to police departments, private security companies, prisons and the military. Taser touts that its products save the lives of police officers and suspects every day by giving officers a safe and effective alternative to guns. Since 1998, more than 359,000 Taser devices have been sold to law enforcement agencies. Taser is by far the leading manufacturer of electronic control devices, or stuns guns, in the U.S. and the world.

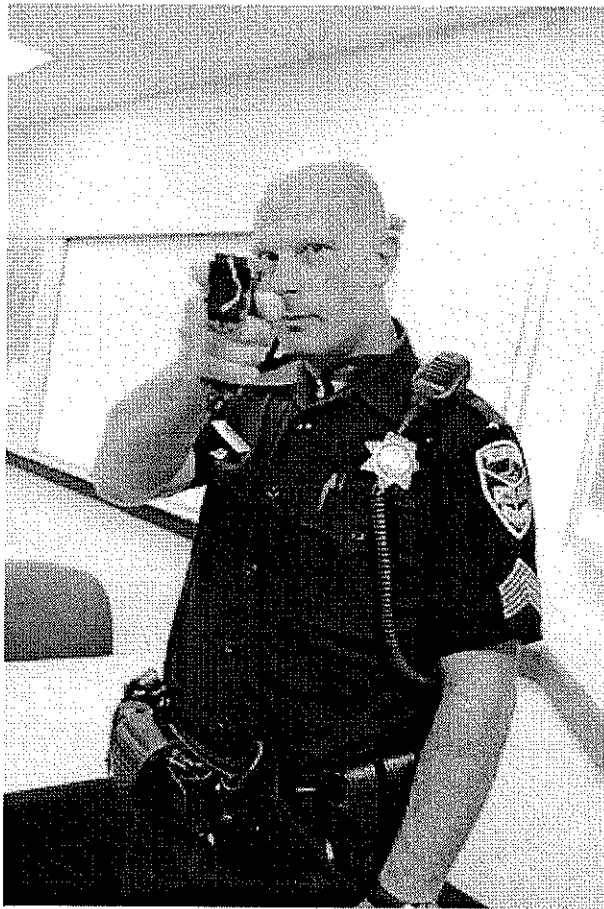
Taser guns are designed to allow police officers to incapacitate an unruly individual from 15 to 35 feet away. The gun shoots two small probes into the person's muscle tissue at a speed of 160 feet per second. The probes are connected to the gun by two thin wires. An electrical signal travels through the wires and into the muscle, pulsing 20 times a second into the muscle for a recommended interval of five seconds (although officers can keep the current going much longer). The electric shock temporarily overrides the nervous system, causing immediate loss of muscular control. The person becomes rigid and immobile, giving police officers time to move in and handcuff the subject. If it doesn't work the first time, the officer can repeat the electric shock multiple times.

Sergeant Michael Ridgway of the Watsonville Police Department (WPD) attests to the Taser gun's safety. Ridgway has been trained and certified as a master Taser instructor by the company. He is the primary instructor for electronic controls devices at the WPD and has been tased several times himself in demonstrations. All Taser device training originates with the company.

Taser schooled Ridgway well on safety issues, he says. For example, he was taught to avoid tasing the very young or very old, pregnant women, people in water, or people standing on the edge of a building. (Taser's warnings do not include "avoid tasing in the chest." In fact, the legs and torso are preferred targets, according to Taser literature.)

"Outside of getting total compliance from a subject, there is no better tool than the Taser," Ridgway says. "It minimizes the possibility of injury for everybody."

He denies vehemently that a Taser shock can cause heart failure. "The Taser is powered by a three-volt lithium battery," he says. "It's not capable of generating enough power to affect the heart."



Sgt. Michael Ridgeway

Taser highlights most prominently a 2005 study published in *Pacing and Clinical Electrophysiology* acclaiming Taser's cardiac harmlessness. The study stunned pigs of comparable human weight and tried to stop their hearts, concluding that it takes 28 times the power packed by a Taser gun to induce cardiac arrest in the pigs. (A 2006 pig study had opposite results. A team at a Chicago hospital stunned 11 pigs for 40 seconds, twice. Every one of them developed arrhythmia, or irregular heartbeat, a precursor to cardiac arrest.)

A study released this year by the Engineering in Medicine and Biology Society concluded that chance of VF caused by a Taser gun is one in 1.27 million. Another study, published in the *Journal of Emergency Medicine* in 2007, briefly shocked 105 volunteers with a Taser and monitored their hearts. While all of the volunteers experienced significant increases in heart rate immediately after the shock, it did not interfere with the rhythm of the heartbeat, indicating that the Taser does not cause VF.

"The worst that can happen is you put out an eye," Ridgeway says.

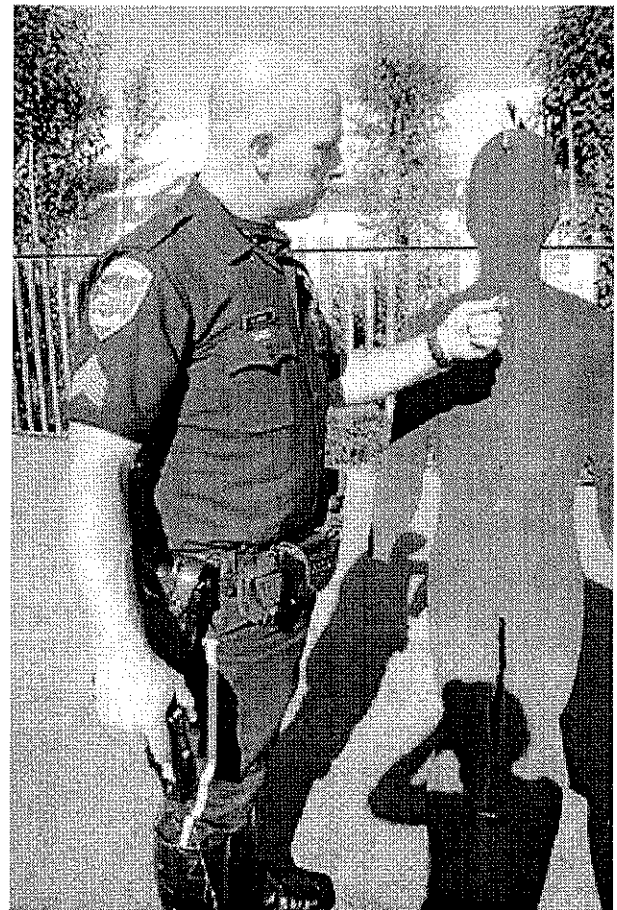
## Growing Scrutiny of Stun Guns

The problem is, Taser International has never had to conclusively prove to the public that its product is safe and non-lethal.

However, Ridgeway concedes, "I'm not a doctor. All I can do is regurgitate the statistics that are given to me by Taser. But to discredit information provided by Taser is to discredit the people that are most knowledgeable about Taser."

What does Taser know about Taser? In press materials, Taser reports that the amount of electrical current delivered to the body by the Taser X26, the device used on Butler, equals .0021 amps, a tiny fraction of the power emitted by an average Christmas Tree light bulb (one amp) or a standard 110-volt wall socket (16 amps). The X26 runs on two lithium digital camera batteries.

The heart muscle thumps to the rhythm of electrical pulses generated by the heart's sinoatrial node. Yet Taser insists that its products do not interfere with the heart's electrical system. Numerous scientific studies back up that claim—200 of them are listed on Taser's website.



Electronic control devices are practically unregulated in the U.S. In 1994, the U.S. Bureau of Alcohol, Tobacco and Firearms declared that the Taser gun is not a firearm and therefore not subject to federal regulations on firearms. Since the Taser is not a medical device, it's not subject to the Federal Food and Drug Administration's labyrinthine testing process.

But in light of growing concern over Taser-related deaths—and pressure from watchdog groups and anti-Taser activists—governments are starting to take a look at the Taser.

The death last year of a Polish immigrant after being tased by Royal Canadian Mounted Police in the Vancouver airport prompted the British Columbia provincial government to open an inquiry into the death. The inquiry, headed by Judge Thomas Braidwood, began in February and is scheduled to continue into 2009. The U.S. Department of Justice (DOJ) is also currently investigating Taser-related deaths. In its interim report, released in June, the DOJ offered a cautious exoneration. A final report is due next year.

"While exposure to conducted energy devices (CEDs) is not risk free, there is no conclusive medical evidence that indicates a high risk of serious injury or death from the direct effects of CEDs," the DOJ report states. "The purported safety margins of CED deployment on normal healthy adults may not be applicable in small children, those with diseased hearts, the elderly, those who are pregnant and other at-risk individuals."

And therein lies the rub, Taser critics charge. Little or no testing has been conducted on populations most likely to cross the path of a Taser—drug addicts and the mentally ill. Nor have researchers taken trigger-happy cops into account.

"These products are being sold by Taser to be used on people who are vulnerable to ventricular fibrillation," says attorney Dana Scruggs. "They are used on people who are high on drugs and are being unreasonable and won't obey commands. They're not going to use a Taser on a guy with a gun or with someone who is being rational. So it's not only possible but foreseeable that the Taser would be used on people high on drugs or alcohol or mentally ill. That's the suspect they are marketing this to police for."

Amnesty International (AI) contends that Tasers were widely deployed in the U.S. before the results of rigorous, independent and comprehensive testing of potential health risks. "While existing research has found the risk of adverse effects from Tasers in healthy adults generally low, studies have also pointed to the need for more understanding of the effects of such devices on those compromised by poor health, substance abuse or other factors," the agency stated in a 2007 press release. The release went on to summarize a review of 290 suspects tased by police. AI found that 92 of them were shocked between three and 21 times. One suspect was shocked continuously for 57 seconds. That sort of prolonged exposure, AI argues, has not been well studied.

Dr. Zian Tseng, a cardiologist at UCSF Medical Center, has been warning of the dangers of Taser guns for years. "There are vulnerable periods in the cardiac cycle when shock can cause dangerous arrhythmias," Tseng says in a Jan. 5, 2005 San Francisco Chronicle article. "If you are shocking someone repeatedly, it becomes like Russian roulette. At some point you may hit a vulnerable period." He went on to suggest that officers carrying Taser guns should also carry defibrillators in their cars.

In May of this year, Tseng told the Braidwood Commission that the research touted by Taser doesn't take "real world" circumstances into consideration. "What's not allowed in these theoretical calculations are worst-case scenarios," he said. "Tolerability in healthy volunteers under optimal conditions does not mean safety."

Tseng also told the commission that, following his comments to the press in 2005, Taser contacted him and asked him to reconsider his comments and offered him a research grant. He declined.

## Lives Changed Forever

When Butler finally woke up after three days in a coma, his sister was by his bedside. Butler didn't recognize her. He swore over and over again that she was not his sister. He didn't remember that he had been married. He thought he was a firefighter (he's not) and insisted that he be released from the hospital so he could get back to work. He couldn't walk or feed himself, and he had developed incontinence, which to this day requires him to wear adult diapers to bed.

After a few days in Watsonville Community Hospital, he was transferred to Dominican Hospital's rehabilitation center in Santa

Cruz, where he learned to walk and feed himself again. He now lives with his parents, who are in their seventies and "devastated" by Butler's condition, his brother, David, says. Butler's long-term memory remains mostly intact, but his short-term memory is shot. He can't remember from one minute to the next. Despite treatment at the Cabrillo College Stroke and Acquired Disability Center five days a week, his prognosis is bleak. His doctors say he will unlikely regain any more memory.



David Butler

David now serves as his caregiver seven days a week. As a full-time family caregiver, he draws a small stipend from the state. The brain damage affected Butler's coordination, so he needs help getting in and out of bed and the shower. Plus, he has to be under constant supervision due to his lack of short-term memory. If he walked off down the street alone, he wouldn't remember where he was a moment later.

"I've been with him every day since Oct. 7, 2006," David says. "I care for him from the time he gets up to till the time he goes to bed."

David takes Butler to his doctor's appointments and to the stroke center, and he rations his brother's cigarettes. Otherwise Butler would chain smoke because he can't recall the last time he had one. Sometimes they go on outings, to the beach or a park. Once, David took his brother to Raging Waters. "We had fun, but as soon as we left the park, he forgot all about it," David says.

And that's what hurts the most—that the Butler family can't share their day-to-day experiences with Steve because he can't remember them. He's had to relive the death of his grandparents again and again, each time he asks how they are. He can't remember mundane facts—whether or not David is married or when the bamboo was planted in his parents' front yard. He'll often ask family members the same question over and over and over again.

"A couple of months ago he kept saying, 'Arnold Schwarzenegger is our governor, huh?' And I'd say yes," Plumlee says. "But he's not American,' he'd say. 'Well I guess that's OK.' Exactly 30 seconds later he would say the exact same thing, 20 or 30 times."



His personality has changed, too. He's somber and listless. He keeps his arms down and close to his body. "He's like a zombie," David says. "He has almost no emotions now, either. I never hear him laugh, except when we went on the water slide at Raging Waters."

"I lost my brother," Plumlee says. "I would have preferred they had hit him in the leg with a billy club. I would have even preferred that they had shot him in the foot. To me, the Taser is torture. It's ruined his life, ruined his family's life. He'll never be the same."

"I hope out of the lawsuit they at least put a black-box warning on Tasers saying that they can kill you," Plumlee says. "They say they're safe and they're not. We did fine without them before, and now too many people have died."

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#### TASED & CONFUSED

Laurel Chesky wrote a nice piece of journalism here. She covered most points of view.



My sincerest condolences for the loss of the family however, people in law enforcement, security etc. are forced to deal with dangerous situations every day. It is easy to perform the Monday morning quarterback critique after the facts, never realizing that the persons who are acting out must be dealt with.

Deployment of pepper spray in a bus is an unacceptable tactic with a person challenging to fight with clenched fist and fighting stances.

It is immaterial if a person is high in-as-much-as they can still hurt and kill you be they sober or inebriated...

Going after TASER Int. or the Police will not solve the loss or problem...

Bill , November 06, 2008

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#### THEY ARE SUPPOSED TO BE EXPERTS

Bill



I hear your argument. But consider this. Taser put their product into the stream of commerce. Taser generates profits from doing so. Taser is in the best position to insure the risks created by their product whatever those risks are. Even if its only a one in a million chance of killing or maiming someone. Taser ,or more precisely , Taser's insurance company should pay for this poor souls horrible injuries .

James J Lee , November 06, 2008

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**BY LAUREL CHESKY**

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**320: THE NUMBER OF TASER-RELATED DEATHS,**  
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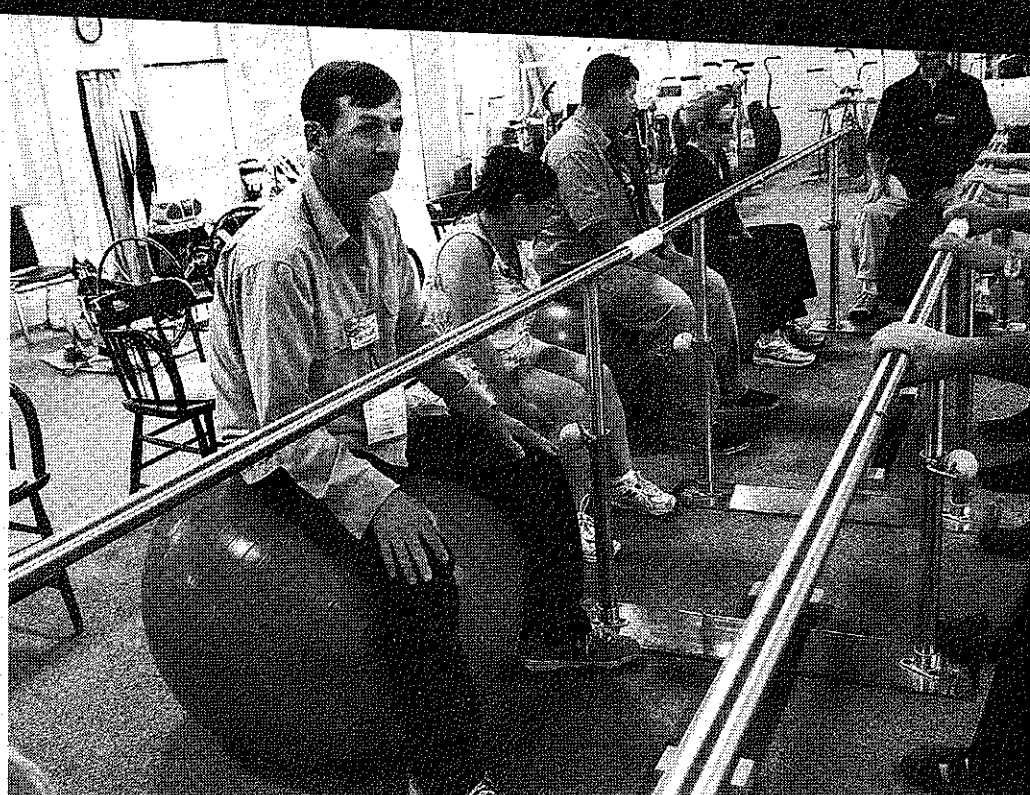
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But for all his drinking and bizarre antics, Butler's brother, David, and sister say they never saw him act violently, even when he'd been drinking. "I've never, ever seen him violent," Plumlee says. "Once he got upset with one of our brothers and he hit the fence. That's the only time. He wouldn't hurt a flea."

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Steve Butler (left) is now in rehab after repeated shocks from a Taser gun eventually caused permanent brain damage.



KELLY VALLANCOURT

## Local area Taser-related DEATHS

■ **ROBERT HESTON, 40**, died in February, 2005 after being shocked 25 times with Taser guns by Salinas police officers. Heston was high on meth at the time. His family sued Taser International, Inc. and won compensatory damages in the first case ever lost by the stun gun manufacturer.

■ **STEVE SALINAS 47**, died in San Jose on May 25, 2007 after being tased by police officers. Salinas was unarmed and naked and had not committed a crime when officers kicked in the door of his motel room and used a Taser to subdue him. An autopsy discovered PCP in his system. Salinas's family filed a lawsuit against Taser International and the San Jose Police Department in May.

■ **JAIME CORONEL, 27**, died on Jan. 24, 2006 in Castroville after being tased twice by Monterey County Sheriff deputies. An autopsy found meth in his bloodstream.

■ **JORGE TRUJILLO-HERNANDEZ, 34**, died on Jan. 25, 2006 after being shocked 20 times with Taser guns by two San Jose police officers. The Santa Clara County medical examiner deemed the Taser a "contributory cause of death" in the case.

■ **PRINCE SWAYZER, 38**, was tased in September of this year by San Jose police. He was taken to the hospital but refused medical treatment. He died in the hospital.

■ **ANTHONY CROSS** died in Santa Cruz County jail in September 2005 after being restrained by officers and shocked with a Taser gun. However, the autopsy report concluded that Cross died of suffocation due to restraint techniques used on him.

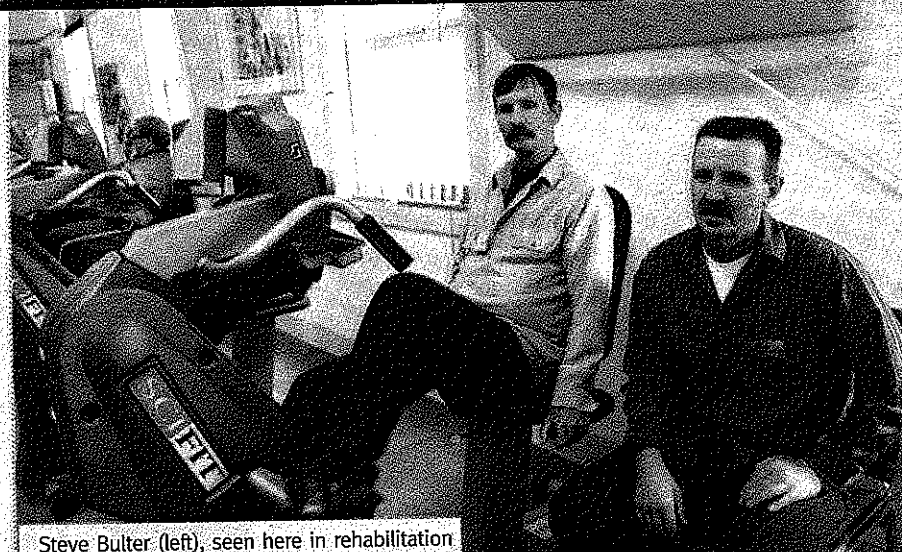


## Holding Taser Accountable

Shortly after the third shock with the Taser gun, Butler's heart went into ventricular fibrillation (VF), a condition in which the heart beats out of sync and is unable to pump blood. Cardiac arrest followed, leading to the brain damage. The Butler family believes that the repeated shocks to the chest from the Taser gun interfered with the electrical signals within the heart that prompt it to beat at a regular rhythm, causing the VF. While the cause may seem obvious, the stun gun's manufacturer, Taser International, Inc., maintains that its products do not cause VF or cardiac arrest.

Just shy of two years after the bus incident, Butler's family filed a lawsuit against Taser International. David Butler filed a product liability suit against Taser in Santa Cruz County Superior Court on Sept. 17. David chose not to sue the Watsonville Police Department. He believes that police officers were acting under false information—that the Taser is safe.

The lawsuit contends that Taser falsely claimed that its product is not capable of causing cardiac arrest when, in fact, according to the lawsuit, it can and did. The suit charges that Taser failed to warn police of that danger.



Steve Butler (left), seen here in rehabilitation with his brother Dave, still suffers from memory loss.

**72-1: Taser International's winning records in civil court.**

**"Butler's cardiac arrest was directly caused by Taser current. There is no question, based on the medical history in this case, that the Taser stopped his heart."**

—ATTORNEY JOHN BURTON

"Taser International put this product on the market without it being tested," says Dana Scruggs, one of the Butlers' two attorneys. "They say that it's non-lethal and safe, and they didn't know whether that's true or not."

Because officers believe the Taser gun is harmless, Scruggs says, they tend to use it cavalierly. Taser, he says, should warn police that the device can cause heart failure.

Taser International is no stranger to lawsuits. Amnesty International reports more than 300 people have died at the hand of a Taser gun since 2001. The company has been sued more than 100 times over deaths and injuries. Armed with well-paid experts and company-sponsored research studies that confirm its products safety, Taser has been extremely successful at deflecting liability. About 70 of those lawsuits Taser has either won or settled out of court. More than 30 cases are still pending.

The company had never lost a case—until June, when a federal jury in San Jose awarded Betty Lou Heston of Salinas a \$6.2 million judgment. Heston's son, Robert Heston, died after Salinas police officers shocked him 25 times with Taser guns. At the time, he was, like many Taser victims, high on methamphetamine. The jury found Taser 15 percent responsible for Heston's death.

KELLY VALLANCOURT

**Real Local**

## TASED AND CONFUSED

Heston himself, they concluded, was 85 percent responsible for his own demise. The Salinas Police Department was also named in the suit but the jury found it not liable.

The case is significant not only because it marks Taser's first loss in civil court, but because the jury awarded Heston punitive damages—\$5.2 million of the settlement—based on the manufacturer's failure to warn police agencies that repeated Taser shocks can cause cardiac arrest. However, last month a federal judge dismissed the punitive damages.

In cases of in-custody deaths involving Taser guns, the company argues that their product is an innocent bystander in an inevitable outcome. A controversial diagnosis of "excited delirium," Taser argues, caused the deaths. Excited delirium is a muddled concept used to explain why some people—who are often high on drugs or alcohol—die suddenly while in police custody. Symptoms are said to include extreme agitation, aggression, raised body temperature, violent behavior and incoherence. The suspect's state may be exacerbated by the use of force, including a Taser gun, pepper spray and physical restraint, or a combination of those tactics, but the excited delirium is the cause of death, Taser argues. The American Medical Association and the Canadian Medical

Association reject the excited delirium diagnosis, although some medical examiners have, in the past few years, begun using it as an official cause of death.

(Taser sometimes sues medical examiners who disagree. In May, a judge in Ohio ordered the removal of Taser's name from three autopsy reports.)

Other cases involve victims who died from a Taser-induced fall, like the incident in Brooklyn in September where a New York

his system. Although thin—at 5'11, he weighed just 132 pounds at the time—he was healthy and had no history of heart disease. In fact David says he was an avid cyclist and often rode his bike from Watsonville to Santa Cruz and back.

"Most of the previous cases against Taser have been multi-factorial," says John Burton, the Butlers' other attorney, who also represented the plaintiff in the Heston case.

**\$100 MILLION: Taser's revenues for 2007, a 49 percent increase over the previous year.**

Police Department officer tased a suicidal man standing on a third floor fire escape. The man fell to his death. Days later, the officer who ordered the tasing killed himself.

The Butler case, say the family's attorneys, is the first case brought to civil court in which a victim suffered cardiac arrest as a direct result of being shocked with a Taser. Butler was very drunk at the time of the incident. His blood alcohol level was 3.5 (0.8 is legally drunk in California). He had THC in his bloodstream, but no stimulants that would have caused his heart to race were found in

"Butler's cardiac arrest was directly caused by Taser current. There is no question, based on the medical history in this case, that the Taser stopped his heart. ... There's no other reason that he would go into cardiac arrest."

Taser International, however, contends that its products cannot directly cause cardiac arrest and that they have the science to back it up. "We do not discuss ongoing litigation or lawsuits," Steve Tuttle, vice president of communications for Taser, wrote in an email to GT. "but we have a record of 74 cases, that we have either won or have been dismissed and/or given summary judgment in our favor

concerning wrongful death and product liability cases and have had one loss to date.

"We know that our Taser technology protects lives throughout the world and that medical experts studying Taser devices have concluded that they are among the safer alternatives to subdue violent individuals who could harm law enforcement officers, innocent citizens or themselves compared to traditional use-of-force tools," Tuttle continues. "We stand firm behind the safety of Taser technology and will rigorously and aggressively defend any lawsuit filed against or by the company vigorously."

## A Safer Alternative?

Taser International sprang to life in 1993 in Scottsdale, Ariz. at the hands of company founders and brothers Rick and Tom Smith, who vied to develop a non-lethal alternative to the handgun. They began marketing the Taser gun first to private citizens as a personal protection device and later to police departments, private security companies, prisons and the military. Taser touts that its products save the lives of police officers and suspects every day by giving officers a safe and effective alternative to guns. Since 1998, more than 359,000 Taser devices have been



Sergeant Michael Ridgway shows the impact of a Taser on a target.

**359,000:** The number of Taser stun guns sold to law enforcement and military agencies.



KELLY VAILLANCOURT

sold to law enforcement agencies. Taser is by far the leading manufacturer of electronic control devices, or stun guns, in the U.S. and the world.

Taser guns are designed to allow police officers to incapacitate an unruly individual from 15 to 35 feet away. The gun shoots two small probes into the person's muscle tissue at a speed of 160 feet per second. The probes are connected to the gun by two thin wires. An electrical signal travels through the wires and into the muscle, pulsing 20 times a second into the muscle for a recommended interval of five seconds (although officers can keep the current going much longer). The electric shock temporarily overrides the nervous system, causing immediate loss of muscular control. The person becomes rigid and immobile, giving police officers time to move in and handcuff the subject. If it doesn't work the first time, the officer can repeat the electric shock multiple times.

Sergeant Michael Ridgway of the Watsonville Police Department (WPD) attests to the Taser gun's safety. Ridgway has been trained and certified as a master Taser instructor by the company. He is the primary instructor for electronic controls devices at the WPD and has been tased several times himself in demonstrations. All Taser device training originates with the company.

Taser schooled Ridgway well on safety issues, he says. For example, he was taught to avoid tasing the very young or very old, pregnant women, people in water, or people standing on the edge of a building.

(Taser's warnings do not include "avoid tasing in the chest." In fact, the legs and torso are preferred targets, according to Taser literature.)

"Outside of getting total compliance from a subject, there is no better tool than the Taser," Ridgway says. "It minimizes the possibility of injury for everybody."

He denies vehemently that a Taser shock can cause heart failure. "The Taser is powered by a three-volt lithium battery," he says. "It's not capable of generating enough power to affect the heart."

However, Ridgway concedes, "I'm not a doctor. All I can do is regurgitate the statistics that are given to me by Taser. But to discredit information provided by Taser is to discredit the people that are most knowledgeable about Taser."

What does Taser know about Taser? In press materials, Taser reports that the amount of electrical current delivered to the body by the Taser X26, the device used on Butler, equals .0021 amps, a tiny fraction of the power emitted by an average Christmas Tree light bulb (one amp) or a standard 110-volt wall socket (16 amps). The X26 runs on two lithium digital camera batteries.

The heart muscle thumps to the rhythm of electrical pulses generated by the heart's sinoatrial node. Yet Taser insists that its products do not interfere with the heart's electrical system. Numerous scientific studies back up that claim—200 of them are listed on Taser's website.

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Taser highlights most prominently a 2005 study published in *Pacing and Clinical Electrophysiology* acclaiming Taser's cardiac harmlessness. The study stunned pigs of comparable human weight and tried to stop their hearts, concluding that it takes 28 times the power packed by a Taser gun to induce cardiac arrest in the pigs. (A 2006 pig study had opposite results. A team at a Chicago hospital stunned 11 pigs for 40 seconds, twice. Every one of them developed arrhythmia, or irregular heartbeat, a precursor to cardiac arrest.)

heart rate immediately after the shock, it did not interfere with the rhythm of the heartbeat, indicating that the Taser does not cause VF.

"The worst that can happen is you put out an eye," Ridgway says.

## Growing Scrutiny of Stun Guns

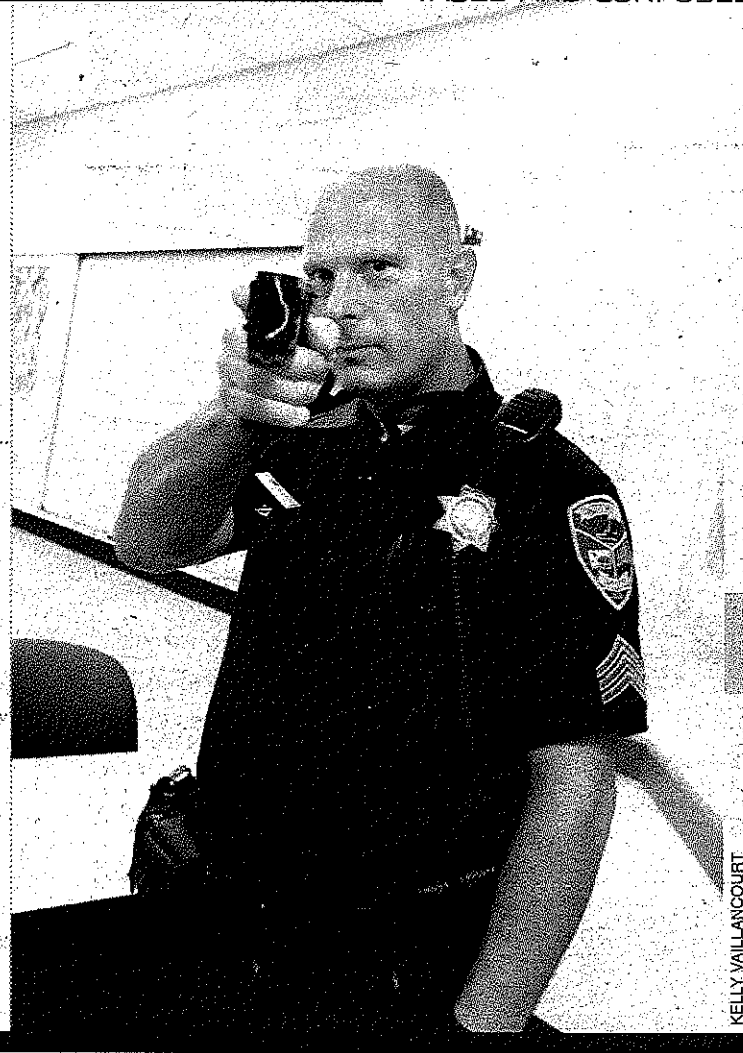
The problem is, Taser International has never had to conclusively prove to the public that its product is safe and non-lethal. Electronic control devices are practically

**"Outside of getting total compliance from a subject, there is no better tool than the Taser. It minimizes the possibility of injury for everybody."**

— Sergeant Michael Ridgway

A study released this year by the Engineering in Medicine and Biology Society concluded that chance of VF caused by a Taser gun is one in 1.27 million. Another study, published in the *Journal of Emergency Medicine* in 2007, briefly shocked 105 volunteers with a Taser and monitored their hearts. While all of the volunteers experienced significant increases in

unregulated in the U.S. In 1994, the U.S. Bureau of Alcohol, Tobacco and Firearms declared that the Taser gun is not a firearm and therefore not subject to federal regulations on firearms. Since the Taser is not a medical device, it's not subject to the Federal Food and Drug Administration's labyrinthine testing process.



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But in light of growing concern over Taser-related deaths—and pressure from watchdog groups and anti-Taser activists—governments are starting to take a look at the Taser.

The death last year of a Polish immigrant after being tased by Royal Canadian Mounted Police in the Vancouver airport prompted the British Columbia provincial government to open an inquiry into the death. The inquiry, headed by Judge Thomas Braidwood, began in February and is scheduled to continue into 2009. The U.S. Department of Justice (DOJ) is also currently investigating Taser-related deaths. In its interim report, released in June, the DOJ offered a cautious exoneration. A final report is due next year.

"While exposure to conducted energy devices (CEDs) is not risk free, there is no conclusive medical evidence that indicates a high risk of serious injury or death from the direct effects of CEDs," the DOJ report states. "The purported safety margins of CED deployment on normal healthy adults may not be applicable in small children, those with diseased hearts, the elderly, those who are pregnant and other at-risk individuals."

And therein lies the rub, Taser critics charge. Little or no testing has been conducted on

agency stated in a 2007 press release. The release went on to summarize a review of 290 suspects tased by police. AI found that 92 of them were shocked between three and 21 times. One suspect was shocked continuously for 57 seconds. That sort of prolonged exposure, AI argues, has not been well studied.

Dr. Zian Tseng, a cardiologist at UCSF Medical Center, has been warning of the dangers of Taser guns for years. "There are vulnerable periods in the cardiac cycle when shock can cause dangerous arrhythmias," Tseng says in a Jan. 5, 2005 *San Francisco Chronicle* article. "If you are shocking someone repeatedly, it becomes like Russian roulette. At some point you may hit a vulnerable period." He went on to suggest that officers carrying Taser guns should also carry defibrillators in their cars.

In May of this year, Tseng told the Braidwood Commission that the research touted by Taser doesn't take "real world" circumstances into consideration. "What's not allowed in these theoretical calculations are worst-case scenarios," he said. "Tolerability in healthy volunteers under optimal conditions does not mean safety."

Tseng also told the commission that, following his comments to the press in 2005, Taser contacted him and asked him to

**"We know that our Taser technology protects lives throughout the world and that medical experts studying Taser devices have concluded that they are among the safer alternatives to subdue violent individuals."** — Steve Tuttle, Taser International, Inc.

populations most likely to cross the path of a Taser—drug addicts and the mentally ill. Nor have researchers taken trigger-happy cops into account.

"These products are being sold by Taser to be used on people who are vulnerable to ventricular fibrillation," says attorney Dana Scruggs. "They are used on people who are high on drugs and are being unreasonable and won't obey commands. They're not going to use a Taser on a guy with a gun or with someone who is being rational. So it's not only possible but foreseeable that the Taser would be used on people high on drugs or alcohol or mentally ill. That's the suspect they are marketing this to police for."

Amnesty International (AI) contends that Tasers were widely deployed in the U.S. before the results of rigorous, independent and comprehensive testing of potential health risks. "While existing research has found the risk of adverse effects from Tasers in healthy adults generally low, studies have also pointed to the need for more understanding of the effects of such devices on those compromised by poor health, substance abuse or other factors," the

reconsider his comments and offered him a research grant. He declined.

## Lives Changed Forever

When Butler finally woke up after three days in a coma, his sister was by his bedside. Butler didn't recognize her. He swore over and over again that she was not his sister. He didn't remember that he had been married. He thought he was a firefighter (he's not) and insisted that he be released from the hospital so he could get back to work. He couldn't walk or feed himself, and he had developed incontinence, which to this day requires him to wear adult diapers to bed.

After a few days in Watsonville Community Hospital, he was transferred to Dominican Hospital's rehabilitation center in Santa Cruz, where he learned to walk and feed himself again. He now lives with his parents, who are in their seventies and "devastated" by Butler's condition, his brother, David, says. Butler's long-term memory remains mostly intact, but his short-term memory is shot. He can't remember

## **Amnesty International reports that more than 300 people have died at the hand of a Taser gun since 2001. The company has been sued more than 100 times.**

from one minute to the next. Despite treatment at the Cabrillo College Stroke and Acquired Disability Center five days a week, his prognosis is bleak. His doctors say he will unlikely regain any more memory.

David now serves as his caregiver seven days a week. As a full-time family caregiver, he draws a small stipend from the state. The brain damage affected Butler's coordination, so he needs help getting in and out of bed and the shower. Plus, he has to be under constant supervision due to his lack of short-term memory. If he walked off down the street alone, he wouldn't remember where he was a moment later.

"I've been with him every day since Oct. 7, 2006," David says. "I care for him from the time he gets up to till the time he goes to bed."

David takes Butler to his doctor's appointments and to the stroke center, and he rations his brother's cigarettes. Otherwise Butler would chain smoke because he can't recall the last time he had one. Sometimes they go on outings, to the beach or a park. Once, David took his brother to Raging Waters. "We had fun, but as soon as we left the park, he forgot all about it," David says.

And that's what hurts the most—that the Butler family can't

**176,000: The number of Taser's sold to private citizens.**

share their day-to-day experiences with Steve because he can't remember them. He's had to relive the death of his grandparents again and again, each time he asks how they are. He can't remember mundane facts—whether or not David is married or when the bamboo was planted in his parents' front yard. He'll often ask family members the same question over and over and over again.

"A couple of months ago he kept saying, 'Arnold Schwarzenegger is our governor, huh?' And I'd say yes," Plumlee says. "'But he's not American,' he'd say. 'Well I guess that's OK.' Exactly 30 seconds later he would say the exact same thing, 20 or 30 times."

His personality has changed, too. He's somber and listless. He keeps his arms down and close to his body. "He's like a zombie," David says. "He has almost no emotions now, either. I never hear him laugh, except when we went on the water slide at Raging Waters."

"I lost my brother," Plumlee says. "I would have preferred they had hit him in the leg with a billy club. I would have even preferred that they had shot him in the foot. To me, the Taser is torture. It's ruined his life, ruined his family's life. He'll never be the same."

"I hope out of the lawsuit they at least put a black-box warning on Tasers saying that they can kill you," Plumlee says. "They say they're safe and they're not. We did fine without them before, and now too many people have died."