



# South Carolina Criminal Justice Academy

## Memorandum

To: All South Carolina Law Enforcement Agencies  
From: Hubert F. Harrell, Director H F H  
Date: January 15, 2016  
RE: Use of Taser

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On January 11, 2016, the Fourth Circuit Court of Appeals published an opinion<sup>1</sup>, which ruled upon the use of a Taser. It is important that you immediately contact your legal counsel to discuss this case and amend your policy on the use of Taser. The Academy will include this case in the next Legal Update. However, until then, you must know the Court's ruling.

The Fourth Circuit stated,

“we intend this opinion to clarify when taser use amounts to excessive force in, at least, some circumstances. A taser, like a gun, a baton, ... or other weapon, is expected to inflict pain or injury when deployed. It, therefore, may only be deployed when a police officer is confronted with an exigency that creates an immediate safety risk and that is reasonably likely to be cured by using the taser. The subject of a seizure does not create such a risk simply because he is doing something that can be characterized as resistance - - even when that resistance includes physically preventing an officer's manipulations of his body. Erratic behavior and mental illness do not necessarily create a safety risk either. To the contrary, when a seizure is intended solely to prevent a mentally ill individual from harming himself, the officer [a]ffecting the seizure has a lessened interest in deploying potentially harmful force.” The Court went on to rule that “law enforcement officers should now be on notice that such taser use violates the Fourth Amendment” and officers will not be granted qualified immunity.

The Estate of Ronald H. Armstrong, pages 38-39, (internal citations and quotations omitted) (emphasis added).

As you can see, the Court has provided guidance on two issues. First, they have ruled when a Taser can be used. Next, they have ruled that any use outside of their ruling is excessive force. Once again, it is important that you immediately contact your legal counsel to discuss this case and amend your policy on the use of Taser.

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<sup>1</sup> The Estate of Ronald H. Armstrong v. The Village of Pinehurst, et. al., (4th Cir.) Op. No. 15-1191, decided January 11, 2016.