

No. 13-862

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IN THE  
**Supreme Court of the United  
States**

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LATRINA D. THOMAS, TUTRIX ON BEHALF OF  
KA'DARY DA'SHUN THOMAS,  
*Petitioner,*

v.

SCOTT NUGENT, INDIVIDUALLY AND IN HIS  
OFFICIAL CAPACITY AS POLICE OFFICER FOR  
THE CITY OF WINNFIELD.  
*Respondent.*

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**On Petition for Writ of Certiorari to  
the United States Court of Appeals  
for the Fifth Circuit**

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**BRIEF OF FORMER LAW ENFORCEMENT,  
PROSECUTORS, JUDGES, CORRECTIONS OFFICIALS,  
AND EXPERTS ON POLICE ACCOUNTABILITY AND  
USE OF FORCE AS *AMICI CURIAE* IN SUPPORT OF THE  
PETITIONER**

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## STATEMENT OF INTEREST OF *AMICI CURIAE*

*Amici Curiae* are former law enforcement and corrections officials, former prosecutors, former judges, and academic experts with extensive experience in the use of force in the criminal justice system. Their names and relevant experience are identified in the Appendix. *Amici's* prior experience with law enforcement has made them very familiar with the means and methods used by law enforcement to obtain compliance with officer commands. During their careers, *amici* have noticed a significant increase in the use of electric shock devices, commonly referred to as Tasers, by law enforcement officials across the United States.<sup>1</sup> *Amici* are concerned that the inappropriate use of such devices will cause unnecessary harm both to the people they are used against and to law enforcement as a whole because it decreases the public's confidence and trust in officers and the likelihood of the public's cooperation with investigators, prosecutors, judges, or correctional officers overseeing our criminal justice system.

*Amici* have an interest in ensuring the Court's recognition that, while Tasers may be appropriate in some circumstances, their use by law enforcement to

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<sup>1</sup> We note that no part of this brief was authored, in whole or in part, by counsel for any party, and no person or entity has made any monetary contribution to the preparation or submission of the brief other than the *amici* and their counsel. Further, pursuant to Rule 37, counsel of record received timely notice of *amici curiae's* intent to file this brief in support of the Petitioner and granted their consent, which has been filed with the Clerk.

force compliance by non-threatening persons undermines the public's confidence and trust in law enforcement and erodes the Fourth Amendment "right of the people to be secure in their persons . . . against unreasonable searches and seizures."

Petitioner asks this Court to review the opinion below because it creates a conflict in the circuits regarding whether an officer who repeatedly shocks a handcuffed, non-threatening person violates the Fourth Amendment. *Amici* believe that it is important that the Court resolve the split created by the Fifth Circuit's opinion concerning the constitutional limits on the use of electric shock devices by law enforcement on handcuffed, non-threatening persons and to guide lower courts and law enforcement on the constitutionally permitted use of Tasers.

The Fourth Amendment issue raised by the Petitioner is important to law enforcement and citizens because of the ever increasing use of electric shock devices as a law enforcement tool. *Amici* believe that the Court has not, and should address, whether a person who is handcuffed, poses no threat to anyone's safety, and does not comply with a police officer's commands to move, has a Fourth Amendment right to be free from a police officer's repeated use of an electric shock device to force compliance with the officer's instructions. The Court's resolution of this issue will have a broad impact because of the increasing use of electric shock devices by law enforcement officers.

## SUMMARY OF ARGUMENT

Tasers are electric shock devices that are being used with increasing frequency by law enforcement across the country to subdue persons posing a danger to others.

This case is about whether it was clearly established in 2008 that a police officer employed excessive force by repeatedly using a Taser to shock a handcuffed suspect that refused an officer's commands to move as instructed. Although the circuits that have addressed the issue have unanimously held that it was clearly established by 2008 that such conduct constitutes excessive force, the Fifth Circuit held that it was not clearly established that repeatedly shocking a handcuffed person who passively refused to comply with an officer's commands constitutes excessive force. *Amici* ask the Court to grant certiorari in order to eliminate the uncertainty the Fifth Circuit's decision created.

First, the Taser was developed as an alternative to the use of lethal force, such as a firearm. It was not intended as a means of facilitating the cooperation of a restrained subject who did not pose a threat to law enforcement personnel. The apparent purpose of the Taser is evident from its design and intended effect on a subject. The Taser's firing mode propels two darts up to thirty-five feet from the officer, delivering an electric shock that *incapacitates* a subject by overriding signals sent by the central nervous system. The Taser's "drive-stun" mode provides close range contact with electrodes that cause extreme pain when applied to the subject. Both of these modes are designed to incapacitate a subject posing a threat to himself or

others. The electric shock emitted by these devices is far more than necessary to prod a passive subject to move from a stationary position.

Second, law enforcement departments across the country only permit Taser use when the subject is aggressively resisting arrest and poses a danger to the officer or others. Law enforcement guidelines expressly prohibit Taser use where the subject passively refuses to comply with an officer's instructions, such as by sitting on the floor. These guidelines were in effect before 2008, when the facts at issue in the decision below occurred. For example, the United States Marshals Service policy in effect from 2005 to 2009 only permitted Taser use where a suspect uses violence or flees to resist arrest. Similarly, 2007 guidelines issued by the Minneapolis Police Department restrict Taser use in response to "aggressive resistance" by the subject and specifically prohibit its use as a "come-along tool." Likewise, the policies of Respondent's police department at the time of the conduct at issue specifically limited Taser use to a "dangerous and violent subject" after "attempts to subdue the subject by other conventional tactics" have proven ineffective.

When a subject engages in passive resistance, these guidelines mandate that officers use "soft-hand" techniques to encourage and facilitate compliance with an officer's order. These techniques include applying pressure to pressure points, takedowns, joint locks, or simply grabbing onto a subject. Such techniques minimize the risk of unnecessarily injuring the subject.

Finally the Court should grant certiorari to restore the unanimity among the circuits regarding the use of a Taser on a restrained subject who refuses to follow

an officer's commands to move. The Third, Fourth, Sixth, Seventh, and Eighth circuits all hold that Taser use in these or similar circumstances constitutes excessive force. The Fifth Circuit's decision creates considerable uncertainty regarding whether it is clearly established that such Taser use constitutes excessive force. This uncertainty creates unnecessary risks for law enforcement personnel who must make important decisions about the appropriate degree of force to use in volatile and, as in this case, non-volatile situations. Absent clear direction from the Court, law enforcement personnel within the Fifth Circuit and other circuits that have yet to address the present issue will err in both directions, refraining from using a Taser when it is justified and using a Taser even when constitutionally impermissible. Therefore, *Amici* respectfully ask the Court to resolve the split in the circuits and to restore certainty as to the appropriate use of a Taser on a restrained subject.

## ARGUMENT

### I. THE TASER IS A DANGEROUS ELECTRIC SHOCK DEVICE USED BY LAW ENFORCEMENT TO SUBDUE THREATENING PERSONS

Taser is the brand name for the original and most popular electronic control weapon, which has become ubiquitous among law enforcement departments across the country. Noah Rayman, *Tase Me Bro*, TIME (Aug. 15, 2013), <http://www.nation.time.com/2013/08/15/tase-me-bro/>.

The Taser was first developed in 1969 by a NASA researcher as a “high-voltage, low-ampere electric shock device that would disorient a criminal long enough for police” to subdue the criminal, without seriously injuring or killing the criminal. Ron F. Wright, *Shocking the Second Amendment: Invalidating States’ Prohibitions on Taser with the District of Columbia v. Heller*, 20 ALB. L. J. SCI. & TECH. 159, 162 (2010) (“*Shocking the Second Amendment*”). The word “taser” is an acronym for the “Thomas A. Swift Electric Rifle,” in homage to the inventor’s childhood adventure book hero. *Id.*

The first Taser model, the TF-76, used gunpowder to propel two darts attached to wires into the target. *Id.* The use of gunpowder caused the Bureau of Alcohol, Tobacco and Firearms to classify the Taser as a firearm. *Id.* at 163. In 1993, the Taser was redesigned to use compressed air, rather than gunpowder, to propel the darts. This switch allowed the Taser to be reclassified as a non-firearm, thereby allowing it to be purchased without a special license. *Id.*

Tasers work in one of two modes. In the firing mode, the Taser shoots two small tethered darts into the

target. Stanford Crim. Justice Ctr., *Use of Tasers by Law Enforcement Agencies: Guidelines and Recommendations* 5 (2005), <http://www.law.stanford.edu/sites/default/files/child-page/164097/doc/slspublic/tasers.pdf> (the “*Stanford Guidelines*”). When fired from their optimal distance, the darts will hit the target approximately sixteen inches apart, which allows for the most effective electrical charge to be delivered. *Shocking the Second Amendment*, at 164. The darts emit a 50,000 volt electrical shock that lasts approximately five seconds, but can be prolonged indefinitely by holding down the trigger. *Stanford Guidelines*, at 4. The electrical charge overrides “the subject’s central nervous system, causing uncontrollable contraction of the muscle tissue and instant collapse.” *Id.*

The Taser can also be used at point-blank range in “drive-stun” mode. *Id.* In this mode, the Taser creates an electric arc between its two electrodes, which causes debilitating and extreme pain when applied directly to the subject’s body. *Id.* The “drive stun” mode is used in close contact situations and permits an officer to deliver electric shocks by holding the device directly against a subject’s “body, skin or clothing.” *Id.*

Taser’s own manufacturer recognizes the risks that its electric shock weapon poses and warns law enforcement users that:

[Taser] use causes physiologic and/or metabolic effects that may increase the risk of death or serious injury. These effects include changes in blood chemistry, blood pressure, respiration, heart rate and rhythm, and adrenaline and stress hormones, among others... Some individuals may be particularly susceptible to the effects of [Taser] use. These susceptible

individuals include ... people suffering from excited delirium, profound agitation, severe exhaustion, drug intoxication or chronic drug abuse, and/or over-exertion from physical struggle. In a physiologically or metabolically compromised person, any physiologic or metabolic change may cause or contribute to sudden death.

Do not use multiple [Tases] or multiple completed circuits at the same time without justification. Multiple [Tases] or multiple completed circuits at the same time could have cumulative effects and result in increased risks.

Taser International, Product Warnings for Law Enforcement (March 1, 2013), <http://www.taser.com/images/resources-and-legal/product-warnings/downloads/law-enforcement-warnings.pdf>.

Similar warnings were in place in 2008. *See* TASER Product Warnings: Law Enforcement, <http://www.ecdlaw.info/outlines/TASER%20LE%20M26-X26%20Warnings%2004-28-08.pdf>.

Thus, an initial electric shock from a Taser, and more so, the cumulative effect of repeated electric shocks are intended to inflict substantial pain in order to incapacitate and subdue a suspect. It logically follows that the use of such force is unreasonable when applied to a subdued, non-threatening person lying on the ground in handcuffs. The pain and potential harm caused by electrically shocking a person are so great that, in the face of readily available alternatives to obtain compliance, as discussed below, the application of such extreme force is clearly unnecessary and

disproportionate to the desired law enforcement objectives.

In this case, as is likely to be repeated in other cases, an officer used a Taser multiple times on a person who posed no threat to himself, the public, or the officer, as a way of forcing the subject to stand and walk as commanded by the officer. While a subject that passively refuses to obey an officer's commands may frustrate the officer, that frustration is an insufficient basis to repeatedly shock the suspect to obtain compliance with the officer's commands. Respondent's repeated use of a Taser on a handcuffed, non-threatening person was unnecessary, as was demonstrated when the subject was later simply carried into the police station. This fact belies Respondent's claim that repeated use of a Taser was necessary to obtain the compliance of a passively resisting subject, especially in light of numerous alternative methods to obtain compliance. Indeed, the Respondent's repeated shocking over several minutes escalated the harm to the subject, decreased the subject's ability to comply with verbal commands, and effectively made it less likely, and not more likely, that the subject would be physically able to comply with the Respondent's commands.

## II. LAW ENFORCEMENT GUIDELINES STRONGLY RECOMMEND AGAINST USING TASERS ON RESTRAINED INDIVIDUALS WHO ARE PASSIVELY REFUSING TO COMPLY WITH AN OFFICER'S COMMANDS

Federal and state law enforcement, along with experts in law enforcement and criminal justice, agree that Tasers should be used only on subjects who actively display aggression and present a threat of physical harm to themselves or others.

For example, in 2009, the United States Department of Justice, Office of the Inspector General, Evaluation and Inspection Division, conducted a study on the use of “less-lethal” weapons in law enforcement, including the use of electric shock devices. U.S. Dep’t of Justice, Office of the Inspector General, Evaluation and Inspection Division, *Review of the Department of Justice’s Use of Less-Lethal Weapons* (May 2009), <http://www.justice.gov/oig/reports/plus/e0903/final.pdf>. The report noted that over the prior eight years, 334 people reportedly died after being shocked by Tasers used by state or local law enforcement officers. *Id.* at ii (internal citations omitted). At the time, two enforcement agencies — the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and United States Marshals Service (USMS) — used Tasers, but had no reported fatalities. *Id.* The USMS and ATF found Tasers useful as a less-lethal alternative in situations that would have justified deadly force. The report provides, as an example, a person who “refuses to obey verbal commands *and* physically resists being placed in custody” and recognizes that in those situations “the Taser allows law enforcement officers to avoid engaging in hand-to-hand scuffles” and “reduces

the risk that [the person] may wrest a firearm away” from the officer. *Id.* at vii (emphasis added). The Department of Justice’s report recognized that the USMS and ATF were applying traditional policies to the use of Tasers that were based on an “objectively reasonable” standard; namely, “the force used must be reasonable under the circumstances and is appropriate when ‘the officer has a reasonable belief’ that such force is necessary.” *Id.* at viii.

The USMS policy in effect from 2005 to 2009 allowed law enforcement officers to use a Taser “when they have reasonable grounds to believe that such force is necessary to (1) protect themselves or others from physical harm, (2) restrain or subdue a resistant prisoner or suspect, (3) make an arrest, or (4) prevent a prisoner from escaping.” *Id.* at ix. The USMS policy mirrors that of police departments across the country.

The limitation on Taser use against passive subjects is not a recent phenomenon. The Charlotte Police Department Use of Force Continuum, in effect since 2003, only permits the use of a Taser in situations where the subject is demonstrating active aggression toward the officer, which includes punching, kicking, or biting. Charlotte-Mecklenburg Police Dep’t Use of Force Continuum (April 17, 2003), <http://charmec.org/city/charlotte/CMPD/zstorage/InsideCMPD/Documents/600020UseofForceContinuum.pdf>.

Similarly the 2007 Guidelines for the Minneapolis Police Department noted that Tasers are a “tool to more effectively deal with violent subjects and as a means of deescalating potentially deadly situations.” Leah Johnson, *Tasers: Evaluation and Statistical Analysis*, Minneapolis Police Dep’t Office of Professional Standards 3 (2007), <http://www.ci>

minneapolis.mn.us/www/groups/public/@mpd/documents/webcontent/convert\_282699.pdf. Tasers are only permitted to be used for “aggressive resistance and above” and “shall not be used on passive subjects or as a come-along tool.” *Id.* at 18. These limitations on Taser use had a significant effect in reducing injuries caused by Tasers, with only nine injuries reported in the year before the report. *Id.* at 8.

Indeed, a 2005 model policy issued by a renowned association of Police Chiefs on the use of electronic control weapons, such as Tasers, prohibited the use of the device on “a handcuffed or secure prisoner, absent overtly assaultive behavior that cannot be reasonably dealt with in any other less intrusive fashion” or on “any suspect who does not demonstrate an overt intention (1) to use violence . . . or (2) to flee in order to resist . . . arrest . . . .” IACP National Law Enforcement Policy Center, *Electronic Control Weapons, Model Policy* at IV.C.1(b) and (c) (August 2005); *see also Stanford Guidelines*, at 14 (“The purpose of tasers and other weapons is to subdue violent and dangerous individuals. . . . Tasers should be used only on dangerous individuals and never on individuals who are passively resisting arrest.”).

Finally, at the time of the facts at issue, Respondent’s police department policies specifically limited Taser use to a “dangerous and violent subject” after “attempts to subdue the subject by other conventional tactics” were ineffective. Pet. for Writ of Cert. at 62a-63a. The Police Chief of the Winnfield City Police Department who fired Respondent testified at a civil service hearing that Respondent used “unnecessary force” because the officers’ own reports demonstrated that the subject did not “pose[] any

threat during the time that he [had] been taken into custody.” Mem. in Opp. to Sum. Judg., Ex. 2 at 41, 08-cv-1167 (W.D.La Oct. 14, 2011), ECF No. 203-2. The Police Chief also confirmed that the Taser was only supposed to be used “in circumstances where it is deemed reasonable and necessary to control a dangerous or violent subject,” *id.* at 42, and that the Respondent’s use of the Taser on a handcuffed, non-aggressive person was not justified under the department’s policies. *Id.* at 46.

As a result, *Amici* view as well-established that, since as early as 2008, if not earlier, electric shock devices are not reasonably necessary to force a person to comply with an officer’s commands to move when the person is handcuffed and presents no danger to himself or others.

Where a subject is passively resisting by refusing to move, law enforcement guidelines typically require officers to use “soft-hand” techniques to encourage and facilitate compliance with an officer’s commands. Thus, the Charlotte Police Department describes “passive resistance” as “where the subject does not cooperate with an officer’s commands [such as where he] lies down in front of a doorway.” In these circumstances, the officer is only permitted to use “soft hand control,” including “takedowns, joint locks and simply grabbing onto a subject.” *Id.* The Minneapolis Police Department Guidelines similarly mandate that an officer only use “soft empty-hand” techniques such as pressure points, neck restraints, or joint manipulation when a subject is passively resisting. *Id.* at 21. These techniques minimize the risk of unnecessarily injuring the subject.

Of course, officers must make quick decisions in uncertain circumstances to protect themselves or others. But that was not the case here. Respondent shocked the subject eight times over fourteen minutes. Respondent thus had ample time to consider and implement the passive restraint techniques mandated by his police department. In the end, all of Respondent's Taserings was ineffective and Respondent was forced to move the subject by picking him up — a method recommended by his department's guidelines.

While an officer's use of a Taser to obtain compliance with a verbal command may be "reasonable" when a person poses a risk of harm or is actively resisting arrest, it is unreasonable when the person is restrained in handcuffs, not a threat, and simply disregarding verbal commands to move as instructed into a vehicle or police station. Indeed, Respondent here did not face any urgency to make a split-second decision to control the suspect because he was already subdued. Nevertheless, Respondent decided to shock the subject multiple times over an extended period of time simply to obtain compliance with his commands to move as directed. As illustrated in this case, law enforcement can readily use "soft-hand" techniques to move a handcuffed, non-threatening person and clearly need not resort to repeatedly shocking a subdued person who poses no threat to himself or others.

### III. THE FIFTH CIRCUIT'S DECISION CREATES UNCERTAINTY ABOUT WHETHER AN OFFICER IS IMMUNE FROM SUIT FOR REPEATEDLY USING A TASER ON A SUBDUED, NON-THREATENING PERSON

The Court should grant certiorari because the Fifth Circuit's decision has introduced uncertainty to lower courts deciding whether an officer that repeatedly uses a Taser on a subdued, non-threatening individual is immune from suit as a matter of law. This uncertainty will also impact law enforcement across the country who, with increasing frequency, hold a Taser device in their hands when deciding on the appropriate force to use on a non-threatening individual passively refusing to comply with the officer's commands to move as instructed. As a result of the Fifth Circuit's decision, law enforcement personnel in that and other circuits that have not addressed the issue, will lack clear guidance on the constitutionally appropriate force to use, and the incidents of death associated with the use of Taser devices will likely increase.

In *Graham v. Connor*, the Court identified three factors that courts must weigh when determining whether law enforcement personnel have used excessive force: "the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of officers or others, and whether he is actively resisting arrest or attempting to evade arrest." 490 U.S. 386, 396 (1989).

Prior to the Fifth Circuit's decision, other circuits consistently held that it was clearly established, prior to 2008, that the repeated use of a Taser on a restrained, non-threatening individual constituted excessive force under *Graham*.

Similarly, the Fourth Circuit held in *Meyers v. Baltimore Cnty., Md.*, that it was clearly established that repeatedly Taser-ing “an individual who no longer is armed, has been brought to the ground, has been restrained physically by several other officers, and is no longer actively resisting arrest” constitutes excessive force. 713 F.3d 723, 734 (4th Cir. 2013). The court observed that even where “force is justified at the beginning of an encounter” it may not be “justified even seconds later if the justification for the initial force has been eliminated.” *Id.* at 733. The plaintiff in *Meyers* was unarmed and secured by several officers sitting on his back. In *Meyers*, the additional Taser-ing by the police officer was found to be clearly “unnecessary, gratuitous, disproportionate” and to constitute excessive force. *Id.* at 735.

Likewise, in *Wells v. City of Dearborn Heights*, the Sixth Circuit held that a policeman used excessive force when he Tasered a handcuffed individual a single time even though the individual was yelling profanities at the officer. 538 Fed. Appx. 631, 640 (6th Cir. 2013). The court found it clearly established that it is “unreasonable to use significant force on a restrained subject even if some level of passive resistance is presented” because the subject did not pose a “safety threat or a flight risk.” *Id.*

Finally, the Eighth Circuit held in *Brown v. City of Golden Valley* that a police officer used excessive force when he Tasered an individual who was not actively resisting arrest or attempting to flee and “posed at most a minimal safety threat.” 574 F.3d 491, 497–99 (8th Cir. 2009).

Other circuits have held that it is excessive force under *Graham* to Taser a passively resisting subject

without deciding whether it was “clearly established.” See *Parker v. Garish*, 547 F.3d 1, 5, 10 (1st Cir. 2008) (upholding jury’s determination that a police officer used excessive force in Taser-ing an intoxicated individual who initially resisted being handcuffed and verbally harassed the police officers); *Cyrus v. Town of Mukwonago*, 624 F.3d 856, 862-63 (7th Cir. 2010) (denying summary judgment on claim of excessive force against officers that repeatedly Tasered subject who did not release his hands for handcuffing).

In contrast to these other circuits, the Fifth Circuit held below that it was not clearly established that Taser-ing a restrained individual is excessive force. *Thomas v. Nugent*, 539 Fed. Appx. 456, 459 (5th Cir. 2013). The Fifth Circuit relied on two facts in holding that the officer acted appropriately in Taser-ing the handcuffed subject. First, the subject did not comply with the officer’s directive to stand up and walk to the vehicle. *Id.* at 460. Second, the subject had an “active felony warrant, attempted to evade arrest, was subdued only through the threat of deadly force and did not comply with the officers’ repeated requests to cooperate.” *Id.* at 461. However, the Fifth Circuit’s reliance on the foot chase that preceded the subject’s arrest was misplaced because the officer did not use his Taser until *after* the subject was in handcuffs, refused to stand up, and stated “just drag me, take me, carry me.” *Id.* at 457. Following that initial use and before the officers finally decided to carry the subject into the police station, Respondent used his Taser at least seven more times to force the subject to comply with his instructions to move — which became increasingly more difficult for the subject with every shock until the subject collapsed at the police station shortly before his death. *Id.* at 458.

The lower court's decision has created considerable uncertainty concerning the permissibility of Taser-ing a restrained individual who poses no immediate threat, is not evading arrest, but is ignoring an officer's command to move as instructed. This uncertainty adds unnecessary additional risks to law enforcement personnel, who are tasked with making quick decisions about the amount of force to use in volatile and non-volatile situations. Absent clear direction from the Court, law enforcement personnel, at least in the Fifth Circuit, will err in both directions, refraining from using a Taser when it is justified and using a Taser even when constitutionally impermissible. For this reason, *Amici* respectfully ask the Court to resolve the split in the circuits and restore certainty as to the appropriate use of a Taser.

### CONCLUSION

For the foregoing reasons, *amici curiae* join Petitioner in requesting that this Court grant a writ of certiorari.

February 21, 2014

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# **Appendix**

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**APPENDIX A**

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Director (Public Member), State Bar of Texas (1997-2000); Member, Legal Services to the Poor and Criminal Matters Committee, State Bar of Texas (2002-2011), Committee Chair (2010); Member, State Bar of Texas Commission for Lawyer Discipline (2002-2005); Member, Texas Board of Pardons and Paroles (1999-2005); Life Member, Association of Former Texas Rangers.

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Director, Ohio Department of Rehabilitation and Correction (2006-2010); Assistant Director, Ohio Department of Rehabilitation and Correction (1977-

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Distinguished Faculty Scholar and Professor of Law, University of Pittsburgh School of Law; Associate Dean for Research, 2011-2013; primary author, "Taser Task Force: Report of the Use of Force Working Group, Allegheny County, PA" (2009); author, "Failed Evidence: Why Law Enforcement Resists Science" (2012), "Good Cops: The Case for Preventive Policing" (2005); research in the areas of law enforcement behavior, search and seizure law, criminal procedure, and constitutional law.

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Executive Fellow, National Police Foundation (2009-present); Director, California Department of Corrections and Rehabilitation, Division of Adult Parole Operations (2006-2009); Captain, Deputy Chief, and Interim Chief of Police, Police Department, West Sacramento, California (1994-2004); Officer-Captain, Police Department, Inglewood, California (1975-1994).

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Judge, Superior Court of California, County of Santa Clara (San Jose) (1997-2011); Judge, Santa Clara County Municipal Court (1990-1996); Police Officer, Santa Clara Police Department (1972-1977).

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Assistant United States Attorney and Deputy Criminal Chief, District of Maryland (2002-2008); Assistant United States Attorney, Middle District of North Carolina (1999-2002).

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Director, Illinois State Police (1987-1990); Illinois Inspector General (1984-1987); Assistant United States Attorney, Northern District of Illinois (1973-1984).

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Corrections Consultant and Attorney; Special Assistant Attorney General, Texas Attorney General (1985-1986); Executive Assistant to the Director (1984-1985), General Counsel (1983-1985), and Legal Counsel (1981-1983), Texas Department of Corrections, Huntsville, Texas; Federal court monitor, remedial decrees involving staff use of force in prisons and jails in the U.S., (1994-present); Expert, U.S. Department of Justice, Civil Rights Division (1993-2008); Expert, U.S. Department of Homeland Security, Office of Civil Rights and Civil Liberties (2010-present).

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Prison and Jail Consultant; Director, Orange County Jail, Orlando, Florida (2001-2002); Warden, Central Florida Reception Center, Orlando, Florida (1998-2001); Warden, Florida State Prison, Raiford, Florida (1996-1998); Warden, Gulf Correctional Institution, Wewahitchka, Florida (1992-1996); Deputy Warden, Central Florida Reception Center, Orlando, Florida (1988-1992); Correctional Officer, Florida State Prison System (1978-1988).

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Deputy Attorney General of the United States, U.S. Department of Justice (2009-2010); Assistant Attorney General, Civil Division, U.S. Department of Justice (1999-2001); Chief of Staff to the Attorney General of the United States (1998-1999); Counselor to the Attorney General of the United States (1997-1998); Associate Deputy Attorney General, U.S. Department of Justice (1995-1997); Deputy General Counsel and Legal Counsel, U.S. Department of Defense (1994-1995).

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Director, Illinois Department of Corrections (2009-2010); Assistant Director, Ohio Department of Rehabilitation and Correction (2006-2009).

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Detective, District of Columbia Metropolitan Police Department (1983-2010), Homicide Division (1994-2010); Consultant, U.S. Department of Justice (2010); Founder and Director, Violent Crime Case Review Project, District of Columbia Metropolitan Police Department.

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Professor of Criminal Justice, University of Nebraska at Omaha (1974-present); Author, "A Critical History of Police Reform: The Emergence of Professionalism" and "The New World of Police Accountability."