Excessive Force Claims and Electric Stun Devices: Recent Jurisprudence on the Use of Tasers by Law Enforcement

by John A. Greco



Short of lethal force, there is a wide spectrum of nonlethal methods that can be used by law enforcement officers in carrying out their objectives. Civil rights jurisprudence teaches us that the amount or type of force that will be deemed excessive under 42 U.S.C. § 1983 depends upon a variety of factors. Accordingly, the use of nonlethal force, such as pepper spray, may be deemed excessive in some situations,[1] while the use of lethal force in other circumstances may be found to be appropriate.[2]

Tasers,[3] electrical stunning devices used by law enforcement agencies, have been in existence for at least 40 years.[4] Such devices are designed to temporarily immobilize a perpetrator, avoiding the need for recourse to deadly force. The use of these devices has become somewhat commonplace in the apprehension of suspects and the prevention of crime. As of 2009, it was estimated that 13,400 law enforcement agencies around the world used tasers; they are also used by 375,000 individual officers and 181,000 private citizens.[5] The use of tasers is not without its opponents—organizations such as Amnesty International reportedly oppose their use, citing fatalities allegedly resulting from the use of tasers.[6]

When defending civil rights suits based upon excessive force claims, the question for consideration will be whether the officer is entitled to qualified immunity—i.e., whether the plaintiff's Fourth Amendment rights were violated, and whether the law was clearly established, such that the officer was on notice that his conduct violated the plaintiff's constitutional rights.[7]

This article discusses recent jurisprudence regarding the use of taser devices in the context of excessive force claims under the Fourth Amendment, and the standards applied by federal courts in deciding whether constitutional standards have been violated, and whether the official is entitled to qualified immunity for use of the device.

The Test for Excessive Force

In *Graham v. Connor*,[8] the United States Supreme Court addressed the standard for evaluating claims that law enforcement used excessive force in making a seizure under the Fourth Amendment. In that case, officers observed Graham, an insulin-dependent diabetic, enter and exit a convenience store quickly. Suspicious, the officers made an investigatory stop and handcuffed Graham. During this encounter, Graham sustained a broken foot, cuts on his wrists, a bruised forehead, and an injured shoulder. When the officers confirmed that no crime had been committed in the store, they released him. He later filed a claim under Section 1983, claiming excessive force.

The Court held that a claim of excessive force resulting from a "seizure" is analyzed under the "reasonableness" standard of the Fourth Amendment.[9] "Our Fourth Amendment jurisprudence has long recognized that the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it."[10] The Court, however, qualified this right: "its proper application requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight."[11]

The Court also cautioned that "the 'reasonableness' of a particular use of force [had to] be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight,"[12] and further explained that the analysis was to be made with due regard to the reality of law enforcement: "[t]he calculus of reasonableness

must embody allowances for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."[13]

Taser Types

The courts broadly recognize at least two general types of tasers or stun devices used by law enforcement. The first type (the "prong" or "dart" mode) is deployed by shooting two prongs or darts attached to thin wires into the subject.[14] An electric current flows through the wires into the subject. This type operates as an electro-muscular disruptor which overrides the central nervous system, impairing muscle control.[15]

The second type of taser is a "dry," "contact," or "drive stun" taser, which is used by pressing the device against the body of the subject while pulling the trigger.[16] This type of taser does not disrupt muscle control but instead, results in pain on contact in the nature of a burning sensation.[17] The U.S. Court of Appeals for the Eleventh Circuit has indicated that the use of a taser in dry or contact stun-mode is a much less serious use of force that the use of the device in prong or dart mode.[18]

Some courts view the use of tasers as a safer alternative to other forms of force. For example, in *Glenn v. Washington County*, the U.S. Court of Appeals for the Ninth Circuit commented that the use of a taser was, for purposes of summary judgment in that case, a "less intrusive alternative" to the force of a beanbag shotgun.[19] The evidence was that, unlike a beanbag shotgun, a taser actually immobilized the target, was accurate up to 20 feet, and was reliable.[20] On the other hand, another panel of the Ninth Circuit, in *Bryan v. Macpherson*,[21] viewed the use of a taser as an "intermediate, significant" level of force that was to be justified by a strong government interest.[22]

Regardless of how the taser device is characterized by a particular court, the above factors from *Graham v. Connor* are generally employed in determining whether the use of the taser violated a person's rights under the Fourth Amendment, and, if so, whether the force used violated clearly established law.

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Severity of the Crime

The first factor to be considered under *Graham* is the severity of the crime.

On one end of the spectrum are situations involving serious crimes. In *Hoyt v. Cooks*,[23] the crime involved was battery on a law enforcement officer. The plaintiff, Allen, had called 911 several times, complaining that "demons were trying to get him."[24] When the first responding officer, Cooks, arrived, Allen ran out of his house toward the patrol car, yelling that Cooks was a demon who needed to be killed, and reached into the patrol car to grab at the officer. After dislodging Allen from the car and attempting to handcuff him, the officers deployed their tasers in dry-stun mode. They were able to handcuff Allen after using the taser and physical force. In analyzing this *Graham* factor, the U.S. Court of Appeals for the Eleventh Circuit distinguished other precedent from the circuit, finding that Allen "had just recently committed assault and battery on a police officer by lunging through the patrol car window and grabbing the officer's shirt while threatening to kill him."[25]

On the other end of the spectrum are situations where the crime committed is not serious, or where no crime has been committed.[26] For example, in *Bryan v. Macpherson*,[27] an officer deployed his taser against a driver pulled over on a traffic stop for a seatbelt infraction. Although the driver was agitated while outside his vehicle, he did not verbally threaten the officer and did not attempt to flee. There was evidence that the driver was facing away from the officer when the taser was deployed. A probe embedded in his arm, causing him to fall face down onto the sidewalk, resulting in injuries. In these circumstances, the court found the force to be excessive, but found the officer was entitled to qualified immunity as the violation was not clearly established due to the dearth of prior authority.[28]

Threat Posed

Graham's second factor, used to determine whether officers used excessive force in violation of the Fourth Amendment, is the threat posed by the subject. In cases where a subject has made threats or is acting in a belligerent or aggressive manner, this factor will weigh in favor of finding the use of the taser to be reasonable.

In *Draper v. Reynolds*,[29] the U.S. Court of Appeals for the Eleventh Circuit found that the use of a taser on a belligerent subject did not constitute excessive force. There, police officers had conducted a traffic stop of a tractor-trailer because its tail light was not illuminated. Officer Reynolds had repeatedly, and in a calm voice, instructed Draper, the driver, to retrieve his log book and bill of lading. Instead of complying, Draper was belligerent,

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using profanity and urging Reynolds to take him to jail. After asking for the documents five times, Reynolds deployed his taser in prong mode. The court ruled that "Reynold's use of the taser gun to effectuate the arrest of Draper was reasonably proportionate to the difficult, tense and uncertain situation that Reynolds faced in this traffic stop, and did not constitute excessive force."[30]

In *Zivojinovich v. Barner*,[31] the arrestee, Justin, had his nose broken in a fight with the arresting officers. He was handcuffed and restrained. He was speaking with an officer but, because of his broken nose, his blood sprayed at the officer. As the spraying of blood appeared intentional, officers used their tasers on him. The court held that the use of the tasers was reasonably proportionate to the need for force, analogizing the facts from the officer's perspective to the circumstances in *Draper*.[32]

In another case, *Mann v. Taser International, Inc.*,[33] Melinda Fairbanks, agitated and delusional due to her use of methamphetamine, vandalized a home, resulting in the dispatch of police officers. During the encounter with the police, she struggled with the officers violently, and continued to kick "uncontrollably" despite her feet being shackled.[34] After warning her to desist, the officers tased Fairbanks three times (although there was evidence that the taser only worked once). The court found that the force used was not excessive.[35]

Level of Resistance

The third factor for consideration in *Graham* is the level of resistance of the subject, or his or her attempts to escape.

In *McKenney v. Harrison*,[36] the U.S. Court of Appeals for the Eighth Circuit reviewed the use of a taser on a suspect attempting to escape through a window. There, the officers entered a seemingly abandoned structure in order to serve an arrest warrant on James Barnes. When they found Barnes upstairs, they warned him they had tasers. Nonetheless, he darted for a window six to eight feet away, and one of the officers tased him in the back. Barnes continued through the window and fell to his death. In the ensuing excessive force claim, the court affirmed the grant of summary judgment for the officers, finding that the alternative—attempting to subdue Barnes by tackling him—posed a risk to the safety of the officer and did not ensure a successful arrest, while "a reasonable officer, knowing that a taser is designed to incapacitate instantly, could have believed that the force would incapacitate Barnes before he reached the window[.]"[37]

The use of a taser in dry-stun mode has been found not to violate the Fourth Amendment where officers had difficulty handcuffing a subject already on the ground.[38] In that case, the police officer, significantly, waited for backup to arrive before using the taser. The subject, Allen, was lying on the ground, but would only place one hand behind his back at a time and resisted being handcuffed. As a result, the officers applied the taser in probe mode. When Allen still did not comply, the officers used the taser in dry-stun mode against Allen's skin, producing a burning sensation. After several stuns while Allen was rolling on the ground, the officers were able to handcuff one hand. With only one of Allen's hands cuffed, the officers continued to tase Allen, while ordering him to put his arms behind his back (ultimately, physical force was required to handcuff his other hand). On review, the Eleventh Circuit found his resistance weighed in favor of the use of the tasers:

> Allen resisted during the entire time that [the officers] tried to handcuff him. He spread his arms apart to prevent being handcuffed, and he rolled around to keep his arms from being pulled behind his back. Even after repeatedly using their Tasers, [the officers] had considerable difficulty in effecting the arrest.[39]

Other situations where the level of resistance weighed in favor of the use of the taser included the use of a taser, for two to three seconds, on a handcuffed arrestee who refused to open his mouth to allow officers to search for narcotics;[40] the use of a taser, three times, on a person who refused to comply with instructions to lie on the ground and to stop walking away;[41] the use of a taser, three times, on a handcuffed arrestee who refused to stand up;[42] and the use of a taser, two times, in the face of the passive resistance of a suspect who refused to be handcuffed.[43]

Amount of Force and the Injury Sustained

Another factor considered by courts in conjunction with the other factors is the amount of force used and the injury inflicted.[44] The amount of times a taser is deployed can be relevant to this analysis, as well as the type of taser used and the extent of any injury caused. Some kinds of tasers are equipped with logs that measure the number of times the taser is deployed. The courts look at whether the amount of force used is in proportion to the crime committed, the threat posed, and the level of resistance in each case. Cases that found excessive force was used include a situation where a taser gun was deployed, causing 50,000 volts of electricity to enter the body of a six-year-old child weighing 53 pounds, resulting in convulsions and alleged permanent injury;[45] and tasing a non-belligerent man, asking for police help, eight to twelve times over a two-minute period without attempting to arrest or handcuff the man, including tasing him while he was writhing in pain on hot pavement and after he had gone limp.[46] (The man suffered a seizure and died.)

Balance of Interests

Although *Graham* references the above factors, it is ultimately the totality of the circumstances in each case that is examined by the court in evaluating excessive force claims.[47] In determining whether excessive force was used, the Eleventh Circuit, for example, has also considered a weighing of interests, which balances the "nature and quality of the intrusion on the individual's Fourth Amendment interests" with "the countervailing government interests at stake."[48] In *Hoyt v. Cooks*, the court considered the fact that the officers only used the taser in prong mode the first time, which was reasonable; that all further uses of the taser were in dry-stun mode, a less serious application of force; they never used the taser after the subject stopped resistance, and had tried to handcuff the subject between tasing attempts.[49]

Gun Mistaken for Taser

Several recent cases have addressed "weapons confusion," where an officer mistakenly uses a firearm instead of a taser. The decisions thus far have held that it is a fact question as to whether the officer is entitled to qualified immunity under such circumstances for the alleged mistake. In *Henry v. Purnell*,[50] the U.S. Court of Appeals for the Fourth Circuit addressed summary judgment granted in favor of an officer who shot an unarmed individual (wanted for a misdemeanor) who was running away. The parties stipulated that the officer intended to use his stun gun instead of his gun. Reversing the grant of summary judgment, the court stated that "it is not the honesty of [the officer's] intentions that determines the constitutionality of his conduct; rather it is the objective reasonableness of his actions."[51] Remanding, the court found a question of fact existed as to whether the officer's mistake was objectively reasonable, and that the law was clearly established that the officer's *subjective* beliefs played no role in the objective reasonableness of his actions.[52]

Conclusion

Whether a court will find that the Fourth Amendment is violated in a case involving the use of a taser depends on a variety of factors, including the severity of the crime, any threat posed to the officer or others, the level of resistance offered and any attempt to escape, and the level of force used by the officer.

However, even if the court finds the officer's conduct to be unconstitutional, recent decisions (including many cited here) indicate that, because of the fact-intensive analysis conducted, and the split-second nature of law enforcement decisions, the courts have been inclined to conclude that the applicable law was not clearly established unless the subject was non-violent, offered no resistance, or had committed no crime.

Notes

1. *See* Vinyard v. Wilson, 311 F. 3d 1340 (11th Cir. 2002).
2. *See* Menuel v. City of Atlanta, 25 F. 3d 990 (11th Cir. 1994).
3. TASER International, Inc. maintains trademarks on a variety of electronic control devices. See their website at http://www.taser.com.
4. Jack Cover, an aerospace scientist affiliated with NASA, developed the taser in the 1960s and 1970s. *Jack Cover, 88, Physicist Who Invented the Taser Stun Gun, Dies,* New York Times, Feb. 16, 2009, at http://www.nytimes.com/2009/02/16/us/16cover.html. The taser is an acronym for "Thomas A. Swift Electric Rifle," inspired by the inventor's fondness for the science fiction novel, *Tom Swift and His Electric Rifle*. *Id*.
5. *Id*.
6. *Id*.
7. *See* Pearson v. Callahan, 129 S. Ct. 808 (2009); Hope v. Pelzer, 536 U. S. 730, 739 (2002). In the Eleventh Circuit, for example, whether a law is "clearly established" can be proven in at least two ways: either by reference to factually similar case law from the Supreme Court or the Circuit Court of Appeals where the action lies, or, in the absence of a factually similar case, by proving that the law was "so obviously at the core of the what the Fourth Amendment prohibits that the unlawfulness of the conduct was readily apparent to [the officer], notwithstanding the lack of fact-specific case law." Fils v. City of Aventura, 647 F.3d 1272 (11th Cir. 2011).
8. 490 U. S. 386 (1989).
9. *Id*. at 395.
10. *Id*. at 396 (citing *Terry v. Ohio*, 392 U.S. 1, 22-27 (1968)).
11. *Id*. (citing *Tennessee v. Garner*, 471 U.S. 1, 8-9 (1985)).
12. *Id*.
13. *Id*. at 396-97. On the opposite end of the spectrum, the Eleventh Circuit has indicated that "unprovoked force against a non-hostile and non-violent suspect who has not disobeyed instructions violates that suspect's rights under the Fourth Amendment." Fils v. City of Aventura, 647 F.3d 1272 (11th Cir. 2011). *See also* Casey v. City of Federal Heights, 509 F.3d 1278, 1286 (10th Cir. 2007) (use of taser immediately and without warning violates established law).
14. Hoyt v. Cooks, 672 F.3d 972, 976 n.4 (11th Cir. 2012).
15. *Id*. *See also* Oliver v. Fiorino, 586 F.3d 898 (11th Cir. 2009) (evidence describing pronged device as designed to cause uncontrollable muscle contractions incapacitating the most focused and aggressive combatants).
16. *Hoyt*, 672 F.3d at 976 n.4.
17. *Id*.
18. *Id*. at n.5.
19. No. 10-35636, 2011 U.S. App. Lexis 25932, *34-36 (9th Cir. Dec. 27, 2011).
20. *Id*. *See also* Mattos v. Agarano, 661 F.3d 433, 459 (9th Cir. 2011) (Judge Silverman, concurring in part and dissenting in part) (suggesting that the use of a taser was a safer alternative to the use of choke-holds, arm-locks, and other hand-to-hand techniques on the recalcitrant individual who refused to exit the motor vehicle in that case).
21. 630 F.3d 805 (9th Cir. 2010).
22. *Id*. at 826. *See also* Buckley v. Haddock, 292 Fed. Appx. 791 (11th Cir. 2008) (describing taser as moderate non-lethal force).
23. 672 F.3d 972 (11th Cir. 2012).
24. *Id*. at 975.
25. *Id*. at 978.
26. In *Oliver v. Fiorino*, 586 F.3d 898 (11th Cir. 2009), the Eleventh Circuit found, in the circumstances, that the officers violated clearly established law by using a taser eight to twelve times on a subject who had committed no crime.
27. 630 F.3d 805 (9th Cir. 2010).
28. *Id*. at 809.
29. 369 F.3d 1270 (11th Cir. 2004).
30. *Id*. at 1278. *See also* Hoyt v. Cooks, 672 F.3d 972, 979 (11th Cir. 2012), where the court found that the subject "continued to pose a danger during the time when only one of his hands was handcuffed; without both hands shackled, the single handcuff could be used as a weapon."
31. 525 F.3d 1059 (11th Cir. 2008).
32. *Id*. at 1073.
33. 588 F.3d 1291 (11th Cir. 2009).
34. *Id*. at 1300.
35. *See also* Burkett v. Alachua County, 250 Fed. Appx. 950 (11th Cir. 2007) (officers justified in using taser on agitated, uncooperative detainee to obtain blood sample). Where no crime has been committed and the subject is non-threatening, the Eleventh Circuit has denied qualified immunity at the summary judgment stage of proceedings. *See e.g.,* Powell v. Haddock, 366 Fed. Appx. 29 (11th Cir. 2010) (officers used taser two times against a person where no crime commit-

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Local Preferences

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14. *White*, 460 U.S. at 215, n.12.
15. 465 U.S. 208 (1984).
16. *Id.* at 211.
17. *Id.* at 214.
18. *Id.* (quoting *Baldwin v. Montana Fish and Game Comm'n*, 436 U.S. 371, 388 (1978)).
19. *Id.* at 221.
20. *Id.* at 222 (quoting *Toomer v. Witsell*, 334 U.S. 385, 398 (1948)).
21. *Id.* at 217-18.
22. *Id.* at 218.
23. *Id.* at 216 (quoting *Toomer v. Witsell*, 334 U.S. 385, 395 (1948)).
24. *Id.* at 220.
25. *Id.* (emphasis in original).
26. *Id.*
27. *Id.* at 222.
28. *Id.*
29. *Id.* at 223. The case later settled, leaving future researchers wondering whether Camden (or any city) could satisfy the "peculiar evil" test.
30. Salla v. County of Monroe, New York, 48 N.Y.2d 514, 525 (1979).
31. *Id.* at 519.
32. *Id.* at 520.
33. *Id.* at 520-21.
34. *Id.* at 521 (quoting Federalist No. 80).
35. *Id.*
36. *Id.* at 523.
37. *Id.*
38. Utility Contractors Ass'n v. City of Worcester, 236 F. Supp. 2d 113, 115 (D. Mass. 2002).
39. *Id.*
40. *Id.*
41. *See, e.g.*, MD. ANN. CODE, art. 24 § 8-102 (2011).
42. *See, e.g.*, Bristol Steel and Iron Works, Inc. v. State of Louisiana, 507 So. 2d 1233, 1236 (La 1987).
43. *See, e.g.*, APAC-Miss. v. Deep South Constr. Co., 288 Ark. 277, 282 (Ark. 1986).
44. *See, e.g.*, A. L. Blades & Sons v. Yerusalim, 121 F.3d 865 (3d Cir. 1997), W.C.M. Window Co. v. Bernardi, 730 F.2d 486 (7th Cir. 1984), People ex rel. Bernardi v. Leary Constr. Co., 464 N.E.2d 1019 (Ill. 1984), Neshaminy Constructors, Inc. v. Krause, 181 N.J. Sup. 376 (N.J. Super. Ct. Ch. Div. 1981); Laborers Local Union v. Felton Constr., 654 P.2d 67 (Wash. 1982).
45. Smith Setzer & Sons v. S.C. Procurement Review Panel, 20 F.3d 1311, 1324 (4th Cir. 1994).
46. *Id.* at 1316, 1324.
47. 992 F.2d 745 (7th Cir 1993).
48. 641 P.2d 745 (Wy. 1982).
49. *Smith Setzer & Sons*, 20 F.3d 1311, 1316.
50. 96 F. Supp. 2d 1238 (D.N.M. 2000).
51. *Id.* at 1244-50.
52. United Bldg. & Constr. Trades Council v. Camden, 465 U.S. 208, 221 (1984).
53. *Id.* at 214.
54. *Id.* at 223.
55. *Id.* at 219-20.
56. 33 F. 3d 265 (3rd Cir. 1994).
57. *Id.* at 271.
58. *Id.* at 269-70.
59. *Camden*, 465 at 220.
60. *Salem*, 33 F. 3d at 270.
61. *Id.* at 273.
62. *Id.* at 274 (citing *Hicklin v. Orbeck*, 437 U.S. 518 (1978)).
63. *Id.* at 275-6 (citing *Camden*, 465 U.S. 208, 221 (1984)) (emphasis in original). **M**

Tasers

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ted and no threat; subject stepped away from officer and was tased the first time, and subject on the ground and unable to resist when tased the second time).
36. 635 F.3d 354 (8th Cir. 2011).
37. *Id.* at 360.
38. Hoyt v. Cooks, 672 F.3d 972 (11th Cir. 2012).
39. *Id.* at 979.
40. *See* Sanders v. City of Dotham, 409 Fed. Appx. 285 (11th Cir. 2011) (law was not clearly established).
41. *See* Floyd v. Corder, 426 Fed. Appx. 790 (11th Cir. 2011) (law was not clearly established).
42. *See* Buckley v. Haddock, 292 Fed. Appx. 791 (11th Cir. 2008) (no Fourth Amendment violation).
43. *See* Chaney v. City of Orlando, 291 Fed. Appx. 238 (11th Cir. 2008) (no violation of clearly established law).
44. *See* Draper v. Reynolds, 369 F.3d 1270, 1277-78 (11th Cir. 2004) (taser analysis includes the need for application of force, relationship between need and amount of force used, and extent of injury inflicted).
45. *See* Moretta v. Abbott, 280 Fed. Appx. 823 (11th Cir. 2008).
46. *See* Oliver v. Fiorino, 586 F.3d 898, 903 (11th Cir. 2009).
47. *See, e.g.*, Bryan v. Macpherson, 630 F.3d 805, 826 (9th Cir. 2010).
48. Hoyt v. Cooks, 672 F.3d 972, 979 (11th Cir. 2012).
49. *Id.* at 980. *See also Draper*, 369 F.3d at 1278 ("Although being struck by a taser gun is an unpleasant experience, the amount of force Reynolds used—a single use of the taser gun causing a one-time shocking—was reasonably proportionate to the need for force and did not inflict any serious injury. ...The single use of the taser gun may well have prevented a physical struggle and serious harm to either Draper or Reynolds.").
50. 652 F.3d 524 (4th Cir. 2011).
51. *Id.* at 532.
52. The U. S. Supreme Court has denied *certiorari*. *See* Purnell v. Henry, 132 S. Ct. 781 (U.S. Nov. 28, 2011). Similarly, in *Torres v. City of Madera*, 648 F.3d 1119 (9th Cir. 2011), *cert. denied*, *Noriega v. Torres*, 132 S. Ct. 1032 (U.S. Jan. 09, 2012), an officer mistakenly used a Glock semiautomatic pistol instead of her taser, resulting in the death of a handcuffed arrestee in a police cruiser. The Ninth Circuit held that the district court improperly granted summary judgment, as there was a question of fact as to whether the mistake was objectively reasonable. **M**

Brownfield Redevelopment

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CONTROLS, 5 (2000).
11. Edwards, *supra* note 9, at 5.
12. John Pendergrass, *Sustainable Redevelopment of Brownfields: Using Institutional Controls to Protect Public Health*, 29 ENVTL. L. REP. 10243, 10244 (2000).
13. 723 F. Supp. 2d 1123 (D. Minn. 2010).
14. *Id.* at 1130.
15. *Presumptive Remedies: Policies and Procedures*, U.S. Environmental Protection Agency, http://www.epa.gov/superfund/policy/remedy/presump/pol.htm (last updated Dec. 12, 2011).
16. *Id.*
17. *Id.*
18. *Id.*
19. *Id.*