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Stun Guns, TASERs, and other Conducted Energy Devices: Issues for Congress

Conducted Energy Devices (CEDs) are weapons that transmit electroshocks, whether via close contact or projectiles, to incapacitate targeted personnel. Common examples include stun guns and TASERs. Law enforcement and civilian use of CEDs is considered a less-lethal alternative to firearms. Nonetheless, there is evidence that CEDs present a number of potential risks. Policymakers may consider examining ways to legislate on the appropriate use of CEDs or provide oversight of the risk, benefits, and regulations surrounding them.

Conducted Energy Devices (CEDs)

The TASER was the first CED invented for law enforcement use. Developers marketed the TASER as a less-lethal alternative to conventional firearms. Rather than expelling a bullet, the first TASER (invented in 1974) utilized gunpowder to propel barbed, dart-shaped electrodes at a subject. Upon contact, an electric current transmitted through the electrodes would override the subject's central nervous system by causing intense pain and muscle contraction, resulting in temporary incapacitation. After the introduction of the TASER, other types of CEDs emerged. Stun guns (small, hand-held devices that discharge an electric shock through direct contact) were originally created for U.S. Army use but, along with TASERs, became among the first CEDs to be used by law enforcement. Additionally, in custodial settings, officers use restraint CEDs, such as the stun belt (a CED belt placed around a subject's waist, leg, or arm that is capable of delivering electroshocks through remote control activation) to aid in the transportation of inmates with histories of aggressive behavior. Other, less commonly employed CEDs include stun shields (riot shields designed to administer a contact shock through the press of a button) and shock sticks (baton-like devices equipped with two prongs at the tip capable of delivering an electric shock).

The demand for CEDs reaches beyond law enforcement. Stun guns sales expanded to the civilian market in the 1970s. Similarly, in 1993 new TASERs that used compressed nitrogen, rather than gunpowder, to expel electrodes were deemed non-lethal and safe for civilian use and became available for sale in the public market.

CED Regulation Under Federal Firearms Laws

The Gun Control Act of 1968 (GCA) and its implementing regulations issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) define a "firearm" to include any weapon that expels a projectile by action of an explosive. An earlier federal law, the National Firearms Act (NFA), also regulates specified types of firearms and a catchall category of "any other weapon," which includes weapons capable of firing by action of an explosive, being

concealed on the person, and designed without a rifled bore (helical grooves machined into the internal surface of a barrel, which impart aerodynamic stability and accuracy). Although touted as firearm alternatives, some of the first TASERs lacked rifled bores and used gunpowder to expel electrodes and were thus classified as "firearms" under regulations implementing the GCA and as "any other weapon" under NFA. CEDs classified as "any other weapon" under the NFA are subject to a \$200 making tax and a \$5 transfer tax, and to certain registration requirements. In addition, under the GCA, CEDs regulated as firearms are subject to certain licensing requirements and are unlawful to possess by certain categories of prohibited persons.

Most CEDs currently available are not regulated by the GCA or NFA. For example, the majority of TASERs fire using compressed nitrogen gas instead of an explosive and thus are not classified as firearms under the GCA or NFA.

Select CED Classifications

Commercial TASERs. There are a small number of TASERs commercially available for civilians to purchase. These models can be shot from a distance, have rifled bores, and use compressed nitrogen gas to discharge electric probes. None of these models use an explosive to expel electrodes and, consequently, are not regulated under the GCA or NFA.

Non-commercial TASERs. The manufacturer of TASERs has four models that they do not sell to the public and are sold primarily to law enforcement. One non-commercial model (TASER 10) is regulated as a firearm under the GCA because it uses an explosive propellant to expel electrodes, which constitutes expelling a projectile by action of an explosive. Explosive propellants are more powerful than compressed nitrogen gas, allowing for users to deploy explosive propellant-based TASERs from farther distances. However, such TASERs are not regulated under the NFA, presumably because the design feature qualifies the weapon for the exclusion found in the "any other weapon" definition of the NFA for weapons having a rifled bore.

Stun Guns, Stun Belts, Shock Sticks, Stun Shields, and other Direct Contact CEDs. These items are CEDs that fire an electrical charge through direct contact with a target. Like commercial and most non-commercial TASERs, contact-based CEDs are not regulated by the GCA or NFA.

Law Enforcement Use of CEDs

The Bureau of Justice Statistics' Law Enforcement Management and Administrative Statistics (LEMAS) survey periodically collects data from a nationally

representative sample of state, county, and local law enforcement agencies in the United States about their personnel, operations, policies, and procedures. According to a CRS analysis of the 2020 LEMAS data (the most recent available), 93.5% of all law enforcement agencies surveyed authorized their full-time sworn officers to use CEDs. TASERs are reported to be the most common CEDs utilized by law enforcement. By nature of their design, law enforcement primarily utilizes TASERs in close-proximity encounters with individuals who are perceived to pose a safety risk to the officer or others. Common scenarios in which CEDs are used involve persons resisting arrest, unarmed intoxicated or mentally unwell individuals, and unruly correctional inmates. Although less common, law enforcement has also deployed CEDs, such as stun shields, for crowd control purposes.

The Fourth Amendment places limitations on the degree to which police may exert coercive power during the course of duty. In *Graham v. Connor*, 490 U.S. 86 (1989), the Supreme Court stated that law enforcement use of force must be “objectively reasonable” in view of the totality of the facts and circumstances of the case. Given that objective reasonableness is situationally dependent and a fact-intensive inquiry, it is difficult to make generalizations about when the use of force is appropriate. Consequently, most law enforcement agencies have adopted department-specific use-of-force policies to clarify the circumstances in which officers are permitted to use force; however, court decisions evaluating reasonable use of CEDs provide some guidance.

Federal courts of appeals that have examined law enforcement’s use of CEDs have considered a variety of factors when evaluating reasonableness. These factors include (1) to what extent the individual resisted arrest or posed a physical threat to the safety of others, (2) whether the officers gave a verbal warning first, (3) the number of times the CED was deployed, and (4) whether other restraints were or could have been used. Courts have recognized that CEDs may cause significant pain, and thus their use must be proportional to the threat being mitigated by such use.

Individuals subject to unreasonable use of CEDs by law enforcement may have remedies under federal or state law, though procedural requirements or other doctrines like qualified immunity may limit the availability of those remedies in a given case.

Civilian Ownership of CEDs

For civilians, commercial TASERs and other CEDs are predominantly purchased as an alternative to firearms and are legal, subject to varying levels of regulation, in every state. The maker of the TASER reports that civilian purchases of stun guns increased by 300% in 2020 compared to 2019. While the cost of certain commercially available TASERs is higher than some common firearms, individuals may choose to purchase the TASER or any CED due to its perceived less-lethal nature, because they are simply a collector of firearms and firearm-related equipment, or because they cannot pass a National Instant Criminal Background Check System (NICS) background

check. (NICS is the national namecheck system that federal firearms licensees use to determine whether a person can legally buy or own a firearm.)

Restrictions on civilian possession of CEDs may raise Second Amendment concerns. The Supreme Court has not squarely examined the issue, so the precise application of the Second Amendment to CEDs remains an unresolved legal question.

Issues for Congress

CEDs are not without risk of serious injury or death and, consequently, law enforcement use of CEDs remains a subject of significant controversy. From the first media report of a TASER fatality in 1983 to July 2017, Reuters found that 1,081 individuals had died after being hit by a police TASER. Of those fatalities, 273 deaths involved a person showing signs of mental illness, emotional distress, or a neurological disorder and 245 deaths involved an individual with a heart condition. However, some have questioned whether these deaths were actually caused by the use of TASERs, as most of them involved persons with underlying health conditions (such as heart conditions) or who were under the influence of drugs. In some cases, TASERs may have also been used in combination with other types of force, making it difficult to identify the specific cause of death.

Additionally, there is little publicly available incident data on law enforcement or civilian deployment of CEDs. While the Department of Justice (DOJ) began conducting a study in 2024 to address mortality risks associated with law enforcement usage of CEDs, there is no federal research on CED mortality risks from civilian use. Moreover, there are no comprehensive reporting requirements on CED usage for civilians or law enforcement (law enforcement agency participation in the Federal Bureau of Investigation’s Use of Force data collection effort is voluntary).

In light of these concerns, Congress may wish to evaluate whether there should be standard guidelines for CED use across federal law enforcement agencies or whether those policies should remain agency-specific based on their unique duties. Additionally, Congress could consider directing a department such as DOJ to research and publish guidance on law enforcement use of CEDs, particularly in situations involving persons with known disabilities or certain health conditions. As state and local law enforcement are not mandated to adopt DOJ guidelines, Congress may also consider additional measures, such as placing conditions on grant programs that provide assistance to state and local law enforcement, to promote widespread, uniform adoption of CED use-of-force policies.

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