

CATCH & STUN



**THE USE AND ABUSE OF
CONDUCTED ELECTRICAL WEAPONS
(CEWS) ON CHILDREN AND YOUTH**

JANUARY 2022

Acknowledgements

Strategies for Youth (SFY) is a national non-profit policy and training organization dedicated to improving police/youth interactions and reducing disproportionate minority contact.

SFY actively engages law enforcement, youth, and youth-serving community-based organizations in an interdisciplinary approach to addressing several problems: the proliferation of contentious encounters between law enforcement and youth, unnecessary arrests of youth for minor offenses, and disproportionate contact with youth of color.

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Executive Summary

In this report, *Strategies for Youth* examines the use of Conducted Electrical Weapons¹ (also known as CEWs, tasers, or stun guns) by law enforcement officers on children and adolescents. We summarize the history of CEWs, their original intent, the training provided to law enforcement agencies that purchase them, and the circumstances surrounding their growing use by police forces across the country since the 1990s.

We then focus on how these weapons have been deployed by police against young people, through case studies, summaries of research on their physical and psychological impact, and an evolving database of lawsuits mounted to challenge their use. We look at the few research studies we identified that focus on the physical and emotional impact of tasers on young people's developing brains, psyches, and bodies. A chapter describes the federal cases brought on behalf of youth who have been tased and the trends in the federal courts' treatment of these incidents. This section also offers examples of major law enforcement agencies' policies regarding use of tasers. The report concludes with a set of recommendations for how legislators and other policy and decision-makers can reduce the physical risk and psychological trauma that young people experience when they are the subject of a "tasing."

Highlights of our review include the following:

- Since the 1990s, when tasers became widely used by police departments across the country, they have, and continue to be, used on children and youth who do not pose a threat to the safety of police officers or others. The vast majority of young taser victims who we were able to identify were unarmed, engaged in non-existent or minor offenses, and many were running away from officers at the time of their tasing.
- Tasers are frequently being used by police on children and youth who are in distress or emotional crisis, and, as a result, they are exacerbating their trauma and distress.
- By dint of their psychological and physical lack of maturity, the use of CEWs on young people is particularly risky, threatening long-lasting permanent physical and emotional damage, and even death.
- Axon, the sole distributor of tasers in the United States, recommends against using these weapons on children. The company provides a manual and training; but it is ultimately up to the law enforcement agency to ensure officers are trained and provide oversight. Such training is not required by statute, nor is it uniformly implemented and

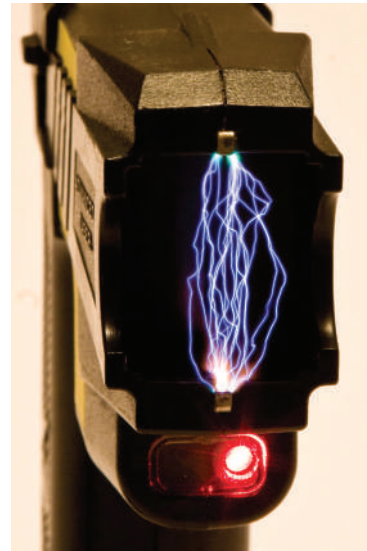
¹ The word "taser" has evolved from a brand name to encapsulate all similar products (like "Kleenex"). It can be used as a noun ("he used a taser on me") or a verb ("he tased me" or "tasered"). This report utilizes "tase" as a verb.

supervised by law enforcement agencies which purchase their technology.

- What “policies” exist regarding use of tasers on children and youth by law enforcement are scattered, fragmented, and developed by local law enforcement agencies, often in isolation. The federal government offers guidelines for the use of CEWs based on field experience—but only for adults, not youth.²
- Very few law enforcement agencies document when and against whom tasers are being used, and few states provide any oversight. Only the CDC collects data regarding injuries resulting from police intervention involving CEWs.
- What little documentation exists reveals CEWs are being disproportionately used against children and young people of color.

By illuminating this issue, we advocate for a two-tiered set of responses. First and foremost, we seek the strict regulation and monitoring of the use of CEWs by police on young people. Tasers are considered “less lethal,” not “non-lethal” weapons. There is a huge risk of both physical and emotional trauma—and even death—on young people who are the subject of tasing. They should be banned in almost all circumstances involving children or teens; used as a last resort, only when public safety is at imminent risk and when individuals are facing serious physical threats. There should be a mandatory rigorous review activated automatically every time it is used on anyone under the age of 21. Only by doing so, will we be able to prevent more deaths and injuries.

But that is not enough. When we look at the ways in which tasers are being used by law enforcement on children and teens within the context of broader patterns of unnecessary use of force and racial dispari-



ties, it is clear that police need far more extensive training in de-escalation, adolescent psychology, effects of trauma, racial bias, and on negotiating and talking to young people as a first response. This training needs to be backed up with enforceable policies and standards, with rigorous oversight by local and state agencies, and with public accountability. Police officers must forego adopting technological devices, like CEWs, frequently marketed as solutions, [in favor of re-learning the “soft” skills](#) endorsed by Timothy Roufa, a former police officer: empathy, compassion, nonverbal communication, active listening, adaptability, rapport-building, critical thinking, observation, and conflict resolution. It is in the widespread adoption by police of these “lost arts” —not in a new technological invention—where the replacement for CEWs is best located. As Strategies for Youth has been advocating for years, the dramatic reduction in the use of tasers on children and adolescents needs to be part of a broader reorientation by police toward developmentally-appropriate, racially-equitable, and trauma-informed approach to policing of youth which focuses on de-escalation, partnerships, and on ensuring that young people receive the support they need.

² Conducted Energy Devices: Policies on Use Evolve to Reflect Research and Field Deployment Experience, Paul A. Haskins, National Institute of Justice. <https://www.ojp.gov/pdffiles1/nij/252727.pdf>

1 Introduction



Donesha Gowdy

In August 2018, Cincinnati Police Officer, Kevin Brown, used a Conducted Electrical Weapon (CEW) to stop Donesha Gowdy, an 11-year-old African American girl, whom he suspected of shoplifting, as she was leaving a Kroger's supermarket. She was unarmed. Officer Brown did not issue a warning before he deployed his taser. [According to one account](#), "the jolt knocked the 90-pound girl to the concrete parking lot, her body convulsing." The officer helped Donesha stand up, handcuffed and arrested her. News of the tasing caused an uproar in the city. [P.G. Sittenfeld, a City Council member tweeted](#) that a child who poses no serious threat should "NEVER be tased. Period." and the police chief promised a "very thorough review." The Fraternal Order of Police President, however, quickly insisted that the **police officer's actions were "within our policy and procedure and guidelines."** Cincinnati police policy at the time allowed the use of CEWs on children as young as 7 years old who were "actively resisting arrest when there is probable cause to arrest."



Donesha Gowdy in handcuffs with taser probe in her back.

Bryce Masters

In 2014, [16-year-old Bryce Masters](#), son of a Missouri police officer, was pulled over while driving by Police Officer Timothy Runnels. Runnels ordered him out of the car without giving him a reason, then told him he was under arrest. When Bryce wouldn't get out of the car, the officer tried to pull him out. He then shot his taser directly into Bryce's chest. He held the taser's trigger for 23 seconds, delivering uninterrupted electrical current into Bryce's body. Officer Runnels handcuffed Bryce, pulled his body behind the car and dropped him, face first, onto the road, breaking his front teeth. Bryce went into cardiac arrest and suffered permanent traumatic brain injury as a result of being deprived of oxygen for six to eight minutes. Officer Runnels was eventually prosecuted and convicted for his actions that night—but not for tasing Bryce. The prosecutor viewed the tasing as "reasonable" and **"within common police practice."** Rather, Officer Runnels was convicted for depriving a minor of his civil rights because he dropped him on [his face](#).



Bryce Masters in a coma after being tased in 2014.



Noe Nino de Rivera in a medically induced coma after being tased at school.

Noe Nino de Rivera

In 2014, [Noe Nino de Rivera](#), a 17-year-old Latino student in Texas, spent 52 days in a medically induced coma and suffered permanent brain injury after a school resource officer used a taser on him. Noe had tried to defuse a fight between two girls in the school cafeteria. He was walking away from the girls when, [according to a video of the incident](#), the school resource officer shot him in the back of his neck. Noe froze as a result of the tasing and fell full force onto his forehead. The school resource officer placed Noe in handcuffs as he lay unconscious. A court document from the county's attorneys alleged that Noe "failed to comply with the lawful orders of Deputy McMillan and therefore Deputy McMillan **used the reasonable amount of necessary force to maintain and control discipline at the school....**The actions of Deputy McMillan **were the actions of a reasonable officer.**" After an investigation by the FBI, a grand jury declined to indict the police officer.



Jack Rodeman being tased by Patrol Officer.

Jack Rodeman

On June 16, 2021, Jack Rodeman, a 16-year-old biracial teenager living in Fort Myers, Florida, cut through the bushes to get to his girlfriend's backyard, something he had done often in the past. Florida Highway Patrol Trooper George Smyrnios watched him and determined that he "looked suspicious." Smyrnios confronted him. When Jack insisted on calling his girlfriend on his cellphone, asking what he had done wrong, Smyrnios tased him. Jack collapsed backwards, landing on the wall of a brick firepit, and cracked his head. As he lay on the ground, Smyrnios approached him and ordered him to put his hands behind his back. Semi-conscious, Jack could not comply so Smyrnios tased him again. Jack was handcuffed, arrested, charged with loitering, marijuana possession, and disobeying an officer, and spent ten days in detention before police dropped all charges, conceding he had not broken any laws.

Billed as “less lethal” weapons, CEWs were conceived as alternatives to guns, to be employed to subdue unruly suspects. In the decades since their introduction to law enforcement, officers’ use of this weapon in lieu of basic communication or de-escalation skills has dramatically increased, with officers relying on the characterization of the weapon as “less lethal” to justify its use in non-life threatening situations. As the numbers of these weapons in the hands of police skyrocketed, the monitoring and regulating of their use by law enforcement and state agencies has toggled between lax and non-existent, characterized by inadequate or no training, vague or non-existent policies regulating their use on youth, little oversight by public agencies, and tacit support by the federal bench overseeing police misconduct lawsuits.

Children and youth, and their families, are paying the price

Police officers across the country are using CEWs against children and teenagers, often without violating any state or district policy, and frequently in instances where the children posed no physical threat to the officer or public safety risk whatsoever. The four incidents described above exemplify common aspects of police/youth interactions involving taser use that we have identified, based on media accounts, reports compiled by non-governmental organizations, and lawsuits. (Unfortunately, neither police nor state agencies require documentation of taser use by officers; therefore, it is not possible to gauge the full scope of their use by police.) These include:

- In all four incidents, the children and teens who were tased were unarmed and posed no imminent threat to the safety of the officer or anyone else.
- The “crimes” for which these young people were tased by police officers were either non-existent,

minor, and/or non-violent, and could and should have been handled without the use of tasers or any other kind of force. By deciding to use these weapons, officers needlessly escalated what started out as normal challenges to authority and minor offenses.

- Three of the four youth sustained permanent injuries. When a person has been tased, they do not have use of their hands or arms to break their fall. Their bodies freeze up and their arms are locked in place. The force of their fall is therefore accelerated, increasing the risk of serious injury and even death due to the fragility of the child’s body.
- As with so many use-of-force incidents, the initial response of law enforcement leaders and unions is to insist that officers have not broken any policies, maintaining that their actions were not only legal, but warranted. To be sure, this is correct on its face: but that’s only because few law enforcement agencies in the U.S. have in place use-of-force policies that distinguish children and youth from adults.
- Officers’ deployment of these weapons must be understood as a use of force where none was justified by agencies’ own policies.
- Officers use these weapons disproportionately on children of color and on disabled children, including children with autism and cognitive issues, youth with seizure disorders. Thus, they should be viewed as violations of the Americans with Disabilities Act and the youth’s civil and human rights.

As we will demonstrate in a later section, the federal bench also routinely applies use of force policies written for adults instead of holding law enforcement agencies to an age-appropriate standard when addressing taser use on children and teens. In so doing, the federal bench has ignored the U.S. Supreme Court’s decisions giving formal judicial recognition to the fact

that youth are cognitively different from adults. The Court has noted in several opinions that the legal exclusion from enjoying adult privileges of children and youth as a class “exhibits the settled understanding that the differentiating characteristics of youth are universal.” This inexorably leads to the obligation to treat them not as adults but as children in the policing and sentencing contexts.

In this report, we chart the CEWs’ origins, and initial purpose, and describe how their increased use on youth by police, beginning in the late 1990s, coincided with broader trends toward militarization of police, criminalization of teenagers, particularly children and youth of color, and the American law enforcement’s preference for technological solutions to address policing challenges. In subsequent sections, we summarize research regarding the physical and psychological harm that being subjected to tasing by police can cause to adolescents during a critical developmental period in their lives, review the nature and extent of training in the use of CEWs provided to police officers, and highlight key legal challenges that have been mounted by young victims and their families. In the final section, we present a list of recommendations for police agencies, Police/Peace Officer Standards and Training (POST) Commissions, state agencies of public safety, state attorney generals’ oversight, legislatures, school boards, and others to undertake in order to end the physical and psychological harm inflicted on young people subjected to law enforcement use of tasers.

By illuminating this issue, we advocate for a two-tiered set of responses. **First, we seek the rigorous regulation of taser use by police by state legislatures, city councils, police agencies, school boards, and other governing authorities.** Tasers should be deployed on children and teenagers only as a last resort, when no other less harmful means are possible, and when the public’s safety is at imminent risk. They should never be considered an acceptable alternative to de-escala-

tion or to address a defiant teenager who is unarmed and unthreatening. Deployment of this weapon by law enforcement against a young person should trigger an automatic review by an independent review Board that includes community members. Police officers should be required to keep rigorous records of their use of tasers, including the recipients’ age, gender, race, height, weight, and the circumstances surrounding its use. As part of its oversight of law enforcement agencies, the U.S. Department of Justice must step up its requirements for submission of use of force data against youth generally, and for conducted electrical weapons specifically. It should collaborate with the Centers for Disease Control data collection efforts to track the frequency, prevalence, and seriousness of the harms from officer interventions using CEWs.

The second tier is grounded in our recognition that limiting, regulating, and monitoring law enforcement’s use of CEWs on young people is not enough.

As Strategies for Youth has advocated for over a decade, police need to take a developmentally-appropriate, trauma-informed, racially equitable (DATIRE) orientation to treatment of youth, one that is supported and enforced through training, policies, and accountability. This means, they must forego technological solutions frequently marketed as panaceas, [in favor of re-learning the “soft” skills](#) endorsed by Timothy Roufa, a former police officer: empathy, compassion, nonverbal communication, active listening, adaptability, rapport-building, critical thinking, observation, and conflict resolution. They must be trained in adolescent psychology, understand behavioral manifestations of trauma, and recognize the racial biases that may be affecting their decisions and actions. It is in the widespread adoption by police of these “lost arts” and in recognition that the physical and emotional toll of taser use on young people is long-lasting and profound—not in a new technological invention—where the replacement for CEWs is best located.

2

History of CEW Use in the United States



The first “stun guns”—devised to use electricity to control the movements of a living being—were invented in 1852 and patented as an “Electric Whaling Apparatus.” ([US Patent 8843](#)). Essentially, this was an electrified version of a harpoon, designed to catch and subdue whales. A model of this device is held by the [Smithsonian’s National Museum of American History](#).

On May 13, 1890, J.M. Burton was granted a patent for an electric cattle prod. It was designed to produce a high voltage current that, when pressed against skin, caused a painful shock that would prod cattle to move in a certain direction.

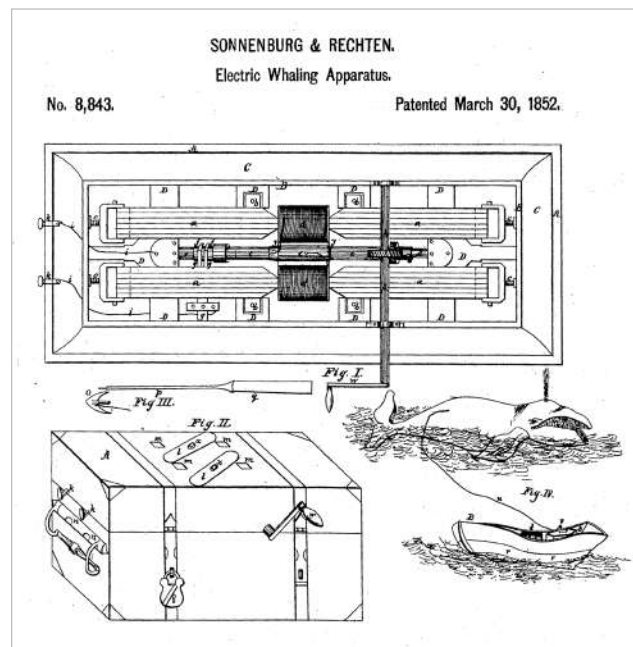
1960s: Stun Batons Used Against Civil Rights Advocates

In the 1960s, an electric control device was used by police officers against civil rights protesters. These were known as [stun batons](#). Later, an electric police baton, known as the [picana](#) was developed specifically for human [torture](#).

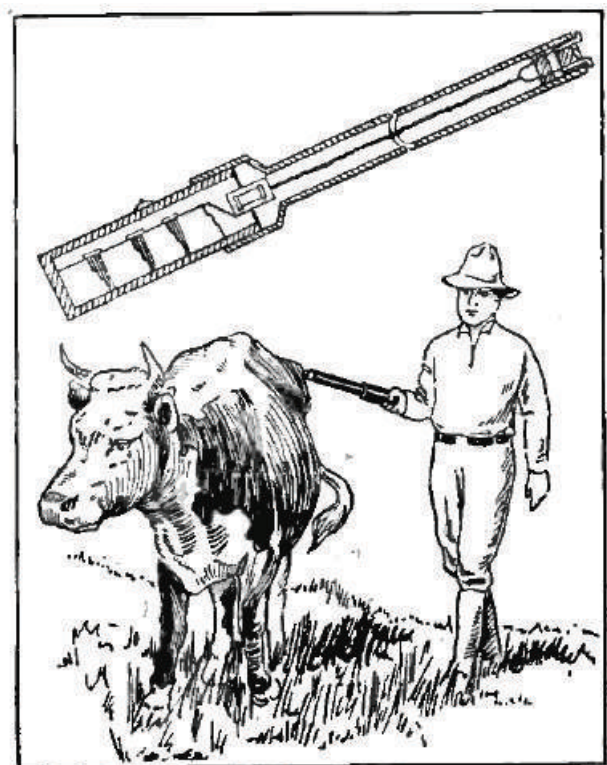
It works at very high voltage and low current so as to maximize pain and minimize the physical marks left on the victim. It is portable, easy to use, and allows the torturer to localize the electric shocks to the most sensitive places on the body, where they cause intense pain that can be repeated many times.

Invention of the Modern CEW

Jack Cover, a NASA physicist, first developed the modern iteration of the stun gun in 1969 and named it after his favorite childhood science fiction novel; the “Tom A. Swift Electric Rifle” (TASER). He patented it in 1974. The taser shot an electric current at an individual via a pair of electrodes connected to the gun by wires. The objective of this electrical discharge

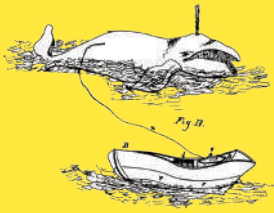


Electric whaling apparatus design from U.S. patent application.



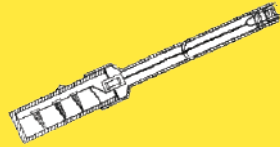
When “Bossle” Becomes Unruly It’s an Easy Matter to Hustle Her Along with This New “Electric Shocking Prod.”

FIGURE 2.1 HISTORY OF CEW USE IN THE UNITED STATES



1852

First “stun gun” patented as an Electric Whaling Appartus.



1890

J.M. Burton patents the electric cattle prod.



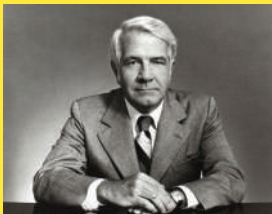
1965

Stun batons used against civil rights protesters in Selma, AL.



1969

Jack Cover, a NASA physicist, developed the TASER and named it after his favorite childhood science fiction novel; the “Tom A. Swift Electric Rifle” (TASER).



1975

[Harry Reasoner](#), respected American journalist, heralds the taser as “the space-aged weapon that stuns but does not kill.”



1991

LAPD officers used a taser in an effort to subdue Rodney King, but it didn't subdue him.



1993

AIR TASER, Inc. is founded by brothers Rick and Tom Smith.



1998

Facing potential bankruptcy, because the taser was not considered powerful enough to subdue a highly aggressive person, Air TASER increases its power and rebrands as TASER International, Inc.

FIGURE 2.1 HISTORY OF CEW USE IN THE UNITED STATES (CONT.)



2013

The number of law enforcement organizations using tasers jumped from 500 to approximately 17,000 [between the years 2000 and 2013](#).



2015

The documentary film [Killing Them Safely](#) was released in May 2015. It looks at deaths and injuries caused by tasers, which were being marketed to police as “a safe alternative” to hand guns.



2017

The report, [Indicators of School Crime and Safety](#), indicates that 28.8% of the police officers working in primary schools, and 53.4% of those working in secondary schools carry a stun gun.



2017

A [Reuters Study](#) reports 1,005 people in the U.S. have died after being stunned by CEWs by police.



2017

An [APM Reports](#) investigation finds the shock from the CEW can make some individuals more agitated and violent, rather than subduing them.



2017

TASER International rebrands as Axon Enterprises.



2019

The [Huffington Post reports](#) at least 143 incidents of children being tased by school police since 2011. Reasons given included “talking back,” getting into fights, “mouthing off” and “defiance.”



2020

[Axon reports](#) “record taser orders,” bring in revenue of \$84 million from their TASER segment alone.

is to induce involuntary skeletal muscle contractions and immobility. According to Cover's wife, he was inspired to devise a "non-lethal weapon" that law enforcement could use in emergencies such as airplane hijackings. In May 1975, the taser was heralded [by Harry Reasoner](#) as "the space-aged weapon that stuns but does not kill."

Cover founded TASER Systems to sell his invention to law enforcement, though the company filed bankruptcy and was sold to an investor who changed the name to Tasertron. One agency that purchased tasers was the Los Angeles Police Department. LAPD officers used a taser in an effort to subdue Rodney King in 1991, but the device had little effect.

That failure inspired Patrick "Rick" Smith to work with Cover to change the taser so that the darts fired via compressed air rather than gunpowder. That simple change meant their stun guns could more easily be sold to the general public. Smith and his brother, Tom, then formed Air TASER, Inc. in 1993. Because the original version of these weapons used gunpowder to fire the projectiles, the United States government originally classified them as firearms.

However, by 1998, the company faced bankruptcy, because the taser was not considered powerful enough to subdue a highly aggressive person. So, the Smith Brothers increased its power. Sales to law enforcement skyrocketed. Specifically, [between the years 2000 and 2013](#), the number of law enforcement organizations using tasers jumped from 500 to approximately 17,000. It is currently estimated that CEWs [are carried by 400,000](#) American patrol officers, according to Axon, and that they are used by 90 percent of America's roughly 18,000 state, local, and federal law enforcement agencies.



An electric cattle prod from the 1950s.

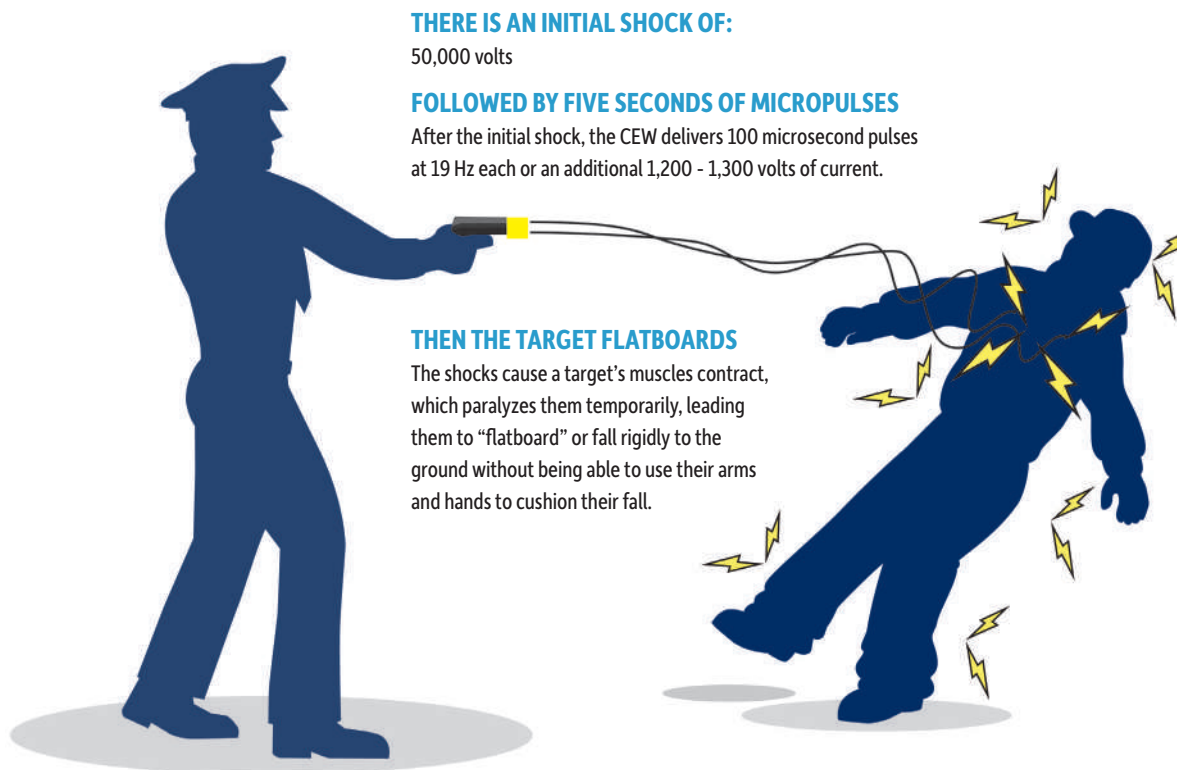
[Activated CEWs](#) deliver an initial 50,000 volt shock, followed by 100 microsecond pulses at 19 Hz (1,140 times per minute), 2 to 4 amps, 100 microcoulomb charge per pulse, and delivers 1,200 to 1,300 volts of electricity over a five second period, to the human target.³ The gun's cartridge releases two needle-style wires with probes or hooks designed to pierce the target's skin and become embedded in their body. Electricity then flows from the gun through insulated wires to the nervous system. As a result, the target's muscles contract, which paralyzes them temporarily, leading them to "flatboard" or fall to the ground without being able to use their arms and hands to cushion their fall.

Marketing of the CEW

[Axon reported](#) \$226 million in sales in 2020, an increase of 4.5% from the previous year, and "record taser orders." The company took in taser segment revenue of \$84 million, reflecting "robust demand for devices, cartridges, and officer training." The slogan of Axon Inc. (formerly Tasertron) is "[Protect Life](#)" and its stated mission is to "make our communities stronger, safer, and more connected." According to the company's marketing, its newest version of the stun gun—the Taser 7—will allow police officers to "de-escalate with confidence." The company claims that [250,057](#) lives have been saved from death or serious bodily injury as a result of an officer using a taser.

³ Zipes Circulation 2012, PMID 22547671; Canadian Medical Association Journal, 2009; Taser International, www.taser.com/research/Science/Pages/Cardiac_Safety.aspx

When Activated CEW probes hit a target...



Despite marketing that downplays the physical harm that can be caused by CEWs, they can and do cause severe and permanent injury, and, in some instances, death. Because of documented harms, they are now classified as "less lethal" rather than "non-lethal" weapons. According to a [Reuters study](#) conducted in 2017, 1,005 people in the U.S. have died after being stunned by CEWs by police. In 153 of these deaths, the use of the CEWs was ruled as a "factor." Another study found that CEWs can cause death another way. [In 258 cases](#) over three years, between 2015 and 2017, a CEW failed to subdue someone who the police subsequently shot and killed. In 106 of these, the shock from the CEW caused the individual to become more agitated and violent, thus, according to the Reuters report, making "a bad situation worse."

Use of CEWs on Children

If a CEW is meant to de-mobilize an individual who is potentially dangerous, it would seem that children, given their small size, would rarely, if ever, be the subject of its use by police.

[Axon recommends](#) that officers avoid stunning "low-body mass index person or on a small child." Doing so "could increase the risk of death or serious injury," according to an instruction manual for the weapon, and should be done "only if the situation justifies an increased risk."

But these warnings have not been consistently heeded by law enforcement agencies. The use of CEWs by law enforcement grew during the 1990s and first decade

of the new century. We know this not because police keep accurate records. In fact, [no federal agency](#) is required to track fatalities and injuries that result from CEW use by law enforcement officers, nor whether officers are adhering to safety guidelines. There are [no national protocols](#) or standards governing its use on children and teens. However, some organizations and groups have set out to document, to the fullest of their ability, the extent to which police are using CEWs against children and teenagers.

School Resource Officer Use: Data from the [2017 Indicators of School Crime](#) and Safety indicate that almost half (45.6 percent) of secondary schools, and almost 3 out of 10 (28.83 percent) of primary schools have security staff armed with a CEW at least once a week in school. According to a [Huffington Post analysis](#) of Department of Education statistics, 17 percent of public schools equipped their security personnel with tasers or stun guns in 2010, up from 13 percent in 2006. (The federal government cut funding to this survey after 2010. It recently reversed that decision but results for 2016 are not yet available.)

FIGURE 2.3 FATAL ENCOUNTERS WITH POLICE

Between January 2000 – January 2021, Tasers rank as the third leading cause of death in fatal interactions with police. [fatalencounters.org](#)

RANKING	CAUSE	DEATHS
1	Shot	20,822
2	Vehicle	6,098
3	Taser	919
4	Medical Event	386
5	Asphyxiated/Restrained	295
6	Drowned	183
7	Drugs	182
8	Beaten/Bludgeoned	176
9	All Other Causes	285

In November 2019, the Huffington Post [published an article](#) revealing that there have been at least 143 incidents of children being tased by school police since September 2011. This number is almost certainly an undercount, since the Huffington Post relied solely upon incidents reported in the media or that were the subject of litigation. The article also listed the reasons for the tasings included “talking back,” getting into fights, “mouthing off” “defiance” and running away from the principal’s office, or other behaviors that posed no physical danger to anyone. [One seven-year-old](#) special needs student was tased for an “outburst” in class.

Racial Disparities

Because of the lack of data kept by either government agencies or individual police departments, it is difficult to determine the extent of racial disparities in the use of CEWs. However, according to a [database](#) of police-initiated CEW deaths compiled by USA Today, in incidents where race has been determined, African Americans accounted for 39% of the taser-related deaths since 2010, while comprising just 13% of the overall U.S. population.

Emma Roche, a law student and recent University of Colorado graduate, wrote her [senior honors thesis](#) on the use of tasers on Black children in 2020. Analyzing [data from Connecticut’s](#) The State of Connecticut Electronic Defense Weapon Analysis and Findings, 2016 (Connecticut is one of the few states to publish this data), she found that Connecticut officers used tasers on 542 people in 2016. Of those, 37 were minors aged 7-17 years old. Sixty percent of all youth who were subjected by police to CEWs were Black, although Black children make up only 10% of the state’s population, and all eight of the children under 16 years who were tased were Black. Latinx children, who represent 9.2% of the state’s overall youth population, accounted for 27% of the youth tased by police.

In November 2021, [The Marshall Project published an article](#) about disproportionate police use-of-force on Black girls. Taser use was included in this definition, though not separated from other use-of-force incidents. Reporters Abbie Van Sickle and Weihua Li looked at data from six large police departments—New Orleans, Chicago, Minneapolis, Indianapolis, Columbus, OH, and Portland Oregon—that provided detailed demographic information on use-of-force incidents. They calculated that 4,000 young people under aged 17 experienced some form of police violence between 2015 through 2020; and almost 800—or nearly 20%—were Black girls. In contrast, White girls represented only 3% of these incidents. In New Orleans, every girl subjected to use-of-force by

police was Black. The article cites an earlier [analysis](#) of injuries on children resulting in emergency room visits committed by law enforcement in California between 2005 and 2017. Researchers found that Black boys, 15-19 years old, experienced 143.2 additional injuries per 100, 000 person-years compared with White boys of the same age. Black girls aged 15-19 years old experienced 4.3 times the injury rate of similarly-aged White girls. The gap between Black and White injury rates was even larger in younger youth, aged 10 to 14 years—5.3 times higher for Black boys than White boys, and 6.7 times higher for Black girls than White girls.

3 Training for the Use of Tasers



Axon Enterprises sells their TASER brand Conducted Energy Weapons (CEWs) to both law enforcement professionals and civilians. While training in the use of TASER CEWs is recommended, it is not required by Axon Enterprises. In fact, in the United States, 37 states allow the purchase and possession of CEWs by civilians without any regulation or permitting. Only one state (Hawaii) has banned civilian possession of a CEW and only six states require permitting and/or background checks prior to purchase.

The minimum standards for each level of certification are clearly outlined in Axon Enterprise's training website and are noted in the box below.

Minimum Standards for Each Level of Certification

- No training required by manufacturer;
- All training requirements are the responsibility of individual law enforcement agencies;
- No state or federal system of oversight of training by law enforcement agencies.

Thus, it is up to individual law enforcement agencies to ensure training in this weapon's use. Since there are no state or federal laws requiring training, law enforcement agencies' training and use of force policies are the sole systems of regulation and oversight of tasers' use. Notably, even among those agencies that do require taser training, it is less rigorous and extensive than the training required by law enforcement agencies in England, where the use of these weapons is far more strictly regulated.

While Axon Enterprises does not require training prior to the sale of its CEW devices to law enforcement agencies, the company does offer its Axon Academy with a catalog of training options. These training options include:

- Basic Certification via on-line materials
- CEW Instructor Certification
- CEW Master Instructor Certification

Axon Enterprises also makes its training materials (PowerPoint slides, documents, videos, scenarios, and basic competency expectations) available on the Axon Academy website. These can be downloaded by individual agencies and used for in-house training.

Axon Enterprise's training materials and resources are extensive. Topics covered in the training materials include:

- An overview of the technology associated with the device;
- A description of the nomenclature and operation of the device;
- Additional information on the handling & operation of the taser cartridge;
- Proper care and troubleshooting techniques;
- CEW "Smart Use Considerations";
- Tactical considerations associated with CEW use;
- Proper probe placement and aiming requirements;
- Practical exercises to demonstrate safe handling of CEWs.

What is required for TASER certification?

TASER Certification

To become TASER certified, the student must:

1. Complete a minimum of 6 hours of instruction with a Certified Instructor. Coursework must include the current TASER User PowerPoint, updates, warnings, and Release, and include discussion of items in the instructor notes, drills, and functional demonstrations.
2. Receive, review, and acknowledge the current TASER Law Enforcement Product Warnings.
3. Pass written examinations with a score of 100%.
4. Pass all functional tests listed on the TASER Training User Certification Form.
5. Student must deploy a minimum number of TASER live CEW cartridges into preferred target zones for each CEW type certifying on to demonstrate familiarity with CEW functions and to test aptitude. The student must be able to contact the target and place both probes in the preferred target zones from various distances while under stress.

TASER Instructor

To become a TASER Instructor the student must:

1. Complete a minimum of 16 hours of instruction with a Certified Master Instructor. Coursework must include the current TASER Instructor PowerPoint, updates, warnings, and Release, and include discussion of items in the instructor notes, drills, and functional demonstrations.

2. Receive, review, and acknowledge the current TASER Law Enforcement Product Warnings.
3. Pass written examinations with a score of 100%.
4. Pass all functional tests listed on the TASER Training Instructor Certification Form.
5. Student must deploy a minimum number of TASER live CEW cartridges into preferred target zones for each CEW type certifying on to demonstrate familiarity with CEW functions and to test aptitude. The student must be able to contact the target and place both probes in the preferred target zones from various distances while under stress.

TASER Master Instructor

To become a TASER Master Instructor the following criteria must be met.

1. Have a minimum of 5 years as a currently sworn law enforcement officer and/or 5 years of active military service.
2. Have a minimum of 2 years of TASER Instructor experience—Law Enforcement or Military.
3. Be currently certified as a TASER CEW Instructor.
4. Able to participate in all physical drills and activities throughout the certification course.

Of interest to this report are the topics “Smart Use Considerations”, “Tactical Considerations”, and “Proper probe placement and aiming requirements.”

AXON ENTERPRISE’S “SMART USE CONSIDERATIONS”

Axon Enterprise allots 13 slides out of the 175 slide PowerPoint training presentation to “Smart Use Considerations.” Within these slides, the training discusses the importance of knowing and complying with agency, state, and federal use-of-force guidelines and expectations. *Graham v. Connor* is used to provide insight into the 4th Amendment standard regarding use of force.

In the recommendations for the use of CEWs within 4th Amendment standards, Axon Enterprises suggests that officers “avoid using CEW on vulnerable or higher risk populations (e.g. small children, elderly, pregnant) unless necessary to counter immediate threat.” Additionally, Axon Enterprises recommends that CEW exposure be limited to 5 second cycles and notes that “several law enforcement groups” have established 15 seconds of CEW exposure (multiple applications or continuous) as a significant safety point.” The use of

CEWs on pretrial detainees is discussed with *Kingsley v. Hendrickson* offered as support as well as the use of CEWs on convicted prisoners (*Whitley v. Albers*).

Axon Enterprise’s “Smart Use Considerations”

- Axon training is 6 hours long;
- 13 of 175 slides in its presentation focus on considerations for use;
- Axon refers officers to federal and state “use of force” laws and regulations;
- It is the responsibility of individual law enforcement agencies to clarify how use of this weapon aligns with its use of force policies;
- *Connor v. Graham*, the U.S. Supreme Court case that sets the standard for use of force, is invoked; it is up to the individual law enforcement agency to explain its application.



To close out the “Smart Use” section, the training materials offer the International Association of Chiefs of Police (IACP) Model Policy on CEWs as guidance on proper use of CEWs. In the IACP policy overview recommendations are made with regard to the situations in which a CEW should not be used. This model policy states CEWs should not be used on:

- Individuals who are passively resisting and are not an immediate threat;
- Restrained individuals, except to prevent escape or imminent bodily injury;
- Persons in an environment where use of the taser may cause serious injury;
- Individuals who are in a physical position that prevents the officer from aiming or maintaining appropriate body targeting.

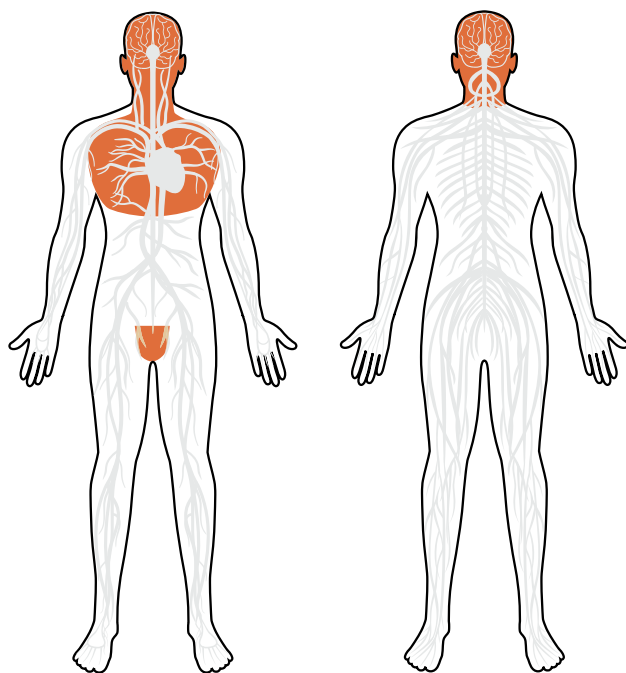
The IACP Model Policy also suggests appropriate target zones (Figure 3.1) on the human body that match Axon Enterprise’s recommendations. These targeting guidelines include:

- CEW shall be aimed at preferred target location, which is lower center mass for front shots and below the neck for back shots;
- Do not intentionally aim at face, eyes, head, throat, chest, genitals or known pre-existing injury areas.

Finally, the IACP Model Policy also makes recommendations regarding the number and duration of CEW deployments that follow the Axon Enterprise guidelines of 5-second cycles.

It’s important to note that the IACP Model Policy does not include language regarding the use of CEWs on children or young adults. Nor does the Model Policy discuss the importance of recognizing the potential

FIGURE 3.1 CEW TARGET ZONES



IACP Model Policy Lacks Guidance for Use of CEWs on Children

- Axon recommends that its product not be used on children (ages not described), the elderly, and pregnant women.
- Axon warns users of higher risks, including serious injury and death of use of tasers on children and thin adults.
- The International Association of Chiefs of Police (IACP) model policy makes no recommendations on whether CEWs should be used on children and youth.

trauma involved with the use of a CEW on an individual who is compromised through mental illness or previous trauma or on the risks of use of CEWs on youth.

AXON ENTERPRISE'S "TACTICAL CONSIDERATIONS"

In the section on tactical considerations, Axon Enterprises offers "some tactical considerations that promote effective de-escalation and safety." This section of the training begins with the importance of de-escalation and provides a sample of TASER guidelines currently in-use in the U.K. The PowerPoint slides then transition into probe placement and target zones on the adult body and examples of "Increased Deployment Risk."

In the section on increased deployment risk, Axon Enterprises focuses primarily on the environment in which the CEW is deployed. Examples include use on a subject who is running or on an elevated surface, use on a subject in water or in a flammable environment, and subjects who are operating machinery. Two deployment risks that could be considered to address CEW use on children and youth would be "Obviously frail or infirm" and "Low body mass." Other than these two bullet points in a slide titled "Increased Deployment Risk Examples", there are no other mentions of subject age or body size in this section of the PowerPoint's remaining 37 slides.

AXON ENTERPRISE'S CEW LAW ENFORCEMENT WARNINGS

Axon Enterprise provides an 8-page, warning document for users of their CEW devices. This warning document states in the first paragraph: "This document presents important safety warnings, instructions and information intended to minimize hazards associated with the use of an Axon Enterprise, Inc. ("Axon") TASER Conducted Energy Weapons (CEWs). These instructions and warnings are for your protection as well as

the safety of others. Read the entire document before using a CEW."

In the document specific warnings are highlighted and indicated by a "signal word panel." An example of this type of warning is shown in Figure 3-2.

These signal word panels indicate what Axon Enterprise believes are potentially hazardous situations that could result in death or serious injury. Within the document there are two instances where these signal word panels are used to warn against CEW use on populations that either specifically include children or imply a small-bodied individual.

The first of these warnings is shown in Figure 3-2.

This warning is specific to the danger of potential cardiac complications in subjects exposed to a CEW deployment. While the mention of "children" is not in the signal word panel itself, it is in the sentence immediately following the panel which is intended to offer recommendations for avoiding the potentially dangerous situation.

The second of the warnings is shown in Figure 3-3.

This warning panel does specifically refer to "small child" as an example of a high-risk population. Additionally, it mentions "low body-mass index person" which could be assumed to include adolescents as well as children and elderly individuals.

Summary of training related to CEW use on juveniles & young adults

Axon Enterprise's training materials, documentation, and support materials attempt to provide users of taser CEWs with the information and training to deploy these weapons in a manner that is safe for the officer

and aligned with established tactical approaches. The training also urges caution when using a CEW on suicidal subjects, in dangerous environments, and in typical patrol encounters.

The training materials and documentation, as well as warnings, offer little information regarding the use of CEWs on children and youth. Even when considerations are raised Axon only rarely refers to risks of use of tasers on a “small child” but doesn’t define “small child” by age or size. When the training materials do

raise such concerns, they limit consideration solely to medical consequences and do not mention emotional trauma or other mental health impacts.

While the “CEW Law Enforcement Warnings” document does a better job of specifically referring to children in its deployment guidance, it again only comments on the potential of medical complications arising from the use of CEWs.

FIGURE 3.2 SAMPLE SIGNAL WORD PANEL

This document uses a signal word panel to mark specific warnings:

⚠️WARNING This signal word panel indicates **a potentially hazardous situation which if not avoided could result in death or serious injury.**

Warnings may be followed by instructions and information to help avoid the hazard and improve CEW safety.

FIGURE 3.3 CARDIAC CAPTURE WARNING

⚠️WARNING **Cardiac Capture.** CEW exposure in the chest area near the heart has a low probability of inducing extra heart beats (cardiac capture). In rare circumstances, cardiac capture could lead to cardiac arrest. When possible, avoid targeting the frontal chest area near the heart to reduce the risk of potential serious injury or death.

Cardiac capture may be more likely in children and thin adults because the heart is usually closer to the CEW-delivered discharge (the dart-to-heart distance). Serious complications could also arise in those with impaired heart function or in those with an implanted cardiac pacemaker or defibrillator.

FIGURE 3.4 HIGHER RISK POPULATIONS

⚠️WARNING **Muscle Contraction or Strain-Related Injury.** CEWs in probe-deployment mode can cause muscle contractions that may result in injury, including bone fractures.

⚠️WARNING **Higher Risk Populations.** CEW use on a pregnant, infirm, elderly, low body-mass index person or small child could increase the risk of death or serious injury. As with any force option, CEW use has not been scientifically tested on these populations. Use a CEW on such persons **only** if the situation justifies an increased risk.

4

Physical and Psychological Effects of Using Tasers on Children and Teenagers



Childhood and adolescence are marked by dramatic growth spurts and profound physical changes in many of the human body's systems and organs. These are essential to the healthy functioning of adult human physiology. During this sensitive and critical developmental period, any disruptions, injuries, or assaults which may delay, divert, or halt

those changes can cause long-term and even permanent physical and psychological damage. CEW discharge is disproportionately risky in individuals who have not yet reached their adult size and tissue maturation. Damage inflicted to the following systems and organs during adolescence are of particular concern:

Why are CEWs more dangerous for youth?

The simple answer is that the brains and bodies of children and youth are still growing and have not fully developed. The intensity of the electrical charge, the areas targeted, and the risk that the young person will freeze up and experience flatboarding when tased, make youth apt to suffer more severe injuries, potential structural damage and lasting disabilities. Any disruption or injury during this critical developmental period can halt or delay normal development, sometimes permanently.

Specifically:

- **THE CHEST WALL IS THINNER.** The heart is closer to the source of discharge, potentially increasing the impact, and making it easier for a CEW to pierce the heart or lungs.
- **BONE GROWTH PLATES HAVE NOT SEALED AND HARDENED.** Injury to bone growth plates during childhood and adolescence can result in deformities or cause the bone to stop growing altogether.
- **THE BONES, HEART, AND LUNGS ARE STILL DEVELOPING.** The electrical discharge and the fall following a CEW assault can cause greater and potentially permanent damage. The shock of the jolt has sent some young people into cardiac arrest.



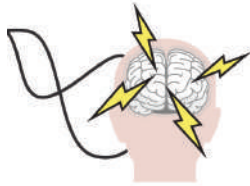
Being tased causes a person's muscles to contract, which paralyzes them temporary so they fall rigidly without being able to use their arms and hands to help cushion their fall. This type of fall, called flatboarding, can result in severe injuries.

- **THE BRAIN IS STILL DEVELOPING.** Traumatic brain injuries during childhood or teenage years can affect a person's decision-making abilities, impulse control, and emotional regulation as an adult. Young people who freeze and fall as a result of being tased may suffer from these effects longer than adults because their frontal lobe, responsible for working memory, undergoes a growth spurt during adolescence, making it more fragile and susceptible to injury.
- **EMOTIONAL TRAUMA CAN BE LONG-LASTING** Being the target of CEWs, or even witnessing the tasing of another, can lead to loss of trust in adults, in the school environment, law enforcement, and in authority in general. These attitudes may last well into adulthood. It can make it harder for youth to engage in school and negatively affect cognitive functioning.

Brain

During the teenage years, the brain's white matter expands and increases connectivity between different regions of the brain. [This process, known as myelination](#), increases the brain's ability to create the “white matter” or connective systems that enable youth to process information via the conduction of nerve impulses among neurons. The healthy development of the pre-frontal cortex is particularly critical because it is the region responsible for planning, impulse control, and decision-making and is the last part of the brain to fully mature.

These injuries can be extremely serious, ranging from memory loss, numbness or tingling, difficulty in coordination, attention and speaking challenges, to amnesia, permanent brain damage, and being left in a vegetative state. One study suggests that such a trauma to the brain is particularly dangerous during adolescence because the frontal lobe, responsible for working memory, undergoes a growth spurt during adolescence, making it more fragile and susceptible to injury.

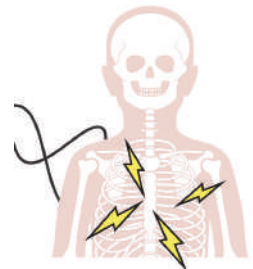


suggests that a CEW's hooked barbs may have easier access to the heart when deployed towards the chest.

“Cardiac capture” is the process by which electrical impulses from the CEW rapidly increase the pace of the heartbeat when electrodes surround the cardiac mass. It is particularly dangerous because it can induce ventricular fibrillation, which can then bring on sudden cardiac death. The thinner chest wall and lower body weight of children and youth (vs. adults) makes cardiac capture more likely to occur. The initial high voltage shock and rapid increase in heartbeat that follows a CEW discharge can either induce arrhythmia (an irregular heart rhythm) which can degenerate into ventricular fibrillation or directly induce ventricular fibrillation requiring immediate medical attention.

Bones

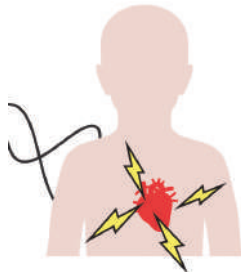
Throughout puberty, our skeletons and muscles undergo significant changes. [It is estimated](#) that overall skeletal mass doubles between the ages of 11 and 17. During adolescence, a serious injury



or fall can actually result in an injury to the growth plate. Growth plates are sections of cartilage found near the end of a child's bone from which that bone lengthens. [Once the skeleton fully matures](#), growth plates seal and harden into bone between age 13 to 15 years in girls and 15 and 17 years in boys. The growth

Heart

[During the teen years](#), the heart almost doubles in weight. By post-puberty, heart size may increase up to 62% in boys and 48% in girls. As the heart grows, researchers have found that the mass and wall thickness of the left ventricle increases, along with cardiac contractility. The left ventricle is responsible for sending blood all over the body, and eventually becomes the thickest of the heart's chamber. [Cardiac contractility](#)—or the heart's ability to contract during a heartbeat—increases during puberty. This period of cardiac development not only makes the possibility of injury particularly serious, but youth's thinner chest wall

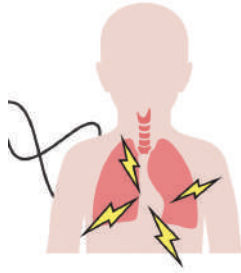


Children and adolescents are particularly vulnerable to CEWs. Electrical shocks may delay or even halt healthy physical development with potential long-term consequences.

plate is generally considered the weakest area in a muscle/tendon unit due to the lack of structural integrity of the cartilage in the growth plate. Therefore, [a fall that might cause a pulled muscle](#) or tendon in adults could, instead, create a fracture through a growth plate and cause permanent damage to this area in a child or teen. Growth plate injuries can result in growth deformities or cause the bone to stop growing altogether.

Lungs

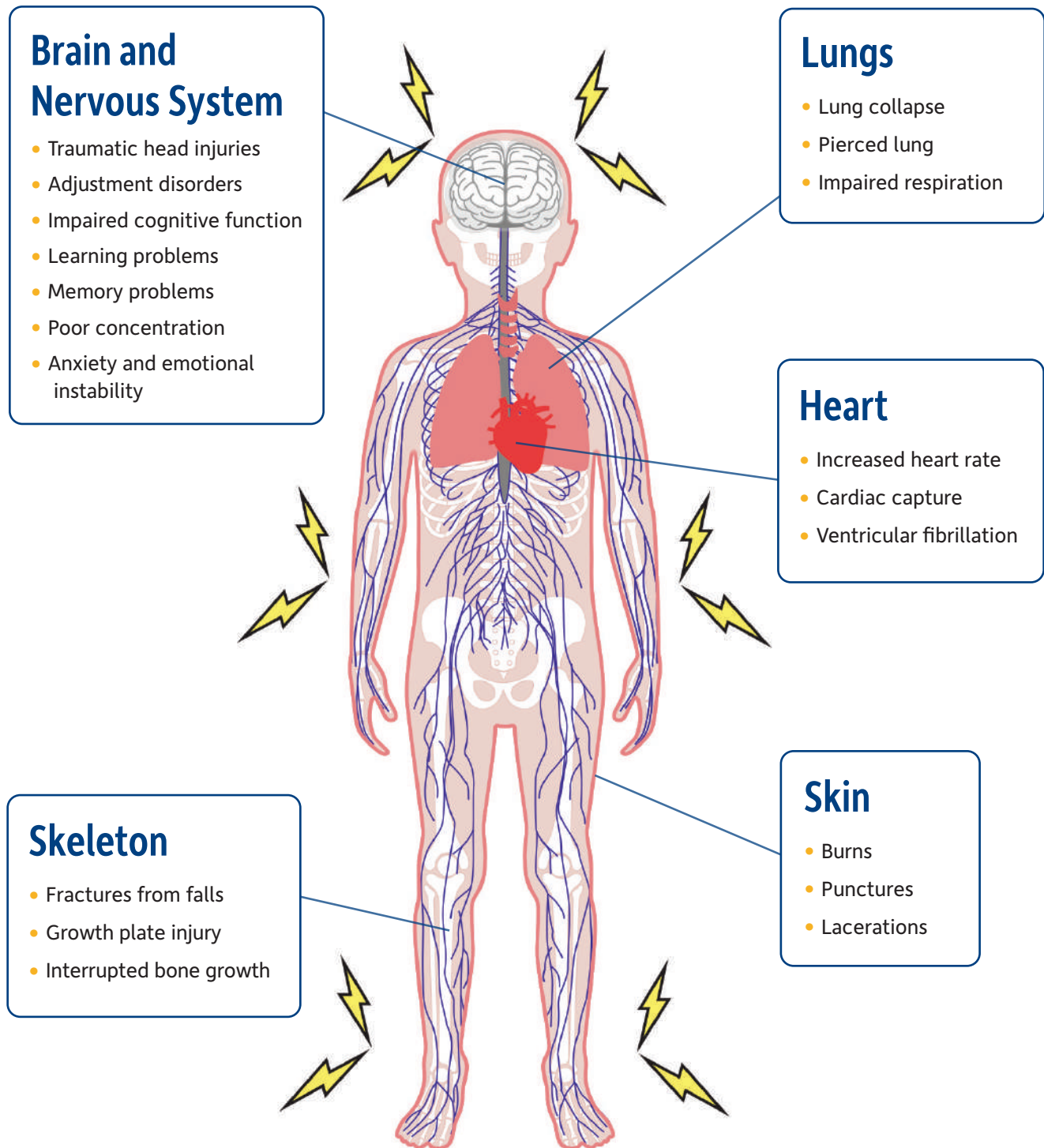
The lungs are one of the body's last structures to fully develop during puberty. [They often mature after](#) the body has fully



grown and reached peak height and size, particularly for boys. [There is relatively recent evidence](#) that the lung's air sacs (known as alveoli), which appear between two and three years old, continue to develop into our teenage years. This suggests that the lungs of adolescents may be more elastic than previously thought, and that injury or disease could conversely affect alveolarization throughout childhood. It should also be noted that children's thinner chest walls makes it easier for a CEW to pierce the lungs causing them to collapse.



Potential physical effects of using CEWs on children and adolescents



The Psychological and Emotional Harm to Young People From Being Tased

In a 2016 [Georgia Public Broadcasting segment](#), entitled “Should Children be Tasered?” Dr. David Osher, Ph.D., Vice President of the American Institutes for Research, discussed the emotional damage experienced by children who are tased by police officers in school. Being the target of CEWs by School Resource Officers can leave children feeling overwhelmed, traumatized, and with increased levels of anxiety, according to Dr. Osher. The experience can affect youths’ cognitive functioning and make it extremely difficult for them to engage in school.

He noted that being tased results in the loss of trust in adults, in the school environment, and in authority in general. Importantly, Dr. Osher described that this emotional trauma also applies to children who witness another child being tased, as well as those who are the target of a CEW by a police officer. Osher called the unnecessary use of tasers in school—an environment that should be encouraging individuals to work together—an “invasion.”

Linda Fleming McGhee is a clinical psychologist in Chevy Chase, Maryland specializing in trauma, particularly to individuals of color. She believes that the act of tasing a child can lead to Post Traumatic Stress Syndrome (PTSS), anxiety and depressive disorders. She agreed with Osher that being tased by a school resource officer can traumatize a child psychologically and diminish their trust in authority figures. “It might make a child believe that they are a ‘bad person,’ and can lower their self-esteem and self-confidence.” In a subsequent

interview, she stated that, because tasing is an invasive, physical attack on their bodies, it exacerbates and compounds the trauma they experience from an officer’s use of force.

Several research studies also have found that emotional distress and trauma extends to young people, particularly African Americans, who witness their peers and friends being tased. This study looked at the distress levels reported among Black, white, and Latino young people, born between 1998 and 2000, living in urban areas who witnessed—but were not themselves subjected to—police stops. The authors uncovered “significant” racial disparities among those youth who reported “feeling angry, scared and unsafe.” Black and Latino youth reported far higher rates of distress than white youth.

Two other research studies report similar findings. [In one](#), authors found that viewing viral videos of police shootings and immigrant detainment was associated with increased depressive and PTSD symptoms among adolescents of color. [In another](#), researchers found that youth reporting exposure—both direct and vicarious—to police stops exhibited significantly greater odds of sleep deprivation and low sleep quality. Taken together, this research strongly suggests that even young people who witness a tasing by police of another teenager, either directly or by watching a video, will experience some level of emotional trauma and disturbance, thus significantly expanding the pool of those harmed by these practices.

Summary of Key Studies of Physical Effects of Tasers on Children/Adolescents

We are only aware of six studies (and one letter to the editor published in the New England Journal of Medicine) that have included examples of children and teenagers who have been the subject of tasers. (One of the six is an outlier, to be read with extreme skepticism, because it reflects the sole judgment of law

enforcement officers, who have a vested interest in minimizing the danger of CEW use.) In this section, we summarize findings of these studies, and then extrapolate on likely physical effects on youth, based on additional studies on adults and animals.

1 The DOMILL Study

Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults, Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons (DOMILL, 2011)

SOURCE: British Ministry of Defense, 2011



[The most comprehensive study](#) on the effects of CEWs on children and adolescents was published in 2011 by an advisory body of the British Ministry of Defense [known as DOMILL](#) (Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons), noting the following:

1. CARDIAC DAMAGE

Cardiac damage caused by a CEW was more likely in children and thin adults because “the heart will generally be closer to the source of discharge.”

2. FRACTURES AND INTERNAL INJURY

Because children have a heightened risk of bone fractures during their primary growth period,

they may carry a ‘greater risk of sustaining fractures following falls’ caused by CEWs. **The strong electric charge caused by CEW deployment usually prevents people from breaking their fall, leading to more severe injury.** Youth are not only at greater risk of sustaining fractures, but several CEW cases involving teens reported the barb penetration of the skull. In one of these cases, barbs even entered the brain.

3. POTENTIAL FOR LIVER DAMAGE

Children and teen’s thinner chest wall means that the barbs ejected by CEWs may pierce and injure organs like the liver.



2 *Excessive and Lethal Force?*

Amnesty International, 2004



[This report](#) found that almost 8% of all taser use by police—or 148 of 2,050 applications—was targeted at 12-18 year olds, most of whom were involved in relatively minor incidents for which “other measures could have been taken to de-escalate the situation.” The report calls the use

of CEWs against “recalcitrant or disturbed children...an inherently excessive and cruel use of force, contrary to international standards recognizing that children are entitled to special care and protection.”

3 *TASER Electronic Control Devices Can Cause Cardiac Arrest in Humans*

Circulation, 2014



[This study](#) focused on eight individuals—including three teenagers—who experienced cardiac arrest after being struck by a CEW. One 16-year-old had prior cardiovascular issues, but the study finds that these conditions were unlikely to have

played any role in his death. The study notes that it is extremely difficult to determine the degree of cardiac risk presented by CEWs, in part because the United States does not require police to record where CEWs hit the body when deployed.



The use of CEWs against “recalcitrant or disturbed children....an inherently excessive and cruel use of force, contrary to international standards recognizing that children are entitled to special care and protection.”

4 Sudden Cardiac Arrest and Death Associated with Application of Shocks from a TASER Electronic Control Devices



Circulation, 2012

This study reviewed eight autopsies—three of minors—where a Taser X26 ECD was deployed. All were previously healthy young males who received shocks to the chest from a Taser X26, lost consciousness, and subsequently died. It was found that: “ECD stimulation can cause cardiac electrical capture and provoke cardiac arrest due to ventricular tachycardia/ventricular fibrillation.” The study refers to a previous report from the Braidwood Commission of Inquiry stating that: “There is evidence that the electrical current from a conducted energy weapon is capable of triggering ventricular capture...and that the risk of ventricular fibrillation increases as the tips of the probes get closer to the heart...if a person

dies suddenly from an obvious cause after being subjected to a conducted energy weapon, death is almost certainly due to an arrhythmia.” The study concludes with the conclusion that ECD shocks from a Taser X26 delivered to the chest can cause cardiac electrical capture. If this cardiac capture “increases sufficiently...the development of VF [occurs].”

NOTE: Since this study was released, Axon has released the Taser X2, which it claimed to have a better safety profile than the TASER X26. According to one study, the new design of the Taser X2 has promise for enhanced cardiac “safety.”

5 Taser Exposure and Cognitive Impairment



Criminology and Public Policy, December 2015

This randomized controlled trial study found that 142 “healthy” students who had been struck by a taser showed “significant and substantial reductions in (a) short-term auditory

recall and (b) abilities to assimilate new information through auditory processes. The effects lasted up to one hour for most subjects.

6 Conducted Electrical Weapon (TASER) Use Against Minors



SOURCE: *Pediatric Emergency Care*—2012

[This study uses 2005 data](#) from the National Institute of Justice gathered from 9 law enforcement agencies across the United States. It must be considered an outlier, given that its findings contradict those of the other studies, and most critically, that assessments were made exclusively by law enforcement agencies, which have a vested interest in minimizing the physical damage done to children as a result of CEW usage against them. Of 2,026 cases involved CEW's, 100 (4.9%) cases involved juveniles. Their ages ranged from 13 to 17 years old. Of the 100, none experienced moderate or severe injuries, 20 sustained mild injuries, and 67 had “superficial punctures from CEW probes.” Another 7 experienced mild injuries like abrasions. The study concluded that juveniles and adolescents are “not at a substantially higher risk for serious injuries after CEW use.”

Letter to the Editor: Ventricular Fibrillation after Stun Gun Discharge: New England Journal of Medicine, Letter to the Editor (2005)

[In 2005, Doctor Paul Kim and Wayne Franklin wrote](#) to the New England Journal of Medicine about a case involving a juvenile who was hit by a CEW, collapsed, and then entered ventricular fibrillation. The child did make a full recovery after being resuscitated by paramedics.

Risks of CEWs more generally...

Examining the impacts of CEW's on adult bodies and on animals, particularly pigs, whose physiology is similar to that of young humans due to the similarity of the proximity of body organs, may also help us better understand the risks posed by use of CEW's on young people. In this section, we first identify the areas of the human body most vulnerable to serious injury from a taser, and then summarize research derived from cases and medical studies, categorized by risk type.

Muscles

If a muscle group is hit that's responsible for the stability of the spinal column, atonic spasm of the muscles could cause an injury there. Muscle contractions that occur from the electrical current of a taser are much stronger than contractions a human being could muster on their own. When tased, an electrical current jump starts the muscle bed and forces contraction of all of the muscles in the tased area at the same time. This leads to a much more powerful contraction of muscles, accelerating from 0 to 100% level of contraction immediately. The taser damages not only the muscle, but structures to which the muscle is attached. When tased in the back, for instance, a muscle group that's responsible for the stability of the spinal column will contract dramatically, potentially leading to injury to the spine.

While the intensity of the volts delivered into the body account for this reaction, the speed at which the contraction occurs—instantaneously moving from 0 to 100%—is significant. The human body is otherwise incapable of contracting in such a manner, typically, a gradual, progression of muscle fibers and muscles leads to a smoother curve of increasing intensity. The taser's speed and intensity combined is unique—and powerful.

Impacts on the Body's Organs

The use of electrodes on the body runs the risk of damaging body tissue. The tissue in human organs is not always repairable. As one electrophysiologist explained, tasers should “stay away from the expensive real estate.”

Aiming tasers at “real estate” above the thighs put a person at greater risk of falling—and thus risking harm to the brain—and interaction with various body organs. The higher up in the spinal column the darts penetrate, the more grave the consequences of the injury.

Heart

The heart and the brain are structures that are in the business of moving electricity in the body for a living, and as such are particularly sensitive to disruptions. If the taser's electrical charges are delivered to the heart's electrical conduction system just after the heart has contracted but before it has recovered completely, it could precipitate an arrhythmia without causing a heart attack. When this happens, electrical currents may still flow through the heart, but the heart is no longer contracting in an organized manner, disrupting the pumping of blood, and causing blood pressure to drop precipitously.

Lungs

Similarly, the hooks in CEWs can lodge in lungs and rip tissue there, sometimes causing lungs to collapse.

Brain

The risk of an individual struck with a taser experiencing a traumatic brain injury—defined as damage to the brain triggered by external forces—is particularly acute. This may occur from the taser and its probes piercing the brain or, more typically, from the impact of the fall that results from being tased.

When a young person is tased, and their arms and hands contract, they often cannot break or cushion their fall with their hands. This leads to a “flatboard” fall in which their brain may bear the full impact of a violent fall onto a hard surface. The brain may suffer blunt trauma due to the ridges in the bottom of the skull (e.g. the bony partitions between the middle and anterior cranial fossa) shearing the surface of the brain.

When that happens, children and youth risk suffering one of three kinds of injuries:

- **Axonal injury** which often results from violent falls. The expansion and contraction of nerve cell filaments caused by unequal forces acting on different parts of the brain leads to fractures. “For a crude analogy, one may think of how a fracture forms within the substance of a jiggling bowl of gelatin....Important stress points include the

interface between the gray matter of the cortical mantle and the underlying white matter, the splenium of the corpus collosum, and areas of the brainstem....forces may stretch or snap nerve cell filaments. Such forces may arise with rapid accelerations and decelerations of the head, as in a car crash or a fall.”⁴ In view of the critical importance of “white matter” development during adolescence, this kind of injury can lead to long term irreparable harm.

- **Contusions** are bruises of the brain that come from striking the head, causing the possibility of brain shearing along the inner surfaces of the skull. Brain shearing is of special concern any time the brain hits the front of the skull where spiny bone structures can literally rip the brain’s gray matter.
- **Coup-contrecoup** (French for hit/counterhit) often occur in acceleration-deceleration situations. Upon being tased, a person who falls forward will experience acceleration as the head falls (coup) and then sudden deceleration upon impact (contrecoup). Inside the skull, the brain hits the front of the skull upon impact and then bounces back to the back of the skull. While the coup injury is usually more serious, the contrecoup injury, located on the surface of the brain opposite the side of the impact, can actually be more severe in certain instances.

⁴ Head Injury and Postconcussive Syndrome, edited by Matthew Rizzo and Daniel Tranel, Churchill Livingstone, 1998.

Studies Regarding CEW Impact More Generally

BRAIN DAMAGE

[A widely noted 2009 study](#) examined the case of a Canadian police officer who was accidentally hit by a taser while chasing a subject, fell to the ground and suffered a concussion and seizure. While he did not experience any further seizure, he was later diagnosed with adjustment disorder with ‘depressed and anxious mood’ following the incident. The study concludes that his “persistent symptoms after injury may be attributable in part to...mild traumatic brain injury caused by either the impact of the taser dart or the subsequent fall to the ground.”

[In a study entitled](#), “Physiology and Pathology of TASER Electronic Control Devices”, the author writes of six cases of “violently resisting subjects who experienced fatal traumatic head injuries from falls in which a TASER ECD may have contributed to the fall.”

HEART DAMAGE

[A study](#) on the use of CEW’s by police examined the effect of multiple shocks on the heart. Researchers found that these multiple shocks may increase the chance of ventricular fibrillation in children and other vulnerable groups, and the possibility of “heart muscles spasm uncontrollably, disrupting the heart’s pumping function and causing death.” Multiple shocks only increase the likelihood that the heart will receive a shock during this vulnerable period.

[In one study](#), four Yorkshire pigs were used to test cardiac stimulation after applications from the Taser M26, Taser X26, Taser X3, Taser C2 and the Stinger S-200AT. The study concluded that the size of the swine, site of the application and the dart-to-heart distance was key; “One possible explanation for smaller pigs being more susceptible to dysrhythmias from ECDs is the

closer proximity of the darts to the pig’s heart. Smaller pigs have a smaller dart-to-heart distance, and therefore are more likely to have cardiac stimulation resulting from ECD exposure.”

BARB INJURIES

In one review, authors compiled the injuries seen in emergency rooms as a result of CEW deployment. “The Taser X26 fires two 9.5 mm barbs that can penetrate anywhere on the subject’s body. There is potential for injury to the skin and soft tissues from where the barbs are embedded, skin lacerations and mild rhabdomyolysis, in which damaged muscle tissue releases its proteins and electrolytes into the blood. These substances can damage the heart and kidneys and cause permanent disability or even death. There is also the possibility of superficial burns between the two barbs.

LUNG INJURIES

[A 2009 study](#) notes the possibility of a collapsed lung as a result of CEW deployment. The first reported case involved a 16-year-old male who experienced a collapsed lung after being struck by a taser.

RESPIRATORY

A [2009 study](#) referred to the existing hypothesis that the “...taser itself may affect acid-base balance by briefly increasing skeleton muscle activity and decreasing respiration.”

5

Case Law Database Regarding Use of CEWs on Youth



In this chapter, we present major findings from a national database that we created of cases brought against law enforcement and schools for use of CEWs on youth under the age of 18. All cases that we identified for this database were pursued in federal court because they all cited the federal 42 U.S.C.A. Section 1983 permitting claims against state actors for their use of unreasonable and excessive use of force. The key words: “unreasonable and excessive use of force” were alleged in every case and are the basis of all claims against government actors, including police, schools and the government entities that employed them. Additionally, several lawsuits make Monell claims, stating that the law enforcement agency or school failed to adequately train and supervise officers.

SFY has designed this database to be easily searchable. We will update it with new cases and charts twice a year: in December and June.

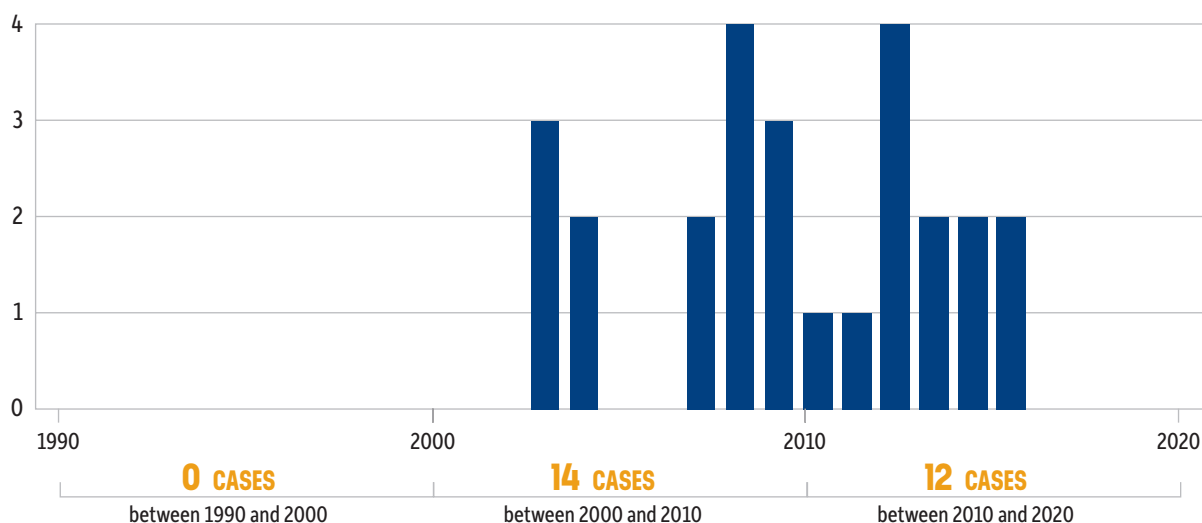
Summary and Trends in Cases Challenging Use of CEWs

We looked for cases filed between 1990 and 2020. Although CEWs were used by law enforcement in the previous decade, their use increased markedly after the new millennium, which explains the spike in legal claims against them. After that, the number of cases brought to federal courts increased in direct proportion to the increased use of CEWs by law enforcement.

The majority of the cases were brought against police departments; approximately 41% were against police in schools. Persons and entities sued included individual law enforcement agencies and officers, school districts, school officials, municipalities, and counties.

As Figure 5.2 indicates, 27 of the 28 cases resulted in a decision about whether or not to move the case forward, either through a motion to dismiss or a motion for summary judgment.

FIGURE 5.1 NUMBER OF TASER LAWSUITS PER YEAR IN THE U.S.



Three Teen Boys Die at the Hands of Officers Using CEWs: Courts Find No Liability

The federal courts have been extremely “generous” in granting qualified and official immunity to officers and school officials who used or directed the use of CEWs. Few law enforcement defendants provide much if any justification for their use of CEWs; nor do courts inquire or even appear curious as to why alternative, less harmful, approaches were not first employed before officers resorted to using CEWs.

The following are overviews of three wrongful death cases in which youths died after having a CEW used on them by law enforcement.



FONTENOT V. CEW INTERN., INC. (4TH CIR. COURT OF APPEALS, 2013)

PROCEDURAL POSTURE

Products liability claim (failure to warn of the dangers of CEW use): post-trial motion for a new trial

FACTS

A 17-year-old African American male, Turner, was at his job at a supermarket when he was accused of eating a food item and drinking a bottle of water without paying for them. He was fired and told to leave but refused. His supervisor called 911. When police arrived, the officer told Turner to calm down; when Turner did not comply, the officer shot him in the chest with a CEW. One dart struck Turner in the center of his chest, near his heart, and the other struck near his rib cage.

As the electrical current surged through him, Turner managed to start walking towards the store exit. The officer continued holding down the CEW's trigger,

keeping an active electrical current. Just 37 seconds after the initial deployment, Turner collapsed.

The officer continued tasing him for five seconds once he was on the ground, allegedly for failing to comply with commands to put his hands behind his back. Firefighters and paramedics arrived to find Turner in cardiac arrest and unresponsive. They performed CPR and defibrillation.

Turner was pronounced dead on arrival at the hospital. The medical examiner found no drugs in Turner's system and no heart disease. The autopsy conclusively revealed that Turner's heart stopped as a direct result of the electric shock of the CEW.

OUTCOME

The court affirmed imposing liability for negligence but vacated the judgment with respect to the award of compensatory damages and remanded for a new trial.

STEEN V. CITY OF PENSACOLA (N.D. FLA., 2011)

PROCEDURAL POSTURE

Sec. 1983 excessive force claim; Monell claim against the Chief of Police for failure to supervise.

FACTS

Victor Steen, a 17-year-old African American male was riding his bicycle on the sidewalk at night. A police officer on patrol in a marked cruiser pulled up behind him and flashed his lights, revved his engine, and told the boy to stop the bike.

Victor did not respond and began to speed away, at which point the officer drove alongside him into the wrong lane of traffic. After a one-minute chase, the

officer shot his CEW at the boy, piercing him with the darts. The boy lost control of his bike and crashed. The officer sped up and ran over him.

Victor sustained multiple injuries and later died. The single allegation against the boy was that he was riding his bicycle at night without proper lighting.

OUTCOME

The court ruled that the officer's use of the CEW did not rise to the level of excessive force due to lack of clearly established law on that specific set of facts (discharging a CEW shock to a fleeing individual on a bicycle). The court also ruled that the Chief of Police was entitled to qualified immunity regardless of any constitutional violation of Steen's rights.

MITCHELL V. CITY OF WARREN (6TH CIR. COURT OF APPEALS, 2015)

PROCEDURAL POSTURE

Products liability: appeal for summary judgment

Note: this case was originally brought as a Sec. 1983 claim—the lower court dismissed that claim.

FACTS

Robert Mitchell, a 16-year-old African American male with a learning disability was a passenger in a car with expired tags. When police pulled the car over, Robert was scared and ran out, broke into an abandoned house, and hid upstairs. Police called for backup and followed Robert inside.

They coaxed him downstairs and began to arrest him—Robert pulled away and a struggle ensued. One police officer shot Robert with his CEW; one dart hit just above his heart and the other just below. Robert fell to the ground. Officers handcuffed his limp arms and, finding him unresponsive, checked for a pulse within seconds of the tasing—they found none. Paramedics arrived just five minutes later, but Robert was in cardiac arrest, and they were unable to resuscitate him.

OUTCOME

The court found the manufacturer of the CEW had no duty to warn, no duty to prevent harm. Axon was found not liable.

Reuters finds 1,005 deaths in U.S. involving Tasers, largest accounting to date

Reuters released [a study](#) of fatal police encounters involving the CEWs in 2017.

Because many of the cases were decided at an early stage of a proceeding, and because the original complaints in the cases were not always available to us, we were not able to make an exhaustive and comprehensive listing of the physical and psychological damages claimed in each case.

While cases were brought in every circuit, the 11th Circuit, comprised of Georgia, Florida, and Alabama, decided the most—six cases—while four circuits decided one case each. The cases divide broadly into three kinds of claims:

1. Challenging the use of a CEW on a youth as an unreasonable and excessive use of force;
2. Challenging the use of a CEW as one of several uses of force that were unreasonable and excessive;
3. Challenging the use of a CEW on a youth as being an unreasonable and excessive use of force that resulted in serious injury and/or death.

The paucity of cases should not necessarily be read as a reflection of the safety of CEWs or an endorsement of how they are used. Rather, a reading of the cases revealed the huge challenges that plaintiffs faced in bringing and winning such cases. For example, not a single federal court required any law enforcement agency to adequately train and supervise its officers in the use of the CEWs, even when available data indicated their use of the CEWs was incorrect (see Chapter 2 which clarifies which kinds of use are considered dangerous).

Even in cases where the plaintiffs showed that law enforcement officers failed to adhere to existing policies, the courts did not find the officer or agency liable. Instead, the federal courts were extremely “generous” in granting qualified and official immunity to officers and school officials who had used or directed the use of CEWs. The broad and overly generous granting of qualified or official immunity by the courts was all the more notable because few law enforcement defendants provided much if any justification for their use of CEWs; nor did courts inquire or even appear curious as to why alternative, less harmful, approaches were not first employed before officers resorted to using CEWs. Other general findings include:

- Three cases were wrongful death cases in which a youth died after a CEW was used on them. In two of these cases, youth were killed as a result of being tased while on a bike or scooter; one youth was killed as a result of being tased;
- The locations in which CEWs were used were primarily schools, in 11 cases, and a mixture of streets, homes and other locations for the remainder;
- The disproportionate use of CEWs on youth of color was pronounced, supporting findings discussed in an earlier section on racial disparities in use of tasers and other use-of-force incidents involving law enforcement and youth.

When Tasers Fail

Tasers are less reliable than their maker has claimed. The results can be deadly

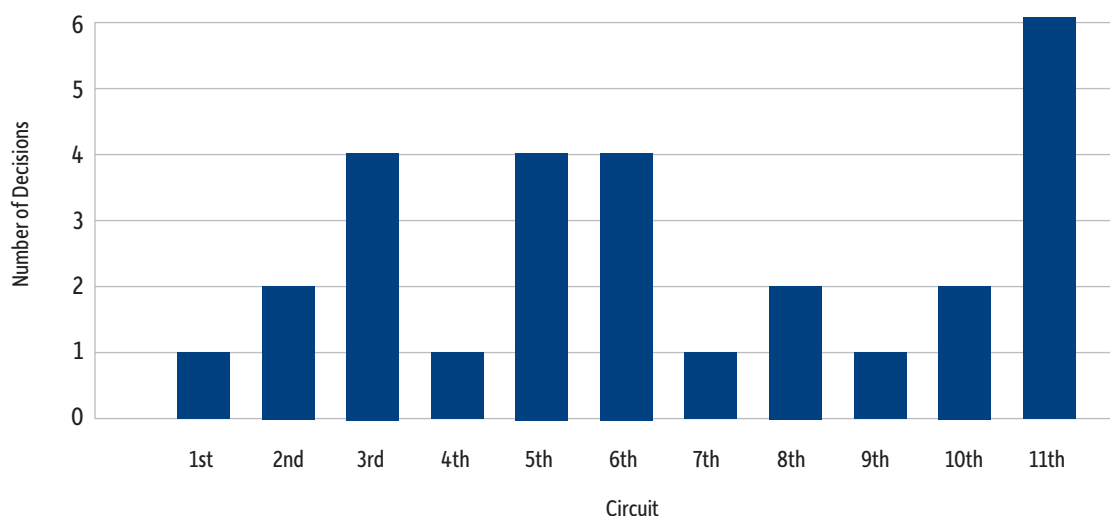
In 2019, [American Public Media investigated CEWs](#), finding that CEW use frequently failed to incapacitate suspects and often led to further escalation.

- The age of the youth plaintiffs at the time of the use of an officer's use of a CEW was 14.75 years old and 64% of the plaintiffs were male;
- Approximately 33% of the plaintiff youth were disabled; one was deaf and could not hear commands, one had language processing issues, and one was experiencing grand mal seizures when she was shot by a CEW multiple times by officers;
- The recommendations of the major producer of CEWs, the policy manuals and training information had little impact on judges' decisions;
- The routine misuse of CEWs—e.g. aiming it at young people's faces, hearts, and heads, where they were most vulnerable—did not lead courts to find officers committed any wrongdoing or that law enforcement agencies had failed to adequately train officers;
- Trends in the federal courts decision-making indicated that the use of CEWs on youth did not trigger a heightened level of concern or a recognition that precedent regarding use of CEWs on adults should not guide their use on youth;

Figure 5.3 shows some key findings based on the cases listed in this database about the use of CEWs on young people.

A review of these cases indicates certain trends in judges' decision-making:

FIGURE 5.2 NUMBER OF DECISIONS BY CIRCUIT COURTS



- Federal courts refused to consider alternatives to the use of force nor did they hold officers to use alternatives to force,

Indeed, several federal courts blamed law enforcement officers for failing to use CEWs earlier and more often;

- As a result, courts dismissed excessive force claims and granted summary judgment and sometimes qualified immunity, regarding officers' use of CEW when:

- The decision to use the CEW on the youth was not “plainly incompetent” or the use of the CEW was not “unreasonable”

FIGURE 5.3 SUMMARY OF CASE LAW REVIEW 1990-2020

Justification of Police for Using CEW	
Youth was walking away	1
To be able to cuff youth	4
To stop youth from using force	5
To stop youth from attacking officer	2

Plaintiff's Characteristics based on Cases Compiled as of 07/21/2021 ¹	
Age ²	Median: 14.75 years Average: 14.75 years
Race/Ethnicity	White: 3 (15%) Black: 10 (50%) Latino: 4 (20%) Unspecified Minority: 2 (10%) Unknown: 9
Gender	Male: 18 (64%) Female: 10 (36%)
Disability Status	Identified as SpEd: 9 Other Disability ³ : 1 No Disability Identified: 18

Impacts of Taser Use	
Number of Plaintiffs Killed ⁴	3
Average Age of Plaintiffs Killed	16.67
Claim of Permanent Disability as Result of Taser Use	1

Location of Taser Usage ⁵	
School	11
Home	3
Street/Outdoors	8
Plaintiff's Place of Work	2
Other	3

Case Outcomes	
Case Posture	Median: 14.75 years Average: 14.75 years
Qualified Immunity Granted to Officer	8
Monell Claims Successful	Failure to train: 1 denied; 0 successful Failure to supervise: 0
Wrongful Death Suits	3
Court of Appeals Decisions	N=8 (9—1 dismissed for lack of sub jur) Reversed for plaintiff: 2 Reversed for defendant(s): 3

1. *Maiorano* involved two minor plaintiffs—each was counted as an individual data point (all other cases involved single minor plaintiffs bringing suit on the basis of taser use). Two cases involved minor plaintiffs of unspecified ages—*Browning and Madrigal*; those were left out of the age statistics. Therefore, **the total number of plaintiffs analyzed for age (N) is 26**.
2. *Fabian, C.P. by and through Perez*, and *Maiorano* each involved a plaintiff with a one-year uncertainty in age; for these, the average was used (e.g., 13-14 years old was counted as 13.5). *Johnson* involved a minor, high school-aged plaintiff; for calculation purposes, high school-aged is here taken to be 14-18 and has been included in the calculations as 16.
3. One plaintiff was both special education and “profoundly deaf”; he was included in both counts—SpEd and Other Disability Identified.
4. Cause of death for the plaintiff in *Steen* was officially injuries sustained from the police officer running over the plaintiff in his patrol car, so the role of the tasing in plaintiff's death is unclear, as it was not given as the proximate cause thereof.
5. This was analyzed by case, not by plaintiff—so the plaintiffs in *Maiorano* were counted as one entry, because the circumstances and suit were the same. Therefore, N=27.

- It was therefore reasonable to use a CEW and arrest youth who were emotionally impaired and did not obey orders in classroom settings, continued to resist an officer’s attempt to arrest them, or disrupted a class;
- A child’s special needs or disabilities did not exempt them from harm; it did exempt officers and law enforcement agencies from liability.

The SFY Federal CEW Youth Case Law Database

Strategies for Youth conducted a survey of 25 of the nation’s largest law enforcement agencies—police and sheriff departments—to identify the extent to which agencies address if and under what circumstances tasers can be used on youth.

We determined through this survey that these agencies typically develop policies to address taser use in one of two ways. They either fold them into a general “use of force” policy or discuss them in a stand-alone policy specific to the permissible uses of the weapon. It should be noted that three policies simply acknowledge tasers as a “type of force” within a more general use of force policy. While these policies fail to provide any specific guidelines or directives on tasers, the mention of tasers classifies these agencies as having a taser policy under our criteria. However, the lack of any independent policy, or even sub-section, dedicated to the specialized directions and guidelines necessary for safeguarding children and youth when officers use this unique weapon is certainly troubling.

According to our survey, 24 of the 25 major law enforcement agencies do have some form of taser policy. (One of the agencies we chose, the Richmond County, Georgia Sheriff’s Office, failed to publicize any of its policies, including any that may address tasers.) However, only 12 agencies, or slightly fewer than half, provide guidance on the use of tasers on children.

In the majority of these policies, officers are only instructed to “consider” age, and the policies use permissive language, stating they “should not...unless” or “may” use tasers, especially when officers subjectively determine that “exigent circumstances” exist. The necessary factors, which would permit an officer to use a taser despite age or child status, are not defined beyond subjective assessments like “reasonableness,” “extraordinary circumstances,” or “compelling reasons.”

In sum, while age may be considered, how and when are not clarified in policy language, thus leaving far too much discretion to the officer, and making it too easy for agencies or police unions to insist that “no policies were broken” even in egregious cases.

A review of the policies described below indicate that:

- 12 out of the 25 agencies have a presumption against taser use on children and youth, but all available policies allow officers to overcome such presumption based on subjective assessment of circumstance;
- 9 out of the 25 agencies refer to age as a characteristic officers should “consider” prior to deploying a taser;
- 15 agencies use language that acknowledges children, pre-adolescents, and juveniles as a class deserving special consideration prior to deploying a taser;
- 4 agencies cite a specific age under which officers should not use a taser.

As we plan to do with the Case Law Database, SFY will update this database with more policies as they become available.

Key Legal Concepts in Use of Force Cases

Laws Suits Brought Under Section 1983 of the Federal Civil Rights Act

The Federal Civil Rights Act, 42 U.S. Code Sections 1981-1983 of the Civil Rights Act of 1871, is often cited by plaintiffs making claims against local or state police officers. Section 1983 is the most frequently invoked of these laws. The U.S. Supreme Court interpreted the law in 1961 to provide a federal remedy for violations of constitutional rights where the state law remedy was inadequate or available in theory but not in practice. (*Monroe v. Pape*, 365 U.S. 167 (1961)).

This reconstruction era law states:

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any state or territory or the District of Columbia, subjects or causes to be subjected, any citizen of the U.S. or other persons within the jurisdiction thereof, to the deprivation of any rights, privileges, or immunities, secured by the constitution, and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress...”

Police misconduct claims regarding use of force rely on two key U.S. Supreme Court decisions, *Tennessee v. Garner*, 471 U.S. 1 (1985) and *Graham v. Connor*, 490 U.S. 386 (1989). These two decisions interpreted the constitutional right of an individual to be free from Fourth Amendment seizure by an officer’s use of force, required that:

- The person be at liberty (e.g. not in custody);
- The force used must be objectively reasonable, defined in *Graham v. Connor*, which requires a

balancing of the nature and quality of the officer’s intrusion on a person’s 4th Amendment interests against the government’s interests for public safety and that “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.”

- The force used was excessive, which rests on the reasonableness analysis; courts may take into account whether alternative methods of intervention were available, whether the force was proportional in the circumstances, among other factors.

For an exhaustive analysis of cases interpreting Section 1983’s protection from constitutional violation of rights resulting from the unreasonable and excessive use of force by law enforcement, SFY recommends review of *Police Misconduct Law & Litigation*, by Michael Avery, David Rudovsky, and Karen M. Blum, 3rd Edition, (2020-2021).

Monell Claims: Lawsuits Claiming Government Agencies Failed to Train and Supervise Officers

Lawsuits that seek to assign liability to the law enforcement agency and/or municipality that hired the officer for failure to train and/or supervise the officer often bring a *Monell* claim. As the charts indicate, this strategy is rarely successful as federal courts are extremely reluctant to assign liability to law enforcement agencies and municipalities.

The U.S. Supreme Court decision that interpreted a plaintiff's right to claim a failure to train or supervise employees is *City of Canton, OH v. Harris*, 489 U.S. 378, 388 (1989). This decision held that a plaintiff could claim that "the inadequacy of police training may serve as the basis for Section 1983 liability only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact..."

In the context of use of force, it is important to note that the Court held that **"...in light of the duties assigned to specific officers or employees the need for more or different training is so obvious, and the inadequacy so likely to result in the violation of constitutional rights, that the policymakers of the city can be reasonably said to have been deliberately indifferent to the need."** [emphasis added]

The U.S. Supreme Court, in *Board of County Commissioners v. Brown*, 520 U.S. 397, 407 (1997), interpreted the level of "obvious" need for training and supervision to require the plaintiff to present evidence the municipality knew of a need to train and/or supervise and made a deliberate choice not to take any action. "A pattern of tortious conduct by inadequately trained employees may tend to show that the lack of proper training, rather than a one-time negligent administration of the program or factor peculiar to the officer" was the "moving force behind the plaintiff's injury." Presumably, the need to distinguish between one officer's wrongdoing from an organizational "pattern and practice" of wrongdoing was the chief factor in requiring such a high standard of proof.

To win such claims, plaintiffs must convincingly show culpability and causation requirements. Typically, plaintiffs succeed only when they can show 1) a pattern of harm and injuries or "tortious conduct by inadequately trained employees" and/or 2) a violation of federal rights may be a highly predictable consequence of a failure to equip law enforcement officers

with specific tools to handle recurring situations." (*Board of Cnty Comsr's*, at 409).

Motion to Dismiss

A motion to dismiss is a formal request for a court to dismiss a civil complaint, such as a claim for violation of constitutional rights. Such motions may claim that a court should dismiss the case because the facts and legal claims do not state a claim. Federal Rule 12 of the Federal Rules of Civil Procedure, explain the factors that may lead the judge to dismiss the case. If a case is dismissed, the case stops at this point unless the judge's decision is appealed.

Summary Judgment Motion

In a lawsuit for violation of constitutional rights, a motion for summary judgment is typically filed by the party being sued, e.g. the law enforcement officer and agency. In a motion for summary judgment, a party must show that there is no genuine dispute as to any material fact, and 2) that the movant is entitled to judgment as a matter of law. "Material fact" means the judge can consider any fact. Summary judgment is a judgment entered by a court for one party and against another party without a full trial. If granted for the parties being sued, the case stops at this point unless the judge's decision is appealed.

6

Conclusion and Recommendations



Children and teens are not “mini adults.” Physically and emotionally, they respond very differently than adults to stress, trauma, and physical assaults. Unfortunately, law enforcement in this country frequently fails to recognize that young people require an entirely different set of tools and strategies during encounters and interactions than adults. This is particularly important because research is increasingly documenting how long-lasting the effects of police encounters—both positive and negative, and second-hand as well as first-hand—are on young people. The impact on their attitudes toward authority, toward the law, even toward their role in a democratic society, can and does last well into adulthood.

While once widely perceived as non-lethal and a positive alternative to guns as a means of stopping or subduing suspects, CEWs are recognized now to be extremely powerful weapons that can and do wreak havoc on the bodies and psyches of children and youth. As the case studies show, children and youth’s organs are smaller, more sensitive, frailer, and more vulnerable than fully developed ones. Moreover, tasers’ capacity to cause severe contraction of arms and hands, thus resulting in individual’s falling without being able to cushion or slow a descent to the ground, can bring about serious injury, paralysis and death.

We are only beginning to understand the emotional and psychological trauma brought on to teens who have been tased, but it is not hard to extrapolate from other studies about the long-term effects of negative police interactions on young people. The trauma can be deep and long-lasting, resulting in a loss of trust that spills over into emotional health, academic performance, and overall attitudes toward authority figures. Teens have reported becoming isolated,

depressed, and despondent after being tased by police officers. In addition, the research that does exist points to racial disparities in its use by police.

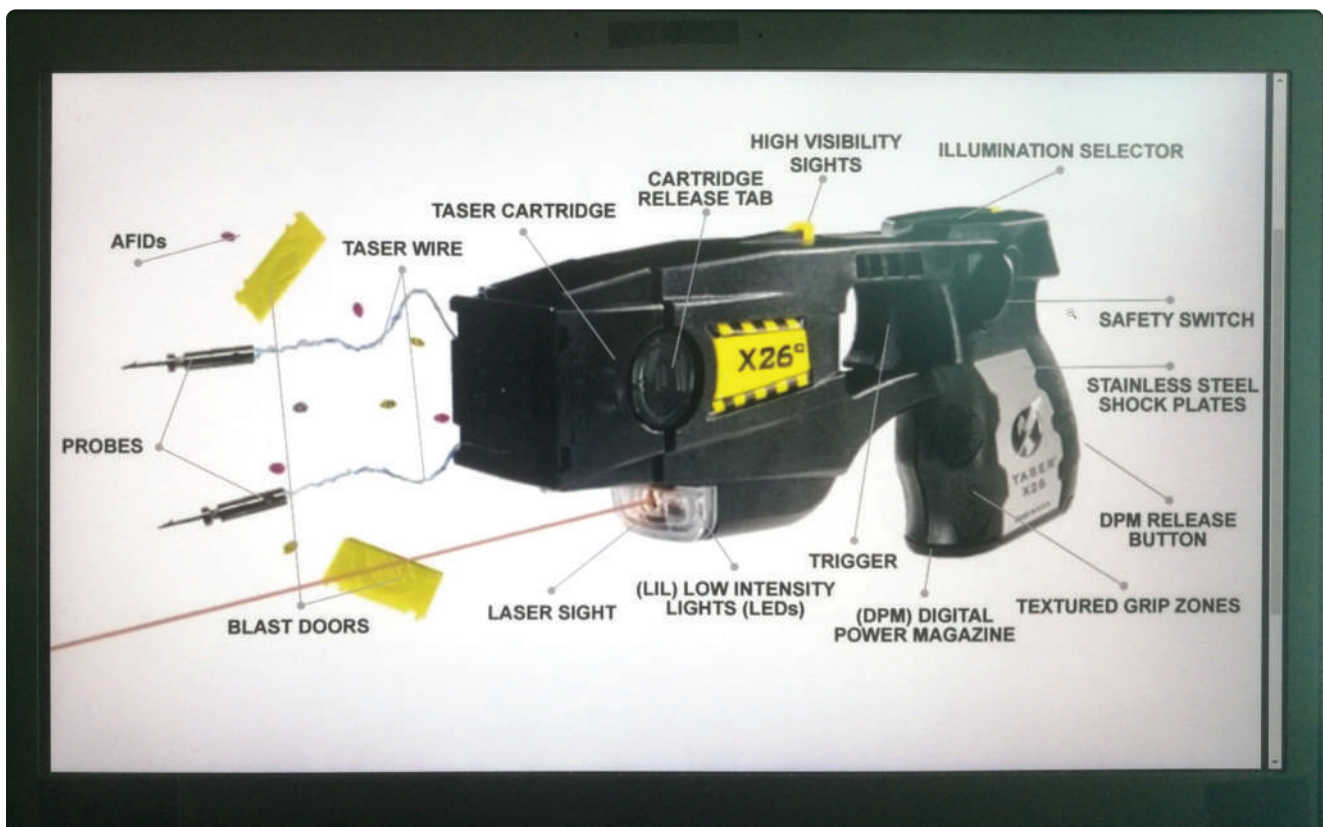
For the most part, states and jurisdictions have taken a “hands-off” approach to the use of tasers by law enforcement and allowed police agencies to create their own standards. This is not working. Accordingly, we recommend the following:

1. State legislatures need to rigorously regulate the use of tasers or other CEWs by police on young people under the age of 18. Their use should be banned in almost all circumstances, and allowed only when public safety risks are severe, and threats are imminent.
2. Law enforcement agencies should be required to carefully document all incidents involving tasers, including the age, gender and race of the subject, and a thorough description of how, under what circumstances, and why it was employed. The federal government should collect and release to the public such data.
3. The deployment of a taser or CEW by a law enforcement officer against a child or youth under the age of 18 should trigger an automatic review by an independent review board that includes members of the community as well as law enforcement and medical practitioners. The officer(s) should be required to justify their use of the taser, explain the immediate threat that they faced, and explain why alternative, less dangerous, strategies were not first employed.
4. Before being allowed to carry and use a taser, police officers need to undergo a far more rigorous training than is currently provided by Axon, one that focuses on de-escalation, on understanding

adolescent psychology, and on the necessity of exhausting all other measures before deploying a taser on a child or teen.

5. Law enforcement training—both at the Academy level and at the professional development level—should emphasize mastery of “soft skills,” such as negotiation and de-escalation, as central to the profession and as part of the use of force continuum. All police officers who regularly interact with young people should be trained in developmentally-appropriate, trauma-informed, and racially-equitable (DATIRE) approaches, to recognize and

respond to signs of trauma and other forms of mental distress in teens, and to understand how to successfully de-escalate situations involving groups of teens.



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