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WRITTEN TESTIMONY IN SUPPORT OF

Raised Bill No. 6615, An Act Concerning the Use of Electronic Defense Weapons

Good afternoon Senator Coleman, Representative Fox and distinguished members of the judiciary committee. My name is David McGuire. I am a staff attorney at the American Civil Liberties Union of Connecticut and I urge you to vote in favor of Raised Bill No. 6615, An Act Concerning the Use of Electronic Defense Weapons.

Used improperly, Electronic Defense Weapons, more commonly known as tasers, can cause serious injury and even death. Police data and intakes received by the ACLU-CT indicate that tasers are disproportionately used on minorities. Mandating the development of taser training, policies and reporting is necessary to create transparency and accountability for taser use. Raised Bill No. 6615's requirements will promote safe and effective use of tasers by law enforcement.

This bill is sorely needed. The primary manufacturer of tasers, Taser International ("TI"), acknowledges that the devices can be lethal: "tasers are not intended to be fatal despite the fact that they may be fatal."¹ Since 2005 there have been nine reported deaths in Connecticut in which it was determined that taser use was a factor.² The first warning in the TI law enforcement instruction manual urges police officers to complete training and warns: "Do not use or attempt to use any ECD model unless you have been trained and certified by a Certified TASER Instructor on that particular model."³

TI advises against the use of a tasers on several populations: "ECD use on a pregnant, infirm, elderly, small child, or low body-mass index (BMI) person could increase the risk of death or serious injury. ECD Use has not been scientifically tested on these populations. The ECD should not be used on members of these populations unless the situation justifies possible higher risk of

¹ The president of Taser International stated that "that Taser uses the term "non-lethal"-as defined by the US Department of Defence - which does not mean the weapon cannot cause death, but that it is not intended to be fatal." Police stun-gun may be lethal, firm admits, THE GUARDIAN (October 3, 2005) available at <http://www.guardian.co.uk/uk/2005/oct/03/ukcrime.jamessturcke>

² Gregory B. Hladky, *Connecticut Taser-Related Deaths*, NEW HAVEN ADVOCATE (September 28, 2010) available at <http://www.newhavenadvocate.com/drive-by-media/connecticut-taser-related-deaths>.

³ Important ECD Product Safety and Health Information, I. <http://www.taser.com/legal/Documents/Law-Enforcement-Warnings.pdf> (attached).

death or serious injury.”⁴ This bill safeguards vulnerable populations against unacceptably dangerous taser exposure.

The ACLU-CT regularly receives complaints of taser abuse, including reports of people being tased even though they were compliant and handcuffed, and people tased so many times that it is impossible to justify the use of the taser as an attempt to incapacitate. In 2010 alone there have been a number of distressing taser-related incidents in Connecticut reported. A Middletown High School student was tased by police for allegedly stealing a beef patty from the school cafeteria. An intoxicated man who was in a Vernon Police Department holding cell, and thus a risk to no person, was tased when he began acting out. A Yale student was taken to the hospital for injuries sustained after being tased without explanation during an underage drinking sting operation.

The standards mandated by this bill will make taser use more responsible and effective. It will protect police departments and municipalities from frivolous lawsuits by establishing a standard by which they can demonstrate that their decision to use a taser was appropriate. The bill’s reporting requirements provide accountability for our police, enabling them to identify officers who might actually be abusing tasers and to allow those agencies to address the abuse appropriately.

Tasers are dangerous weapons. The United Nations Committee Against Torture categorizes tasers as a form of torture that can kill.⁵ Accordingly, it is appropriate to require law enforcement officials to attend taser training. The cost of training would be minimal because many police departments have officers who are certified to teach taser trainings.

Victims who contact that ACLU-CT about taser abuse are predominantly Black and Hispanic. Memoranda from the New Haven Police Chief, obtained through a FOIA request, demonstrate the racial inequities in taser use. In over 89% of the released reports for 2008, the victims were Black or Hispanic and in over 79% of the released reports for 2009, the victims were Black or Hispanic.

The adoption of taser training, data collection and reporting requirements will not financially burden law enforcement. Likely, the departments will save money by curbing taser misuse and providing deployment data to prove that abuse did not occur, protecting law enforcement from excessive force suits. Tasers manufactured by TI have technology built-in that records the date, time and duration of every deployment. A \$159.00 TI Dataport Download Kit can service up to ten tasers. This is a small price to pay for this powerful tool that will allow law enforcement to track taser usage patterns and prevent misuse. This automated data collection coupled with use-of-force reports will make it easy for law enforcement to document deployment data and create statistical breakdowns including race, gender, severity of injury, number of activations used on

⁴ Id. at 4.

⁵ See, e.g., *Submission to the United Nations’ Human Rights Committee Under the International Covenant of Civil and Political Rights (93rd Session 7-25 July 2008)* (2008) at 12, available at <http://www2.ohchr.org/english/bodies/hrc/docs/ngos/NIHR.pdf>; *Consideration of Reports Submitted By States Parties Under Article 19 of the Convention* (2009) at 2, available at <http://www2.ohchr.org/english/bodies/cat/docs/followup/NewZcalandExtractsFollowUp.pdf>.

person, method employed (drive-stun mode or dart-mode). This will allow law enforcement, the public and the legislature to monitor and understand taser use.

Other states have mandated taser training and tracking. Florida requires taser carrying officers to initially complete at least four hours of basic-skills training, followed by at least one hour of additional training per year. Massachusetts requires law enforcement officers to complete a Taser training course approved by the Secretary of Public Safety. Hawaii requires police to maintain records of every Taser deployment and submit an annual report to the legislature regarding these records. Massachusetts requires the Secretary of Public Safety to develop a protocol directing police officers to collect data on taser use, which must include the number of times the device has been fired and identifying characteristics of individuals on whom it was fired, including race and gender.

This bill will protect the public and police by creating transparency and accountability in the use of tasers. The ACLU-CT urges you to pass R.B. 6615.



TASER® X3™, X26™, and M26™ ECD Warnings, Instructions, and Information: Law Enforcement

Important ECD Product Safety and Health Information

These safety warnings are for your protection as well as the safety of others. Disregarding this Information could result in death or serious injury.¹

 WARNING	
	<p>Complete Training First Significant differences exist between each of the TASER International, Inc. ("TASER") Electronic Control Device ("ECD") models. Do not Use² or attempt to Use any ECD model unless you have been trained and certified by a Certified TASER Instructor³ on that particular model.</p>
	<p>Read and Obey Read, study, understand, and follow all Instructions, warnings, Information, training bulletins and TASER training materials⁴ before Using the ADVANCED TASER® M26™ ECD, TASER X3™ ECD, or TASER X26™ ECD. Failure to comply with these Instructions, warnings, Information, training bulletins, and TASER training materials could result in death or serious injury to the User, force recipient, and others.</p>
	<p>Obey Applicable Laws Use the ECD only in accordance with applicable federal, state, and local laws and other regulations or legal requirements. Your law enforcement agency's Guidance⁵ must also be followed⁶. Any Use of an ECD must be legally justifiable. Resistance to law enforcement interaction incurs substantial risk of death or serious injury and subjects who resist law enforcement assume all such risks of death or serious injury.</p>
<p>These warnings are effective May 1, 2010, and supersede all prior revisions and relevant Training Bulletins. The most current warnings are online at www.TASER.com.</p> <div style="text-align: right;">   <p><small>This warning label appears on newer ECD models.</small></p> </div>	

¹ These warnings are state of the art but cannot address all possible ECD application circumstances or permutations. They are intended to inform Users about reasonably foreseeable potential risks of harm. The decision to Use the ECD in a particular manner or circumstance must follow applicable legal standards. These warnings do not create a standard of care. Herein, the singular is also the plural; the plural includes the singular, and the masculine is also the feminine.

² The terms "Use," "Used," "Using," or "Uses" include, but are not limited to: acquiring; accessing; entrusting; providing; possessing; storing; handling; manipulating; carrying; holstering; drawing; brandishing; displaying; deploying; utilizing; drive; turning; using a pistol or other types of clips or attachments; or discharging an ECD.

³ A Certified TASER Instructor possesses and maintains a current TASER Instructor certification for the specific product model they are teaching, demonstrating, or Using and is required to be fully compliant with TASER's most current training requirements and materials.

⁴ Current TASER Instructor training materials may be obtained by contacting TASER's Training Department.

⁵ Law enforcement agencies are force and force tools experts and are solely responsible for their own Guidance. "Guidance" includes, but is not limited to policy, procedure, rule, order, directive, training, continuum, and standard. TASER has no power or authority to mandate or require Guidance, set policy, require training, or establish standards of care or conduct.

⁶ Law enforcement agencies, government entities, and Users are sophisticated purchasers, sophisticated users, and trained intermediaries with respect to law enforcement weapons (including ECDs), force, force use, legality of force use, and reporting.

Scope and Purpose

This document presents important safety warnings, Instructions, and Information intended to reasonably minimize hazards associated with ECD deployment, Intended Use, side effects, and environment of Use.

Confronting, apprehending, capturing, controlling, restraining, incapacitating, taking persons into custody, and maintaining custody are often high risk events that could result in death or serious injury.

When lawfully used as directed, ECDs are designed in probe-deployment mode to temporarily incapacitate a person from a safer distance than some other force options, while reducing the likelihood of death or serious injury. Any use of force, physical exertion, capture, control, restraint, or incapacitation involves risks that a person may get hurt or die.⁷

Within this document certain safety signals and signal words are used to call attention to safety messages.



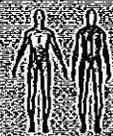
The safety alert symbol is used to alert Users to potential injury hazards. ALWAYS Obey all safety messages that follow this symbol to reasonably minimize the risk of death or serious injury when the ECD is used and to enhance safe operation of the ECD.



The signal word WARNING indicates a hazardous situation which, if not avoided or heeded, could result in death or serious injury. It is intended to direct the User's attention to hazards that may not be obvious, but may be reasonably mitigated by heeding training and instructions, or avoiding certain actions, circumstances, or behaviors, thereby improving the safety of the ECD. WARNINGS may be followed by instructions and information integral to the WARNING.

Safety Information: ECD Deployment and Use

 WARNING	
	Minimize Repeated, Continuous, or Simultaneous⁸ Exposures Reasonable efforts should be made to minimize the number of ECD exposures. ECD Users should use the lowest number of ECD exposures that are objectively reasonable to accomplish lawful objectives and should reassess the subject's resistance level before initiating or continuing the exposure.
	Control and Restrain Immediately Begin control and restraint procedures, including restraining the subject during ECD exposure, as soon as reasonably safe and practical to do so in order to minimize total ECD exposure. The ECD User, and those individuals assisting the User, should avoid touching the probes, wires, and the area between the probes to avoid accidental or unintended shock during ECD electrical discharge.
	Sensitive Body Part Hazard When possible, avoid intentionally targeting the ECD on sensitive areas of the body such as the head, throat, chest/breast, or known pre-existing injury areas without legal justification. The preferred target areas are the lower center mass (below chest) for front shots and below the neck area for back shots.
	Perform Spark Test Prior to Each Shift ECDs must be safely spark tested prior to each shift.
	Avoid Misuse Use an ECD only for its intended purpose, in legally justifiable situations, and in accordance with User's agency's guidance.



⁷ "Almost every use of force, however minimal, poses some risk of death." *Garrity v. Atchafalaya County*, 378 F.3d 1774, 1780, n.12 (11th Cir. 2004).

⁸ "Simultaneous" means delivery to the body of electrical charge by multiple ECDs or multiple completed circuits at the same time.

	<p>Never Confuse Handgun with ECD Confusing a handgun with an ECD could result in death or serious injury. ALWAYS follow your agency's equipment carrying and holstering location guidance and training regarding distinguishing between handguns, other weapons, and ECDs.</p>
	<p>Be Aware of Trigger-Held/Continuous Discharge If an ECD's trigger is held back it can continue to discharge beyond the 5-second cycle until the trigger is released or the power source is expended.</p>
	<p>Be Aware that an ECD or Cartridge May Fail to Fire, Operate, or Be Effective No weapons system, tool, technique, or ECD is always effective. If an ECD, cartridge, or accessory is inoperable, fails to function, or the intended ECD application is ineffective in achieving the desired effect, consider reloading and redeploying, using other force options, disengaging, or using other alternatives according to agency guidance. The failure of the ECD to fire, operate, or be effective could result in death or serious injury.</p>
	<p>Prepare to Redeploy ECD or Use Backup Plan Always prepare to redeploy the ECD or use a backup plan. Be familiar with backup plans and acceptable alternatives in the event of ineffective deployment.</p>
	<p>Incapacitation, Falling, and Startle Hazard ECD use may cause muscular contraction, Neuro-Muscular Incapacitation (NMI), startling, and falling, which could result in death or serious injury.</p>
 	<p>NMI and Secondary Injuries An ECD may cause NMI if probes are within sufficient proximity to complete a circuit, with sufficient spread, and an adequate circuit is completed and maintained rendering the subject temporarily unable to control movement and may cause a fall. Also, ECD use may cause a startle response. This loss of control or startle may increase risk of death or serious injury resulting from loss of balance, fall, change in momentum, drowning, or loss of control of any mode of transportation, conveyance, or machinery. Especially at risk is a person who:</p> <ul style="list-style-type: none"> • Could fall and suffer impact injury to the head or other area; • Is on an elevated or unstable surface (e.g., tree, roof, ladder, ledge, balcony, porch, bridge, crane, dock, chair, bunk bed, or stair); • Is less able to catch or protect self in a fall (e.g., restrained, handcuffed, incapacitated, or immobilized); • Could fall on a sharp object (e.g., holding a knife or other edged weapon or sharp object on ground); • Is running, in motion, or moving under momentum; • Is operating or riding in or on any mode of transportation (e.g., vehicle, bus, bicycle, motorcycle, cart, train, or airplane), conveyance (e.g., escalator, moving walkway, elevator, skateboard, skates, or rollerblades), or machinery; • Is located in water, mud, or marsh environment if the ability to move is restricted; or • Is physically infirm, elderly, or pregnant.
	<p>Eye Injury Hazard If a TASER probe, electrode, or electrical discharge contacts or comes into close proximity to an eye, it could result in serious injury, including permanent vision loss. DONOT intentionally aim an ECD at the eye of a person or animal without justification.</p>
	<p>Laser Light Could Result in Serious Eye Injury The ECD uses a LASER as a targeting aid. Avoid intentionally aiming the LASER at the eye of a person or animal without justification. NEVER aim the LASER at aircraft.</p>
 	<p>Fire and Explosion Hazard ECD use could result in a fire or explosion when flammable gases, fumes, vapors, liquids, or materials are present. An ECD can ignite explosive and flammable clothing or materials, liquids, fumes, gases, or vapors (e.g., gasoline vapor or gas found in sewer lines, or methamphetamine labs, butane-type lighters, or flammable hair gel). Do not knowingly use an ECD in the presence of any explosive or flammable substance without legal justification. Note that some self-defense sprays use a flammable carrier, such as alcohol.</p>

Safety Information: ECD Known and Potential Side Effects

 WARNING	
 Always follow and comply with all instructions, warnings, information and current TASER training materials to reasonably minimize the risks associated with possible use and side effects listed below.	
	<p>Muscle Contraction or Strain-Related Injury ECDs can cause strong or moderate muscle contractions that may result in physical exertion, athletic, or sport-type injury, including, but not limited to, injury such as hernia, rupture, dislocation, tear, or other injury to soft tissue, organ, muscle, tendon, ligament, nerve, bone, or joint. Fracture to bone, including compression fracture to vertebrae, may occur. These injuries may be more serious and more likely to occur in people with pre-existing injuries, conditions or special susceptibilities, which include but are not limited to, known or unknown: pregnancy; osteopenia; osteoporosis; spinal injury; or previous muscle, disc, ligament, joint, bone, or tendon damage or surgery. Such injuries may also occur when a person reacts to the ECD deployment or discharge by making a rapid movement.</p>
	<p>Physiologic or Metabolic Effects The ECD can produce physiologic or metabolic effects which include, but are not limited to, changes in: acidosis; adrenergic states; blood pressure; calcium, creatine kinase ("CK"); electrolytes (including potassium), heart rate and rhythm; lactic acid; myoglobin; pH; respiration; stress hormones or other biochemical neuromodulators (e.g., catecholamines). Reasonable effort should be made to minimize the number of ECD exposures and resulting physiologic and metabolic effects. In human studies of electrical discharge from a single ECD of up to 15 seconds, these effects on acidosis, CK, electrolytes, stress hormones, and vital signs have been comparable to or less than changes expected from physical exertion similar to struggling, resistance, fighting, fleeing, or from the application of some other force tools or techniques. Adverse physiologic or metabolic effects may increase risk of death or serious injury.</p>
	<p>Higher Risk Populations ECD Use on a pregnant, infirm, elderly, small child, or low body-mass Index (BMI) person could increase the risk of death or serious injury. ECD Use has not been scientifically tested on these populations. The ECD should not be used on members of these populations unless the situation justifies possible higher risk of death or serious injury.</p>
	<p>Physiologically or Metabolically Compromised Persons Law enforcement personnel are called upon to deal with individuals in crises that are often physiologically or metabolically compromised and may be susceptible to arrest-related death ("ARD"). The factors that may increase susceptibility for an ARD have not been fully characterized but may include: a hypersympathetic state, autonomic dysregulation, capture myopathy, hyperthermia, altered electrolytes, severe acidosis, cardiac arrest, drug or alcohol effects (toxic withdrawal, sensitization to arrhythmias, etc), alterations in brain function (agitated or excited delirium), cardiac disease, pulmonary disease, sickle cell disease, and other pathologic conditions. These risks may exist prior to, during, or after law enforcement intervention or ECD Use, and the subject may already be at risk of death or serious injury as a result of pre-existing conditions, individual susceptibility, or other factors. In a physiologically or metabolically compromised person any physiologic or metabolic change may cause or contribute to death or serious injury. Follow your agency's guidance when dealing with physiologically or metabolically compromised persons.</p>
	<p>Neurocardiogenic Response (Fainting) A person may experience an exaggerated response to an ECD exposure, or threatened exposure, which may result in a person fainting or falling with possible secondary injury.</p>
	<p>Seizure Repetitive stimuli (e.g., flashing light or electrical stimuli) can induce seizure in some people. This risk may be increased in a person with a seizure history or if electrical stimuli pass through the head area. This may also result in a person falling with a possible secondary injury.</p>
	<p>Stress and Pain The ECD can cause temporary discomfort, pain, stress, panic, or startle which may be injurious to some people. Anticipation of ECD exposure can cause stress, trepidation, panic, startle, or fear, which may also be injurious to some people.</p>

Safety Information: Probe or Electrode Injury or Infection

 WARNING	
 Probe or Electrode Injury or Infection Hazard ECD Use may cause a mark, burn, scar, penetration, or other skin or tissue damage or infection. Provide First Aid and medical care as needed.	
	Scarring Use of an ECD may cause irritation, puncture, mark, abrasion, rash, burn, keloid, or other scarring that may be permanent. This risk may be increased when using the M26 or X26 ECD in drive-stun mode with the cartridge removed or the X3 ECD in drive-stun mode due to the multiple sets of electrical contacts. The nature and severity of these effects depends on the area of exposure and method of application, individual susceptibility, and other circumstances surrounding ECD Use, exposure, and after care.
	Penetration Injury The TASER probe has a small dart point which may cause a penetration injury to a blood vessel or internal organ (including lung, bone, or nerve). The probe or dart point (which may detach) can also puncture or become embedded into a bone, organ, or tissue, which may require immediate medical attention, surgical removal, or may result in scarring, infection, or other serious injury.
	Penetration Injury Care Injury due to penetration of the probe or dart point into a blood vessel, organ, nerve, or bone may require medical attention. A probe, dart point, or barb embedded in a sensitive area such as the eye, the genital area, breast, neck, throat, or vascular structure may cause serious injury and may require special medical attention and further evaluation.
	Probe Removal Probe removal may cause injury. Leaving a probe in the body may result in pain or injury. Follow your agency's guidance and biohazard protocols for probe removal. In the case of embedment, organ or bone penetration, or probe, dart point, or barb detachment, immediate medical attention and possible surgical removal may be required.
	Skin, Wound, or Infection Treatment ECD Use may cause a skin irritation, puncture wound, abrasion, mark, rash, burn, keloid or other scar which may require medical attention and may be permanent. As with any injury of this type, infection or tetanus and resulting complications may occur in some circumstances.
	Biohazards Utilize appropriate biohazard protocols and personal protective equipment including Body Substance Isolation procedures, gloves, masks, and washing of hands and exposed areas as necessary. Follow your agency's guidance and appropriate biohazard, waste, and evidence protocols when dealing with biohazards.
	Untethered Discharged Probe In probe deployment, it is possible that a discharged probe that does not impact a subject or target may become untethered from the wire and travel a significant distance. A loose, untethered probe can cause serious injury.

Safety Information: General Precautions

 WARNING	
 Unintentional Deployment Hazard Unintentional ECD activation could result in death or serious injury to the user, force recipient, and others. Follow and comply with the following instructions to reduce the risk of unintentional use, deployment, or activation.	

	Store In A Secure Location Store ECDs, cartridges, and accessories in secure locations inaccessible to children and other unauthorized persons to prevent Inappropriate Use, which may result in death or serious injury to the User, other persons, or animals. ECDs and cartridges are weapons and are not toys.
	Use Of ECD Safety Always place the ECD safety switch in the down (SAFE) position when not in Use. Remember to place the ECD safety switch in the up (ARMED) position when you intend to Use the ECD.
	Assume ECD Is Loaded Always assume that an ECD is loaded and capable of discharging. To avoid unexpected discharge, ensure that no live cartridge is in the ECD when inserting a battery; COPM™, DPM™, EPM™, TPM™, or XDPM™ battery pack; TASER CAM™ recorder; or while performing spark tests (except when spark testing the X3 ECD), maintenance, data downloading, or battery charging.
	Be Aware Of ECD Deployment Mode Keep your finger off the trigger until it is legally justifiable to use the ECD. Be aware of the deployment mode (manual or semi-automatic) set on the X3 ECD before discharging that ECD.
	Keep Body Parts Away From Front of ECD or Cartridge Keep your hands and body parts away from the front of the ECD and cartridge, unless instructed otherwise. A discharging ECD or cartridge could result in serious injury.
	Avoid Static Electricity Keep the cartridge away from sources of static electricity. Static electricity can cause the ECD or X26 or M26 cartridge to discharge unexpectedly, which could result in serious injury.
	Beware of Electronic Equipment Interference Interference from electronic transmission equipment in close proximity to the ECD could interfere with the proper operation of the ECD and cause the ECD to discharge. Keep the ECD at least several inches away from other electronic equipment. Place the ECD safety switch in the down (SAFE) position whenever it is immediately adjacent to electronic equipment (including transmitting radios and cell phones). Remember to place the ECD safety switch in the up (ARMED) position prior to attempting Use.
	Avoid Dropping ECD or Cartridge If an ECD or cartridge is dropped or damaged it may unintentionally deploy or discharge, become inoperable, or fail to function, making it unsafe for continued use. If an ECD or cartridge has been dropped or damaged, refer to the procedure recommended in the current version of the TASER Instructor Training materials.

Safety Information: Maintenance

 WARNING	
 Failure to maintain an ECD as instructed may cause the ECD to malfunction or fail to function optimally and could result in death or serious injury. Follow and comply with the following instructions to reduce the risk of ECD malfunction, including failure.	
	Damaged ECD or Cartridge Do not use a cartridge with a missing blast door unless facing an immediate threat. ECD repair or modification by an unauthorized person may cause the ECD to fire or malfunction, will void the warranty, and may put the User or other person at risk of death or serious injury.
	Update ECD Software Some ECDs, including the TASER X26 and X3, have the capability for software updating. It is important to acquire, update, and maintain the latest ECD software update. Current ECD software may be obtained by contacting TASER's Customer Service Department or following instructions at the EVIDENCE.COM™ site.

	<p>Use Only TASER-Approved Components, Batteries, Accessories, and Cartridges The ECD is a sophisticated electronic system. In order to provide proper function, only TASER-approved components, batteries, accessories, and cartridges are to be used with the ECD. Use of anything other than TASER-approved components, batteries, accessories, and cartridges will void the warranty, may cause malfunction, and may put the User or other person at risk of death or serious injury.</p>
	<p>Avoid Exposure to Wet Conditions If the ECD is drenched or immersed in water or other liquid, DO NOT Use the ECD until completing the procedure recommended in the current version of the TASER Instructor Training materials.</p>

Safety Information: Hazardous Substances

 WARNING	
 	<p>Hazardous Substances The ECD contains components that contain chemicals known to the State of California and others to cause cancer and birth defects or other reproductive harm. Do not disassemble. Refer to your agency's Guidance for proper handling and disposal.</p>