



OLR RESEARCH REPORT

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STUN GUNS AND FIREARMS

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You asked why state law prohibits the carrying of electronic defense weapons but not handguns.

SUMMARY

Under state law, electronic defense weapons, such as stun guns, are classified as dangerous or deadly weapons. With limited exceptions, the law prohibits people from carrying these weapons on their person or in motor vehicles (CGS §§ [53-206](#) & [29-38](#)). On the other hand, handguns are not classified as dangerous or deadly and anyone who meets criteria specified in law can obtain a permit to carry them.

Nothing in the legislative history of PA 86-827, which added electronic defense weapons to the list of dangerous weapons, or [PA 99-212](#), which banned the carrying of such weapons, indicates why the legislature thought that these weapons should be more stringently regulated than handguns. But part of the explanation may be that, under the Second Amendment to the U.S. Constitution, firearms have a degree of constitutional protection, which has been upheld by the U.S. Supreme Court. The U.S. Supreme Court has not ruled on whether stun guns are entitled to the same degree of constitutional protection as firearms. And we are not aware of any Connecticut court that has considered this issue. But the Michigan Court of Appeals, in a case not binding on Connecticut, has ruled that both the U.S. Constitution and Michigan Constitution protect a citizen's right to possess and carry stun guns for self-defense and the state may not completely prohibit their use by private citizens (Mich. Ct. App. June 26, 2012 (Docket No. 304293)).

COURT CASES

The Second Amendment states that “A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed” (U.S. Cons. Amend. II). In *District of Columbia v. Heller*, the U.S. Supreme Court held that the Second Amendment protects an individual right to possess firearms for lawful use, such as self-defense, in the home (128 S. Ct. 2783 (2008)). Accordingly, the Court struck down as unconstitutional provisions of a District of Columbia law that (1) effectively banned possession of handguns by non-law enforcement officials and (2) required lawfully owned firearms to be kept unloaded, disassembled, or locked when not located at a business place or being used for lawful recreational activities.

According to the Court, the ban on handguns in the home amounted to a ban on an entire class of “arms” that Americans overwhelmingly choose for the lawful purpose of self-defense. Similarly, the requirement that any firearm in a home be disassembled or locked made “it impossible for citizens to use arms for the core lawful purpose of self-defense.” The Second Amendment right is not absolute and a wide range of gun control laws remain “presumptively lawful,” according to the Court (see copy of OLR reports [2008-R-0578](#) and [2010-R-0314](#)).

In *Michigan v. Yanna*, a defendant charged with possessing a stun gun in violation of a Michigan law that prohibits private citizens from selling or possessing stun guns argued that possession of a stun gun at home was protected under the Second Amendment. On appeal, the Michigan Appeals Court found that stun guns and tasers are protected arms under the Second Amendment. The prosecution argued, among other things, that these weapons are so dangerous that they are not protected by the Second Amendment. But, the court said that, while plainly dangerous, stun guns and tasers are substantially less dangerous than handguns. And *Heller* concluded that handguns are not sufficiently dangerous to be banned. Therefore, “tasers and stun guns do not constitute “dangerous” weapons for purposes of the Second Amendment inquiries.” The court said that:

The Second Amendment explicitly protects the right to “carry” as well as the right to “keep” arms. Likewise, the Michigan Constitution specifically allows citizens to “bear” arms for self-defense. We therefore conclude that a total prohibition on the open carrying of a protected arm such as a taser or stun gun is unconstitutional.

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