



STATE OF ARKANSAS  
THE ATTORNEY GENERAL  
DUSTIN MCDANIEL

Opinion No. 2014-023

May 19, 2014

The Honorable Jonathan Barnett  
State Representative  
1980 Highway 412 West  
Siloam Springs, Arkansas 72761-3805

Dear Representative Barnett:

This is my opinion on your questions about commissioned security officers, private security officers, and taser stun guns:

1. May CSOs and PSOs carry and utilize taser stun guns while performing the duties of their employment?
2. Assuming CSOs and PSOs may carry/utilize taser stun guns, must CSOs and PSOs be properly trained in the use of the taser stun gun and informed of any danger or risk of serious harm and injury that may be caused by the use of the taser stun gun on a person?

**RESPONSE**

In my opinion, state law does not prohibit CSOs or PSOs carrying or using tasers on the job. Nor is there currently any requirement in state law that CSOs or PSOs receive taser training although, as explained below, it is my view that the Arkansas Board of Private Investigators and Private Security Agencies may require such training.

State law does require that law enforcement officers receive taser training. The fact that law enforcement officers must be properly trained in the use of tasers, whereas no such training is required of CSOs and PSOs, may be a policy matter

for the General Assembly to consider and address. I am of course limited, in issuing opinions, to address the law as it is currently written.

I also note that any person's use of a taser on another person may be lawful or not, depending on the circumstances.

***Question 1 – May CSOs and PSOs carry and utilize taser stun guns while performing the duties of their employment?***

As you note, criminal law prohibits taser possession by or sale to people under age 19.<sup>1</sup> It does not prohibit other people, including CSOs and PSOs, from possessing tasers.

The Private Investigators and Private Security Agencies Act defines “commissioned security officer” and “private security officer,” directly regulates them, and subjects them to further regulation by the Arkansas Board of Private Investigators and Private Security Agencies.<sup>2</sup> The Board has authority, in my view, to establish and enforce standards governing the use of tasers by CSOs and PSOs<sup>3</sup> beyond the standards that generally apply to all persons, but has not done so to date.

I conclude that state law does not prohibit CSOs or PSOs possessing tasers on the job.

When anyone – including a CSO or PSO – uses force against someone else, the action's legality is a question of fact as well as law. It may be lawful; it may be a tort or crime. Criminal law specifies circumstances in which the use of force is justified and therefore cannot result in criminal liability.<sup>4</sup>

***Question 2 – Assuming CSOs and PSOs may carry/utilize taser stun guns, must CSOs and PSOs be properly trained in the use of the taser stun gun and***

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<sup>1</sup> A.C.A. § 5-73-133(b).

<sup>2</sup> A.C.A. §§ 17-40-101 to -353 (Repl. 2010 and Supp. 2013).

<sup>3</sup> See A.C.A. § 17-40-207(a)(4) (Board empowered to “establish and enforce standards governing the . . . conduct of persons” including CSOs and PSOs).

<sup>4</sup> See, e.g., A.C.A. §§ 5-2-606, -608, -609 (Repl. 2013), *but cf.* A.C.A. § 5-2-610 (Repl. 2013) (justified use of force by law enforcement officer, not including CSO or SPO – see *infra* notes 6 and 7 and accompanying text).

***informed of any danger or risk of serious harm and injury that may be caused by the use of the taser stun gun on a person?***

The only taser training requirement under state law is contained in a criminal-law provision and requires “[a]ny law enforcement officer using a taser stun gun [to] be properly trained in [its] use and informed of any danger or risk of serious harm and injury that may be caused by [its] use . . . on a person.”<sup>5</sup> For purposes of this statute, “law enforcement officer” means “any public servant vested by law with a duty to maintain public order or to make an arrest for an offense.”<sup>6</sup> Because CSOs and PSOs are private officers, not public servants,<sup>7</sup> this law does not require CSOs or PSOs to receive the training and information required to be given to law enforcement officers.

One might question, from a policy standpoint, this apparent distinction between private security personnel and public law enforcement officers. But questions of this nature are properly addressed to the General Assembly. I am of course constrained, in issuing opinions, to addressing the law as it is currently written.

The Private Investigators and Private Security Agencies Act requires CSO and PSO training and authorizes the Board to establish training topics,<sup>8</sup> which as noted above may include taser possession and use.

Assistant Attorney General J. M. Barker prepared this opinion, which I approve.

Sincerely,



DUSTIN McDANIEL  
Attorney General

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<sup>5</sup> A.C.A. § 5-73-133(c).

<sup>6</sup> A.C.A. § 5-1-102(10) (Repl. 2013).

<sup>7</sup> See A.C.A. § 17-40-102(10) and (21).

<sup>8</sup> See A.C.A. § 17-40-208.