



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

UNITED NATIONS HUMAN RIGHTS

GUIDANCE ON
**LESS-LETHAL
WEAPONS**
IN LAW ENFORCEMENT

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New York and Geneva, 2020

FOREWORD

Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.

Code of Conduct for Law Enforcement Officials¹

Applying the above provision properly can be challenging. Law enforcement officials bear the immense responsibility of determining whether force is necessary in a particular situation and, if so, precisely how much is proportional to the threat they face.² They are often required to strike this balance in a matter of seconds under complex and hazardous conditions, always mindful of the general principles relating to the use of force and international human rights law. And the costs of error could not be higher; where life is lost through the unnecessary use of force, the result is a human tragedy that can never be made good.

To avoid the need to resort to lethal force, States must supply law enforcement officials with effective, less-lethal means, and train them in their lawful use. In some cases, unfortunately, law enforcement officials use less-lethal weapons improperly, leading to serious injury or even death. In others, they deliberately use less-lethal weapons to cause maximum injury to persons who do not pose a threat sufficiently serious to warrant the use of such weapons. To be clear, and as the Human Rights Committee has indicated in its general comment on the right to life, even less-lethal weapons must be employed only when they are subject to strict requirements of necessity and proportionality, in situations in which other less harmful measures have proven to be or are clearly ineffective to address the threat.

¹ General Assembly resolution 34/169, annex.

² Human Rights Committee, general comment No. 36 (2018) on the right to life, para. 14.

Governments should, in line with principle 2 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, equip law enforcement officials with a broad range of weapons and ammunition that would allow for a differentiated use of force. Less-lethal weapons allow officials to apply varying degrees of force in situations where it would be unlawful to use firearms loaded with lethal ammunition.

The United Nations has strived to provide law enforcement officials with guidance on the use of force in compliance with international human rights law.³ The publication of the *United Nations Human Rights Guidance on the Use of Less-Lethal Weapons in Law Enforcement* is a significant addition to these efforts. The guidelines are concise and user-friendly, outlining international norms and standards on the use of less-lethal weapons in a scenario-based, weapon-specific manner.

The Office of the United Nations High Commissioner for Human Rights was pleased to collaborate with the University of Pretoria and the Geneva Academy in preparing this publication. Special thanks go to the former Special Rapporteur on extrajudicial, summary or arbitrary executions, Professor Christof Heyns, for leading the work on this issue. We stand ready to support States and law enforcement agencies as they deepen their understanding of international norms and standards on the use of force and less-lethal weapons, thereby increasing their ability to respect and protect human rights.



Michelle Bachelet
United Nations
High Commissioner for Human Rights

³ Such as the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the UNODC/OHCHR *Resource book on the use of force and firearms in law enforcement* and the OHCHR Guidance and Training Package on Human Rights and Law Enforcement.

BACKGROUND

The *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* is the result of a two-year process of research, drafting and consultation led by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in collaboration with an international group of experts. Its finalization in 2019 filled a significant gap in the interpretation of fundamental human rights and the application of principles of law enforcement, providing States, international organizations, civil society and other key stakeholders with guidance on when and how to use less-lethal weapons in accordance with international law.

The 1990 *United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, the leading international instrument dedicated to regulating the use of force for law enforcement purposes, referred to less-lethal weapons in two of its provisions. Basic Principle 2 called on Governments and law enforcement agencies to develop “a range of means as broad as possible”, which “should include the development of non-lethal incapacitating weapons for use in appropriate situations”.⁴ Principle 3 called for the development and deployment of less-lethal weapons to be “carefully evaluated in order to minimize the risk of endangering uninvolved persons”, and stipulated that their use “should be carefully controlled”.

These principles remain valid and applicable to law enforcement operations, but over time it became increasingly clear that more detailed guidance was needed to regulate less-lethal weapons. In 2014, the Special Rapporteur on extrajudicial, summary or arbitrary executions recommended that the Human Rights Council appoint an expert body to develop guidelines on less-lethal weapons.⁵ In its resolution 25/38, adopted on 28 March 2014, the Council encouraged States “to make protective equipment and non-lethal weapons available to their officials exercising law enforcement duties, while pursuing international efforts to regulate and establish protocols for the training and use of non-lethal weapons.”

⁴ *The United Nations Guidance* does not use the term “non-lethal” given that the use of any weapon can have fatal consequences.

⁵ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 119.

In 2016, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, in a joint report requested by the Council in its resolution 25/38, called upon the United Nations High Commissioner for Human Rights to convene an expert group to examine the application of the international human rights framework to less-lethal weapons, including with a focus on their use in the context of assemblies.⁶ In this context, OHCHR took the opportunity to actively collaborate with the emerging academic partnership that led to the creation of an inclusive, multi-stakeholder expert group, which was also supported by the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Standing Police Capacity.

The present OHCHR-led *Guidance on Less-Lethal Weapons in Law Enforcement* relied on substantive contributions from leading academics, law enforcement experts and practitioners, and representatives of international organizations and civil society, chief among which featured a member of the Human Rights Committee, the Centre for Human Rights of the University of Pretoria and the Geneva Academy of International Humanitarian Law and Human Rights. Four expert meetings were convened in Geneva and at the University of Cambridge in 2017 and 2018 to consider and review drafts of the *Guidance*. The meetings brought together more than 50 experts in law enforcement, human rights, weapons law and criminal justice from States in Europe, Australasia, Latin America and Africa, and from the Caribbean to Central and South-East Asia. In addition to the expert meetings, a written stakeholder consultation was also conducted, followed by a consultation for States held in Geneva. OHCHR would like to thank all those who participated in the meetings and consultations for their input.

The *United Nations Guidance* was formally launched in Geneva on 25 October 2019 during the 127th session of the Human Rights Committee.

⁶ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), para. 67 (i).

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1. INTRODUCTION

- 1.1 Less-lethal weapons,⁷ such as police batons and chemical irritants, have an important role in law enforcement, which aims to protect individuals and uphold the law. They may be used either in situations where some degree of force is necessary but where the use of firearms would be unlawful, or as a less dangerous alternative to firearms, in order to reduce the risk of injury to members of the public, including those suspected of criminal conduct. Law enforcement officials should be equipped with an appropriate range of less-lethal weapons and related equipment. Where they are equipped only with a baton and a firearm, the risks to themselves and to the public may be heightened.
- 1.2 Less-lethal weapons and related equipment may also kill or inflict serious injury, especially when they are not used by trained personnel in accordance with the specifications, with general principles on the use of force, or with international human rights law. In addition, extrajudicial killings and acts of torture or other forms of cruel, inhuman or degrading treatment or punishment — serious violations of international law — have been perpetrated using less-lethal weapons and certain forms of related equipment.
- 1.3 The purpose of this *Guidance* is to provide direction on the lawful and responsible design, production, transfer, procurement, testing, training, deployment and use of less-lethal weapons and related equipment. It is addressed to States, law enforcement agencies, manufacturers, human rights bodies and mechanisms, private security companies, police oversight bodies and human rights defenders, and to individuals seeking to assert their right to a remedy for human rights violations. It is also intended to promote accountability for the design, production, testing, transfer, deployment and use of less-lethal weapons and related equipment. It is not intended to serve as a set of standing operating procedures for individual officers, but may assist States and their law enforcement agencies in fulfilling their duty to put such procedures in place.

⁷ The *Guidance* avoids referring to weapons and equipment as “non-lethal” since the use of any weapon can have fatal consequences.

- 1.4 The *Guidance* is based on international law, in particular international human rights law and law enforcement rules, as well as good law enforcement practice. It may assist in the application and implementation of the rules of international human rights law, especially those pertaining to the rights to life, to freedom from torture or other forms of cruel, inhuman or degrading treatment or punishment, and to security of person, and to the right of peaceful assembly.⁸ The *Guidance* supplements and complements the standards laid down in the Code of Conduct for Law Enforcement Officials (Code of Conduct)⁹ and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Basic Principles).¹⁰
- 1.5 The Code of Conduct requires that, in the performance of their duty, law enforcement officials respect and protect human dignity and maintain and uphold the human rights of all persons.¹¹ The Basic Principles call on States and law enforcement agencies to develop “non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons”.¹² They also call for the development and deployment of such weapons to be “carefully evaluated in order to minimize the risk of endangering uninvolved persons”, and affirm that “the use of such weapons should be carefully controlled”.¹³

⁸ These rights are protected for example in articles 6, 7, 9 and 21 of the International Covenant on Civil and Political Rights and in regional human rights treaties.

⁹ Code of Conduct for Law Enforcement Officials, adopted by the General Assembly in its resolution 34/169, without a vote, on 17 December 1979.

¹⁰ Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, welcomed by the General Assembly in its resolution 45/166, adopted by the Assembly without a vote on 14 December 1990.

¹¹ Code of Conduct, article 2.

¹² Basic Principles, principle 2.

¹³ Basic Principles, principle 3.

- 1.6 In its resolution 25/38, the Human Rights Council encouraged States to make non-lethal weapons available to their officials exercising law enforcement duties, while pursuing international efforts to regulate and establish protocols for training in and use of non-lethal weapons. In its resolution 38/11, the Council further encouraged the establishment of protocols for training in and use of non-lethal weapons, bearing in mind that even less-lethal weapons can result in risk to life.
- 1.7 In line with international human rights law and principles on the use of force, the present *Guidance* applies to acts of law enforcement at all times. This includes the use of force both in counterterrorism operations outside the conduct of hostilities during an armed conflict and during situations of internal disturbance and tension, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature. The *Guidance* applies to acts of law enforcement wherever they occur, including extraterritorially, and even in exceptional cases where military personnel are acting as law enforcement officials.
- 1.8 In this publication, the words “shall”, “should” and “may” are used to convey the intended degree of compliance with the *Guidance*. This is consistent with the use of such language in International Organization for Standardization (ISO) standards and guidelines. “Shall” is used to indicate a requirement. “Should” is used to indicate a preferred method or course of action. “May” is used to indicate a possible method or course of action.

2. GENERAL PRINCIPLES ON THE USE OF FORCE

- 2.1 Law enforcement officials shall at all times respect and protect fundamental human rights and freedoms, in particular when they are considering the use of force of any kind. The rights of law enforcement officials to life and to security shall also be respected and ensured.¹⁴
- 2.2 In carrying out their duties, law enforcement officials shall, as far as possible, make use of non-violent means before resorting to the use of force or firearms. They may use force only if other means appear ineffective or without any promise of achieving the intended result.¹⁵ Where necessary, law enforcement officials shall be equipped with appropriate personal protective equipment,¹⁶ such as helmets, shields, stab-resistant gloves and vests and bullet-resistant vests. Such appropriate personal protective equipment may decrease the need for law enforcement officials to use weapons of any kind.¹⁷
- 2.3 Any use of force by law enforcement officials shall comply with the principles of legality, precaution, necessity, proportionality, non-discrimination and accountability.

LEGALITY

- 2.4 The use of force shall be regulated by domestic law and administrative regulations in accordance with international law. The use of force can be justified only when it is used with the aim of achieving a legitimate law enforcement objective.¹⁸ National policies that comply with international law

¹⁴ United Nations Office on Drugs and Crime (UNODC)/Office of the United Nations High Commissioner for Human Rights (OHCHR), *Resource book on the use of force and firearms in law enforcement*, United Nations, New York, 2017, p. 15.

¹⁵ Basic Principles, principle 4.

¹⁶ Basic Principles, principle 2.

¹⁷ Human Rights Council resolution 38/11, adopted without a vote on 6 July 2018, para. 15.

¹⁸ Basic Principles, Principle 1; African Commission on Human and Peoples' Rights, General Comment No. 3 on the African Charter on Human and Peoples' Rights: The Right to Life (Article 4), adopted in November 2015, para. 27; Inter-American Court of Human Rights, *Cruz Sánchez and others v. Peru*, Judgment, 17 April 2015, para. 261; European Court of Human Rights, *Nachova and others v. Bulgaria*, Judgment, 6 July 2005, paras. 99-100.

and standards shall be adopted on the use of force by law enforcement agencies and officials. The relevant State legislation must be clear enough to ensure that its legal implications are foreseeable, and must be widely published to ensure that it is easily accessible to everyone. Force in law enforcement shall never be used punitively.¹⁹

- 2.5 Only weapons and weapons systems duly authorized by the relevant State authorities for use in law enforcement may be deployed by law enforcement agencies and used by law enforcement officials. Domestic law and regulations shall specify conditions for the use of less-lethal weapons and related equipment, and shall impose limitations on their use in order to minimize the risk of injury.

PRECAUTION

- 2.6 Law enforcement operations and actions shall be planned and conducted while taking all necessary precautions to prevent or at least minimize the risk of recourse to force by law enforcement officials and members of the public, and to minimize the severity of any injury that may be caused.²⁰ Law enforcement officials should delay direct contact or engagement with members of the public if that would make the need to use force, or the potential for violent outcomes, less likely, and if the delay causes no danger to the individual posing the threat or to others.²¹ Training law enforcement officials, equipping them with adequate protective equipment and an appropriate range of less-lethal weapons, and making these officials available are essential precautionary measures if unnecessary or excessive harm is to be prevented.

¹⁹ UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, p. 17.

²⁰ European Court of Human Rights, *McCann and others v. United Kingdom*, Judgment, 27 September 1995, para. 194; Inter-American Court of Human Rights, *Nadege Dorzema and others v. Dominican Republic*, Judgment, 24 October 2012, para. 87; Principle 5(b), 1990 Basic Principles; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 63; African Commission on Human and Peoples' Rights, General Comment on the Right to Life, 2015, para. 27.

²¹ European Court of Human Rights, *Shchiborshch and Kuzmina v. Russia*, Judgment, 16 January 2014, para. 240.

- 2.7 Law enforcement policies, instructions and operations must give special consideration to those who are particularly vulnerable to the harmful consequences of the use of force in general and to the effects of specific less-lethal weapons; such persons include children, pregnant women, the elderly, persons with disabilities, persons with mental health problems and persons under the influence of drugs or alcohol.

NECESSITY

- 2.8 In carrying out their duty, law enforcement officials may use force only when strictly necessary and only to the extent required for the performance of their duty. In other words, law enforcement officials should use force only when, in the circumstances, it is absolutely necessary in order to achieve a lawful and legitimate law enforcement objective.²²
- 2.9 The principle of necessity requires that, to achieve a legitimate law enforcement objective, no reasonable alternative appears available at that moment other than resorting to the use of force.²³ In particular, law enforcement officers must seek to de-escalate situations, including by seeking a peaceful resolution to a dangerous situation whenever possible. Depending on the circumstances, unnecessary or excessive use of force may even amount to torture or ill-treatment.²⁴ When the use of force is reasonably necessary in the circumstances, only the minimum force required to achieve that objective shall be used. The use of force must cease as soon as it is no longer necessary.²⁵

PROPORTIONALITY

- 2.10 The type and level of the force used and the harm that may reasonably be expected to result from it shall be proportionate to the threat posed by an individual or group of individuals or to the offence that an individual or group

²² Basic Principles, principle 4; Code of Conduct, article 3.

²³ 1990 Basic Principles, principle 4; Code of Conduct, article 3 and Commentary (a).

²⁴ UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, p. 17.

²⁵ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 60; Code of Conduct, Commentary (a) on article 3.

is committing or is about to commit.²⁶ In no case should the force used be excessive in relation to the legitimate objective to be achieved.²⁷ For example, force that is likely to result in moderate or severe injury – including when applied by less-lethal weapons – may not be used simply to obtain compliance with an order by a person who is only passively resisting. At all times, law enforcement officials should consider and minimize the possible incidental impact of their use of force on bystanders, passers-by, medical personnel and journalists. They shall not direct force against such persons, and any incidental impact must be strictly proportionate to the legitimate objective to be achieved.

NON-DISCRIMINATION

2.11 In performing their duties law enforcement officials shall not discriminate against any person on the basis of race, ethnicity, colour, sex, sexual orientation, language, religion, political or other opinion, national or social origin, disability, property or birth, or other similar criteria.²⁸ In order to ensure non-discrimination and de facto equal treatment of persons subject to the use of force, a heightened level of care and precaution shall be exercised with respect to individuals who are known or are likely to be especially vulnerable to the effects of a particular weapon.²⁹ Monitoring the use of force, including with reference to appropriate information about those against whom force is used, is a critical element in efforts to ensure that force is not used in a discriminatory manner.

²⁶ UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, p. 18; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 66; Basic Principles, principle 5(a); Code of Conduct, Commentary (b) on article 3.

²⁷ Code of Conduct, Commentary (b) on article 3.

²⁸ Code of Conduct, article 2. The principle of non-discrimination is considered customary international law. It is also provided for in the Charter of the United Nations, the Universal Declaration of Human Rights and all core human rights instruments, as in article 2(1) of the International Covenant on Civil and Political Rights.

²⁹ For example, in the United Kingdom, in the case of conducted electrical weapons, the Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons advises that “individuals with heart disease, or who have taken certain prescription or recreational drugs, may be more likely to experience adverse cardiac effects as a result of Taser discharge”. Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons, “Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults”, 2012, para. 77.

3. ACCOUNTABILITY

- 3.1 Under international human rights law and international principles on the use of force, States are under an obligation to ensure that law enforcement officials are held accountable for their actions, including any decision to use force. As law enforcement officials are required to protect the public, in certain circumstances States are also obliged to hold them accountable for omissions.³⁰ To ensure effective accountability, law enforcement agencies shall establish sufficiently independent and effective internal accountability mechanisms, and States should consider the establishment of an adequately resourced external oversight body, in the absence of which an ombudsman or national human rights institution should fulfil this external oversight function.³¹
- 3.2 Effective accountability for law enforcement officials involves many different actors: government representatives, parliament, the judiciary, civil society actors and independent oversight bodies, including national human rights institutions or ombudspersons' offices. Primarily, however, it concerns the police and other law enforcement agencies themselves.³² Members of the Government and other political authorities should promote a culture of accountability for law enforcement and must be held responsible if they encourage or enable unlawful behaviour. States' domestic law must comply with international law in regulating and controlling the actions of private security companies operating on or from their territory.

³⁰ See for example European Court of Human Rights, *Tagayeva v. Russia*, Judgment (First Section), 13 April 2017; "Police officers jailed over Bijan Ebrahimi murder case", *The Guardian*, 9 February 2016.

³¹ African Commission on Human and Peoples' Rights, *Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa*, Banjul, 2017, para. 8.1.

³² UNODC, *Handbook on Police Accountability, Oversight and Integrity*, Criminal Justice Handbook Series, Vienna, July 2011.

- 3.3 Monitoring, reporting and transparency are essential components of accountability. Law enforcement officials should be identifiable, for example by wearing nametags or individually assigned service numbers. All weapons³³ (and, where feasible, ammunition, munitions, batons and projectiles) should be uniquely marked. Accountability is further facilitated by keeping a record of the equipping of law enforcement officials with less-lethal weapons, combined with the prompt, comprehensive reporting of incidents where officials have used force.³⁴ In this regard, States should consider requiring all law enforcement agencies to document every use of force involving less-lethal weapons or related equipment.
- 3.4 In the event of injury, a report should contain sufficient information to establish whether the use of force was necessary and proportionate, and should set out the details of the incident, including the circumstances; the characteristics of the victim; the measures taken to avoid the use of force and to de-escalate the situation; the type and manner of force employed, including specific weaponry; the reasons for the use of force, and its effectiveness; and the consequences. The report should conclude whether the use of force was lawful and, in any event, should identify any lessons learned from the incident.
- 3.5 Where death or injury is caused by the use of a less-lethal weapon or related equipment by a law enforcement official, the incident shall be reported promptly to the official's superiors.³⁵ This obligation also applies to any private security company undertaking law enforcement activities. All deaths and injuries resulting from the use of less-lethal weapons or related equipment — and not only where they result from an apparently or potentially unlawful use of force or a breach of the present *Guidance* — should be reported without delay to a judicial or other competent authority. This independent authority

³³ According to article 8 (1) of the 2001 Firearms Protocol, for example, each State party is required, at the time of manufacture of each firearm, to require “unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number”, or any alternative marking “with simple geometric symbols in combination with a numeric and/or alphanumeric code” that permits “ready identification by all States of the country of manufacture”.

³⁴ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials* (forthcoming), chap. 5.

³⁵ Basic Principles, principles 6 and 22, 1990. Principle 22 further provides that, in cases of death or serious injury, or other grave consequences, a detailed report shall be sent promptly to the competent authorities responsible for administrative review and judicial control.

shall be mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases.

- 3.6 The use of force in a custodial setting should be reported immediately to the director of the institution or to an individual of equivalent authority, as appropriate.³⁶ Regardless of the opening of any internal investigation, the prison director shall report to a judicial or other competent authority, without delay, any custodial death, disappearance or serious injury or any incident in which there are reasonable grounds to believe that torture or other cruel, inhuman or degrading treatment or punishment has been committed. This authority shall be independent of the prison administration and mandated to conduct prompt, impartial and effective investigations into the circumstances and causes of such cases.³⁷
- 3.7 Every law enforcement official is responsible for his or her decisions and actions, including a commander. Each use of force must be justified and justifiable.³⁸ Obedience to a manifestly unlawful order from a superior to use force does not excuse any illegal act.³⁹ Governments and law enforcement agencies shall ensure that no criminal or disciplinary sanction is imposed on a law enforcement official who refuses to carry out an illegal order to use a less-lethal weapon or who reports such illegal orders or such use of force by other officials.⁴⁰
- 3.8 Under international human rights law, there is an obligation on the State to investigate all alleged or suspected violations of human rights, in particular the rights to life, and security, and to freedom from torture or other forms of

³⁶ Rule 54 (1), United Nations Standard Minimum Rules for the Treatment of Prisoners (“the Nelson Mandela Rules”), adopted without a vote by the General Assembly in its resolution 70/175 on 17 December 2015.

³⁷ Nelson Mandela Rules, rule 71 (1).

³⁸ See for example US Court of Appeals (Fourth Circuit), *Meyers v. Baltimore County*, 713 F.3d 723 (2013), pp. 733–34; and UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, pp. 12, 16 and 78.

³⁹ Basic Principles, principle 26; European Court of Human Rights, *Gäfgen v. Germany*, Judgment, 1 June 2010, paras. 176, 177.

⁴⁰ Basic Principles, principle 25.

cruel, inhuman or degrading treatment or punishment.⁴¹ Such investigations shall be impartial, independent and effective, and shall be conducted in a prompt and transparent manner. All law enforcement officials shall cooperate fully with any such investigation, and investigators shall be able to compel the production of evidence. Such investigative powers should be given to independent police oversight mechanisms which strengthen the accountability of law enforcement agencies and officials. Medical professionals involved in any investigation shall act in accordance with professional ethics, including the duty to act impartially with a view to facilitating justice.

- 3.9 When law enforcement officials deprive an individual of liberty, for instance by detaining that person or placing him or her in custody, they assume a greater responsibility to protect that individual's rights, in particular the rights to life and to physical integrity. Where a person dies in custody, including as a result of the use of less-lethal weapons, there is a presumption of responsibility of the State, and the burden of proof rests upon the State to prove otherwise. In any event, a prompt, impartial, independent, effective and transparent investigation must be carried out by an independent body.⁴²
- 3.10 Where an investigation into the use of force by law enforcement officials reveals evidence that a death or injury may have been caused unlawfully, the State should ensure that perpetrators are prosecuted through a judicial process and, if convicted, given appropriate punishment.⁴³ Punishment for the unlawful use of force by law enforcement officials shall be effective, proportionate and dissuasive. Where domestic or international law or an administrative regulation is violated, retraining or requalification may be required in addition to any criminal law or disciplinary sanction or any civil law penalty that may be imposed on the law enforcement officials responsible.

⁴¹ See generally the *Minnesota Protocol on the Investigation of Potentially Unlawful Death* (2016), OHCHR, Geneva, 2017.

⁴² *Minnesota Protocol on the Investigation of Potentially Unlawful Death*, para. 17.

⁴³ *Ibid.*, para. 8 (c).

- 3.11 States should ensure, including through an internal periodic review, that lessons learned from situations where the exercise of human rights has been negatively affected by the use of less-lethal weapons or related equipment are fully reflected in policies, procedures and training.⁴⁴
- 3.12 Victims of the unlawful use of force by law enforcement officials shall have the right to an effective remedy.⁴⁵ Forms of remedy include compensation, guarantees of non-repetition, rehabilitation, reparation, restitution and satisfaction. The right of victims to participate in any investigation should be respected.
- 3.13 Accountability for the unlawful use of force by law enforcement officials is supported by United Nations human rights mechanisms, such as the treaty bodies and the special procedures of the Human Rights Council. In the absence of State compliance, accountability may be ensured or promoted by international judicial mechanisms, such as regional human rights courts or international criminal tribunals, and, in exceptional circumstances, by the International Criminal Court. Accountability for the unlawful use of force in law enforcement contexts has also been promoted by international commissions of inquiry and fact-finding missions, and in country and thematic reports of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

⁴⁴ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 19.

⁴⁵ Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the General Assembly in its resolution 60/147 on 16 December 2005; Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 15.

4. GENERAL CONSIDERATIONS PERTAINING TO LESS-LETHAL WEAPONS AND RELATED EQUIPMENT

4.1 DESIGN AND PRODUCTION

- 4.1.1 Less-lethal weapons and related equipment intended for use in law enforcement shall be designed and produced to meet legitimate law enforcement objectives and to comply with international human rights law. This duty applies to the State and its agents, and also to companies that manufacture weapons for law enforcement.⁴⁶
- 4.1.2 Public and private manufacturers of less-lethal weapons and related equipment should bring specific risks to the attention of the purchaser and/or user and to that of the public at large. States, law enforcement agencies and manufacturers should be transparent about the technical specifications of weapons in use, while respecting manufacturers' intellectual property rights. At a minimum, all material safety data sheets should be provided by the manufacturers for the purchaser and/or user. Publicly available data should include each weapon's design features and parameters⁴⁷ with a view to facilitating medical treatment and public acceptance. Manufacturers should also identify and release all medical studies and the names of the experts who have contributed to safety analyses, indicating those who have received compensation for promoting their products.
- 4.1.3 The nature of law enforcement places special constraints on the extent to which force may be delivered remotely.⁴⁸ Among other reasons, this is because distance is likely to reduce substantially the potential for assessing a situation that requires a law enforcement intervention (such as the arrest of a criminal suspect), and then for resolving it peacefully. In any event, an appropriate measure of human control over the use of force in law enforcement should be ensured. This has significant implications for the design of less-lethal weapons and related equipment.

⁴⁶ See for example *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, OHCHR, Geneva/New York, 2011.

⁴⁷ In the case of a chemical irritant, for example, this would encompass its strength and the type of solvent used.

⁴⁸ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/69/265), paras. 77–89.

4.2 LEGAL REVIEW, TESTING AND PROCUREMENT

- 4.2.1 States shall ensure that, prior to the procurement of, and equipping of law enforcement officials with, less-lethal weapons or items of related equipment, a legal review is conducted to determine whether this would, in some or all circumstances, be prohibited by any rule of international or domestic law, in particular human rights law.⁴⁹
- 4.2.2 As part of the legal review, testing should be conducted independently of the manufacturer and in accordance with recognized standards. Testing should take into full account both the required and the potential capabilities and effects of the weapons, and should be based on impartial legal, technical, medical and scientific expertise and evidence.⁵⁰ Testing should evaluate the effects of all reasonably likely or expected uses of the weapons. Particular consideration should be given to assessing the potential effects of using less-lethal weapons and related equipment against individuals who may be especially vulnerable.⁵¹
- 4.2.3 Less-lethal weapons and related equipment whose designated, expected or intended use does not comply with the rules governing law enforcement, or which presents undue risk of loss of life or serious injury to anyone, including criminal suspects, bystanders or law enforcement officials themselves, shall not be authorized for procurement, deployment or use.

⁴⁹ Human Rights Council resolution 38/11, para. 16. See also article 36, Additional Protocol I to the 1949 Geneva Conventions; African Commission on Human and Peoples' Rights, General Comment on the Right to Life, para. 30.

⁵⁰ Human Rights Council resolution 25/38, para. 15. See also the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on extra-custodial use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (A/72/178); and UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*.

⁵¹ See for example Taser International, "TASER® Handheld CEW Warnings, Instructions, and Information: Law Enforcement", 1 March 2013, p. 3; and Environmental Defender's Office (ACT) (Australia), *The Risks of Use of Capsicum Spray and Pain Compliance Techniques against Public Gatherings, Police Powers of Crowd Control*, Submission to ACT Legislative Assembly Legal Affairs Committee Inquiry, June 2005.

4.2.4 Less-lethal weapons and related equipment that deliver force by remote control, automatically or autonomously,⁵² should be authorized only if, in the context of their intended or ordinary use, it can be ensured that such use would comply with domestic law and international law, in particular international human rights law.

4.3 MONITORING

4.3.1 States and law enforcement agencies shall monitor the use and effects of all the less-lethal weapons and related equipment they procure, deploy and use for law enforcement purposes.

4.3.2 Monitoring should include contextual information about the circumstances of use. Relevant data on those against whom force is used should, to the extent possible, be disaggregated, for example by age, sex/gender, disability (where that exists) and ethnic group. The results of monitoring should be made public in accordance with the transparency requirements set out below. This should include publicly available national statistics on deaths and serious injuries relating to different categories of less-lethal weapons.

4.3.3 Monitoring should include spot checks on less-lethal weapons and related equipment. The use of body-worn cameras (or other suitable recording equipment) when less-lethal weapons are used should also be considered.

4.3.4 Data analysis should inform on improvements made to training, guidance, deployment and policy, as and where necessary.

4.3.5 States and law enforcement agencies should cooperate with the monitoring of the use and effects of all less-lethal weapons and related equipment by external monitoring bodies, such as national human rights institutions and independent police complaint mechanisms, as well as international

⁵² According to the Human Rights Committee, “the development of autonomous weapon systems lacking in human compassion and judgement raises difficult legal and ethical questions concerning the right to life, including questions relating to legal responsibility for their use”. The Committee believes that such weapon systems should not be developed or put into operation unless it has been established that their use conforms to article 6 of the International Covenant on Civil and Political Rights and other norms of international law. See Human Rights Committee, general comment No. 36 (2019) on the right to life, para. 65.

organizations and civil society organizations. The results of such monitoring should be considered during training and when updating internal policies or guidance.

4.4 TRANSPARENCY

- 4.4.1 States and law enforcement agencies should be transparent about their regulation of the use of less-lethal weapons and related equipment and the policies on and criteria for their lawful use. This transparency should include information on the risks resulting from the use of such weapons or equipment. Where manufacturers provide guidance on the risks associated with the use of their less-lethal weapons, this should also be subject to such transparency requirements. Wherever it is possible to do so, States should consider consulting the public prior to the procurement of new types of less-lethal weapons, and law enforcement agencies should be transparent about the types of weapons at their disposal.
- 4.4.2 The anonymity of law enforcement officials and/or victims may be preserved where necessary and appropriate. Where legitimate limitations are imposed on the detail included in transparency measures, such limitations should not be used as a justification for suppressing the publication of aggregate data.
- 4.4.3 Relevant data and information should also be shared within law enforcement communities, including at the regional and international levels.

4.5 TRAINING

- 4.5.1 Law enforcement officials shall be trained in the lawful use of force. This should include training on the applicable human rights principles and standards; on how to avoid the use of force, including through de-escalation techniques, mediation and effective communication; on how less-lethal weapons may offer a safer and effective alternative to firearms; and on which individuals or groups may be especially vulnerable to the use of certain less-lethal weapons.⁵³ Training should be both scenario-based and theoretical in nature,

⁵³ See African Commission on Human and Peoples' Rights, General Comment on the Right to Life, para. 30.

and include the management of stress in use-of-force situations. Training should be institutionalized by law enforcement agencies and, where external assistance is offered, it should not be provided solely by the manufacturer of a particular weapon. Training programmes should be reviewed continuously, to incorporate lessons learned during operations and to ensure that they reflect all relevant policies and updated internal regulations.⁵⁴ Moreover, States should consider inviting technical support from relevant international organizations and law enforcement agencies from other countries.

4.5.2 Law enforcement officials shall receive appropriate initial and refresher training in the use and effects of any less-lethal weapons with which they have been equipped or deployed. The training should be to a high standard, and trainees should be authorized to carry and use only those weapons in which they have been trained successfully. Command and supervisory officials should also receive ongoing training on their obligations, arising from their command functions, in areas relating to the use of force.⁵⁵

4.5.3 Training should include information on the particular vulnerabilities of certain individuals to the effects of a particular weapon, and on how to identify especially vulnerable individuals.⁵⁶ Trainees shall be made aware not only of the primary risk of injury arising from use of any less-lethal weapons with which they may be equipped but also of the secondary injuries that may result (for example, if a person against whom the weapon is used falls from an elevated position or onto a hard surface). These effects and risks should also be reflected in standard operating procedures.

4.5.4 In accordance with the human rights principle of precaution, appropriate emergency first-aid training shall be provided for all law enforcement officials to enable them to respond effectively to the injuries or other impact that may result from the use of the weapons with which they are equipped.

⁵⁴ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 5; and OSCE/ODIHR and Council of Europe, *Guidelines on Freedom of Peaceful Assembly*, para. 178.

⁵⁵ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 5.

⁵⁶ Basic Principles, principles 19 and 20. See also the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 106.

Law enforcement officials shall be made aware of the potentially injurious effects of the weapons they are authorized to use, and shall be specifically trained in dealing with those consequences. Training shall also address the requirements for specialist medical attention (including those of vulnerable individuals) and the need to gather data to assess how weapons are used, their effectiveness, and safety issues.

4.6 MEDICAL ASSISTANCE

- 4.6.1 Medical assistance shall be rendered to any injured or affected person at the earliest possible moment.⁵⁷ The duty to assist applies without discrimination of any kind. Thus, assistance shall be duly provided, irrespective of whether the injured person is a suspected offender. Distinctions with regard to the medical assistance provided are justifiable only on medical grounds, such as the urgency of medical needs. Access to medical assistance should therefore be provided on the basis of the severity of the injury.
- 4.6.2 Where feasible, appropriate first-aid equipment should routinely be accessible to law enforcement officials (for example, in police vehicles and during assemblies). In any event, access to ambulances shall not be arbitrarily withheld from any injured or affected person.
- 4.6.3 Law enforcement officials shall at all times facilitate and cooperate with those providing medical assistance, including by making available pertinent information relating to the less-lethal weapon or related equipment that has been used.⁵⁸ This duty applies to interactions with medical professionals rendering assistance in their official capacity and to other health-care workers with appropriate skills.

⁵⁷ Basic Principles, principle 5 (c).

⁵⁸ See for example European Court of Human Rights, *Lipencov v. Moldova*, Judgment, 25 January 2011, para. 38; and *Jasinskis v. Latvia*, Judgment, 21 December 2010, paras. 56–68.

4.7 TRANSFER

- 4.7.1 States shall regulate all transfers, including export and import, of less-lethal weapons and related equipment in accordance with their international obligations.⁵⁹ They should put in place risk assessment procedures to ensure, prior to the authorization of a transfer, that such items are not used to commit or facilitate serious violations of international humanitarian law or violations of the rights to life, to physical integrity, to freedom of peaceful assembly or to fair trial, or of other due process guarantees or other human rights.⁶⁰
- 4.7.2 Less-lethal weapons and related equipment whose designated, expected or intended use is tantamount to torture or another form of cruel, inhuman or degrading treatment or punishment shall never be transferred.⁶¹
- 4.7.3 Less-lethal weapons or related equipment that present an undue risk of injury or loss of life following designated, expected or intended use – taking into account also the human rights record of the recipient State – shall not be transferred.

4.8 INTERNATIONAL COOPERATION AND ASSISTANCE

- 4.8.1 States in a position to do so should consider responding positively to requests for international cooperation and assistance in the supply of appropriate less-lethal weapons and related equipment (including personal protective equipment). States that receive less-lethal weapons and related equipment should consider requesting training on their lawful use.
- 4.8.2 As a matter of good practice, the provision of assistance should be accompanied by support for training in the appropriate use of the less-lethal weapons and related equipment, and on how to mitigate any negative consequences associated with their use.

⁵⁹ Such obligations may result, inter alia, from their adherence to the Arms Trade Treaty (2013), under international human rights law, from their membership of regional organizations, or as a result of their adherence to relevant regional treaties.

⁶⁰ See Arms Trade Treaty, article 7.

⁶¹ See for example Omega Research Foundation and Amnesty International, *Ending the Trade in the Tools of Torture: Five Key Principles*, United Kingdom, 2017 (available at <https://bit.ly/2IAADPH>). The same applies to any of the weapons mentioned in section 5.1 below.

5. UNLAWFUL WEAPONS AND RELATED EQUIPMENT

The following are weapons and related equipment that violate international human rights law. The list is not exhaustive.

5.1 UNLAWFUL WEAPONS

The use of the following weapons is widely considered to violate international human rights law. They should not be used in law enforcement:

- Spiked batons⁶²
- Lasers designed to cause permanent blindness⁶³
- Directed energy weapons liable to cause serious injury⁶⁴

5.2 UNLAWFUL RELATED EQUIPMENT

The following equipment is inherently degrading or unnecessarily painful and should not be used in law enforcement:

- Metal chains (shackles)
- Leg or wrist irons⁶⁵
- Thumbscrews or thumbcuffs
- Spiked or electrified instruments of restraint
- Weighted instruments of restraint

⁶² See for example European Parliament and Council Regulation No. 2019/125 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, 16 January 2019.

⁶³ Protocol on Blinding Laser Weapons (Protocol IV to the 1980 Convention on Certain Conventional Weapons).

⁶⁴ See for example Jürgen Altmann, "Millimetre waves, lasers, acoustics for non-lethal weapons? Physics analyses and inferences", *Forschung Deutsche Stiftung Friedensforschung* (DSF) No. 16, Osnabrück, Germany (available at <http://bit.ly/2sDlmlc>).

⁶⁵ Nelson Mandela Rules, rule 47 (1).

6. USE OF FORCE IN SPECIFIC SITUATIONS

6.1 DURING ARREST

- 6.1.1 Force is often used by law enforcement officials during the course of an arrest. Force should be used only when it is necessary. The force used in the course of an arrest should be proportionate to the objective sought and the resistance faced. Arrest shall be carried out only for a legitimate law enforcement objective. In the case of a person fleeing arrest, particular attention must be given to the principle of proportionality; the degree of force used to prevent the escape must be balanced against the seriousness of the threat posed by the person fleeing.⁶⁶ Once the need for force has passed, no further force is lawful. Arrest and detention shall never be used to justify the excessive, abusive or punitive use of force or any form of cruel, inhuman or degrading treatment or punishment.
- 6.1.2 The use of a law enforcement official's body (in particular, hands or arms) and instruments of restraint, such as handcuffs, is not covered by the present *Guidance*. The general principles on the use of force that apply to less-lethal weapons and related equipment apply to these means also.
- 6.1.3 Any police dogs present during an arrest shall be properly trained. They should be under the effective control of their handlers at all times, including when they are not on a leash.⁶⁷ Police dogs may cause serious injuries to a victim. There is also a risk of secondary infection from dog bites.⁶⁸

⁶⁶ See for example European Court of Human Rights, *Nachova and others v. Bulgaria*, Judgment, 6 July 2005, paras. 95, 99; OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 6.

⁶⁷ UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, p. 84.

⁶⁸ See for example P.C. Meade, "Police and domestic dog bite injuries: What are the differences? What are the implications about police dog use?", *Injury Extra*, vol. 37, No. 11 (November 2006), pp. 395–401.

6.1.4 Disorientation or distraction devices, such as pyrotechnic flash-bang grenades, are designed to give a warning or to help facilitate a safe arrest, especially in the course of high-risk operations. The use of pyrotechnic flash-bang grenades directly against a person would be unlawful as it could cause serious burn or blast injuries and, in certain cases, there could even be a risk of fragmentation.

6.2 IN CUSTODIAL SETTINGS

6.2.1 Individuals in custodial settings are especially vulnerable to injury from less-lethal weapons.⁶⁹ In accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), all detainees shall be treated with the respect due to their inherent dignity and value as human beings.⁷⁰ No detainee shall be subjected to and all detainees shall be protected from torture or other forms of cruel, inhuman or degrading treatment or punishment. No circumstances whatsoever may be invoked as a justification for such treatment or punishment. The safety and security of detainees, staff and visitors shall be ensured at all times.⁷¹

6.2.2 Regulations for custodial settings should clearly state which less-lethal weapons and related equipment are authorized for use, by whom, and what types of force may be used. They should establish rules and procedures for use that comply with international standards. Law enforcement officials shall be prohibited from carrying personal weapons in custodial settings. Persons in custody should have access to applicable regulations governing the use of force.

6.2.3 Custodial staff shall not use force against persons in custody, except as a last resort, and only in cases involving self-defence, attempted escape or active/passive physical resistance to an order based on law or regulations.⁷² In any event, the force used shall be proportionate to the threat posed by the

⁶⁹ See for example E. Hoffberger-Pippan, "Non-Lethal Weapons and International Law: A Three-Dimensional Perspective", PhD Thesis, Johannes Kepler University, Linz, Austria, 2019, §III (A)(2).

⁷⁰ See also International Covenant on Civil and Political Rights, article 10.

⁷¹ Nelson Mandela Rules, rule 1.

⁷² *Ibid*, rule 82 (1). See also United Nations Rules for the Protection of Juveniles Deprived of their Liberty, adopted by the General Assembly in its resolution 45/113 on 14 December 1990, annex, para. 65.

person against whom force is used and to the legitimate objective sought. Proportionate force may also be used, where necessary, to protect a detainee, including where he or she is self-harming.

6.3 DURING ASSEMBLIES (PUBLIC ORDER MANAGEMENT)

- 6.3.1 Law enforcement officials should respect and protect the right of peaceful assembly, without discrimination and in accordance with international law.⁷³ The fundamental human rights of participants shall be respected and protected, even if an assembly is considered unlawful by the authorities.⁷⁴ Appropriate de-escalation techniques should be used to minimize the risk of violence. Law enforcement officials should recall that heavy displays of less-lethal equipment may escalate tensions during assemblies. Where force is proportionate and is necessary to achieve a legitimate law enforcement objective, all possible precautionary steps shall be taken to avoid, or at least minimize, the risk of injury or death.⁷⁵
- 6.3.2 In an assembly in which certain individuals are behaving violently, law enforcement officials have a duty to distinguish between those individuals and other assembly participants,⁷⁶ whose individual right to peaceful assembly should be unaffected. If it is decided that less-lethal weapons are an appropriate means of addressing individual acts of violence, due care should be given to the likely proximity of third parties and bystanders.
- 6.3.3 The use of less-lethal weapons to disperse an assembly should be considered a measure of last resort. Before approving dispersal, law enforcement agencies should seek to identify any violent individuals and isolate them from the

⁷³ International Covenant on Civil and Political Rights, article 21; Human Rights Council resolution 25/38, paras. 3–4.

⁷⁴ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), paras. 13–17 and 25.

⁷⁵ *Ibid.*, para. 52. See also Human Rights Council resolution 25/38, para. 9.

⁷⁶ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 9.

other participants. This may enable the main assembly to continue.⁷⁷ If these targeted interventions are ineffective, law enforcement officials may employ weapons that target groups rather than individuals (such as water cannon or tear gas) after having issued an appropriate warning, unless giving the warning would cause a delay that would either risk causing serious injury or, in the circumstances, be futile. In addition, participants in the assembly should be given time to obey the warning and a safe space or route for them to move to shall be ensured.

- 6.3.4 The use of firearms to disperse an assembly is always unlawful. In situations where some force is necessary, only less-lethal weapons may be used. In such situations, less-lethal weapons that can be individually aimed shall target only individuals engaged in acts of violence. Weapons such as chemical irritants dispersed at a distance (tear gas) should be targeted at groups of violent individuals unless it is lawful in the circumstances to disperse the entire assembly. Such use should accord due consideration to the impact on other non-violent participants or bystanders. In addition, when the use of any less-lethal weapons or related equipment against assembly participants is envisaged, due attention should be paid to the potential for panic in a crowd, including the risk of a stampede. Only weapons that meet international standards of accuracy may be used.
- 6.3.5 Physical barriers should never be such as to pose a risk to safety. Barbed wire, razor wire or other spiked barriers typically create an undue risk of injury to participants in an assembly. Where a barrier is needed, safer alternatives should be employed.
- 6.3.6 Medical personnel, whether they are acting officially or as volunteers, should be provided with safe access to attend to any injured individuals.

⁷⁷ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), para. 52. See also Human Rights Council resolution 25/38, para. 9.

7. USE OF SPECIFIC LESS-LETHAL WEAPONS AND RELATED EQUIPMENT

This section describes key issues and particular considerations with respect to the use of certain less-lethal weapons. The list of less-lethal weapons here is not exhaustive, but it includes those most commonly used in contemporary law enforcement. Certain weapons are designed to be used against individuals, while others, less discriminate, are intended for use against groups of individuals. The description of risks or potentially unlawful use is not exhaustive, but rather presents the most common problems associated with a particular type of weapon.

The guidance provided in this section supplements the general principles on the use of force and less-lethal weapons set out above. Where weapons that are likely to kill or seriously injure a person are used, this use of force is subject to the rules laid down in principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

7.1 POLICE BATONS

UTILITY AND DESIGN

7.1.1 The police baton (also called a truncheon or nightstick) is the most common less-lethal weapon with which law enforcement officials are equipped. Police batons are most often made out of wood, rubber, plastic or metal, and are available in a variety of lengths, some up to nearly a metre long. The most widely sold products on the market today are straight batons, side-handle batons (*tonfa*) and telescopic batons.⁷⁸

7.1.2 Batons have many uses in law enforcement, some unrelated to their function as a weapon for use against a person, but are typically used as a less-lethal weapon to enable law enforcement officials to defend themselves against violent assailants or to effect the lawful arrest of a suspect who is resisting violently.

⁷⁸ Omega Foundation, "Police Batons" (unpublished), 2014.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.1.3 Batons are, in general, a weapon designed for use against individuals who are either inflicting or threatening to inflict injury on a law enforcement official or a member of the public. Baton strikes should be targeted against the assailant's arms or legs.

SPECIFIC RISKS

7.1.4 Over-arm baton strikes on bones and joints have a heightened risk of resulting in dislocations, fractures and soft-tissue injuries.⁷⁹ Jabs or driving strikes with a baton at the thorax, neck or head should be avoided because of the risk of injury to and even rupture of vital organs.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.1.5 Officials should avoid baton strikes to sensitive areas of the body, such as the head, neck and throat, spine, kidneys and abdomen. Neck holds using batons should not be employed, as they present an especially high risk of death or serious injury as a result of compression of large blood vessels or the airway. There is also a risk of injury to the larynx, trachea and hyoid bone. Batons shall not be used against a person who is neither engaged in nor threatening violent behaviour; such use is likely to amount to cruel, inhuman or degrading treatment, or even torture.

7.2 HAND-HELD CHEMICAL IRRITANTS

UTILITY AND DESIGN

7.2.1 A range of hand-held chemical irritants (also called lachrymatory agents) exist for use in law enforcement. The most common are pepper spray (also known as oleoresin capsicum, or OC), PAVA and CS spray. Pepper spray contains capsaicin, a chemical extracted from the fruit of certain plants,

⁷⁹ M. Stark (ed.), *Clinical Forensic Medicine: A Physician's Guide*, 2nd ed. (Humana Press, New York, 2005), p. 198.

which is incorporated into liquid and then pressurized to turn it into an aerosol. Sprays come in the form of jets or “fogger” variants, with jets being more discriminating.

7.2.2 Hand-held chemical irritants are used to incapacitate or dissuade a violent assailant or to help effect the lawful arrest of a suspect who is resisting violently.⁸⁰ They are designed to be sprayed in the face of a person from a distance of up to several metres, delivering the active chemical to the eyes, nose and mouth, causing irritation to the eyes, upper respiratory tract and skin.⁸¹ Hand-held sprays come in different sizes, and disperse varying quantities with each use.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.2.3 A chemical irritant should be used only where sufficient toxicological information is available to confirm that it will not cause any unwarranted health problems and when its delivery against a target is accurate. Chemical irritants should only be deployed where a law enforcement official has reason to believe there is an imminent threat of injury.

SPECIFIC RISKS

7.2.4 When chemical irritants are used appropriately, their effects are normally transient, lasting up to approximately three hours.⁸² Exposure to fresh air and treating the eyes with cool water⁸³ typically remedies the effects within one or two hours. Some people, however, have exceptionally severe reactions to irritant spray. Restraining a suspect by placing them in the prone position (i.e., where the person is lying flat with the chest down and back up) should

⁸⁰ Omega Foundation, “Crowd Control Technologies: An Appraisal of Technologies for Political Control”, 2000.

⁸¹ J. McGorrigan and J.J. Payne-James, “Irritant Sprays: Clinical Effects and Management”, Faculty of Forensic and Legal Medicine, United Kingdom, 2017 (available at <http://bit.ly/2R4mfDE>).

⁸² J.J. Payne-James, G. Smith, E. Rivers, S. O’Rourke, M. Stark and N. Sutcliffe, “Effects of incapacitant spray deployed in the restraint and arrest of detainees in the Metropolitan Police Service area, London, UK: a prospective study”, *Forensic Science Medicine and Pathology*, vol. 10, No. 1 (March 2014), pp. 62–68.

⁸³ Hot water will reactivate the irritant.

be avoided after exposure. If an individual suffering from the effects of a chemical irritant is restrained, his or her breathing shall be monitored constantly. Any unexpected or long-lasting effects should be referred for relevant specialist assessment and treatment.

7.2.5 The use of chemical irritants can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear ducts and eyes, spasms, chest pains, dermatitis or allergies. In large doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary oedema and internal bleeding.⁸⁴ There is also the possibility of burns or other injury resulting directly from the solvents if they have not evaporated before contact with skin. There is a particular risk of flammability from the solvent, for instance if a subject is smoking.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.2.6 Irritants that contain carcinogenic substances or hazardous levels of active agents shall not be used. Repeated or prolonged exposure to chemical irritants should be avoided. Some solvents are toxic or flammable, or may cause corneal erosion.⁸⁵

7.2.7 Chemical irritants should not be used in situations of purely passive resistance.⁸⁶ In accordance with the principle of necessity, once a person is already under the control of a law enforcement official, no further use of a chemical irritant will be lawful. Chemical irritants should not be used in closed environments without adequate ventilation or where there is no viable exit, owing to the risk of death or serious injury from asphyxiation.

⁸⁴ European Court of Human Rights, *Abdullah Yaşa and others v. Turkey*, Judgment, 16 July 2013, para. 30.

⁸⁵ See M. Holopainen et al., "Toxic carriers in pepper sprays may cause corneal erosion", *Toxicology and Applied Pharmacology*, No. 186 (2003); and P. Rice, D. Jones and D. Stanton, *A literature review of the solvents suitable for the police CS spray device* (Chemical & Biological Defence Establishment, Salisbury, 1997).

⁸⁶ US Court of Appeals (Ninth Circuit), *Headwaters Forest Defense v. County of Humboldt*, 240 F.3d 1185 (2000), pp. 1205–06.

7.3 CHEMICAL IRRITANTS LAUNCHED AT A DISTANCE (TEAR GAS)

UTILITY AND DESIGN

7.3.1 A range of chemical irritants⁸⁷ can be launched from a distance at groups of individuals engaged in violent acts. The term “tear gas” is used to describe a variety of lachrymatory agents used by police forces in certain countries. The most widely used chemical irritant dispersed at a distance is “CS” (either micronized powder or pyrotechnically generated CS particles), which is typically discharged either in the form of projectiles or from grenades shot from a launcher. Malodorants are also dispersed at a distance.

7.3.2 The aim of using chemical irritants dispersed at a distance is usually to cause the members of the group to disperse and to refrain from violence. In such circumstances, they should be fired at a high angle.⁸⁸

SPECIFIC RISKS

7.3.3 A stampede may result when irritants are used against a crowd in an enclosed area, such as a football stadium.⁸⁹ Tear gas may have indiscriminate effects in open areas because of changes in wind direction. In certain cases, the consequences of using chemical irritants may be

⁸⁷ The term “riot control agent” is employed in the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (Chemical Weapons Convention). Therein these agents are defined broadly as “[a]ny chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure” (article II(7)). Their use is not restricted to a riot, as defined by States under domestic law. In 2014, the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons published the Note by the Technical Secretariat: Declaration of Riot Control Agents: Advice from the Scientific Advisory Board (S/11177/2014) (available at <http://bit.ly/2Dp3CXb>).

⁸⁸ European Court of Human Rights, *Abdullah Yaşa and others v. Turkey*, Judgment, 16 July 2013, paras. 42–49.

⁸⁹ Report of the International Commission of Inquiry mandated to establish the facts and circumstances of the events of 28 September 2009 in Guinea (S/2009/693, annex), para. 62.

lethal,⁹⁰ such as when they are dispersed in confined spaces and result in high levels of exposure. Pyrotechnic projectiles containing chemical irritants may result in death if the round burns near combustible material and causes a fire.

7.3.4 If chemical irritants are deployed behind a group of violent individuals, this may prompt them to move towards law enforcement officials and agencies, thereby increasing the risk of a violent confrontation. Irritants will also affect law enforcement officials if they are not adequately protected from cross-contamination caused by the movement of the irritant cloud/particles.

7.3.5 The use of chemical irritants can temporarily cause breathing difficulties, nausea, vomiting, irritation of the respiratory tract, tear ducts and eyes, spasms, chest pains, dermatitis or allergies. In large doses, it can cause necrosis of the tissue in the respiratory tract and the digestive system, pulmonary oedema and internal bleeding.⁹¹ Repeated or prolonged exposure to chemical irritants should be avoided. Any person who has been exposed to any chemical irritant should be decontaminated as soon as possible.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.3.6 Irritant projectiles should generally not be fired at an individual. In any event, projectiles should not be fired at the head or face, owing to the risk of death or serious injury from impact trauma.⁹²

⁹⁰ Y. Karagama et al., "Short-Term and Long-Term Physical Effects of Exposure to CS Spray", *Journal of the Royal Society of Medicine*, vol. 96, No. 4 (2003), pp. 172–74; M. Crowley, *Chemical Control* (Palgrave, London, 2015), p. 48. See also R.J. Haar et al., "Health impacts of chemical irritants used for crowd control: a systematic review of the injuries and deaths caused by tear gas and pepper spray", *BMC Public Health*, vol. 17 (2017).

⁹¹ European Court of Human Rights, *Abdullah Yaşa and others v. Turkey*, Judgment, 16 July 2013, para. 30.

⁹² European Court of Human Rights, *Ataykaya v. Turkey*, Judgment, 22 July 2014, paras. 56–57.

- 7.3.7 In general, chemical irritants should not be used in confined spaces, such as prison cells,⁹³ where there is no viable exit or adequate ventilation, owing to the risk of death or serious injury from asphyxiation. Low cross-contamination irritants (e.g. PAVA) may be better suited to this application.
- 7.3.8 Chemical irritants that contain hazardous levels of active agents shall not be used. Where an irritant is found to have had long-term negative effects on individuals, it should be determined whether these effects may be prevented through better supervision and training of law enforcement officials or whether the use of the particular type of agent should be discontinued. Associated chemicals (for example, combustion products from pyrotechnic devices) may also have toxic effects. Accordingly, any toxic effects of active or associated chemicals should be assessed and tested. Law enforcement agencies should use irritants with the lowest level of toxicity that is still likely to be effective.

7.4 CONDUCTED ELECTRICAL WEAPONS (“TASERS”) ⁹⁴

UTILITY AND DESIGN

- 7.4.1 Conducted electrical weapons are typically used to deliver pulses of electrical charge that cause the subject’s muscles to contract in an uncoordinated way, thereby preventing purposeful movement. This effect has been termed “neuromuscular incapacitation”. The charge is delivered through metal probes that are fired towards the subject but which remain electrically connected to the device by fine wires. During the period of uncoordinated muscle activity, law enforcement officials are able to intervene to restrain the subject using conventional methods, such as handcuffs. Many models use compressed nitrogen to fire two darts that trail electric cable back to the weapon’s handset. When the darts strike the human body, pulses of high-voltage charge pass down the cable.⁹⁵

⁹³ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 5.

⁹⁴ TASER™ is a market-leading brand of conducted electrical weapon. The term “taser” is sometimes used generically to describe this type of weapon.

⁹⁵ One manufacturer of a conducted electrical weapon claimed that only 1,200 volts enter the victim’s body; see US Court of Appeals (Ninth Circuit), *Bryan v. McPherson*, Opinion (Case No. 08–55622), 28 December 2009, para. 2 and note 4.

7.4.2 Many conducted electrical weapons can also deliver an electric shock when pressed directly against an individual (a use sometimes referred to as “drive-stun mode”), though the effect relies on pain compliance and does not result in neuro-muscular incapacitation.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.4.3 Among other uses, conducted electrical weapons are used by law enforcement officials to incapacitate individuals at a distance posing an imminent threat of injury (to others or to themselves).⁹⁶ In some situations, they offer an alternative to the use of firearms, and in other circumstances, an alternative to other less-lethal weapons that might prove more dangerous either to the law enforcement official or to the individual being targeted. The use of red-dotting or arcing, or the simple aiming of a conducted electrical weapon, may achieve a legitimate law enforcement objective without the need to discharge the weapon.

7.4.4 To prevent a prolonged charge from being applied to a suspect, every conducted electrical weapon should have an automatic cut-off of the electrical charge. This is often set at no more than five seconds. Currently, not all weapons have an automatic cut-off feature.

SPECIFIC RISKS

7.4.5 The risks caused by the discharge of a conducted electrical weapon include primary injury from the electrical charge or the barbs imbedded in the skin.⁹⁷ Elderly people may be more prone than others to musculoskeletal injury from the muscle contractions produced by the weapon.⁹⁸ Conducted electrical weapons should not be used against persons in elevated positions owing to

⁹⁶ US Court of Appeals (Fourth Circuit), *Armstrong v. Village of Pinehurst*, Judgment, 11 January 2016, pp. 19, 21.

⁹⁷ J. Payne-James and B. Sheridan, “TASER® Clinical Effects and Management of those subjected to TASER® Discharge”, Faculty of Forensic and Legal Medicine, United Kingdom, 2017 (available at <https://bit.ly/2EXzCmV>).

⁹⁸ Defence Scientific Advisory Council Sub-committee on the Medical Implications of Less-lethal Weapons (DOMILL), Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults, United Kingdom, 2012 (available at <http://bit.ly/2AYRieJ>).

the risk of a secondary injury, especially to the head; such injuries can be sustained in particular as a result of falling to the ground from a height or onto a hard surface, as individuals who have received an electrical charge will typically be physically incapable of using their hands to break a fall.

7.4.6 The risk of significant injury or even death is increased in certain conditions, including where the individuals who have been electrically shocked have heart disease; have taken certain prescription or recreational drugs, or alcohol, or both; or are for other reasons more susceptible to adverse cardiac effects. TASER™ guidance recommends that, when possible, users should avoid targeting the frontal chest area near the heart, in order to reduce the risk of potentially serious injury or death.⁹⁹ Children and slender adults may be at greater risk of internal injury from tissue-penetrating barbs, as their body wall is generally less thick.¹⁰⁰ The discharge of a conducted electrical weapon may trigger seizures in those affected by epilepsy, irrespective of barb location.¹⁰¹ Law enforcement officials should also avoid using conducted electrical weapons against genitals or other sensitive body areas.

7.4.7 Certain types of aggressive behaviour that may lead law enforcement officers to use conducted energy devices can be caused by mental health issues, language barriers, hearing disorders, visual impairment, neurodevelopmental or neurobehavioural disorders or learning difficulties.¹⁰² Law enforcement agencies should ensure that those working in situations where they are likely to encounter persons with pre-existing vulnerabilities have had detailed guidance and training in identifying such risks, and that they possess the knowledge, ability and tools necessary

⁹⁹ "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement", 19 May 2017, p. 5.

¹⁰⁰ See Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons (DOMILL), *Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults*, United Kingdom, 2012.

¹⁰¹ *Ibid.*

¹⁰² Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons, *Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults*, para. 85.

to understand, and if possible de-escalate, violent situations that could trigger the use of conducted energy weapons.¹⁰³

- 7.4.8 The use of conducted electrical weapons in the presence of flammable liquid or explosive vapour may result in fire or deflagration, or even an explosion.¹⁰⁴ Some irritant spray solvents may be flammable, and the solvent may be ignited by the arc discharge from a conducted electrical weapon.
- 7.4.9 The use of conducted electrical weapons against an individual to prevent or limit self-harming behaviour must be justifiable in the circumstances.
- 7.4.10 Even when drive-stun use of conducted electrical weapons is lawful, it may not be effective on persons with serious mental health issues or on others who may not respond to pain, for example owing to a mind-body disconnect. In such instances, there is a heightened risk of serious injury.¹⁰⁵

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

- 7.4.11 Conducted electrical weapons should not be used with a view to overcoming purely passive resistance to an official's instructions through the infliction of pain.¹⁰⁶ Repeated, prolonged or continuous discharge should be avoided whenever possible.¹⁰⁷

¹⁰³ OHCHR, *Human Rights and Law Enforcement: A Manual on Human Rights Training for Law Enforcement Officials*, chap. 5.

¹⁰⁴ Scientific Advisory Committee on the Medical Implications of Less-Lethal Weapons (SACMILL), "Statement on the Medical Implications of Use of the TASER X2 Conducted Energy Device System", 2016 (available at <https://bit.ly/2KjxHMU>).

¹⁰⁵ US Department of Justice, *Investigation of the Baltimore City Police Department*, 10 August 2016, p. 62; and see also Police Executive Research Forum (PERF) & Community Oriented Policing Services (COPS), *2011 Electronic Control Weapon Guidelines*, United States, 2011 (available at <https://bit.ly/2MzSFUj>), p. 14.

¹⁰⁶ US Department of Justice (Civil Rights Division), *Investigation of the Ferguson Police Department*, Washington DC, 4 March 2015, p. 28; US Court of Appeals (Eighth Circuit), *Brown v. City of Golden Valley*, 574 F.3d 491, 499 (2009).

¹⁰⁷ "TASER Handheld CEW Warnings, Instructions, and Information: Law Enforcement", p. 5.

7.4.12 The risk of inflicting pain or suffering so severe that it may amount to an element of torture or cruel, inhuman or degrading treatment or punishment is especially high when a weapon is used in drive-stun mode to apply electricity directly to an individual without incapacitating them. Such applications may also raise the individual's level of aggression, as a result of the pain inflicted.¹⁰⁸

7.5 KINETIC IMPACT PROJECTILES

UTILITY AND DESIGN

7.5.1 A range of kinetic impact projectiles are used by law enforcement officials to tackle violent individuals, including as a less-lethal alternative to lethal ammunition discharged by firearms. Various names are used to describe kinetic impact projectiles, such as rubber bullets, plastic bullets, impact rounds, baton rounds or bean bags.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.5.2 Kinetic impact projectiles should generally be used only in direct fire with the aim of striking the lower abdomen or legs of a violent individual and only with a view to addressing an imminent threat of injury to either a law enforcement official or a member of the public.

SPECIFIC RISKS

7.5.3 Targeting the face or head may result in skull fracture and brain injury, damage to the eyes, including permanent blindness, or even death. The firing of kinetic impact projectiles from the air or from an elevated position, such as during an assembly, is likely to increase their risk of striking protesters in the head. Targeting the torso may cause damage to vital organs, and there may be penetration of the body, especially when projectiles are fired at close

¹⁰⁸ See PERF and US Department of Justice, Office of Community Oriented Policing Services, *2011 Electronic Control Weapon Guidelines*, United States, p. 14; and European Court of Human Rights, *Konstantinopoulos and others v. Greece* (No. 2), Judgment, 22 November 2018, paras. 67–82.

range. The calibre and velocity of the projectiles, as well as the materials they are composed of, will also affect the likelihood and seriousness of injury.

7.5.4 Certain projectiles are highly inaccurate.¹⁰⁹ To meet international standards, impact projectiles should be capable of striking an individual to within a 10-centimetre diameter of the targeted point when fired from the designated range. Skip-firing projectiles off the ground causes an unacceptable risk of serious injury due to their inaccuracy.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.5.5 Kinetic impact projectiles should not be fired in automatic mode.

7.5.6 Multiple projectiles fired at the same time are inaccurate and, in general, their use cannot comply with the principles of necessity and proportionality. Metal pellets, such as those fired from shotguns, should never be used.

7.5.7 Kinetic impact projectiles must be tested and authorized to ensure that they are sufficiently accurate to strike a safe area on a human-sized target from the required distance, and without excessive energy, which could cause injury.¹¹⁰

7.5.8 Kinetic impact projectiles should not be targeted at the head, face or neck. Rubber-coated metal bullets are particularly dangerous and should not be used.¹¹¹

¹⁰⁹ A. Mahajna et al., "Blunt and penetrating injuries caused by rubber bullets during the Israeli-Arab conflict in October, 2000: a retrospective study", *The Lancet*, vol. 359, No. 9320 (2000), pp. 1795–1800.

¹¹⁰ Amnesty International and Omega Research Foundation, *The Human Rights Impact of Less Lethal Weapons and Other Law Enforcement Equipment*, p. 138; R.J. Haar and V. Iacopino, *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons*. Network of Civil Liberties Organizations and Physicians for Human Rights, 2016 (available at <http://bit.ly/2FBbxmA>), p. 24.

¹¹¹ The Department of Peacekeeping Operations prohibits the use of rubber bullets by United Nations police personnel, because of the risks of serious injury or even death from their improper use. United Nations, *United Nations Peacekeeping Missions Military Police Manual*, July 2015, para. 3.6.1.

7.6 DAZZLING WEAPONS

UTILITY AND DESIGN

7.6.1 Dazzling weapons are a form of directed energy weapon that use, for example, lasers or light-emitting diodes (LEDs) to achieve their effects. In law enforcement operations, they are used especially against subjects in a moving vehicle. Depending on the model, they can be used to engage targets at distances of up to several kilometres.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.6.2 Dazzling weapons may be useful in high-risk scenarios, such as in counter-terrorism operations, in particular as an alternative to the use of firearms. Given that there are, however, other potentially safer alternative means of stopping a vehicle, dazzling weapons should be used only in exceptional circumstances. In order to ensure that these weapons do not cause blindness, their safety controls should include a mechanism, such as a rangefinder or automatic cut-off, or they should use lower-power light sources.

SPECIFIC RISKS

7.6.3 Dazzling weapons may reversibly impair the functioning of the retina or even cause permanent blindness.¹¹² When used against drivers, the outcome may be that the vehicle being driven is crashed. There may also be particular risks of photosensitive epileptic seizures as a result of strobe lighting. Light scattering by a laser beam, caused by dirt or imperfections in a vehicle's windscreen, may obscure the driver's vision and increase the risk of crashing, even if the driver's eyes are not directly targeted by the beam.

¹¹² See for example International Commission on Non-Ionizing Radiation Protection (ICNIRP), "Guidelines on Limits of Exposure to Laser Radiation of Wavelengths between 180 nm and 1,000 μm ", *Health Physics*, vol. 105, No. 3 (2013), pp. 271–95.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.6.4 Dazzling weapons shall not be used with intent to blind or where permanent blindness is a likely outcome.

7.7 WATER CANNON

UTILITY AND DESIGN

7.7.1 Water cannon are vehicles designed to project water at a variety of pressures and in a variety of forms for the purposes of dispersing groups, protecting property or putting an end to violent behaviour. Chemical irritants, malodorants or other substances that are hazardous to health are sometimes mixed with the water used in water cannon.

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.7.2 In general, water cannon should only be used in situations of serious public disorder where there is a significant likelihood of loss of life, serious injury or the widespread destruction of property. In order to meet the requirements of necessity and proportionality, the deployment of water cannon should be carefully planned and should be managed with rigorous command and control at a senior level.¹¹³

SPECIFIC RISKS

7.7.3 Water cannon should not be used against persons in elevated positions, where there is a risk of significant secondary injury. Other risks include hypothermia and cold-water shock in cold weather (especially if the water is not heated), and the risk of persons slipping or being forced by the jet against walls or other hard objects. Certain water cannon are indiscriminate in their effects, as they are unable to target individuals accurately.

¹¹³ UNODC/OHCHR, *Resource book on the use and force and firearms in law enforcement*, p. 90.

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

7.7.4 Water cannon shall not target a jet of water at an individual or group of persons at short range owing to the risk of causing permanent blindness or secondary injuries if persons are propelled energetically by the water jet. Water cannon shall not be used against restrained persons or persons otherwise unable to move.¹¹⁴

7.8 ACOUSTIC WEAPONS AND EQUIPMENT

UTILITY AND DESIGN

7.8.1 Certain acoustic warning devices are sometimes used as sonic weapons.¹¹⁵

CIRCUMSTANCES OF POTENTIALLY LAWFUL USE

7.8.2 In the maritime environment, acoustic weapons may be used to dissuade potential pirates from continuing an attack; in such situations, the risk of indiscriminate effects caused by acoustic weapons is substantially lower. The warning mode of an acoustic weapon may be useful during an assembly, subject to appropriate testing and avoiding the risks set out below.

SPECIFIC RISKS

7.8.3 A number of serious health risks are associated with the use of acoustic weapons, particularly at close range, at loud volume and/or for excessive lengths of time. Such risks range from temporary pain, eardrum rupture and loss of balance to deafness.¹¹⁶ In order to mitigate risks and prevent injuries, an appropriate decibel limit and a minimum range should be set in advance

¹¹⁴ Ibid.

¹¹⁵ See INCLO and PHR, *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons*, United States, 2015, pp. 70–77; and J. Altmann, “Acoustic Weapons – A Prospective Assessment”, *Science & Global Security*, vol. 9 (2001), pp. 165–234.

¹¹⁶ See for example “Acoustics – Estimation of noise-induced hearing loss”, International Organization for Standardization (ISO) 1999:2013, Standard reviewed in 2018 (available at <http://bit.ly/2MINrNi>).

for all use of warning devices, especially where the device does not have a rangefinder or automatic cut-off mechanism.

- 7.8.4 There is a clear risk of acoustic weapons being indiscriminate in their effects, targeting sections of the crowd instead of focusing on individuals within it.¹¹⁷ This increases the risk that uninvolved persons may be affected.¹¹⁸

CIRCUMSTANCES OF POTENTIALLY UNLAWFUL USE

- 7.8.5 The indiscriminate use of an acoustic weapon against a crowd, or against targeted individuals at a range where the decibel output is likely to cause permanent hearing damage, would be unlawful.¹¹⁹

¹¹⁷ CCLA, *Factum of the Moving Parties*, 2010 (available at <https://bit.ly/2NQucwm>).

¹¹⁸ Evidence of Dr. Harrison in *Canadian Civil Liberties Assn. v. Toronto (City) Police Service* [2010] O.J. No. 2715 2010 ONSC 3525 Court File No. CV-10-404640.

¹¹⁹ NATO, *Non-Lethal Weapons and Future Peace Enforcement Operations RTO Technical Report*, Doc. TR-SAS-040, 2004; see also *Canadian Civil Liberties Assn. v. Toronto (City) Police Service* [2010] O.J. No. 2715 2010 ONSC 3525 Court File No. CV-10-404640p8.

8. DISSEMINATION, REVIEW AND IMPLEMENTATION

- 8.1 The present *Guidance* shall be disseminated as widely as possible, in particular to law enforcement agencies and officials, relevant government departments, judges, prosecutors, manufacturers, the military, United Nations peacekeepers, private security companies and personnel, and health workers.
- 8.2 The content of the *Guidance* should be reviewed by experts every five years.
- 8.3 At the domestic level, States and law enforcement agencies are encouraged to take the *Guidance* into account when developing policies, training manuals and standing operating procedures on less-lethal weapons and related equipment. In addition, these policies, manuals and procedures should be continually reviewed to ensure that lessons learned are effectively fed back into practice.

9. DEFINITIONS

ASSEMBLY

An intentional, temporary gathering in a private or public space for a particular purpose. Assemblies may take the form of demonstrations, meetings, pickets during strikes, processions, rallies or sit-ins organized for the purpose of celebrating or voicing grievances or aspirations.¹²⁰ The term also encompasses other public gatherings, such as concerts or sporting events. An assembly may be peaceful or may involve acts of violence or rioting.

CUSTODIAL SETTING

Where a person is detained, imprisoned or institutionalized in a public or private institution, by order or under the de facto control of a judicial, administrative or other authority, and is not permitted to leave at will.¹²¹ This includes detention on a ship or other maritime vessel in the context of maritime law enforcement. Those responsible for securing and protecting detainees are known as “custodial staff”.

DETENTION

Covers situations where a law enforcement official apprehends or holds an individual against his or her will, including during or following an arrest. It is a broader notion than custody. Detention includes situations where an individual is held against his or her will in a vehicle, such as a police car or van. Keeping a person in a police cordon for a prolonged period is also likely to amount to detention.

¹²⁰ Joint report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on the proper management of assemblies (A/HRC/31/66), para. 10.

¹²¹ Inter-American Commission on Human Rights, Revision of the United Nations Standard Minimum Rules for the Treatment of Prisoners (UNODC/CCPCJ/EG.6/2014/INF/2), p. 3.

DIRECTED ENERGY WEAPONS

Weapons that may use technologies that produce concentrated electromagnetic energy and atomic or subatomic particles as a means to damage or destroy equipment or to kill or injure personnel.¹²² Directed energy weapons may also be employed for non-lethal purposes, such as when laser dazzle devices are used to give a warning from a distance to potentially hostile actors.

DISCRIMINATION

Any distinction, exclusion or restriction on the basis of prohibited grounds (see section 2.11 above) that has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of human rights or fundamental freedoms.

IMMINENT THREAT

A threat that is reasonably expected to arise within a split second, or at most within a matter of several seconds.¹²³

INJURY

Physical or physiological bodily trauma resulting from the interaction of the body with energy (mechanical, thermal, electrical or radiant, or due to extreme pressure) in an amount or at a rate of transfer that exceeds physical or physiological tolerance, or with toxic chemical substances.¹²⁴

¹²² See Joint Chiefs of Staff, *Electronic Warfare*, Joint Publication 3–13.1, 8 February 2012, pp. 1–16; and A. Feickert, *U.S. Army Weapons-Related Directed Energy (DE) Programs: Background and Potential Issues for Congress*, United States Congressional Research Service, 12 February 2018, p. 1.

¹²³ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/26/36), para. 59; see also UNODC/OHCHR, *Resource book on the use of force and firearms in law enforcement*, p. 21.

¹²⁴ World Health Organization (WHO), "Injury, poisoning or certain other consequences of external causes", International Classification of External Causes of Injury (ICECI), June 2018 (available at <https://bit.ly/2DGIH5j>).

LAW ENFORCEMENT AGENCY

Any entity or body that is entrusted or contracted by a State with the prevention, detection and investigation of crime and the arrest and detention of criminal suspects and offenders; this includes immigration and other border control agencies. Law enforcement agencies may work at the local, provincial, national or supranational level. The body or unit of the military or of other security forces will be considered a law enforcement agency when it is conducting law enforcement tasks, whether domestically or in another jurisdiction.¹²⁵

LAW ENFORCEMENT OFFICIAL

Any officer of the law, whether appointed or elected, who exercises police powers, especially the powers of arrest or detention.¹²⁶ Where law enforcement powers are exercised by the military, whether uniformed or not, or by State security forces, the definition of law enforcement official includes any officers of such services.¹²⁷ Law enforcement officials include immigration officers. The term applies equally to those acting on national territory or extraterritorially.

LEGITIMATE LAW ENFORCEMENT OBJECTIVE

An objective that is recognized in both international and national law, such as protecting members of the public or a law enforcement official from violence, preventing the perpetration of a criminal offence, arresting a person suspected of having committed a criminal offence, or detaining a convicted criminal pursuant to a lawful sentence. The term also refers to the duty of law enforcement agencies and officials to facilitate and protect the right of peaceful assembly; in certain circumstances it may encompass medical purposes when they are pursued in accordance with medical ethics.

¹²⁵ Code of Conduct, commentary (a) and (b) to article 1; footnote to the Basic Principles.

¹²⁶ *Ibid.*, commentary (a) on article 1.

¹²⁷ *Ibid.*, commentary (a) and (b) to article 1; footnote to the Basic Principles.

LESS-LETHAL WEAPONS

Weapons designed or intended for use on individuals or groups of individuals and which, in the course of expected or reasonably foreseen use, have a lower risk of causing death or serious injury than firearms. Less-lethal ammunition may be fired from conventional firearms. For the purpose of this *Guidance*, the term includes conventional firearms when they are used to discharge less-lethal ammunition, but not when they are used to discharge conventional bullets or other ammunition that would be likely to result in life-threatening injuries.

MODERATE INJURY

An injury that is not life-threatening, but is more severe than a minor injury, such as a small cut, abrasion or bruise.¹²⁸

PERMANENT BLINDNESS

The irreversible and uncorrectable loss of vision in at least one eye. Serious disability is equivalent to visual acuity of less than 20/200 Snellen measured using both eyes.¹²⁹

RELATED EQUIPMENT

Equipment that includes personal protective equipment used in law enforcement, such as shields, helmets, body armour or other equipment provided for law enforcement officials to minimize injury. Equipment may be general in nature or specific to certain situations, such as assemblies, and includes equipment that may be used remotely, automatically or autonomously, as well as information and communications technology used by law enforcement. The term also covers restraints used in custodial settings.

¹²⁸ See WHO, "Injury, poisoning or certain other consequences of external causes", ICECI, June 2018.

¹²⁹ Convention on Prohibitions or Restriction on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, Protocol on Blinding Laser Weapons, article 4.

SERIOUS INJURY

An injury that is potentially life-threatening or life-changing.¹³⁰

SPECIFIC WEAPONRY

The particular less-lethal weapons or weapons systems (as opposed to less-lethal weapons as a class) addressed in section 7 above.

TRANSFER

The export of weapons from the jurisdiction of one State to that of another, including where the exporter or importer is an individual or a company. In addition to sales, transfers may also comprise gifts, leases or loans.

UNDUE RISK

A level of identifiable risk that is unacceptable under domestic or international law.

USE OF FORCE

The use of physical means to coerce or influence behaviour or to damage property. Such means may be kinetic, chemical, electrical or of another kind. The use of force may injure and even, in certain instances, kill. A weapon may be used to apply force without being discharged, for example by pointing it at a person while threatening to discharge it unless the person engages in or refrains from certain behaviour.

¹³⁰ See WHO, "Injury, poisoning or certain other consequences of external causes".



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