

PROJECTILE ELECTRIC- SHOCK WEAPONS

AN AMNESTY INTERNATIONAL POSITION PAPER - SHORT VERSION



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Cover page: Odilo Girod

Projectile electric-shock weapons (PESWs) have the potential to cause serious injury or even death. Thus, whilst this weapon may have a place in law-enforcement, Amnesty International calls on law enforcement agencies to only introduce PESWs on the basis of a clearly defined operational need and for situations that would otherwise require the use of lethal force. Accordingly, they should not be introduced for ordinary day-to-day policing, but only for units likely to face threats of death or serious injury that would give reason to use a firearm. Policy instructions, training and accountability measures should reflect the high risks involved in the use of PESWs.

THE INTERNATIONAL HUMAN RIGHTS FRAMEWORK GOVERNING THE USE OF FORCE AND ITS IMPLICATIONS FOR POLICE WEAPONS

Law enforcement officials are required to only resort to the use of force in order to achieve a legitimate law enforcement objective (legality); not to use more force than needed in the concrete case to achieve that objective (necessity); and only if the consequences of the use of force do not outweigh the legitimate objective to be achieved (proportionality). In order to comply with these principles, before a weapon can be introduced it must be fully understood in terms of the potential harm it might cause, and its introduction must seek to fill an existing and clearly defined operational gap, i.e. specific circumstances which the weapon helps law enforcement officials to address in a more effective and less harmful way.

ELEMENTS TO CONSIDER IN THE DECISION-MAKING PROCESS AS TO WHETHER OR NOT TO INTRODUCE PESWS

A PESW is NOT an ordinary law enforcement tool - it is a weapon that has the inherent risk of causing the loss of life

PESWs deliver an electric current to the body that is meant to temporarily incapacitate a person by disrupting muscular function (dart-firing mode) or obtain compliance by causing extreme pain without affecting muscular function (drive-stun mode). The use of PESWs presents several risks that must be taken into account in the decision whether, when and for what purpose they may be deployed and used; these range from injuries sustained as a result of falling to the ground, to health risks (e.g. cardiac or respiratory arrest) resulting from discharges on certain parts of the body (head, neck, close to the heart); the risks associated with prolonged and/or multiple discharges, or use against persons at risk (elderly, children, pregnant persons, persons suffering from certain diseases such as heart arrhythmia or asthma, persons under influence of drugs or medication, etc.).

Whenever a person subjected to a PESW has a condition of increased risk of cardiac or respiratory arrest (e.g. because of age, a mental or physical health condition, including a state of emotional distress that might be called “excited delirium”, or drug use), it is unlikely that the effects of the PESW do not increase this risk. Therefore, if death or serious injury occurs when a PESW is used on such a person, it must be considered a contributory factor (even if in the end the direct cause of death might have been the underlying medical condition). The same applies to the death of, or serious injuries sustained by, persons falling down – in particular if that person is susceptible to sustain serious or lethal injuries in case of an uncontrolled fall due to a particular physical condition.

The possibility of the weapon not being effective with the first discharge presents additional risks, as it may lead to the need to discharge the weapon several times, especially when used in drive-stun mode. This increases the above-mentioned health risks. Technical failure when used in dart-firing mode may also result in the loss of time and momentum for a distinct, less harmful intervention, which may aggravate the situation to the extent that police ultimately have to resort to the use of a firearm.

The purpose of the deployment of a new weapon must be to minimize harm and injury and not to increase them (or the risk of causing them). In this regard it is important to highlight that in assessing the risks involved in using a weapon, not only the degree of probability needs to be considered, but also the seriousness of the risk if it materializes (even if that only happens in a limited number of cases). The risk involved in the use of PESWs is loss of life – and here it is sufficient if the electric discharge has a contributory effect by increasing the risks caused by specific vulnerabilities of an individual. Any decision as to when and for which operational situation PESWs should be introduced or not must take into account the risk PESWs present to the lives of people. Consequently, the operational situation must be one in which the PESW would serve the purpose of avoiding the loss of life or serious injury.

PESWs should only be introduced based on a clearly identified operational gap

General considerations for the introduction of new weapons

Any new weapon to be introduced should respond to an identified operational gap in law enforcement situations that involve injury or harm to a person; its introduction should not simply be motivated by the availability of a (new) device on the market. Therefore, when introducing a new weapon, it is important to fully understand the operational requirements of a law enforcement agency, with a view to minimize harm and injury.

Specific considerations with regards to PESWs

PESWs should only be introduced based on a thorough analysis of past incidents, determining to what extent these situations were not appropriately dealt with and could have been dealt with in a better way if a PESW had been used, how frequent such situations are, who within the law enforcement agency is most likely to encounter them, and what other measures might address the problems at hand. If necessary, before introducing PESWs – as for any other weapon – reporting and lessons learned processes need to be established or improved in order to have the relevant information available. In any case, as far as possible, priority should always be given to less dangerous means and all possible options need to be explored and eventually implemented to that end – bearing in mind that the risks involved in the use of a PESW may be the loss of life and its use should therefore only be justified to protect against an equally serious outcome – i.e. the loss of life or serious injury.

Two different modes of PESW use

- **Dart-firing mode:** The key feature of the PESW in dart-firing mode is the ability to instantly incapacitate a person at a certain distance (several meters, the precise distance depending on the type of PESW to be used). Thus, the introduction of PESWs may be an appropriate response to fill an operational gap when attempting to stop a serious threat from a distance without resorting to the use of lethal force – provided the aforementioned analysis of the law enforcement reality has confirmed a relevant need.
- **Drive-stun mode:** PESWs used in drive-stun mode do not have an incapacitating effect by impacting the neuromuscular system, but only inflict extreme pain. Therefore, this mode does not fill a significant and relevant operational gap in policing. Drive-stun mode has limited effectiveness in bringing a person under control and carries a risk of even contributing to the worsening of a situation, making the person even more aggressive. This increases the risk of causing death or serious injury as a result of multiple discharges made in order to obtain compliance. There is a high risk of function creep resulting in an increasing use of PESWs in drive-stun mode in an abusive way (e.g. against persons who are already under control and/or as a means of punishment). In view of all these factors, drive-stun mode should be prohibited.

Use of PESWs in specific settings

- **Intervention in mental health institutions:** Dealing with a person undergoing a mental health crisis as a result of a mental health problem, other medical condition, or the effects of drugs, is primarily the responsibility of competent and specifically trained health professionals. The

intervention of police in mental health institutions should be limited to exceptional, particularly dangerous situations – e.g. hostage situations. Such interventions must then be considered life threatening, given the likelihood to further increase the emotional distress of the person and the level of stress the intervention will cause. With the increased vulnerability of the person, the discharge of a PESW in such a situation can then cause physical reactions to the situation (e.g. in terms of heart rate, blood acidity, respiratory reactions) which in the end may lead to the death of the person - a consequence that often will be described as “excited delirium”. In such situations, the use of the PESW must be considered as a contributory factor to the lethal outcome of the situation even though it might be impossible to single out a concrete cause of death in that case.

- **Intervention against persons undergoing a mental health crisis outside mental health facilities:** Law enforcement officials should receive specific training on how to deal with persons undergoing a mental health crisis, including special caution with regard to issues of medication and drugs. In addition, other types of response including crisis intervention protocols and the involvement of trained medical health staff in the operation etc. must be put in place to address such situations – as well as with a view to avoid the need to discharge a PESW. In any case, given that the risk to the life of the mentally agitated person is particularly high, PESWs must remain an exceptional response and only be reverted to if there is a threat to life that cannot be controlled otherwise.
- **Counter-Terrorism:** A PESW is rarely an appropriate weapon in counter-terrorism operations: Terrorism threats are in most cases too imminent to be addressed with a PESW, especially seeing its high risk of failure. Thus, PESWs have little operational relevance to counter terrorism threats; therefore, such threats do not present a valid reason for the introduction of PESWs.
- **Crowd control:** PESWs should not be used for the purpose of dispersing a crowd, but only in the most serious situations against individuals who present a serious threat of causing serious injury or loss of life. However, in the volatile situation of public disorder there is a decreased chance of effectively hitting an individual with the darts of the PESW. Further, using a PESW to target someone in an angry crowd may lead to further escalation of the situation. PESWs do not fill a relevant operational gap in crowd control.
- **Custody settings:** PESWs should either not be deployed at all, or be subject to particularly rigorous rules for use, reporting, supervision and control to prevent inappropriate or abusive use in the confined environment of custody settings. In these settings, situations presenting a threat to life or of serious injury that leave no other option than to resort to a PESW are unlikely to occur. Moreover, there is a greater risk of PESWs being simply used as a means to obtain compliance with an order (or even worse: being misused as a means of punishment).

INTRODUCTION OF PESWS - AN IMPORTANT PRE-CONDITION: A HUMAN RIGHTS COMPLIANT LEGAL FRAMEWORK AND POLICE REGULATIONS REGARDING THE USE OF FORCE AND FIREARMS

Review of the existing framework

Whenever the introduction or wider deployment of PESWs is contemplated by a law enforcement agency, a first step must be a comprehensive re-assessment and revision of the existing legislation and regulations regarding the use of force and firearms, including whether the existing framework appropriately deals with the working reality of law enforcement officials and ensures that force and firearms are only resorted to in full respect of human rights, in particular of the principles of necessity and proportionality. The introduction of PESWs must fit into this regulatory framework, it cannot compensate for an inappropriate or inadequate regulatory framework on the use of force and firearms. Amnesty International recommends state authorities to use its [Use-of-Force-Guidelines](#) as a benchmark for this re-assessment and revision.

Requirements for policy instructions governing the use of PESWs

Operational policies for PESWs must highlight the purpose for which the weapon is deployed as well as precautions to be taken, and set a clear threshold of danger required for their use: PESWs may not be used simply to obtain compliance with an order, they may only be used to protect against a threat of death or serious injury with a view to avoiding the need to resort to a firearm, and only if non-violent means as well as a lower degree of force by other means have failed or are likely to be ineffective. Drive-stun mode should be explicitly prohibited.

Only weapons with an automatic cut-off point should be introduced. In case of repeated discharge, each discharge must be justified on its own in terms of its necessity and proportionality. Discharging must stop immediately as soon as the person is under control.

In order to avoid PESWs becoming a tool of convenience they should not be generally distributed for day-to-day policing, but only limited to specialized units who are likely to regularly encounter high-risk situations in which the use of a PESW could be justified.

Training requirements

Training on the use of PESWs must be conducted by certified police trainers, embedded in the overall use-of-force policy of the agency, comprehensive, and scenario-based. Only law enforcement officials who are trained and certified on the use of PESWs and who have proven skills in de-escalation and negotiation methods as well as in the use of other, less dangerous weapons should be allowed to carry this weapon.

ACCOUNTABILITY, EVALUATION AND REVIEW

Law enforcement agencies must ensure full accountability for any use of PESWs through rigorous reporting and control mechanisms ensuring scrutiny of the justification for each single use. Only PESWs that record every single use (i.e. activation, laser pointing, number and length of discharge etc.) should be deployed.

Law enforcement agencies should regularly re-evaluate whether effective operational benefits have been achieved, and balance any benefits against any unwarranted risks and the possibility of function creep.

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