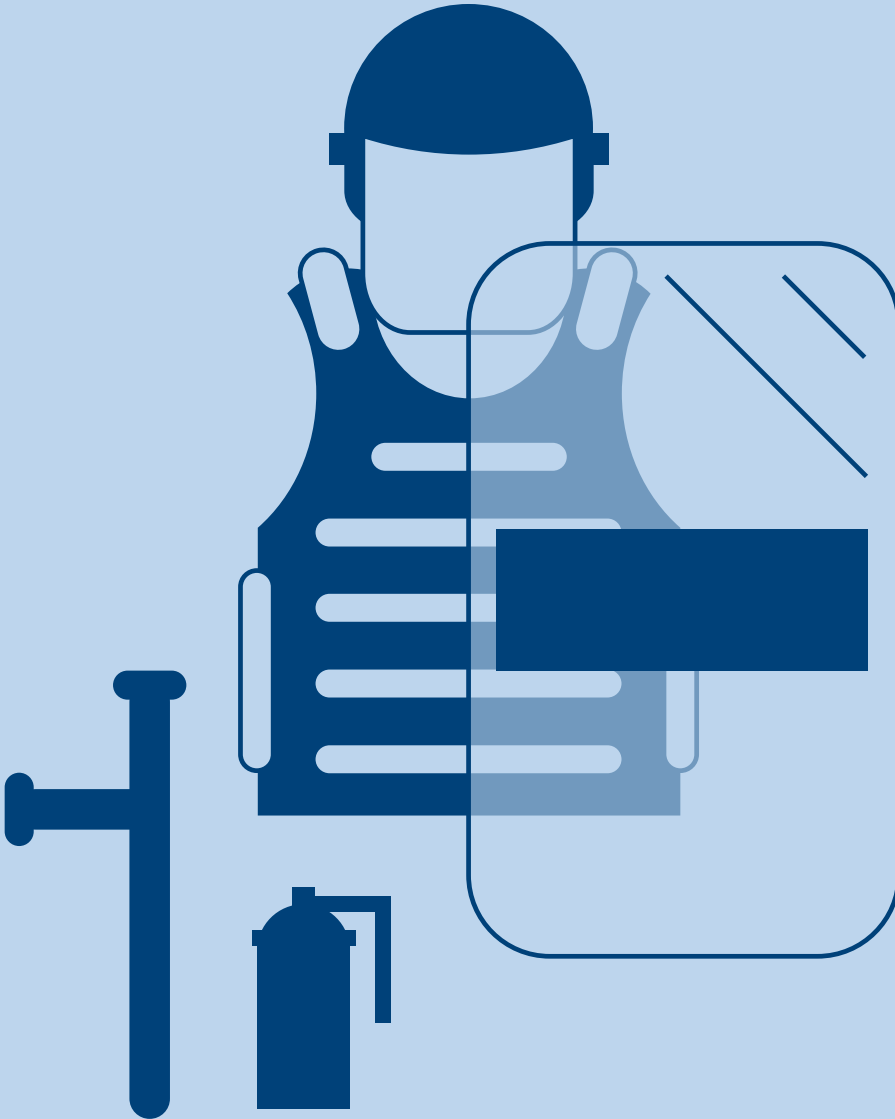


# Guide on Law Enforcement Equipment

Most Commonly Used in the  
Policing of Assemblies



Guide on  
Law Enforcement Equipment  
Most Commonly Used  
in the Policing of Assemblies



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# 1. FOREWORD

The right to assemble peacefully is fundamental to any functioning democracy. The vast majority of public assemblies are peaceful in nature, where the primary role for police should be one of facilitation. The policing of assemblies is challenging when some participants act violently, and it is important that police officers, the public and property are protected from undue levels of risk. Force may only be used exceptionally, however, and even then it is subject to strict limitations. When some participants in an otherwise peaceful assembly resort to violence, the authorities must still do their utmost to facilitate the assembly and protect its participants, differentiating between the peaceful majority and those specific individuals engaged in violence. While any violent individuals forfeit their right to the freedom of peaceful assembly, they retain all their other rights, including the right to life and the right to be free from cruel, inhuman or degrading treatment or punishment.

When force is used inappropriately or excessively against participants in an assembly, the human rights, social and independent impacts are potentially severe. These can include injuries or deaths, lasting trauma for the individual(s), community or group affected, and damaged civic engagement, as some people may be dissuaded from exercising their right to the freedom of peaceful assembly again. Widespread dissemination of imagery showing assemblies being violently suppressed may also undercut the legitimacy of the police and political institutions in the eyes of the wider public.

The Omega Research Foundation (Omega) has documented the growing range of equipment used to police assemblies and the evolution in how it is used over the last 30 years. Throughout this time, Omega has sought to support and facilitate the activities of human rights monitors working to uphold the right to freedom of peaceful assembly, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and the right to life.

ODIHR works to provide assistance to the OSCE participating States to meet their obligations under OSCE human dimension commitments and international human rights law. In the area of the right to freedom of peaceful assembly, ODIHR monitors assemblies across the OSCE region, and trains independent assembly monitors and law enforcement officials on human rights-compliant policing.

OSCE commitments recognize the important role that national human rights institutions (NHRIs) and civil society organizations play in helping to ensure full respect

for human rights, fundamental freedoms and democracy, including with respect to the right to freedom of peaceful assembly. The presence of national or international monitors during assemblies can also contribute to a more human rights-compliant response from law enforcement structures and other public authorities. Bearing that in mind, ODIHR has been engaged in monitoring public assemblies across the OSCE region since 2011, and in issuing reports with recommendations based on that monitoring, including in relation to the policing of assemblies. In addition, ODIHR has been developing tools and providing training for NHRIs and civil society in independent assembly monitoring across the OSCE region.

This guide, developed jointly by ODIHR and Omega, seeks to share some of the technical knowledge monitors need to accurately and independently document the presence and manner of use of law enforcement equipment during public assemblies. Enhanced awareness of law enforcement equipment can help assembly monitors to identify inappropriate weapons or equipment, to document incidents of the potentially unlawful use of force, to provide additional evidence when abuses are alleged, and to identify the law enforcement agencies, units or individuals responsible, thus contributing to increased accountability. Increased technical knowledge of equipment enables monitors to make more detailed recommendations and initiate follow-up actions where appropriate.

ODIHR and Omega look forward to continuing their collaboration and to engaging with other partners who are seeking to defend the right to freedom of peaceful assembly. ODIHR remains ready to continue its work in assisting OSCE participating States in the implementation of the related OSCE commitments through its assistance and monitoring activities. Omega encourages civil society organisations to get in touch should they require assistance in identifying law enforcement equipment, and in analysing its use and compliance with international human rights standards, or for other queries related to the use of force or the law enforcement equipment industry.

Both organizations hope that this tool helps to facilitate the vital work of assembly monitors across the OSCE region.



**Matteo Mecacci**  
**Director of the OSCE Office for Democratic Institutions and Human Rights**

## 2. INTRODUCTION

The right to freedom of peaceful assembly is one of the cornerstones of any democratic and free society. It is prescribed by a number of core international human rights treaties and OSCE commitments, such as the 1990 Copenhagen Document, the 1990 Charter of Paris, the 1999 Istanbul Summit Declaration and the 2008 Helsinki Ministerial Declaration on the occasion of the 6th anniversary of the Universal Declaration of Human Rights.<sup>1</sup> It is closely linked with the exercise of other fundamental rights and freedoms, including the right to life, to freedom from torture or inhuman/degrading treatment, to private life, to freedom of expression and to liberty.

Law enforcement officials have a specific duty to facilitate the right to freedom of peaceful assembly, including in what might sometimes be challenging circumstances, involving spontaneous assemblies and counter-demonstrations, or during assemblies where participants are espousing a view that is unpopular or controversial. ODIHR, in its *Human Rights Handbook on Policing Assemblies*<sup>2</sup> and related police training, emphasizes the need to ensure human rights-compliant and adequate pre-event planning and preparation, in order to reduce the risk of violence or public disorder. Despite good planning, however, law enforcement will have to resort to the use of force in some circumstances.

The basic principles on the use of force are defined by the UN “Code of Conduct for Law Enforcement Officials”<sup>3</sup> and the UN “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”.<sup>4</sup> The Code of Conduct lays out the duty

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<sup>1</sup> Please see Annex 1 for a list of relevant commitments.

<sup>2</sup> ODIHR, *Human Rights Handbook on Policing Assemblies* (Warsaw: ODIHR, 2016), <<https://www.osce.org/odihr/226981>>.

<sup>3</sup> UN, “Code of Conduct for Law Enforcement Officials”, (UN General Assembly resolution 34/169, 1979), <<https://www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx>>.

<sup>4</sup> UN, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, (Havana, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990), <<https://www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx>>.



of law enforcement officials to “respect and protect human dignity and maintain and uphold the human rights of all persons” and states that “law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty”.<sup>5</sup> At the same time, the UN “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials” require that “governments and law enforcement agencies develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms.”<sup>6</sup> If law enforcement officials are only equipped with a limited choice of weapons (e.g., a baton and a firearm), the risks to themselves and the public may be heightened.<sup>7</sup>

The right to freedom of peaceful assembly does not only include the right to organize and participate in assemblies, but also to monitor them, and states have an obligation to protect the rights of assembly monitors, which includes respecting and facilitating the right to observe and monitor all aspects of an assembly, including the work of law enforcement officials.<sup>8</sup>

This *Guide on Law Enforcement Equipment Most Commonly Used in the Policing of Assemblies* has been developed jointly by ODIHR and Omega as a complementary tool to the revised ODIHR *Handbook on Monitoring Freedom of Peaceful Assembly*.<sup>9</sup> Its purpose is to provide information on various tactics and equipment law enforcement officials use for policing different types of assemblies. This should enable monitors to better recognize the policing tools, produce higher quality monitoring reports and assist law enforcement in changing policies and practices of improper use of equipment. This, in turn, will increase the accountability of law enforcement officers, as well as public trust towards law enforcement agencies in general. The primary audience for the Guide are independent assembly monitors in OSCE participating States, including OSCE field operations, representatives of civil society organizations and NHRIs, as well as other human rights monitors working to contribute to human rights-compliant policing and increased accountability by law enforcement officials.

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<sup>5</sup> UN, “Code of Conduct for Law Enforcement Officials”, *op. cit.*, note 3, Article 2.

<sup>6</sup> UN, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, *op. cit.*, note 4, Provision 2.

<sup>7</sup> UN, UN Human Rights *Guidance on Less-Lethal Weapons in Law Enforcement* (New York and Geneva: UN, 2020), Point 1.1., <[https://www.ohchr.org/Documents/HRBodies/CCPR/LLW\\_Guidance.pdf](https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf)>

<sup>8</sup> UN, “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, 2016, para. 70.

<sup>9</sup> *Handbook on Monitoring Freedom of Peaceful Assembly* (Warsaw: ODIHR, 2020, 2<sup>nd</sup> ed.).

The Guide includes sections on the types of equipment and tactics most commonly used in the OSCE region to police assemblies. This list should not be considered exhaustive, as law enforcement equipment constantly evolves. The sequence of the types of equipment presented in this publication does not follow any particular order.

Each of these sections covers a particular type of equipment or tactic, beginning with an overall description of its intended purpose and effect. This includes photos to enable monitors to better recognize the equipment in question. The sections then further describe how the equipment can affect people's health and what injuries it could potentially cause. Each also includes a checklist with some of the questions monitors should consider when recording the presence or use of certain equipment. They also further elaborate on the human rights implications of the use of the equipment or tactics in different circumstances, drawing on illustrative examples from various OSCE participating States.

The examples show that a large number of factors have to be considered by law enforcement officials before resorting to the use of force. Monitors need to take these into account when recording and analysing incidents involving the use of force, in particular considering their compliance with general use-of-force principles: legality, necessity, proportionality and non-discrimination. The illustrative examples that are presented in each section are based on real cases that took place in OSCE participating States. It should be noted that, although the case studies are important examples of inappropriate use of force the law enforcement agencies and/or personnel, they remain exceptions and not the rule for policing assemblies in the OSCE region.

This publication has been developed as part of the work of both ODIHR and Omega to provide tools that can help ensure respect for the right to freedom of peaceful assembly in OSCE participating States.

### 3. ACOUSTIC DEVICES

**Description:** Acoustic devices, also called “sound cannons”, “loud hailers” and “hail and warn devices”, are loudspeaker devices that can project high-volume sound over long distances. While they can be used to convey information like normal public address systems, they can also produce high-volume sounds at various frequencies, including at levels and frequencies that can be highly irritating or cause pain.

Acoustic devices can be free-standing, vehicle-mounted, embedded in riot control shields, handheld or body-worn (i.e., over the shoulder or strapped to the chest).

**Intended purpose:** The most commonly used acoustic devices can be used either to aid in voice communications, such as to give instructions or commands, or to emit a “deterrent tone” or “alert function”, such as to disperse a crowd or gain the attention of a group of people for an announcement. The alert function is designed to emit a high decibel, narrow frequency, focused set of sound waves. The narrow beam is intended to enable targeting of the sound wave to a limited area,<sup>10</sup> with the degree of pain or irritation caused depending on the volume of and distance from the device.

**Possible health and/or human rights implications of use in policing assemblies:** The use of acoustic devices at close range, high volume and/or prolonged periods, can lead to temporary pain, loss of balance, significant harm to the eardrums and inner ear<sup>11</sup> and, ultimately, permanent hearing loss.<sup>12</sup> They are relatively

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<sup>10</sup> See: Physicians for Human Rights and the International Network of Civil Liberties Organizations (INCLO), *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons*, 2016, p. 72, <<https://www.inclo.net/pdf/lethal-in-disguise.pdf>>.

<sup>11</sup> See: Amnesty International USA, *On the Streets of America: Human Rights Abuses in Ferguson*, (New York: Amnesty International USA, 2014) p. 14, <<https://www.amnestyusa.org/reports/on-the-streets-of-america-human-rights-abuses-in-ferguson/>>; and *Ibid.*, p. 76.

<sup>12</sup> NATO, “Non-Lethal Weapons and Future Peace Enforcement Operations”, (2004) RTO TECHNICAL REPORT TR-SAS-040, pp. 3-11, <<http://www.dtic.mil/cgi-bin/GetTRDoc?AD=ADA431128>>.



A free-standing acoustic device



A free-standing acoustic device



A vehicle-mounted acoustic device

indiscriminate, as they cannot be used to target a particular person without also affecting others in close proximity,<sup>13</sup> and because the health implications are unpredictable, as individual sensitivity to sound exposure varies greatly.<sup>14</sup>

<sup>13</sup> Symons, M. & Humphrey, I., "Long Range Acoustic Communication: LRAD Evaluation", Home Office Scientific Development Branch, Home Office Policing and Crime Reduction Group, January 2006, p.30, referenced in Ontario Ministry of Community Safety and Correctional Services, *Review of Police Use of Long-Range Acoustic Devices*, November 2011, <<http://files.ctctcdn.com/b2ecfdb001/d6bf0774-6e41-433f-a5a3-29a0edb71193.pdf>>.

<sup>14</sup> *Ibid.*

A study conducted by the ministry responsible for overseeing law enforcement in the Canadian province of Ontario found that use of acoustic devices “may result in hearing risks for operators and bystanders”, and recommended setting minimum operating distances and limiting use of the alert function.<sup>15</sup>

According to the *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, “[t]he 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.”<sup>16</sup>

Certain acoustic devices are designed to target only young people. They emit a strong, pulsating sound in a high frequency range that is irritating and often painful to most people under 20, but which is barely audible for people over 25. The Parliamentary Assembly of the Council of Europe (PACE) has stated that the use of such devices violates a series of human rights, including the prohibition of discrimination, the prohibition of torture or other ill-treatment, and the right to respect for one’s private life, including the right to respect for physical integrity.<sup>17</sup> PACE also stated that, depending on the circumstances, the use of such devices could interfere with the right to freedom of peaceful assembly. The authors of this publication are not aware of any current law enforcement use of devices that specifically target young people in OSCE countries.

### **What monitors should observe and record**

- In what circumstances were the acoustic devices used?
- Were the acoustic devices used free-standing, vehicle-mounted, embedded in a riot control shield or body-worn?
- What did the devices look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- What did the devices sound like? Was the tone constant or high pitched? Was it used repeatedly?
- Did the deployment appear to be targeted (i.e., did it affect people in a limited area)?

<sup>15</sup> Ontario Ministry of Community Safety and Correctional Services, *Review of Police Use of Long-Range Acoustic Devices*, *op. cit.*, note 13, pp. 16-17.

<sup>16</sup> UN, *UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 7.8.5.

<sup>17</sup> Parliamentary Assembly of the Council of Europe (PACE), “Prohibiting the Marketing and Use of the ‘Mosquito’ Youth Dispersal Device”, Recommendation 1930 (2010), adopted on 25 June 2010, paras. 9-12, <<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17891&lang=en>>.

- At what range were the devices deployed?
- Were acoustic devices used in a confined or open space? Was there a clear, feasible and safe escape route available?
- Were there any vulnerable people (e.g., children, persons with disabilities or elderly people) affected?
- Was the device used together with other devices or weapons?
- What was the effect of the device (e.g., orderly dispersal, panic, stampede or people collapsing)?
- Was a warning issued before the use of the device(s)? How long in advance of the use was the warning issued?

### **Illustrative examples of health and human rights implications**

The use of acoustic devices to disperse crowds is still not as widespread as some other types of equipment, and there are relatively few cases of documented inappropriate use.

In 2014, police in an OSCE participating State used an acoustic device to disperse demonstrators. Police officers allegedly used the deterrent tone 15 to 20 times in a three-minute period, angling the device towards protesters at a distance of less than three metres. Some of those present subsequently brought a legal complaint for civil rights violations, alleging injuries, including “migraines, sinus pain, dizziness, facial pressure, ringing in ears, and sensitivity to noise.” Furthermore, one of the plaintiffs was diagnosed with tinnitus in both ears and vertigo, while another was diagnosed with hearing loss caused by nerve damage.

## 4. BARRIERS

**Description:** Police use many different kinds of barriers for managing public gatherings, including permanent structures, dynamic barriers – such as lines of mounted or unmounted officers (often armed with shields) or bicycle units – and rapidly deployable structures. The latter include barbed and razor wire, vehicles that are designed to rapidly deploy and/or act as barriers, and certain types of fences.

**Intended purpose:** Barriers are used to limit or control the movement of public gatherings, including by preventing access to certain areas, determining the route which a public march will take, separating opposing groups of protesters or separating the gathering from law enforcement officials.

The aims of deployment include the prevention of violence or confrontation, minimizing traffic disruption and preventing or limiting property damage. The use of barriers can facilitate protests while upholding the rights of others (e.g., by preventing protesters from blocking access to a privately owned businesses).

**Possible health and/or human rights implications of use in policing assemblies:** Barriers can restrict the right to freedom of peaceful assembly by limiting the ability of participants to choose where they wish to convey their message and denying them the ability to effectively communicate their message within sight and sound of the target audience.<sup>18</sup> Barriers are increasingly used to create zones where public gatherings are never allowed. The ODIHR *Human Rights Handbook on Policing Assemblies* states that any restrictions placed on an assembly must be lawful, necessary and proportionate, emphasizing that states “should always seek to facilitate and protect public assemblies at the organizers’ preferred time, location and manner”.<sup>19</sup> Where restrictions are required to protect the rights and

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<sup>18</sup> OSCE, *Guidelines on Freedom of Peaceful Assembly (2010)*, para. 3-5.

<sup>19</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 18.



A vehicle with an integrated barrier marketed for policing assemblies



A loose line of police officers in Brussels, Belgium, 24 May 2017, ©ODIHR



A temporary barbed barrier in Brussels, Belgium, 24 May 2017, ©ODIHR



A line of bicycle police units in The Hague, the Netherlands, 23 March 2014, ©ODIHR



freedoms of others, an acceptable alternative must be provided that enables participants to effectively communicate their message within sight and sound of the target audience.<sup>20</sup>

The ODIHR *Human Rights Handbook on Policing Assemblies* states that most barriers will limit the movement of people and points out the danger that people may become trapped or crushed against them.<sup>21</sup> Barriers can also become hazards if they are knocked over, as people might not be able to see them and might trip over them. The United Kingdom College of Policing has highlighted further risks in its list of considerations when using barriers, including that they can be used as weapons by hostile individuals, that they may trap participants in an assembly and police, and that their use may impinge upon the right to liberty and security of the person.<sup>22</sup> Barbed wire, razor wire or any other spiked barrier or electrified wire, while deployed, creates an ongoing indiscriminate and uncontrollable risk of unintentional or unwarranted injury. Barriers of this type can disproportionately affect various groups, including children, persons with disabilities, pregnant women and persons of short stature. The use of such barriers, which have an additional offensive function that goes beyond the primary purpose of restricting access or movement, is disproportionate and unnecessary in a crowd-control setting and should be prohibited. Their use in such a setting does not meet a legitimate law enforcement objective that cannot be effectively accomplished with safer alternatives.

This is confirmed by the *United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, which states that “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.”<sup>23</sup>

Vehicles that rapidly deploy barriers can be used to quickly encircle all or part of a crowd (see section on containment for further information on the associated health and human rights implications). Where moving vehicles are used as barriers and/or to corral a group of people, there is a particular risk of serious injury.

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<sup>20</sup> *Ibid.*, p. 20.

<sup>21</sup> *Ibid.*, p. 73.

<sup>22</sup> United Kingdom College of Policing, “Public Order: Tactical Options”, United Kingdom College of Policing website, <<https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#barriers>>.

<sup>23</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 6.3.5.

**What monitors should observe and record**

- In what circumstances were the barriers used?
- What types of barriers were used? What were the barriers made of? Were there any visible razor or other sharp edges on the barriers?
- Were vehicles used as barriers?
- Where were the barriers used?
- Were the barriers deployed in advance of the gathering or as a response to events during the gathering?
- What was the reason for barriers being deployed? Did law enforcement officers communicate the reasons, or was this apparent (e.g., to prevent a march from leaving the authorized route or to protect a sensitive site)?
- Was any additional force used from behind the barriers (e.g., tear gas, pepper spray or water cannons)?
- Where relevant, were suitable exit and entrance points provided, and were they clearly signposted?
- Was anyone injured as a result, for example, of falling into or tripping over a barrier or being crushed up against?
- Were any barriers picked up and used as weapons?

**Illustrative examples of health and human rights implications**

In 2018, police in one participating State deployed razor wire on several occasions during protests. Police reportedly used stun grenades against protesters who tried to break through a razor wire cordon. The country's Health Ministry reported that 46 people sought medical assistance, including six police officers. The Ministry did not provide a breakdown of the causes of each injury, but noted that the injured police officers had been hurt by both blunt and sharp objects, and that one officer had sustained a cut vein.

## 5. CHEMICAL IRRITANTS (INCLUDING TEAR GAS AND PEPPER SPRAY)<sup>24</sup>

**Description:** Chemical irritants are substances that produce sensory irritation and pain in the eyes and upper respiratory tract. The chemicals most commonly used are CN or CS (often called tear gas) and OC/Pepper or PAVA (often called pepper spray).

Chemical irritants are delivered through handheld aerosol sprays, shoulder-worn and backpack sprayers, hand-thrown grenades, weapon-launched projectiles and grenades, as well as via water cannons. Handheld aerosol sprays range in size from 25ml to 500ml, and sometimes more, while shoulder-worn and backpack-style sprayers generally have a much larger capacity and can cover a wider area. Hand-thrown and weapon-launched projectiles/grenades and water cannons can be used from greater ranges and can be used to contaminate a wide area.

**Intended purpose:** Chemical irritants are designed to deter or disable individuals by producing temporary but intense irritation of the eyes and upper respiratory tract. They are frequently used in many countries in the policing of public gatherings.

Factors that determine the effects of chemical irritants include the type of chemical agent and means of delivery used, the location and environmental conditions in which they are used, and the concentration and quantity of irritant. Smaller, hand-held sprays are intended to be used to temporarily deter or disorientate individuals, whereas the UN bodies have stressed that means of delivery for wider areas should

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<sup>24</sup> The 1992 Chemical Weapons Convention uses the term “riot control agents”, defined as “Any 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.” Art. II(7), 1992 Chemical Weapons Convention. The use of this term is avoided in this resource because it is inaccurate and pejorative to refer to all public assemblies as riots, and the term overlooks the fact that chemical irritants are also used for purposes other than crowd control.



Chemical irritant grenades



Handheld irritant sprays



Cartridges with launched CS (tear gas) projectiles

only be used “for dispersing groups that present an immediate and direct threat and when conventional methods of policing have been tried and have failed, or are unlikely to succeed”.<sup>25</sup>

**Possible health and/or human rights implications of use in policing assemblies:**

Exposure to chemical irritants can result in profuse tearing of the eyes, coughing, chest tightness, difficulty breathing, vomiting, chemical burns, blistering of the skin and, in extreme cases, death, either through asphyxiation or chemical poisoning. Those affected frequently feel anxiety and panic. The European Court of Human Rights has stated that strong doses of pepper spray “may cause necrosis of tissue in the respiratory or digestive tract, pulmonary oedema or internal haemorrhaging”.<sup>26</sup> If launched projectiles containing chemical irritants hit a person directly, they can cause penetration wounds, concussions, other head injuries and death.

<sup>25</sup> UN Office on Drugs and Crime (UNODC) & UN Office of the High Commissioner for Human Rights (UN OHCHR), *Resource Book on the Use of Force and Firearms in Law Enforcement*, (New York: UNODC & UN OHCHR, 2017), p. 87, <<https://www.ohchr.org/Documents/ProfessionalInterest/UseOf-ForceAndFirearms.pdf>>.

<sup>26</sup> European Court of Human Rights, *Oya Ataman v. Turkey*, judgment of 5 December 2006, paras. 17-18.

PACE has highlighted the “systematic and inappropriate use of tear gas” as a serious impediment to the full realization of the freedom of assembly.<sup>27</sup> *The United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* states that chemical irritants, including those delivered via handheld sprays, should only be used when there is an imminent threat of injury, and warns against repeated or prolonged exposure to irritants.<sup>28</sup>

The ODIHR *Human Rights Handbook on Policing Assemblies* sets out several situations where chemical irritants should not be used, including “as a means of dispersing a peaceful assembly, where there are older people, children or others who may have difficulty in moving away to avoid the chemicals, in confined spaces or in sports stadiums where exits are restricted and there is a danger of crush injuries”.<sup>29</sup> The handbook also states that chemical irritant projectiles should never be fired at individuals, that there should be a clear and feasible escape route that does not lead towards police lines, and that medical assistance should be offered to those who need it.<sup>30</sup> Similarly, the UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement* states chemical irritants should not be used in confined spaces or against the same people several times in a short time period, and that chemical irritant grenades should not be used in wide areas against larger groups unless the level of violence has reached such a level that law enforcement officers cannot address the threat by limiting the use of force to target violent persons only.<sup>31</sup>

The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association has warned that tear gas is indiscriminate in nature, failing to differentiate “between demonstrators and non-demonstrators, healthy people and people with health conditions”.<sup>32</sup> Even the use of small, handheld sprays risks affecting innocent bystanders in a public gathering.

Certain groups that are particularly at risk from the effects of chemical irritants, and for whom it may be life-threatening, include older people, children, pregnant women or people with respiratory problems. According to the American Academy

<sup>27</sup> PACE, “Urgent Need to Prevent Human Rights Violations during Peaceful Protests”, Resolution 2116, 27 May 2016, para 5.

<sup>28</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, paras. 7.2.3 and 7.3.5.

<sup>29</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 79.

<sup>30</sup> *Ibid.*, p. 80.

<sup>31</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, p. 88.

<sup>32</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Report submitted to the Human Rights Council, 21 May 2012, UN Doc. A/HRC/20/27, para. 35, <[https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27\\_en.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf)>.

of Paediatrics, “Children are uniquely vulnerable to physiological effects of chemical agents. A child’s smaller size, more frequent number of breaths per minute and limited cardiovascular stress response compared to adults magnifies the harm of agents such as tear gas.”<sup>33</sup>

### **What monitors should observe and record**

- In what circumstances were the chemical irritants used?
- What means of delivery were used (e.g., handheld aerosol spray, larger sprayer, launched projectile, hand-thrown or launched grenade, water cannon)?
- What did the projectiles/grenades look like? Monitors should try to record the shape and size, and to take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- Were the chemical irritants used to target individuals engaging in violent behaviour or used indiscriminately against the gathering?
- At what range were the chemical irritants deployed?
- Were chemical irritants used in a confined or an open space? Was a clear and feasible escape route to a safe space available?
- Were there any vulnerable people (e.g., children, persons with disabilities or elderly persons) present and affected?
- Were the same people targeted more than once in a short space of time?
- Was anyone directly hit by a launched chemical irritant projectile?
- Was a warning issued before the use of chemical irritants? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the chemical irritants?

### **Illustrative examples of health and human rights implications**

The excessive and inappropriate use of tear gas and pepper spray during protests in a participating State in 2013 elicited an urgent reaction by several Special Procedures mandate-holders. Human rights organizations reported on the firing and throwing of chemical irritant cartridges and grenades into confined spaces, such as residential buildings where protesters had sought refuge, and the repeated use of tear gas at the entrance of, or inside, makeshift health clinics where injured people were being treated. According to reports, police repeatedly used handheld pepper

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<sup>33</sup> Kraft, C. A., “AAP Statement in Response to Tear Gas Being Used against Children at the U.S. Southern Border”, American Academy of Paediatrics, 26 November 2018, <<https://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Statement-in-Response-to-Tear-Gas-Being-Used-Against-Children-at-the-U-S-Southern-Border.aspx>>.

spray devices abusively against peaceful protesters, including by spraying pepper spray in their eyes as a punishment when they were apprehended at the scene of demonstrations. Reportedly, four people, including one police officer, died after being exposed to large amounts of tear gas.

## 6. PROJECTILE ELECTRIC SHOCK WEAPONS

**Description:** Projectile electric shock weapons are handheld, often pistol-shaped weapons that hold one or more cartridges, which usually fire two barbed darts or probes attached to wires and deliver an electric shock to the target. The brand name Taser is often used as a generic name for this weapon category. Alternative names for such weapons include electronic control device (*ECD*), electronic control weapon (*ECW*), conducted energy device (*CED*) and electrical discharge weapon (*EDW*).

The wires connecting the weapon to the darts or probes are one of the principal distinguishing features of the weapon. Some electric shock projectile weapons incorporate a laser sight red dot which is used to target a person.

**Intended purpose:** Projectile electric shock weapons are designed to temporarily incapacitate an individual by producing neuro muscular incapacitation, leading to the person collapsing (in most cases). The use of laser sight to project a red dot onto the target (called red-dotting) or a display of the electric current between the two electrodes (arcing) can be used by law enforcement officers to defuse violence or the threat of violence without the need for further recourse to force.

Some projectile electric shock weapons are also equipped with a “drive-stun mode”, which applies a localized electric shock by direct contact with the skin or clothing, without having to fire a cartridge. This causes pain only, and not incapacitation. Given the broad range of less harmful force options available to law enforcement officers within touching distance of a person, it is not clear what legitimate law enforcement role drive stun mode could perform during assembly policing.

**Possible health and/or human rights implications of use in policing assemblies:** A person upon whom such a weapon is used feels severe pain upon impact. The temporary loss of voluntary muscle control can cause the target to collapse without being able to protect themselves. Secondary injuries from collapse/falls



can be severe and life-threatening. Other injuries arising from the use of projectile electric shock weapons can include burns, puncture wounds, and scars or welts.

These weapons cause different degrees of pain and incapacitation, and can occasionally lead to death. The effects vary depending on the power of the device, the physical condition and underlying health of the person targeted (e.g., a child or a person with a heart condition) and environmental factors (e.g., moisture). The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has recommended that police avoid using electric shock weapons on “particularly vulnerable persons (e.g., the elderly, pregnant women, young children, persons with a pre-existing heart condition)”, as well as people who are delirious or intoxicated.<sup>34</sup>

Examples of inappropriate use include sustained or prolonged use, multiple shocks and shocks to inappropriate or sensitive areas of the body such, as the head, chest and genitals. Additional risks are presented in a crowd-control setting, such as the danger of causing a stampede, the risk of hitting individuals other than the target, and the difficulty in ensuring individuals suffering adverse consequences receive timely medical assistance.

According to the CPT, “the resort to [electrical discharge weapons] during crowd-control operations can be considered inappropriate unless there is a real and immediate threat to life or risk of serious injury. The law enforcement officials involved will (or should) have at their disposal other means of protection and action that are specifically adapted to the task in hand. It is noteworthy that some police forces in Europe have excluded the use of EDW in the course of operations to control public demonstrations.”<sup>35</sup> The CPT has emphasized that “recourse to the use of [electrical discharge weapons] for the sole purpose of securing compliance with an order is inadmissible”.<sup>36</sup>

The UN Committee against Torture has recommended that “the use of electrical discharge weapons is strictly compliant with the principles of necessity, subsidiarity, proportionality, advance warning (where feasible) and precaution”, while also stating

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<sup>34</sup> Council of Europe, European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), “Electrical Discharge Weapons”, Extract from the 20<sup>th</sup> General Report of the CPT, published in 2010, CPT/Inf(2010)28-part, para. 79, <<https://rm.coe.int/1680696a87>>.

<sup>35</sup> CPT, “Electrical Discharge Weapons”, *op. cit.*, note 33, para. 73.

<sup>36</sup> *Ibid.*, para 70.



A projectile electric shock weapon



A projectile electric shock weapon and cartridge.



An electric shock projectile – barbed dart



A projectile electric shock weapon

that their use in drive-stun mode should be prohibited.<sup>37</sup> The Committee previously recommended that “electrical discharge weapons are used exclusively in extreme and limited situations – where there is a real and immediate threat to life or risk of serious injury – as a substitute for lethal weapons and by trained law enforcement personnel only”.<sup>38</sup>

In Concluding Observations issued to the United States of America in 2014, the UN Committee against Torture recommended that “(t)he State party should revise the regulations governing the use of such weapons [electrical discharge weapons], with a view to establishing a high threshold for their use, and expressly prohibit their use on children and pregnant women.”<sup>39</sup> The UN Committee on the Rights of the

<sup>37</sup> UN Committee against Torture, “Concluding Observations on the Sixth Periodic Report of the United Kingdom of Great Britain and Northern Ireland”, UN doc. CAT/C/GBR/CO/6, 7 June 2019, para. 29, <<https://www.cypcs.org.uk/ufiles/UNCAT-conclusions.pdf>>.

<sup>38</sup> *Ibid.*, para. 26.

<sup>39</sup> UN Committee against Torture, “Concluding Observations on the Combined Third to Fifth Periodic Reports of the United States of America, UN doc. CAT/C/USA/CO/3-5, 19 December 2014, para. 27, <<https://digitalibrary.un.org/record/790513/>>.

Child<sup>40</sup> has also recommended that the use of electric shock weapons on children be prohibited.

### **What monitors should observe and record**

- In what circumstances was the projectile electric shock weapon used?
- What kind of projectile electric shock weapon was used?
- What did the device(s) look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- How many times was the weapon used? For how long? Were those targeted shocked more than once? Was any other force used against those targeted after they were incapacitated?
- Was the electric shock weapon used to fire projectiles (darts or barbs) or was it used in direct contact (drive stun) mode?
- Was the electric shock weapon used to target an individual engaged in violent behaviour, or was it used indiscriminately against the gathering?
- What part of the body did the projectile(s) hit?
- Was the person targeted armed? Did they pose an imminent threat of death or serious injury?
- Was a warning issued before the use of the electric shock weapon? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the electric shock weapon?

### **Illustrative examples of health and human rights implications**

It has been alleged that police subjected 15 protesters to torture or other ill-treatment in their arrest and detention during a protest in an OSCE participating State in 2012. The protest consisted of about 150 people riding their motorbikes and handing out leaflets. When a fight broke out at the front of a parade with two or three other men, a large group of police officers emerged from the surrounding streets and attacked the protesters.

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<sup>40</sup> UN Committee on the Rights of the Child, "Concluding Observations on the Fifth Periodic Report of the United Kingdom of Great Britain and Northern Ireland", UN doc. CRC/C/GBR/CO/5, 12 July 2016, para. 40, <"<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsk-HOj6VpDS%2F%2FJqg2JxbggncnUyUgbnuttBweOlyIfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpjxij3uZobjQBOLNTNvQgfUIEOvA5LtWoGL>".>

One of the victims claims he was shot in the spine with a projectile electric shock weapon when he tried to run away, saying that it felt like an electric shock, adding that his legs were paralysed for a few minutes and that he fell. He was handcuffed behind his back and repeatedly hit and kicked in the ribs and the head and put into a patrol car.

The state pathologists' report described marks found on the spine of the person in question as "a cut of 0.9cm with bruising and circles of redness under the cut that was caused by the sharp instrument". An image of this injury published online is visually consistent with the kind of marks associated with barbed darts fired by electric shock projectile weapons.

There have been reports of projectile electric shock weapons being used during assemblies in 2015 in another OSCE participating State. Police officers reportedly used their Taser electric shock weapons against peaceful protesters, who were standing on the pavement as the protest came to an end. Video and audio footage of the incident appears to show one of the protesters repeatedly crying out in pain while police continued to subject her to electric shocks, even after she fell to the ground.

## 7. DIRECT CONTACT ELECTRIC SHOCK WEAPONS

**Description:** Direct contact electric shock weapons include electric shock batons, electric shock shields and stun guns.

**Electric shock batons** or stun batons are portable, handheld weapons that often look similar to ordinary police batons. Some models have two or four electrodes near the tip. Some have metallic strips or spirals along the length of the baton to conduct electricity.

**Electric shock shields** marketed for policing assemblies are usually convex, and current models are round, rectangular or square. Electric current runs along one or more conductive strips. Some models feature visible shock sparks and/or alert sirens.

**Stun guns** are widely sold for self-defence purposes, but they have also been used by law enforcement officials. There are many different designs available, but most are either straight or curved handheld devices with either two or four electrodes.

**Stun gloves** are gloves with a built-in direct contact stun device. They have been marketed for law enforcement use.

**Intended purpose:** The high voltage electric shock from these weapons is applied directly, as the weapon is pressed against the skin or clothing of an individual, causing intense pain, but not usually incapacitation. Some direct contact electric shock weapons also perform other functions. For instance, some can also dispense chemical irritants, and some stun guns can function as flashlights.

Although direct contact electric shock weapons have been marketed for policing assemblies, they are not widely used by law enforcement officers in the OSCE region



An electric shock flashlight



An electric shock baton



An electric shock shield

for such purposes. They are more widely used by private security companies and for self-defence by civilians.

**Possible health and/or human rights implications of use in policing assemblies:** Injuries arising from the use of direct contact electric shock equipment can include burns and scars or welts. Should the person fall, secondary injuries may occur such as cuts, bruises, broken bones, concussion, etc.

These weapons are open to misuse, as they allow the user to inflict extreme pain at the touch of a button, often without leaving long-lasting identifiable physical traces. Examples of inappropriate use include sustained shock, multiple shocks or shocks on inappropriate areas of the body and/or used as a punishment.

Most direct contact electric shock weapons do not have a cut-out function, automatically limiting the duration of the shock, which can enable the application of prolonged electric shocks. Use in crowd-control situations can induce fear and cause stampedes. Displays of the sparking function, which produces visible sparks and a large crackling sound, can be threatening and intimidating.

Both the CPT and the European Court of Human Rights have expressed “strong reservations” about the use of direct contact electric shock weapons, stating that “properly trained law enforcement officers have many other control techniques available to them when they are in touching distance of a person who has to be brought under their control”.<sup>41</sup>

<sup>41</sup> European Court of Human Rights, *Anzhelo Georgiev and Others v. Bulgaria*, judgment of 30 September 2014, para. 76; CPT, “Electrical Discharge Weapons”, *op. cit.*, note 33, para. 78.

As mentioned above, some human rights bodies have called for the prohibition of or otherwise expressed concern regarding the use of projectile electric shock weapons in drive-stun mode. Such concerns are applicable to direct contact electric shock weapons in general. Their use creates an especially high 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”, and may increase an individual’s level of aggression.<sup>42</sup>

There is a lack of research into how the use of direct contact electric shock equipment affects vulnerable groups, including those with underlying health issues, children and elderly persons, or those who are under the influence of drugs or alcohol at the time of use.

### **What monitors should observe and record**

- In what circumstances were the electric shock weapons used?
- What kind of electric shock weapon was used? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- How many times was the weapon used? Was it used repeatedly on the same person?
- Was the electric shock weapon used to target an individual engaged in violent behaviour, or was it used indiscriminately?
- On what area of the body was the weapon used?
- Was a visible/audible spark function used to warn people that the weapon was going to be used and/or to intimidate those present?
- Was a warning issued before the use of the electric shock weapon? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the electric shock weapon?

### **Illustrative examples of health and human rights implications**

A law enforcement officer was alleged to have used a direct electric shock baton during an assembly held in one of the OSCE participating States in 2019. One of the assembly participants was in close proximity to the police officers when they turned towards the protesters. He tried to leave the area but did not manage to do so, as he was facing a line of police officers.

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<sup>42</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 7.4.12.

He later recalled the incident to a local NGO, saying that he felt a jolt that turned out to be a blow from the left side on the body. He felt a short electric shock in the same place, lost his balance, feeling numb in the trunk and legs, started to stumble, dropped the bag from his hands and fell. At that time, he heard that the staff received a command to stop. Some of the officers had batons with the function of a stun gun and he clearly saw the electrical contacts at the end and heard the specific humming of the stun gun discharge.

The person reported the use of force to the nearby assembly monitors. The report from the trauma center described “[a]n open wound to the back wall of the chest, bruises of the soft tissues of the chest and abrasions of the chest on the left.”



## 8. CONTAINMENT (KETTLING)

**Description:** Containment (also called “kettling” or “corralling”), is the police tactic of enclosing a group of people in a specific area, preventing them from leaving and preventing others from joining the group. The containment may be performed by lines of police officers or by the use of shields or other barriers.

**Intended purpose:** This tactic is intended to be used against parts of a crowd, containing people who present an imminent risk of violence or of causing serious damage to property, or to stop people within a crowd who are already engaged in such acts.<sup>43</sup> The intended effect is to de-escalate tension by allowing those contained to leave in small manageable groups over time.

**Possible health and/or human rights implications of use in policing assemblies:** The tactic of containment (kettling) is indiscriminate, as it affects all those in the area targeted. It is often employed for long periods and can have a chilling effect on people seeking to exercise their right to peaceful assembly. This effect is exacerbated when containment is used for intelligence gathering (e.g., recording names and addresses or taking photographs/video of those contained). Other human rights that could be affected include the right to liberty and security of person and the right to freedom of movement.

Health concerns arise when no food or water is offered to those contained and when no access is provided to toilets or shelter. Certain groups may be particularly vulnerable (e.g., elderly people, children, pregnant women, persons with disabilities). Preventing people from accessing toilets for an extended period is likely to amount to degrading treatment.

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<sup>43</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, p.101.



Protesters at G20 in Toronto boxed in by riot police at Queen and Spadina, 17 June 2010, by Jonas Naimark is licensed under CC BY 3.0

Any additional use of force, or threats of use of force, on those already contained may amount to excessive force and could lead to panic or injuries arising out of a crush or stampede.

There is some divergence as to whether human rights law and standards permit the use of containment (kettling) as a crowd-control tactic.

The UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association described kettling as “intrinsicly detrimental to the exercise of the right to freedom of peaceful assembly, due to its indiscriminate and disproportionate nature”.<sup>44</sup> He recommended that the practice be ended.<sup>45</sup>

<sup>44</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, “Mission to the United Kingdom of Great Britain and Northern Ireland”, 17 June 2013, UN Doc. A/HRC/23/39/Add.1., para. 37, <<https://www.refworld.org/docid/525fab2a4.html>>.

<sup>45</sup> *Ibid.*, para. 93; and “Report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association on his Follow-Up mission to the United Kingdom of Great Britain and Northern Ireland”, 8 June 2017, UN Doc. A/HRC/35/28/Add.1, para. 91, <<https://digitalibrary.un.org/record/1298881?ln=en>>.

In *Austin & Others v The United Kingdom*, the European Court of Human Rights held by majority that the kettling of a group of people for approximately seven hours did not constitute deprivation of liberty, upholding the national court's opinion that the authorities had no alternative if they were to avert a real risk of serious injury or damage and that containment was "the least intrusive and most effective means".<sup>46</sup> However, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association pointed out that the judgment "by no means constitute a blanket endorsement of kettling",<sup>47</sup> and that the Court stressed that "measures of crowd control should not be used by the national authorities directly or indirectly to stifle or discourage protest."

According to the UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement*, "[c]ontainment is a problematic tactic from a human rights perspective, especially when used for long periods of time, preventing those contained from access to water or sanitary facilities and may amount to deprivation of liberty or, under certain circumstances, inhuman or degrading treatment."<sup>48</sup>

Based on the ruling in the *Austin & Others v The United Kingdom* case, the ODIHR *Human Rights Handbook on Policing Assemblies* makes several recommendations that are particularly relevant for monitors of public gatherings:

- Protocols should be put in place to allow those who were inadvertently caught up to exit to a safe place;
- In particular, opportunities to exit should be available to vulnerable people, such as pregnant women, children, older people and those suffering from illness or injury;
- The purpose of containment should always be to prevent violence continuing or escalating, and to enable the peaceful assembly to continue;
- Containment should only be in place for the minimum amount of time necessary, and must be reviewed at regular intervals; and
- Containment should only be employed when necessary to prevent serious damage or injury, and when no alternative police tactics that would be less restrictive of the rights to liberty and the freedom of movement can be employed.<sup>49</sup>

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<sup>46</sup> European Court of Human Rights, *Austin & Others v The United Kingdom*, judgment of 15 March 2012, para. 66.

<sup>47</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, "Mission to the United Kingdom of Great Britain and Northern Ireland", *op. cit.*, note 43, para. 37.

<sup>48</sup> See: UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, p. 120.

<sup>49</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, pp. 102-103.

Other pertinent recommendations in the UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement* include:

- The people affected should be informed of the decision to use containment against them, and the reason and purpose behind the decision. Continuous communication for the duration of the containment is recommended; and
- Production of a press card should be reason enough to allow someone to leave, unless their behaviour justifies their containment.<sup>50</sup>

### **What monitors should observe and record**

- In what circumstances was the containment used?
- Was the action targeted at people engaged in violence? Were people not engaged in violence affected?
- Was force used to create the containment. Was force used after the containment had been established?
- Were continuing threats made of the use of force?
- How long did the containment last?
- What was the weather like during the containment?
- What was the effect of the use of this tactic (e.g., increased tension, panic, stampede, people collapsed?)
- Were any of the people who were contained given the opportunity to exit (e.g., bystanders, media, non-violent participants)?
- Were vulnerable people (e.g., children, pregnant women, persons with disabilities) contained? Were they given the opportunity to exit?
- Did law enforcement personnel inform those affected of the reasons for their containment, and approximately how long the containment would last?
- Were the people affected granted access to water, food, toilets and shelter?
- Did law enforcement personnel collect personal information from those contained, perhaps as a condition to leave?
- Were any of those contained arrested or further detained?
- Was a warning issued before the use of containment? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the containment?

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<sup>50</sup> See: UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, p. 121.

### **Illustrative examples of health and human rights implications**

During the student protests in an OSCE participating State in 2012, law enforcement authorities repeatedly used a combination of containment and mass arrests against protesters. Police reportedly did not issue warnings or orders to disperse before using tear gas, pepper spray, shields, batons, kinetic impact projectiles and stun grenades to interrupt and divide largely peaceful gatherings. It was reported that, on some occasions, the police would then begin to beat their shields with their batons and shout “move” in unison, while other police officers would block the exits from the contained areas. Once divided into groups of 50 to 200 protesters, the containment lasted for from 30 minutes to 2 hours, in very cold weather. Those affected were then restrained with plastic handcuffs and taken to a police station. Once there, they were again made to wait before being photographed and questioned, sometimes made to divulge private information, such as their mobile phone number or student association affiliation, and usually issued with a ticket ordering them to pay a fine for an administrative offence, before finally being released. The commission, established by the government of the participating State to investigate the incident found that the use of containment “led to the prolonged detention and mass arrest of peaceful protesters, whereas the procedure should have made it possible to extract individuals suspected of committing or preparing to commit a crime.” The commission stated that this had a chilling effect on those who wished to mobilize peacefully.

In another participating State, the police used containment on several occasions during large protests in late 2010. A senior doctor who provided protesters with medical assistance reportedly denounced the use of containment in a confined space, saying it created a significant risk that people would severely crushed or pushed into the nearby freezing river. Those affected reportedly suffered symptoms including respiratory problems, chest pains and those of severe crushing, as well as “significant anxiety”. The human rights committee, established to investigate these events, expressed concern “about the apparent lack of opportunity for non-violent protesters to leave the contained or ‘kettled’ crowd, the adequacy of arrangements to ensure that the particularly vulnerable such as disabled persons are identified and helped to leave the containment, and the general lack of information available to the protesters about how and where to leave.”

## 9. KINETIC IMPACT PROJECTILES

**Description:** Launched kinetic impact projectiles comprise a wide range of ammunition that contain single or multiple projectiles. Often called “rubber bullets” or “plastic bullets”, projectiles can be made of rubber, plastic, wood or other materials.<sup>51</sup> When fired, this ammunition expels single or multiple projectiles, including, for example, pellets, balls, blocks, cylinders or fabric bags filled with pellets (“bean bags”). Some hand-thrown or weapon-launched grenades disperse many small rubber or plastic pellets on detonation.

Many types of weapons can fire kinetic impact projectiles.<sup>52</sup> Common ammunition calibres include 37/38mm and 40mm or 56mm (grenade launcher), 12 gauge (shotgun) and 9mm (pistol), but other specialist weapons and ammunition are also in use.

**Intended purpose:** Kinetic impact projectiles are normally designed to be fired directly at a person, but to avoid sensitive areas of the body such as the head and chest. Kinetic impact projectiles differ from conventional ammunition, insofar as they are intended to cause blunt trauma rather than penetration (although they can penetrate). Their intended purpose is to deter persons presenting an imminent threat of injury to a law enforcement official or member of the public, without recurring to lethal force.

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<sup>51</sup> This category does not include rubber-coated steel bullets or metal pellet rounds (commonly referred to as “birdshot” or “buckshot”), as the high risk of serious injury or death their use entails means that they should be considered forms of lethal force.

<sup>52</sup> For more, see section on “Firearms and Other Launchers”.

The use of these projectiles differs from jurisdiction to jurisdiction. Manufacturers commonly market kinetic impact projectiles as a tool for dispersing “riots” or protests, and some OSCE participating States expressly permit this.<sup>53</sup>

**Possible health and/or human rights implications of use in policing assemblies:** Kinetic impact projectiles are designed to cause non-penetrating blunt trauma on impact. They can, however, cause serious injuries, including lacerations, broken bones, concussions and other head injuries, or internal organ damage, and their use has resulted in many deaths. Projectiles can penetrate the body with heightened risk of serious injury or death. The risk of serious injury or death is also significantly increased when kinetic impact projectiles are fired at close range, or when they are aimed at sensitive parts of the body. Ammunition containing small pellets poses a significant risk of severe eye injuries and blinding.

Many launched projectiles are inaccurate,<sup>54</sup> particularly at longer ranges,<sup>55</sup> and consequently cannot be safely used without the risk of impacting a person on a vulnerable part of the body, such as the head, leading to severe injury. Ammunition containing multiple projectiles is also inherently inaccurate and, poses a high risk of hitting anyone in the vicinity of the person targeted.

*The United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* notes that “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.”<sup>56</sup> It states that kinetic impact projectiles should not be targeted at the head, face or neck, and underlines the lack of accuracy inherent in ammunition containing multiple projectiles, whose use “cannot comply with the principles of necessity and proportionality”.<sup>57</sup>

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<sup>53</sup> See, for example, “Article 14(V) of the Law of the Republic of Azerbaijan on Freedom of Assembly, as Amended by the Law on Amendments to the Law On Freedom of Assembly”, dated 2 November 2012, <[https://www.legislationline.org/download/id/4285/file/AZERBAIJAN\\_FoAssembly\\_law\\_2012\\_am\\_en.pdf](https://www.legislationline.org/download/id/4285/file/AZERBAIJAN_FoAssembly_law_2012_am_en.pdf)>.

<sup>54</sup> According to the United Nations *Guidance on Less-Lethal Weapons in Law Enforcement*, “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”, *op. cit.*, note 7, Para. 7.5.4.

<sup>55</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, p. 95.

<sup>56</sup> UN, *Guidance on Less-Lethal Weapons and Related Equipment in Law Enforcement*, *op. cit.*, note 7, para. 7.5.3.

<sup>57</sup> *Ibid.*, paras. 7.5.6 and 7.5.8.



12 gauge (shotgun) kinetic impact projectiles



38-40 mm launchable projectiles

The ODIHR *Human Rights Handbook on Policing Assemblies* states that “[kinetic impact] projectiles are very high on the use of force continuum and next on the scale to the use of firearms”, and “if used incorrectly they can cause death or serious injury”.<sup>58</sup> The handbook and the UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement* both recommend that kinetic impact projectiles should only be used when there is an immediate risk of serious injury or death and should only be aimed at individuals posing such a threat.<sup>59</sup> The ODIHR handbook, recommends that skip-firing – the practice of firing kinetic impact projectiles at the ground in front of someone so that they skip up and hit them – be avoided and, importantly, it states that kinetic impact projectiles “should never to be shot indiscriminately into a crowd”.<sup>60</sup> Skip-firing or ricochet, makes the projectiles’ trajectory unpredictable,<sup>61</sup> increasing the risk that vulnerable areas of the body or persons other than those targeted will be hit.

### What monitors should observe and record

- In what circumstances were the kinetic impact projectiles used?
- What were the projectiles made of (e.g., hardened rubber, wood, plastic)?
- What did the projectiles look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.

<sup>58</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, pp. 80-81.

<sup>59</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, pp. 94-95.

<sup>60</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, pp. 80-81.

<sup>61</sup> Symons, M.; Smith, G; Dean, G.; Croft, S. & O'Brien, C., *Less Lethal Technologies Review of Commercially Available and Near-Market Products for the Association of Chief Police Officers*, (Sandridge: United Kingdom Scientific Development Branch, 2008), p10, <<https://www.yumpu.com/en/document/read/11273383/less-lethal-technologies-review-of-commercially-icpra>>.



- Did law enforcement officers take aim, or did they fire indiscriminately?
- Were the kinetic impact rounds used to target individuals engaging in violent behaviour or were they fired indiscriminately into the gathering?
- Where were those affected hit by the projectiles (e.g., in the legs, upper body, face)? Did projectiles impact directly, or were they rebounded off the ground (i.e., skip-fired)?
- At what range were the projectiles fired? Were any fired from an elevated position?
- Were warnings given before the use of the kinetic impact rounds? How far in advance of the use were the warnings issued?
- What other tactics were used by the law enforcement officers before using kinetic impact rounds?
- Was medical help provided (by the police, medical service) to those affected by the kinetic impact rounds?

### **Illustrative examples of health and human rights implications**

Human rights and media organisations reported that police in one OSCE participating State used excessive force against protests that began in 2018. There were numerous serious injuries, particularly head injuries, reportedly caused by launched kinetic impact projectiles, and at least 10 people were blinded in one eye. There were reports of multiple journalists suffering injuries as a result of being hit with such projectiles, as well as with rubber ball grenades (often called “sting-ball” grenades – hand-thrown grenades that release many small rubber balls upon detonation and can also contain a chemical irritant charge). Force was also used against school children protesting outside suburban schools in 2018. A teacher at a high school stated that a student’s cheek had “burst open like a split pomegranate” when he was struck with a kinetic impact projectile while talking to friends and posing no threat.

Amnesty International reported on the excessive force used by law enforcement officials during the protests in one OSCE participating State in 2017. Amnesty International observers were present during one incident where protesters sat on the street with their arms raised to prevent the passage of police vehicles. When police dispersed the protesters Amnesty observers saw them fire kinetic impact projectiles at protesters, many of whom were not engaged in any violence, from close range. One protester, who claims to have started running away when police began dispersing protesters, was hit in the face with a rubber ball projectile. As a result, he permanently lost his vision in one eye and several bones in his face were broken by the impact of the projectile.

During the dispersal of a demonstration in 2011, police reportedly used rubber bullets to target individuals who did not pose any threat and who were not putting up any resistance to police actions. In an interview with the local NGO one protester recalled how he permanently lost the sight in one eye, when several shots were fired at him from a line of Special Forces officers,. He was hit with 8 bullets, fired from a five to six metres distance. He heard a bursting noise near his eye, immediately lost sight in his left eye, and felt pain. The NGO reported that police and Special Forces fired rubber bullets from a distance of two to three metres at demonstrators who were restrained on the ground and fired while sat on moving vehicles at fleeing demonstrators' heads and faces.

## 10. LAUNCHERS

**Description:** Law enforcement officials use a wide range of weapons and launchers for the management of public gatherings. All of these fire (or in the case of some drones, release) projectiles. The following weapons correspond to the pictures above and are included due to the frequency with which they are used or their potential for increased use in the future:

Many security forces are equipped with shotguns, and some use them for crowd control. They fire a range of ammunition, including single or multiple projectiles, which may be made of metal or other materials, such as rubber and plastic. Metal projectiles should never be used, as they are much more likely to be lethal. Ammunition generating other effects, such as irritation, dye-marking or stunning the person targeted, is widely available. Shotguns used by law enforcement are usually re-loaded via a pump action on the lower tube, although semi-automatic shotguns are also used.

Some specially-designed, less lethal launchers use compressed air to launch a range of small plastic projectiles with different characteristics (e.g., impact, impact and irritant, irritant and dye-marking/paint). They can often be distinguished by the canister of compressed air that is attached to the weapon.

Handheld launchers can be single, double or multi-shot. They are capable of firing a wide range of kinetic impact munitions or chemical irritants. They can be identified by their wide barrels, typically 37/38 mm or 40 mm, compared with other police firearms. Launchers are also known as “riot guns” or grenade launchers.

Fixed or mountable multiple barrel launchers are usually mounted on vehicles, but can also be stand-alone or fixed to permanent structures, such as buildings. The number of barrels varies, and they allow individual, sequential or simultaneous firing of kinetic impact munitions and chemical irritant or stun projectiles.



Different forms of shotguns



A multiple barrel launcher



A compressed-air launcher



Handheld launcher



An unmanned aerial vehicle



An officer with a single-shot handheld launcher in Quebec City, Canada, 9 June 2018, ©ODIHR

Unmanned aerial vehicles (UAVs), or “drones” capable of deploying a range of means of force have been developed and are marketed for crowd-control purposes. The drone in the image is equipped with stun grenades, and other models can deploy chemical irritant grenades/cartridges, operate chemical irritant aerosols, etc. Armed drones are not widely used for the policing of public gatherings, and there are no known instances where they have been used for this purpose in the OSCE area, although there have been reports of their use against protesters in other countries.

Monitors should be aware that, in a number of jurisdictions, certain firearms that are predominantly used to fire conventional metal-jacketed ammunition are sometimes used to fire less lethal ammunition, including in the context of public assemblies. These include assault rifles and handguns.

**Intended purpose:** The intended utility and effect of launchers largely depends on the type of ammunition and the manner in which it is used. Specially designed launchers such as the one shown in image 2 above are intended to be used to incapacitate individuals. Generally speaking, handheld and fixed multiple barrel launchers and UAVs armed with less lethal weapons are intended to be used from a distance (unlike sprays or hand-thrown grenades). As such, they have the capacity to deliver force over a wide area almost immediately. For more information, see the sections on chemical irritants, kinetic impact projectiles and stun grenades.

Conventional metal-jacketed ammunition is much more likely to have a lethal effect. The ODIHR *Human Rights Handbook on Policing Assemblies* states that firearms loaded with conventional metal-jacketed ammunition should not generally be used in the context of assemblies, stating that, even in exceptional circumstances, “intentional lethal use of firearms should only happen when strictly unavoidable in order to protect life.”<sup>62</sup>

**Possible health and/or human rights implications of use in policing assemblies:** The use of launchers can lead to serious injury or death, even when used to fire less lethal ammunition. Many are poorly maintained, adding to their general inaccuracy. The level of risk increases when projectiles are launched at close range (excessive kinetic energy) or aimed at sensitive parts of the body (e.g., the head, chest or abdomen). Small projectiles carry an increased risk of causing eye injuries or penetration the skin.

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<sup>62</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, op. cit., note 24, pp. 31-32.

When ruling on a case involving the launch of tear gas grenades, the European Court of Human Rights stated that “firing a grenade by means of a launcher generates the risk of causing serious injury (...), or indeed of killing someone, if the grenade launcher is used improperly.”<sup>63</sup> The Court has found that the inappropriate use of launchers to fire tear gas grenades directly at protesters on a flat trajectory violated Articles 2 and 3 of the European Convention on Human Rights – on the right to life and the prohibition of torture and other ill-treatment.<sup>64</sup>

Some launchers can be used to disseminate large amounts of chemical irritant over a wide area in a short space of time, indiscriminately affecting all those in the contaminated area. This can cause serious injury or death through asphyxiation, agent toxicity or kinetic impact of the projectile. The use of launchers could also lead to injuries resulting from panic and stampedes when used in larger enclosed areas or where there is only a limited possibility of exit.

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has expressed concern at the prospect of unmanned vehicles being used to police public gatherings: “Using unmanned systems to deliver force in the law enforcement context is also likely to be seen in many contexts as adding insult to injury, and an affront to human dignity. For example, using unmanned systems against striking mine workers, even if less lethal, could easily be viewed as less than human treatment.”<sup>65</sup>

Shotguns can be used to fire both lethal and less lethal rounds, creating the risk of unintentional use of lethal force. Though used less frequently to fire less lethal ammunition, the same applies to assault rifles and handguns. Shotguns and handguns are also inaccurate, with range and weather conditions having an additional effect. Multiple projectile rounds (e.g., rubber/plastic pellets) are inherently indiscriminate. These factors increase the risk of those other than the individuals targeted, including bystanders, being hit, particularly in the context of a public gathering.

While all of the above-mentioned launchers and firearms can cause significant bodily harm, and sometimes death, firearms using conventional metal-jacketed ammunition are much more likely to have lethal effect. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has stated that indiscriminate firing of such weapons into a crowd is always unlawful, even when some protesters

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<sup>63</sup> European Court of Human Rights, *Abdullah Yaşa and Others v. Turkey*, judgment of 16 July 2013, paragraph 42.

<sup>64</sup> European Court of Human Rights, *Ataykaya v. Turkey*, judgment of 22 July 2014, and *Ibid.*

<sup>65</sup> “Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns”, UN doc. A/69/265/, 6 August 2014, para. 85, <<https://undocs.org/pdf?symbol=en/A/69/265>>.

are engaged in violence, while also stating that lethal force has no role to play in the context of unlawful assemblies that are peaceful but must be dispersed.<sup>66</sup> The UN Human Rights *Guidance on Less-Lethal Weapons in Law Enforcement* states that “[t]he use of firearms to disperse an assembly is always unlawful”.<sup>67</sup>

Similarly to the UN Special Rapporteur, the ODIHR *Human Rights Handbook on Policing Assemblies* emphasizes that “firearms should never be considered operational tools for the management of public assemblies. Firearms should not be used to disperse an assembly, even in cases where there are ongoing acts of violence.”

Should the use of firearms be observed by the monitors, references should be made to the guiding principles the UN “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, which lay out a series of considerations regarding the use of firearms.<sup>68</sup>

### **What monitors should observe and record**

- In what circumstances were the launchers/firearms carried or used?
- What kind of launchers/firearms were carried or used? Did police keep weapons holstered, or were they carried, aimed and/or used to threaten?
- What did the launchers/firearms look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- What kind of ammunition was used (e.g., irritant, impact, etc.)?
- What did the projectiles look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- Was force used to target individuals engaging in violent behaviour, or was it used indiscriminately against the gathering?
- At what range were the launchers/firearms deployed? How many rounds were fired?
- Were launchers used to target a particular person, or were they used to target a group or fired indiscriminately?
- At what trajectory were projectiles fired (i.e., was the launcher facing upwards or directly at protesters)?

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<sup>66</sup> Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns”, UN doc. A/HRC/26/36, 1 April 2014, para. 75, <<https://www.refworld.org/docid/53981a550.html>>.

<sup>67</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 6.3.4.

<sup>68</sup> UN, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, *op. cit.*, note 4.

- Were there any vulnerable persons (e.g., children, persons with disabilities or elderly people) in the area the launchers/firearms were used? Were any affected?
- Were the same people targeted more than once in a short space of time?
- Were any bystanders injured? If not, was there a risk that this might happen?
- Was anyone directly hit by a launched chemical irritant projectile?
- Was a warning issued before the use of launchers/firearms? How far in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the launchers/firearms?

### **Illustrative examples of health and human rights implications**

Police use of weapon-fired tear gas cartridges as impact projectiles was documented against protesters in an OSCE participating State in 2013. A major human rights NGO reported that scores of protesters suffered serious head injuries as a result of this practice. Reportedly, at least 11 people suffered vision loss and at least two people were killed after being struck in the head with tear gas cartridges.

In 2011, local authorities in the town of one of the OSCE participating States arranged Independence Day celebrations in a square that striking workers had been occupying for months. As altercations reportedly broke out between workers and festivalgoers, police intervened. After a group of men set fire to some of the equipment being used for the celebrations the police responded by firing live ammunition into the crowd. Video footage of the incident appears to show police officers firing indiscriminately into the crowd, hitting people who did not appear to pose any imminent threat and at least some of whom were fleeing. According to official figures, at least 14 were killed and dozens were seriously injured, including 64 with shotgun wounds.



## 11. MECHANICAL RESTRAINTS

**Description:** Mechanical restraints are applied to the body to restrict the movement of an individual. Many different types are used for law enforcement. There are a number of types of these restraints, which are most frequently used at the moment of arrest or shortly thereafter:

Ordinary handcuffs consist of two lockable cuffs, usually made of metal, connected by a short chain-link, rigid bar or hinge. Some models feature a double locking mechanism, designed to prevent overtightening, and others are single locking, which can be progressively tightened through a ratchet.

Plastic restraints, resembling “cable ties” (which are also sometimes used), and nylon or textile restraints can have single or double cuffs. They are mostly used to restrain the hands, but there are also models designed to restrain the feet.

Fabric adjustable restraints with metal grips are most frequently fixed to the wrists, ankles or waist.

“Fast” straps are fabric straps with Velcro fasteners that wrap round the legs, arms and/or torso.

**Intended purpose:** Mechanical restraints are applied to control people or to protect them from committing harm to themselves or others. In the context of public gatherings, they are used to restrict the movement of people who have been detained for engaging in criminal behaviour (e.g., violence towards law enforcement officials or others, criminal damage caused to property), who also pose a risk of harm to themselves or others, or may flee.

Some of the restraints shown above have specific uses. Plastic or nylon restraints and “fast” straps are designed for rapid deployment and, due to their light weight,



Chain-link and hinged handcuffs



Disposable textile handcuffs



A "fast" strap



A fabric restraint with metal grip



Police officers with disposable plastic restraints,  
©ODIHR

officials can carry multiple sets. Fabric restraints are used to reduce the risk of injuries associated with metal restraints. These are sometimes used when a suspect has already been brought under control, replacing the restraints used at the moment of the detention.

**Possible health and/or human rights implications of use in policing assemblies:** Mechanical restraints are frequently used routinely during the detention of suspects, even when their use is neither necessary nor proportionate. The use of mechanical restraints on large groups of people when mass arrests are made during public gatherings could violate international use of force standards, particularly when law enforcement officers fail to use them only when they have sufficient reason to believe that the person placed in restraints presents a threat of harm to themselves or others, or may flee.

Some restraints can easily be over-tightened to cause pain and discomfort, and can cause permanent injury, including nerve damage (some models allow double locking, which reduces this risk, provided it is promptly engaged). Most “cable-tie” style disposable cuffs can only be tightened, but not subsequently loosened, which makes it very easy to purposefully or inadvertently cause the wearer severe pain and discomfort. They can also cut into the flesh over time.

There is a risk of secondary injuries from falls, particularly when leg restraints are used or when a detainee’s hands are tied/cuffed behind their back. Fabric restraints that wrap around the torso can potentially restrict the breathing of the detainee.

The prolonged use of metal restraints can lead to lacerations, which can lead to blood poisoning and other long-term physical impairments. Fabric or other soft restraints may provide a safer alternative to metal restraints, but they must be appropriately tested and should only be used by trained personnel and in line with international human rights standards.

Restraints are frequently used to facilitate torture and other ill-treatment, including through the use of painful “stress positions” and the use of additional means of force on people who are already restrained.<sup>69</sup>

Where mechanical restraints are used with the intention of causing fear or feelings of anguish and inferiority, this may amount to degrading treatment, particularly when the use of restraints is not justified by the conduct of the detainee. In the context of a public gathering, this may occur, for example, when participants are restrained and left lying in prone position, made to sit on the street for a prolonged period, tied to a fixed object. Such tactics could also be employed to stigmatize public protest and to dissuade people from joining. The European Court of Human Rights has held that

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<sup>69</sup> See, for example, European Court of Human Rights, *Karabet and Others v. Ukraine*, judgment of 17 January 2013.

“the wearing of handcuffs in public, can affect a person’s self-esteem and cause him or her psychological damage”, stating that the humiliation a person may suffer from handcuffing may be aggravated when carried out in public.<sup>70</sup>

### **What monitors should observe and record**

- In what circumstances were the restraints used?
- Were restraints placed by law enforcement officers on all those detained, or were they placed only on those who were deemed to be resisting arrest?
- What kind of restraints were used? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- For how long were restraints used?
- How many people were placed in restraints, and where were they taken subsequently (e.g., taken away in police vehicles, told to sit on the street, placed lying face-down, etc.)?
- If detainees’ hands were placed in restraints, were they tied/cuffed in the front or behind their backs?
- Did anyone who was placed in mechanical restraints complain of over-tightening? If so, how did law enforcement officials respond?
- Was any additional force used on anyone who was already mechanically restrained?

### **Illustrative examples of health and human rights implications**

Handcuffs were reportedly used in conjunction with other means of force against protesters detained during large public gatherings in an OSCE participating State in 2016. According to testimony collected by the local NGO, in one instance over 50 people detained during public gatherings were handcuffed, taken to a hall in the police academy building and made to walk between two lines of police officers who beat them. The detainees remained in handcuffs throughout their detention in the hall, during which time they were also threatened by police with firearms, denied drinking water and toilet facilities.

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<sup>70</sup> European Court of human Rights, *Erdoğan Yağiz v. Turkey*, judgment of 6 March 2007, paras. 42-47.

## 12. POLICE DOGS

**Description:** Police dogs are used to search for persons or goods (e.g., stowaways, drugs or explosives) or as instruments of force. This guide will only deal with dogs used as instruments of force.

Typically, large dogs, such as German Shepherds or Belgian Malinois, are used when force may be required. Police dogs are given training, including on obeying their handler and tackling and detaining suspects. They normally work with and respond to a single handler.

**Intended purpose:** Depending on their training, police dogs may be commanded to bite suspects until the handler commands it to release (“bite-and-hold” or “find-and-bite”) or to bark at rather than bite suspects who remain motionless (“bark-and-hold” or “find-and-bark”).

Police dogs are often used as a deterrent during public gatherings, but they are also used as instruments of force. Specific uses include supporting cordons, escorting marches, crowd dispersal and assisting in the arrest or detention of a subject.<sup>71</sup>

**Possible health and/or human rights implications of use in policing assemblies:** The use of police dogs to police public gatherings is problematic, as they can attack indiscriminately and can cause unnecessary and/or disproportionate injuries. Their presence can be intimidating, as many people have a deep fear of dogs and this could be a factor dissuading people from exercising their right to freedom of peaceful assembly.

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<sup>71</sup> College of Policing, Tactical Options, first published 23 October 2013, last modified 12 September 2018, available at <https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#police-dogs> (accessed 16 October 2018).



Police dogs, Ústí nad Labem, the Czech Republic, 1 May 2014, ©ODIHR

Studies have shown that police dogs tend to bite multiple times, often in the head, neck, upper arms and chest.<sup>72</sup> Being attacked by a police dog can be particularly traumatic and can leave lifelong physical and mental scars. Studies have found that the use of dogs against suspects greatly increased the risk of injury compared with other use of force methods.<sup>73</sup>

The ODIHR *Human Rights Handbook on Policing Assemblies* states that the use of dogs can be perceived as intimidating, provocative or offensive, and notes that dogs cannot discriminate between those who are breaking the law and those who are not.<sup>74</sup> According to the handbook, dogs are not suitable for the policing of

<sup>72</sup> Meade, P. C., "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.

<sup>73</sup> United States Department of Justice, National Institute of Justice, *Police Use of Force, Tasers and Other Less-Lethal Weapons*, Research in Brief, 2011, p. 7, <<https://www.ncjrs.gov/pdffiles1/nij/232215.pdf>>.

<sup>74</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 72.

large assemblies and should not be used for riot control, containment or dispersal. Furthermore, some faith groups may be affected disproportionately due to their historical perceptions of the use of dogs.

Similarly, according to the International Committee of the Red Cross, “The presence of police dogs at a demonstration is easily perceived by participants as an act of aggression on the part of law enforcement officials.”<sup>75</sup> This can also be the case if dogs are not seen but are brought close and can be heard barking aggressively by the participants of an assembly.

*The United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* also notes the risk of secondary infection from dog bites.<sup>76</sup>

The UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement* makes various recommendations on the use of dogs, including in crowd-control situations. Monitors should take particular care to record any use of dogs that does not comply with the following:

- Dogs should not be used in an offensive role in a public order situation;
- Dogs should be trained to “find-and-bark” rather than “find-and-bite”; and
- Using an unmuzzled dog should be placed at the higher end of the scale of force and should only be used in specific prescribed situations.<sup>77</sup>

### **What monitors should observe and record**

- In what circumstances were the police dogs used?
- How many dogs were used to police the gathering?
- Were police dogs muzzled or unmuzzled? Were they on or off the leash?
- Were police dogs used solely as a deterrent, or were they used as an offensive instrument/use of force?
- Were police dogs used to target a specific person, or were they used indiscriminately against a group of people?

<sup>75</sup> International Committee of the Red Cross (ICRC), *To Serve and to Protect: Human Rights and Humanitarian Law for Police and Security Forces*, (Geneva: ICRC, 2014), p. 185, <<https://www.icrc.org/eng/assets/files/publications/icrc-002-0698.pdf>>.

<sup>76</sup> UN, *UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 6.1.3.

<sup>77</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, pp. 84-85.

- If a dog was used to “find-and-bite”, was it ordered to release the person as soon as they were brought under control?
- How did the crowd react to the deployment of police dogs?
- Was a warning issued before the use of dogs towards a specific person or a group of persons? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the police dogs?

### **Illustrative examples of health and human rights implications:**

In 2016, private security staff used police dogs on indigenous people peacefully protesting against the construction of a pipeline in an OSCE participating State, reportedly resulting in six people being injured by dog bites. Video footage taken by a local NGO showed how the deployment of the dogs significantly elevated tensions and created a highly confrontational atmosphere.

Handlers have lost control of their dogs in other incidents in the participating State. A dog handler was said to be “devastated” after his dog got loose and attacked protesters during a 2012 protest in one area of the country. In 2017, a police dog attacked and bit three law enforcement officers during another protest.



## 13. POLICE HORSES

**Description:** Law enforcement officers deployed on horses are commonly referred to as “mounted units” or “mounted police”.

**Intended purpose:** Mounted units are deployed at public gatherings for monitoring and information gathering, to serve as a deterrent, to disperse a crowd or to create or support a cordon.

Mounted officers are afforded an elevated vantage point, aiding them in identifying individuals engaged in unlawful behaviour. Horses are intimidating, due to their size and presence, meaning that people usually comply with orders given by mounted officers.<sup>78</sup> People tend to move out of the way of horses coming towards them for fear of injury, which is why they are used to disperse crowds. According to the UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement*, horses are used to charge at and disperse groups of people engaged in violence, and mounted officers sometimes also use batons, but the horse must never be used to ride over people.<sup>79</sup> Horses are also used to slowly push a group of people in a certain direction.

**Possible health and/or human rights implications of use in policing assemblies:** Mounted law enforcement officers do not have full control over the entire bodies of horses and, thus, cannot at all times control the degree of force used.<sup>80</sup> The OHCHR manual on human rights and law enforcement states that there is a risk of serious bodily injury or death if horses are deployed in inappropriate circumstances, while also noting that their mere presence might unnecessarily escalate tensions.<sup>81</sup>

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<sup>78</sup> *Ibid.*, pp. 85.

<sup>79</sup> *Ibid.*

<sup>80</sup> UNODC, *Resource book on the use of force and firearms in law enforcement*, p. 86, available at: [https://www.unodc.org/documents/justice-and-prison-reform/17-03483\\_ebook.pdf](https://www.unodc.org/documents/justice-and-prison-reform/17-03483_ebook.pdf) (accessed on 25 June 2020).

<sup>81</sup> *Ibid.*



Mounted crowd-control police officers, Gothenburg, Sweden, 1 May 2016, ©ODIHR

Horses can react unpredictably when they are frightened, for example by loud noises, and this can lead to injuries to mounted law enforcement officers and protesters in close proximity.

Horses should not be used in close proximity to barriers, due to the risk of people being crushed. According to the UK College of Policing, a warning should be given before horses are deployed, and an escape route (to a safe space) must be available for those assembled.<sup>82</sup>

Baton use by a mounted officer carries the risk of strikes to the head, due to the officer's elevated position, potentially leading to serious injury or death.

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<sup>82</sup> United Kingdom College of Policing, "Public Order: Tactical Options", United Kingdom College of Policing website, <<https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#mounted-police>>.

Certain groups may be particularly vulnerable when horses are used to disperse a crowd, particularly those with limited mobility, slow reaction times or impaired sight (e.g., persons with disabilities or elderly people, children, pregnant women).

### **What monitors should observe and record**

- In what circumstances were the horses used?
- What were horses used for (e.g., monitoring, as a deterrent, to form a cordon, crowd dispersal)? How were they used (e.g., walking, trotting, charging)?
- If used to disperse a crowd, were the horses used to charge at people? Was anyone knocked over or injured in any way?
- Were there any particularly vulnerable people present and affected (e.g., children, people with limited mobility)?
- Did mounted law enforcement officers use any additional force (e.g., baton strikes)? Were people hit on the head by batons?
- What was the effect of the use of horses (e.g., increased tension or violence, panic, stampede, orderly dispersal)?
- Was a warning given before horses were deployed? How much in advance of the use was the warning issued? Was a viable escape route made available?
- Was medical help provided (by the police, medical service) to those affected by the horses?

### **Illustrative examples of health and human rights implications:**

Mounted police were deployed during a protest against a rally by a far-right political party in a participating State in 2014. Reportedly, 10 people were taken to hospital as a result, five of whom sustained serious injuries. Photos taken by journalists show the horses riding over members of the crowd lying on the ground. According to a police spokesperson, “A number of people were trampled and one person was seriously injured.”

In 2015, the law enforcement deployed mounted police to deal with an anti-austerity demonstration. Several horses and officers were injured during the protest as a result of fireworks being thrown at them, and a mounted police officer fell and broke his wrist after his horse was frightened by fireworks.

## 14. PROTECTIVE EQUIPMENT<sup>83</sup>

**Description:** Protective equipment, often referred to as “riot control equipment”, includes shields, helmets, vests and protective body armour.

**Intended purpose:** The purpose of this equipment is to protect law enforcement officers and to decrease the need for using force, protecting the lives of all involved.<sup>84</sup>

According to the ODIHR *Human Rights Handbook on Policing Assemblies*, “The use of shields is primarily a means of protection, employed to stop projectiles from hitting officers.”<sup>85</sup> In addition, shields are used to assist with crowd dispersal, to contain disorder, to protect vulnerable persons or significant locations, and to arrest those engaged in unlawful behaviour.<sup>86</sup>

**Possible health and/or human rights implications of use in policing assemblies:** The UN “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials” state that they should have access to “self-defensive equipment such as shields, helmets, bullet-proof vests and bullet-proof means of transportation, in order to decrease the need to use weapons of any kind.”<sup>87</sup> Such equipment can help law enforcement officers to fulfil their obligation to carry out their duties without resorting to force, as far as possible. In this regard, the de-

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<sup>83</sup> The term “personal protective equipment” is used in some jurisdictions to include both defensive protective equipment and offensive weapons such as batons and chemical irritant sprays. This section is on the former, i.e., protective equipment intended to be used for defensive purposes only.

<sup>84</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 24, p. 73.

<sup>85</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 76.

<sup>86</sup> United Kingdom College of Policing, “Public Order: Tactical Options”, United Kingdom College of Policing website, <<https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#shield-tactics>>.

<sup>87</sup> UN, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, *op. cit.*, note 4, Principle 2.



Police officers with protective equipment in Quebec City, Canada, 7 June 2018, ©ODIHR



A law enforcement officer with riot-control shield, body armour and helmet



A law enforcement officer with riot control helmet and body armour



Riot-control body armour

ployment of protective equipment may often constitute a good practice, and its availability is an important aspect of the principle of precaution.

In the context of a public assembly, law enforcement authorities need to consider how the use of protective equipment will be perceived by people, and any potential reactions it might trigger, including that it may raise tensions. For instance, in some situations the deployment of a line of officers bearing shields may provoke violent reactions and disorder.<sup>88</sup> On the other hand, actions such as removing helmets or

<sup>88</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 76.

lowering shields can help to diffuse a tense situation and aid with de-escalation.<sup>89</sup> The ODIHR *Human Rights Handbook on Policing Assemblies* recommends that officers equipped with protective equipment remain out of sight of the assembly for as long as possible, ready to be deployed if the situation deteriorates or if there is a credible risk of violence.<sup>90</sup>

Law enforcement officers should be individually identifiable at all times.<sup>91</sup> Protective body armour that is worn over an officer's uniform can, however, hide a nameplate or ID number, and protective helmets with visors obscure an officer's face. Where such protective equipment does not bear a nameplate or unique ID number, there is a danger that the officer might not be identifiable and might act with a certain level of impunity.

Communication between law enforcement officers and protesters can help to avert violence. The use of protective headgear reduces the ability of officers to communicate. Officers may also become dehydrated and fatigued while wearing full protective equipment in warm weather,<sup>92</sup> and this may impact on their wellbeing, patience and decision-making. Officers may feel emboldened when fully suited up with protective equipment, potentially resulting in a lack of empathy with protesters, and possibly a quicker recourse to the use of force.

There is a risk of injury when protective equipment (particularly a shield, and sometimes a helmet) is used inappropriately as a striking weapon. While it may occasionally be appropriate to push people with the flat side of a shield, the edge of the shield should never be used offensively, as this can cause serious injury or even death when used to strike the head or neck.<sup>93</sup> In addition, the ODIHR *Human Rights Handbook on Policing Assemblies* warns that shields should not be used together with batons in a provocative manner, i.e., by beating the shield.<sup>94</sup>

The use of protective equipment that goes beyond the primary purpose of protection (e.g., shields that have additional offensive functions, such as being fitted with kinetic impact projectile launchers or chemical irritant spray), risks blurring the line between protective and offensive equipment potentially creates confusion, lead-

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<sup>89</sup> *Ibid.*, p. 68.

<sup>90</sup> *Ibid.*

<sup>91</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, "Joint Report Submitted to the Human Rights Council on the Management of Public Assemblies", UN doc. A/HRC/31/66, 4 February 2016, para. 65, <<https://digitallibrary.un.org/record/831673?ln=en>>.

<sup>92</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 68.

<sup>93</sup> *Ibid.*, p. 76.

<sup>94</sup> *Ibid.*

ing to increased tension or provoking a violent reaction, and erodes the perceived legitimacy of law enforcement authorities.

### **What monitors should observe and record**

- In what circumstances was the protective equipment used?
- With what kind of protective equipment were officers equipped?
- If officers were wearing full protective equipment, for how long were they deployed? Did they have access to drinking water?
- Was certain equipment deployed in response to acts of violence or escalating tension, or was all of the equipment deployed in advance of the gathering? Did different officers or units have different protective equipment?
- Was protective equipment used as a weapon (e.g., to strike protesters or bystanders)? If shields were used to strike protesters, were the flat sides or the edges used?
- Did law enforcement officers use protective equipment in an intimidating way (e.g., by beating shields with batons)?
- Were law enforcement officers adequately protected from violent acts?
- Were law enforcement officers identifiable, for example, by means of visible, unique ID numbers on protective helmets?

### **Illustrative examples of health and human rights implications**

In 2014, riot police used force against a peaceful protest against mass redundancies outside the Ministry of Finance in an OSCE participating State. Some of the participants were cleaning workers, mostly women 45 to 60 years of age, who had been laid off by the Ministry. The protesters reportedly posed no threat, and there was no risk that they would gain entry to the Ministry building, but police kicked them and struck them with their riot shields to disperse them. Reportedly, many protesters were left bruised, and three received hospital treatment after being “severely beaten” by police.

It was reported that, in 2017, police responded to peaceful protests in two cities in an OSCE participating State with excessive force. Protesters, human rights defenders and lawyers in both cities told a major human rights NGO that police officers’ badges were covered by bulletproof vests and they ignored requests to identify themselves. The organization reported that this is a frequent occurrence at public gatherings in the OSCE participating State, seriously obstructing police accountability for beatings and other ill-treatment.

## 15. HANDHELD KINETIC IMPACT WEAPONS

**Description:** Handheld kinetic impact weapons, also known as striking weapons, include batons and other clubs. They are usually made of rubber, wood, plastic or metal, and can be short or long (20 centimetres to 2 metres), telescopic, collapsible or side-handled.

These are one of the most common types of less lethal weapons with which officers are equipped.

There are three main types of striking weapons used by law enforcement officials: straight batons, which vary in length from 20 centimetres to 2 metres, with longer batons commonly marketed as “riot batons”; side-handle batons/tonfas, which are straight batons with a handle on one side; and telescopic/extendable batons, which usually extend up to 2 or 3 times their retracted length and are typically made of aluminium.

When striking weapons are used in the policing of an assembly, monitors should document certain distinguishing features, including the length, type of material, thickness and colour of the weapons, and the manner in which they are deployed (e.g., whether there are overhead strikes, which part of the body is targeted, and the number of strikes).

**Intended purpose:** Handheld kinetic impact weapons are used by law enforcement officers to strike a person to cause physical pain or to threaten physical pain, in order to force them to comply or to deter them from an action. These should be used on larger muscle groups on the limbs but, even then, striking weapons can cause severe bruising, lacerations and broken bones. They can also be used defensively by law enforcement officers (e.g., to protect from blows by assailants).



According to the ODIHR *Human Rights Handbook on Policing Assemblies*, “[t]he use of batons by police in a co-ordinated, disciplined way can move or disperse violent participants in an assembly or protect individual police officers from attack.”<sup>95</sup>

**Possible health and/or human rights implications of use in policing assemblies:** Striking weapons can be misused by law enforcement officials to inflict unnecessary or excessive force through beating. The level of force inflicted varies, depending on the skill and strength of the user and the type of baton used. As a general rule, the longer and heavier a baton is, the higher the degree of force it can generate.<sup>96</sup> Overhead strikes and strikes to the head or neck carry the risk of serious injury or death. Driving the baton “end on” into the person can cause serious injury, including to vital organs or by causing ruptures and internal bleeding.<sup>97</sup>

Striking weapons are sometimes used to apply dangerous restraint techniques, including applying leverage to limbs for pain compliance and, particularly, neck-holds that restrict breathing. Neck holds have been found to present a “high risk of serious injury or death as a result of large blood vessel or airway compression” and also risk “injury to underlying structures, including the larynx, trachea, and hyoid bone”.<sup>98</sup> The CPT has recommended that “the use of techniques involving physical force which may impede airflow through the respiratory tract be prohibited.”<sup>99</sup>

The UNODC/OHCHR *Resource Book on the Use of Force and Firearms in Law Enforcement* recommends that special precautions be taken when using batons, including the following:

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<sup>95</sup> *Ibid.*

<sup>96</sup> See Collie, K.; Wargo, B; Berry, C. & C. Mesloh, “A Pilot Study of Kinetic Energy Transfer Based Upon Police Baton Designs”, *Law Enforcement Executive Forum*, vol. 9, no. 1, 2009, pp. 121-128, <[https://www.researchgate.net/publication/263808533\\_A\\_Pilot\\_Study\\_of\\_Kinetic\\_Energy\\_Transfer\\_Based\\_Upon\\_Police\\_Baton\\_Designs](https://www.researchgate.net/publication/263808533_A_Pilot_Study_of_Kinetic_Energy_Transfer_Based_Upon_Police_Baton_Designs)>.

<sup>97</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 7.1.4.

<sup>98</sup> Vilke, G. M., “Neck Holds”, in Ross, D. L. & Chan, T. C. (Eds.), *Forensic Science and Medicine: Sudden Deaths in Custody*, (New Jersey: Humana Press Inc., 2006), pp. 15-37, [https://books.google.pl/books?id=BF16GGZsqp4C&pg=PA113&lpq=PA113&dq=Forensic+Science+and+Medicine:+Sudden+Deaths+in+Custody&source=bl&ots=fS68N-kIOT&sig=ACfU3U1DamaXQ759Y\\_Ee\\_6oEZ5ToDh6Ckg&hl=en&sa=X&ved=2ahUKEwiD5tWH-fTpAhVtlosKHVVqBCAQ6AEwA3oECAoQAQ#v=onepage&q=Forensic%20Science%20and%20Medicine%3A%20Sudden%20Deaths%20in%20Custody&f=false](https://books.google.pl/books?id=BF16GGZsqp4C&pg=PA113&lpq=PA113&dq=Forensic+Science+and+Medicine:+Sudden+Deaths+in+Custody&source=bl&ots=fS68N-kIOT&sig=ACfU3U1DamaXQ759Y_Ee_6oEZ5ToDh6Ckg&hl=en&sa=X&ved=2ahUKEwiD5tWH-fTpAhVtlosKHVVqBCAQ6AEwA3oECAoQAQ#v=onepage&q=Forensic%20Science%20and%20Medicine%3A%20Sudden%20Deaths%20in%20Custody&f=false).

<sup>99</sup> CPT, “Report to the Slovenian Government on the Visit to Slovenia Carried Out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 31 January to 6 February 2012”, CPT/Inf (2013) 16, para. 67, <<https://www.refworld.org/docid/51e922b34.html>>.



Telescopic / extendable batons



A straight baton and side-handle baton

- “Law enforcement officers should always use restraint and assess whether raising a baton causes the desired effect, without the need to hit the person;
- Care should be taken not to hit someone on the head or at body parts with vital organs, including the kidneys or the groin area. Other risk areas are the joints, which can easily be damaged or even broken, shins, ankles, the back due to risk of spinal injury, the neck and the sternum; and
- Where a law enforcement official has hit someone repeatedly, or whilst on the ground, this may amount to excessive force and should be investigated as such.”<sup>100</sup>

<sup>100</sup> UNODC & UN OHCHR, *Resource Book on the Use of Force and Firearms in Law Enforcement*, *op. cit.*, note 2, p. 81.

The ODIHR *Human Rights Handbook on Policing Assemblies* states that striking weapons should not be used provocatively (e.g., by beating police shields with batons to “stir up” a crowd), and that the use of force must cease once the legitimate purpose of the baton strike has been met.<sup>101</sup> In connection with the second point, some jurisdictions have policies requiring law enforcement officers to strike once, and then to reassess.

The Handbook also states: “Unless there is a risk of death or serious injury, baton strikes should never aim at the head or shoulders, as well as to the genitals, spine and other vulnerable parts of the body, as they could constitute a lethal use of force or cause serious injury.”<sup>102</sup>

### **What monitors should observe and record**

- In what circumstances were striking weapons used?
- What type of striking weapons were deployed?
- What did the weapons look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- What areas of the body were hit?
- What kind of strikes were used (e.g., overhead strikes, lateral swipes, end-on jabs)?
- Were striking weapons used only against those engaged in acts of violence, or were they used more generally against the crowd?
- How many times were suspects struck? Were large numbers of strikes (amounting to beating) used?
- Were people hit while already restrained, when they were on the ground or when they were not resisting?
- Were striking weapons used to intimidate those exercising their right to freedom of peaceful assembly (e.g., by using them to hit shields or by extending telescopic batons with a flick of the wrist)?
- Was a warning given before using striking weapons? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the use of striking weapons?

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<sup>101</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, pp. 76-77.

<sup>102</sup> *Ibid.* p. 77.

### **Illustrative examples of health and human rights implications**

Reportedly, during protests in 2013 in an OSCE participating State, riot police used batons against peaceful protesters. Police allegedly beat protesters who had already fallen on the ground, people who were trying to shield others and people trying to flee, leading to injuries including broken ribs, a broken wrist, bruising and cuts. Police also reportedly struck protesters on the head on multiple occasions, leading to several cases of concussion, a broken nose, cuts and other head injuries.

A journalist reportedly received a “serious skull fracture” when a riot police officer hit him on the back of his head with a baton in 2012. The journalist, who was reportedly part of a group of photojournalists being shepherded away from a small, peaceful demonstration near parliament when he was struck, subsequently required surgery, the insertion of two titanium plates and a course of anti-epilepsy drugs as a result of his injuries.

In 2016, police in an OSCE participating State used their batons to repel a group of protesters trying to push through a police cordon to enter a building whose tenants were being evicted. Video footage shows officers using overhead strikes even as protesters retreat down stairs, increasing the likelihood of inflicting serious head injuries. A 15-year-old girl reportedly required reconstructive surgery after suffering a fractured bone close to her eye as a result of a strike.

## 16. STUN GRENADES

**Description:** Stun grenades, also known as “flashbangs” and “distraction” or “disorientation” devices, are explosive devices that can be either hand-thrown or weapon-launched. Upon detonation, they emit extremely loud noise and/or bright flash(es) of light.

The casing on some stun grenades has several circular cut-outs, to allow the sound and light from the explosion through. Ridges protruding from the casing or flat sides of some hand-thrown stun grenades limit the movement of the devices following detonation. Other types move around and have multiple explosions, causing sound and bright flashes. Some types also disperse chemical irritants. Monitors can distinguish between hand-thrown grenades and launched cartridges through the presence of a visible fuse and pin on hand-thrown grenades prior to deployment. The grenade body can be metal, plastic, rubber or waterproof cardboard.

**Intended purpose:** Stun grenades were originally designed as a training aid, to simulate explosions, and later becoming tactical munitions for use by military special forces personnel during room clearance or hostage situations, and their use for these purposes was also adopted by law enforcement special weapons and tactics (SWAT) teams. Stun grenades have become more widely used by law enforcement personnel for crowd-control purposes in some countries.

Stun grenades are designed to emit a deafeningly loud noise upon detonation, intended to temporarily disorientate those in the immediate vicinity. They also emit a bright flash of light, intended to induce temporary blindness, for a period of several seconds. Grenade/cartridge cases should be designed to split, rather than fragment, to reduce the danger of injury, but some explode and produce high velocity fragments. The intensity of the noise and flash emitted varies from manufacturer to manufacturer. Some stun grenades emit multiple loud bangs and/or flashes, and some also dispense chemical irritants, inert smoke or multiple rubber balls or other projectiles.



A hand-thrown stun grenade with CS chemical irritant



A 40 mm cartridge-launched stun projectile



Hand-thrown stun grenades

### **Possible human rights and health implications of use in policing assemblies:**

Stun grenades are indiscriminate in nature and can affect those being targeted by law enforcement officers and bystanders alike. As the proximity of a person or group of people to the explosion increases, so too does the risk of serious injury or death. Use in a crowd-control context is often in conjunction with other means of force, including chemical irritants, often leading to panic, with the attendant risk of serious injury. When they explode, stun grenades can release shrapnel and fragments with sufficient energy to cause serious injury, or even death. The concussive blast of the detonation can start fires, particularly when used in enclosed spaces, and cause burns, hearing damage, eye injuries and psychological trauma.<sup>103</sup>

The CPT has documented injuries arising from the use of stun grenades against protesters, including closed cranio-cerebral trauma, acute barotrauma and burns.<sup>104</sup>

*The United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* states that “[t]he use of pyrotechnic flash-bang grenades directly against

<sup>103</sup> Physicians for Human Rights and the International Network of Civil Liberties Organizations (INCLIO), *Lethal in Disguise: The Health Consequences of Crowd-Control Weapons*, *op. cit.*, note 10, pp. 66-68.

<sup>104</sup> CPT, “Report to the Moldovan Government on the Visit to Moldova Carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 to 31 July 2009”, CPT/Inf (2009) 37, para. 13, <<https://www.refworld.org/docid/4ee23cc72.html>>.

a person would be unlawful”.<sup>105</sup> Even if deployed adjacent to a public assembly, rather than being used directly against assembly participants, stun grenades are likely (and perhaps intended) to cause panic. According to the UN Guidance, “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”.<sup>106</sup>

Human Rights Watch recommends that “Security forces should not fire stun grenades directly into crowds”, noting that their use can cause “serious burns” and “fragmentation can foreseeably cause serious injuries in an indiscriminate manner”.<sup>107</sup>

Explosive stun grenades should never be used for crowd dispersal.

### **What monitors should observe and record**

- In what circumstances were the stun grenades used?
- What did the stun grenades/projectiles look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- Approximately how many stun grenades were used?
- Did the grenades have any function other than sound and/or light (e.g., irritant smoke, rubber balls)?
- Were the stun grenades thrown by hand or launched using a weapon?
- Were the grenades thrown/launched into the crowd, adjacent to it, or rolled into it on the ground?
- At what height did the grenade explode (i.e., at ground level/head height, etc.)?
- Were protesters given additional time to disperse before further stun grenades were deployed?
- Did law enforcement officers continue to use stun grenades after the crowd began to disperse?
- Was a warning issued before the use of stun grenades? How much in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the stun grenades?

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<sup>105</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 6.1.4.

<sup>106</sup> *Ibid.*, para. 6.3.4.

<sup>107</sup> Human Rights Watch, “Armenia: Excessive Police Force at Protest,” Human Rights Watch website, 1 August 2016, <<https://www.hrw.org/news/2016/08/01/armenia-excessive-police-force-protest>>.

### **Illustrative examples of health and human rights implications**

The police reportedly used excessive force against peaceful protesters in an OSCE participating State in 2016, and dozens of protesters and some journalists were injured by stun grenades. The injuries included first- and second-degree burns and fragmentation wounds, and one protester reportedly lost an eye after being hit by fragments. A major NGO reported on the impact of a stun grenade exploding near a man's feet shortly after he joined the protest, noting that his legs were covered in blood. Doctors removed five plastic fragments of the stun grenade from his legs, which were covered in first- and second-degree burns and 30 lacerations.

The police used stun grenades during large student protests in 2012, resulting in several injuries. One of the protesters reportedly lost the use of an eye after a "Rubber Ball Blast Grenade" [a hand-thrown grenade manufactured in the United States that emits a bright flash, loud bang and chemical irritant] exploded near his head. In 2017, the Court, assessing the case, held that the evidence demonstrated the "high risk" of using the device in question and was particularly critical of the fact that the police chose to downplay this risk, in spite of the warnings on the manufacturer's datasheet that the product must be handled, stored and used with extreme care and caution, and that improper use can result in death or serious bodily injury.

The government of the participating State appointed a former Public Safety Minister to lead a commission, tasked with investigating the events surrounding the 2012 student protests. The Minister recommended that the use of stun grenades for crowd-control purposes be prohibited until public studies could demonstrate their utility and the risks they present.

In 2014, a protester died from injuries caused by a stun grenade explosion during a protest against the construction of a dam. The stun grenade reportedly exploded in close proximity to the protester's back, severing the top of his spinal cord and killing him instantly. Following his death, the Minister of the Interior announced the suspension of the use of the grenade in question for law enforcement purposes, stating that the munition had killed a 21-year-old man, and that this must never happen again.



## 17. SURVEILLANCE AND INTERCEPTION TECHNOLOGIES

**Description and intended purpose:** There are many types of electronic surveillance and interception technologies used for law enforcement. The following is a selection of some of the technologies that are either most visible or most likely to be used in the context of public gatherings.<sup>108</sup>

**Body-worn cameras** are small cameras that are attached to a law enforcement officer's uniform (usually the chest, but also the shoulder or helmet). Most models begin recording video and audio when they are activated by the officer, others are activated by specific triggers, such as when a weapon is drawn, and some record continuously. Body-worn cameras are intended to increase the transparency and accountability of police actions, as well as to provide video evidence that can be used in court.

**Handheld video cameras** are frequently used by law enforcement officers policing public gatherings to collect video evidence, in order to support police investigations and subsequent prosecutions.

**Surveillance unmanned aerial vehicles (UAVs)/drones** are increasingly used for crowd-control purposes. They are remotely operated and equipped with cameras to gather video evidence or to direct police actions. They allow the user to monitor a wide area, as well as to track individuals and could potentially aid law enforcement officers to identify specific individuals suspected of engaging in unlawful activity.

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<sup>108</sup> For a wider discussion of electronic surveillance technologies, see Privacy International, "The Global Surveillance Industry", Privacy International website, 16 February, 2018, <<https://privacyinternational.org/explainer/1632/global-surveillance-industry>>; See also, Privacy International, "Submission to the Office of the United Nations High Commissioner for Human Rights on the Promotion and Protection of Human Rights in the Context of Peaceful Protests", October 2019, <<https://privacyinternational.org/sites/default/files/2019-12/PI%20OHCHR%20peaceful%20protest%20submission%20October%202019.pdf>>.



Surveillance vehicle, Warsaw, Poland, 9 July 2016, ©ODIHR

**Signal jammers** are used to generate disruptive signals across the radio frequencies used by mobile phones, wireless Internet and other communications devices and networks, in order to block communication with antenna towers, thereby preventing communications technologies from being used within a certain area. Jammers vary greatly in appearance and size, with some having multiple antennae. Models promoted for law enforcement use include devices integrated into backpacks, clothing or laptops, devices intended to be installed in a fixed location, devices designed to be installed and used in vehicles and standalone, portable devices. Signal jammers have been used to make electronic communication difficult or impossible at an assembly including, including the transmitting of live video feeds or posting to social media.

**Interception technologies (IMSI catchers, phone and fibre taps, malware, etc.)** are designed to covertly access and/or record and store information communicated over the Internet or mobile, fixed or next generation networks. Certain technologies can also change (or insert) messages sent or received by mobile devices. Existing systems for intercepting and monitoring phones can be integrated



A UAV with surveillance and interception capabilities



A U.S. Park Service Police Officer takes video of spectators observing an incident in which the USPP has kettled a group of people at 12th and L NW in Washington, D.C., on Inauguration Day, 20 January 2017 by Mobilus in Mobili is licensed under CC BY 2.0

into vehicles, worn covertly by officers, installed in a server-type unit, operated via a laptop, or be fixed at specific locations (e.g., places frequently used for public assemblies). Capabilities include obtaining the unique identifying numbers of mobile phones (i.e., IMSI / IMEI), mass or targeted interception and storage of voice calls and SMS messages, decryption of encrypted communications, re-routing of calls, masquerading as the user and voice recognition.

**Facial Recognition** utilizes cameras linked to software that analyses images, video or live footage, to match images of people's faces in public with images on a pre-screened list, or "watch list". Facial recognition is a biometric tool relying on a person's unique physical features, but used at a distance.

Interception technologies which could potentially be used by police forces for the management of public gatherings are not usually deployed in sight of the public and it may not be possible for monitors to identify them at the time. However, evidence of surveillance may be reported by participants after an event. Surveillance vehicles usually have some interception capabilities, and their distinguishing features can include long antennae or mounted satellite dishes, but they can also look similar from the outside to non-specialized vehicles. The rapid development in capability of such surveillance and interception technologies, linked to increasing use of artificial intelligence systems, poses a unique challenge to monitors, especially as much of this capability is hidden from public scrutiny.

**Possible health and/or human rights implications of use in policing assemblies:** The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions

has referred to arguments that the use of body-worn cameras can have a preventive impact on the use of force by police, particularly excessive force, and unlawful behaviour by civilians.<sup>109</sup>

However, he also raised concerns that cases where the police have the power to decide when to turn the camera on can lead to selective documentation when police have the power to decide when to turn the camera on and, additionally, emphasizing the importance of protecting the right to privacy of civilians and police.<sup>110</sup>

Amnesty International has expressed concern that the use of body-worn cameras during public gatherings may have a chilling effect on the exercise of the right to freedom of peaceful assembly, noting that those who do not want to have their image captured by police may avoid participating. This is particularly the case when people fear the images may later be used to prosecute people for having participated in the assembly.<sup>111</sup>

The collection and processing of personal information, such as through recording devices or CCTV, must comply with protections against arbitrary or unlawful interference with privacy.<sup>112</sup> The right to privacy may be affected when images of people are stored for too long or used again in the future. The collection of information by law enforcement may be useful for the proper management of assemblies. However, any such actions must comply with protections against arbitrary or unlawful interference with privacy, bearing in mind their intrusive nature. UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions have stressed that “States should develop and implement laws and policies requiring that personal information may be collected or retained only for a lawful, legitimate law enforcement purpose. Such information should be destroyed after a reasonable time period set out in law.”<sup>113</sup>

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<sup>109</sup> UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, report submitted to the Human Rights Council, 24 April 2015, UN Doc. A/HRC/29/37, paras. 57-58.

<sup>110</sup> UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, “Report Submitted to the Human Rights Council”, 24 April 2015, UN Doc. A/HRC/29/37, para. 59.

<sup>111</sup> Amnesty International, “Use of Force: Guidelines for Implementation of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, Amnesty International website, August 2015, [https://www.amnesty.org.uk/files/use\\_of\\_force.pdf](https://www.amnesty.org.uk/files/use_of_force.pdf), p. 81. Amnesty International, p. 81.

<sup>112</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, “Joint Report Submitted to the Human Rights Council on the Management of Public Assemblies”, *op. cit.*, note 92, A/HRC/31/66, para. 73-78

<sup>113</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, “Joint Report Submitted to the Human Rights Council on the Management of Public Assemblies”, UN doc. A/HRC/31/66, 4 February 2016, para. 65, <<https://digitalibrary.un.org/record/831673?In=en>>.

The decision to film people participating in a public gathering may influence their behaviour, sometimes reducing the likelihood of disorder and sometimes triggering an aggressive reaction.<sup>114</sup> The manner in which the recording is captured can influence the reaction of those being recorded, e.g., when a law enforcement officer stands very close to the person it can be perceived as aggressive or provocative.<sup>115</sup> According to a UN report on the management of public assemblies, “[r]ecording peaceful assembly participants in a context and manner that intimidates or harasses is an impermissible interference [with the rights to freedom of assembly, association and expression].”<sup>116</sup>

The use of interception technologies could potentially enable law enforcement agencies to access and store personal and private information without a warrant and without the knowledge of those targeted. Similarly, police could use these technologies to pinpoint the location of specific people or to identify all people within a specific area, again without their knowledge or a warrant. For example, IMSI-catchers can retrieve the unique identifying numbers of all mobile phones within range, and these phones could then be matched to their owners through subscriber data.<sup>117</sup> This could lead to arbitrary investigations or other actions against people who were not engaged in illegal activity, including passers-by.

Facial recognition systems can be inaccurate (generating false positive identifications) and contain built in biases that lead to certain groups being disproportionately targeted.<sup>118</sup>

The 2018 UN Human Rights Council resolution on “The Promotion and Protection of Human Rights in the Context of Peaceful Protests” noted the importance of being able to use communications technologies securely and privately for the organization and

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<sup>114</sup> United Kingdom College of Policing, “Public Order: Tactical Options”, United Kingdom College of Policing website, <<https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#evidence-gathering-team>>.

<sup>115</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, p. 70.

<sup>116</sup> UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, “Joint Report Submitted to the Human Rights Council on the Management of Public Assemblies”, *op. cit.*, note 92, para. 76.

<sup>117</sup> Richards, S.; Hernandez, J & MacDonald-Evoy, J., “Cellphone Surveillance Used on Black Lives Matter Protesters at Fourth Precinct in Minneapolis”, *North Star Post*, 7 December 2015, <<https://www.nstarpost.com/news/cellphone-surveillance-used-on-black-lives-matter-protesters-at-fourth-precinct-in-minneapolis/>>.

<sup>118</sup> Privacy International, “Submission to the Office of the United Nations High Commissioner for Human Rights on the Promotion and Protection of Human Rights in the Context of Peaceful Protests”, *op. cit.*, note 110, <<https://privacyinternational.org/sites/default/files/2019-12/PI%20OHCHR%20peaceful%20protest%20submission%20October%202019.pdf>>.

conduct of assemblies.<sup>119</sup> This implies that the covert monitoring of participants' communications devices may interfere with their right to freedom of peaceful assembly.

The 2018 resolution also addresses the use of signal jammers, expressing concern “about the emerging trend of disinformation and of undue restrictions preventing Internet users from having access to or disseminating information at key political moments, with an impact on the ability to organize and conduct assemblies”.<sup>120</sup> The resolution calls on states “to refrain from and cease measures, when in violation of international human rights law, seeking to block Internet users from gaining access to or disseminating information online”.<sup>121</sup>

### **What monitors should observe and record**

- In what circumstances were the devices used?
- What devices were used by police to record the public gathering?
- What did the devices look like? Monitors should try to record the shape and size, and take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- What distance was the law enforcement officer operating the camera from the people being filmed?
- During what time period was the camera used?
- Were particular people or sections of the crowd filmed, or was filming carried out indiscriminately?
- How did people react to being filmed? Did the actions of the law enforcement officers affect the behaviour of participants?
- Was there a break in mobile phone reception at any time? What was the duration of the break?
- Did the Internet become inaccessible at any stage? For what time period was it inaccessible?
- Did participants report any other types of mobile or digital communications issues?
- Were the participants warned about the use of devices?

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<sup>119</sup> United Nations Human Rights Council, Resolution 38/11, on “The Promotion and Protection of Human Rights in the Context of Peaceful Protests”, adopted without a vote on 6 July 2018, preamble, <<https://www.right-docs.org/doc/a-hrc-res-38-11/>>.

<sup>120</sup> *Ibid.*

<sup>121</sup> *Ibid.*, operative para. 9.

## **Illustrative examples of health and human rights implications**

The inherent secrecy of many surveillance tools makes it difficult to gather specific instances of human rights violations caused by their use.

It has been reported that police recordings of public gatherings have been used inappropriately in an OSCE participating State. Practices of concern include using recordings to intimidate and threaten participants in public gatherings, particularly civil servants, and passing recordings to media organizations in order to stigmatize protesters.

Law enforcement authorities used a video analysis system during large scale protests in 2017 and to subsequently investigate alleged offenses. Its use reportedly led to the identification of three people. The system incorporated several steps:

- Data gathering – over 100 terabytes of video and photographs, with the bulk coming from public transport CCTV and other sources, including data captured by the police, shared by the public and taken from media sources, the Internet and social networks;
- Content was viewed and software was used to stamp it with a time and date stamp (Geodata);
- Separate software was then used to index files and filter out duplicates and irrelevant material;
- Some 17TB of content (thousands of videos and images) were placed on a server for use with facial recognition software. This then generated algorithms for each uniquely identifiable face.

The Commissioner for Data Protection and Freedom of Information has referred to this as “a police biometric database”, which he suspects includes “face IDs” of hundreds of thousands of people, many of whom did not engage in criminal activity or who were not even involved in protests. The Commissioner has informed the police that the facial recognition software breaches data protection law and has no legal basis. He stated that its use interferes with the “right to informational self-determination” of those affected. Nonetheless, the police reportedly intend to use this system on an ongoing basis.

## 18. WATER CANNONS

**Description:** A water cannon is a high-pressure pump system designed to propel a high- or low-velocity jet or spray of water at an individual or group of people. Water cannons are often mounted on armoured public order vehicles, but they can also be free-standing, building-mounted (for example at a checkpoint), or as mobile, “backpack” style devices.

**Intended purpose:** Water cannons can be used to keep crowds at a distance, to assist in their dispersal and to support police cordons.<sup>122</sup>

The pressure of the water jet can be varied from low pressure (designed to soak, deter or demoralize), to high pressure, which can cause blunt trauma or knock a person to the ground. Many water cannon systems can propel a narrow, focussed jet, targeting an individual, but there is a high risk of also affecting others when the targeted person is in close proximity to them, such as in a public assembly.

Substances are sometimes added to the water jet. These include chemical irritants (e.g., CS tear gas), malodourants and marker dye (for the later identification of people).

**Possible health and/or human rights implications of use in policing assemblies:** In the context of a public gathering, any use of water cannons will likely affect multiple people, rather than just the targeted individuals, creating a high likelihood of cross contamination or affecting innocent bystanders. Even when targeting a person or group engaged in criminal activity, there is a risk of causing them disproportionate harm.

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<sup>122</sup> United Kingdom College of Policing, “Public Order: Tactical Options”, United Kingdom College of Policing website <<https://www.app.college.police.uk/app-content/public-order/planning-and-deployment/tactical-options/#water-cannon>>.





Police using a water cannon against protesters, Hamburg, Germany, 6 July 2017 ©ODIHR

The kinetic impact of the water can knock a person over, push them into fixed objects, or pick up loose objects and propel them as missiles. There is a risk of blunt trauma injuries when people are struck from close range. Injuries such as blindness, fractures, bruising and concussion have been reported. *The United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement* states that the targeting of a jet of water at a person or persons from close range could amount to “potentially unlawful use”.<sup>123</sup>

There are a number of ways in which the use of water cannons can pose a threat either to the physical health or human rights of participants in assemblies or bystanders, alike: Use in conditions of low (and especially sub-zero) temperatures creates the risk of hypothermia or frostbite; the mixing of malodourant into the water stream can amount to collective punishment; the use of marking dye can lead to wrongful arrests, when bystanders are marked; the use of a mixture of water and chemical irritant makes it impossible to deliver accurately targeted doses of the irritant; and the use of dirty or otherwise contaminated water can lead to negative health effects for those targeted.

The ODIHR *Human Rights Handbook on Policing Assemblies* makes a series of recommendations on the use of water cannons.<sup>124</sup> The most pertinent for monitors are that:

<sup>123</sup> UN, *Guidance on Less-Lethal Weapons in Law Enforcement*, *op. cit.*, note 7, para. 7.7.4.

<sup>124</sup> ODIHR, *Human Rights Handbook on Policing Assemblies*, *op. cit.*, note 2, pp. 77-78.



A riot control vehicle with mounted water cannons

- Water cannons should never be used to disperse a peaceful assembly;
- A warning must be given to the participants in the assembly before water cannons are used;
- While suited to use in policing static assemblies, their use should be avoided in relation to mobile assemblies or moving marches;
- Adequate dispersal or exit routes must be available to enable people to move away safely;
- Water cannons should never be used against individuals who are in danger of being knocked off buildings [or other elevated positions];
- Medical care must be available to those who require it; and
- Water cannons should never be used in sub-zero temperatures.

The handbook also highlights that the presence of a water cannon can be seen as intimidating or as a provocation by the participants in the assembly, and that the use of water cannons can create health and safety risks, such as rendering ground surfaces very slippery, or by causing falls and injury when high water pressure is used.

### **What monitors should observe and record**

- In what circumstances were the water cannons used?
- Were the water cannons vehicle-mounted, stand-alone or body-worn? Monitors should try to take images or video, focusing on any logos, names or other markings that might identify the manufacturer or model.
- How many water cannons were used?
- Were the water cannons used to target individuals engaged in unlawful activities or indiscriminately against protesters?
- Were the water cannons used to target anyone from close range? If so, monitors should record the approximate distance.
- Were the water cannons used to target anyone in an elevated position, where there was a risk of falling?
- Did those affected display symptoms suggesting the use of chemical irritants in the water jet (irritated eyes or throat, coughing, difficulty breathing, etc.)?
- Were there any particularly vulnerable people present and affected (e.g., children, people with limited mobility)?
- What was the effect of the use of water cannons (e.g., increased tension or violence, panic, stampede, orderly dispersal)?
- In what weather conditions were the water cannons used?
- Was a warning given before the use of the water cannons? How long in advance of the use was the warning issued?
- Was medical help provided (by the police, medical service) to those affected by the water cannons?

### **Illustrative examples of health and human rights implications:**

In 2014, one protester was reported to have been killed after being soaked by a stream of water from a water cannon vehicle in freezing conditions. The Council of Europe Commissioner for Human Rights found that the 2014 rules on the use of special means allowed police to use water cannons at sub-zero temperatures, but that this was not the case in the earlier revisions of the rules.

Water cannons were used by the police against participants in protests that began in 2018. One of the participants reportedly sustained a broken nose, multiple bruises and a cut to the forehead, which required stitches. Video footage of the incident appears to show the protester standing in a human chain and offering no threat of violence, when he is struck and knocked to the ground by a high-pressure jet of water shot from very close range from a vehicle-mounted water cannon.

## **ANNEX: LIST OF RESOURCES**

### **OSCE commitments**

- 1990 Copenhagen Document
- 1990 Charter of Paris
- 1999 Istanbul Summit Declaration
- 2008 Helsinki Ministerial Declaration on the occasion of the 60th anniversary of the Universal Declaration of Human Rights

### **ODIHR tools**

- ODIHR, Guidelines on Freedom of Peaceful Assembly (Warsaw: ODIHR, 2010), available at: <<https://www.osce.org/odihr/73405>>
- ODIHR, *Human Rights Handbook on Policing Assemblies* (Warsaw: ODIHR, 2016), available at: <<https://www.osce.org/odihr/226981>>
- ODIHR, Handbook on Monitoring Freedom of Peaceful Assembly (Warsaw: ODIHR, 2020, 2<sup>nd</sup> ed.), available at: <<https://www.osce.org/odihr/monitoring-peaceful-assembly>>

### **Omega tools**

- Omega Research Foundation and Amnesty International, *The Human Rights Impact of Less Lethal Weapons and Other Law Enforcement Equipment*, (London: Amnesty International, 2015). Available at: <<https://omegaresearchfoundation.org/publications/human-rights-impact-law-enforcement-equipment-april-2015>>

**UN documents**

- UN, “Code of Conduct for Law Enforcement Officials”, (UN General Assembly resolution 34/169, 1979)
- UN, “Basic Principles on the Use of Force and Firearms by Law Enforcement Officials”, (Havana, Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 1990)
- UN Office on Drugs and Crime (UNODC) & UN Office of the High Commissioner for Human Rights (UN OHCHR), Resource Book on the Use of Force and Firearms in Law Enforcement, (New York: UNODC & UN OHCHR, 2017)
- UN, UN Human Rights Guidance on Less-Lethal Weapons in Law Enforcement (New York and Geneva: UN, 2020)
- UN, “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, 2016