

# THE USE OF CHEMICAL IRRITANTS IN LAW ENFORCEMENT



## SUMMARY

### DESCRIPTION

Chemical irritants are designed to temporarily deter or disable an individual by producing sensory irritation. They are commonly defined as locally acting chemical agents that rapidly produce disabling physical effects through sensory irritation of the eyes and upper respiratory tract. These effects usually disappear within a short time following the termination of exposure.

While in theory chemical irritants are designed to only cause temporary irritation, in practice, the consequences of their use can be considerable. These can include: lacrimal tearing of the eyes, breathing difficulties including coughing and choking sensation, chemical burns, vomiting, and severe allergic reaction, including blistering of the skin. More serious consequences, including in extreme cases death by suffocation or as a result of allergic reactions, can also occur, depending on the composition, length of the exposure, underlying health conditions or specific vulnerabilities.

In some instances, launched projectiles containing chemical irritants can, if they hit a person directly, cause penetration wounds, concussion, other head injuries and, in severe instances, death.

Handheld pepper spray is designed to cause irritation when sprayed directly at the face of a person. However, it can also cause burns and impact injuries, particularly to the eyes, if the distance is too short compared with the level of pressure of the spray.

- Wide-area irritants, commonly known as “tear gas”, are dispensed in different ways:
  - Canisters or grenades that are hand-thrown or fired from a launcher (placed on the ground or mounted on a vehicle) or fired from a shotgun or rifle. In these cases, there will be some sort of propellant, and some will contain an explosive material that induces the release of the chemical irritant.
  - Released as smoke from a mobile device (for example, a specially designed car with openings to release the irritant, or a drone).
- Sometimes, chemical irritants are combined with devices that have other effects: grenades can contain both a chemical irritant and a large quantity of explosive able to cause physical injury through the blast or shrapnel or a loud bang or flash. Another combination is when chemical irritants are added to the liquid used in a water cannon.
- Small handheld sprays are supposed to be used at short distance against a single person. Larger spraying devices (similar to fire-extinguishers or insecticide spraying devices) are discharging a greater volume (compared with handheld sprays).

## GENERAL PRINCIPLES

1. Chemical irritants are not a tool to simply obtain compliance with an order.
2. They may only be used against persons engaged in acts of violence likely to cause more than negligible harm to another person.
3. Wide-area chemical irritants may only be used where violence is so widespread that it is not possible for law enforcement officials to act only upon individuals engaged in violence.
4. They should never be used to disperse a peaceful assembly.
5. They should never be used if there are only isolated acts of violence.
6. Handheld sprays may only be used against persons violently resisting or otherwise engaged in violence against another person.
7. Their use on a person who is restrained or otherwise under control amounts to ill-treatment or even torture.

## WAY OF USE

8. A clear order and a warning must precede the use of chemical irritants.
9. Grenades (sometimes also referred to as canisters or cartridges) from a launcher should never be fired directly at persons. They should be fired at a certain angle clearly above the heads of people (the precise angle will depend on the distance of the launcher from the crowd). They should not be fired vertically into the air as the falling projectile could hit people, risking serious injury.
10. Handheld grenades should not be thrown at people; they should be rolled along the ground towards people.
11. Handheld sprays are supposed to be sprayed at the face of a person. However, in doing this, law enforcement officials must respect the minimum distance indicated by the manufacturer. If spraying from too close a range, the pressure of the spray can directly cause eye injury.

12. Chemical irritants should only be used by law enforcement officials trained in their use and the required precautions to minimize harm and injury.
13. This training should include the ability to provide assistance, including immediate decontamination of any person who has been exposed to a chemical irritant and who is under their control or otherwise unable to seek assistance themselves.
14. Wide-area tear gas should only be used in a carefully coordinated manner, based on clear instructions about the number of grenades/the quantity to be used for a given space or area.
15. Chemical irritants must not be used in confined spaces or in an area where people are unable to disperse. Their use should not lead to, or even aim to, corner people; nor should they be used as a means to chase people who are already dispersing.
16. Chemical irritants should not be dispensed from above (for example, via drones) since their direction and effect are unpredictable. This use bears an increased risk of causing panic and disorientation, given that people will not know in which direction to disperse.

## PRECAUTIONS

17. Chemical irritants should never be used if there is the intention to use electric-shock weapons, such as "TASERS", since the ignition of the weapon can lead to serious burns.
18. They should never be used in the surroundings of highly flammable material, such as fuel stations, or when a person is doused with gasoline or similar flammable liquids.

### **COVID-19**

19. Law enforcement officials should never use chemical irritants for the mere purpose of enforcing COVID-19 restrictions when there is no or only limited violence.
20. Even in situations that under normal circumstances would justify the use of chemical irritants, law enforcement officials should prioritize other less lethal weapons that do not entail the specific risks for the respiratory system as chemical irritants.
21. The quantity of wide-area tear gas should be kept to a minimum to avoid people living in the area being affected.
22. Should it turn out that the lethality rate among COVID-19 patients is significantly increased for those exposed to chemical irritants, the use of chemical irritants should be immediately stopped for the duration of the pandemic.

### **COMBINED DEVICES**

23. The combined use of chemical irritants with devices (such as explosives, a flash or bang, or in a water cannon) that bear a risk of causing excessive harm and would serve contradictory operational purposes should be prohibited.

### **CUSTODY SETTINGS**

24. As a rule, chemical irritants should not be used in the confined environment of custody settings. Exceptions can only be made for serious, large-scale violent disorder that cannot be controlled otherwise, and provided escape routes are open and accessible, and immediate medical care is ensured.
25. Fixed installations for dispensing chemical irritants in places of detention must be prohibited.

### **DEVELOPMENT&TESTING, TRADE&TRANSFER**

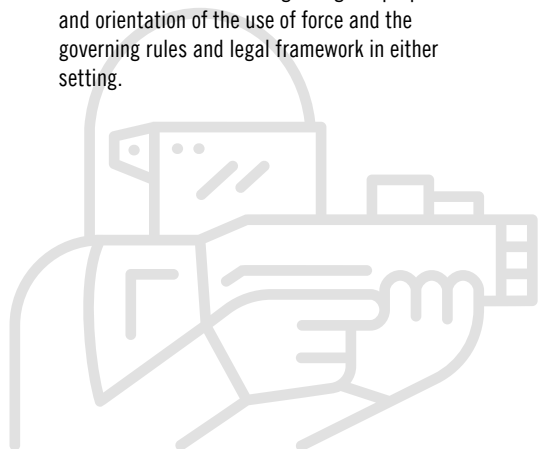
26. All weapons used by law enforcement officials, including chemical irritants, must be subjected to thorough, independent testing to ensure they are safe and appropriate for human rights compliant use by law enforcement officials.
27. States must not authorize the export of chemical irritants, such as tear gas or pepper spray, related launchers and technical assistance, when there are reasonable grounds for believing that the equipment will be used for serious human rights violations.
28. Manufacture and trade in inherently abusive equipment, such as multiple launch systems and launchers, which are intrinsically inaccurate and/or excessively powerful, should be prohibited.

### **INSTRUCTIONS AND TRAINING**

29. Law enforcement agencies must clearly instruct and train the personnel on the use of chemical irritants, including how they should be used, precautions to be taken to minimize harm and clear prohibitions when and how they may not be used. They should only hand out these weapons to certified law enforcement officials.

### **LEGAL FRAMEWORK**

30. The general prohibition of chemical weapons in the conduct of hostilities and their admission in law enforcement is not a contradiction (seemingly giving greater protection in the former than in the latter). It is the result of different considerations regarding the purpose and orientation of the use of force and the governing rules and legal framework in either setting.



# DOS AND DON'TS

Law enforcement officials **should**:

- ✓ only use chemical irritants that have been properly assessed regarding the related health risks and are accompanied by clear instructions to avoid any unwarranted risks (for example, as a result of firing at too close range, too great quantity, in inappropriate weather conditions etc.);
- ✓ only use wide-area chemicals in the case of violence that is so widespread that it is impossible to deal with violent individuals alone;
- ✓ always issue a warning before the use of chemical irritants;
- ✓ constantly monitor the effects of chemical irritants' use and stop using them as soon as they achieve the objective;
- ✓ respect the minimum distance for pepper spray and similar handheld devices to prevent any injury due to the physical impact.

Law enforcement officials **should not**:

- ✗ resort to wide-area chemical irritants in an area where people are unable to disperse;
- ✗ use chemical irritants to obtain compliance for an order from persons who are only passively resisting or resisting without violence;
- ✗ launch, fire or throw tear gas canisters in a manner that is likely to cause impact-related injuries;
- ✗ use pepper spray against persons who are already under control.

