



Fact sheet

The use of less-lethal weapons in South African prisons and crowd management

Less-lethal weapons (LLWs) are used extensively in South Africa, including by the South African Police Service (SAPS), Public Order Police (POP), prison warders and others.

LLWs are a class of weapon intended to provide an alternative to lethal weapons (firearms using live ammunition). This is supposed to enable the use of weapons without killing people or inflicting serious injury. LLWs are less likely to cause death and serious injury than firearms with live ammunition. However, they can also cause death and serious injury, and there are other risks associated with their use.

Because LLWs are less harmful than live ammunition, there has been a tendency to pay little attention to how they are used. As a result there is a high risk that they will be abused by being used recklessly or even used deliberately for purposes such as torture.

Types of LLWs used in crowd management and in prisons

Eight types of LLWs are used by either SAPS officers or Department of Correctional Services (DCS) officials (Table 1).¹ There is evidence of many of these being abused and causing serious harm to people.

Table 1: Weapons used by the SAPS in crowd management

WEAPON(S)	PRISONS	CROWD MANAGEMENT
Batons (tonfa)	Most frequently used weapon	Frequency of use unclear
Electric shock shields (stun shields)	Used, notably by Emergency Support Team (EST) ²	Not used (use shield that is not electrified)
Firearms	Not used	Some use
Long-range acoustic devices	Not used	Large number purchased by the SAPS, which claims that these are used as communication devices, not weapons
Stun grenades (and other pyrotechnical devices)	Authorised for EST, no clear evidence of use by prison officials Instances of use of stun grenades by the SAPS in prisons	Stun grenades and smoke grenades used frequently
Kinetic impact projectiles (rubber bullets)	Use by prison officials is rare. Allegedly used by POP in prisons in rare instances	Very frequently used
Chemical irritants (tear gas and pepper spray)	Pepper spray is sometimes used – probably more frequently than other types of chemical irritants	Tear gas used frequently
Water cannons	Not used	Some use

Risks: Less-lethal weapons can kill, and cause other serious harm

LLWs are not ‘non-lethal’. They are simply less lethal than firearms. However, it is increasingly recognised internationally and in South Africa that they can cause serious harm.

- Electric shock shields that are used in South African prisons are open to serious abuse, including being used for torture. A number of cases of this kind have been recorded.³
- People have been killed by police using rubber bullets. They are most likely to cause death or serious injury if used at close range. Certain people, such as infants, young children and elderly people, may be more likely to be killed if hit by rubber bullets.
- Another major risk from the use of rubber bullets is eye injuries, including permanent blinding in the affected eye.
- Tear gas can also kill, particularly if used in confined spaces or near occupied buildings such as people’s homes. Young children and people with asthma are among those most at risk.
- If stun grenades explode near people they can cause burns and other injuries. They are supposed to be rolled on the ground, near to, but not directly into the

crowd. But police sometimes throw them directly at groups of people.

- Weapons like stun grenades and long-range acoustic devices can also damage people’s hearing.

Indiscriminate weapons and the indiscriminate use of weapons

Many LLWs, such as tear gas, are indiscriminate weapons. They cannot be targeted at an individual. When they are used, anyone nearby is at risk of harm. ‘Acoustic’ weapons such as stun grenades and long-range acoustic devices are also indiscriminate.

Police and prison warders sometimes also use LLWs such as rubber bullets indiscriminately. For instance, police may fire rubber bullets at a crowd without targeting specific individuals. Or they may shoot people without having any legal justification for doing so.⁴

In 2012 in *South African Transport and Allied Workers Union and Another v Garvas and Others*, the Constitutional Court stated that peaceful protestors are not deprived of their right to protest because of the conduct of others who are violent.⁵ This means that the SAPS must ensure that its members do not use force against people who are protesting peacefully. It must ensure that, when it uses force, this is targeted at individuals who are acting unlawfully.

Currently, the legislative and regulatory framework governing crowd management and the use of force in prisons says nothing about the targeted use of weapons or the indiscriminate use of force.

SAPS use of less-lethal weapons in crowd management

The main LLWs used in crowd management are rubber bullets, tear gas and stun grenades. Batons and water cannons are also used. According to Independent Police Investigative Directorate (IPID) data, there have been 48 deaths as a result of police action in crowd management incidents in the five years from April 2014 to March 2019.

IPID does not provide information on the weapons that are used. Press reports indicate that some people have been killed by LLWs and some by live ammunition. However, we currently do not have a clear picture of the number of deaths caused by LLWs during protests.

The SAPS does not have any detailed regulations regarding the use of LLWs and does not take the control of the use of LLWs very seriously. POP's regulatory framework gives little recognition to the risks associated with LLWs.

Less-lethal weapons used by the Department of Correctional Services

Over the six years between April 2013 and March 2019, the Judicial Inspectorate for Correctional Services (JICS) received reports of 3 221 'use of force' incidents by DCS officials, an average of 534 per year. The number of cases reported varied dramatically from one year to the next. It is likely that the number of cases reported in each year does not reflect the full picture of the use of force in prisons.⁶

The main LLWs used in prisons are the tonfa baton and electric stun shield. The abuse of electric shock shields has been a major issue, with these sometimes used as instruments of torture. There have also been a number of allegations of excessive force involving tonfas.

The DCS has a more extensive regulatory framework regarding LLWs than the SAPS. This pays some attention to the risks associated with LLWs, but does not address key issues such as indiscriminate weapons and force.

Accountability

There is little evidence that accountability mechanisms are able to ensure that police and prison officials are held responsible for abuses involving the use of LLWs.

Recommendations

- The use of LLWs by police, correctional officials and others needs to be regulated in a more coherent manner. Relevant legislation and regulations should be amended to address this.
- South Africa must adopt a consistent framework that adheres to international and regional human rights standards, such as the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the African Commission on Human and Peoples' Rights Guidelines on the Policing of Assemblies by Law Enforcement Officials in Africa.
- Better control of the use of LLWs should include prohibiting weapons, such as electric stun shields, that lend themselves to use for torture.
- When reporting on the use of force, JICS and IPID should provide information about the weapons or other equipment that is used.

For further information and a full set of recommendations, please see the report *The use of less-lethal weapons in South African prisons and crowd management* available at: <https://issafrica.org/research/monographs/the-use-of-less-lethal-weapons-in-south-african-prisons-and-crowd-management>

Notes

- 1 There have been reports of other weapons, such as sjamboks, also being used, but these are not officially authorised.
- 2 The Emergency Support Teams (ESTs) are DCS reaction units used for addressing prison 'unrest'.
- 3 See D Bruce, The use of less-lethal weapons in South African prisons and crowd management, Institute for Security Studies (ISS), Monograph 201, November 2019, 10–14, <https://issafrica.org/research/monographs/the-use-of-less-lethal-weapons-in-south-african-prisons-and-crowd-management>
- 4 Socio-Economic Rights Institute (SERI), A double harm: police misuse of force and barriers to necessary health care services, Johannesburg: SERI, 2017, 23–27, 37–46.
- 5 *South African Transport and Allied Workers Union and Another v Garvas and Others* (CCT 112/11) [2012] ZACC 13, para 53.
- 6 Judicial Inspectorate for Correctional Services (JICS), *Annual report 2018–19*, 54, http://pmg-assets.s3-website-eu-west-1.amazonaws.com/JICS_Annual_Report_201819.pdf

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About the Project on Tackling the Tools of Torture and Supporting Reparation

This factsheet is produced as part of the Project on Tackling the Tools of Torture and Supporting Reparation. The project addresses the role of the tools of torture in human rights abuses by focusing on three inter-related issues: use, trade and reparation. It aims to prevent torture and ill treatment, increase accountability for prior incidents and contribute to reparation for survivors. The project will conduct new research and disseminate new knowledge at regional and international levels to feed into processes aimed at creating or improving existing controls on the trade and use of tools of torture.

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