



Briefing for the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, Christof Heyns, on the use of lethal force during arrest.

The Omega Research Foundation (Omega) welcomes the chance to provide a short briefing on the forthcoming Special Rapporteur's report into the use of lethal force during arrest. This follows on from an earlier submission by Omega introducing the organisation and our work around this topic. We welcome the report and its recommendations, especially its references to the use of "less" (but potentially) lethal equipment for use during arrest, and wish to emphasise the following points.

- *"Use-of-force policies should be developed that provide guidance to the police on the laws and values which should inform their use of force, on the permissible levels of force, and on other issues such as the need to give priority to the safety of civilians. These policies should address deadly, as well as less-than-lethal and non-lethal, force" (paragraph 92).* In addition to policies on the use of specific equipment, our research has shown that there is often added value in having an over-arching policy clearly setting out general principles for the use of force, in keeping with international standards.
- *Governments should ensure that police agencies focus on developing tools and strategies for minimizing the need for lethal force to be used for arrest. These should include... providing police with alternative non-lethal weaponry that can enable them to overcome suspect resistance more easily (though the use of such weaponry itself needs to be subject to strict control) (paragraph 94).* Our research has also shown that, in addition to strict controls over its use, there needs to be a robust, independent selection and testing procedure covering both the technical aspects of the equipment (reliability, accuracy) and its human rights impact. Without this it is difficult to ensure such weapons are compatible with Article 3 of the Basic Principles on the use of force and firearms, which states that "non-lethal incapacitating weapons... should increasingly restrain the application of means capable of causing death or injury to persons"; i.e. that any weapon introduced should be less injurious than existing alternatives. The issue of force during arrest is closely associated with restraint, with the former often necessary to ensure the latter. As such, attention also needs to be paid to the use of restraint equipment and restraint techniques, as these can contribute to lethal outcomes.
- *"Police and independent monitoring agencies should keep comprehensive data on the use of lethal force and, ideally, other dangerous forms of coercion by their members" (paragraph 95).* At the moment there is a paucity of data relating to the medical impact of most less lethal weapons including, but not limited to, riot control agents. Our research shows that there is a need for long term monitoring of the use of such devices in order to flag up medical risks that have not previously been identified, and to increase our understanding of the effects of repeated exposures on targeted individuals. Such data should be utilised proactively in order to identify issues such as failures in training, shortcomings with the equipment or more basic problems with the use of force process.
- *"Training in human rights and in modern law enforcement methods, including less-than-lethal or non-lethal methods, is crucial. If it is necessary to involve the military in law enforcement, they need to undergo special training in human rights" (paragraph 96).* This should include regular conceptual and operational training on international human rights standards, including the absolute prohibition against torture and other cruel, inhuman or degrading treatment. The training should also enable users to think of less lethal systems in a similar way as they would think of a firearm, i.e. weapons which are potentially lethal. In addition, any training provided should be independent of any company or commercial interests involved in the manufacture and marketing of such weapons.

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