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14. ABSTRACT

Operational planners must be knowledgeable of key treaties that influence the legality of riot control agents, including the Geneva Gas Protocol, the Biological Weapons Convention and the Chemical Weapons Convention. Ideally, they would also understand the spirit behind these treaties, and be sensitive to discrepancies between various nations and organizations in their interpretations of these treaties.

Perhaps the best guidance for determining if riot control agents are appropriate for MOOTW, however, are the six principles of MOOTW themselves—objective, unity of effort, security, restraint, perseverance, and legitimacy. While operational planners must stay within the boundaries outlined by international law and current policies, the principles of MOOTW are useful guidelines for exposing political, cultural, and social issues that are vital to mission accomplishment.

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Operational Planning Considerations for the Use of Riot Control Agents in Military Operations Other Than War

By

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A paper submitted to the faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

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14 February 2005

Abstract of

Operational Planning Considerations for the Use of Riot Control Agents in Military Operations Other Than War

Operational planners must be knowledgeable of key treaties that influence the legality of riot control agents, including the Geneva Gas Protocol, the Biological Weapons Convention and the Chemical Weapons Convention. Ideally, they would also understand the spirit behind these treaties, and be sensitive to discrepancies between various nations and organizations in their interpretations of these treaties.

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Operational Planning Considerations for the Use of Riot Control Agents in Military Operations Other Than War

We are doing our best to live within the straitjacket that has been imposed on us on this subject and trying to find ways that people can—that we can write things in a way that people can understand them and function and not break the law and still, in certain instances, be able to use non-lethal riot agents.[1]

Secretary of Defense Donald Rumsfeld

Following the collapse of the Soviet Union and the end of the Cold War, the U.S. military was confronted with a variety of complex, diverse, and often ambiguous missions. Unlike the large-scale, sustained combat operations that historically accompanied war, and for which the U.S. military had prepared extensively, military planners found themselves increasingly involved in humanitarian issues, peace enforcement, conflict resolution, and the deterrence of war. These and other Military Operations Other than War (MOOTW) shared many of the same characteristics as war, but placed increased emphasis on political issues and demanded more complex and restrictive rules of engagement.[2]

This trend in military operations generated renewed interest in non-lethal technologies.[3] Confronted with the political restrictions imposed by MOOTW, non-lethal technologies, including riot control agents, appeared to promise comparable or even enhanced mission accomplishment while simultaneously minimizing suffering and casualties.[4] During Congressional testimony in February 2003, Secretary of Defense Donald

[1] Kerry Boyd, "Rumsfeld Wants to Use Riot Control Agents in Combat," Arms Control Today, (March 2003): 32.
[2] Joint Chiefs of Staff, Joint Doctrine for Military Operations Other Than War, Joint Pub 3-07 (Washington, DC: 16 June 1995), I-1.
[3] Douglas C. Lovelace and Steven Metz, Non-Lethality and American Land Power: Strategic Context and Operational Concepts (Carlisle, PA: U.S. Army War College. Strategic Studies Institute, 15 June 1998), 2-4.
[4] Nick Lewer, ed., The Future of Non-Lethal Weapons: Technologies, Operations, Ethics, and Law (London: Frank Cass Publishers, 2002), 53.

Rumsfeld lamented, "In many instances, our forces are allowed to shoot somebody and kill them, but they're not allowed to use a non-lethal riot control agent."[5]

At first glance, riot control agents do appear to offer practical, humane, and politically palatable solutions, particularly in instances where the application of lethal force may be counterproductive. A careful and detailed review of the factors that influence the use of such capabilities, however, reveals that planning considerations for the application of riot control agents are, in fact, complex and unique to each situation. This paper will investigate the moral, legal, political, and cultural considerations that operational planners must take into account to make intelligent decisions regarding the implementation of riot control agents in MOOTW.

Joint doctrine defines a riot control agent as "A substance which produces temporary irritation or disabling physical effects that disappear within minutes of removal from exposure."[6] A wide variety of irritating and disabling capabilities have been developed, including calmatives that sedate, malodorants or "stink bombs" that induce gagging and vomiting, sticky foams that entangle and immobilize, and lachrymators that stimulate the flow of tears.[7] To characterize any weapon as non-lethal is potentially misleading, though, because while temporary effects may have been the designer's intent, there are no guarantees. Sticky foams can cause rapid suffocation if applied over a person's mouth and nose; if used to supplement razor wire or barbed wire barriers, sticky foams may complicate personnel entanglement, resulting in serious and permanent injuries.[8] Furthermore, an

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[5] Brad Knickerbocker, "The fuzzy ethics of nonlethal weapons," The Christian Science Monitor, 14 February 2003, <http://www.csmonitor.com/2003/0214/p02s01-usmi.html> [24 January 2005].
[6] Joint Chiefs of Staff, Joint Doctrine Encyclopedia (Washington, DC: 16 July 1997), 622.
[7] Malcolm Dando, A New Form of Warfare: The Rise of Non-Lethal Weapons (London: Brassey's [UK] Ltd), 72-3.
[8] Nick Lewer and Steven Schofield, Non-Lethal Weapons: A Fatal Attraction? Military Strategies and Technologies for the 21st Century Conflict (London: Zed Books Ltd, 1997), 70.

agent's ability to conform to this joint definition does not guarantee its public acceptability or even its legality. Despite their non-lethal intent, many effective malodorants are produced directly by living organisms, or are derived from biological sources, and could be interpreted as violations of the Biological Weapons Convention.[9]

An excellent case study for riot control agent development and employment is orthochlorobenzalmalononitrile (CS), commonly known as "tear gas." Beginning in 1912, police forces in France employed ethylbromacetate, a primitive precursor of CS, for crowd control.[10] This capability was readily transferred to the battlefield, and French and German troops fired thousands of shells filled with ethylbromacetate during the First World War.[11] Military application of chemical irritants on the battlefield stimulated the rapid development of other non-lethal chemical agents, including chloroacetophenone (CN), which also stimulated a flow of tears, and diphenylaminechloroarsine (DM), which induced vomiting.[12] The extensive development and implementation of non-lethal chemicals during World War I was largely overshadowed by the catastrophic effects of lethal gasses, such as chlorine, that also were employed.[13]

Technological advancements made during the war were subsequently transferred to law enforcement applications as CN and DM were utilized by police forces interrupt civil disturbances. Development of both lethal and non-lethal chemicals continued aggressively prior to and throughout the Second World War. Despite the creation of substantial

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[9] Nick Lewer, ed., The Future of Non-Lethal Weapons, 3.
[10] Rufus T. Brinn, U.S. Policy and the Uncertain State of Military Usage of Riot control Agents, (Carlisle, PA: U.S Army War College, 30 April 1998), 11.
[11] Ibid., 12.
[12] Dando, 72.
[13] Brinn, 12.

inventories, the horrific memories of chemical warfare during World War I and fear of retaliation prevented their use.[14]

Modern "tear gas" is actually not a gas at all. Invented before the Second World War, but not patented until 1956, CS is composed of tiny particles of chemical agents which can be dispersed into the air. Since CS caused greater levels of irritation at lower levels of toxicity, it was quickly adopted for law enforcement purposes.[15] The U.S. Army selected CS for use as a riot control agent in 1959, and funded research and development to enhance tactical CS implementation. By creating smaller particles of active chemical agents and combining them with silica gel (CS1), the U.S. Army achieved uniform mixtures more suitable for dispersion by grenades.[16]

Following initial media reports of CS gas use by American forces in Vietnam, Secretary of State Dean Rusk outlined U.S. policy by stating "…The anticipation is, of course, that these weapons will be used only in those situations involving riot control or situations analogous to riot control."[17] Only five months after Secretary Rusk's comments, however, a Marine battalion successfully flushed guerilla combatants, along with hundreds of non-combatants, from caves using CS gas.[18] While this event received mixed reviews from media outlets, the net result was that Washington approved General Westmoreland's request to expand the role of riot control agents to include tunnel-clearing operations.[19]

The tactical role of CS in Vietnam gradually expanded as soldiers found additional applications for CS. Deployed from grenade launchers aboard helicopters, "tear gas" proved

[14] Ibid., 16.
[15] Dando, 72.
[16] Brinn, 14.
[17] Dando, 77.
[18] Ibid.
[19] Brinn, 18.

useful in limiting anti-aircraft fire and flushing out enemy ambush positions in the vicinity of helicopter landing zones.[20] Loaded into 55 gallon drums and dumped from helicopters, CS proved an effective area denial weapon, limiting traffic on trails and protecting friendly forces from enemy infiltrators.[21] By adding liquid silicone to CS1 (CS2), the Army created a more persistent, waterproof agent that would remain in the field and could be stirred up by movement for several weeks.[22] Between 1964 and 1970, the U.S. military procured 3,868,000 pounds of CS, 6,074,000 pounds of CS1, and 6,003,000 pounds of CS2.[23]

Several significant trends can be identified from this brief overview of CS. While peacetime needs have encouraged the development, testing, and application of riot control agents, military interest in such agents can rapidly accelerate these processes. Experiences from both world wars demonstrate the challenge of distinguishing between lethal and non-lethal chemicals in the "fog of war," and the psychological distress that merely the threat of chemical weapon employment can stimulate. The fact that non-lethal gasses were employed prior to lethal gasses during the First World War suggests that use of non-lethal agents may place military forces on the slippery slope towards implementation of lethal agents. Additionally, although some military applications of CS in Vietnam had humanitarian overtones, most applications revolved around increasing the effectiveness of existing lethal weapons.[24] Experience in Vietnam also demonstrates that military forces may adapt available weapons to best fit a particular situation, regardless of the weapon's intended purpose—a practice that may defeat the intended non-lethality of a riot control agent.

[20] Ibid., 14.
[21] Dando, 80.
[22] Brinn, 14-15.
[23] Dando, 78.
[24] Brinn, 4.

Operational planners must develop and recommend options that are within the boundaries prescribed by current policies and existing laws. Although rigid adherence to existing guidance serves as a useful and necessary sanity check, planners should understand the moral arguments that serve as a backbone for the law. Modern international law is deeply rooted in Christian Just War (CJW) theory. CJW theory outlined a moral framework for entry into and conduct during war. War was permitted for noble and just causes, such as the restoration of peace, or in response to injuries or hostilities from others. Waging war for the advancement of national or personal ambitions was forbidden.

CJW theory also provided guidelines for the use of force in war. Military force was not to be intentionally applied to civilians, and could be applied to military targets only in proportion to the threat and the significance of the outcome. CJW theory recognized that civilian casualties and other undesirable effects could occur even when force was applied against a legitimate military target. Such actions were deemed acceptable when the value of the military objectives were greater than the unintended collateral damage.[25]

CJW theory makes several assumptions about the nature of war that may be less valid in a modern context. It assumes that wars will be fought between states and by professional soldiers, allowing for reasonable differentiation between combatants and non-combatants. This task has become increasingly challenging, particularly in urban environments and against opponents that exploit their ability to blend in with the general population to their tactical advantage. Actions taken by combatants that intentionally harm civilians or, as in the case of human shields, threatens the well being of non-combatants, violate CJW theory and deemphasize its moral principles.[26] CJW theory also assumes that there will be common

[25] Nick Lewer, ed., The Future of Non-Lethal Weapons, 27.
[26] Ibid., 34.

ground between the political leadership of individual states to help define causes that truly justify war.[27] States may not effectively control activities that occur within their borders, though, and the Global War on Terrorism has demonstrated that military action does not have to be limited to state actors.

CJW theory also assumes that moral principles are timeless, and not a function of military capability.[28] The availability of riot control agents, particularly in the context of MOOTW, encourages planners to consider if some solutions are morally superior to others. Additionally, successful military actions with non-lethal technologies may inspire a more liberal interpretation of "just" conflicts. Early intervention to minimize atrocities, or actions taken in anticipatory self-defense to limit or prevent conflicts, may become increasingly palatable if executed with non-lethal capabilities.[29] On the other hand, short term successes with riot control agents could make the tasks of military planners more challenging if public expectations are raised and the political barriers to military intervention are lowered.

Operational planners must approach moral issues with the tactical, operational, and strategic levels of war in mind. The media, also assisted by advancements in technology, can cause a single event to spread across each of these three levels in a short period of time.[30] Riot control agents may result in upsetting media images, with non-combatants crying, coughing, gagging, or otherwise incapacitated; the alternative, however, may be messy images of blood-soaked non-combatants suffering grizzly damage from kinetic, lethal weapons. Both images are subject to interpretation and create opportunities for enemy disinformation campaigns. While the non-lethal images may prove less offensive to friendly

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[27] Ibid.
[28] Nick Lewer, ed., The Future of Non-Lethal Weapons, 35.
[29] Ibid., 34.
[30] Paul R. Capstick, Non-Lethal Weapons and Strategic Policy Implications for 21st Century Peace Operations (Carlisle, PA: U.S. Army War College, 26 February 2001), 8.

and neutral parties as examples of the U.S. military's desire to hold the moral high ground, the same images may prove grossly offensive to non-combatants who fear suffering the same fate.

Surprisingly, many organizations that one might associate with preventing and minimizing suffering are adamantly opposed to riot control agents. The International Committee of the Red Cross has campaigned to stop the development and prevent the use of non-lethal technologies, largely on the basis that they actually contribute to unnecessary suffering.[31] Amnesty International has documented human rights abuses committed with riot control agents, and contends that regimes are employing them as tools of repression.[32] When weighing the relative risks and merits of implementing riot control agents, it is important for operational planners to thoroughly understand the positions taken and beliefs held by influential international organizations (IOs) and non-governmental organizations (NGOs). This is particularly true when coordination with these same IOs and NGOs is instrumental to other aspects of the overall plan.

Legal issues are easier to identify and address than moral issues. Under the Law of Armed Conflict, military forces are prohibited from attacking civilians regardless of the lethality of force employed.[33] Many riot control agents cannot be applied in a manner that permits effective discrimination between combatants and non-combatants, and this may draw their legality into question.[34] Combatants who are "hors de combat"—incapacitated, disarmed, and no longer posing a military threat—cannot be attacked. Therefore, the use of

[31] Nick Lewer, ed., The Future of Non-Lethal Weapons, 20.
[32] Ibid., 60.
[33] Ibid., 29.
[34] Greg R. Schneider, Nonlethal Weapons: Considerations for Decision Makers, ACDIS Occasional Paper, (Urbana-Campaign, IL: University of Illinois. Program in Arms Control, Disarmament, and International Security, January 1997), 26.

riot control agents to incapacitate personnel would limit the ability of military forces to continue an engagement, even in instances where those incapacitated are clearly combatants. Additionally, the use of riot control agents would obligate forces to address any subsequent medical needs of incapacitated combatants and non-combatants.[35] This further complicates both planning and execution.

Under the Law of Armed Conflict, military forces may not use weapons that inflict superfluous injury or cause unnecessary suffering.[36] It is difficult to physically or medically define such a standard for riot control agents, as individual responses vary widely. For instance, English police officers using CS have reported that nearly one-third of those exposed experience a delayed reaction (in excess of five seconds), and ten percent have no perceptible reaction at all.[37] Additionally, the long term health effects of many non-lethal weapons, including riot control agents, are not fully understood.[38] In 1993, U.S. Army researchers reported that a popular riot control agent, pepper gas, could cause carcinogenic, mutagenic, and a variety of toxic effects.[39]

In reaction to the horrific gas attacks of World War I, the United States initiated the Geneva Gas Protocol of 1925 in an attempt to prohibit further use of "asphyxiating, poisonous, and other gasses."[40] Several participating nations expressed strong reservations at the protocol's prohibitions against chemical and biological methods of warfare, and the protocol essentially became an agreement between participants to never be the first to use such agents in conflict. Even in this greatly diluted form, the U.S. Senate refused to ratify

[35] Nick Lewer, ed., The Future of Non-Lethal Weapons, 29.
[36] Schneider, 26.
[37] Nick Lewer, ed., The Future of Non-Lethal Weapons, 68.
[38] Ibid., 29.
[39] Lewer and Schofield, 75.
[40] Brinn, 15.

the protocol following an effective lobbying effort by supporters of chemical warfare. Nevertheless, the Geneva Gas Protocol's no-first-use principle was respected by American forces during World War II.[41]

President Nixon forwarded the Geneva Gas Protocol to the U.S. Senate for ratification with the statement that "…as a matter of U.S. policy, the non-lethal agents were not included in the U.S. definition of chemical warfare…,"[42] but it was the Ford administration that eventually succeeded in getting the protocol ratified in 1975. Through the creation of Executive Order (EO) 11850, "Renunciation of Certain Uses in War of Chemical Herbicides and Riot Control Agents," President Ford managed to achieve a compromise between the demands of the international community the demands of Congress. In EO 11850, the President renounced first use of riot control agents during war, and tasked the Secretary of Defense with prescribing rules and regulations to be observed and enforced by U.S. armed forces. Four exceptions for the use of riot control agents were outlined: to maintain control in areas under direct control of the U.S. military, including control of prisoners of war; to minimize civilian casualties when civilians are being used to mask or screen attacks; during rescue missions in remote areas; and to protect convoys in rear echelon areas beyond immediate combat zones. In each instance, the emphasis is on the use of riot control agents in defensive modes to save lives.[43]

The United States also ratified the Biological Weapons Convention (BWC) in 1975, which prohibited all biological weapons without consideration for their lethality.[44] While

[41] Dando, 74.
[42] Ibid., 80.
[43] President, Executive Order, "Renunciation of certain uses in war of chemical herbicides and riot conrol agents," (8 April 1975), <http://www.archives.gov/federal_register/codification/executive_order/11850.html> [29 November 2004].
[44] Nick Lewer, ed., The Future of Non-Lethal Weapons, 28.

any biologically based agents that are toxic to humans would clearly violate this agreement, research has continued on biologically based riot control agents that are non-lethal in nature. Regardless of their legality, the development and employment of such agents may damage the credibility of the BWC, and result in increasingly lax interpretations by other nations.[45]

Department of Defense Directive (DODD) 3000.3, "Policy for Non-Lethal Weapons," was issued in 1996 to provide further guidance for non-lethal capabilities. DODD 3003.3 emphasizes the functionality of non-lethal weapons, including their potential to increase the effectiveness of lethal weapons. It also tasks Combatant Commanders with ensuring that operational mission planners are capable of integrating non-lethal capabilities.[46] While this directive seeks to expand the range of options available to military commanders and planners, it contains a caveat that any weapon selected should have public acceptance.[47]

Perhaps the most important legal restrictions with respect to riot control agents stem from the Chemical Weapons Convention (CWC) which America ratified in 1997. Article II.9(d) of the convention states that chemical agents may be used for "law enforcement" purposes, including "domestic riot control."[48] The convention does not provide a definition of law enforcement, although the wording suggests that the concept of law enforcement is broader in scope than concept of domestic riot control.[49] This failure to define law enforcement is significant because many military operations, such as military support to civil authorities (MSCA), antiterrorism, counter-drug, and sanction enforcement, often resemble law enforcement more closely than war.

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[45] Ibid., 3.
[46] Secretary of Defense, Policy for Non-Lethal Weapons, DODD 3000.3 (Washington, DC: 9 July 1996), <www.dtic.mil/whs/directives/corres/html2/d30003x.htm> [10 January 2005].
[47] Capstick, 2.
[48] Nick Lewer, ed., The Future of Non-Lethal Weapons, 168.
[49] Ibid., 167.

Riot control agents are broadly defined in Article II.7 of the CWC 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."[50] While a variety of known, specified chemical agents are expressly forbidden from use as riot control agents, other chemical agents and potential future agents are judged by the general response they invoke in humans instead of their composition. Therefore, the convention's definition of riot control agents remains flexible and can adapt to technological advancements. Additionally, nations that maintain chemicals for riot control purposes are required by Article III of the CWC to publicly declare these chemicals.[51] Despite inevitable disagreements between states regarding what constitutes a riot control agent, this obligation for public disclosure encourages transparency and may stimulate interaction and dialogue.

Chemical agents intended for law enforcement applications are treated differently under the CWC. Only chemicals listed in Schedule 1 of the convention are expressly prohibited from use in law enforcement, and there is no requirement to publicly declare chemical agents that are intended for law enforcement purposes outside of domestic riot control.[52] Therefore, under the guise of law enforcement efforts, states may legally develop new technologies, stockpile munitions, and even export these capabilities.[53] Furthermore, although the convention clearly prohibits the use of riot control agents as a "method of warfare," no efforts are made to further define this phrase.[54]

Interestingly, the ambiguities that created such "loopholes" in the convention are almost certainly intentional—the direct result of countries, including the United States, which

[50] Ibid., 168.
[51] Nick Lewer, ed., The Future of Non-Lethal Weapons, 169.
[52] Ibid., 168-9.
[53] Ibid.
[54] Ibid., 170.

desired broader applications for non-lethal chemicals than domestic police activities.[55] Unfortunately, this leaves a substantial gray area for an operational planner preparing for MOOTW.

Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3110.07B, "Nuclear, Biological, and Chemical Defense; Riot Control Agents; and Herbicides," presents the most concise guidelines for U.S. military implementation of riot control agents in MOOTW. For starters, efforts taken to protect U.S. embassy grounds and all U.S. military bases, regardless of location, are characterized as law enforcement activities and, thus, riot control agents are permitted. Four additional examples of MOOTW are outlined: non-combatant evacuation operations; peacetime military operations in an area where armed conflict is occurring, and U.S. military forces are not participating in the conflict; consensual peacekeeping operations including peacekeeping operations under Chapter VI of the UN Charter; and peacekeeping operations where the UN Security Council has authorized the use of force under Chapter VII of the UN Charter.[56] While these examples may provide additional guidance to an operational planner, the instruction also cautions that this list is not intended to be all inclusive.[57] Regardless, the effective integration of riot control agents depends upon the operational planner's ability to look beyond what is simply permissible and, on a case by case basis, understand why riot control agents would or would not provide a net advantage.

In accordance with joint doctrine, there are six principles for MOOTW: objective, unity of effort, security, restraint, perseverance, and legitimacy.[58] A careful consideration of

[55] Ibid., 169-170.
[56] Chairman, Joint Chiefs of Staff, Nuclear, Biological, and Chemical Defense; Riot Control Agents; and Herbicides. CJCSI 3110.07B (Washington, DC: 16 February 2001), B-3.
[57] Ibid.
[58] Joint Chiefs of Staff, Doctrine for Joint Operations, Joint Pub 3-0 (Washington, DC: 10 September 2001), V-2.

these principles by the operational planner may be the best yardstick by which to measure the potential net contribution of riot control agents in a particular set of circumstances.

All military operations should be directed towards a clearly defined, decisive, and attainable objective.[59] In MOOTW, however, mission success may be more heavily dependent upon what actions are avoided than on what actions are taken. Military actions that heighten tensions or escalate the level of violence in the area of operations may distance U.S. forces from the desired objective. Desired end states are likely to be driven by political considerations, which can be difficult to affect though military operations, and may evolve along with the situation.[60] Rules of engagement require constant consideration, and may require frequent modification, again further complicating both planning and execution.

The number and variety of participants in MOOTW may result in multiple objectives or a variety of perspectives on one objective. Unity of effort seeks to align all participants in MOOTW to a common purpose.[61] IOs, NGOs, and foreign militaries, each with their own unique organizational structures, must work towards consensus to enhance their overall effectiveness.[62] It is unlikely that all participants will have the same opinion of the value and legality of riot control agents, and forcing decisions on this issue may strain relationships with valuable partners. Additionally, the U.S. military may not be the lead agency in MOOTW, and may have to subordinate its wishes to another agency.

Regardless of the operation, U.S. forces always retain the inherent right of self-defense against both hostile acts and hostile intent. In MOOTW, military forces may be tasked to protect foreign militaries forces, and civilian personnel supporting other

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[59] Joint Chiefs of Staff, Joint Doctrine for Military Operations Other Than War, Joint Pub 3-07 (Washington, DC: 16 June 1995), II-1.
[60] Joint Pub 3-07, II-2.
[61] Ibid., II-3.
[62] Ibid.

organizations and agencies.[63] Some organizations may desire to emphasize their neutrality, so they will avoid actions that might leave an impression that they are cooperating with U.S. military forces. Depending on an organization's perspective, this sentiment may be aggravated if U.S. forces use or state their intention to use riot control agents to provide security. Additionally, varying interpretations on riot control agents and their legality under existing treaties may place additional strains on military alliances and coalitions.

The principles of objective, unit of effort, and security discussed above are derived from the principles of war. The remaining principles of restraint, perseverance, and legitimacy are considered unique to MOOTW.[64]

In a politically charged environment, excessive military force may damage the legitimacy of the organization that applies it, and simultaneously enhance the legitimacy of those it is applied against.[65] This is a strong argument in favor of providing military forces with a spectrum of capabilities, both lethal and non-lethal. Making a greater variety of weapons acceptable, however, may further complicate the restrictive rules of engagement that typically accompany MOOTW. Additionally, military forces may be used to support MOOTW on short notice, limiting the amount of training that may be conducted in preparation for operations.[66] Providing forces with capabilities that they are not adequately trained to use may endanger friendly forces and increase the risk of political embarrassment.

Although military planners would prefer to enter an operation with a clearly defined exit strategy, MOOTW may require years of sustained presence, and the political complexity

[63] Ibid., II-4.
[64] Joint Pub 3-07, II-1.
[65] Ibid., II-4.
[66] Joint Pub 3-0, V-5.

of many situations offer few decisive paths.[67] Success may ultimately depend upon the military's ability to persevere in an area of operations for an adequate period of time. In certain circumstances, riot control agents may permit military forces to intervene in a developing situation before lethal force is necessary, thus enhancing the security of U.S. forces and preserving public support. Indiscriminate use of such agents by military forces may increase risk for U.S. forces by generating negative media attention, and turning local populations against military intentions.

The appropriateness of U.S. military participation in MOOTW is evaluated by domestic, local, and international audiences on the perceived legality and morality of the operation.[68] Approval from any of these audiences may contribute to popular support for military forces pursuing their objective.[69] The prudent use of riot control agents may demonstrate restraint, discipline, and a willingness to hold the moral high ground in a challenging security environment. Such attempts to implement riot control agents prior to lethal measures may also incur additional risks for U.S. forces, and those that object to an American or international military presence are likely to challenge the legality of riot control agents regardless of the results achieved.

Riot control agents may be a powerful and versatile asset in MOOTW. The decision to implement them, however, should not be based merely on technical specifications, or an idealistic desire for military intervention without bloodshed. Operational planners must be knowledgeable of key treaties that influence the legality of such agents, including the Geneva Gas Protocol, the Biological Weapons Convention, and the Chemical Weapons Convention. Ideally, operational planners would also understand the spirit behind these treaties—the

[67] Joint Pub 3-07, II-4.
[68] Joint Pub 3-07, II-5.
[69] Ibid.

moral arguments that serve as a framework for their often ambiguous words and phrases. Additionally, there is a wealth of documentation detailing U.S. and foreign military experiences and lessons learned from previous attempts to implement riot control agents in war and in MOOTW.

Several policy documents, including Executive Order 11850, Department of Defense Directive 3000.3, and Chairman of the Joint Chiefs of Staff Instruction 3110.07B, are useful resources for riot control agent implementation. They provide further details with respect to America's interpretations of existing international laws, assign tasks and responsibility at various levels within the U.S. government and the U.S. military, and propose guidelines which may be useful to operational planners. Perhaps the best litmus test for determining if riot control agents are appropriate for a particular situation, however, is an assessment of their likely influence with respect to the principles of MOOTW. Even in a scenario where the use of riot control agents would clearly not conflict with the guidance provided by international law, the President, or various levels of the Department of Defense, the six principles of MOOTW—objective, unity of effort, security, restraint, perseverance, and legitimacy—may expose the political, cultural, and social considerations necessary for operational planners to effectively weigh the advantages and disadvantages of implementing riot control agents.

For many reasons non-lethal weapons offer military forces advantages as complements to lethal systems, and in some cases, as replacements for the other systems. The smart warrior is the one who understands how to use a diverse arsenal of capabilities, and isn't afraid to think beyond the traditional way of conducting military operations.[70]

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[70] Capstick, 1.

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