

July 29, 2020

ACSI MEMBERS**Ryan Vanden Brink,**
Chair
Intelekia Law Group LLC**Mara Gross, Vice Chair****Khanh Pham**
OPAL Environmental
Justice Oregon**Brody Abbott**
Metro**David Heslam**
Earth Advantage**Victoria Heroux**
Neighbors for Clean Air**Rick Hodges**
NW Natural**Liz Hoekstra**
Portland State University**Jennifer Light**
NW Power and
Conservation Council**Sasha Pollack**
Metro**Melissa Powers**
Lewis & Clark Law School**Kari Schlosshauer**
Safe Routes Partnership**Amanda Zuniga**
Energy Trust of Oregon

Individuals do not represent their
business or employer while serving
in their capacity as a member of
ACSI.

TO: Multnomah County Board of Commissioners
FR: Advisory Committee on Sustainability and Innovation

The Advisory Committee on Sustainability and Innovation (ACSI) asks the Multnomah County Board of Commissioners to exercise its authority¹ as the Board of Health to ban the use of tear gas by all law enforcement in its jurisdiction including the Multnomah County Sheriff's Department and the Portland Police Bureau.

Members of ACSI stand with the growing body of City and other local leaders calling for a ban on CS gas as a crowd control strategy on large groups during protests. The Oregon Legislature has acknowledged this in the development and passage of their own prohibition on tear gas,² but the issue has not been solved; tear gas was used the night the legislation went into effect, prompting Speaker Kotek to send a strongly worded letter to Mayor Wheeler calling the declaration of a riot "an abuse of the statute."³ While much of the focus the last several days has understandably been on abuses by federal agents, local police have been using tear gas on protesters since late May. The Board's leadership could have an impact on this flagrant disregard for public health.

Tear gas is not safe.⁴ The 1925 Geneva Protocol categorized tear gas as a chemical warfare agent and banned its use in war shortly after World War I. The U.N.'s Chemical Weapons Convention (CWC) outlawing the use of riot control agents, including tear gas, in warfare went into effect in 1997. It was ratified by the US Senate.

It causes irritation and inflammation in respiratory systems and can cause closure and/or restriction in airways. While classified as a non-lethal method of crowd dispersal, it can be deadly⁵ for anyone with underlying conditions that make them more susceptible to acute toxic inhalants. These underlying conditions may be asthma, chronic obstructive pulmonary disease (COPD), and emphysema, to name a few.

In addition to the immediate risks, it has been found to cause long-term health harm, increasing susceptibility to influenza, pneumonia and other illnesses. It can also cause serious skin and eye irritations, gastrointestinal distress and has been linked to miscarriages in animals. Firing the canisters cause addition-

¹ The Board has this authority, which is binding on local jurisdictions, under ORS 431.413. Available at:

https://www.oregonlegislature.gov/bills_laws/ors/ors431.html

² HB4208, Prohibiting law enforcement agencies from using tear gas for purposes of crowd control except in circumstances constituting riot, <https://olis.oregonlegislature.gov/liz/2020S1/Measures/Overview/HB4208>

³ Hours After Gov. Kate Brown Signs Tear Gas Ban Into Law, Portland Police Deploy More Gas Onto Protesters, Tess Riski.

<https://www.wweek.com/news/2020/07/01/hours-after-gov-kate-brown-signs-tear-gas-ban-into-law-portland-police-deploy-more-gas-onto-protesters/>; Oregon House Speaker Tina Kotek Admonishes Mayor Wheeler in Letter About Portland Police, Tess Riski.

<https://www.wweek.com/news/2020/07/01/oregon-house-speaker-tina-kotek-admonishes-mayor-wheeler-in-letter-about-portland-police/>

⁴ Long Term Effects of Tear Gases on Respiratory System: Analysis of 93 Cases: Peri Arbak, İlknur Başer, Özlem Ozdemir Kumbasar, Füsün Ülger, Zeki Kılıçaslan, and Fatma Evyapan

⁵ <https://www.thelantern.com/2020/06/columbus-looks-into-death-of-ohio-state-grad-who-attended-downtown-protests/>

al risks, with poor police training and improper use leading to sometimes severe injuries as demonstrators are struck by these metal objects. Tear gas has also found its way into our food and water systems.

It can hurt those who aren't the intended targets, including people inside their homes, bystanders and others. "Chemical irritants are an indiscriminate weapon by design; because of their indiscriminate nature – especially when delivered by firing a grenade or a canister – limiting the exposure to individuals or small groups is difficult, and the risk of affecting bystanders and individuals other than the intended targets is high."⁶

The widespread, sometimes indiscriminate use of tear gas on American civilians would be enough of a problem in normal times, but it is occurring in the midst of a worldwide pandemic that primarily affects the respiratory system, and for which higher death rates have been demonstrated to occur in the presence of air pollutants.⁷

Tear gas can also exacerbate racial health disparities, worsening the respiratory health of Black, Indigenous and people of color (BIPOC) communities that already suffer some of the worst air quality in the state primarily due to exposure from many toxic air contaminants including diesel particulate matter and industrial emissions. This disparity has left Black, Brown and Indigenous communities in Oregon suffering poorer health outcomes associated with dangerous air quality, including higher susceptibility to COVID 19. We also know that Black and Brown communities receive harsher consequences at the hands of our law enforcement system. We are gravely concerned about the potential increase for harm to BIPOC communities by overly aggressive law enforcement practices which seek to reduce damage to property and violence in Portland during this current wave of lawful protests.

All of these factors inhibit the First Amendment rights of Multnomah County citizens to assemble and peacefully demonstrate. The fear of tear gas keeps those with underlying conditions from joining demonstrations out of fear for their health. Law enforcement agencies should not inflict undue punishment on those who exercise the right to protest.

ACSI members stand with the people of Multnomah County in their protests against injustice and racism in our criminal justice system, specifically in regards to how Black Americans are systemically punished more harshly and die more frequently at the hands of law enforcement agents. We believe in the right to protest racial and economic injustices. We ask the Board of Health to protect the health of the people in the region from undue harm from law enforcement.

Sincerely,

Your 2020 ACSI Members

⁶"Lethal in Disguise: The Health Consequences of Crowd-Control Weapons." [The International Network of Civil Liberties Organizations \(INCLIO\)](#) and [Physicians for Human Rights](#)

⁷See A National Study on Long-Term Exposure to Air Pollution and COVID-19 Mortality in the United States, available at: <https://projects.iq.harvard.edu/covid-pm>