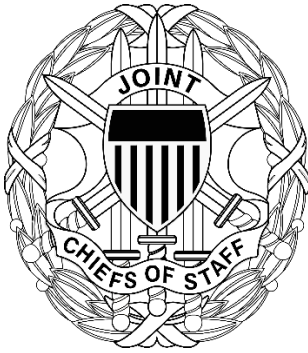


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CHAIRMAN OF THE JOINT CHIEFS OF STAFF INSTRUCTION



J-5

DISTRIBUTION: A, B, C, S

CJCSI 3110.07E

2 August 2024

GUIDANCE CONCERNING EMPLOYMENT OF RIOT CONTROL AGENTS AND HERBICIDES

References:

See Enclosure B

1. Purpose. This instruction provides guidance, in accordance with (IAW) references (b) and (d), to:

a. The Combatant Commanders (CCDRs) for the use and handling of riot control agents (RCAs) and herbicides.

b. The Chiefs of the Military Services with respect to their support of the plans and requirements of the CCDRs for the use and handling of RCAs and herbicides.

2. Superseded/Cancellation. Chairman of the Joint Chiefs of Staff Instruction (CJCSI) 3110.07D, 31 January 2011, "Guidance Concerning Employment Of Riot Control Agents And Herbicides," is hereby superseded.

3. Applicability. This instruction applies to the Combatant Commands (CCMDs), Military Services, Defense agencies, and Joint Staff.

4. Policy

a. The United States is dedicated to complying with its international arms control agreements in order to prevent the proliferation of weapons of mass destruction (WMD) to states, non-state actors, and terrorists.

b. The United States will only use and handle RCAs and herbicides consistent with international law (references (a) and (b)) and domestic guidance (inter alia references (c), (d), (e), (f), and (g)).

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c. Chemical Warfare Agents

(1) In 1975, the United States ratified the “Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare” of 1925. Under this protocol, the United States reserved the right to use chemical agents against enemy states whose forces or allies used chemical weapons against U.S. forces. This reservation is no longer valid. Under the terms of reference (b) (the Chemical Weapons Convention (CWC)), the United States is obligated not to use chemical weapons “under any circumstances.”

(2) The President of the United States signed the CWC in 1993, and Congress ratified it in April 1997. The United States agreed not to:

(a) Use, develop, produce, acquire, stockpile, transfer, or retain chemical weapons for any reason.

(b) Engage in any military preparations to use chemical weapons.

(c) Assist, encourage, or induce, in any way, anyone to engage in any activity prohibited to a state party under the CWC.

(3) For further CJCS guidance on CWC compliance, see reference (c).

d. RCAs. The CWC prohibits the use of RCAs as a “method of warfare.” U.S. policy, established by reference (d), distinguishes between the use of RCAs in war and in situations other than war. Approval to use RCAs is dependent on the situation in which their use is contemplated (see Enclosure B).

e. Herbicides. The CWC recognizes the prohibition of the use of herbicides as a method of warfare. IAW reference (d), the United States has renounced first use of herbicides in war except under regulations applicable to domestic use or for control of vegetation within U.S. bases and installations or around immediate defensive perimeters (see Enclosure B).

5. Definitions. See reference (e).

a. Herbicide. A chemical compound that will kill or damage plants.

b. RCA. Any chemical not listed in a schedule of the CWC that can produce rapidly in humans sensory irritation or disabling physical effects that disappear within a short time following termination of exposure.

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c. WMD. Chemical, biological, radiological, or nuclear weapons capable of a high order of destruction or of causing mass casualties and excluding the means of transporting or propelling the weapon where such means is a separable and divisible part from the weapon.

d. Chemical Weapon. Together or separately:

(1) A toxic chemical and its precursors, except when intended for a purpose not prohibited under the CWC.

(2) A munition or device specifically designed to cause death or other harm through toxic properties of those chemicals specified in (1), above, that would be released as a result of the employment of such munition or device.

(3) Any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in (2), above.

6. Responsibilities. CCDRs and Service Chiefs are responsible for performing missions assigned in references (f) and (g). This includes, as appropriate, training and equipping the U.S. Armed Forces. These forces may be required to fight in an environment where WMD are employed.

7. Summary of Changes. This CJCSI is now refocused solely on the appropriate handling of RCA and herbicides to appropriately reflect the intent of this guidance. Additionally, the list of references has been updated.

8. Releasability. UNRESTRICTED. This directive is approved for public release; distribution is unlimited on the Non-classified Internet Protocol Router Network (NIPRNET). Department of Defense Components (to include the CCMDs), other Federal agencies, and the public may obtain copies of this directive through the Internet from the CJCS Directives Electronic Library at <<http://www.jcs.mil/library>>. Joint Staff activities may also obtain access via the the SECRET Internet Protocol Router Network (SIPRNET) directives Electronic Library web sites.

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9. Effective Date. This INSTRUCTION is effective upon signature.

For the Chairman of the Joint Chiefs of Staff:

A handwritten signature in black ink, reading "Michael L. Downs". The signature is written in a cursive, flowing style.

MICHAEL L. DOWNS, Maj Gen, USAF
Vice Director, Joint Staff

Enclosures

A – Riot Control Agents and Herbicides

B – References

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ENCLOSURE A

RIOT CONTROL AGENTS AND HERBICIDES

1. General. The CWC prohibits the use of RCAs as a “method of warfare” and recognizes the prohibition embodied in the pertinent agreements and relevant principles of international law on the use of herbicides as a method of warfare. The CWC defines RCAs as “any chemical not listed in a Schedule [that defines categories of toxic chemical agents], which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.” Policy regarding use of RCAs in war, peacetime military operations, and operations other than war is set forth below.

2. Use in War

a. The Armed Forces of the United States are prohibited from using any RCA or chemical herbicides in war unless the President of the United States approves such use in advance. The term “war” means a use of force of a scope, duration, and intensity in an international armed conflict that would trigger the laws of war with respect to U.S. forces.

b. In reference (d), the United States renounces first use of herbicides in war except as consistent with regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations, or around their immediate defense perimeters.

c. In reference (d), the United States renounces first use of RCAs in war except in defensive military modes to save lives. Reference (d) lists the following examples of potential defensive uses:

(1) Riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.

(2) Situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.

(3) Rescue missions in remotely isolated areas, rescue of downed aircrews and passengers, and apprehension of escaping prisoners.

(4) Rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists, and paramilitary organizations.

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e. Requests to use RCAs in war will be submitted IAW references (d) and (h). The approval of any requested defensive use will be assessed on a case-by-case basis based on applicable domestic and international law and relevant policy and operational considerations.

f. During war, use of RCAs outside a war zone is authorized as prescribed for peacetime.

3. Peacetime Military Operations and Operations Other Than War

a. CCMDs will address use of RCAs and herbicides in operational plans (operations plans and concept plans), operation orders, execution orders, and standard operating procedures.

b. RCAs may be used on U.S. bases, posts, embassy grounds, and installations for protection and security purposes, riot control, installation security, training, and evacuation of U.S. noncombatants and foreign nationals. The U.S.-controlled portions of foreign installations are considered U.S. installations.

c. RCAs may be used off-base (worldwide) for the protection or recovery of nuclear weapons based on the principles contained in CJCS standing rules of engagement (SROE) or other properly promulgated and applicable ROE or rules on the use of force (references (w) and (y)).

d. (U) Chemical aerosol-irritant projectors may be used by military personnel in performance of law enforcement activities in the following locations:

(1) On-base and off-base within the United States and its territories and possessions, when authorized by exception to the *Posse Comitatus Act* (title 18, U.S. Code, section 1385).

(2) On-base overseas.

(3) Off-base overseas in those countries where such use is specifically authorized by the host-nation government.

e. IAW reference (j), the United States is not restricted by the CWC in its use of RCAs, including use against combatants who are party to a conflict, in any of the following cases (ROE constraints may apply):

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(1) The conduct of peacetime military operations within an area of ongoing armed conflict when the United States is not a party to the conflict.

(2) Consensual peacekeeping operations when the use of force is authorized by the receiving state, including operations pursuant to Chapter VI of the United Nations Charter.

(3) Peacekeeping operations when the use of force is authorized by the United Nations Security Council under Chapter VII of the United Nations Charter.

f. The subparagraphs above do not constitute an exhaustive list of authorized occasions for peacetime use of RCAs. Other scenarios, such as maritime interdiction and/or interception operations or other sanctions enforcement, may have to be evaluated on a case-by-case basis to determine whether presidential authority is required under reference (d).

g. Herbicides may be used within the United States on bases, posts, facilities, and installations for control of vegetation IAW applicable law, regulations, and policy. Herbicides may be used overseas IAW applicable international agreements, final governing standards, and the Overseas Environmental Baseline Guidance Document.

h. RCAs may be used for defensive purposes to support humanitarian assistance/disaster relief (HA/DR) missions for riot control, civil disturbance operations, terrorists, and emergency evacuation operations.

4. Authority

a. Only the President may authorize:

(1) Use of RCAs in war, including defensive military modes. However, advance authority to use RCAs in wartime for protection or recovery of nuclear weapons has been delegated to the Secretary of Defense (SecDef) (reference (l)).

(2) Wartime use of herbicides, including installation vegetation control.

b. The SecDef may authorize:

(1) Use of RCAs or herbicides in peacetime, including the use of RCAs in peacetime to support HA/DR for riot control, civil disturbance operations, training, and emergency evacuation operations. However, certain uses of RCAs

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and herbicides in peacetime have been delegated to the CCDRs and Service Chiefs as described below.

(2) Use of RCAs, including in war, for the protection or recovery of nuclear weapons IAW references l and m.

c. CCDRs and the Service Chiefs may authorize:

(1) The use of RCAs in peacetime on U.S. facilities and installations for riot control, installation security, civil disturbance operations, training, and noncombatant emergency evacuation operations. The U.S.-controlled portions of foreign installations will follow the rules and guidance that apply for U.S. installations.

(2) The movement and storage of RCAs and herbicides, as necessary to support requirements, provided U.S. control is maintained and movement is consistent with U.S. law and regulations, international law, agreements, and arrangements with host nations.

(3) The off-base use of RCAs in peacetime for the protection or recovery of nuclear weapons based on the principles contained in the CJCS SROE or other properly promulgated ROE or rules on the use of force.

(4) The use of herbicides in peacetime on and around U.S. installations for control of vegetation.

(5) The use of chemical aerosol-irritant projectors by military law enforcement personnel during peacetime for the performance of law enforcement activities as outlined in subparagraphs 3.d.(1), (2), and (3) above.

d. The use of RCAs in peacetime situations not covered by the above (e.g., to save lives in counterterrorist operations and when conducting peacetime military operations within an area of ongoing armed conflict) will be addressed in plans and requested by the CCDRs for approval by the SecDef.

5. Public Affairs. RCA and herbicide operations are of significant national, international, and public interest. All RCA and herbicide information proposed for release to the public that has not been previously released will be coordinated with the Office of the Assistant Secretary of Defense for Public Affairs, with information copies provided to the CJCS and the appropriate Services. This policy does not apply to requests for information made under the Freedom of Information Act.

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ENCLOSURE B

REFERENCES

- a. *Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction*, 1972
- b. *Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction*, June 2020
- c. CJCSI 2030.01E, 12 April 20123 “Chemical Weapons Convention Implementation and Compliance Policy Guidance”
- d. EO 11850, 8 April 1975, “Renunciation of Certain Uses in War of Chemical Herbicides and Riot Control Agents”
- e. January 2024, “Department of Defense Dictionary of Military and Associated Terms”
- f. Joint Publication 5-0, 26 December 2006, “Joint Operation Planning”
- g. CJCSM 3130.03B, 14 June 2024, “Planning and Execution Formats and Guidance”
- h. CJCSI 3121.01B, 13 June 2005 current as of 15 August 2022, “Standing Rules of Engagement/Standing Rules for the Use of Force for US Forces”
- i. White House memorandum for the Secretary of Defense, 10 January 1976, “Use of Riot Control Agents to Protect or Recover Nuclear Weapons”
- j. President W.J. Clinton Letter to the Congress of the United States, 25 April 1997
- k. “Report on U.S. Service Members’ Training and Use of Riot Control Agents,” September 2006 Classified Annex to the Ensign Report
- l. CJCSI 3110.01L, 5 January 2024, “(U) 2023 Joint Strategic Campaign Plan”
- m. White House memorandum for the Secretary of Defense, 10 January 1976, “Use of Riot Control Agents to Protect or Recover Nuclear Weapons”

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