

RÉPUBLIQUE FRANÇAISE

**LE DÉFENSEUR
DES DROITS**



**REPORT
ON THREE MEANS
OF INTERMEDIATE FORCE**

Taser X26 stun gun

Flash-Ball superpro

Less Lethal Launcher 40x46 mm

The means of intermediate force, also referred to as “less lethal weapons”, have significantly developed over the last two decades. Three of these weapons have given rise to several recommendations, both individual and general, by both the National Commission on Ethics and Security (CNDS) and the Defender of Rights (which succeeded the former): the stun gun Taser X26, the Flash-Ball superpro and the Less Lethal Launcher 40x46 mm. Taking into consideration the number of these weapons in equipment, the seriousness of the physical injuries caused, the media coverage of certain cases and the nature of existing recommendations have led the Defender of Rights to draft a general report on their use by the police and the gendarmerie.

This report includes a presentation of the operation and employment of these three weapons, their use data (provided by the directorates general of the gendarmerie and the police), an overview of the main decisions and recommendations of the CNDS and the Defender of Rights, as well as new general recommendations aimed to provide a better framework for the use of these weapons.

They are differences between the police and the gendarmerie in the frameworks for the use of these three weapons, something that this report has highlighted. Several recommendations are aimed at their alignment.

These weapons are all in collective staffing. Agents must hold a valid license to use them, which can be obtained after initial training, and which the validity is subject to ongoing training.

The taser X26 can be used in case of legitimate defence and state of necessity as well as to arrest individuals in the case of a crime or obvious offence. There are certain number of prohibitions on its use, which are broader for the gendarmerie than for the police (in particular the prohibition on its utilisation during law enforcement operations).

More than 25,000 members of the gendarmerie are trained to use the taser, for more than 3,000 weapons in equipment. In 2012, the taser has been used 619 times in shoot and contact mode for a total of 480 operational situations. Regarding the police, 4,083 personnel are trained, for 1,647 taser X26 guns in equipment. In 2012, the taser has been used 351 times in shoot and contact mode.

The Defender of Rights first made recommendations to limit the use of the taser X26, and to change its framework of employment: to avoid the use of the X26 in contact mode as much as possible and establish a strict framework on this utilisation during handcuffing; to harmonise and reinforce the prohibitions and precautions of use defined in the two frameworks (specifically concerning vulnerable persons and those in an excited state of delirium or under the influence of drugs).

In order to increase the possibilities of controlling the use of this weapon, the Defender of Rights recommends: the ban of all taser X26 guns that are not fitted with an audio or video recording device, the increase of the retention period for storing use data to at least 2 years for the gendarmerie, as well as the implementation of the collection and processing of the weapon's duration of use.

The Defender of Rights has also recommended to reinforce the support for persons subject to a shot, in particular by moving to his level to verify his condition and inform him that the effects of the weapon are temporary.

Regarding the initial and ongoing training, the Defender of Rights recommends a greater emphasis on the dangers of a repeated utilisation use of the weapon and the use of restraints following the use of the weapon, as well as the detection of a state of vulnerability or abnormal behaviour in individuals, the increase in the duration of the initial training and the frequency of ongoing training.

The use of the **Flash-Ball superpro** and the **Less Lethal Launcher 40x46** is authorised in the context of legitimate defence, of state of necessity, but also, under certain conditions, to dispel gatherings, during interventions in correctional facilities, and in case of assault or defence of an area, a rebellion or an attempt to escape. The framework for use established by the police is almost identical for the two weapons, whereas the one established by the gendarmerie is more specific and more restrictive regarding the Less Lethal Launcher 40x46.

Different prohibitions on utilisation are prescribed for these two weapons, regarding the police, in the case of legitimate defence and a state of necessity when the physical integrity of a person must be protected, and for the gendarmerie in case of legitimate defence of property and persons.

Likewise, the utilisation of these two launchers is prohibited below a certain distance (7 metres for the Flash-Ball and 10 metres for the Less Lethal Launcher 40x46) against the driver of a moving vehicle, and above the shoulder line. Other firing areas are also prohibited, but they differ according to the weapon and the armed force used.

With regards to the police, 8,840 personnel are trained to use the Flash-Ball superpro, for 2,212 weapons in equipment. In 2012, this weapon has been used in 589 operational situations, during which 1,059 munitions were used. For the Less Lethal Launcher 40x46, 5,502 personnel are authorised for 2,485 weapons in equipment. In 2012, this weapon has been used in 623 operational situations, during which 1,514 munitions were used.

With regard to the gendarmerie, 707 members are trained for the use of the Flash-Ball superpro, for 1,003 weapons in equipment. In 2012, it has been used in 19 operational situations, in which 38 munitions were used. 1,474 members of the gendarmerie are trained to use the Less Lethal Launcher 40x46, for 598 weapons in equipment. In 2012, it has been used in 21 operational situations, which resulted in the use of 52 munitions.

The Defender of Rights has formulated recommendations aimed to restrict the use of these two launchers and consequently modify the framework for the use of such weapons.

It recommends to extend and cumulate the prohibited firing parts of the body in both frameworks, specifying the defined instructions for the police on the maximum distances for the use of the weapons and the introduction, by illustration, of the notion of vulnerability, rethinking the use of these weapons in the case of legitimate defence of property and a state of necessity with regards to property, limiting exemptions to the prohibition of utilisation to only situations where the physical integrity of persons is threatened, and to strictly control the use of the Flash-Ball during road safety controls and identity checks, and during demonstrations. The Defender of Rights has also recommended that the framework for the use of these weapons be adapted to their technical specificities.

With regard to the Flash-Ball, the Defender of Rights has questioned the continued use of this weapon in equipment, as its imprecision renders the theoretical guidance and prohibitions on use

irrelevant due to the considerable risk of the ball to deflect, even in optimal firing conditions. In response to the Defender of Rights, a working group has been established by the Minister of the Interior, whose reflection has led to the current evaluation of a short-range defence munition, suitable for use with the Less Lethal Launcher 40x46. This device could therefore replace the Flash-Ball.

The Defender of Rights has also recommended verifying the settings of the LBD 40x46 in equipment, having observed, in one case, a malfunction of the sight on such a weapon which can have tragic consequences.

With regard to the training, the Defender of Rights has recommended that the content of ongoing training be improved, that an annual recycling be introduced and that a better certification control is ensured during the individual assignment of a weapon.

Lastly, it has recommended the reinforcement of medical support for persons reached by a launcher shot.