

FOR THE RECORD

BY MICHAEL STEBBINS



AGENTS OF SUSPICION

If governments want to develop incapacitating chemical agents for use in warfare, they should come out and say so.

ON OCTOBER 23, 2002, A group of 50 Chechen terrorists took 800 people hostage in a Moscow theater. Two days later, Russian special forces pumped an incapacitating biochemical agent into the theater with the intent of anesthetizing everyone inside. The crisis ended with the deaths of the terrorists and 125 of the hostages—killed by the very agent employed to free them.

Most discussions of incapacitating biochemical weapons focus on the moral paradoxes associated with using them or speculation about their potential utility. But the curious nuances and ambiguities behind our justifications for developing them often go neglected.

Russia is not alone in its enthusiasm for developing these weapons; the United States, Czech Republic, and China have shown interest as well. In 1999, the Defense Department's Joint Non-Lethal Weapons Directorate awarded a contract to "demonstrate the feasibility of a safe, reliable chemical immobilizing agent(s) for nonlethal applications in appropriate military mission and law enforcement situations." Two years later, Defense launched an analysis of

technological advances over the previous 10 years to "identify feasible non-lethal chemical materials for further testing which have minimal side effects for immobilizing adversaries."

The draw of incapacitating weapons of any kind is that they are a replacement for carnage. But it is foolhardy to think that because some conventional incapacitating weapons—such as bean-bag munitions and tasers—achieved that lofty goal, that biochemical weapons can do the same. For all known biochemical agents, the range of exposure that causes "incapacitation" overlaps significantly with the range that causes death. This is particularly problematic for the U.S. military, which seems to have embraced an arbitrary—but admirably stringent—standard for nonlethal agents of 99 percent incapacitation with less than 0.5 percent lethality. Until the military finds an agent that can solve the riddle of effectiveness vs. death, nonlethal comes with a wink. The term "incapacitate" is also highly subjective. Since there are no accepted physiological norms for incapacitation, it can refer to a range of effects, from euphoria to hallucination or unconsciousness, the latter being widely regarded as a direct violation of the Chemical Weapons Convention (CWC).

Most interesting, though, is U.S. reliance on interpretations of ambiguous wording in the Geneva Protocol, Biological and Toxin Weapons Convention, and the CWC to justify the development of biochemical agents. As Alan Pearson of the Center for Arms Control and Nonproliferation points out in the July 2006 *Nonproliferation Review*, the United States has been relying

on coy interpretations of legal intention in terms like "law enforcement," "riot control agent," and "toxicity." What, after all, is toxicity? And whose laws are we talking about enforcing?

Without addressing these ambiguities, Congress amended the 2006 National Defense Authorization Act to reassert that riot-control agents are "not chemical weapons and that the president may authorize their use" by U.S. Armed Forces "in war in defensive military modes." Curiously, the amendment contained definitions for the CWC and its 1997 congressional resolution but did not actually define what a riot-control agent is, or, perhaps more important, what it is not.

For most people, incapacitating biochemical weapons will likely remain in the awkward company of their more sinister cousins and, therefore, will fail to elicit the stereotypical American chauvinism for high-tech weapons. That alone should be reason enough to pause and have a more public discussion about their development. If the U.S. government wishes to adjust the line of permissibility to allow the development of incapacitating biochemical agents, then it shouldn't justify its actions with new, subjective interpretations of established international conventions.

The 2008 CWC review conference presents a fine opportunity for the United States to put its cards on the table. Clarifying key terms at the review conference does not mean that the convention has to be opened to new provisions, which arguably could be dangerous. Such clarifications would, however, reassure the world that the United States is steadfast in its commitment not to use poisons in warfare. Not doing so will generate further distrust among our neighbors and risk starting an arms race. This is too high of a price to pay for developing a weapon with dubious utility. ✱

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