



Legislation Details (With Text)

File #: 61265 **Version:** 3 **Name:** Prohibiting Use of Tear Gas
Type: Resolution **Status:** Passed
File created: 7/7/2020 **In control:** Attorney's Office
On agenda: 7/14/2020 **Final action:** 10/6/2020
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Title: AMENDED SUBSTITUTE. Prohibiting the use of tear gas as of February 2, 2021, and Rrequesting a study of alternatives by the Madison Police Department.

Sponsors: Patrick W. Heck, Shiva Bidar, Keith Furman

Indexes:

Code sections:

Attachments: 1. References, 2. 8/4/20: Ald. Henak Email Re 61265.pdf, 3. 61265 v1.pdf, 4. Ald. Lemmer amendment, 5. Ald. Abbas amendment, 6. v2.pdf

| Date | Ver. | Action By | Action | Result |
|-----------|------|------------------------------------|---|--------|
| 10/6/2020 | 2 | COMMON COUNCIL | Amend the Substitute | Pass |
| 10/6/2020 | 2 | COMMON COUNCIL | Amend the Substitute | Fail |
| 10/6/2020 | 2 | COMMON COUNCIL | Adopt Substitute As Amended | Pass |
| 9/16/2020 | 1 | PUBLIC SAFETY REVIEW COMMITTEE | RECOMMEND TO COUNCIL TO ADOPT - REPORT OF OFFICER | Pass |
| 9/10/2020 | 1 | EQUAL OPPORTUNITIES COMMISSION | Return to Lead with the Recommendation to Place on File | Pass |
| 8/18/2020 | 1 | COMMON COUNCIL EXECUTIVE COMMITTEE | Return to Lead with the Following Recommendation(s) | Fail |
| 8/13/2020 | 1 | EQUAL OPPORTUNITIES COMMISSION | Table | Pass |
| 8/12/2020 | 1 | PUBLIC SAFETY REVIEW COMMITTEE | Re-refer | |
| 8/4/2020 | 1 | COMMON COUNCIL EXECUTIVE COMMITTEE | Re-refer | |
| 7/14/2020 | 1 | PUBLIC SAFETY REVIEW COMMITTEE | Referred | |
| 7/14/2020 | 1 | PUBLIC SAFETY REVIEW COMMITTEE | Referred | |
| 7/14/2020 | 1 | COMMON COUNCIL | Refer | Pass |
| 7/7/2020 | 1 | Attorney's Office | Referred for Introduction | |

Fiscal Note

The proposed resolution prohibits the use of tear gas as of February 2, 2021 and requests a study of alternatives by the Madison Police Department (MPD). The resolution defines tear gas as various chemical agents. Costs fluctuate from year to year in correspondence with usage, training needs or expiration. In 2019, the department spent approximately \$3,600 on chemical sprays. While there would be savings associated with not purchasing these items, an alternative could consume some or all of these savings or require additional funding from the Common Council. Staff time (including overtime) would be involved in order to produce this study. With the major events impacting MPD's overtime budget (shots fired incidents, COVID, protests), the

Department will likely need an additional appropriation to cover overtime costs.

An ordinance prohibiting the MPD from using tear gas, mace and impact projectile devices, Legistar file ID #61250, is also being introduced.

Title

AMENDED SUBSTITUTE. ~~Prohibiting the use of tear gas as of February 2, 2021, and~~ **R**requesting a study of alternatives by the Madison Police Department.

Body

WHEREAS, the use of lachrymatory chemicals, often referred to as tear gas or riot control agents, in war has been banned for almost a century by the UN Geneva Protocol of 1925, as well as by the Chemical Weapons Convention of 1993; and

WHEREAS, the Centers for Disease Control list a variety of chemical compounds in the category of riot control agents, including "chloroacetophenone (CN) and chlorobenzylidenemalononitrile (CS)... chloropicrin (PS)... bromobenzylcyanide (CA); dibenzoxazepine (CR); and combinations of various agents"; and

WHEREAS, that for the purposes of this resolution, the term "tear gas" is defined as chloroacetophenone (CN), chlorobenzylidenemalononitrile (CS), chloropicrin (PS), bromobenzylcyanide (CA), dibenzoxazepine (CR), and combinations of these and related agents, and that oleoresin capsicum (OC) spray is not included in that definition; and

WHEREAS, the Centers for Disease Control list "chest tightness, coughing, choking sensation, noisy breathing (wheezing), shortness of breath" as effects of tear gas on the lungs; and

WHEREAS, studies have shown, "tear gas can cause long-term harm, by making people more susceptible to contracting influenza, pneumonia and other illnesses"; and

WHEREAS, an open letter signed by over 1,200 healthcare professionals opposes, "any use of tear gas, smoke, or other respiratory irritants, which could increase risk for COVID-19 by making the respiratory tract more susceptible to infection, exacerbating existing inflammation and inducing coughing"; and

WHEREAS, the American Thoracic Society is calling for a moratorium on the use of tear gas by law enforcement officers on participants in protests due to the dangers it poses to those who are exposed to it, including medics and bystanders as well as protestors; and

WHEREAS, United States Representatives Ocasio-Cortez, Takano, and Garcia have introduced the "Prohibiting Law Enforcement Use of Chemical Weapons Act", which will ban the use of tear gas by law enforcement and the City of Seattle has recently banned tear gas; and

NOW THEREFORE, BE IT RESOLVED, that the Madison Common Council requests that the Madison Police Department submit a study by ~~October 20, 2020~~ January 6, 2021 that includes:

- a history of the Department's tear gas usage from 1990 up to and including August 1, 2020, that includes analyses of usage by year;
- incident type, including, but not limited to, crowd control, special operations, and smaller scale uses; estimated number of persons impacted; amount of tear gas used;
- justifications and efficacies of its usage compared to available alternatives; other pertinent information, and summaries thereof;
- MPD or non-MPD de-escalation alternatives to the use of tear gas, and that alternatives include, but not be limited to, response options from other agencies, organizations, health care entities, and suggested recommendations by the Quattrone Center's analysis of the MPD's May 30-June 1, 2020 response; and

BE IT FURTHER RESOLVED that the Madison Common Council is committed to support de-escalation alternatives to the use of tear gas; and

BE IT FINALLY RESOLVED, ~~that starting on November 17, 2020 February 2, 2021, the Madison Common Council prohibits the use and purchase of tear gas by the Madison Police Department and/or any City department or entity.~~ upon receiving this study from the Madison Police Department, the Madison Common Council will review the findings, with careful attention on available de-escalation alternatives, and use this information to determine whether to ban tear gas and if so, will determine an appropriate timeline.