

Written Testimony_HB 4208

Luke Strnad

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I am writing to support HB 4208 as well as ongoing subsequent work to both limit and eliminate the use of tear gas by the Portland and Oregon police department and other law enforcement agencies.

The reasons for doing this are many, and I have previously signed an open letter along with more than 1,300 other health professionals speaking to this (<https://www.documentcloud.org/documents/6937267-Open-Letter.html>), so I will focus on just a few issues here.

Open letter advocating for an anti-racist public health response to demonstrations against systemic injustice occurring during the COVID-19 pandemic

On April 30, heavily armed and predominantly white protesters entered the State Capitol building in Lansing, Michigan, protesting stay-home orders and calls for widespread public masking to prevent the spread of COVID-19. Infectious disease physicians and public health officials publicly condemned these actions and privately mourned the widening rift between leaders in science and a subset of the communities that they serve. As of May 30, we are witnessing continuing demonstrations in response to ongoing, pervasive, and lethal institutional racism set off by the killings of George Floyd and Breonna Taylor, among many other Black lives taken by police. A public health response to these demonstrations is also warranted, but this message must be wholly different from the response to white protesters resisting stay-home orders. Infectious disease and public health narratives adjacent to demonstrations against racism must be consciously anti-racist, and infectious disease experts must be clear and consistent in prioritizing an anti-racist message.

White supremacy is a lethal public health issue that predates and contributes to COVID-19. Black people are twice as likely to be killed by police compared to white people, but the effects of racism are far more pervasive. Black people suffer from dramatic health disparities in life expectancy, maternal and infant mortality, chronic medical conditions, and outcomes from acute illnesses like myocardial infarction and sepsis. Biological determinants are insufficient to explain these disparities. They result from long-standing systems of oppression and bias which have subjected people of color to discrimination in the healthcare setting, decreased access to medical care and healthy food, unsafe working conditions, mass incarceration, exposure to pollution and noise, and the toxic effects of stress. Black people are also more likely to develop COVID-19. Black people with COVID-19 are diagnosed later in the disease course and have a higher rate of hospitalization, mechanical ventilation, and death. COVID-19 among Black patients is yet another lethal manifestation of white supremacy. In addressing demonstrations against white supremacy, our first statement must be one of unwavering support for those who would dismantle, uproot, or reform racist institutions.

Staying at home, social distancing, and public masking are effective at minimizing the spread of COVID-19. To the extent possible, we support the application of these public health best practices during demonstrations that call attention to the pervasive lethal force of white supremacy. However, as public health advocates, we do not condemn these gatherings as risky for COVID-19 transmission. We support them as vital to the national public health and to the threatened health specifically of Black people in the United States. We can show that support by facilitating safer protesting practices without demanding from demonstrators ability to gather and demand change. This should not be conflated with a permissive stance on all gatherings, particularly protests against stay-home orders. Those actions not only oppose public health interventions, but are also rooted in white nationalism and not contrary to respect for Black lives. **Protests against systemic racism, which fosters the disproportionate burden of COVID-19 on Black communities and also perpetuates police violence, must be supported.**

Therefore, we propose the following guidance to support public health:

- Support local and state governments in upholding the right to protest and allow protesters to gather.
- Do not disband protests under the guise of maintaining public health for COVID-19 restrictions.

Open Letter

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Source document contributed to DocumentCloud by Maxine Bernstein (The Oregonian).

First, when we speak of “tear gas” we are speaking of something that has been banned in open warfare since 1925. If an agent is deemed so heinous to use against a member of the human race that it cannot be used in an open and declared war, then it makes no moral or logical sense that it should be okay to use against a nation’s citizens during an act of “law

enforcement". It is not clear to me why the various law enforcement agencies, including those in Oregon and Portland, have not been charged in The Hague for crimes against humanity on account of this use, but it is both my personal and professional opinion that such a charge would be appropriate were it ever to occur.

Second, there is an issue of inequity related to socio-economic status and race/ethnicity. Individuals with respiratory diseases, such as asthma, are disproportionately at risk for harm from the use of tear gas. In Oregon, as in much of the USA, Black, LatinX, First Peoples, and other People of Color, as well as individuals of lower socio-economic status, are disproportionately afflicted with many of these at-risk respiratory diseases. Therefore, any use of tear gas is going to disproportionately target these vulnerable populations in a way that is disproportionate and which I think is an additive human and civil rights violation. Again, I think a legal case on these grounds against law enforcement agencies using tear gas would be appropriate.

Finally, the use of tear gas is particularly dangerous and ill-advised in the setting of a viral pandemic by a virus (SARS-CoV2, the causative agent of COVID) that causes human morbidity and mortality primarily by causing respiratory infection, and which is transmitted often via respiratory droplets. This manifests itself in three concerning ways. First, individuals who already have COVID (known or unknown), who are exposed to tear gas, are likely to have a worse clinical course and have higher risk of morbidity and mortality due to the second hit to their respiratory system that tear gas would cause on top of the viral infection. Second, individuals at risk for COVID who are exposed to tear gas will have a disturbance to the physiology of their respiratory system that *may* put them at increased risk of both acquiring COVID and acquiring a more substantial burden of the virus if they do. This is as yet an unknown in medical scientific literature (thus the use of *may*), but it would be consistent with what we generally know of respiratory viral physiology and respiratory diseases. Third, when an individual is exposed to tear gas in a public setting such as a protest, one of the immediate, reflexive, and uncontrollable responses will be to take activities to alleviate the suffering which would put them and those around them at increased risk of COVID transmission. These activities would include but are not limited to: taking off their protective face mask, coughing violently, yelling, being less aware of social spacing and physical contact with others, splashing any nearby water into their face and eyes, accepting help from others who are nearby, regardless of whether those individuals have appropriate COVID physical protective equipment.

This creates what I called in an interview with the Oregonian a perfect storm to make these events even more infectious (<https://www.oregonlive.com/crime/2020/06/amid-calls-for-ban-on-tear-gas-portland-police-deputy-chief-stands-by-its-use.html>). It is also one of the reasons the President of Oregon Health and Science University (OHSU) issued a strong statement on behalf of the institution against the use of tear gas in protests (<https://news.ohsu.edu/2020/06/05/statement-on-tear-gas-and-nonviolent-protests?linkId=90165009>).



Amid calls for ban on tear gas, Portland police deputy chief stands by its use - oregonlive.com

www.oregonlive.com

Activists to academics have expressed alarm about using the gas at demonstrations nationwide, especially in the midst of the coronavirus pandemic, saying it can worsen infections and cause greater spread of the disease.



Statement on tear gas and nonviolent protests | OHSU News

news.ohsu.edu

While large gatherings in general provide increased opportunities for the transmission of COVID-19, the use of tear gas could significantly exacerbate the spread.

Law enforcement officials may say that this is a necessary tool to manage both non-violent and violent protest, but when it is a tool that is long outlawed in the fields of war, one which carries racial, ethnic, and economic disparities in its impact, and one which is particularly dangerous to the individuals and others around them when used in the setting of a viral pandemic, I cannot see any way to say that the ends justify the means. I strongly advocate that HB 4208 be passed and that once it is, we go further and work towards a place where tear gas is never used again by Portland or Oregon law enforcement in any situation for any reason.

Respectfully,

Luke Strnad

Luke Strnad, MD

Pronouns: he/him/his

Assistant Professor, Department of Medicine, Division of Infectious Diseases

Assistant Professor, Epidemiology Programs

OHSU School of Medicine and OHSU/PSU School of Public Health
