

Should Australians be legally able to carry non-lethal weapons for self-defence?

What they said...

'Vulnerable people need some form of defence against violent individuals of superior strength'
Senator Fraser Anning, Katter's Australia Party

'Senator Anning's motion puts the onus on women to go to extreme lengths to ensure our safety, when the priority must be to eradicate men's violence'
Senator Janet Rice, the Australian Greens

The controversy at a glance

On June 18, 2018, Victorian MP with the Shooters, Fishers and Farmers Party, Jeffery Bourman, posted on Facebook that he would be putting a motion before the Victorian Legislative Council to ensure 'that all practical and reasonable methods of self-defence are available to those who want them'. Mr Bourman wrote, 'I want people to have the option of non-lethal methods of self-defence such as pepper spray and stun guns.' The motion was filed the following day. <https://au.news.yahoo.com/push-legalise-pepper-spray-tasers-eurydice-dixons-murder-070611943.html>

On June 28, 2018, senator Fraser Anning, of Katter's Australian Party, moved a motion in the federal Senate calling on the government to relax import laws affecting tasers, pepper spray and Mace in response to crimes against women. <https://parlwork.aph.gov.au/motions/4da36cf6-097a-e811-b666-005056a40008> The senator wants state governments to legalise and promote the carrying of pepper spray, mace and tasers by women to be used in self-defence. The federal motion was defeated 46 to five. <https://parlwork.aph.gov.au/motions/4da36cf6-097a-e811-b666-005056a40008><http://www.theguardian.com.au/story/5495593/give-women-tasers-to-stop-rape-senator/?cs=8>

Both motions appear to have been immediately in response to the death of Eurydice Dixon, a 22-year-old Melbourne comedian whose body was found in Princes Park, early on the morning of June 13, 2018. A 19-year-old man has since confessed to her rape and murder. The young woman's death has provoked extensive debate within Australia as to how women's safety might best be secured. In Victoria, this most recent death has been seen in conjunction with the deaths of Jill Meagher and Masa Vukotic, both young women killed since 2012 in random outdoor attacks in Melbourne.

Background

The information below was taken from a submission released by the Australian Human Rights Commission on January 20, 2017. <https://www.humanrights.gov.au/submissions/violence-against-women-australia-2017>

Australia has a disturbingly high rate of violence against women. In recent times, policy and public discussions on violence against women in Australia have had a strong focus on family and domestic violence, in particular intimate partner violence. However, consultations conducted by the Commission indicate that violence against women can take many forms, including family and domestic violence, sexual assault, sexual harassment, violence in residential settings and online violence and harassment.

A Personal Safety Survey conducted in 2012 by the Australian Bureau of Statistics found that 5.3% of women had experienced some form of violence in the last 12 months, and 40.8% had experienced some form of violence since the age of 15. The Survey indicated that most instances of violence against women were perpetrated by someone known to them. Around

74% of women who had experienced violence in the last 12 months, and 87% of women who had experienced violence since the age of 15, reported that the perpetrator was someone they know. This compares to 45% of men who had experienced violence in past 12 months, and 54% of men who had experience violence since the age of 15.

Intimate partner violence is one of the most common forms of violence against women, with 1.5% of women reporting violence by a current or former partner in the past 12 months, and 16.9% reporting intimate partner violence since the age of 15 (compared to 0.6% of men in the past 12 months and 5.3% of men since the age of 15). A more recent study has estimated that 27.5% of Australian women have experienced violence or emotional abuse by a current or previous partner.

A 2016 study by Australia's National Research Organisation for Women's Safety (ANROWS) found that intimate partner violence accounted for 5.1% of the disease burden amongst women aged 18 to 44 years - more than other any other risk factor. Research has also demonstrated that victims/survivors often experience enduring mental health problems as a result of such violence. Between 2002-03 and 2011-12, 488 women were killed by a current or former partner, often after a history of domestic violence. Women represented 75% of intimate partner homicide victims over this period.

Increase in sexual violence against women

The following data comes from a report released by the Australian Bureau of Statistics in November, 2017 and reported on in The Guardian on November 8, 2017.

<https://www.theguardian.com/australia-news/2017/nov/08/rate-of-sexual-violence-against-women-has-risen-dramatically-since-2012-abs-says>

The proportion of Australians who experienced violence in the last 12 months has fallen from 8.3% in 2005 to just 5.4% in 2016, driven by a large drop in experiences of physical violence. For men, the proportion who have experienced physical violence in the past 12 months has almost halved in the last decade, from 10% in 2005 to 5.4% in 2016, while for women that figure has fallen from 4.7% to 3.5%. However, the rate of sexual violence against women has increased noticeably in the last five years.

The ABS defines 'sexual violence' as the occurrence, attempt or threat of sexual assault experienced by a person since the age of 15. The proportion of women who have experienced sexual violence in the last 12 months increased from 1.2% in 2012 to 1.8% in 2016.

One in five women (18% or 1.7 million) have now experienced sexual violence, with sexual assault experienced by 17% of women (1.5 million) and sexual threat experienced by 3.6% (339,900). One in 20 men (4.7% or 428,800) have experienced sexual violence since the age of 15, with sexual assault experienced by 4.3% of men (384,000) and sexual threat experienced by 0.8% (73,500).

The survey also found women are far more likely to be stalked. One in six women (17% or 1.6 million) aged 18 or over and one in 15 men (6.5% or 587,000) have experienced an episode of stalking since the age of 15, with the vast majority of stalkers being men.

The law in Australia on carrying non-lethal weapons

Tasers, mace and pepper spray are classified as prohibited weapons by Australian laws. Western Australia is the only exception where mace and pepper spray are considered as controlled weapons. That means pepper spray is legal in Western Australia but it is restricted. In New South Wales, Section 7 of the Weapons Prohibition Act 1998 states that possessing or using a prohibited weapon is illegal unless you have a permit. A permit authorises the use of prohibited weapons for various purposes like training, sporting, or instructing. Historical or educational purposes may also authorise the use of such weapons. Permits are not normally issued to people who want to carry such items for recreational or personal security purposes.

<https://llylawyers.com.au/what-is-the-penalty-for-carrying-pepper-spray/>

Similar regulations apply in other states and territories.

Internet information

On June 28, 2018, Katter's Australian Party senator, Fraser Anning, moved a motion relating to the importation of pepper spray, mace and tasers. The full text of the motion can be accessed at <https://parlwork.aph.gov.au/motions/4da36cf6-097a-e811-b666-005056a40008>

On June 28, 2018, a debate was conducted in the Senate around Fraser Anning's motion relating to the importation of pepper spray, mace and tasers. All formal contributions to the debate can be accessed at <https://www.openaustralia.org.au/senate/?id=2018-06-28.109.1&s=speaker%3A10836>

On June 25, 2018, 7 News published a report titled 'Push to legalise pepper spray and Tasers after Eurydice Dixon's murder'. The report refers to Jeffrey Bourman's, MP for the Shooters, Fishers and Farmers Party, intention to move a motion in the Victorian Parliament that would give 'everyone the option to defend themselves against a stronger and probably more experienced attacker.' <https://au.news.yahoo.com/push-legalise-pepper-spray-tasers-eurydice-dixons-murder-070611943.html>

On June 24, 2018, The Daily Mail published a report titled "'Women need to be able to defend themselves': MP files motion to legalise pepper spray after the death of Melbourne comedienne Eurydice Dixon". The report details the intention of Victorian MP Jeffrey Bourman to put a motion before the Victoria Parliament calling for the legalisation of pepper spray, mace and tasers for use by Victorian citizens for self-defence.

The full text can be accessed at <http://www.dailymail.co.uk/news/article-5879241/MP-files-motion-allow-women-carry-pepper-spray-Eurydice-Dixon-rape-murder.html>

On June 19, 2018, Firearm Owners United published an opinion piece titled 'Australia pretends to care about women's safety while charging them for carrying pepper spray'. The comment argues that women need to be able to carry non-lethal weapons for self-defence. The full text can be accessed at <http://www.firearmownersunited.com/2018/06/19/australia-pretends-to-care-about-womens-safety-while-charging-them-for-carrying-pepper-spray/>

On June 18, 2018, The Daily Mail published a report which included a comment from Melbourne's Lord Mayor, Sally Capp, indicating that she did not feel safe in the city at night. The full text can be accessed at <http://www.dailymail.co.uk/news/article-5847141/How-did-gentile-Melbourne-dangerous.html>

On June 17, 2018, Firearm Owners United published a comment titled 'If you support Australia's gun and self-defence laws then you support women being unable to protect themselves against violent predators'

The comment is critical of Australia's self-defence laws and of citizens' inability to carry weapons for self-defence.

The full text can be accessed at <http://www.firearmownersunited.com/2018/06/17/if-you-support-australias-gun-and-self-defence-laws-then-you-support-women-being-unable-to-protect-themselves-against-violent-predators/>

On June 15, 2018, The Age published a report titled "'We don't feel safe': Police minister, lord mayor voice fears after Eurydice Dixon's death" which included comments from Melbourne's Lord Mayor and Victoria's Police Minister (both women) indicating that they did not feel safe in the city at night.

he full text can be accessed at <https://www.theage.com.au/national/victoria/we-don-t-feel-safe-police-minister-lord-mayor-voice-fears-after-eurydice-dixon-s-death-20180615-p4zlr5.html>

On January 6, 2018, Firearm Owners United published an opinion piece titled 'Forget 'more Police' we want self-defence'. The piece argues that an armed citizenry is a better guarantee of safety than employing more police.

The full text can be accessed at <http://www.firearmownersunited.com/2018/01/06/forget-more-police-we-want-self-defence/>

On September 26, 2017, Bizfluent published an informative piece titled 'What Are the Pros & Cons of Taser Guns?'

The full text can be accessed at <https://bizfluent.com/about-5497845-pros-cons-taser-guns.html>

On June 27, 2017, The Adelaide Advertiser published a comment by Stacey Lee in which she argued that women should be able to carry pepper spray for self defence. The full text can be accessed at <https://www.adelaidenow.com.au/news/opinion/stacey-lee-women-should-be-legally-allowed-to-carry-pepper-spray-to-defend-themselves/news-story/d38f15f508ef881ad6aabfe6b40cf0e1>

On June 14, 2017, The Australian published a report on Senator David Leyonhjelm's claim that Australians should be given immediate access to non-lethal weapons such as pepper spray and later appropriate access to guns. Leyonhjelm argued that this is necessary to allow people to defend themselves against terrorism.

The full text of the article can be accessed at <https://www.theaustralian.com.au/national-affairs/david-leyonhjelm-allow-lethal-means-of-self-defence/news-story/6bb718b4698b572be88f06c5396d5959>

On February 13, 2017, The Telegraph published a report titled 'Drivers warned of criminals using Tasers after spate of attempted carjackings where suspects use the weapons'

The article details the increasing use of tasers in Great Britain to commit crimes.

The full text can be accessed at <https://www.telegraph.co.uk/news/2017/02/13/drivers-warned-criminals-using-tasers-spate-attempted-carjackings/>

On December 8, 2016, Nation Review published an article titled 'Canadian Politician: Proposal Allowing Pepper Spray Is 'Offensive' to Women'. The article deals with a move to extend the availability of pepper spray in Canada for use by women for self-defence. It also details feminist opposition to the proposal.

The full text can be accessed at <https://www.nationalreview.com/2016/12/canadian-politician-pepper-spray-offensive-women-men-rape/>

On May 20, 2016, the women's self-defence group Bulletproof published an article titled 'Top Ten Reasons You Should NOT Carry Pepper Spray'

The full text can be accessed at <http://bulletproofwomen.org/top-ten-reasons-not-carry-pepper-spray/>

On May 12, 2016, The Herald Sun published the results of a Plan International Australia report which revealed that 30 per cent of a survey population aged between 15 and 19 agreed that 'girls should not be out in public spaces after dark'. The survey included other findings that indicated young women felt at risk in public places.

The full text can be accessed at <https://www.heraldsun.com.au/news/victoria/almost-one-in-three-girls-believe-they-should-not-be-out-at-night/news->

[story/a9037a9d557b23041beee45535c44935](https://www.theguardian.com/public-leaders-network/2016/jan/16/police-controller-999-call-danger-officers)

On January 16, 2016, The Guardian published a comment by a former police controller in which he explained why there may well be significant delays before police responded to calls for assistance.

The full text can be accessed at <https://www.theguardian.com/public-leaders-network/2016/jan/16/police-controller-999-call-danger-officers>

On September 22, 2014, The Daily Telegraph published a comment by Liberal Democrat senator, David Leyonhjelm, titled 'An assault on our right to self-protection'. The piece condemns laws operating in Australian states and territories which make 'possessing any object specifically for the purpose of self-defence, lethal or non-lethal...a criminal offence.'

<https://www.dailytelegraph.com.au/news/opinion/an-assault-on-our-right-to-selfprotection/news-story/f743f8b76f21a586a6efb2396c9b2f8d>

On February 5, 2014, The Ottawa Sun published a report of a number of serious public nuisances committed using pepper spray which is readily available in Canada as 'bear spray'.

The full text can be accessed at <https://ottawasun.com/2014/02/05/rules-confusing-around-bear-pepper-spray/wcm/6803d599-727f-4634-b233-6fa640617d1e>

On July 10, 1995, the Arkansas Democrat-Gazette published an article titled 'Pepper spray, tear gas now for criminals, too' which detailed the increasing use of pepper spray and mace in criminal offences since the substances had been made legally available.

The full text can be accessed at <http://peteraronson.com/articles/pepper-spray-tear-gas-now-for-criminals-too.html#.W0Ceq7h9iUk>

On March 1, 1992, The Journal of Interpersonal Violence published a research article detailing the effect of women resisting when sexually assaulted. The piece is titled 'Fighting Back: Women's resistance to Rape'

An abstract of the text can be accessed at <http://journals.sagepub.com/doi/10.1177/088626092007001003>

In 1989 the American Journal of Public Health published a research article titled 'Resistance to Sexual Assault: Who Resists and What Happens?'

The research article details the effect of women resisting when sexually assaulted.

It can be read it full at <https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.79.1.27>

Victoria Police advice on how to deal with the threat of violence can be accessed at http://www.police.vic.gov.au/content.asp?Document_ID=38489

Arguments in favour of making pepper spray and tasers legally available within the broader community

1. Fear of attack is restricting citizens' legitimate movements

Those who support citizens' right to non-lethal weapons for self-defence argue that without such weapons women, in particular, are being intimidated into avoiding public spaces, especially at night.

A 2016 survey of 600 girls and women aged between 15 and 19 from across Australia found that thirty per cent believed that 'girls should not be out in public spaces after dark'. Another 23 per cent said that girls should not travel alone on public transport.

The survey asked these girls and women what would make them feel safer. One of their responses was that girls should have better access to information and training to protect themselves from violence.

<https://www.heraldsun.com.au/news/victoria/almost-one-in-three-girls-believe-they-should-not-be-out-at-night/news-story/a9037a9d557b23041beee45535c44935>

Following the death of Eurydice Dixon in June, 2018, Melbourne's Lord Mayor, Sally Capp, was asked if she felt safe in the city at night. She replied, 'No (I don't). I think the practical outcome of that is no. And it's going to be difficult to achieve that, really.

Hoping that people use those (safe areas to walk, cycle and drive) is important, but at the end of the day we should all be able to move around our city safely.' <http://www.dailymail.co.uk/news/article-5847141/How-did-gentile-Melbourne-dangerous.html>

A similar admission was made by Victoria's police minister, Lisa Neville. Ms Neville stated, 'As a woman I want to be able to be safe in my community. Unfortunately that's not the case and we've got a lot of work to do.' <https://www.theage.com.au/national/victoria/we-don-t-feel-safe-police-minister-lord-mayor-voice-fears-after-eurydice-dixon-s-death-20180615-p4zlr5.html>

When Jeff Bourman, of the Shooters, Fishers and Farmers Party, posted on Facebook that he would be putting a motion before the Victorian Legislative Council calling for the government to ensure that 'all practical and reasonable methods of self-defence are available to those who want them,' he cited the claims made by Capp and Neville that they felt unsafe. He indicated that he would draw the House's attention to the fact that 'the Minister for Police, the Hon. Lisa Neville MP, and the Lord Mayor of Melbourne, Ms Sally Capp, are afraid to walk the street alone at night.' <https://au.news.yahoo.com/push-legalise-pepper-spray-tasers-eurydice-dixons-murder-070611943.html>

Bourman's clear implication was that carrying some self-defence device was necessary for these and other women to feel able to move freely about the city at night.

2. Smaller and physically weaker people are vulnerable to attack from stronger assailants

Those who argue that Australian citizens should be able to carry non-lethal weapons with which to defend themselves highlight the vulnerability to attack of women, the small, the frail and the elderly.

Senator Anning stated, in his motion calling for the federal government to ease import restrictions on these weapons, 'The ability of individuals to defend themselves varies with the strength, age, fitness and skill of the individual, with women and the elderly generally more vulnerable.' The senator concluded, 'Vulnerable people need some form of defence against violent individuals of superior strength.' <https://parlwork.aph.gov.au/motions/4da36cf6-097a-e811-b666-005056a40008>

Arguing for access to self-defence weapons, an opinion piece published on Firearm Owners United's Internet site on June 17, 2018, stated, 'The right to self-defence means absolutely nothing in practical terms to the weaker, infirm, elderly, disabled, women and the rest when they can't realistically even the score in some way.' <http://www.firearmownersunited.com/2018/06/17/if-you-support-australias-gun-and-self-defence-laws-then-you-support-women-being-unable-to-protect-themselves-against-violent-predators/>

The same argument was put by Liberal Democrats senator, David Leyonhjelm, in September, 2014, when calling for wider community access to weapons of self-defence. The senator stated that without such weapons 'self-defence is not a realistic option for most people, and especially not for the majority of women, elderly and disabled. We have become a nation of defenceless victims... It is...the height of hypocrisy for anti-violence groups to fail to promote the availability of practical ways in which potential victims can protect themselves against predators.

Restrictions on non-lethal means of self-defence should be removed, while methods with limited potential to cause harm should be made available but restricted to adults.'

<https://www.dailytelegraph.com.au/news/opinion/an-assault-on-our-right-to-selfprotection/news-story/f743f8b76f21a586a6efb2396c9b2f8d>

3. The police cannot be relied upon to prevent all assaults

Proponents of citizens' right to carry non-lethal self-defence weapons argue that the police do not and cannot be expected to provide protection for all who are attacked.

Senator Fraser Anning's motion put to the federal Parliament to ease restrictions on the importation of tasers, pepper spray and mace included the justification 'police cannot be everywhere at all times, so in order to ensure citizens are protected from harm, all citizens must have the absolute right to self-defence.' <https://parlwork.aph.gov.au/motions/4da36cf6-097a-e811-b666-005056a40008>

The same point was made by Senator David Leyonhjelm in an opinion piece published in September, 2014, in which the senator stated, 'In particular, women and the elderly do not believe that relying on the police to arrive in time will keep them safe. If asked, most would unequivocally demand the right to practical self-defence, at least with non-lethal means.' <https://www.dailytelegraph.com.au/news/opinion/an-assault-on-our-right-to-selfprotection/news-story/f743f8b76f21a586a6efb2396c9b2f8d>

In June, 2017, Senator Leyonhjelm made a similar observation which was published in The Australian. Calling on Australian governments to allow their citizens to carry self-defence devices, Senator Leyonhjelm warned, 'The police can't be everywhere. They acknowledge that. The sensible ones, at least, say it takes us five, 10, 15 minutes even in the city to be there. By that stage you can have a lot of victims.' <https://www.theaustralian.com.au/national-affairs/david-leyonhjelm-allow-lethal-means-of-self-defence/news-story/6bb718b4698b572be88f06c5396d5959>

Firearm Owners United regularly note that the police very rarely, if ever, arrive in time to prevent an assault. In an opinion piece titled 'Forget 'More Police', we want self-defence', published on the group's Internet site on January 6, 2018, it stated, 'Face it, police are always reactive and they're not going to be there in time. That's not a slight at them, that's just the laws of physics, i.e. time and space.' <http://www.firearmownersunited.com/2018/01/06/forget-more-police-we-want-self-defence/>

In an anonymous report published in The Guardian on January 16, 2016, a former British police controller, charged with answering 999 calls, explained some of the factors that can delay police response. He explained, 'I'm writing this because I want you to understand that if we don't get to you straight away, it's not because we can't be bothered or we think you're unimportant. There's a queue, and the current risk to your life judges your place in that queue.'

The former controller explained a particular response, 'You were burgled last month, and now there's a suspicious man hanging around in the alleyway opposite and you want us to check him out. Perfectly reasonable, but if he's not breaking someone's head open, or climbing through a window, I can't always send someone straight away.' <https://www.theguardian.com/public-leaders-network/2016/jan/16/police-controller-999-call-danger-officers>

4. Non-lethal self-defence devices are legal in many other countries

Those who support the legalisation of non-lethal self-defence devices in Australia note that pepper spray is legal in many other countries and jurisdictions.

Tasers are generally limited to police use around the world, other than in the United States where they can be legally carried without a permit in most states. https://en.wikipedia.org/wiki/Electroshock_weapon#Legality Mace has largely been supplanted world-wide by pepper spray for both police and civilian use as pepper spray is generally regarded as more incapacitating and less toxic. [https://en.wikipedia.org/wiki/Electroshock_weapon#Legalityhttps://en.wikipedia.org/wiki/Mace_\(spray\)](https://en.wikipedia.org/wiki/Electroshock_weapon#Legalityhttps://en.wikipedia.org/wiki/Mace_(spray))

Pepper spray is legally accessible by citizens in many jurisdictions. It is legal in India and its possession and use does not require a licence. It is sold through government-approved companies after performing a background verification. In the Philippines its use for self-defence is legal and it is readily available for sale in stores. The same is the case in Mongolia, Thailand, Taiwan, Malaysia, Saudi Arabia and Israel. In Austria pepper spray may be owned and carried

by adults without registration or permission and its use for self-defence is allowed. Austrian police actually encourage vulnerable groups like pensioners and women to carry pepper spray. A similar situation pertains in the Czech Republic, where police again encourage vulnerable groups to carry pepper spray. In Germany, pepper sprays labelled 'for the purpose of defence against animals' may be owned and carried by anyone, including minors. Such sprays are not legally classified as weapons. In Latvia pepper spray is classified as a self-defence device and can be bought and carried by anyone over 16 years of age. Pepper spray is legal in Italy for those over 16, though there are limitations on strength and regulations governing storage. In Russia pepper spray is classified as a self-defence weapon and can be carried by anyone over 18. The same is the case in Spain. In the United States, pepper spray can be legally purchased and carried in all fifty states, though regulations regarding age of purchases and the strength of the product vary from state to state. https://en.wikipedia.org/wiki/Pepper_spray

In Australia, those who favour the legalisation of pepper spray point to Western Australia where pepper spray is considered a controlled weapon, not a prohibited one, and can be carried if a person has 'reasonable grounds' to believe they may need to use it in 'lawful defence.'

<http://www.dailymail.co.uk/news/article-5879241/MP-files-motion-allow-women-carry-pepper-spray-Eurydice-Dixon-rape-murder.html>

This law has been quite liberally interpreted by the Western Australian Supreme Court. A 2003 Supreme Court decision ruled a motel proprietor was able to carry pepper spray to break up fights between hotel occupants in self-defence.

During the hearing, Justice Christine Wheeler stated, 'It was plainly intended that women carrying sprays when they go out in the evening, or older and frailer members of the community carrying them in situations where they felt themselves to be in danger, would not be committing an offence under the legislation.'

Justice Wheeler further explained, 'It is not necessary that there be an imminent threat, before such a spray can be possessed or carried. It is enough that a person has reasonable grounds to believe that circumstances in which it may be necessary to use the spray for that purpose may arise.' <http://www.dailymail.co.uk/news/article-5879241/MP-files-motion-allow-women-carry-pepper-spray-Eurydice-Dixon-rape-murder.html>

5. Non-lethal devices, especially pepper spray, are an effective means of self-defence. Supporters of non-lethal self-defence devices being made available in Australia note their effectiveness. The efficacy of pepper spray is particularly stressed as it is argued it is very rarely fatal, requires minimal training to use and is very debilitating when used against potential assailants. It is generally judged more effective than Mace. Tasers require more training for civilian use than either spray. On a world-wide basis, tasers or stun guns have been far less often approved for non-police use.

In the 1970s women were encouraged to use hair spray as a potential deterrent against assault. Then additional chemical self-protection products came onto the market, including Mace (comprised of the constituents of 'tear gas'), Witness Chemical Identifier, and later pepper spray. Pepper spray is scientifically known as oleoresin capsicum (OC). The active ingredient in pepper spray is capsaicin, which is a chemical derived from the fruit of plants in the genus *Capsicum*, including chillies. Extraction of oleoresin capsicum (OC) from peppers requires capsicum to be finely ground, from which capsaicin is then extracted using an organic solvent such as ethanol.

It was not until the 1990s that law enforcement began to replace their Mace canisters with pepper spray, which has correspondingly become popular for personal safety since the early and mid 1990s. <http://modelmugging.org/pepper-spray/> Mace is generally judged less effective than pepper spray. It relies on pain in order to be effective and takes an average of 5 to 30 seconds to have an effect. It is also claimed to be ineffective on those who have a high pain tolerance, such as those who are drug-affected or mentally disturbed. Pepper spray's effects are

immediate. <http://modelmugging.org/pepper-spray/https://www.srsselfdefense.com/blog/pepper-spray-vs-mace-important-differences/>

Pepper spray is regarded as a highly effective device to incapacitate a potential assailant and is generally recommended over Mace. Women's Self-Defence Boston, a commercial women's self-defence organisation, says of the substance, 'Pepper spray (OC) is an inflammatory agent i.e. it inflames tissues. It causes the eyes to shut immediately...and causes the tissue of the nose and throat to swell, affecting breathing... When sprayed a person will instantaneously be blinded, their breathing will be affected to the point where they feel the equivalent of an asthma attack. At the same time their face (or whatever skin comes in to contact with the spray) will burn.' <https://www.womensselfdefenseboston.com/womensselfdefenseboston-pepperspray.php> Women's Self-Defence Boston explains those circumstances where pepper spray is likely to be a useful self-defence tool. They state, 'The situations where pepper spray is an effective tool are largely those when you are threatened by a stranger e.g. dealing with aggressive/dangerous individuals in parking lots, on the street, when you are in your car, when you are answering your door etc.' <https://www.womensselfdefenseboston.com/womensselfdefenseboston-pepperspray.php>

Arguments against making pepper spray and tasers legally available within the broader community

1. Victims of assault may not be able to access or use these weapons effectively

Critics of the use of non-lethal self-defence devices argue that they often do not supply the protection their manufacturers claim.

Leah Severson, writing for Bulletproof Self-Defence on May 20, 2016, argued, 'Most pepper spray canisters have a safety lock mechanism attached. This prevents you from accidentally discharging it. But if you do not occasionally practice unlocking the canister quickly, you will have a hard time unlocking it and spraying it in a true panic situation.' Relatedly, Severson claimed, 'Unless it's attached to your key chain, most people will never carry their pepper spray in their hand when they're walking alone. They're more likely to leave it in their purse, and it would be almost impossible to find it, unlock the safety mechanism, and deploy it fast enough to stop an assailant.' <http://bulletproofwomen.org/top-ten-reasons-not-carry-pepper-spray/> Severson also argued that contrary to claims often made about pepper spray, it requires some skill to use effectively. She wrote, 'Many pepper sprays spray in a stream as opposed to a cloud. That means your aim must be dead-on in order for the spray to be effective. The stream must hit the attacker in the eyes to be effective. If your attacker is wearing glasses, this gives him an added level of protection against your pepper spray.' <http://bulletproofwomen.org/top-ten-reasons-not-carry-pepper-spray/>

Severson also listed a number of other factors that can render pepper spray ineffective. These included, ' If you spray pepper spray outdoors and the wind is blowing the wrong direction, you could end up with a face full of spray while your attacker gets none... If you leave your canister in a hot car, the canister can leak, making it useless. It can also explode if left in a hot car... If you leave your canister in a cold car, it can become depressurized and lose the ability to spray far enough to reach your attacker until he's right in front of you.' <http://bulletproofwomen.org/top-ten-reasons-not-carry-pepper-spray/>

Similar criticisms have been made about the effectiveness of Mace and tasers. Mace is generally regarded as less effective than pepper spray as it takes longer to act and may have less impact on those who are drug-affected or mentally disturbed.

<https://www.srsselfdefense.com/blog/pepper-spray-vs-mace-important-differences/>

It has also been claimed that less powerful versions of Taser guns may not have the desired effect upon larger and stronger opponents that can fight through the electric charge.

<https://bizfluent.com/about-5497845-pros-cons-taser-guns.html>

2. Police generally recommend preventative, cautious responses in the event of potential assault

Studies treating the effect of victim resistance to sexual assault are complex. One major complicating factor is the difficulty of determining cause and effect. Research has indicated that greater violence is associated with attacks where the victim resists; however, it has also been suggested that victim resistance is a response to the violence suffered, not the cause of that violence. A 1992 study by Sarah Ullman and Raymond Knight published in the Journal of Interpersonal Violence found that '85% of the women in the study who resisted with physical force did so in response to the offender's initiated violence. The remaining 15% who resisted with physical force did so in response to the offender's verbal aggression.' The study concluded 'the frequently found correlation between physical resistance and injury of the woman might be the result of the initial level of the offender's violence'. <http://journals.sagepub.com/doi/10.1177/088626092007001003>

That said, law enforcement authorities are generally reluctant to encourage potential victims to use violence in self-defence for fear that the violence directed against the victim may escalate. A study published by The American Journal of Public Health in 1989 indicates why the police do not promote physical resistance to sexual assault. The study concluded, 'Regarding the relation between resistance and outcome of assault, our...analyses corroborate prior research in showing that resistance, particularly verbal, reduces the probability of sexual contact. Physical resistance, on the other hand, is associated with increased likelihood of contact.'

<https://ajph.aphapublications.org/doi/pdf/10.2105/AJPH.79.1.27>

Police generally recommend preventative, cautious responses in the event of potential assault rather than active interaction. For example, Victoria Police has issued the following advice if someone near you is carrying a weapon: 'Try to make a distance between you and the threat. If people are around, try to move towards them. Keep an eye on the person and call Triple Zero (000). Remember the appearance of the person and details of the weapon. If the person gets into a vehicle, try to remember the registration number, make and colour.'

http://www.police.vic.gov.au/content.asp?Document_ID=38489

Victoria Police also recommend that you 'avoid walking in dark isolated places'. They have issued similar advice to members of the public who feel threatened in isolated places: 'Try to move to a well lit public place. Raise an alarm and draw attention to the situation. Make a safe distance between you and the threat. Call the police on Triple Zero (000).'

http://www.police.vic.gov.au/content.asp?Document_ID=38489

3. These non-lethal weapons may more easily be acquired by criminals

In jurisdictions where pepper spray and Mace are readily available for self-defence, these products are also being used by criminals.

The following is taken from a report from the Arkansas Democrat-Gazette dated July 10, 1995, when the use of pepper spray and Mace for self-defence was only beginning to become widespread. The report opens, 'A man approaches another man in a parking lot, blasts him in the face with pepper spray, grabs his wallet and runs away. Six teenagers kick open an apartment door, spray a man with Mace before he can eyeball them, then make off with his colour television. These two incidents illustrate a trend that is beginning to appear in police reports. The so-called 'self-defence sprays' - pepper spray and tear gas - are not just for defence anymore.

Like any weapon, incapacitating sprays can be turned against innocent citizens. The sprays can blind and render a person helpless - for a while. But unlike many weapons, sprays are cheap, easy to obtain and legal to carry 'for self-defence purposes,' even by minors.'

http://peteraronson.com/articles/pepper-spray-tear-gas-now-for-criminals-too.html#.Wz_ZM7h9iUk

In the United States it is difficult even to quantify the extent of this problem because, as the

Arkansas Democrat-Gazette noted, 'Police don't keep statistics on how often the sprays have been used to commit crimes. In reporting crimes, most law enforcement agencies follow the FBI's Uniform Crime Reporting guidelines, which groups weapons into three categories: firearm, cutting instrument and other weapons.

The last category 'could be anything - a brick, a table, a glove. Anything,' said Lynn Bulloch of the Arkansas Crime Information Center. There is no separate category for sprays.'

http://peteraronson.com/articles/pepper-spray-tear-gas-now-for-criminals-too.html#.Wz_ZM7h9iUk

Ron Bullerwell, vice president of the Fraternal Order of Police Lodge 17 in Little Rock, stated, 'Personally speaking, I believe they never should have put the stuff on the market except for law enforcement. In the wrong hands, it can be very dangerous.' http://peteraronson.com/articles/pepper-spray-tear-gas-now-for-criminals-too.html#.Wz_ZM7h9iUk

Similar problems have been reported in Canada. In a report produced from Calgary on February 13, 2014, it was noted, 'In 2011, police recorded 88 incidents where pepper spray was used. A year later that number almost doubled to 161. Then, in 2013 there were 147 incidents in the first nine months, which suggests an upward trend.' <https://globalnews.ca/news/1149160/pepper-spray-used-more-frequently-in-calgary-crimes/>

Another concern is the use of pepper spray for what might more broadly be categorised as nuisance crimes. A report published by the Ottawa Sun on February 5, 2014, noted, 'A Gatineau hotel was evacuated for a day on the weekend after pepper spray was let loose in the ventilation system. Last week, a man was pepper-sprayed at the Ottawa courthouse. The spray has also surfaced on an OC Transpo bus in the fall.' <https://ottawasun.com/2014/02/05/rules-confusing-around-bear-pepper-spray/wcm/6803d599-727f-4634-b233-6fa640617d1e> Pepper spray is readily available in Canada as 'bear-spray'.

Tasers have also been used to commit crimes. On February 13, 2017, The Telegraph reported, 'Drivers have been warned of criminals using Tasers after a spate of attempted carjackings where suspects disabled their victims using the weapons.

West Midlands Police urged motorists to stay vigilant as they stepped up patrols following a number of 'Taser robberies'. In one shocking incident, a female runner was left with burns after she was attacked by three men in the affluent Kings Heath area of Birmingham...It was an attempted car theft by three young men who demanded a runner's car keys... She refused and an electric Taser device was used on her during a physical struggle.'

<https://www.telegraph.co.uk/news/2017/02/13/drivers-warned-criminals-using-tasers-spate-attempted-carjackings/>

Growing use of stun guns to commit crimes is a concern in Great Britain, despite the fact that the weapons are illegal for civilian use and have to be smuggled into the country. It is also a problem in the United States where it is legal to use stun guns for personal defence. In the United States stun guns are a preferred weapon for some criminals as, because the weapons are legal, 'unlike firearms, there are no specific sentencing enhancements that would result in extra time for carrying a stun gun.' <http://www.columbian.com/news/2012/jul/11/use-of-stun-guns-to-commit-crimes-more-prevalent-l/>

4. Non-lethal self-defence weapons may be used in a manner that is judged to be an assault. Non-lethal self-defence devices, while not intended to be fatal or permanently injurious, can cause serious harm to those against whom they are directed.

A report published in The Guardian on November 23, 2011, examined the serious ill effects that can result from the use of pepper spray by police. By 1995, the American Civil Liberties Union, in Southern California, had identified 26 deaths connected with pepper spray use in 30 months. A more recent North Carolina study examined 63 deaths in custody and suggested two may be partly attributable to the use of pepper spray. In both of those cases the victims were asthmatic... Capsaicin, the active ingredient in these sprays, is known to cause distress to the

lungs and airways. Certain groups will be at much greater risk from its use..

<https://www.theguardian.com/world/the-lay-scientist/2011/nov/22/how-dangerous-is-pepper-spray>

Risks exist when non-lethal weapons are being used by trained police officers. The risks are likely to be greater when used by untrained members of the public. It is possible that a potential victim may use non-lethal weapons against a supposed attacker and be charged with an offence.

For 'self-defence' to be accepted as a justification of force used against a supposed aggressor a judge must accept that the accused believed that the actions taken were 'necessary' and 'reasonable' in order to defend themselves.

Under the Victorian Crimes Act 1958, a person carries out conduct in self-defence if a) the person believes that the conduct is necessary in self-defence; and b) the conduct is a reasonable response in the circumstances as the person perceives them.

<http://www.judicialcollege.vic.edu.au/eManuals/CCB/49676.htm>

There are a number of factors that could lead a judge to dispute the accused's judgement of 'necessary' and 'reasonable'.

If the accused was intoxicated (by alcohol, drugs or any other substances) at the time he or she committed the relevant acts, this can be taken into account when determining whether he or she believed his or her actions to be necessary. Further, the proportionality of the accused's response to the harm threatened is (another) factor to take into account in determining whether the accused believed that his or her actions were necessary.

<http://www.judicialcollege.vic.edu.au/eManuals/CCB/49676.htm>

In addition, though there is no rule requiring the accused to retreat from an actual or perceived attack rather than defend himself or herself, a failure to retreat is a factor to be taken into account in determining whether the accused believed their conduct was necessary.

<http://www.judicialcollege.vic.edu.au/eManuals/CCB/49676.htm>

These provisions of the law mean that someone who injures another person and claims self-defence may still be found guilty of a crime.

Thus to put in a successful plea of self-defence after assaulting another person, even when using a non-lethal weapon, the judge has to accept that the accused was in a position to make a judgement, that s/he acted in a way that s/he believed was commensurate with the risk faced and that retreat was not a more reasonable option.

There are those who argue that women attempting to protect themselves may well be found guilty of a crime. Writing in The Guardian on February 24, 2018, on women attempting to protect themselves using guns, Jessica Valenti argued, 'Somehow I don't have faith that a court system that continually fails and blames rape victims would be very kind to women who kill their attackers. In fact, women who have tried to protect themselves from sexual or domestic violence haven't been lauded as second-amendment heroes - they've been arrested.'

<https://www.theguardian.com/commentisfree/2018/feb/23/dana-loesch-women-gun-reform-rapists>

5. Potential victims should not be held responsible for preventing the criminal behaviour of others

Many opponents of legalising non-lethal self-defence devices to protect women from assault argue that such measures place an unreasonable burden on women to prevent the crimes that are perpetrated against them.

There are those who see this as a type of 'victim-blaming' where the victim of an offence is seen as in some way responsible for it having occurred. This position was taken in the Senate by Greens senator, Janet Rice. During the debate on Senator Anning's motion that the importation of non-lethal self-defence devices be liberalised, Senator Rice responded to the proposal by stating, 'If Senator Anning really wants the government to ensure that innocent citizens are

protected from harm, might I suggest that he focus his attention on interventions that prevent men's violence.

The last thing that women in Australia need now is another man in power telling us that we are responsible for violence against us. Senator Anning's motion puts the onus on women to go to extreme lengths to ensure our safety, when the priority must be to eradicate men's violence. That's where the problem is. That's where the responsibility lies. That's where government interventions need to be focused.' <https://www.openaustralia.org.au/senate/?id=2018-06-28.109.1&s=speaker%3A10836>

In an article published on July 24, 2014, Lauren Taylor and Lynne Marie Wanamaker attempted to explain the prevalence of victim blaming attitudes. They wrote, 'As we know all too well, women and girls get tons of useless advice about how to 'protect' ourselves. And then whether we follow the advice or not, we're blamed for our own assaults.

Thankfully, more people are pushing back against these victim-blaming messages and standing up to those who believe we caused our own attacks because of something we did or failed to do.

Increasingly, society is rightfully putting the responsibility for the crime on the person who committed it and not on the person targeted. There is nothing any survivor could do or not do that could 'cause' a sexual assault, harassment, intimate partner violence, or stalking to happen.' <https://everydayfeminism.com/2014/07/self-defense-blame-victims/>

Further implications

Recent motions presented in the federal and Victorian Parliaments to allow Australians to carry non-lethal weapons such as pepper spray, mace and tasers, may be part of a larger campaign to encourage Australian voters to accept gun law reform.

There appears to be a growing politicisation among those seeking to relax Australian gun laws. In Queensland, prior to the November, 2017, state elections, Shooters Union Australia released a list of 68 candidates marked to receive its support - all from One Nation and Katter's Australian Party. The Shooters Union also distributed how-to-vote material for those supporting its positions on gun law reform. <https://www.brisbanetimes.com.au/queensland-election-2017/shooters-fire-up-support-for-one-nation-and-katter-party-20171114-p4yx0a.html>

If it formed government in Queensland, One Nation pledged to review the Weapons Act within the first year, to reduce waiting periods for purchasing handguns and to recognise licensed firearm ownership by law-abiding citizens as a 'right in a free society'. Katter's Australian Party(KAP) wants to reverse changes to the National Firearms Agreement which include the reclassification of the lever-action seven-shot Adler shotgun. KAP is also committed to a real-time licence verification system to replace paper-based permits for category A and B firearms which would reduce waiting periods prior to purchase. <https://www.brisbanetimes.com.au/queensland-election-2017/shooters-fire-up-support-for-one-nation-and-katter-party-20171114-p4yx0a.html>

The Electoral Commission of Queensland's donations disclosure website shows the Shooters Union gave \$1400 to Brian Higgins, the One Nation's Gregory candidate; \$1327.45 to Chelle Dobson, One Nation's Gympie candidate; and \$1476.95 to Jim Savage, One Nation's candidate in Lockyer. Katter's Australian Party received \$175,314.81 in donations from gun dealer Robert Nioa. <https://www.frasercoastchronicle.com.au/news/gun-lobby-funding-one-nation-candidates/3267172/>

Mr Nioa is the managing director of the Brisbane-based company, NIOA, Australia's largest privately owned firearms and munitions supplier. NIOA has supplied Australian and New Zealand police with 70,000 Glock pistols and provided the military with their latest infantry weapon - an automatic grenade launcher. <https://www.brisbanetimes.com.au/national/queensland/from-a-gladstone-servo-to-australias-largest-private-military-police-arms-supplier-20170718-gxdfqw.html>

Bob Katter's connections with Mr Nioa are personal as well as political. Mr Nioa is Bob Katter's

son-in-law. <https://www.frasercoastchronicle.com.au/news/gun-lobby-funding-one-nation-candidates/3267172/>

Australian Electoral Commission returns show that since 2010 the state branches of the Sporting Shooters Association of Australia have donated \$440,800 to support the KAP, the Shooters Fishers and Farmers party and the Liberal Democratic party among others.

<https://www.theguardian.com/australia-news/2018/mar/07/australian-gun-lobby-donations-rightwing-minor-parties-weaken-reforms-control>

Some suggest that garnering support from the gun lobby is a marriage of convenience for these right wing fringe parties. Sam Lee from Gun Control Australia has claimed, 'The courtship of the gun lobby by political parties is definitely a growing theme.' <https://www.theguardian.com/australia-news/2018/mar/07/australian-gun-lobby-donations-rightwing-minor-parties-weaken-reforms-control> However, it seems more likely that supporting gun law relaxation is part of the ideological DNA of the parties concerned and that the gun lobby is simply supporting its own in promoting them.

The connection between moving parliamentary motions to allow Australians to carry non-lethal devices such as pepper spray and seeking a relaxation of Australia's gun laws is that both are founded on the principle of a right to self-defence. Liberal Democrat senator, David Leyonhjelm, who was one of five senators to vote in support of Senator Anning's motion that importation restrictions on pepper spray, mace and tasers be relaxed, has overtly made the connection between allowing Australians to carry non-lethal weapons and relaxing gun control.

In June, 2017, arguing that Australians should be able to arm themselves against the threat of terrorism, Senator Leyonhjelm stated, ' We get into arguments about the details, of course, but I think the general idea of being responsible for your own safety and having the means to do it is pretty popular.' <https://www.theaustralian.com.au/national-affairs/david-leyonhjelm-allow-lethal-means-of-self-defence/news-story/6bb718b4698b572be88f06c5396d5959>

Moving from a supposed general acceptance of the right to self defence, Leyonhjelm then brushed over some of the 'details' he had referred to earlier, suggesting that those who can safely use weapons should be able to carry them. 'Lethal means of self-defence, which are guns and so forth, obviously that should only be available to people who know how to use them, but off-duty police for example, who do know how to use a gun, why shouldn't they be able to carry them to protect themselves and their families and other people if the need arises?'

<https://www.theaustralian.com.au/national-affairs/david-leyonhjelm-allow-lethal-means-of-self-defence/news-story/6bb718b4698b572be88f06c5396d5959>

His concluding argument was for the immediate availability of non-lethal means of self-defence. 'Of course, non-lethal means of self-defence, the police can't be everywhere. They acknowledge that.' <https://www.theaustralian.com.au/national-affairs/david-leyonhjelm-allow-lethal-means-of-self-defence/news-story/6bb718b4698b572be88f06c5396d5959>

It is interesting to note the political affiliations of the two senators who have moved motions supporting non-lethal weapons for self-defence.

Federal senator, Fraser Anning, joined the Senate in November, 2017, as a member of the One Nation party before becoming disconnected from them and forming a loose alliance with David Leyonhjelm of the Liberal Democrats and the Australian Conservatives' Cory Bernardi. In June 2018, three weeks before he moved his Senate motion, Anning joined Katter's Australian Party.

https://en.wikipedia.org/wiki/Fraser_Anning Jeff Bourman is a Shooters, Fishers and Farmers Party member of the Victorian Legislative Council, having represented the Eastern Victoria Region since 2014. https://en.wikipedia.org/wiki/Fraser_Anninghttps://en.wikipedia.org/wiki/Jeff_Bourman

Both Anning <https://www.couriermail.com.au/news/queensland/queensland-government/gun-ownership-senator-says-federal-gun-buy-back-scheme-was-waste-of-money/news-story/dbcaedd9a4e939b20341d71e15399096> and Bourman are opposed to gun control <https://www.couriermail.com.au/news/queensland/queensland-government/gun-ownership->

[senator-says-federal-gun-buy-back-scheme-was-waste-of-money/news-story/dbcaedd9a4e939b20341d71e15399096https://www.heraldsun.com.au/news/victoria/shooters-and-fishers-party-mps-daniel-young-jeff-bourman-take-gun-junkets-to-us/news-story/8c70112ba0e911eb14d9b0ac4f0c4905](https://www.heraldsun.com.au/news/victoria/shooters-and-fishers-party-mps-daniel-young-jeff-bourman-take-gun-junkets-to-us/news-story/8c70112ba0e911eb14d9b0ac4f0c4905), as are the parties to which each man belongs. Their arguments in favour of non-lethal weapons for self-defence appear the thin edge of a wedge designed to undermine Australia's current gun control legislation.