

January 28, 2003

The Secretary to the Steering Group
Room 4.25, Block B
Castle Buildings
Stormont
Belfast BT4 3SG

**Re: Response to December 2002 Patten Report Recommendations 69 and 70
Relating to Public Order Equipment Report— Third Report**

Dear Steering Group,

Following my previous response to the Phase 2 report, I welcome the opportunity to comment on the Phase 3 report of the Steering Group.

In my last response I made a number of points centring on the role of medical and technical assessments, the strategic audit framework, openness and transparency, and less-lethal chemical sprays. I identified areas where I thought the report was deficient and suggested steps by which subsequent reports might improve. Unfortunately, there has been almost no incorporation of these comments into the Phase 3 report. This is most disappointing as both the Phase 2 and 3 reports go to great lengths to stress the desire for feedback from outsiders to the review process. In my case, it is difficult to see what impact such a response has had. In any event I will comment on the latest report, albeit in a brief and blunt fashion. In doing so, I will reiterate some of my previous suggestions and offer further ones in the hope these will be taken on board.

Operational/ Technical Assessment Divide

In several places the report sets about limiting the range of factors under consideration. For instance, in relation to PSDB's analysis of the Taser, it is stated: 'This report addresses the scientific and technical aspects relating to taser devices. It deliberately does not address any policy considerations, such as whether tasers would be acceptable for use in the UK, nor many operational aspects, such as whom should carry the devices, if they are deployed. These aspects need to be considered by the appropriate bodies'.

This lack of consideration or elaboration of operational issues at this stage though is problematic, even if such issues will be covered (to what extent, or if at all, is not clear) in the Phase 4 report. I will illustrate this with one example. As the report notes, some models of the Taser (the M26 in particular) can function in a 'touch-stun' mode. Certainly manufacturers such as Taser International advocate such usage in training procedures. Just whether officers are taught to employ the Taser in this manner is obviously relevant to its assessment. Yet, the failure to consider this

operational matter has meant the PSDB's evaluation dealt only with the distance use of this weapon. Questions about effectiveness, immediacy and the health effects would all certainly be different if the touch-stun mode function had been evaluated. The report notes such concerns in passing at one stage (pg. 51, para 26), but gives little follow-up consideration to this point. The danger, of course, is that Tasers will be deemed 'safe and effective', get taken up by police forces and then be used in the stun-touch mode without sufficient testing. If it is assumed now that the touch-stun mode will almost never be used, even if the opposite operational decision is made later by individual police forces, that assumption should be made explicit and the safety and effectiveness findings made conditional on that assumption.

Post-approval Accountability Procedures

Following on from these operational considerations, in my Phase 2 comments I suggested that the Group devote time to detailing the post-approval procedures necessary to assess the effects and usage of whatever weapons it advocates. I illustrated the importance of this in relation to past experience of how use of force reports, injuries, and compensation claims are monitored and made available to police forces and the public in the case of CS sprays. I further outlined various possibilities associated with other technologies. Yet, there has been no examination of these issues in the Phase 3 report, other than a passing reference to the possibility that the M26 recording chip could be used to track usage patterns. Post-approval procedures should be informed, at least in part, by considerations of health risks, so it is unfortunate they are not mentioned here.

Reporting of Medical Evaluations

In the case of the water cannon, the Taser, and kinetic energy weapons, the Phase 3 report merely provides summary overviews of the medical and technical studies undertaken. This is unacceptable and certainly does not provide a high degree of transparency. The full reports should be made public. Otherwise it is impossible to comment on their robustness. Past experience with CS sprays and the L21A1 indicate something of the how summary statements conceal as much as they reveal about the findings of the actual reviews commissioned. If there is sensitive commercial information then this can be blacked out as is required, but the reports themselves need to be published immediately.

Openness and Transparency

Further regarding the transparency and openness of this review process, let me make bring up a number of related issues.

First, there are a number of organizations that conducted reviews as part of this review: PSDB, DSAC, DOMILL, and Dstl. Any yet, there are no details about the identity and expertise of the individuals involved and any potential conflicts of interests. Providing such information is now standard practice in reports by other government agencies such as the DH and the HSE. That it is not given here is a

significant deficiency. It is hard to agree with the constant references in the report to the 'independence' of the reviews without such information.

Second, in my Phase 2 response I suggested that the Steering Group make the meaning of the policy criteria as widely known as possible in addition to the evidential basis of decisions. The Himsworth Committee's recommendation that chemical agents should be regarded more akin to drugs than weapons was used as an example to illustrate the importance of providing the interpretation of criteria. In the Himsworth case, there has been a failure to articulate publicly just what testing 'akin to a drug' means (i.e., whether that relates to 1971 or current standards). The failure still exists.

Third, it would be better if the Steering Group made more qualified use of certain terms. For instance, in many respects the medical and technical assessments are deemed open to the 'public'. So it is said 'The Steering Group has taken a lead in publicising the issues and indeed the progress of the programme. At a public conference in Manchester...' While the Jane's conference referred to was, in a sense, open to the public, as I recall the two-day conference fee (not including accommodation, travel, etc.) was above £500. I would have liked to attend, but as an academic the cost of the fee alone was above my yearly conference allowance. I doubt many concerned members of the public were present. As a researcher in this area, there are any number of conference and publications that are simply closed off to me. Others I know researching in this area who are not either buying, selling or using weapons face the same limitations.

Recently, I was able to attend a one conference in relation to less-lethal weapons. On October 29-30th the US manufacturer Taser International sponsored a promotional (free) conference/training workshop in Brussels. The conference was attended by those police forces likely to pilot Tasers in the UK. There were a number of rather disrupting aspects of the instruction offered. Based on practices in the US, attendees learned how to employ the Taser as a compliance device for getting unruly individuals in police cars. A shock to the outside of the knee, for instance, and a suspect quickly folds. As well, instead of manually applying physical force to sensitive pressure points in the body, saying in handcuffing, attendees learned that electroshocks were much more effective. Finally, Taser International representative suggested that these devices were 'good for demonstrators'. Noting such possibilities, performing simple manual exercises and completing a multiple-choice test (a copy and answers to which were given in the lesson plan at the start of the instruction day) and law enforcement participants were certified as company approved instructors. As rare as it is that I get a glimpse into such events, they do make me ever more skeptical of the sorts of optimistic claims made about less-lethals and the need for strict accountability in their use. I note that after this conference Taser International changed its access policy so that only law enforcement agencies are now allowed to attend, meaning there will be no more opportunity for outside observation.

Following on from the paragraphs above, in general I find the self-congratulatory tone of the report regarding matter of openness unjustified. For instance, the following

statements are made in an attempt to bolster assessments of the review:

‘I want to draw attention to another, unprecedented aspect of the programme, namely its transparency.’

‘The criteria are set high in the United Kingdom – the accuracy threshold...and the independent medical evaluation, are exacting by any standard.’

“‘In the US we don’t test enough, in the UK you test too much.’”

Until the basic points above are addressed, I think such commentary is inaccurate and inappropriate.

Finally, let me raise two other issues. In relation to the ILEF conference, it was reported that: ‘For the most part there were no political issues associated with the use of less lethal weapons in North America, although the disturbances associated with the civil rights protests in the 1960s and the Rodney King affair in Los Angeles had left a legacy.’ I gather you are reflecting the opinion of an American participant(s). If this is what members of the Steering Group were told, however, I would suggest you examine the use of less-lethal weapons in the US more closely. The quote is unfortunate because it suggests that the ‘political’ issues voiced about less-lethal force in the UK are not borne out in the US where there is a greater use of such equipment. This is simply not the case, particularly as it relates to the public order use of such less lethals.

Finally, I draw your attention to recent publication of mine that examines non- and less-lethal weapons in some detail: Brian Rappert. 2003. *Non-Lethal Weapons as Legitimizing Forces?: Technology, Politics and The Management of Conflict* London: Frank Cass. You may find some of its argument of interest.

Yours sincerely,

Dr. Brian Rappert
Sociology and Social Policy
University of Nottingham
Nottingham NG7 2RD
Brian.Rappert@nottingham.ac.uk