

Chapter 2:

Accountability and Training

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Chapter 2

Accountability and Training

Individual Officer's Responsibilities

- 2.1 The primary responsibility for using force rests with the individual officer who is answerable ultimately to the law. Individual officers are accountable and responsible for whatever force they use and must be in a position to justify their actions in the light of their legal responsibilities and powers. Any use of force, other than in training, whether intentional or otherwise, must be reported by the officer concerned and recorded in the officer's official notebook or journal. The recording of all relevant information, in as much detail as feasible and as soon as possible after the event, will be of great assistance in justifying actions taken during any subsequent administrative or legal proceedings.
- 2.2 Obedience to the orders of a supervisor shall be no defence if a police officer knew that the order to use force was unlawful and had a reasonable opportunity to refuse to obey it. Responsibility will also rest with the supervisor who gave the unlawful order. Officers are reminded of the content of the Code of Ethics Articles 1.5, 1.8 and 10.
- 2.3 Any police officer who has reason to believe that improper force has been used or is about to be used by another police officer, shall, to the best of their capability, prevent and rigorously oppose any such use of force. This officer shall, at the earliest opportunity, report the matter to their supervisor and, where necessary, to other appropriate authorities vested with responsibility for investigating such matters.
- 2.4 Supervisory officers will be held responsible if they know, or should have known, through the proper discharge of their duties, that officers under their command are resorting, or have resorted, to the unlawful use of force, and they did not take all measures in their power to prevent, suppress or report such use.

Role of the Ombudsman

- 2.5 Officers are reminded that where a complaint is made by a member of the public against a police officer regarding that officer's use of force, the Police Ombudsman will investigate such complaint.
- 2.6 The Police Ombudsman also has the authority to investigate a wide range of matters surrounding the conduct of police officers. This will include all incidents where an individual is killed as a result of the use of force and/or when it is arguable that there has been a breach of Article 2 or Article 3 of the ECHR. Any situation in which a police officer has used force, regardless of whether or not a complaint has been made, may be the subject of Police Ombudsman investigation. It is important therefore, that officers can show that non-violent methods have been considered before resorting to force and that their actions were proportionate.

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- 2.7 Comprehensive investigations into all deaths, whatever the cause, are an essential element of Article 2 of the ECHR, indeed, failure to carry out such an investigation has itself been found to be a violation of Article 2. Ombudsman investigators shall exercise their power in such a manner and to such extent to secure the efficiency, effectiveness and independence of the Police complaints system; and the confidence of the public and of members of the Police Service in that system.
- 2.8 Where the conduct of an officer has resulted in the death of an individual, it will be the responsibility of the senior officer on duty to contact the on-call Ombudsman's Senior Investigating Officer (SIO). The emergency call-out procedure for contacting the Ombudsman must be followed.
- 2.9 The scope of the investigation will be thorough and wide ranging. It will not only include the circumstances of any injury to, or death of any person, but also the circumstances leading up to the event and all the surrounding issues such as the management of the incident and planning of the operation. Police officers responsible for the planning and control of operations where the use of force is a possibility shall so far as possible plan and control them to minimize recourse to force, in particular, potentially lethal force. Consideration shall be given during the planning of an operation to the need for medical assistance to be available. (Code of Ethics 4.2).
- 2.10 The Police Ombudsman will appoint a SIO to commence an investigation. Pending arrival of the Ombudsman SIO, Silver Command or the senior officer on duty will ensure the preservation of the scene, the security of physical evidence and account for all potential witnesses. (See Policy Directive 03/06 – Post Incident Procedure, Deployment of Post Incident Managers – Discharge of Firearms). It is important that police only take the minimum actions necessary, pending the arrival of the Ombudsman SIO.

Planned Operations

- 2.11 All officers involved in policing operations must ensure that their actions are compatible with the rights of individuals under the ECHR. Officers are reminded of the content of Article 4 of the Code of Ethics.
- 2.12 *McCann and others v United Kingdom (1996) (21 EHRR 97)* asserts that strict control must be exercised over operations, which may involve the potential use of lethal force. Planners must consider all tactical options, e.g. the choice of weapon or equipment used may be important to establish that a lesser degree of force was intended. Further detail on this and other relevant issues is set out in Chapter 1.
- 2.13 In Northern Ireland, police officers carry firearms for personal protection as a matter of routine. Firearms may not be specifically required for an operation and may, in certain circumstances, be inappropriate. It is important therefore, that in any operation the appropriateness of the availability of firearms is considered and officers connected with the operation briefed accordingly.

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- 2.14 Any public order tactical option that involves the use of force brings with it associated risks to the general public, to police and other members of the security forces, hence the need to ensure that deployment and use of force complies with ACPO guidance and training procedures. Where possible, all anticipated risks should be the subject of a properly conducted Health and Safety Risk Assessment.
- 2.15 Command structures for the policing of events where force may be used are clearly set in the Gold/Silver/Bronze command structures, which are clearly explained in the ACPO Authorised Professional Practice – Public Order (available on PoliceNet) and reinforced by the ACPO Guidance on Command and Control.
- 2.16 It should be remembered that Gold/Silver/Bronze is a role, rather than rank specific. Police officers of a senior rank to those nominated to undertake one of these three roles should not automatically assume primacy, solely on the basis of rank or territorial responsibility.
- 2.17 Commanders must be fully aware of their responsibilities and capable of appropriate decision-making. Before a police officer undertakes a command role they should be sufficiently trained and competent for that specific role and, where necessary, be adequately experienced. It may however, be necessary as an incident develops, to review the command structure to ensure that those performing the roles are sufficiently trained and competent.
- 2.18 Where any policing operation utilises TSG/PSU trained officers, or other associated specialist officers, deployed as part of a tactical plan and working to an agreed strategy in accordance with the ACPO APP – Public Order (available on PoliceNet), then such an operation should be commanded by trained and accredited APOC and/or IPOC Commanders (unless the threat and risk assessment carried out for such an operation dictates that such Commanders should not be used).
- 2.19 The use of Public Order Tactical Advisers (POTAs) is covered in Chapter 13 and assists police officers to comply with Article 4 of the PSNI Code of Ethics.
- 2.20 If an operation raises issues of compliance with human rights law and principles, the PSNI Human Rights Legal Adviser should be contacted for advice.

Criminal Justice Strategy

- 2.21 It is essential that a Criminal Justice Strategy including arrest and process policy should be developed in the planning stages. This should include planning for the location and method of disposal of those arrested. The Criminal Justice Strategy should be developed by a SIO appointed to assist and advise Gold and Silver Command.
- 2.22 In the event of anticipated multiple arrests as a result of protest activity, it is essential that the Criminal Justice Strategy provides a clear system for the processing of detained persons. In particular, the identity of police officers assaulted by protestors should be noted and evidence obtained to link the individual protester(s) to the assaulted officer(s). This process should be conducted at the

time of the arrest/detention and confirmed by supervising officers during de-briefs at the termination of duty.

- 2.23 Where arrests and/or retrospective prosecutions are dependent upon video evidence, personnel and appropriate facilities to process the evidence must be identified and made available at an early stage. Police and Criminal Evidence (Northern Ireland) Order 1989 Codes of Practice 'D' should be adhered to throughout the process.
- 2.24 The Criminal Justice Strategy with regard to public disorder is contained in Chapter 13, which clearly outlines the role of the SIO in relation to these matters.

Planning and Police Objectives

- 2.25 If protest action is anticipated, local commanders should prepare comprehensive operational plans in accordance with the guidelines contained in Chapter 13, and ACPO APP – Public Order.
- 2.26 Police objectives in respect of this type of protest should be established at the planning stage if advance notice or information is received regarding the protest action. Police objectives will be in accordance with Article 2 and should include the following:
- Compliance with the determination of the Parades Commission (where applicable) Service Procedure No 14/08 – Public Processions (NI) Act 1998 and the Parades Commission refers.
 - Maintenance of public safety.
 - Maintenance of officer safety.
- 2.27 Where police have not had prior notification of protest activity, local commanders must ensure that Command and Control systems are quickly established for the police response. In areas where spontaneous protests are more frequent, local commanders should consider the development of contingency plans.
- 2.28 A press/media strategy to inform the public about the protest and if appropriate the intended police response, must be formulated at the earliest opportunity (see Chapter 13).

Records and Reports

- 2.29 Police officers will verbally report any use of force to their immediate supervisor as soon as practicable. Where the use of force requires a written report, e.g. batons and firearms, this will be furnished in accordance with current policy through the appropriate channels. (See Article 1.9 Code of Ethics)

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- 2.30 Supervisors will ensure that a notebook entry has been completed by the officer(s) involved and that each notebook entry is inspected and signed by that supervisory officer.
- 2.31 Police officers must fully document the circumstances in which they found themselves, the reasons for their actions and the details of the supervisor to whom they subsequently reported.
- 2.32 Supervisors should ensure that relatives or close friends of the injured or affected person are notified at the earliest opportunity. This should be done, where possible, with the agreement of that injured or affected person.

Authority and discretion to use force and firearms

- 2.33 In exercising the duties of the office of Constable, officers have a personal accountability and responsibility for the protection of life and carrying out duties associated with that office.
- 2.34 In all situations it is the individual officer who must assess the immediacy and proximity of the threat and make an operational decision as to whether it is absolutely necessary to discharge a firearm or take other decisive action. Any discharge of a weapon other than in training, whether intentional or otherwise, must be reported by the officer concerned in accordance with current Service policy and, subject to any individual legal or medical advice, recorded in the officer's official notebook or journal. The recording of all relevant information, in as much detail as feasible and as soon as possible after the event, will be of great assistance in justifying actions taken during any subsequent administrative or legal proceedings.

Accountability for use of force decisions

- 2.35 Each officer is individually accountable for their decisions and actions. This will include decisions to refrain from using force as well as any decisive action taken, including the use of force or a firearm.
- 2.36 Police officers are answerable, ultimately, to the law in the courts and must be in a position to justify their decisions and actions based on their honestly held belief as to the circumstances that existed at the time, and their professional and legal responsibilities. There may, however, be situations where a Commander, on the basis of information and intelligence available to them, considers it necessary to either constrain or direct officers in respect of their use of force, firearms or less lethal weapons.
- 2.37 Commanders and those involved in the assessment of intelligence, provision of tactical advice and relaying of communications will be legally and professionally responsible for decisions that they make and any advice or directions that they give.

- 2.38 Officers will be accountable for their response to such directions and their actions, which must be justified by reference to the circumstances which they honestly believed to exist at the time.

Obedience to lawful orders

- 2.39 The PSNI Code of Ethics addresses the responsibility of police officers to abide by all lawful orders. The Police Service is a disciplined body. Unless there is good and sufficient cause to do otherwise, officers must obey all lawful orders and abide by the provisions of legislation applicable to the police. Officers must support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.
- 2.40 Unless an order is manifestly illegal or beyond the tactical capability of the officers concerned, officers have a duty to comply with such instructions.
- 2.41 Obedience to the orders of a commander or supervisor is no defence, if a police officer knew that the order to use force was unlawful and they had a reasonable opportunity to refuse to obey it. Responsibility will also rest with the supervisor who gave the order. Any police officer who has reason to believe that improper force has been used or is about to be used by another police officer shall, to the best of their capability, prevent and rigorously oppose any such use of force. This officer shall, at the earliest opportunity, report the matter to their Commander or supervisor and, where necessary, to other appropriate authorities vested with responsibility for investigating such matters.
- 2.42 Commanders and supervisory officers will be held responsible if they know, or should have known, through the proper discharge of their duties, that officers under their command are resorting, or have resorted, to the unlawful use of force, and they did not take all reasonable measures to prevent or report such use.

Training

- 2.43 Training will follow national guidelines. Where any deviation is made, this should be clearly documented.
- 2.44 Police officers are reminded of their personal responsibility to identify their training needs and to bring these to the attention of their immediate supervisor. Police officers are also required to maintain a high level of knowledge in relation to Service policy and current legislation.
- 2.45 Whilst it is acknowledged that there is a statutory requirement for the Police Service to provide adequate training, there is equally an onus upon all officers and members of staff to co-operate and attend relevant training courses as and when required.
- 2.46 Any individual not attending or participating in all aspects of training may not only compromise their ability to protect themselves and others, but may also leave themselves liable to committing a disciplinary offence and a breach of

their individual legal obligation under health and safety legislation. Such non-attendance should be brought to the attention of a supervising officer for necessary managerial action or referral to Occupational Health and Welfare (OHW) as deemed appropriate.

- 2.47 Local commanders are responsible for ensuring that those under their command are provided with regular opportunities to attend required training in appropriate aspects of personal safety, first aid and human rights.
- 2.48 Based on the legal requirements, the variety of techniques and equipment together with the need to refresh and demonstrate an appropriate level of competency, ACPO has recommended a minimum of 12 hours Officer Personal Safety Training each year.

ACPO Manual Of Guidance On Personal Safety

- 2.49 Personal safety forms a large part of the control measures required under legislation to ensure the health and safety of staff, particularly when facing violent or potentially violent situations. The Human Rights Act has increased the focus on this responsibility. Amongst other things, the police service is under a duty to protect the human rights of its staff. Personal safety training, based upon the ACPO Manual of Guidance on Personal Safety, will be delivered to the Service.
- 2.50 General guidance relating to the use of force, relevant techniques and the use of equipment is included in the ACPO Manual of Guidance on Personal Safety. Its purpose is to support and inform operational decision-making and training to improve safety during the policing of violent or potentially violent situations. It provides guidance to chief officers in carrying out their duty to provide appropriate training and policies, and for police and police staff who may be required to deal with conflict as part of their operational duty. This Manual can be seen as the baseline for all self-defence, arrest and restraint training within the Service. It provides a 'menu' of options from which to pick and allows the Police Service to follow the national standards of training. (Access is restricted. Updates are made annually and issued to practitioner groups via CD ROM).
- 2.51 Guidance on the use of Personal Protective Equipment can be found at Appendix 'B'.
- 2.52 Guidance on protection against corrosive fluids can be found at Appendix 'C'.
- 2.53 Guidance on protection against Laser can be found at Appendix 'D'.

Positional Asphyxia and Excited Delirium

- 2.54 There is a risk of Positional Asphyxia when restraining a person. In simple terms, a subject can stop breathing because of the position they have been held in (i.e. asphyxiated). Positional Asphyxia is likely to occur when a subject is in a position that interferes with their inhalation and/or exhalation and they cannot escape from that position. Excited Delirium, in simple terms, is when a person exhibits violent

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behaviour in a bizarre and manic way rather than just being simply violent. Excited Delirium, or delirious mania, is a rare form of severe mania sometimes considered part of the spectrum of manic-depressive psychosis and chronic schizophrenia. Police officers should treat both of these conditions as a medical emergency. See Appendix 'E' for further information.