



Making Northern Ireland Safer For Everyone Through Professional, Progressive Policing

## FREEDOM OF INFORMATION REQUEST



**Request Number:** F-2009-00226

**Keyword:** Operational Policing

**Subject:** RIOT AT ARDOYNE SHOP FRONTS, BELFAST - 12 JULY 2005

### Request and Answer:

I am writing to confirm that the Police Service of Northern Ireland has now completed its search for the information. I have today decided to:

- Disclose records in answer to question 1 subject to the deletion of information pursuant to the provisions of Sections 31(1)(a) and (b) and 38(1)(a) and (b) of the Freedom of Information Act 2000 (the Act) and;
- Disclose records in answer to questions 2 and 3 in full.

Section 17(1) of the Freedom of Information Act 2000 requires the Police Service of Northern Ireland, when refusing to provide such information (because the information is exempt) to provide you the applicant with a notice which:

- (a) States that fact
- (b) specifies the exemption in question and
- (c) states (if not otherwise apparent) why the exemption applies.

### Question 1

I am requesting a copy of the Health & Safety Executives Report regarding the riot at Ardoyne shop fronts on the return parade on the 12/7/2005.

### Answer

Please find attached record numbered 1908.pdf which has been subject to the deletion of information pursuant to the provisions of Sections 31(1)(a) and (b) Law Enforcement and 38(1)(a) and (b) Health & Safety, of the Act. Section 17(4) of the Act provides an exception to Section 17(1)(c) as outlined above. It states that a Public Authority is not obliged to state why an exemption applies if to do so would involve disclosure of information which would be itself exempt information. To explain why the exemptions outlined above apply to the deleted information would have the effect of disclosing the nature of the information that has been deleted, thereby defeating the object of withholding this information. A full Decision Log outlining the reasons for the deletion of this information will be retained by the PSNI and will be available to the scrutiny of any review or complaint process as outlined below.

### Question 2

Has any officers been disciplined as a result of this riot?

### Answer

From records held within Professional Standards Department no officer has been formally disciplined as a consequence of the riots at the Ardoyne Shop fronts on 12.7.05.

### Question 3

Was there a human rights report in relation to this riot?

**Answer**

Yes, and the report in question can be found at the following address: [http://www.nipolicingboard.org.uk/sep\\_parades-2.pdf](http://www.nipolicingboard.org.uk/sep_parades-2.pdf)

If you have any queries regarding your request or the decision please do not hesitate to contact me on 028 9070 0164. When contacting the Freedom of Information Team, please quote the reference number listed at the beginning of this email.

If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible, or in any case within two months of the date of issue of this letter. In the event that you require a review to be undertaken, you can do so by writing to the Head of Freedom of Information, PSNI Headquarters, 65 Knock Road, Belfast, BT5 6LE or by emailing [foi@psni.pnn.police.uk](mailto:foi@psni.pnn.police.uk)

If following an internal review, carried out by an independent decision maker, you were to remain dissatisfied in any way with the handling of the request you may make a complaint, under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the PSNI has complied with the terms of the Freedom of Information Act. You can write to the Information Commissioner at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out, however the Commissioner has the option to investigate the matter at his discretion.

Please be advised that PSNI replies under Freedom of Information may be released into the public domain via our website @ <http://www.psni.police.uk>

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

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**REPORT FOLLOWING A COMPLAINT RECEIVED  
FROM THE POLICE FEDERATION FOR NORTHERN  
IRELAND ON 19 JULY 2005**


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of HSENI's Chief Executive and the Chief Constable of the PSNI

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May 2008

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### 1. INTRODUCTION:

1. As is now well known, in respect of the parades that passed through Ardoyne on 12th July 2005, violence erupted when three parades (the Ligoniel Truc Blues LOL 1932 parade, the Ballysillan LOL 1891 parade and the Earl of Erne LOL 647 parade) and their supporters passed the Ardoyne shop fronts shortly before 8pm. The violence continued for approximately two and a half hours. Golf balls, stones, bricks, petrol bombs and blast bombs, a number of which exploded were thrown at police lines. Approximately 105 police officers reported having been injured. HSENI understands that approximately eight members of the public were injured. Under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (NI) 1997, HSENI received thirty three NI2508 reports for police officers who were not able to do their normal work because of injuries received in the policing operation at the Ardoyne shop fronts on 12 July 2005. A range of injuries were reported including hearing damage, bruises, sprains, abrasions, cuts, head/neck injuries. The accuracy of these figures cannot be guaranteed. HSENI understands that more serious injuries were suffered on that day including a journalist who suffered a broken leg as a result of blast bomb injuries.
2. The police used water cannon extensively and discharged 21 Attenuating Energy Projectiles (AEP impact rounds). AEP impact rounds were introduced in June 2005 to replace plastic baton rounds. Neither had been used by the Police Service of Northern Ireland (PSNI) for nearly three years.

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### 2. THE PFNI COMPLAINT:

3. HSENI received a letter from the Police Federation for Northern Ireland dated 19 July 2005. This letter asked that the *three issues* below be addressed:

(1) "Why was there a gap of 42 minutes between the first and subsequent requests for impact rounds to be discharged and authority finally being given by a senior officer?"

(2) "What was the health and safety risk assessment and planning process in advance of this event to prevent injury to our members especially when one considers that historically there have been other serious disturbances at this event where officers have been seriously injured as a result of riot"; and

(3) "From a health and safety perspective was the deployment and use of AEP systems compliant with health and safety guidelines".

4. This report will attempt to address these issues in so far as it is possible given that HSENI can only examine and comment on issues which are directly related to health and safety, and the duties placed on both the employer and employee under the Health and Safety at Work (Northern Ireland) Order 1978 [the Order] and regulations made under the Order.

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### **3. THE LEGAL CONTEXT:**

#### **THE DUTY HOLDER:**

5. The Police (Health & Safety)(Northern Ireland) Order 1997, which came into effect on 1 July 1998 provides that a police officer should be treated as an employee of the Chief Constable amongst other matters.
  
6. At the time of this incident in July 2005 the Chief Constable of the PSNI was deemed, by Article 47A of the Order, to be the employer of persons who, otherwise than under a contract of employment, hold the office of constable. This situation was changed by Section 27 of the Northern Ireland (Miscellaneous Provisions) Act 2006. This vested the role of the employer with the Office of the Chief Constable and meant that from 25 July 2006, the Chief Constable would no longer be held personally liable for breaches of the Order within his service. The changes were retrospective to 1 July 1998, the date at which the Police Health and Safety at Work (NI) Order 1997 became law.
  
7. The Police (Health & Safety) Regulations (Northern Ireland) 2000, which came into effect on 24<sup>th</sup> April 2000, ensured that health and safety regulations which had been made prior to the coming into effect of the Police (Health & Safety)(Northern Ireland) Order 1997 were applicable in respect of the police.

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### 4. THE HEALTH AND SAFETY AT WORK (NORTHERN IRELAND) ORDER

1978:

8. *The general duties of an employer to his employees are set out in Article 4(1) of the Health and Safety at Work (Northern Ireland) Order [the Order] which states, "It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare of all his employees". This is an overarching duty and supported by a number of sets of Regulations which all impose additional complimentary duties.*
  
9. *Article 5(1) of the Order places a similar requirement on every employer in respect of persons who are not in his employment.*
  
10. *Every employee (e.g. police officer) has a duty under Article 8 of the Health & Safety at Work (Northern Ireland) Order to (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work; and (b) as regards any duty or requirement imposed on his employer (Office of the Chief Constable) or any other person by or under any of the relevant statutory provisions, to cooperate with him so far as is necessary to enable that duty or requirement to be performed or complied with.*

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### **5. THE MANAGEMENT OF HEALTH AND SAFETY AT WORK REGULATIONS (NORTHERN IRELAND) 2000:**

11. Regulation 3 of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 requires every employer to carry out a suitable and sufficient assessment of the risks to the health and safety of his employees (and non employees) arising from his undertaking. The purpose of such an assessment is for, "identifying the measures he needs to take to comply with the requirements imposed on him by or under the relevant statutory provisions" [e.g. Article 4(1) of the Order]. Guidance is available on the order in which the employer should apply the preventative measures he identifies. The employer has a duty to inform his employees of the findings of such risk assessments.

12. Regulation 8 of the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 requires every employer to establish and where necessary give effect to appropriate procedures to be followed in the event of serious and imminent danger to persons at work in his undertaking. One specific example given in the Approved Code of Practice to the Regulations is one with a direct application to the police, that is an outbreak of public disorder.

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### **6. PROVISION AND USE OF WORK EQUIPMENT (NI) REGULATIONS 1999:**

13. The Police (Health & Safety) Regulations (Northern Ireland) 2000 made significant amendments to the Provision and Use of Work Equipment Regulations (Northern Ireland) 1999 to take account of the position of the police. These amendments are in accordance with the provisions of Council Directive 889/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work.
14. The Attenuating Energy Projectile System [AEP] (see later section) forms part of the common weapon system approved for use by members of the Police Service of Northern Ireland as well as other police and forces in the United Kingdom.
15. The common weapon 'system' comprises of: the weapon; the sight; the munition; the zeroing instructions; maintenance and storage instructions; and ACPO/PSNI Guidance on Use.
16. The AEP is fired from a 37 mm breech loaded weapon. The approved launcher is the L104A1 equipped with an approved L18A1/A2 optical sight. A collimator has also been provided to assist in checking the zero of the weapon.
17. The projectile has been designed with a nose cap that encloses a void. This design feature is intended to attenuate the delivery of the impact energy by extending the duration of the impact and minimising the peak forces. It thereby delivers a high amount of energy to maximise its effectiveness, with reduced potential for life

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threatening injury. Reducing the rate of onset of the impact force and reducing the magnitude of the peak force, have both been shown in human impact to reduce the severity of injuries (ACPO Attenuating Energy Projectile (AEP) Guidance Amended 16<sup>th</sup> May 2005).

18. The amendment made to the Provision and Use of Work Equipment (NI) Regulations 1999 by the Police (Health & Safety) Regulations (Northern Ireland) 2000 is as follows:

19. Regulation 4(4) Suitability of Work Equipment (reads)

*4(4) In this regulation "suitable" – subject to paragraph (b), means suitable in any respect which it is reasonably foreseeable will affect the health or safety of any person in relation to –*

*(i) an offensive weapon within the meaning of Article 22(2) of the Public Order (Northern Ireland) Order 1987[9] provided for use as self-defence or as deterrent equipment; and*

*(ii) work equipment provided for use for arrest or restraint, by a person who holds the office of constable, means suitable in any respect which it is reasonably foreseeable will affect the health or safety of such person.*

20. Article 22(2) of the Public Order (Northern Ireland) Order 1987 defines an "offensive weapon" as "any article made or adapted for use for causing injury to the person, or

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intended by the person having it with him for such use by him or by some other person”.

21. HSENI believes that an AEP system, falling within the definition of an offensive weapon, where it is provided for use at work satisfies the legal definition of “work equipment”.

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### 7. THE PERSONAL PROTECTIVE EQUIPMENT REGULATIONS (NORTHERN IRELAND) 1993:

22. *These regulations require every employer to ensure that suitable personal protective equipment is provided to his employees who may be exposed to a risk to their health or safety while at work except where and to the extent that such risk has been adequately controlled by other means which are equally or more effective.*
23. *Before choosing any personal protective equipment which he is required to ensure is provided, an employer shall ensure that an assessment is made to determine whether that equipment will be suitable. Such an assessment shall include an assessment of any risk or risks to health or safety which have not been avoided by other means.*

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### **8. THE HUMAN RIGHTS ACT 1998 [HRA]:**

24. The Human Rights Act 1998 [HRA] came into force in October 2000 and incorporated the rights enshrined in the European Convention of Human Rights into UK domestic law. The Convention guarantees certain rights and freedoms of the individual against interference by the state (or "public authorities" - which would include the police). The HRA has a bearing on other domestic legislation. In particular it is unlawful for a public authority to act in a way which is incompatible with a Convention right and also, the courts are bound to construe legislation in a way which is compatible with Convention rights.

25. The PSNI policy on Human Rights and Police Use of Force (which was in place in July 2005) provides at section 1 (Policy Statement) that "Police officers will only resort to the use of force if other means remain ineffective and there is no realistic promise of achieving the lawful objective without exposing police officers, or anyone whom it is their duty to protect, to a real risk of harm or injury." The PSNI policy appears to acknowledge that force will be used where necessary to prevent a real risk of harm or injury. In essence this appears to bridge the requirements of the general duties of Health and Safety at Work (Northern Ireland) Order 1978 in a way which is compatible with the Human Rights Act 1998.

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### **9. THE PLANNING OF THE POLICE OPERATION:**

26. HSENI was informed by the Gold Commander that the planning process for the 2005 marching season starts almost immediately after the previous year's season concludes, taking the form of a "full service debrief". In January 2005 a Gold Level planning meeting was held and a Gold Level Strategy for the 2005 marching season was developed. This strategy was generic and not specific about any particular parade. A further meeting, chaired by the Gold Commander, was held on 3 June 2005 where the generic Gold Strategy was tailored for the June July 2005 period in PSNI Urban Region. HSENI has been informed the purpose of this strategy is to ensure compliance with the Human Rights Act 1998, the PSNI Manual of Guidance on "Keeping the Peace", and that health and safety was an integral part of the considerations, whilst ensuring that determinations given by the Parades Commission were upheld. As 12 July approached HSENI understands that a number of mini-Gold planning meetings took place where the Silver Commander (or his staff) were able to raise issues and bid for resources.

27. A key part in the planning process which relates directly to statutory health and safety requirements is the risk assessment for the policing operation. A number of risk assessments were carried out in advance of 12 July 2005 and were contained in a document entitled, "Police Service of Northern Ireland – Operational Order – North Belfast District Command Unit – 315<sup>th</sup> Anniversary of the Battle of the Boyne – Tuesday 12<sup>th</sup> July 2005". The following risk assessments appear to be relevant to the policing operation at the Ardoyne shop fronts on the evening of 12 July 2005:

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"Parade – North Belfast"; "Parade – Ardoyne Shop Fronts"; and "Deployment of Police/Military in the Vicinity of or on the Rooftops in Relation to Parades/Public Disorder". All three risk assessments were completed by officers holding the rank of Sergeant. The first two were signed off by a Chief Superintendent and the third one by a Chief Inspector. The first two assessments were completed on 3 April 2005 and the third assessment was completed on 23 June 2005. These dates are significant in so far as the PSNI General Order No. 21/2005 entitled, "Service Guidance in Relation to the Issue, Deployment and Use of Attenuating Energy Projectiles (Impact Rounds) in Situations of Serious Public Disorder" was published on 21 June 2005. None of the three risk assessments mention Attenuating Energy Projectiles (AEPs). The two risk assessments completed on 3 April 2005 specifically mention "baton guns" and baton rounds" as control measures. The AEP was a distinctly different weapon than previously used baton rounds (see next section). In the *Event Policy Book* opened on 11 July 2007, there are two sections which specifically deal with AEPs and the Water Cannons. These are titled, "Revised Authority for Carriage Deployment/ Use of AEP System (Impact Rounds) – Urban Region" and "Revised Authority for Deployment/ Use of Water Cannon – Urban Region". The Authority on AEPs states, "AEP systems will only be deployed for the containment and / or dispersal of riotous groups in actual or anticipated situations of serious public disorder, which involves a risk of loss of life or serious injury. Authority to deploy the AEP systems (to named and classified officers) will only be granted by ACC Urban Region after an 'on-the-ground' assessment by a designated Senior Officer of the prevailing public order situation and need for deployment and use of AEP systems". This differs slightly

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from the Authority relating to the Water Cannon which states, "The deployment and use of the water cannon in situations of unlawful public protests and disorder should only be considered where it is believed that their use (in conjunction with other methods of policing disorder) is appropriate in order to achieve lawful objectives. Authority to deploy water cannon in such circumstances will only be granted by ACC Urban Region after an assessment of the threat to public order".

28. The PSNI held a number of meetings with different community groups as part of the planning process. HSENI is not in a position to comment on the usefulness of these meetings in respect of the planning of the police operation.

s.F31 29  
s.F38  
s.F38(1)  
s.F38(1)(a)  
s.F38(1)(b)  
s.F31(1)  
s.F31(1)(a)

[REDACTED]

The scale of the police operation mounted for the evening parade suggests that there was an expectation of trouble. In 2005 there had been trouble in the area during the Tour of the North Parade and police also came under attack when responding to trouble following a Celtic/Rangers match. The area would have been the scene of serious rioting in other years when Orange marches were passing through it.

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### 10. THE ATTENUATED ENERGY PROJECTILE (AEP) SYSTEM:

30. In June 2005, the new Attenuating Energy Projectile (AEP) was introduced to replace the L21A1 rigid baton round. The guidelines for using the AEP impact round were developed in a very different format from guidelines previously issued for baton rounds. These took account not only of the different technology which was being used, but placed its use within the context of situational risk assessment. It also clarified that the AEP was not to be used as a means of crowd control, but for use against identified aggressors.

31. The AEP is mentioned in the Northern Ireland Office/HM Treasury Departmental Report 2005. On 24 March 2005 the Northern Ireland Policing Board agreed in principle to the introduction of the AEP for the PSNI, provided the Chief Constable could show that he had fully consulted with the relevant bodies, including the province's Children's Commissioner<sup>(Bradford Non-Lethal Weapons Research Project – May 2005)</sup>. Caroline Flint, the UK Parliamentary Under Secretary of State for the Home Department stated, "although there will be a reduced risk of serious injury or death when the AEP is used, that risk has not been completely eliminated. Where a round inadvertently strikes the head, the risk of serious and life threatening injury from the AEP will be less than that from the L21A1 baton round, which already has a low risk of injury"<sup>(Bradford Non-Lethal Weapons Research Project – May 2005)</sup>.

32. The Chief Constable and the Policing Board have a duty of care to police officers. Moreover, as Patton recognised, they cannot be left in a situation where ultimately

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they would have no alternative but to fire live rounds<sup>(NIO Minister of State Jane Kennedy – 9 April 2003)</sup>.

33. The AEP system appeared to be a less lethal option than earlier technologies and it was available for use in July 2005.

34. The PSNI “Service Policy in Relation to the Issue, Deployment and Use of Baton Rounds in Situations of Public Disorder” (General Order 46/2000) was issued in December 2000, then amended and reissued on 15 April 2005. This document stated, “Baton rounds are designed to provide a less lethal option in dealing with threats of serious violence and provide an effective means by which rioters armed with petrol bombs or other weapons can be kept at a distance, contained or dispersed. They also provide a means of keeping at a safe distance those posing a serious threat to life which would otherwise require the intervention of officers at close quarters, thus potentially placing them at great risk”.

35. The PSNI “Service Policy in Relation to the Issue, Deployment and Use of Attenuated Energy Projectiles [AEP] (Impact Rounds) in Situations of Public Disorder” (General Order 21/2005) was issued in June 2005. This document makes no reference to the AEP providing an effective means by which rioters armed with petrol bombs or other weapons can be kept at a distance, contained or dispersed, or keeping at a safe distance those posing a serious threat to life which would otherwise

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require the intervention of officers at close quarters, thus potentially placing them at great risk.

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### **11. PSNI POLICIES:**

36. The Use of Force Policy sets out the legal rules summarised above and expressly requires that, in carrying out their duties, PSNI officers 'shall, so far as possible, apply non-violent means before resorting to the use of force'. It instructs police officers only to resort to force if other means remain ineffective and there is no realistic promise of achieving the lawful objective without exposing police officers, or anyone whom it is their duty to protect, to a real risk of harm of injury. The policy also instructs officers to have in mind the positive duty to protect life in planning policing operations.
37. The Water Cannon Policy lays down that water cannon will be deployed and used only when properly authorised by appropriate officers and only by officers trained and qualified in their use. Water cannons must only be used in accordance with the Use of Force Policy summarised above.
38. Authorisation to make water cannon and trained personnel available for operational purposes must be granted by an officer of ACC/Commander rank and should be limited by time and geographical boundaries. A Tactical Adviser must be consulted on the deployment and use of water cannon in the planning phase and during the operation. The authority to deploy water cannon is vested in Gold Command. Authority to use water cannon is vested in the Silver Commander (who must keep this authority under constant review). The authority to use water cannon is not an order to discharge it. It is a decision, based on all the information available, that water cannon

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may be a necessary and proportionate response to public protest or disorder. Water cannon vehicles are deployed under the overall command of the Water Cannon Commander who is required to liaise with the appropriate Bronze Commander to ensure co-ordination of achieving tactical objectives.

39. AEP impact rounds were introduced on 21st June 2005. The PSNI AEP Impact Rounds Policy was adopted on the same day. The AEP Impact Rounds Policy [the Policy] requires that AEP impact rounds should only be used in accordance with the Use of Force Policy. The Policy states that AEPs must only be used in public order situations where other methods of policing have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried. Additionally their use must be 'absolutely necessary'. The policy states that where it is judged that their use is absolutely necessary, AEPs can be used to reduce a serious risk of: (i) loss of life or serious injury; and (ii) substantial and serious damage to property, which is likely to cause or is judged to be likely to cause a serious risk of loss of life or serious injury. The ACC informed HSENI that the above forms the basis of the three tests referred to in paragraph 13.

40. The policy sets out the roles and responsibilities of the various personnel. It appears that a very important role falls to the "Designated Senior Officer" (DSO) and goes on to say that in pre-planned operations the DSO will be bronze commanders. In a situation like Ardoyne shop fronts in July 2005 this would have required the constant attention of at least one Bronze Commander and probably more than one. Although

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the PSNI deployed two officers in the role of Crimson Commanders, the designation of Crimson Commander does not appear in the Policy. The ACC informed HSENI that the Crimson Commanders are "specialist Bronze Commanders" in public order situations. The DSO is tasked in the Policy with making an on-the-ground assessment in order to "inform the Silver Command of the prevailing situation and the need for deployment and use of the system [AEP]".

41. The Policy sets out procedures which must be followed by a number of duty holders in relation to the use of AEPs. The first authority is the authority to "issue" the AEPs which means taking them from their storage in armouries. HSENI has been informed that the AEP system will then be carried in appropriate secure storage in vehicles. For a pre-planned operation this authority must be given by an Assistant Chief Constable (ACC).
42. The second authority is the authority to "deploy" the AEP system which means the AEPs can be removed from the storage in the vehicles at the scene of the incident and deployed on police lines. This should not be confused as an authority to fire the AEPs. The Policy states that the authority to "deploy" the AEPs must be given by a Silver Commander.
43. The third authority is the authority to "use" the AEPs which is essentially the permission to fire the AEPs. This is not an order to fire, it is simply a permission to fire providing the other tests are met. The Policy states that AEPs are to be "used at

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an incident only with the express authority of the Silver Commander". The Policy appears to cater for a situation where, "urgent action is necessary". It is not expressly stated that officers on the ground have the right to fire the AEPs without authority (self-authorisation) but instead gives an administrative procedure to be followed if such an event did happen. The practice of self-authorising in theory applies to an officer in respect of firing any weapon on the basis given in the General Order 21/2005 which states, "AEPs must only be used in public order situations ... where urgent action is necessary - i.e. where there is an immediate risk to life, AEPs will only be used following authorization from the Silver Commander". It should be remembered that AEPs are only permitted to be used by trained officers.

44. Police officers on the ground who were involved in the operation on 12 July 2005 carry firearms for personal protection as a matter of routine. HSENI understands that the officers can self-authorise the use of these guns which in effect are likely to be lethal as long as this is only done in accordance with the Force Policy on Human Rights and Police Use of Force. This policy centres on the test of, "no more than absolutely necessary". If the officer felt the risk was so great then he could decide to fire the weapon without seeking higher authority. In contrast to this the less than lethal AEP system is governed by a policy whereby it appears that the AEPs cannot, without permission, be taken out of safe storage in the stations, then they cannot be removed from the vehicles unless authorised, and they cannot fire the AEPs unless authority is given (the conditions for "self-authorising" have been set out in the

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previous paragraph). This is a complex and complicated issue and must be understood in the context that police officers operate within a disciplined service.

45. The Urban Region Gold Strategy for Parades 2005 departs from the AEP Impact Rounds Policy in requiring that express permission of Gold Command (rather than Silver Command) must be obtained before AEP impact rounds are deployed. HSENI has been informed that this has been the situation since 2001 but that in the days after 12 July 2005 the practice reverted to be in line with General Order 21/2005.
  
46. The Revised Authority for Carriage Deployment and Use of AEP Systems (Impact Rounds) – Urban Region which was contained in the Event Policy appears to be more in keeping with the older baton rounds policy in that it states, “AEP systems will only be deployed for the containment and / or dispersal of riotous groups in actual or anticipated situations of serious public disorder.....”. This wording did not appear in the AEP General Order 21/2005.

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### **12. CONTROL ROOMS:**

47. HSENI was given access to the Gold Control Room at a time when it was not operational. The technology in the room was impressive in terms of television monitors, maps, radios etc. HSENI was informed that when the room was operational real time film footage and radio coverage was available and that this was the case on 12 July 2005. The film footage was being generated from a number of sources in and around the Ardoyne shop fronts.

48. HSENI was informed that there are four radio operators, two of which are constantly monitoring the radio communications on the TSG channel. In addition they log as many of the messages as they can. This requires them to type certain messages onto a computer. There are some problems with this in so much that everything is not captured and there can be a delay between the message being sent and it being logged. HSENI was informed by the Gold Commander that on the day a Chief Superintendent (Deputy Gold Commander) had responsibility for monitoring the radios. The officers are also relaying radio messages to and from the Gold Commander.

49. The television monitors are mounted on the walls and can easily be seen by all staff in the room

50. The Gold Commander had a logger who maintains a log of the key decisions and information during the day. HSENI has had access to this document.

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51. HSENI did not visit the Silver Command Room but was informed that the technology available was similar to that of the Gold Room.

52. HSENI has been informed that full audio records are now kept of these events.

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### 13. ROLES OF GOLD AND SILVER COMMANDERS

53. The Gold Commander is the officer in overall command and has responsibility and accountability for the incident or event. The Gold Commander is responsible for resourcing the event, and chairing the strategic co-ordinating group in the event of a multi-agency response to an incident. He must set, review and update the strategy. He must be so located as to be able to maintain effective strategic command of the operation and is required to consult with partners when determining strategy, must maintain objectivity and as such should not become drawn into tactical level decisions. He must remain available to the Silver Commander(s) if required and must ensure that the strategy for the event is documented in order to provide a clear audit trail, including any changes to that strategy. He needs to approve the Silver Commander(s) tactical plan and ensure that it meets the strategic intention for the event or incident. He is responsible for ensuring the resilience of the command structure and the effectiveness of the Silver Commander(s). On 12 July 2005 the Gold Commander was responsible for authorising the Deployment and use of the AEP system.

54. The Silver Commander is responsible for developing and co-ordinating the tactical plan in order to achieve the strategic intention of the Gold Commander. He must be so located as to be able to maintain effective tactical command of the operation. He must ensure that all decisions are documented in the command log in order to provide a clear audit trail. He provides the pivotal link in the command chain between Bronze Commanders and the Gold Commander. This ensures all other commanders are kept

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apprised of continuing developments. He is responsible for ensuring that all staff are fully briefed and has the responsibility to review, update and communicate changes in the tactical plan to Bronze Commanders and the Gold Commander. He is responsible for ensuring the tactics employed by Bronze Commanders meet the strategic intention and tactical plan. He must consult with the Gold Commander to ensure a formal review and documentation of the requirement for the AEP System and any authorisation to deploy or use the system. The Silver Commander did not have responsibility for authorising the Deployment and use of the AEP system on 12 July 2005.

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### 14. AREA LAYOUT:

55. The main rioting was faced by police lines facing the Brompton Park area. A significant number of officers, land-rovers and water cannons were deployed to face a crowd of up to two or three hundred rioters at Brompton.
56. The police had occupied some of the roof tops until sometime close to 20:00 hours. After this the rioters from the nationalist side had unchallenged access to the roof tops of the shop fronts from where they were able to attack police lines. The shop fronts ran in an arc countrywards towards Estoril where a large, relatively peaceful crowd had gathered. The threat posed by this crowd was not easy to gauge but their number was significant. Police lines were in position to protect the rear of the police lines that were under attack from the crowd at Brompton Park. The police lines at Estoril did come under blast bomb attack during the evening. A crowd had gathered at Mountainview but this crowd again was relatively peaceful. The above crowds were nationalists.
57. A crowd of approximately two hundred people sympathetic to the parade had gathered at the top of the predominantly loyalist Twadell Avenue. This crowd remained peaceful. Police lines were in position in front of Twadell Avenue.
58. In similar fashion to the morning, police were deployed in land rovers to form a secure line on the shop front side of the Crumlin Road (from the junction of the Ardoyne Road and Crumlin Road to the bottom of the Ardoyne shop fronts) and

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*military* were deployed to form a secure line (with screens) at the Mountainview side of the Crumlin Road (from opposite the junction of the Ardoyne Road and Crumlin Road to the junction of Twaddell Avenue and Crumlin Road).

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### 15. EVENT TIMINGS:

59. It has not been possible to accurately work out precise second by second timings of the events between 19:45 and 22:00 hours on 12 July 2005.

60. During the investigation HSENI was given access to documents showing the locations of police lines etc and the timings of certain radio communications. HSENI has no means to verify these timings and therefore cannot rely on their accuracy. HSENI also had access to the Gold Commander's Event Log for the day. Again the accuracy of the timings contained in this document are open to question and HSENI cannot rely on them. Video evidence from a number of sources was viewed during the investigation but these could not provide accurate timings of events. When considering the specific elements of the original PFNI complaint in relation to the "requests for impact rounds" it was regrettable that HSENI could not access radio recordings or transcripts which were accurately timed. Timings from the other logs such as the Gold Room radio log are open to the criticism that they do not contain every radio communication and those which are logged may not have accurate timings. HSENI was able to find a PSNI officer who took contemporaneous notes as he observed and listened to events but once more the exact timings cannot be verified. HSENI was informed by the Gold Commander about a recommendation made about the use of datum clocks. This measure may help in the analysis of events after the incident, but by itself would not accurately provide timings of all relevant events.

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61. As a result of the unavailability of accurate timings of events HSENI cannot give any opinions on issues where timings are critical.

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### 16. THE HAZARDS FACED BY OFFICERS ON THE DAY:

62. The officers on duty on the lines at Ardoyne of 12 July 2005 faced the hazards of being struck by golf balls, stones, bricks, pieces of wood, large pieces of masonry, possible fire works, petrol bombs and blast bombs being thrown by rioters. Other hazards faced included the police lines being rushed by large numbers of rioters. At one stage attempts were made to propel a burning car towards police lines.
63. The rioting changed in its tempo and ferocity during the period between 19:45 and 22:00. There were lulls which often coincided with the use of the water cannon. During periods when the water cannons were not available rioting increased and the rioters got close to police lines. These periods were associated with significant risk to officer safety.
64. A number of rioters were able to get access to the shop roof tops and they were able to throw missiles down behind police lines. At one stage rioters were observed dropping large pieces of masonry onto officers at the shop fronts close to Delaney's Entry. Again this would constitute a significant risk to officer safety.
65. Petrol bombs were thrown at police lines at various times between 19:45 and 22:00 hours on 12 July 2005. There is no disputing that these devices pose a risk to officer safety but, almost all of the officers who were spoken to during the investigation did not see petrol bombs as a major problem.

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66. An unknown number of firework-type devices and other devices commonly referred to as "blast bombs" were thrown at and behind police lines. These explosive devices can be wrapped in nails. Devices such as blast bombs can be life threatening.

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**Page(s) 000034, 000035**

**is(are) exempted pursuant to section(s)**

**F31, F31(1), F31(1)(a), F38, F38(1), F38(1)(a), F38(1)(b)**

**is(are) exempted pursuant to section(s)**

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### 18. PERSONAL PROTECTIVE EQUIPMENT:

73. The TSG officers were supplied with a range of personal protective equipment for use on the day such as boots, flameproof suits, shields, hoodovers, and helmets etc. The wearing of this amount of equipment for an extended period of time on a hot summer day would be expected to take a physical toll on the officers.

74. *Helmets and Body Protection:* The helmet and other body protection equipment will provide some protection against a ballistic strike from projectiles such as stones and golf balls but if bricks, masonry, or other heavy projectiles make contact with the officers a potential for injury exists. The injuries may occur as a result of the impact trauma, not all of which will be absorbed by equipment. The equipment does not appear to be a protection against explosive devices which may have nails etc. attached. Such devices have the potential to kill or cause serious injury.

75. *Shields:* Officers on the lines carry shields which are approximately four feet tall and two feet wide. The shields again provide protection from stones and other missiles but they do have limitations. The officers must move the shields into the correct position to block the missiles. If officers came under a barrage of heavy stoning the possibility exists that officers will not be able to stop all the missiles with the shields. Officers also report that after prolonged wearing of the hoodover and the helmet it can be difficult to have good view of the situation. This can also lead to difficulties when using the shields. A number of front line officers who provided information to HSENI jokingly referred to the "golden brick", that is the one that despite the best efforts of

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the officers gets through the shield line and strikes an officer. Another shortcoming of the shields is that they only provide a level of protection from missiles thrown from one area. At the Ardoyne shop fronts on 12 July 2005 officers came under attack from Brompton Park (from the front) and at the same time from the rooftops of the shops (from behind).

76. *Fire Retardant Suits:* The fire retardant suits provide good protection against fire, a hazard faced by officers on the front lines when they are attacked with petrol bombs. HSENI is of the opinion that these suits do not provide any protection against impact injuries.

77. *Pads and safety boots:* Again these measures do provide good protection but officers report that whilst they may prevent a missile from breaking bones or the skin they do not damp the impact of the object when it strikes the officer.

78. As previously stated personal protective equipment must only be used as a last resort control measure where it is possible to use and rely on other measures. HSENI appreciates that officers on public order duty may have to wear full personal protective equipment from the outset but those in charge of the operation should, where possible, utilize other measures and avoid relying PPE.

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### **19. ANALYSIS OF LEGAL COMPLIANCE OF THE POLICE OPERATION ON**

#### **12 JULY 2005:**

79. HSENI is not in a position to judge the strategy employed, or the effectiveness of a policing operation such as the one under consideration. The opinions given below relate solely to how the requirements placed on the Office of the Chief Constable in relation to the health, safety and welfare of police officers was met.

80. Almost to a man all those interviewed agreed that the only way to minimise risks from missiles is to create and maintain a distance (estimates ranged from twenty to forty metres) between police lines and the rioters. If rioters get into close quarters at police lines the risks significantly rise and other hazards come into play such as the likelihood of hand-to-hand fighting increases. The Gold Commander acknowledged to HSENI that one effect of using AEPs may be to create a safe zone between the rioters and police lines but also pointed out that the deployment and use of AEPs can aggravate the rioters and increase the ferocity of the rioting. HSENI has no means of validating either claim but it is clear that the general order 46/2000 (baton rounds) stated that baton rounds could be used to create a safe distance. The general order 21/2005 (AEPs) as previously stated makes no such claim.

81. Sometime around 19:50 to 19:55 hours, the supporters and parades were clear of the contentious part of the route. The military screen vehicles moved out of the area. However, the police were unable to withdraw because the crowd at Brompton Park were continuing to throw missiles and a large crowd of people remained at Twaddell

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Avenue. The water cannon had been used against rioters at Brompton Park. Eventually the water cannon use ceased in order to allow politicians and community representatives time to use their influence. Immediately the crowd at Brompton Park surged forward and starting throwing missiles at the police line. [REDACTED]

s.F31

s.F38

s.F38(1)

s.F38(1)(a)

s.F38(1)(b)

s.F31(1)

s.F31(1)(a)

[REDACTED] The police came under heavy missile fire from the crowd. Water cannon were used once again to push the crowd back from the police line. Injuries to police officers were sustained. This pattern was repeated throughout the height of the riot prior to the use of AEPs. It was as though the rioters used the periods when the water cannon was being withdrawn and replaced to inflict the heaviest rioting on police lines. The problem of maneuvering a water cannon out of the line and then maneuvering a refilled one into the line gave the rioters a considerable amount of time to advance on police lines. It was during these periods that police were taking casualties.

82. The water cannons were somewhat successful at keeping the rioters away from police lines but at times they were ineffective either because they were being withdrawn or replaced or there was a time lag between the need to use them and the jets being deployed. Video footage showed that the rioters were able to judge when to withdraw to avoid the powerful jets of water. They then taunted the police cannoneers in order to get them to use up the water supplies.

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83. HSENI accepts that the water cannons can provide a means in certain circumstances to keep numbers of rioters away from police lines. Having said this, their use and effectiveness was limited on 12 July 2005. They were not permitted to be trained on any person who was not on ground level, in other words they could not be used against rioters on the rooftops who attacked the rear of police lines. As mentioned they were unable to maintain a constant level of protection because of their size and water carrying capacity (HSENI has been informed that a full tank can be discharged in a matter of minutes depending on the jetting power used). Any effect produced by the water cannons on the rioters was temporary and indeed it appeared from the video footage that dodging the water cannon had almost become like a game for some of the rioters. Other footage showed rioters pretending to take a shower in the water. There is no doubt that the water cannons were effective when used at full power but it should have been foreseen that with the arrangements which were in place on 12 July 2005 that the maintenance of this control measure was not possible.

84. Sometime around 20.10 hours, a red car was pushed out of Brompton Park. The crowd of around 300 individuals followed the car onto the Crumlin Road. Then about seven members of the crowd, some of whom wore scarves and/or hoods to cover their faces, attempted to set fire to the inside of the car (which appeared to have been doused in petrol). Water cannon were directed at the protesters surrounding the car to undermine their efforts to light the vehicle. A protester then carried what appeared to be a petrol bomb over to the car, lit it and threw it into the car, successfully setting it alight. Members of the crowd then attempted to push the burning car towards the

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police line. The water cannon put out the fire in the car and pushed back the crowd. At approximately 20.11 hours, use of the water cannon was suspended for a second time. The crowd again surged towards the police line and threw heavy missiles. The red car was set on fire again. Water cannon was used again approximately two minutes later. There were several hundred protesters at the junction of Brompton Park and Crumlin Road at this stage. Every time the water cannon ceased, the crowd of protesters surged forward throwing missiles at the police line. During these times police officers were in a situation in which they could have received serious or life threatening injuries. Reports were also coming over the radio that fireworks were being discharged at police lines. Shortly after this the callsigns on the ground reported that they were under attack from blast bombs.

### *Requests for the Deployment of AEPs:*

85. This is an area which may be disputed and as previously outlined the precise timings are not available. HSENI is using a CD known as GJ3(a) which is a recording of the TSG radio channel as the main source of information for this section. As far as it was possible HSENI has transcribed this recording and this transcript is on file.
86. The main safety measure which the police can rely on in riot situations is to maintain a safe distance between police lines and the rioters or to withdraw if that is possible. If they can maintain a safe distance the risks posed by stones, bricks, masonry and petrol bombs is significantly reduced because the rioters struggle to throw the missiles far enough to hit the police lines. Over the years baton rounds have allowed

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police to achieve distance between themselves and the rioters. It has been widely reported to HSENI that displaying the baton guns on the police lines has the effect of creating a safe distance and often it has not been necessary to actually fire great numbers of batons to achieve and maintain distance. Every situation will differ and to this end the PSNI invest a lot of time, effort and money training skilled officers on the use of the AEP system. The AEP system is only permitted to be used by highly trained professional police officers who have to satisfy themselves that if they decide to fire an AEP that they have taken into account all the necessary factors and indeed that they stand alone in justifying the decision to fire. All trained officers will be acutely aware that every firing action may potentially be the subject of an investigation by the Office of the Police Ombudsman for Northern Ireland.

87. It is worth noting that the PSNI General Order (21/2005) relating to the AEP system came into operation on 21 June 2005 and that prior to 12 July 2005 no AEPs had ever been discharged. The General Order which preceded 21/2005 dealt with "baton rounds" (46/2000). Baton rounds had been used on many occasions prior to 2005. As previously mentioned general order 46/2000 states that baton rounds can be used to keep rioters at a safe distance and disperse or contain rioters. General Order 21/2005 (AEPs) does not have any detail in relation to the use of the AEP system as a means of keeping a safe distance.

88. The Gold Commander informed HSENI that the first request that the Silver Commander made to him for the deployment of AEPs was at 20:29 hours.

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89. Using the powers given to it in Article 22(j) of the Health and Safety at Work (NI) Order 1978, HSENI required the two Gold Room radio operators to answer a number of questions relating to the transcript of GJ3(a). Both officers were made aware that the penalty for willfully making or signing a false declaration is, on summary conviction, a fine not exceeding £20,000 or conviction on indictment, to imprisonment for a term not exceeding two years, or an unlimited fine, or both. Both Gold Room radio control officers informed HSENI through their declarations that the Gold Commander was approximately six feet from their station in the Gold Command Room. In relation to the specific radio transmissions requesting AEPs, both radio operators stated, "Whilst I [we] cannot remember specific occasions it would have been the norm for I or Constable \*\*\*\*\* to bring this transmission to the attention of the Gold Commander as it was part of our remit to ensure he knew any pertinent facts".
90. The first request was made by an officer from the Greens [TSG units adopt colours as callsigns] sometime just before 20:00 hours. This request was made to Silver Command. This request was denied by Silver Delta [radio control at Silver Command]. The video evidence from around this time shows rioters at very close quarters. The attacks on police were described by officers as very bad. The police dogs which had been deployed on the front line to push rioters back had to be withdrawn due to the ferocity of the violence from rioters.

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91. At this stage withdrawal from the area could not be undertaken easily as there were still officers deployed on the rooftops. In addition the loyalists at Twadell Avenue may have been difficult to protect against the very large crowd of nationalists who would have been free to attack them.
92. Before the next request was made, Crimson Two stated on the radio, "I am replacing one water cannon with another. We may have to use it again as the crowd is continuing to advance. We are taking police casualties here".
93. The second request for AEPs was made by Echo Two, a level two TSG. Some members of Echo 2 were close to an area near the Regal Furniture Shop where officers had just got down from the rooftops. Almost immediately rioters came up onto the rooftops and started to throw very heavy masonry down on top of officers. The potential for injury was very high at this point. This request was made to Silver Command. Silver Command refused permission to deploy AEPs, stating that, "officers on the roof responding to that as we speak". Echo Two (possibly Three) responded, "Negative, negative, the officers are on the other part of the roof. This part is unprotected".
94. It must be remembered that according to the agreed command structure operational on the day that the only person with the authority to authorise the deployment and use of AEPs was the Gold Commander. It should also be remembered that the Gold Commander informed HSENI that the first time Silver Command asked him for

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permission to deploy AEPs was at 20:29 hours. It should further be remembered that the Gold Room radio operators, who were seated approximately six feet from the Gold Commander, were aware of all the requests made for AEPs that day and they stated, that it would be the "... Norm to bring this [*these*] transmission[s] to the attention of the Gold Commander as it was part of our remit to ensure he knew any pertinent facts".

95. Before the next request for AEPs was made, Silver Command informed all callsigns that "youths are making their way onto the roofs". Silver Command asked Crimson Two if it was possible to leave the area but no reply came via the radio.

96. The third request for deployment of AEPs was made by Crimson Two and again this was to Silver Delta in order to protect police officers from lumps of masonry being thrown off the roofs. This is a most peculiar request from the point of view that Crimson Two was one of the most senior officers on the ground that day and he was seeking permission from a Commander who did not have the authority to make that decision. Silver Command replied that the permission was denied.

97. Bronze 20 then informs Silver Command that, "It is simply not possible to pull the police out of here, em, we need to protect this area in front of Twadell".

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98. Bronze 20 then informed Silver Command that the rioters on the roofs could actually reach the crowd at Twadell with their missiles. This is significant as the crowd at Twadell were now unprotected despite having police lines in front of them.
99. Crimson One then starts to get TSG crews which were at the Estoril end to crew up ready to leave the area and this was agreed by Silver Command. White One then warns that the crowd at Estoril are coming back down to have a look at the rear of police lines. Crimson Two then requires that no police are to leave the Estoril area in any way which would expose the rear of officers facing Brompton Park. Crimson One then tells Crimson Two that the rear of the Brompton line is being covered by TSG 5 and that numbers from TSG 6 upwards are leaving. Crimson Two replies that TSGs 5 & 7 are committed to the line at Brompton and that, " There is no one covering our rear at this time".
100. From an outsider's point of view there appeared to be serious confusion on the ground and a lack of oversight and coordination from the control rooms observing the events in real time. It is noted that situations like this one are dynamic and can ultimately be confusing to some degree. At the same time there appeared to a single policy of withdrawal being pursued by those in Command despite the fact that it was most likely going to take some time to prepare the officers on the ground for this and the fact that it should have been obvious that with the severity of the rioting from the nationalist crowd that the loyalist crowd at Twadell may have come under attack. HSENI is also of the opinion that during the process of withdrawal, the officers may

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have been placed in a more vulnerable position unless all crowds could be kept back a reasonable distance.

101. The other tactic being considered by those in charge of the operation was to take hard cover. HSENI has discussed this tactic with numerous officers involved on the day and there was agreement that again hard cover, whilst protecting them from missiles, places them in a possibly greater danger. In the past rioters have been able to get up round the Landrovers and attack them and attempt to roll them over. They are also vulnerable to petrol bomb attack with the officers inside them. If the tactic of hard cover is to be used again there needs to be some method to keep the rioters at a reasonable distance from police lines.

102. The next significant event is when Scarlet Three informs Silver Control that a "lit cracker bomb has been thrown ..... Officers' legs". Shortly after this Green One informs Silver Command that a car has been driven out of Brompton into the top of the Crumlin Road.

103. The fourth request appears to have been made by White One. Again this was to Silver Command who asked White One to, "Wait".

104. The fifth request again appears to come from White One to Silver Command because White One was concerned about the threat from the rooftops. Silver Command denied permission on this occasion.

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105. *Green One* reports to Silver Command that they are under attack from more petrol bombs and fireworks.
106. *Jade One* reports to Silver Command that his team are "taking injuries here" [at Brompton].
107. There is then a report made to Silver Command that a blast bomb has been thrown at police lines. [*This may have been made by Crimson Two*]. *Scarlet Three* then informs Silver Command that there is a blast bomb filled with screws and quarry stones behind police lines. *White One* then asks Silver Command for permission [to deploy AEPs] again as, "there is no one on the roof to ensure the safety of officers". This request is reiterated by *Scarlet One*.
108. *Scarlet One* soon after appeals to Silver Command for the deployment of AEPs because, "when the water cannon is changing over we are getting an absolute pasting from heavy masonry"
109. Soon after this *Jade One* reports that his team are "taking injuries here" and asks Silver Command for deployment of AEPs.
110. In support of the previous request for deployment of AEPs made by *White One* [to which no answer had been given], *Crimson Two* confirms the issue about the blast

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bombs and stated, "I confirm his assessment that the deployment of AEPs at this stage is necessary and proportionate".

111. Crimson One again asks Silver Command for a response to his last request. It must be remembered that both the Silver and Gold Command Rooms had state-of-the-art live video coverage of the entire events as well as full access to all radio communications.
112. The next significant communication comes from Silver Delta [*Silver Command* radio Operator] who tells callsigns that the Silver Commander is, "speaking to Gold about that. His option is to withdraw from there". In response to this Crimson One informs Silver Delta that, "we have a withdrawal plan in place but as you can see from the coverage it is too difficult to put into effect".
113. Scarlet One again informs Silver Delta that "I am getting it tight here on the changeover of the water cannon. Somebody's going to get seriously injured here. Permission to deploy AEPs".
114. No permission has been given by anyone to deploy AEPs at this stage. It is worth remembering that the permission being sought was to "deploy", not necessarily to "use" the AEPs.

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115. Crimson Two, one of the most senior officers on the ground, then asks Silver Delta to, "Inform the Silver Commander that the lives of police officers are at serious risk here. Get him to speak to the Gold Commander now and request AEPs at this scene. We cannot disengage immediately. We have no water cannons full and cannot leave this point".
116. Jade Three then informs Silver Delta that he has three injured officers.
117. Green One then informs Silver Delta that, "even with the water cannons we have fourteen men injured. I am requesting AEPs immediately".
118. The next radio communication is made by Silver Delta to Crimson Two and it stated, "Request from Gold is denied. Request from Gold is denied at this point and extract, that is extract. That's from Gold". Bronze 20 replies to this by informing Silver Delta that, "it is going to take us one zero to be able to pull back from here. The officers on the front line are taking serious masonry and petrol bombs. I request that we deploy AEPs".
119. Gold Command then interrupts a message from Silver Command stating, "All callsigns, Gold Command, blast bombs on roof shop fronts, blast bombs roofs shop fronts". Following this it is possible to hear a number of TSG commanders instructing their teams to take hard cover.

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120. At this stage Silver Delta informed Bronze Two Zero that Gold has given "permission to defend off the roofs only. Permission to defend has been granted. Defend off the roofs only". It appears that very soon that the White AEP teams then "deployed" their AEPs. Shortly after this Scarlets appear to deploy their AEPs.
121. The permission granted by Gold Command above did not apply to the area where the most senior officers on the ground had informed Silver and Gold Commanders that the officers faced serious risks because of the rioting. It was clear to all parties that the permission which had been granted to deploy AEPs was not given for the protection of police officers at Brompton.
122. A report was then logged that an individual just behind police lines [*a media person*] had received serious injuries as a result of a blast bomb and that he needed an ambulance. White One then stated that, "just prior to the blast bombs the crowd pulled back, aware of what was happening".
123. Shortly after this from an unknown source the message clearly comes across the radio, "Man Down, Man Down". This would be known to mean that an officer has sustained serious injuries.
124. Crimson One then stated, "Urgent request for deployment of AEP rounds Brompton Park. Urgent, life threatening situation". Reports are then made of serious injuries to a member of the media and a member of the Army.

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125. Crimson Two then stated, "we have one man badly injured in the middle of the roundabout. We require AEPs immediately or we are going to risk losing a police officer's life. Relay that to Gold Command immediately". Silver Delta is then asked to, "..... give further details for Gold to authorize". Silver Delta then states that "Gold is about to give you permission".

126. Before permission is given, Scarlet One stated, "we are getting a pasting here beyond belief here at Brompton. Permission to use baton guns now". Silver Delta then asks Crimson Two to "talk directly to Gold in relation to baton guns, talk directly to Gold". HSENI finds this transmission somewhat confusing as Gold had full access to all radio communications and live video pictures. Over the radio Crimson Two and Bronze 20 had already given their opinion that withdrawal was not an option and that AEPs were needed. HSENI fails to understand the delay in the granting of this permission, when it was clear from all officer ranks on the ground that for some time lives were at risk. To HSENI this appears to be way beyond the test required by PSNI policy which is that "AEPs must only be used in public order situations where other methods of policing have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried. Additionally their use must be 'absolutely necessary'. The policy states that where it is judged that their use is absolutely necessary, AEPs can be used to reduce a serious risk of: (i) loss of life or serious injury; and (ii) substantial and serious damage to property, which is likely to cause or is judged to be likely to cause a serious risk of loss of life or serious injury".

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127. Crimson Two then stated, "seriously injured, twenty seriously injured police officers right in the middle of the road. I cannot move, I cannot extract. Police officers lives are at serious risk. We have had a number of blast bombs. I require AEP deployment immediately".
128. Bronze Two Zero, the most senior officer on the ground then comes on the radio stating, "I confirm that. AEPs needed, I repeat, need to be deployed now to all callsigns". Crimson Two again asks Gold Command, "Did you overhear my last?" and Gold Command acknowledges this was heard.
129. After another couple of transmissions, Crimson Two again states, "Re my last about a seriously injured member. I have just been informed I have two blast devices lying behind a wall of the ambulance station unexploded. It is impossible to extract from this situation at this time. Injuries to police officers are life threatening if this continues. We require AEPs".
130. It is at this stage that Gold Command announces that, "Permission to deploy AEP but use the water cannon". This is then reiterated by Crimson Two who also asks the water cannon to announce a warning over the public address system. AEPs are not fired immediately but a number of the crews start to deploy the AEPs. Green One then seeks confirmation that permission has been granted to "use" the AEPs. Silver Delta responded to this by stating, "All callsigns, permission to deploy AEPs has

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been granted. Ah, there is a water cannon in Woodvale if your objective can be achieved by water cannon use it, if not tell us".

131. Crimson Two then asks Bronze 20 if he will authorise the "use" of AEPs at "this location" [Brompton and shop fronts] to which Bronze 20 stated, "That is confirmed, use against identified rioters".

132. At times it appeared that radio traffic had become very busy and to some degree radio discipline was hampered. The deliberate and inadvertent use of the "priority button" on radios also served to add to the confusion.

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### 20. TESTS APPLIED BY GOLD COMMAND BEFORE AUTHORISING DEPLOYMENT AND USE OF AEPs:

133. The Gold Commander informed HSENI that he had to satisfy himself that the authorisation of AEPs was absolutely necessary. To do this he asked three questions of Silver Command and these were:

- (1) *Can the officers take cover?*
- (2) *Can the officers manoeuvre (i.e. withdraw)?*
- (3) *Are there other less lethal methods that could be deployed to deal with rioters?*

134. HSENI has some appreciation of the political sensitivities surrounding the use of “baton rounds” in Northern Ireland. Running alongside this is the classification of the AEP system within health and safety legislation [see earlier section on the Provision and Use of Work Equipment (NI) 1999]. HSENI cannot make any comment on the political sensitivities, but notes comments made by the Gold Commander that he had to assure himself that their use was “absolutely necessary”. His chosen method of doing this was to ask the questions set out in paragraph 133. The Gold Commander stressed to HSENI that there was “no political interference” and that on 12 July 2005 it was purely a policing operation.

135. If the AEPs are not made available it equates to denying employees the right to use a control measure identified as part of the risk assessment, which is a statutory requirement under the Management of Health and Safety at Work Regulations (NI) 2000. The purpose of such an assessment is for, “identifying the measures he needs to



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take to comply with the requirements imposed on him by or under the relevant statutory provisions" [e.g. Article 4(1) of the Order]. HSENI is of the opinion that a failure to implement the use of identified control measures which have been identified as part of a suitable and sufficient assessment of the risks raises a question as to whether or not a safe system of work was provided and maintained during the policing operation.

136. It is apparent from the radio transcript that blast bombs were thrown at and over police lines some time before the first authority to deploy AEPs against the rooftops was given. In his statement, the Gold Commander stated that, "I made the decision to deploy and authorise the use of AEPs against identified blast bombers from the roof of the Ardoyne shop fronts without being asked for permission". This particular authority was given sometime close to 20:29 hours. Prior to this time a number of requests had been made from officers on the ground and HSENI has been told by the Gold Room radio operators that these were fed up through the chain of command. HSENI has been informed that the Gold Commander would have been involved in numerous telephone conversations during the period. Records of these are not available. In addition the radio transcript sequence shows that there were five radio messages specifically about blast bombs and then Silver Delta reports, "Yes, he [Silver Commander] is speaking to Gold about that. His option is to withdraw from there. Is that possible?" This was followed by a number of radio messages all describing police casualties. The next message is from Silver Delta and it stated,

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"Crimson Two from Silver Delta. Request from Gold is denied. Request from Gold is denied at this point and extract, that is extract. That's from Gold, over".

137. On the particular radio transmission from Silver Delta ["Crimson Two from Silver Delta. Request from Gold is denied. Request from Gold is denied at this point and extract, that is extract. That's from Gold, over"], the Gold Commander clarified his position to HSENI as follows, "I asked Silver the 3 questions. At this time I did not grant nor did I deny permission to deploy and use AEPs". This appears to suggest that in the absence of a "negative authority" from Gold Command then officers on the ground could assume that they are permitted to deploy and use. HSENI has examined the relevant policies in some detail and cannot see how this can be interpreted from any of them. The Gold Commander provided clarification on this statement by saying that he believes that officers have the right to self-authorise (the issue of self-authorisation is addressed in other sections of this report).

138. The Gold Commander informed HSENI that in response to a request from the Silver Commander, he ceded the authority to deploy and use the water cannons to the Silver Commander around 19:30 hours, some twenty minutes before the violence started. He also informed HSENI that the first request made to him by the Silver Commander for the deployment of AEPs was at approximately 20:29 hours and that the Silver Commander had the option but did not make any requests prior to this.

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### **21. THE EFFECT OF THE DEPLOYMENT AND USE OF AEPs:**

139. There is some debate about the impact that the deployment of AEPs had on the rioters. To a man every officer who was on the ground at that time and who was interviewed in this investigation believed that the ferocity and tempo of the riot changed significantly when the AEP guns were deployed and shown on the lines and then when they were used. A number of officers took the view that a riot which was out of control where officers were taking major casualties was quickly restored to one which the police regained control of. It was possible to maintain a greater distance between rioters and police lines.

140. Although not a definitive or accurate measure of the impact of the use of AEPs on the day it should be mentioned that HSENI received thirty-three NI2508 forms relating to police officers at Ardoyne on 12 July 2005 at the relevant time. NI2508s are statutory forms which report instances where an employee is off work for more than three days as a result of an accident at work, not counting the day of the accident. Of the thirty-three NI2508 notifications received, thirty two of these timed the injuries as being inflicted at or before 20:30 hours.

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### **22. FINDINGS:**

141. The fact that no serious injuries are reported to Police Command (Bronze / Silver / Gold) is irrelevant when considering the deployment and use of AEPs as the difference between a major accident injury and a "near miss" event is something which cannot be pre-determined in these situations.
142. The risk assessment for the operation was not suitable and sufficient. It did not consider the "what ifs" and while it did identify some control measures it did not consider the implications of these measures not being available (e.g. if the hazard conditions mentioned in the risk assessment were met and the control measures identified either were ineffective or were not used). It would have been prudent to insert a sub note to the assessment stating that a failure to deploy and use AEPs when required could result in the risk being assessed as "very high". The traditional risk assessment cannot provide all the answers and it cannot be prescriptive.
143. Control measures should be available for use at all times. On 12 July 2005 for the reasons outlined in this report the AEP control measure was not made available to officers who were being injured and who were facing the risk of serious and at times life threatening injury. This situation was particularly alarming during those periods when one of the other control measures, namely water cannons, either were not available or were not ready for use because they were out of water and/or being refilled with water. This situation placed officers at risk and should not have been permitted to happen. It should be remembered that those officers permitted to use the

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AEP system are highly trained and specialist officers and that they are fully aware of the consequences of their actions.

144. The traditional risk assessment is not flexible or responsive enough so it is recommended that the principles of "dynamic risk assessment" be applied on the day. To achieve this it is vital that well trained, experienced and competent persons are best placed to decide what they need and when they need it. HSENI is of the opinion that TSG Commanders, and the other senior ranks on the ground are best placed to decide what control measures are required to provide and maintain a safe system of work for their people. In terms of the requirements placed on the Office of the Chief Constable by the relevant statutory health and safety provisions, HSENI does not agree that where the risks to the health and safety of officers at work are in such danger as they were on 12 July 2005 that there is justification for withholding any control measure which is legal. As the PSNI had identified the use of "baton" rounds on the risk assessment for the operation it is assumed that the AEP system is a legal control measure.

145. The command structure used on the day, which had been the one used since 2001, was confused in so far as the Gold Commander held all the authorities in relation to the use of the AEP system. This was a deviation from PSNI policy. The Gold Commander informed HSENI that he had numerous responsibilities on the day. The officers on the ground were seeking permission from Silver Command who was not in a position to give such permissions. In essence Silver Command became a

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messenger relaying requests between officers on the ground and Gold Command. Having said this it must be remembered that the Gold Command room were fully informed of everything which was going on. In terms of seeking assurances and authorities HSENI is of the opinion that Silver Command was an unnecessary link in the chain of communication which served to add delay in decision making. An example of how this could have been avoided would have been for the Gold Commander to open up a direct line of communication with Bronze Two Zero and/or Crimson Two. Gold Command should be strategic, Silver Command should deal with tactics, and Bronze Command should deal with operational matters. The fact that Gold, who was dealing with other strategic issues, also had tactical and operational roles in relation to AEPs added unnecessary bureaucracy.

146. The radio traffic was undisciplined and at times unclear. It is not known if this had any effect on the issues raised by the PFNI.

147. The three tests which the Gold Commander (para 133) wanted to satisfy before authorising the deployment of AEPs were not known to a number of the officers including some of the TSG commanders and at least one other senior officer on the ground. This is a significant failing and only served to delay the deployment of AEPs during a period when officers were clearly at risk.

148. HSENI is of the opinion that the answers received from the PSNI throughout this investigation did not provide a justification for the apparent delay in the authorization

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for the deployment and use of AEPs. This statement is made for the following reasons:

- (1) Gold and Silver Command had real time video coverage of the entire area;
- (2) Gold and Silver Command had real time coverage of all radio traffic;
- (3) Experienced officers on-the-ground had been asking for the deployment (not use) of AEPs for up to approximately thirty-five minutes (roof tops) and approximately forty to forty-five minutes (Brompton) before the authority to deploy was given;
- (4) The use of "baton" rounds had been identified as a control measure on the risk assessment for the policing operation without any restrictions being considered;
- (5) Rioters and rioting crowds have the ability in certain circumstances to react and change situations extremely quickly [e.g. rushing police lines when the water cannons were not available or attacking the rear of police lines etc.]. During these times officers are placed at serious risk. If the AEPs are in Landrovers and they can only be brought out of the Landrovers on the authority of a Gold Commander who is remote from the action and who was using Silver Command (who had no authority) to ascertain if certain conditions existed (even though Gold Command was in every bit as good a position as Silver Command) then officers on the ground were being put at unnecessary risk for a period of time until a decision was made. The deployment and authority to use could have been made earlier. HSENI is not advocating the firing of any weapon but if the deployment and use authorities had have been given earlier then the officers on the ground would have had the capability to deal with certain hazards should they have arisen; and

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(6) The risks being faced by officers were obvious from both video footage and radio traffic to both Gold and Silver Command Rooms.

149. Fundamental to the concept of a safe person is that it must be understood that all ranks have the authority, as well as the duty, to take *immediate* action in the interest of safety. Individuals must have the ability to make professional judgements about the use of available resources. They must be competent to perform tasks assigned and self-disciplined to accept safe systems of work.

150. If the environment is rapidly changing and hazardous [sector commanders] must be given authority to take autonomous action if necessary. This should be in place from the start or at least from the start of a situation which could under any circumstances rapidly develop into a situation like the one which developed on 12 July 2005. The key to maintaining a safe system of work is "readiness". It is not acceptable, when the means to protect officers exist, to deny officers the right to use these measures. It can take a very short time for an officer to get seriously injured, a much shorter time that radioing through to Silver Command who relay the request to Gold Command who then ask Silver Command a number of questions etc.

151. In relation to the authority to deploy and use AEPs generally, HSENI is not satisfied that the requirements of relevant health and safety provisions was met in relation to the provision and maintenance of a safe system of work. This must not

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under any circumstances be taken to understand that HSENI is recommending or endorsing the use of AEPs. This is and should remain a matter for the PSNI.

152. We have also considered whether the health and safety of PSNI officers was adequately protected during the operation. HSENI believes that officers were exposed to unnecessary risks to their health and safety on the day. HSENI believes that better and more effective use of the control measures could have been taken to protect officers.

153. It should be noted that officers on the ground showed considerable restraint in the face of serious risks to their health and safety. All officers were carrying lethal weapons. No officer used these weapons.

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### **23. RECOMMENDATIONS:**

154. Recommendation 1: A review should be carried out into the arrangements for the deployment and use of AEPs bearing in mind that under health and safety legislation they are classified as "work equipment".
155. Recommendation 2: Risk assessments for this type of operation should properly address the risks involved and clearly show the impact of certain control measures not being available.
156. Recommendation 3: The Command Structure utilised on operations like this should not add in unnecessary delays to critical decision making in relation to the health and safety of officers [employees].
157. Recommendation 4: A review should be held into how best radio communications can be managed during these operations.
158. The PSNI should consider the application and limitations set out in the Personal Protective Equipment at Work Regulations (NI) 1993 to situations such as the one under consideration. The protection afforded by such personal protective equipment is limited when considered against the maintenance of a distance which would make it difficult for rioters to throw missiles at police lines.

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### 24. ACTION ALREADY TAKEN BY PSNI

(This section was provided by the PSNI).

159. Subsequent Recommendations and Actions taken after the Ardoyne Riot 2005 (As a result of debrief, review and recommendations plus recommendations from other reports {Human Rights report}, with the exception of items 6 & 9, the following actions have taken place and been implemented within 60 days of debrief).

160. The lack of clarity in respect of 'time' has caused significant difficulties for subsequent analysis, and has the potential to cause confusion and misunderstanding on the ground during operational deployment. Action taken: Atomic Clocks were purchased and installed in the Gold Room and each Silver Room in Urban Region. At the commencement of each operation the Gold Room ensure that these clocks are synchronised.

161. There are indications that some of the Accident/Incident Reports (Form 23/10) may not have been completed properly. Therefore the information contained within the forms should be given careful consideration, as it may have led to a distorted picture of the injuries sustained. It may be appropriate to remind all staff of their responsibilities in this regard prior to future public order deployments. Action taken: Directions were issued ref the requirements placed on each officer to individually complete these forms as accurately as possible. Forms should not be completed as a group action, which was found to be happening.

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162. The authorisation process for AEPs distinguishes between 'deployment' and 'use'. While it is clear that the decision by Gold Command at around 2034hrs provided permission to 'fire' at identified blast bombers on the shop roofs, the language used ['deploy'] leaves open the potential for misunderstanding. Action Taken:

- a. Language has been clarified at all levels, Gold, Silver and Bronze as well as every Unit Commander and included in the Regional Public Order Strategy.
- b. Authority to deploy and use AEPs and Water Cannons is seeded in each case to the relevant Silver Commander prior to the operation commencing and at the point of Gold authorising the issue, which is in advance of the commencement of the operation.

163. These actions have removed any potential for misunderstanding.

164. The initial report of the officer seriously injured at the roundabout was at 2038hrs. Permission for general deployment of AEPs was granted at around 2040/2042hrs. It is clear from radio transmissions that, following requests to Silver Command for permission to deploy AEPs, the same information was relayed directly to Gold Command before authorisation was granted. There was no additional information provided.

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165. It seems that the sheer volume of radio transmissions to the Silver Command Room may have contributed to the communication difficulties experienced by officers during the period of intense rioting. Another contributing factor was the emergency button on the police radio – this was, at all times, activated unintentionally by officers, which meant that other messages could not get through and had to be transmitted repeatedly. To summarise, radio discipline was lost at the critical time and this may have contributed to the confusion on the ground about when general authorisation for AEPs had been granted. Action taken: Each major public order operation now has a dedicated radio Command Channel created for Gold/Silver/Bronze only to communicate. Communication Branch was also tasked to examine the positioning and use of the Emergency Button and its locality to other equipment worn to assess the possibility of resolving the issue of accidental activations.

166. The helicopter camera was very effective at times in pinpointing potentially life-threatening situations. However, while the camera was focusing on individual rioters, e.g. at Brompton Park, there seems to have been no simultaneous coverage of the 'bigger picture', i.e. what was going on at the time on the shop roofs. Action taken: PSNI have moved to purchase a second helicopter along with renewing its fixed wing capability. Military resources are still available until this occurs.

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167. PSNI Legal Services should review how best to ensure that human rights legal advice continues to be available at all stages of the planning and execution of policing operations for contentious parades. Action taken:
- a. This was adopted with Legal Representation expanded to now be present at all relevant planning meetings not just Gold.
  - b. Federation representation is included in all Gold and Silver meetings to reflect officers' views.
168. PSNI Legal Services should formalise the 'on call' system as soon as possible as a matter of good practice. Action taken: This was adopted and fully implemented with Legal Representation on call or actually present on the day of the operation in the Gold or Silver room available for immediate consultation.
169. The PSNI should consider obtaining modern screening equipment of its own as soon as possible. Action taken: This was adopted and actioned. PSNI have now purchased their own Screen capacity at a cost of £800k.
170. All District Commanders should bring the PSNI instructions on the wearing of identification markings in public order situations to the attention of all their officers forthwith. Action taken: This was re-emphasised to all officers and made a constant requirement in pre-planning both in the Gold/Silver Strategies for all public order events.

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171. The Police Federation is represented at every Gold meeting.

172. Gold Control room has been refurbished to record all Verbal Communication.

From 16 June 2008, all microphones will pick up all in-room conversation.

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### 25. CONCLUSION:

173. HSENI has drawn conclusions based solely on the evidence made available during the investigation. This type of investigation is unprecedented for HSENI and in that respect came with many challenges.

174. As previously stated HSENI is of the opinion that there were failings in respect of health and safety legislation arising out of the policing operation on 12 July 2005. In advance of the 2006 marching season HSENI held a meeting with a senior officer of the PSNI and listened to proposals on how such public order problems would be handled in order to minimise injuries to officers. The PSNI outlined the learnings from the 12 July 2005 parade and the subsequent parades in September 2005. Fortunately the parades since 2005 have passed off relatively peacefully.

175. HSENI, as a regulatory body, has a duty to ensure that legal requirements in relation to health and safety are complied with.

176. HSENI does not propose to take any legal action in relation to this complaint but would like assurances that the lessons from 2005, and the recommendations in this report, will lead to the creation and maintenance of a safer working environment for police officers involved in public order policing operations. HSENI acknowledges that many changes have already been made and the next section outlines a number of these.

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