

**HUMAN RIGHTS REVIEW OF
PSNI'S USE
OF FORCE**

JANUARY 2023

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Foreword

I am pleased to present this Human Rights Review of PSNI's Use of Force.

The legitimate use of force is one of PSNI's most significant powers and should therefore be scrutinised closely. A rights-based approach to policing protects the public and officers responsible for delivering the service and the importance of having a positive human rights culture in our policing service and a willingness to be held to account to the community through the Policing Board is crucial.



With the specialist advice of the Board's independent Human Rights Advisor, this Report highlights good policing practice regarding the use of force and areas in which practice could be improved. This Human Rights Review contains ten recommendations for PSNI regarding the Use of Firearms, Attenuating Energy Projectiles (AEP), Conducted Energy Devices (CED), Stun Grenades, Police Dogs, and Body-Worn Video (BWV).

This Report particularly examines the use of CED by PSNI, covering human rights implications, current use, and the impact of CED use on individuals. The introduction of CED to Northern Ireland in 2008 was subject to a Human Rights Review by Keir Starmer and Jane Gordon in 2007 when they both held the role of Human Rights Advisor to the Board. Re-visiting prior recommendations is good practice and ensures that the Board's Human Rights advice is kept in line with international human rights standards and policing standards.

One of the themes that emerged from the research of this report is policing and mental health. CEDs seem to be used in situations in which the subject is in mental distress and threatening self-harm or harm to others. PSNI are under increasing pressure to deal with people experiencing mental health crises, as are forces across the UK.¹ PSNI are often the last resort for people experiencing distress, which is a worrying trend. An important safeguard to this is for officers to be trained in de-escalation, which has been recognised by the College of Policing as positively impacting on the outcome of an incident.²

1 HMICFRS, Policing and Mental Health (2018) <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/policing-and-mental-health-picking-up-the-pieces.pdf>

2 Conflict Management Guidelines, College of Policing (2020) <https://assets.college.police.uk/s3fs-public/2020-09/Conflict-management-guidelines.pdf>

This Report has been drafted in line with the Board's Human Rights Monitoring Framework, which was reviewed and updated in 2021 and sets out the areas under scrutiny by the Advisor over the three-year period³.

I welcome the findings of the report and the recommendations made by the Human Rights Advisor. I will ensure that the Board and its Committee continue to scrutinise the work of the PSNI during this period so that the recommendations and lessons identified in this report are implemented to improve policing.

In conclusion, I would like to thank our Human Rights Advisor, John Wadham, for his work in producing this Report.



DEIRDRE TONER

CHAIR | NORTHERN IRELAND POLICING BOARD

EXECUTIVE
SUMMARY

RECOMMENDATIONS

PART 1
HUMAN RIGHTS REVIEW
OF PSNI'S USE OF FORCE

PART 2
HUMAN RIGHTS REVIEW OF PSNI'S
USE OF CONDUCTED ENERGY DEVICES

³ <https://www.nipolicingboard.org.uk/files/nipolicingboard/publications/human-rights-three-year-programme-of-work-2021-2024.pdf>

Executive Summary

The purpose of this report is to provide an overview of PSNI's use of force. The Human Rights Advisor has made ten recommendations where PSNI action is necessary, regarding Firearms, AEP, CED, Stun Grenades, Police Dogs, and Body-Worn Video (BWV).

Part I considers all types of force that PSNI have available: AEP (baton rounds), personal batons, irritant spray (PAVA), firearms, police dogs, Conducted Energy Devices (CED), handcuffs, limb restraints, unarmed physical tactics, spit and bite guards, stun grenades, and water cannon. The report provides an overview of how these kinds of force are used, PSNI policy, any potential medical implications, and statistics.

In Part II, the report focuses on the current use of CED by PSNI. A review of the use of CED was of particular interest to the Human Rights Advisor as there has not been a review of PSNI's use of CED since their introduction in 2008. The use of CED is particularly contentious⁴ and was the subject of a judicial review at the time of introduction.⁵ Additionally, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) has recommended that their use in Northern Ireland should be expanded in a 2020 report, which the Board's Human Rights Advisor does not recommend.⁶

In the first section Part II, the Human Rights Advisor explores in depth the human rights implications of CED. Considering Keir Starmer's and Jane Gordon's report in 2007, this section of the Report considers these Articles and recommendations made by the European Court of Human Rights (ECtHR), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), and the Northern Ireland context.

In the second section, the Human Rights Advisor considers the current use of CED in Northern Ireland, including in custody settings, how CED use is investigated and how it compares to other police services.

4 See Chapter 'Impact of CED'

5 JR1's Application [2008] NIQB 125 An Application for judicial review by JR1 by her mother and next friend

6 HMICFRS, An inspection of how well the service treats its workforce and the people of Northern Ireland (2020), p. 6, <https://www.justiceinspectrates.gov.uk/hmicfrs/wp-content/uploads/psni-inspection-how-well-service-treats-workforce-and-people.pdf>

The third section of the report considers the impact of CED on subjects, especially on vulnerable people with mental health issues and young people. While CED are not lethal devices, they are potentially lethal devices and being subjected to a CED discharge is painful and can, like other forms of police force, have serious psychological impacts on individuals. De-escalation training for officers is an important safeguard for resolving situations in a non-violent way and keeping CED use to the absolute minimum.

The Human Rights Advisor watched a small sample of body worn footage, and CED seem to be used to resolve situations in which the subject is in clear mental distress and threatening self-harm or harm to others. It is difficult to ascertain whether these situations could have been resolved differently. In an ideal world, the people affected should have gotten the help they needed earlier from mental health services, without having to involve Armed Response Units (ARU). Mental health services and PSNI already work together, for example through the Multi-Agency Triage Team, and have received good feedback.

Details of the recommendations made are set out below with the findings and context set out in Part 1 and Part 2 of the report.

OVERVIEW OF RECOMMENDATIONS

RECOMMENDATION 1 - FIREARMS

PAGE 14

The reduction in the security threat level in Northern Ireland and the fact that officers very rarely have to fire their firearms raises a question about what the criteria should be for issuing firearms to all officers rather than, as in the rest of the UK and the Republic of Ireland, only to those specially trained in their use. The PSNI should consider this issue as part of its longer-term plans.

RECOMMENDATION 2 - ATTENUATING ENERGY PROJECTILES

PAGE 20

- (a) The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are hit by AEP
- (b) The PSNI should also set out medical aftercare guidance for persons hit by AEP in their AEP policy.

RECOMMENDATION 3 - POLICE DOGS

PAGE 27

- (a) The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are bitten by police dogs.
- (b) The PSNI should include details of the types of force recorded for dog use in their statistical use of force bulletin.

RECOMMENDATION 4 - STUN GRENADES

PAGE 28

The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are subjected to stun grenades.

RECOMMENDATION 5 - CONDUCTED ENERGY DEVICES

PAGE 36

The PSNI should reject the recommendation from HMICFRS and continue to restrict the use of CED to Authorised Firearms Officers, Counter Terrorism Specialist Firearms Officers, and Specialist Operations Branch Officers.

RECOMMENDATION 6 - CONDUCTED ENERGY DEVICES

PAGE 47

For PSNI to include the different 'stages' of CED use in their Use of Force statistical bulletins, including arcing and red-dotting.

RECOMMENDATION 7 - CONDUCTED ENERGY DEVICES

PAGE 52

PSNI officers should never use CED in custody or where a person is already restrained, and the relevant parts of the Conflict Manual should be amended to make this clear.

RECOMMENDATION 8 - MENTAL HEALTH

PAGE 59

To better understand the extent of subjects with mental health needs that the PSNI engage with, the Human Rights Advisor recommends collecting data on subjects threatening self-harm. This data could prove useful in advocating for a better linkage between mental health services and the PSNI.

RECOMMENDATION 9 - CONDUCTED ENERGY DEVICES

PAGE 62

It is difficult to see how the use of CED will ever be in the interests of a child and therefore the guidance should be amended to set out the circumstances where this might, possibly, be true.

RECOMMENDATION 10 - BODY-WORN VIDEO

PAGE 66

Considering the vulnerable nature of children, the Human Rights Advisor recommends using BWV in all situations where an Officer is interacting or engaging with a child or young person (or someone who the Officer perceives to be a minor), regardless of the operational context, if BWV is available.

PART 1

HUMAN RIGHTS REVIEW OF PSNI'S USE OF FORCE

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Introduction

PSNI AND THE USE OF FORCE

The purpose of this report is to provide an overview of PSNI's use of force.

In Part II, the report focuses on the current use of Conducted Energy Devices (CED) by PSNI. A review of the use of CED was of particular interest to the Human Rights Advisor as there has not been a review of PSNI's use of CED since their introduction in 2008. The use of CED is particularly contentious⁷ and was the subject of a judicial review at the time of introduction.⁸ Additionally, His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) has recommended that their use in Northern Ireland should be expanded in a 2020 report.⁹

The legitimate use of force by police officers is one of their most significant and symbolic powers. The use of force by one person against another is ordinarily both a crime and a tort (a civil wrong) and, when used by law enforcement officials without justification, violation of the prohibition against ill-treatment in international human rights law (and therefore the Human Rights Act 1998). The use of the powers given to police officers to use force and the inevitable vulnerability of those in custody necessitates that any use of force must be justified by the particular circumstances. Once a person is in custody and/or restrained and is not able to escape, using force is very rarely likely to be justified unless officers continued to be threatened and cannot move away to a safe distance.

THE LEGAL BASIS FOR THE USE OF FORCE

The use of force by police officers engages in a direct and fundamental way the rights protected by the European Convention on Human Rights (ECHR) - Article 2, Article 3, and Article 14. Police officers have the authority to use force in order to defend themselves or another person, to effect an arrest, to secure and preserve evidence or to uphold the peace. Any such use must be justified on each and every occasion and the test for its use may be slightly different. For instance, the justification for the use of lethal force will be different than the justification needed to ensure lawful orders by police officers are followed. The more significant the likely effect on the victim of the force the greater the justification. For example, the high pain levels and dangers to life and health associated with CED use require significant justification, which will be explained below.

7 See Chapter 'Impact of CED'

8 JR1's Application [2008] NIQB 125 An Application for judicial review by JR1 by her mother and next friend

9 HMICFRS, An inspection of how well the service treats its workforce and the people of Northern Ireland (2020), p. 6, <https://www.justiceinspectors.gov.uk/hmicfrs/wp-content/uploads/psni-inspection-how-well-service-treats-workforce-and-people.pdf>

Consideration must always be given to whether there is a viable alternative to the use of force. As a rule, force and restraints must only be used if and when absolutely necessary and where all other means to contain a specific situation have failed and only when alternatives not using force or using less force are not possible.

While some weapons might be classified as 'less lethal', they still ought to be subject to strict scrutiny. General comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life states:

'14. While preferable to more lethal weapons, State parties should ensure that 'less lethal' weapons are subject to strict independent testing and evaluate and monitor the impact on the right to life of weapons such as electro-muscular disruption devices (Tasers), rubber or foam bullets, and other attenuating energy projectiles, which are designed for use or are actually used by law enforcement officials, including soldiers charged with law enforcement missions. The use of such weapons must be restricted to law enforcement officials who have undergone appropriate training and must be strictly regulated in accordance with applicable international standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Furthermore, such 'less-lethal' weapons can only be employed, subject to strict requirements of necessity and proportionality, in situations in which other less harmful measures have proven to be, or clearly are ineffective to address the threat. States parties should not resort to 'less-lethal' weapons in situations of crowd control which can be addressed through less harmful means, especially situations involving the exercise of the right to peaceful assembly.'¹⁰

When police are required to use force to achieve a lawful objective (such as making a lawful arrest, acting in self-defence, or protecting others) the legal bases are to be found in:

- Common law.
- Section 3 Criminal Law Act (NI) 1967.
- Article 88 Police and Criminal Evidence (NI) Order 1989 (PACE).
- The Public Order (Northern Ireland) Order 1987.
- The Human Rights Act 1998.

Any force used must not be greater than was reasonable in the circumstances. If force used is not reasonable it may leave the officer open to criminal or misconduct proceedings. In addition, it may constitute a violation of the human rights of the person against whom the force was used.

¹⁰ CCPR General comment No. 36 (2018), para. 14, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/1_Global/CCPR_C_GC_36_8785_E.pdf

Article 4 of the PSNI Code of Ethics, which draws upon the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, states:

'Police officers, in carrying out their duties, shall as far as possible apply non-violent methods before resorting to any use of force. Any use of force shall be the minimum appropriate in the circumstances and shall reflect a graduated and flexible response to the threat. Police officers may use force only if other means remain ineffective or have no realistic chance of achieving the intended result.'

This extract of the Code reflects the position in international human rights law. The use of force by police officers in Northern Ireland is governed by section 3 of the Criminal Law (Northern Ireland) Act 1967, Article 88 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE), the common law and the Human Rights Act 1998, incorporating the European Convention on Human Rights (ECHR). The ECHR applies directly because s 6(1) of the Human Rights Act 1998 requires the PSNI, as a public authority, to act compatibly with the ECHR. The 1967 Act, PACE and the common law apply to all uses of force by the PSNI and require that it should be 'reasonable' in the circumstances. Reasonable in this context, given the engagement of Articles 2 (right to life) and 3 (the right not to be subjected to torture, inhuman or degrading treatment or punishment) should be interpreted as meaning 'strictly necessary' in the execution of police duties.

In Northern Ireland, the Chief Constable has given standing authority for all officers, subject to successful training, to be issued with a personal issue handgun which may be carried when officers are both on and off duty. In the rest of the UK, only highly trained Authorised Firearms Officers (AFO) carry firearms.¹¹

Police officers should not use force against persons in custody or detention except where necessary for the maintenance of security and order within the institution or when personal safety is threatened [PSNI Code of Ethics, Article 5.2] (UN Principles on the Use of Force, Principle 15).

In regard to police officers using force against individuals with vulnerabilities or mental health issues, Article 130 of the Mental Health (NI) Order 1986 provides the legal basis for police officers who find a person in a public place who appears to be suffering from a mental disorder or is in immediate need of care or control. In such cases, an officer may, if they think it necessary to do so in the interests of that person or for the protection of other persons, use force to remove that person to a place of safety.

¹¹ Chapter 9 PSNI Conflict Manual 'Police Use of Firearms', <https://www.psni.police.uk/sites/default/files/2022-09/Chapter%209%20Police%20Use%20of%20Firearms.pdf>

This does not require the officer to reach an exact diagnosis, but simply to decide reasonably and in good faith whether or not a person exhibits behaviour suggestive of mental ill health.

In addition, under The Mental Capacity Act (MCA) 2005 the restraint of a person who lacks capacity must be in the person's best interests. The MCA 2005 does not unreasonably interfere with the operational discretion of the police, or makes practical policing impossible. It requires no more than police officers to take such reasonable, practical and appropriate steps to make changes to the practice or procedure in order to ensure best interests are considered.¹²

PSNI TYPES OF USE OF FORCE

The PSNI have available twelve kinds of force: AEPs (baton rounds), personal batons, irritant spray (PAVA), firearms, police dogs, CED, handcuffs, limb restraints, unarmed physical tactics, spit and bite guards, 'stun grenades', and water cannon. Some of these devices are categorised by PSNI as 'less lethal options', including CED.

From 1st April 2017 the PSNI started to report the number of uses of force involving restraints (handcuffs, flexi cuffs and limb restraints) and unarmed physical tactics (blocks/strikes, take downs, pressure points, physical restraints and other/improvised). Use of unarmed physical tactics has increased from 40% since April – September 2017 to 57% during April 2021 to March 2022. A police officer will be deemed to have used a firearm or less lethal weapon when it is:

- Pointed or aimed at another person.
- Fired at another person.
- Discharged in any other operational circumstances, including an unintentional discharge.¹³

USE OF FIREARMS

In Northern Ireland, all police officers carry Glock handguns. PSNI policy on the use of handguns states:

'In recognition of the special circumstances prevailing in Northern Ireland, the Chief Constable has given standing authority for all officers, subject to successful training, to be issued with a personal issue handgun which may be carried when officers are both on and off duty.'¹⁴

¹² ZH v Commissioner of the Police for the Metropolis [2012] EWHC 604

¹³ Chapter 9 PSNI Conflict Manual 'Police Use of Firearms', para 9.36

¹⁴ Ibid., para 9.2

Human rights considerations place restrictions on the use of firearms. A police officer can lawfully discharge a firearm only when they believe it is absolutely necessary to do so in order to save life or prevent serious injury.

'Police officers must only resort to the use of force or firearms if other means remain ineffective or there is no realistic prospect 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'¹⁵

In Great Britain, only some police officers carry firearms; that duty is carried out by specially trained AFOs. Given that officers armed with firearms have the potential to inflict lethal force, it is important to highlight the test of absolute necessity that applies here. Lethal force may be used only where it is *absolutely necessary* to do so, in pursuit of a specified aim. Article 2 of the ECHR makes reference to three specified aims. The question of whether a use of force was 'absolutely necessary' in the circumstances is one that depends to a very large degree on the facts of the individual case. There is a requirement of strict proportionality between (a) the objective and (b) the force used to achieve it. Key issues to consider include the nature of the aim pursued, the risks to others and options that were considered before resorting to the use of force.¹⁶ The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials lays out when force can be used against persons, where their use is strictly proportionate:

- (i) in self-defence; or in defence of others against the imminent threat of death or serious injury; or
- (ii) to prevent a particularly serious crime involving great threat to life; or
- (iii) to arrest a person presenting a danger to life or of serious injury and who is resisting authority; or
- (iv) to prevent his or her escape where he or she is about to commit a particularly serious crime that involves grave threat to life.¹⁷

However, in UK law the strict test is mitigated by the fact that the need for objective justification is based on the subjective (the officer's) assessment of the fact and circumstances.¹⁸

¹⁵ Ibid., para 9.4

¹⁶ Ibid para. 9.4; ECtHR Guide on Article 2 - Right to life, https://www.echr.coe.int/Documents/Guide_Art_2_ENG.pdf

¹⁷ OHCHR, Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-use-force-and-firearms-law-enforcement>

¹⁸ 'The subjective reasonableness of that belief (or the existence of subjective good reasons for it) is principally relevant to the question of whether it was in fact honestly and genuinely held. Once that question has been addressed, the domestic authorities have to ask whether the force used was "absolutely necessary". This question is essentially one of proportionality, which requires the authorities to again address the question of reasonableness, that is, whether the degree of force used was reasonable, having regard to what the person honestly and genuinely believed.' Para 251, *Armani Da Silva v. the United Kingdom*.

Officers are accountable for all rounds they discharge, and they should be aimed so as to minimise risk (either directly or by ricochet) to any person other than the subject. Whether on or off duty, officers will be responsible for the safe custody of handguns, magazines and ammunition on personal issue to them.

Officers must attend firearms refresher training once or twice a year, depending on their primary duties.¹⁹ In addition to personal issue handguns, a number of officers are trained in the use of other brands and calibres of firearms. All discharges of a firearm must be referred to the Police Ombudsman.

Statistics

The use of firearms has fluctuated over the course of the past 10 years. Firearms were drawn 364 times in 2012/13, compared to 440 times in 2021/22. Firearms have only been discharged five times over the past 10 years: in 2012/13, 2015/16, 2016/17, 2017/18 and in 2021/22.²⁰ The last incident involving firearms was an unintentional discharge in June 2022 and has been referred to the Ombudsman.²¹

RECOMMENDATION 1

The reduction in the security threat level in Northern Ireland and the fact that officers very rarely have to fire their firearms raises a question about what the criteria should be for issuing firearms to all officers rather than, as in the rest of the UK and the Republic of Ireland, only to those specially trained in their use. The PSNI should consider this issue as part of its longer-term plans.

19 PSNI Conflict Manual Chapter 9, Use of Firearms

20 PSNI Use of Force Statistical Report 1 Apr 2021 - 31 Mar 2022, <https://www.psni.police.uk/sites/default/files/2022-09/PSNI%20Use%20of%20Force%20Statistical%20Report%201%20Apr%202021%20-%2031%20Mar%202022v2.pdf>

21 Investigation launched after PSNI officer 'unintentionally' fires gun, Belfast Telegraph (29 June 2022) <https://www.belfasttelegraph.co.uk/news/northern-ireland/investigation-launched-after-psni-officer-unintentionally-fires-gun-41802175.html>

USE OF ATTENUATING ENERGY PROJECTILES (AEP)

AEP are a type of baton round, also known as kinetic impact projectiles, which are designed to impact rather than penetrate a subject. According to the College of Policing, AEP forms part of the common weapon system approved for use by members of the police service or Armed Forces in the UK. The projectiles used are a '37 mm soft-nosed impact projectile, designated the L60A2.'²² It is 1063.7 cm long and weighs 98g. The mean velocity is 72 m/s.²³

It is 'intended for use as a less lethal kinetic energy device. The approved AEP (designated as L60A2) is fired from a 37 mm breech-loaded weapon. The approved launcher is the Heckler and Koch L104A2, equipped with an approved L18A2 optical sight. 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, while reducing the potential for life-threatening injury.'²⁴

The launcher is a specially designed gun, larger than a handgun, and the projectile is intended to minimise the impact, but 'deliver a high amount of energy over an extended period.'²⁵

History of the weapon in Northern Ireland

Rubber and plastic bullets can be considered the predecessors of the AEP; however, the weapon has changed significantly since its first introduction. Rubber bullets were introduced in Northern Ireland in 1970. They were 5.75 inches in length, 1.5 inches wide, and weighed 5.25 ounces. They caused an unacceptable level of casualties, they ricocheted unpredictably, and they tumbled in flight. They continued to be used until 1975.²⁶

22 Attenuating energy projectiles, Authorised Professional Practice, College of Policing

<https://www.college.police.uk/app/armed-policing/attenuating-energy-projectiles>

23 Maguire et al., Injuries caused by the attenuated energy projectile: the latest less lethal option, *Emerg Med J* 2007;24:103–105

24 Ibid.

25 Definition of types of force, Warwickshire Police, <https://www.warwickshire.police.uk/police-forces/warwickshire-police/areas/warwickshire-police/sd/stats-and-data/use-of-force/definition-of-types-of-force>

26 Fatalities Caused by Plastic and Rubber Bullets, Rights And Security (2005)

https://www.rightsandsecurity.org/assets/cv_uploads/2005_-_Report_on_Plastic_Bullets.pdf

A short timeline of the development of baton rounds is taken from the 2003 review of the human rights implications of the introduction and use of the L21A1 baton round in Northern Ireland by the Omega Foundation and the Northern Ireland Human Rights Commission (NIHRC):

- 1970 - rubber bullets introduced, first fired August 1970.
- 1974 - the plastic bullet introduced - a 'more accurate' and 'less lethal' replacement for the rubber bullet, designed to reduce casualties.
- 1978 - MoD aware that the ammunition was unstable, expanded in hot conditions causing breach explosions, misfires and inaccurate firing. A Royal Ordnance internal report states that this could happen at room temperature.
- 1994 - a 'more accurate' weapon introduced - the Heckler & Koch 37/38mm anti-riot launcher L104.
- 2001 - a 'more accurate' and 'potentially less lethal' baton round is introduced to Northern Ireland, L21A1.²⁷ The L21A1, was 4 inches long, 1.5 inches wide, and weighed 5 ounces.²⁸
- 2005: replaced by Attenuating Energy Projectile. Each AEP round has a hollow 'nose' which collapses on impact to reduce the risk of serious injury.²⁹

Between 1970 and 15th November 1998, 55,834 rubber bullets and 68,995 plastic bullets were fired by the RUC or the Army, 124,829 in all.³⁰ In its 1998 briefing paper on Plastic Bullets, the Committee for the Administration of Justice (CAJ) described the plastic bullet as a lethal weapon.³¹ In 1998, the UN Committee against Torture recommended the abolition of the use of plastic bullet rounds as a means of riot control in its 1998 report on the UK and Northern Ireland.³²

The Report of the Independent Commission on Policing (Patten Report) recognised that 'the most controversial aspect of public order policing in Northern Ireland has been the weaponry used by the police, in particular plastic baton rounds.'³³ Patten recommended that 'an immediate and substantial investment be made in a research programme to find an acceptable, effective and less potentially lethal alternative.'³⁴

27 Baton rounds human rights review, Northern Ireland Human Rights Commission (2003)
<https://nihrc.org/uploads/publications/baton-rounds-review-human-rights-framework-2003.pdf>

28 See 25

29 New plastic bullet approved for use by police in the North, The Irish Times (5 April 2005)
<https://www.irishtimes.com/news/new-plastic-bullet-approved-for-use-by-police-in-the-north-1.429152>

30 Hansard, House of Commons, 19 November 1998, col. 741, available at
https://publications.parliament.uk/pa/cm199798/cmhansrd/vo981119/text/81119w10.htm#81119w10.html_spnew7

31 Plastic Bullets Briefing Paper No. 40 (1998), Committee for the Administration of Justice,
<https://caj.org.uk/wp-content/uploads/2017/03/No.-40-Plastic-Bullets-a-briefing-paper-June-1998.pdf>

32 A/54/44

33 Patten Report, para. 9.12

34 Ibid. para 9.15

Current use

Operational use of the AEP in the UK police service is limited to authorised officers who have been specifically trained in use of the system. The AEP has been designed for use as a *less lethal weapon* in situations where officers are faced with *individual* aggressors whether acting on their own or as part of a group. In Northern Ireland, AEP are used by Authorised Firearms Officers (AFO). This is a police officer attached to an Armed Response Unit (ARU) who has been selected and trained in the use of firearms in policing operations in serious public order situations to fire at selected individuals or as a less lethal option at firearms incidents or non-public order incidents. The officer will have reached the required level of competency in weapon handling, tactical knowledge, shooting skills and judgement. A Specialist Firearms Officer (SFO) is an AFO attached to Specialist Operations Branch (SOB) who has received additional training in the use of firearms in pre-planned policing operations, Counter Terrorism (CTSFO) and specialist entry and search techniques. There are also authorised users of AEP in Tactical Support Groups (TSG) and Diamond Teams, which consist of trained Response and Neighbourhood officers, for possible deployment in situations of serious public disorder.

In recognition of the very serious and potentially lethal effects of AEP, the threshold that must be met before AEP are used is that of absolute necessity, as is required for the use of firearms. There is a requirement of strict proportionality between (a) the objective and (b) the force used to achieve it. The person using the force must honestly believe that it is absolutely necessary to use lethal or potentially lethal force to avert a real and immediate risk to the lives of themselves, and/or others.³⁵ (This is the test provided for in Article 2 ECHR).

PSNI policy

Chapter 9 of PSNI's Conflict Manual, Police Use of Firearms states:

'Where circumstances permit, officers should identify themselves as armed and give a clear direction to the subject, giving sufficient time for the directions to be observed unless to do so would unduly place any person at risk, or would be clearly inappropriate or pointless in the circumstances of the incident. Oral or visual warnings should make the subject aware of the nature of the armed police intervention, these should serve as a clear warning to them and make it clear that force and/or firearms may be used.

All AFOs should receive training in communicating with subjects. On first verbal contact, officers should normally:

- Identify themselves as police officers and state that they are armed.
- Clarify who it is they are seeking to communicate with.
- Communicate in a clear and appropriate manner.³⁶

35 PSNI Conflict Manual Chapter 1, Legal Basis and Human Rights

36 PSNI Conflict Manual Chapter 9, Police Use of Firearms para. 9.78 and 9.79

According to PSNI policy, AEP will only be used following authorisation from the Silver Commander in public order situations, except where there is an immediate risk to life.³⁷ A Gold - Silver – Bronze (GSB) command structure is used by police and emergency services in the UK to establish a hierarchical framework for the command and control of major incidents. This in itself constitutes a safeguard, as AEP can therefore only be deployed when a major public order incident has developed that requires a GSB command structure.

AEP must only be used in public order situations:

- 'Where other methods of policing to restore or sustain public order have been tried and failed, or must from the nature of the circumstances be unlikely to succeed if tried; and
- Where their use is judged to be absolutely necessary to reduce a serious risk of;
 - Loss of life or serious injury; or
 - 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.'³⁸

AEP should be fired at selected individuals and not indiscriminately at the crowd. AEP should be aimed to strike directly (i.e., without bouncing) the lower part of the subject's body i.e., below the rib cage. This policy is also endorsed by the UN Office of the High Commissioner for Human Rights:

'Kinetic impact projectiles should generally be used only in direct fire with the aim of striking the lower abdomen or legs of a violent individual and only with a view to addressing an imminent threat of injury to either a law enforcement official or a member of the public.'³⁹

Furthermore, once rounds are fired, the following reporting mechanisms are triggered:

'Where rounds are fired the facts will be promptly reported via the Electronic Use of Force monitoring system. A separate report from the officers performing the roles of Silver and Bronze Commanders, setting out the circumstances and reason for using AEPs will be completed. District Commanders will make an immediate report to the Policing Board ..., providing the detailed circumstances and reasons why it was necessary to discharge the weapon system.'⁴⁰ All incidents where AEP have been discharged by police must be reported.⁴¹

37 PSNI Conflict Manual Chapter 14 AEP (Public Disorder), para. 14.21

38 Ibid.

39 UN OHCHR Guidance on Less-Lethal Weapons in Law Enforcement, p. 35,

https://www.ohchr.org/sites/default/files/Documents/HRBodies/CCPR/LLW_Guidance.pdf

40 PSNI Conflict Manual, Appendix J Requirements for the Early Reporting to NIPB on Police Discharge of AEP

41 PSNI Conflict Manual Chapter 14 AEP (Public Disorder)

Medical Evidence

The Defence Scientific Advisory Council (DSAC) sub-committee on the Medical Implications of Less-Lethal Weapons (DOMILL) has provided an independent view for the UK government on the medical implications of using the AEP L60A2 system in 2005 at the time of its introduction:

'The risk of serious and life-threatening injury to the head from the AEP will be less than that from the L21A1 Baton Round, which already has a low risk of such injury.⁴²

The clinical impact of the reduction in damage to the brain and overlying skull from the AEP cannot be assessed confidently because of limitations in current models for this type of impact. Notwithstanding the uncertainties in the actual clinical consequences, the AEP certainly demonstrates the potential for less severe clinical outcomes, compared to the L21A1.⁴³

While the AEP seems to potentially have a lower risk of injury, the government did not have accurate information regarding possible injuries to the skull and brain at the time of introduction. Guidance by the College of Policing highlights that users should be made aware that AEP can ricochet in some circumstances, and this should form part of the risk assessment in the decision to fire the weapon.⁴⁴

The College of Policing Guidance also sets out the necessity of medical aftercare, for example by having officers ready who are trained in appropriate first aid and/or placing an ambulance on standby. The guidance furthermore stresses that close monitoring throughout the period following a direct strike from any kinetic energy device is of utmost importance. If there are any signs of adverse or unusual reactions, medical attention should be provided immediately and, if necessary, this must be given precedence over conveying a subject to the police station. A forensic medical examiner must examine all arrested persons who have been struck by an AEP as soon as practicable. Furthermore, if a person struck by the AEP has a pre-existing medical condition that might lead to increased medical risk, immediate transfer to hospital should be considered.⁴⁵

42 DOMILL statement on the comparative injury potential of the Attenuating Energy Projectile (AEP) L60A1, and the L21A1 Baton Round, para. 23, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/445112/20150714-DOMIL06-AEP01-O.PDF

43 Ibid. para. 22

44 Attenuating energy projectiles, Authorised Professional Practice, College of Policing <https://www.college.police.uk/app/armed-policing/attenuating-energy-projectiles>

45 Ibid.

RECOMMENDATION 2

- (a) The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are hit by AEP.
- (b) The PSNI should also set out medical aftercare guidance for persons hit by AEP in their AEP policy.

Studies done on injuries caused by AEP specifically are limited. Maguire et al. conducted a review of case notes of patients presenting with injuries caused by the AEP after the three episodes of serious civil disturbance in Northern Ireland from July to September 2005 previously described. Although the study only included a small number of patients (16), a third of injuries were to the head and neck and 16% of the injuries were to the chest. The AEP was introduced as a replacement for its predecessor, the L21A1 plastic baton round, because it was considered a less lethal option at the time. However, in this first survey of its usage, almost half of the injuries presenting to hospital were to the face, neck, head, or chest. Injuries included serious skull and facial fractures, and one patient lost an eye.⁴⁶ This injury pattern was more in keeping with older plastic baton rounds than with the L21A1.

Statistics

The last time AEP were fired by PSNI was in April 2021 during violence in Belfast. Over 100 police officers were hurt in late March and early April 2021, and the PSNI fired eight AEPs, pointed 68 times.⁴⁷ When officers record the use of force, they can also record circumstances which contributed to the use of force, such as the subject being under the influence of alcohol, drugs or experiencing mental ill-health. The impact factors for each use of force recorded by PSNI for AEP use were persons under the influence of alcohol (45 of instances %), drugs (36%), mental health (78%) and other (22%). Out of those 68 instances, 50 instances occurred in a dwelling or garden/driveway, the rest occurred on a road or public park. Reasons given for the use of AEPs were to protect self and other officers (92% and 95%, respectively), prevent an offence (80%), prevent harm to subject (78%) and protect the public (74%).

PSNI guidance states that 'every effort should be made to ensure that children or members of other vulnerable groups are not placed at risk by the firing of an AEP.'⁴⁸ In the reporting period, AEP were not used on under 12 year-olds.⁴⁹ However, on two occasions an AEP was pointed at a 13 to 17 year-old and fired once at a 13 to 17 year-old. An AEP was pointed at an 18 to 24 year-old 11 times and fired three times at an 18 to 24 year-old.⁵⁰

46 Ibid.

47 PSNI Use of Force Statistical Report 1 Apr 2021 - 31 Mar 2022

48 PSNI Conflict Manual Chapter 14 AEP (Public Disorder)

49 Age may be officer perceived.

50 Table 9, PSNI Use of Force Statistical Report 1 April 2021 – 31 March 2022

USE OF BATONS

Batons are a type of hand-held kinetic impact weapon. They are usually made of rubber or plastic.⁵¹ PSNI use the Bonowi Friction Lock 26' as the standard issue baton. The baton is opened or 'racked' by a 'flicking' movement that in turn causes the baton to extend and lock out. When this method is used, officers must ensure that the surrounding area is clear to prevent the baton accidentally striking any object during the racking procedure.⁵²

PSNI policy

Batons may be used against individuals and during public order incidents.⁵³ Officers are trained in the use of batons during the Personal Safety Programme (PSP), which is refreshed every year. Training includes practice on mannequins and practice in pairs with pads. Furthermore, training includes discussion of potential medical implications and the public's perception of that use.

Baton strikes may cause a certain degree of injury, but they are not supposed to cause more serious injury or death. However, the actual impact on a person's health will depend on the design of the weapon and the way it is used. High-risk areas, on which the baton should not be used, are the head, throat, neck, spine, chest, and groin.⁵⁴

The last complaint against PSNI that concerned the use of a baton happened in 2018. A man struck with baton in March 2018 had their complaint upheld by Ombudsman. Police Ombudsman investigators concluded that the officer had resorted to the use of force too quickly without issuing a warning.⁵⁵

Statistics

The use of batons has steadily dropped over the past ten years, from 588 (baton drawn) and 333 (baton used) in 2012/13 to 206 (baton drawn) and 118 (baton used) in 2021/22.⁵⁶ In 2021/22, 76% of instances a baton was drawn by local or neighbourhood policing, in 18% of instances by a Tactical Support Group. Baton was used in 80% of instances by local or neighbourhood policing, and in 15% of cases by a Tactical Support Group.

51 Blunt Force: Investigating the misuse of police batons and related equipment, Amnesty International (2019)
<https://www.amnesty.org/en/latest/research/2021/09/blunt-force/#h-use-of-force-standards>

52 PSNI Conflict Manual Chapter 5 Batons, <https://www.psni.police.uk/sites/default/files/2022-09/Chapter%205%20Batons.pdf>

53 Tactical options, Authorised Professional Practice, College of Policing
<https://www.college.police.uk/app/public-order/tactical-options#batons-considerations>

54 Position Paper on Striking Weapons, Amnesty International (2022)
<https://www.amnesty.nl/content/uploads/2022/06/Position-paper-striking-weapons-final.pdf>

55 Office of the Police Ombudsman for Northern Ireland, Media Release (7 February 2022)

<https://www.policeombudsman.org/Media-Releases/Man-struck-with-baton-has-complaint-against-police>

56 PSNI Use of Force Statistical Report 1 Apr 2021 - 31 Mar 2022

USE OF PAVA (IRRITANT SPRAY)

PSNI currently use PAVA TW1000 irritant spray. PAVA stands for Pelargonic Acid Vanillylamide, which is an irritant and when it comes into contact with the subject, especially their eyes, it can be described like 'wet fire'.⁵⁷ PAVA is a synthetic variant of capsaicin, the active ingredient of natural pepper, dispensed from a hand-held aerosol canister in a liquid stream which contains a 0.3% solution of PAVA pepper spray in alcohol-based solvent and water, with a nitrogen propellant. PAVA TW1000 is non-flammable and is safe to use in conjunction with firearms and CED.⁵⁸

Misuse of irritant spray engages Article 3 of the ECHR (Prohibition of Inhuman or Degrading Treatment) and Article 8 (Right to Respect for Private and Family Life). This will necessitate an effective investigation by the Police Ombudsman. In any event, every use of irritant spray will be reviewed by the relevant District Commander or Head of Branch as with other uses of force.

Irritant spray is not intended for use in large-scale incidents of public disorder, but officers will carry their irritant spray whilst on duty and as part of their normal patrol equipment when on duty at public order situations. Such carriage is to provide additional protection to officers. The guidance states that any use of irritant spray at a public order situation may have a profound impact on crowd dynamics with implications for public safety and order.⁵⁹

Medical evidence

Chemical irritants used in crowd control, such as tear gases and pepper sprays, are generally considered to be safe and to cause only transient pain and lacrimation. However, there are numerous reports that use, and misuse of these chemicals may cause serious injuries.⁶⁰ According to Haar et al., there is limited knowledge about the burden of injury from chemical irritants. In their recommendations for healthcare professionals, the Faculty of Forensic & Legal Medicine of the Royal College of Physicians note that the true incidence of morbidity (and possible mortality) of irritant spray remains unknown in the absence of prospective clinical studies of appropriate statistical power.⁶¹

57 How we use PAVA spray, Lincolnshire Police (2022)

<https://www.lincs.police.uk/news/lincolnshire/news/2022/apr-2022/op-explain-how-we-use-pava-spray/>

58 PSNI Conflict Manual Chapter 4 Irritant Spray,

<https://www.psnipolice.uk/sites/default/files/2022-09/Chapter%204%20Irritant%20Spray.pdf>

59 Ibid. para. 4.45

60 Haar, R. J., Iacopino, V., Ranadive, N., Weiser, S. D., & Dandu, M. (2017). Health impacts of chemical irritants used for crowd control: a systematic review of the injuries and deaths caused by tear gas and pepper spray. *BMC public health*, 17(1), 831. <https://doi.org/10.1186/s12889-017-4814-6>

61 McGorrigan, Jeanette & Payne-James, Jason, Faculty of Forensic & Legal Medicine Irritant sprays: clinical effects and management. Recommendations for Healthcare Professionals (Forensic Physicians, Custody Nurses and Paramedics) (2021) <https://fflm.ac.uk/wp-content/uploads/2021/02/Irritant-sprays-clinical-effects-and-management-Dr-J-McGorrigan-Prof-J-Payne-James-Jan-2021.pdf>

Chemical irritants, especially those deployed in aerosol forms, are inherently indiscriminate and can affect not only the intended targets but also peaceful demonstrators, bystanders, nearby communities and residences, and law enforcement officers themselves. Children are more vulnerable to severe injuries from chemical toxicity. The elderly and those with chronic diseases are also prone to worse outcomes from chemical irritants. Because of the indiscriminate nature of chemical irritants, limiting the exposure to individuals or small groups is difficult. Most often a large, diverse, and differentially susceptible group will be exposed, posing the risk of unnecessarily injuring non-violent, potentially vulnerable people.⁶²

Statistics

The use of irritant spray has remained consistent over the past ten years.⁶³ In 2012/13, irritant spray was drawn 200 times, and used 262 times. In 2021/22, it was drawn 229 times and used 220 times, with some minor fluctuations over the years. In 2021, the most common location in which irritant spray was either drawn or used were roadways and dwellings. Furthermore, irritant spray was mostly used during incidents of crime, in roughly 50% of instances where irritant spray was drawn and used, respectively. In over 90% of cases, it was used by local and neighbourhood policing.

USE OF WATER CANNON

The UK currently possesses vehicle-mounted water cannons of the type Somati RCV 9000 (numbers 001-006). These vehicles, which have been deployed and used in serious public disorder in Northern Ireland over the past years, are owned, maintained and operated by PSNI.⁶⁴ The water cannon vehicle consists of a heavy duty permanent six-wheel drive chassis on which is mounted a superstructure consisting of a pump compartment, a water tank and a crew cabin. Each vehicle has two water cannons mounted on the roof of the cab, which are controlled by the Cannon Operators by means of an electronic joystick control. The Crew Commander controls the overall water pressure.⁶⁵ Northern Ireland is the only region of the UK which uses water cannon in public order situations. The former Prime Minister Theresa May banned the use of the vehicles in England and Wales when she was Home Secretary in 2015.⁶⁶

According to the PSNI conflict manual guidance, the water cannon 'demonstrates that force is about to be/may be used, keeps crowds at a distance, supports a police cordon, and assists in the dispersal of groups.'⁶⁷

62 **Health impacts of chemical irritants used for crowd control: a systematic review of the injuries and deaths caused by tear gas and pepper spray - PMC (nih.gov)**

63 **PSNI Use of Force Statistical Report 1 Apr 2021 - 31 Mar 2022v2.pdf**

64 **2013_11_18_SACMILL_Interim_Statement_WaWe_9_U.pdf (publishing.service.gov.uk)**

65 **Chapter 15 Water Cannon.pdf (psni.police.uk)**

66 **Home Secretary's oral statement on water cannon - GOV.UK (www.gov.uk)**

67 **Chapter 15 Water Cannon.pdf (psni.police.uk)**

The Authorised Professional Practice (APP) guidance on water cannons outlines the criteria for use:

- 'When conventional methods of policing have been tried and failed or, because of the circumstances, are unlikely to succeed if tried.
- In situations of serious public disorder where there is the potential for loss of life, serious injury or widespread destruction and whether such action is likely to reduce that risk.
- Must only be used by trained officers.'⁶⁸

It also highlights the potential impact on the community, and media impact and interpretation.⁶⁹ During the serious public disorder in Belfast in April 2021, mentioned previously, water cannons were deployed⁷⁰ for the first time in five years.⁷¹ The last time water cannons were deployed was during rioting in July and August 2015.⁷²

Public order issues in April 2021

On the evening of April 8, 2021, PSNI used water cannons. In a review of the deployment and use of water cannon sent to the Policing Board, PSNI concluded that:

'It is the assessment of the Silver Commander that the use of Water Cannon was particularly effective during this disorder, that its use was effectively controlled within the parameters described by law and policy and that its use was subject to constant review. It is the assessment that the availability and use of Water Cannon during this deployment mitigated in part the necessity to revert to the use of Attenuated Energy Projectiles and prevented further police casualties.'⁷³

The Human Rights Advisor attended the review meeting on 5 May 2021, which is required by the College of Policing guidelines. Key senior officers attended the review and were taken through the decision making log by a PSNI officer. Additionally, the Human Rights Advisor attended PSNI headquarters on 11 May and viewed extracts from CCTV and PSNI evidence gathering cameras. The video material confirmed the account given at the review.

68 **Tactical options | College of Policing**

69 **Tactical options | College of Policing**

70 Note that the Use of Force statistics reflect the activation of water cannon (meaning the water jets were activated), not the mere presence of a water cannon vehicle.

71 **Belfast disorder update on Thursday 8th April | PSNI, Northern Ireland: Police blast rioters with water cannon in seventh night of unrest - YouTube**

72 **Loyalists pelt riot police with missiles in Belfast after Battle of the Boyne march | Northern Ireland | The Guardian, Twelfth 2015: Belfast violence leaves the Orange Order badly wounded - BelfastTelegraph.co.uk**

73 PSNI Review of the deployment and use of Water Cannon in Belfast in April 2021.

Medical evidence

In their statement on the medical implications of the use of the Somati water cannon, The Defence Scientific Advisory Council (DSAC) sub-committee on the Medical Implications of Less-Lethal Weapons (DOMILL) states that there is a very low risk of death or life-threatening injury.⁷⁴ As with all uses of force, there is a risk of injury however, especially to vulnerable areas such as the eye. The risk may be increased by the impact of glass, plastic or other material from broken spectacles. Furthermore, a predictable risk of secondary injuries results from tissue damage produced by the impact of street furniture and debris energised by the water cannon jet.⁷⁵ For example, during environmental protests in Stuttgart, Germany, in 2010, a man was blinded by water cannon jets. He was hit in the face with the jet, his eyelids were torn and some of the bones around his eyes fractured, causing his eyeballs to fall out of their sockets.⁷⁶

DOMILL's successor, the Scientific Advisory Committee on the Medical Implications of Less-Lethal Weapons (SACMILL) also highlights that there is a risk of inducing immediate or delayed psychological or mental health sequelae (for example acute panic reaction, disorientation or post-event distress). This risk includes the reactivation of an otherwise clinically silent pre-existing mental health condition. These examples highlight the need for fully developed guidance and training to control the operational use of water cannon, to ensure that this use is proportional and to make sure that, wherever possible, medical assessment is undertaken or offered in order to document the nature of any injuries.⁷⁷

USE OF POLICE DOGS

As of September 2022, PSNI have 61 police dogs.⁷⁸ The Dog Section of the PSNI consists of two Sergeants and thirty Constables, all of whom handle and patrol with at least one police dog across Northern Ireland. Police dogs are multi-disciplined and are trained to work under a variety of conditions. Their depth of skills includes; searching for missing persons, tracking suspects from crime scene, support in firearms incidents, and recovery of recently discarded articles of an evidential nature. Police use a variety of proven dog breeds for general patrol duties, those being German Shepherd, Belgian Shepherd (Malinois) and Dutch Herder dogs.⁷⁹

74 **Statement on the medical implications of the use of the Somati RCV9000 Vehicle Mounted Water Canon (3 March 2004)** (publishing.service.gov.uk)

75 **150223_SACMILL_STATEMENT_WATERCANNON_March_2015.pdf**, p.3

76 **Blinded German man urges Boris Johnson not to bring water cannon to London - BBC News**

77 **150223_SACMILL_STATEMENT_WATERCANNON_March_2015.pdf** (publishing.service.gov.uk)

78 **FOI Request - 00981 Police Dogs.pdf** (psni.police.uk)

79 **Dog Section | PSNI**, This overview is not looking at Specialist Search Dogs or Passive Scanning Drugs Dogs.

PSNI policy

'Police dogs can be an invaluable resource in public disorder and provide a positive, flexible and professional response to a wide variety of situations. The deployment of dogs can at times be a sensitive subject. It is therefore of paramount importance that those requesting their assistance fully understand their capability. Their deployment provides a stand-off between the crowd and police lines, affording protection to officers from direct attack. The deployment of a Dog Section Serial (DSS) working in conjunction with a Tactical Support Group or Police Support Unit (TSG/PSU) in shield formations can increase the effectiveness of the TSG/PSU in order to achieve the objectives of containment, dispersal and arrest.'⁸⁰

Medical evidence

Police dog bite injuries are more serious than domestic dog bites. Police dog bites result in higher rates of hospitalisation, multiple bites, operations, and angiograms than domestic dog bites. Furthermore, police dog bites tend towards higher numbers of bites in the central areas of the body: the head, the upper arms, and chest.⁸¹ In the US, dog bites cause more hospital visits than any other use of force by police, according to a 2008 analysis.⁸²

A woman who was bitten by a police dog when an illegal rave was broken up in England suffered a fractured bone, requiring skin and muscle grafts.⁸³ An investigation by The Guardian revealed that in 2014, more than five people a week were bitten by police dogs in London.⁸⁴ No figures for police dog injuries are currently available for Northern Ireland.

Statistics

The use of police dogs has gone up in the last ten years, from 45 instances where a dog was used in 2012/13 to 146 in 2021/22. This can be partly explained by PSNI's increase in dogs. The highest recorded use of police dog force was 244 times in 2019/20.

The main types of force that are recorded for dog use include:

- Indirect Deployment – where the dog and handler are deployed at the periphery of an incident, with the dog in the police vehicle, providing a visible deterrent and with the handler observing the incident developing.
- Interim Deployment – where the dog and handler are deployed from the vehicle on foot, remaining at a safe distance.

80 [Appendix H Tactics with Public Order Dogs.pdf \(psni.police.uk\)](#)

81 Peter C. Meade, Police and domestic dog bite injuries: What are the differences? What are the implications about police dog use?, Injury Extra, Volume 37, Issue 11, 2006, available at: [Police and domestic dog bite injuries](#)

82 [When Police Violence Is a Dog Bite | The Marshall Project](#)

83 [Woman in 'constant pain' after police dog bite tore through 'muscle and bone' | ITV News West Country](#)

84 [More than five people a week are bitten by police dogs, figures show | Police | The Guardian](#)

- Direct Deployment – these are circumstances where the dog is deployed and is likely to, or instructed to, bite a suspect. At this point a verbal warning should be given by the handler if circumstances allow. This category can be further broken down into dog bites (commanded, provoked, accidental) and non-bites.⁸⁵

In 2021/22 Police dogs were mostly used on roadways (40%), garden/driveway (21%) or dwellings (15%). They were used in instances involving crime (36%), public order (15%) and firearms incidents (30%).⁸⁶ In 3% of instances in 2021/22, a police dog was used on children between 13 and 17.

RECOMMENDATION 3

- (c) The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are bitten by police dogs.
- (d) The PSNI should include details of the types of force recorded for dog use in their statistical use of force bulletin.

USE OF STUN GRENADES

Also known as stun grenade, a flash bang is a non-lethal explosive device that emits an extremely loud bang and bright lights to disorient people as it goes off. It is used as a distraction device. It has been recently used in a PSNI operation in West Belfast as part of an investigation into the Irish National Liberation Army (INLA) in August 2022.⁸⁷

PSNI policy

PSNI follow the Authorised Professional Practice (APP) of the College of Policing, which states that use of percussion grenades may create a risk of fire, blast, and fragmentation.⁸⁸ The noise created by these devices is more than the safe level under health and safety legislation. Furthermore, 'the operational use of percussion grenades must also be subject of statutory risk assessment. It may also be necessary to undertake a dynamic risk assessment relevant to the operational circumstances and/or where it is not practicable to adopt all identified control measures.'⁸⁹

They can cause temporary blindness and shifts in hearing, and when used in public order situation, can carry the risk of hearing loss.⁹⁰ The use of stun grenades is not recorded in the use of force statistics. However, distraction devices have only once been used by specialist firearms officers in the last 20 years.

85 [use-of-force-user-guide-2021.pdf \(psni.police.uk\)](#)

86 [PSNI Use of Force Statistical Report 1 Apr 2021 - 31 Mar 2022v2.pdf](#)

87 [Police use stun grenades in Belfast operation arresting six men | UTV | ITV News](#)

88 APP is the official source of professional practice for policing developed by the College of Policing.

89 [Weapons and equipment | College of Policing](#)

90 Wang, H., Burgei, W.A. and Zhou, H. (2018) Risk of Hearing Loss Injury Caused by Multiple Flash Bangs on a Crowd. *American Journal of Operations Research*, 8, 239-265. <https://doi.org/10.4236/ajor.2018.84014>

RECOMMENDATION 4

The PSNI should contract with an independent research body to ascertain the effect or injuries of those individuals who are subjected to stun grenades.

USE OF HANDCUFFS AND LIMB RESTRAINTS

Handcuffs and restraints are among the most used items by officers when it comes to use of force. Handcuffing is legitimate, but only where justified as necessary and proportionate in the particular circumstances and having assessed the risk posed by the detained person.⁹¹

PSNI policy

The term 'limb restraint' refers to Velcro straps that are designed and used to restrict the range of movement of the arms and/or legs. Their application should prevent a person from kicking and/or punching and any gross motor action. According to PSNI policy, by effectively restraining a potentially violent, individual officers and staff are also reducing the likelihood of having to resort to the use of other tactical options, escalating the use of force and therefore reducing the risk of injury to the subject.⁹²

Using restraints is part of the PSNI Personal Safety Programme (PSP) training for officers and includes yearly refresher training. Apart from training the techniques, officers are expected to be able to explain the risks and considerations in relation to dealing with a subject whilst applying a restraint or a takedown, including medical implications, public perception and how it relates to the National Decision-making Model (NPM).

When using handcuffs and restraints, the risk of Positional Asphyxia is present. This is a form of asphyxia (a state of deficient supply of oxygen to the body that arises from abnormal breathing) which occurs when someone's position prevents the person from breathing adequately. There is a risk of Positional Asphyxia when restraining a person (in prone restraint). There is a risk also in a seated position pushed forward with the chest on or close to the knees, reducing the ability to breathe.⁹³

Statistics

Handcuffs and limb restraints were used 5,397 times in 2021/22.⁹⁴ In most cases, they were used by local or neighbourhood policing (79%), followed by custody setting (7.6%). In 11% of cases, they were used on children under 18. Officers cited alcohol (61%), drugs (38%) and mental health (37%) as impact factors. In roughly half of all instances, they were used in a situation involving a crime (44%), followed by domestic (13%) and custody (10%).

91 *Raninen v Finland* (1997)

92 **Handcuffs** (psni.police.uk)

93 *ibid.*

94 Recording of use of handcuffs/restraints and unarmed physical tactics began in April 2017.

USE OF UNARMED PHYSICAL TACTICS

Unarmed physical tactics employed by police are push, block/strike, take downs, pressure points and physical restraints. They form part of officers' Personal Safety Programme (PSP) training. Out of 17,304 total instances involving the use of force, 10,035 involved unarmed physical tactics (58%). Unarmed physical tactics are practiced annually in refresher training. Officers are expected to explain medical implications, such as mental ill health and positional/restraint asphyxia. As with limb restraints, using physical restraints can result in the risk of asphyxia.

Statistics

Unarmed physical tactics were used in incidents involving a crime (37%), custody (21%), public order (12%) and domestic incidents (10%). Officers cited alcohol (61%), drugs (46%) and mental health (43%) as impact factors. Since PSNI started recording the use of unarmed physical tactics in April 2017, the use of these tactics increased from 5,954 in 2017/18 to 10,035 in 2021/22.

OVERSIGHT AND SCRUTINY

All PSNI decision making, including the decision to use force, should be taken in accordance with the National Police Chiefs' Council (NPCC) and the NDM. The NDM is an established approach to managing conflict and it can be applied to spontaneous incidents or planned operations, by an individual or a team of people. The NDM has a central statement of mission and values which recognises the need to protect and respect the human rights of all, surrounded by 5 key steps which should be continually assessed as a situation develops: (i) gather information and intelligence; (ii) assess threat and risk and develop a working strategy; (iii) consider powers and policy; (iv) identify options and contingencies; and (iv) take action and review what happened. Any tactical option chosen must be proportionate to the threat faced in any set of circumstances, which includes any decision to use force, be it through use of hands-on restraint techniques or use of a weapon which can encompass the physical, moral and psychological integrity of a person.⁹⁵

Before using any of the number of technologies at their disposal, a police officer should identify him/herself and give a clear warning of the intent to use force affording sufficient time for the warning to be observed unless affording time would put the officer or another person at risk of death or serious harm. Even where the use of lethal or potentially lethal force is unavoidable the police must continue to exercise restraint in the use of that force, minimise damage and injury caused, render assistance and medical aid at the earliest opportunity and notify relatives or other persons if a person has been injured or killed.

95 Botta v Italy 1998

Any incident that involves the use of force by a police officer must be recorded in the police officer's notebook and reported to the relevant supervisor. Any such incident may be the subject of a Police Ombudsman investigation regardless of whether or not a complaint has been made. The Ombudsman will, in every case where death has occurred following contact with the police, investigate the death. Where a firearm, an AEP or a CED has been discharged, the Ombudsman will investigate the incident. Where a CED has been drawn or aimed at a subject, but not discharged, the Ombudsman must be notified, but will usually investigate only if a complaint is made.

At the conclusion of the Police Ombudsman investigation, a Regulation 20 report on the investigation is completed. The Board receives a copy of Regulation 20 reports⁹⁶ and considers any findings or recommendations, particularly to identify systemic or frequently occurring issues, contained within them.

Every police officer is responsible personally for his or her decision to use force. If it appears to the PSNI or to the Police Ombudsman that force may have been used unlawfully, the police officer involved will be subject to a criminal investigation and may be prosecuted. Obedience to the orders of a supervisor is no defence for unlawful use of force if that police officer knew that the order to use force was unlawful and the officer had a reasonable opportunity to refuse to obey it. Responsibility lies, additionally, with the officer's supervisor who issued the unlawful order. The use of force by police officers is reviewed regularly by PSNI. Any issues that arise are addressed by senior officers with whom the Board has a direct line of communication.

Ultimately, the Chief Constable is accountable to the Board for all uses of force by the PSNI. It is an important element of oversight and accountability that officers using force record the use on an electronic use of force monitoring form. The following uses of force must be recorded on the electronic monitoring form and are considered by the Board for consideration: AEP; Baton; CS Irritant Spray; PAVA Irritant Spray; Personal Firearms; Police Dog; CED; and Water Cannon. Police officers have the authority to use force to defend themselves or another person, to affect an arrest, to secure and preserve evidence or to uphold the peace, but any such use must be justified on each and every occasion.

Consideration must always be given to whether there is a viable alternative to the use of force. Any issues identified during the reporting period continue to be raised directly with PSNI's senior command team. The Board's role and that of the Human Rights Advisor is to try to ensure that the use of lawful force is proportionate and justified and one method of doing this is to scrutinise the evidence of the use of force.

96 Regulation 20 requires the Police Ombudsman to provide particular reports to the Policing Board, Chief Constable and Secretary of State; these include:

- any matter referred to the Ombudsman by the Board or Secretary of State on the basis that it appears that an officer has committed a criminal offence or disciplinary breach not subject to a complaint.
- any death that may have resulted from the conduct of an officer
- any own motion investigation by the Ombudsman.

PART 2

HUMAN RIGHTS REVIEW OF THE PSNI'S USE OF CONDUCTED ENERGY DEVICES

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The History of CED Use in Northern Ireland

The focus of the second part of this, more detailed, report is on the use of CED in Northern Ireland specifically.

On 2 October 2008 the Board agreed by majority view to support the Chief Constable's proposal to introduce Conductive Energy Devices (CED). The Board decision was limited to issue to Specialist Operations Branch and to Armed Response Vehicles (ARVs) subject to completion, in respect of the latter, of a satisfactory pilot.

Board Members who supported the motion agreed that this is an operational matter for the Chief Constable. However, in order to provide accountability and assurance to the wider community, the Board considered that the necessary human rights and legal safeguards needed to be in place; and to ensure that stringent guidelines govern the use of these devices particularly in respect of those considered more vulnerable.

In supporting the proposal, Members were advised by the then Board's Human Rights Advisors (Keir Starmer and Jane Gordon) that PSNI had now met the legal and human rights framework within which CED can be used, and had in place clear and robust policy, guidance and training to ensure that any use of CED in Northern Ireland should fully meet the requirements of the European Convention on Human Rights and the Human Rights Act 1998. The Advisors had prepared and published detailed advice on the introduction entitled 'The PSNI's Proposed Introduction of TASER: Human Rights Advice'. Further details on this advice is referenced below.

A short description of CED was set out by the High Court of England and Wales in 2009:

9. The Taser is a pistol-like device which shoots two probes from an attached cartridge. Wires are attached to the probes. When the trigger is pulled an electric charge of some 50,000 volts is passed through the wires and, if the probes have become attached to the subject, through his body. The electric pulse lasts for some 5 seconds, or longer if the trigger is held down. The Taser can also be operated by holding it against the body of the subject. This is known as the 'drive stun' mode.
10. The electric charge can cause intense pain. It also (and this is said to be its principal attraction for the police) incapacitates its subject. The electrical stimulus causes an uncontrollable skeletal muscle contraction which will make the individual lose control of his body. This lasts as long as the charge is applied. It stops when the charge stops, although the person concerned may be dazed and confused for a while longer. There may also be small burn marks on the skin nearest to the probes.

11. The introduction of Tasers goes back to the Patten Report in 1999 ('A New Beginning: Policing in Northern Ireland') which had called for substantial investment in research to find an acceptable, effective and less potentially lethal alternative to the plastic baton round. Tasers were developed in the United States. They were first used in the UK in 2003. Originally, their use was confined to firearms officers. A somewhat wider use of them is allowed now by specially trained units (at least in some police forces). It was firearms officers who used them on this occasion, but the Claimant relies on the potentially wider use of Tasers as one reason why this incident merits particularly careful investigation.⁹⁷

This description refers to the Taser® X26 model, which has since been replaced by the X2 model. In this current model, the cycle is automatically terminated after 5 seconds, and additional action is required from the officer to extend the cycle by depressing a switch.⁹⁸

One of the key attributes of CED is the ability to track the details of their use (the date and time the weapon was armed and made safe is recorded, when it was discharged, and for how long) – something that is much more difficult with more traditional uses of force as such hand-held baton, etc. Much of this information can then be collated and published in the PSNI's use of force statistics. This includes figures on the number of times a CED was drawn and used, as well as the number of times people were 'red-dotted' (when the laser dot was aimed at a person and was ready to fire.

On 1 October 2020, PSNI informed the Board that, whilst an increase in CED may be required for ARUs, the roll out to all front-line officers was not deemed practical by PSNI and that any uplift would be restricted to AFOs. It was noted by the Chief Constable that this remains under active consideration.⁹⁹

The College of Policing describes CED, and their impact as follows:

'A CED is a less lethal weapon system designed to temporarily incapacitate a subject through use of an electrical current that temporarily interferes with the body's neuromuscular system and produces a sensation of intense pain'¹⁰⁰ .

The Human Rights Advisor has made a number of recommendations relating to use of force and more specifically into the use of CED. The CED recommendation contained in the 2020/21 Annual Human Rights Report is repeated here for ease of reference.

97 Morrison v Independent Police Complaints Commission, [2009] EWHC, para 9 to 11.

98 <https://www.college.police.uk/app/armed-policing/conducted-energy-devices-taser>

99 **PSNI's use of tasers | Northern Ireland Policing Board (nipolicingboard.org.uk)**

100 The College of Policing (2013) '*Conducted Energy Devices (Taser)*' (Updated 1 March 2022). Accessed at: **Conducted energy devices (Taser) | College of Policing.**

*'The PSNI should report to the Policing Board on improvements made on its reporting of the use of force and further deployment of Conducted Energy Devices [CEDs] to a wider range of officers should only be made following discussion with the Board and include consideration of the human rights implications, potential dangers with its use and benchmarking with other police services.'*¹⁰¹

PSNI provided the following response:

'Any use of force must be recorded as such on the Police Service's electronic use of force system... Work is underway to include an automated prompt on IT operational systems such as NICHE, Controlworks and Custody for officers to complete a use of force form when any force is used. A mobile Use of Force app is also being explored to enable officers to complete the form at the scene.'

A pilot scheme is currently underway to trial a new use of force monitoring process, which includes mandatory reviews of body-worn video footage, to promote transparency and accountability on occasions whenever we use force against another person. The process is aimed at ensuring that any use of force is suitable to identify and disseminate learning and to hold officers to account when behaviour falls below acceptable standards.'

In June 2020, a review of current and future Conducted Energy Devices (CED) capacity within the Service concluded that an uplift in Armed Response Unit (ARU) capacity would provide the Service with adequate Taser Stun Gun capacity in the present operating environment. The ARU uplift was accepted in September 2021 with a proposal to increase the number of Authorised Firearms Officers (AFOs) equipped with CED to allow for greater availability of trained officers across Northern Ireland and in particular the North West. Such an increase in CED capacity maintains its use by AFOs and does not authorise the use of CEDs to a wider range of officer roles. The ARU uplift is underway with an additional 15 officers being allocated to this role for each year over a three-year period (2021/2022, 2022/2023 and 2023/2024). Infrastructure to support the uplift (vehicles, kit, accommodation, etc.) is also being progressed and advancement is being monitored at the Service Transformation Board. Whilst the PSNI will obviously engage with Policing Board on the subject the issue of CED is an operational decision for the Chief Constable.'

In September 2020 HMICFRS stated in its report on the PSNI on use of force:

'Most frontline PSNI officers aren't issued with conducted energy devices (CEDs, such as Tasers). Those devices are less lethal than the firearms issued to all PSNI officers for personal protection purposes. Without immediate access to CEDs, frontline PSNI officers who respond to serious incidents involving dangerous people have fewer options available to them to resolve the incident with the minimum use of force.'

101 Northern Ireland Policing Board, **Annual Human Rights Report 2020/21**, Recommendation 14

CEDs could be made available to more officers in the PSNI, but that would attract a high level of interest from communities. So, we recommend that the Chief Constable consult widely on any proposed changes and communicate the public safety benefits of such an approach, before any changes are made.¹⁰²

PSNI responded that they:

'Note the inspectorate's comments around the use of Conducted Energy Devices (CED), such as Tasers. The availability of CEDs, as a tactical option, is one that we do not take for granted and their issue and use is subject to rigorous accountability and limited to a small group of specialist officers trained and accredited to national standards in its carriage and use.'¹⁰³

The Human Rights Advisor and Board officials viewed a small randomly selected sample of body-worn video (BWW) of the use of CED deployment in order to assist the Advisor in his considerations, more detail of which can be found in Annex A.

CED and the question of 'less lethal' weapons

The use of CED by PSNI is restricted to the officers in ARUs, officers in SOB and to CTSFO and this is a very sensible restriction, reducing the likelihood of them being used, in practice, outside 'less-lethal' situations. It is those officers that are most likely to have to consider the use of actual lethal force and it is those officers who have the most need for a genuine less lethal option. The training of those officers in relation to firearms and CEDs is the most focused and detailed. Whilst firearms are carried by most other officers, those officers are rarely in a situation where the use of lethal force is necessary. Where there is a threat, those officers call on the experts in an ARU.

Secondly, given the issues that specialist firearms officers are regularly confronted with, the command and control arrangements are significantly more robust. The officers will be in teams and the mere fact of multiple officers arriving at a scene together, announcing their presence loudly – 'Armed officers, put down your weapon!' has the effect of reducing the threat to them. The team will be led by more senior officers and the chances of errors been made by officer on their own and justifiably frightened, significantly reduced.

If all officers in PSNI are issued with CEDs then the number of citizens subjected to the intense pain, trauma, and threat to their life of a CED shock will increase very substantially as it has in England and Wales. Currently there appears to be no justification for any increased roll out.

¹⁰² HMICFRS (2020) **The Police Service in Northern Ireland. An inspection of how well the service treats its workforce and the people of Northern Ireland**

¹⁰³ [10/09/20] **Police Service of Northern Ireland response to HMICFRS report (psni.police.uk)**

The College of Policing's APP on Less Lethal Weapons states that:

'less lethal weapons should not be regarded as a substitute for firearms. Officers armed only with less lethal weapons should not expose themselves, or be exposed, to unnecessary risks in confronting subjects who may be armed with a firearm or present a risk for which a less lethal response may not be appropriate. They may however still provide an additional use of force option where appropriate...NPCC, in conjunction with the Home Office, has defined less lethal weapons as weapon systems designed to be used by law enforcement directly against an individual or group of individuals to achieve a physical effect in order to mitigate a threat, without substantial risk to the subject of permanent or serious injury, or death.'¹⁰⁴

There is no clear evidence of firearms deaths and incidents being reduced since the introduction of CED.¹⁰⁵ In practice, projectile electric-shock weapons are not actually used when lethal force is justified. They have a much shorter range than firearms and officers do not trust them to be effective when their lives are at risk.¹⁰⁶ Secondly, and perhaps more importantly, officers tend to use them in response to lower levels of threat – when lethal force is *not* justified. Use of Force statistics from England and Wales 2021/22 show that in 43% of cases where CED was fired, the person was unarmed.¹⁰⁷

RECOMMENDATION 5

The PSNI should reject the recommendation from HMICFRS and continue to restrict the use of CED to Authorised Firearms Officers, Counter Terrorism Specialist Firearms Officers, and Specialist Operations Branch Officers.

104 **Use of force, firearms and less lethal weapons | College of Policing**

105 See Electric-Shock Weapons, Tasers and Policing: Myths and Realities, Abi Dymond, 2022, Routledge, page 36.

106 Ibid., page 39.

107 6.5 CED use by impact factor and personal characteristics, **Police use of force statistics, England and Wales: April 2020 to March 2021 - GOV.UK (www.gov.uk)**

HUMAN RIGHTS CONSIDERATIONS

The use of CED by the PSNI obviously engages a number of possible human rights issues: threats to life (Article 2), issues of torture and ill-treatment (Article 3), and the right to freedom from discrimination (Article 14). When examining the UK record with the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment the relevant United Nations Treaty stated:

‘Electrical discharge weapons (Taser)

26. While taking note of the guidance for England and Wales, which seeks to limit the use of electrical discharge weapons to situations where there is a serious threat of violence, the Committee expresses concern that the use of electrical discharge weapons almost doubled in 2011 and that the State party intends to further extend their use in the Metropolitan Police area. In addition, it is deeply concerned at instances where electrical discharge weapons have been used on children, persons with disabilities and in recent policing operations where the serious threat of violence was questioned (arts. 2 and 16).

The State party should ensure that electrical discharge weapons are used exclusively in extreme and limited situations – where there is a real and immediate threat to life or risk of serious injury – as a substitute for lethal weapons and by trained law enforcement personnel only. The State party should revise the regulations governing the use of such weapons with a view to establishing a high threshold for their use and expressly prohibiting their use on children and pregnant women. The Committee is of the view that the use of electrical discharge weapons should be subject to the principles of necessity and proportionality and should be inadmissible in the equipment of custodial staff in prisons or any other place of deprivation of liberty. The Committee urges the State party to provide detailed instructions and adequate training to law enforcement personnel entitled to use electric discharge weapons, and to strictly monitor and supervise their use.¹⁰⁸

The test for CED is contained within PSNI's Conflict Management Manual at Chapter 12.79 and states:

‘The use of Taser will be justified where the officer honestly and reasonably believes that it is necessary in order to prevent a risk of death or serious injury’.¹⁰⁹

108 Concluding Observations on the fifth periodic report of the UK, CAT/C/GBR/CO/5, 24 June 2013, para 26.

109 PSNI Conflict Management Manual, Chapter 12, Conductive Energy Devices, available at: [Conflict Management Manual | PSNI](#)

And in response to the Policing Board, PSNI advise that:

*'Only an officer trained in the use of Taser will know if this tactic may or may not have been a potential option in these 250 incidents. Therefore, the use of a Personal Protection Weapon (PPW) instead of a CED is not recorded and without interviewing each of the officers involved in the specific incidents; it would be extremely difficult to assess each specific case.'*¹¹⁰

As discussed, all Police officers and staff across all the UK police services are expected to 'have regard to APP in discharging their responsibilities', although officers may deviate from APP if there is a 'clear rationale for doing so'.¹¹¹ APP contains a specific section on CED use. This describes the device, sets out the operating requirements and provides technical information about their use and effects. It sets out procedures for the evidential collection of equipment, data auditing, maintenance, and the referral, monitoring and oversight of CED use. However, in the view of the Independent Office of Police Complaints (IOPC), on the circumstances in which a CED can or should be used, there is little guidance in APP. APP states that officers should, when circumstances permit, provide a clear warning of their intention to use a CED, and should allow sufficient time for the warning to be heeded, unless to do so would place someone at risk or would be 'clearly inappropriate or pointless'.¹¹² APP states that it may sometimes be appropriate to provide a 'visual display of the sparking effect' ('arcing') or use the red dot function, which may have a deterrence effect. Guidance also states that officers should utilise the NDM and 'review other options as there may be technical or physiological reasons why the device is not working as expected'.¹¹³

CED, it is argued, 'In some situations...offer an alternative to the use of firearms, and in other circumstances, an alternative to other less-lethal weapons that might prove more dangerous either to the law enforcement official or to the individual being targeted.'¹¹⁴ However, categorising CEDs as a less lethal alternative to firearms does not mean that there are no dangers associated with its use. Indeed, a London Metropolitan Police Officer was charged with grievous bodily harm after their use of a CED in May 2020 left a man paralysed from the chest down¹¹⁵ and a man died following police use of a CED on 5 June 2022. It is unsurprising therefore, that the use of a CED and the potential consequences of its use have implications for the human rights of the victim. In fact, the use of force by police officers, including the use of a CED, engages the following Human Rights Articles.

110 Written answer to question by Mike Nesbitt, Member of the Policing Board, 1 October 2020.

111 **Using APP | College of Policing**

112 **Conducted energy devices (Taser) | College of Policing**

113 Ibid.

114 United Nations Human Rights (2020) 'Guidance on Less-Lethal Weapons in Law-Enforcement,' section 7.4.3, p.32. Accessed at: [LLW_Guidance.pdf \(ohchr.org\)](#)

115 Thomas, T. (2022) 'Met police officer charged with GBH after man paralysed by Taser: Jordan Walker-Brown is paralysed from the chest down after being shot in May 2020'. *The Guardian* [online]. Accessed at:

Met police officer charged with GBH after man paralysed by Taser | Metropolitan police | The Guardian

ARTICLE 2 – RIGHT TO LIFE

CED use has implications for this right as studies have suggested that the weapon may have been connected to or have been a contributing factor in the deaths of subjects in conjunction with drug use, pre-existing medical/genetic conditions and other uses of force¹¹⁶. However, more medical research needs to be conducted to establish a direct causal link between CED usage and death.¹¹⁷

The danger to life and the consequential issues involved in the use of CED were comprehensively set out for the Policing Board in 'The PSNI's Proposed Introduction of TASER: Human Rights Advice', by Keir Starmer QC and Jane Gordon, May 2007.¹¹⁸ The conclusion of this research:

- there had been a number of sudden deaths after the use of a CED but questions remained on whether there was a causal link;¹¹⁹
- some groups of people are more vulnerable than others (those suffering from mental illness, those using drugs and/or those in a state of excited delirium);
- the full effects on other groups such as children and pregnant women are not known;
- as a result, CED should be considered potentially lethal rather than non-lethal but that does not mean its use can never be compatible with Article 2;
- the proper test is that its use will be lawful where it is immediately necessary to prevent or reduce the likelihood of recourse to lethal force; and
- the test is therefore just below that for the use of lethal force but much stricter than that which applies for other uses of force.

When the PSNI was preparing to issue CED to officers in 2008 a judicial review was taken against the PSNI and the Policing Board and the Lord Chief Justice found:

'[36] By letter dated 13 December 2007 the Human Rights Advisors retained by the Board advised that they were satisfied in substance with the legal test for the use of Tasers which remained unaltered in the Taser Operational Guidelines issued on 21 January 2008. In a letter dated 27 November 2007 the human rights advisors indicated that they intended to advise the Board that the PSNI draft Operational Procedure and Guidance complied with the Human Rights Act. They were satisfied that some of the examples provided by ACC Toner provided clear evidence of a capability gap and on that basis they considered that the case for need for the Tasers had been met. Training took place on 21/22 January 2008 and was observed by Ms Gordon.

116 Amnesty International UK (2005) 'UK: Tasers: Amnesty International briefing'. Accessed at: **UK: Tasers: Amnesty International briefing | Amnesty International UK**

117 Dymond, A. (2022) 'Electric-Shock Weapons, Tasers and Policing: Myths and Realities,' pp.37 – 39.

118 <https://www.nipolicingboard.org.uk/files/nipolicingboard/media-files/HR-Report-on-taser.pdf>

119 See Chapter Impact of CED – Medical Considerations.

In a letter dated 14 February 2008 Ms Gordon said that having reviewed the scenarios in training and additional notes for instructors she was largely content subject to two matters. She confirmed in a letter dated 9 April 2008 that overall she was satisfied with the police response to the two outstanding concerns.'

'[45] The Human Rights Advisors retained by the Board recommended that the belief required of the officer should be that the use of Taser was immediately necessary in order to prevent a real risk of death or serious injury. The underlined qualifications were rejected in correspondence from ACC Toner on the basis that they might inappropriately hinder the use by officers of a less lethal option. The Chief Constable relies upon the fact that these Guidelines sit within a framework of law which governs the use of force and which by virtue of the Human Rights Act 1998 must be interpreted in accordance with the Convention.'

[47] The Human Rights Advisors retained by the Board accepted that the test proposed by the Chief Constable complied with the Convention and in my view they were right to do so. The Taser Operational Guidance issued to officers reminded them of the existing legal statutory framework and the international obligations on the use of firearms as well as Article 3 of the UNCRC which requires the best interests of the child to be the primary consideration for public authorities.

[48] Although the applicant placed considerable emphasis on the recent views of the UN Committee against Torture and the UN Committee on the Rights of the Child, I consider that these remarks have to be read within the framework of Article 2 ECHR which requires the state to take steps to preserve life. The Taser is a means of using less lethal force for that purpose. There is certainly international evidence of the device being used on a much more extensive and frequent basis, but criticisms of such use cannot prevent use that would otherwise be lawful. I do not consider that the test propounded can be said on its own to contravene the Convention. Although this issue does not involve the consideration of a legislative or constitutional provision the passage in McCann at paragraph 46 above emphasises the need to bear in mind the extensive legislative framework within which provisions such as these are found. It is argued that there is a lack of specific guidance on the operational approach to incidents involving children although it is accepted that there is specific reference to the need to ensure that training should minimise the potential for adverse differential impacts. There is also, however, the need to ensure compliance with section 3 of the Criminal Law Act (Northern Ireland) 1967 as well as other relevant statutory and common law requirements. These provide a substantial framework of law governing the Guidelines and Taser use.

[49] It follows from the fact that the use of the Taser is designed to reduce or prevent recourse to the use of lethal force that it must be demonstrated that there must be circumstances which either have occurred or may occur where Taser use would be appropriate. Although some of the past scenarios presented to the Board under cover of a letter dated 4 October 2007 may or may not have been appropriate for Taser use some at least were. Perhaps the most obvious was an incident where a male carrying a machete and knife threatened police smashing their windscreen. Officers drew their personal issue weapons, but he continued his attack on police vehicles. In order to deal with the incident an officer drove his Landrover at the male knocking him down. Fortunately, no injuries requiring hospital treatment were sustained. In my view this incident is the clearest example of the capability gap which Tasers can satisfy.'

[50]...I do not consider that the procurement and deployment of Tasers by the Chief Constable constituted a violation of Article 2 of the Convention.¹²⁰

ARTICLE 3 – PROHIBITION ON ILL-TREATMENT

Taser use by police officers may not comply with the prohibitions contained within this right. The UN Committee against Torture in its 39th Session concluded that Tasers, because they inflict extreme pain, constitute a form of Torture¹²¹. Indeed, there have been recorded instances in which Tasers have been used by authorities on subjects in custody to inflict pain or suffering rather than to incapacitate them. (Authorities included).¹²²

Article 3 provides an absolute guarantee of the rights it protects, it is not subject to restrictions based on the public interest (even in relation to fighting terrorism or saving lives); it cannot be derogated from even in time of war or any other public emergency¹²³ and; it is not subject to any limitations or to interference based proportionality assessments.

Torture

Article 3 contains a number of prohibitions which need to be dealt with in turn. Torture has been defined as the 'deliberate inhuman treatment causing very serious and cruel suffering'.¹²⁴ The intentional use of a CED, giving the nature of the pain inflicted will always constitute torture, unless it is necessary for the protection of officers or others.

120 JR1's Application [2011] NIQB 5.

121 United Nations Office At Geneva (2007) 'Committee Against Torture Concludes Thirty-Ninth Session: Adopts Concluding Observations on Reports of Latvia, Uzbekistan, Estonia, Norway, Portugal and Benin as well as General Comment on Article 2'. Accessed at: [United Nations Office at Geneva | News & Media | COMMITTEE AGAINST TORTURE CONCLUDES THIRTY-NINTH SESSION \(archive.org\)](https://www.unhcr.org/refugees/article/48612319.html)

122 Konstantinopoulos and others v Greece, paras. 67–82

123 ECHR, Article 15.

124 Ireland v UK.

Inhuman treatment

For something to constitute inhuman treatment, the treatment must cause 'either actual bodily injury or intense physical or mental suffering'.¹²⁵ Again the use of a CED will cross that threshold, particularly if the suspect is in a particularly vulnerable group.

Inhuman or degrading punishment

The use of a CED as any kind of punishment regardless of the behaviour of the suspect would both be unlawful under domestic law and would violate these human rights prohibitions.

Degrading treatment

Treatment qualifies as degrading if it debases an individual or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, and even in the absence of 'any actual bodily injury or intense physical or mental suffering. Any conduct or treatment that intends to humiliate or debase, and treatment that does humiliate or debase even without this being its purpose, can violate Article 3.¹²⁶

In order for a particular punishment or treatment associated with it to be 'inhuman' or 'degrading', the suffering or humiliation involved must in any event go beyond that inevitable element of suffering or humiliation connected with a given form of legitimate treatment or punishment.¹²⁷ More recently the ECtHR in the case of *Bouyid v Belgium* considered in detail the concept of 'dignity' as part of the assessment of the meaning of degrading treatment in Article 3, taking note of the inclusion of the concept of dignity in the Preambles or all the UN's human rights treaties:

- UN Charter itself.
- The Universal Declaration of Human Rights.
- International Convention on the Elimination of All Forms of Racial Discrimination.
- International Covenant on Civil and Political Rights (the UN version of the ECHR).
- International Convention on the Elimination of All Forms of Discrimination of Women.
- United Nations Convention Against Torture.
- United Nations Convention on the Rights of the Child.
- the International Convention for the Protection of All Persons from Enforced Disappearance.
- United Nations Convention on the Rights of Persons with Disabilities.
- and many other such treaties.¹²⁸

¹²⁵ *Kudla v Poland*, para 92. In this report, references to other authorities in all of the quotes from the ECtHR and all cross references have been removed for the sake of simplicity

¹²⁶ *Ananyev v Russia*

¹²⁷ *Ireland v UK* para. 167, *Aksoy v Turkey* para. 63, *Jalloh v Germany*, para 68.

¹²⁸ *Bouyid v Belgium*, para 46.

In relation to the treatment of those within the criminal justice system, Article 3, and the protection of human dignity the ECtHR has stated:

‘Respect for human dignity forms part of the very essence of the Convention. The object and purpose of the Convention as an instrument for the protection of individual human beings require that its provisions be interpreted and applied so as to make its safeguards practical and effective. Any interpretation of the rights and freedoms guaranteed has to be consistent with the general spirit of the Convention, an instrument designed to maintain and promote the ideals and values of a democratic society.’¹²⁹

There can be little doubt that the use of any force potentially constitutes degrading treatment, is humiliating and undermines that person’s dignity – all the more so if this is carried out in public or in front of their friends, colleagues or family. Dignity is a key concept in assessing what Article 3 protects.¹³⁰ Although humiliation is also a subjective feeling, being humiliated is also an objective or social fact:¹³¹

‘...the public nature of the punishment or treatment may be a relevant factor. At the same time, it should be recalled, the absence of publicity will not necessarily prevent a given treatment from falling into that category: it may well suffice that the victim is humiliated in his or her own eyes, even if not in the eyes of others.’

All these treaties have been ratified by the UK and they bind both the UK itself and, as a result of this, all of its institutions. The United Nations Convention Against Torture, Cruel and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) provides similar provisions than those set out in Article 3 of the ECHR (as does the ICCPR in Articles 7 and 10). The UN Committee created by the UNCAT has decided that even if ‘the infliction of pain or suffering which does not reach the threshold of ‘severe’ must be considered as degrading treatment if it contains a particularly humiliating element.’¹³²

129 *Svinarenko v Russia*, para 118. See for more analysis: *Dignity, Degrading Treatment and Torture in Human Rights Law*, Elaine Webster, Routledge, 2018, especially page 50 onwards.

130 See for instance in relation to detention: *Keenan v UK*, para 113; *McGlinchey and Others v UK*, para 46; *Karalevicius v Lithuania*, para 34; *Valasinas v Lithuania*, para 102; and *Vidish v Russia*, para 26.

131 *Raninen v Finland*, para 55 and see *Dignity, Degrading Treatment and Torture in Human Rights Law*, Elaine Webster, Routledge, 2018, especially page 69 and the literature references.

132 *The United Nations Convention Against Torture and its Optional Protocol: A commentary*, 2nd ed., Manfred Nowak, Moritz Birk and Giuliana Monina, OUP, 2019, page 444.

ARTICLE 14 – FREEDOM FROM DISCRIMINATION

CED use has implications for this right as research has suggested that some individuals and groups have been subjected to its use more than others, including in the United States, ‘... unruly school children, mentally disabled or intoxicated individuals involved in disturbing but non-life threatening behaviour; elderly people; pregnant women; unarmed suspects fleeing minor crime scenes and people who argue with officers or simply fail to comply with police commands,’¹³³ and in Great Britain, ‘...those suffering from mental illness, those using drugs and/or those in a state of excited delirium,’¹³⁴

Evidence that any group of people (on the basis of their sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property birth or other status) have been subjected to any greater interference with their rights than other comparable groups will be unlawful. Unless, of course, there is an evidence-based, objective and reasonable justification for this difference.¹³⁵ It is unlawful regardless of the absence of intentional discrimination. Unlawful discrimination under Article 14 does not require any other right to have been violated, only that other right is engaged. Therefore, if the evidence is that a disproportionate number of people from one religion, national or social origin, national minority political group were subject to CED this would be unlawful – unless that difference can be objectively justified, and its justification is a legitimate one.

In the case of *DH v Czech Republic*, the Grand Chamber of the ECtHR set out the following principles in relation to Article 14:¹³⁶

‘175. The Court has established in its case-law that discrimination means treating differently, without an objective and reasonable justification, persons in relevantly similar situations.

...The Court has also accepted that a general policy or measure that has disproportionately prejudicial effects on a particular group may be considered discriminatory notwithstanding that it is not specifically aimed at that group, and that discrimination potentially contrary to the Convention may result from a *de facto* situation.

177. As to the burden of proof in this sphere, the Court has established that once the applicant has shown a difference in treatment it is for the Government to show that it was justified.

133 Stamer, K, and Gordon, J. (2007) ‘The PSNI’s Proposed Introduction of Taser: Human Rights Advice,’ p. 11.

134 *Ibid*, p.3 & p.47

135 *DH and Others v Czech Republic*

136 References to other cases in this quote have been omitted for simplicity.

178. As regards the question of what constitutes prima facie evidence capable of shifting the burden of proof on to the respondent State, the Court stated in *Nachova and Others* (cited above, § 147) that in proceedings before it there are no procedural barriers to the admissibility of evidence or predetermined formulae for its assessment. The Court adopts the conclusions that are, in its view, supported by the free evaluation of all evidence, including such inferences as may flow from the facts and the parties' submissions. According to its established case-law, proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact. Moreover, the level of persuasion necessary for reaching a particular conclusion and, in this connection, the distribution of the burden of proof are intrinsically linked to the specificity of the facts, the nature of the allegation made and the Convention right at stake...

180. As to whether statistics can constitute evidence, the Court has in the past stated that statistics could not in themselves disclose a practice which could be classified as discriminatory. However, in more recent cases on the question of discrimination in which the applicants alleged a difference in the effect of a general measure or *de facto* situation, the Court relied extensively on statistics produced by the parties to establish a difference in treatment between two groups (men and women) in similar situations.

Thus, in *Hoogendijk* the Court stated: '[W]here an applicant is able to show, on the basis of undisputed official statistics, the existence of a prima facie indication that a specific rule – although formulated in a neutral manner – in fact affects a clearly higher percentage of women than men, it is for the respondent Government to show that this is the result of objective factors unrelated to any discrimination on grounds of sex. If the onus of demonstrating that a difference in impact for men and women is not in practice discriminatory does not shift to the respondent Government, it will be in practice extremely difficult for applicants to prove indirect discrimination.'...

184. The Court has already accepted in previous cases that a difference in treatment may take the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group...

186. As mentioned above, the Court has noted in previous cases that applicants may have difficulty in proving discriminatory treatment. In order to guarantee those concerned the effective protection of their rights, less strict evidential rules should apply in cases of alleged indirect discrimination...

188. In these circumstances, the Court considers that when it comes to assessing the impact of a measure or practice on an individual or group, statistics which appear on critical examination to be reliable and significant will be sufficient to constitute the prima facie evidence the applicant is required to produce. This does not, however, mean that indirect discrimination cannot be proved without statistical evidence.

189. Where an applicant alleging indirect discrimination thus establishes a rebuttable presumption that the effect of a measure or practice is discriminatory, the burden then shifts to the respondent State, which must show that the difference in treatment is not discriminatory. Regard being had in particular to the specificity of the facts and the nature of the allegations made in this type of case (*ibid.*, § 147); it would be extremely difficult in practice for applicants to prove indirect discrimination without such a shift in the burden of proof...

196. The Court reiterates that a difference in treatment is discriminatory if 'it has no objective and reasonable justification', that is, if it does not pursue a 'legitimate aim' or if there is not a 'reasonable relationship of proportionality' between the means employed and the aim sought to be realised.'

The monitoring of community background by PSNI has been an ongoing issue and the Human Rights Advisor has made several recommendations in recent years. Furthermore, the Court of Appeal in Ramsey required the PSNI to find a way to record the community background of those stopped under the Justice and Security Act.¹³⁷ The Independent Reviewer of the Justice and Security Act has made a similar recommendation in her latest report.¹³⁸

In the context of use of force, the principles laid out by the ECtHR clearly demonstrate that the onus is on the PSNI to provide an objective justification for any difference irrespective of the less than perfect nature of the statistics that might be available. To fail to do creates a *prima facie* violation (which may also be unlawful under domestic law).

The Human Rights Advisor's latest recommendation in the 2021/22 Annual Report regarding the monitoring of community background states:

'Recommendation 5

Given the history of the PSNI dealing with this difficult issue of policing all communities across Northern Ireland, the PSNI should engage an independent equality expert to assist it with its analysis and development of an action plan.

In the meantime, the PSNI should collect, collate and compare the community background statistics of those arrested and charged with the figures of those subsequently prosecuted.'¹³⁹

137 Ramsey, 25 February 2020, see also Gillan v UK, 12 January 2010

138 Report of the Independent Reviewer Justice and Security (Northern Ireland) Act 2007, Fourteenth Report 1st August 2020 – 31st July 2021, para. 2.8

139 Northern Ireland Policing Board, Annual Human Rights Report 2021/22

Current use of CED in Northern Ireland

CED is used in a relatively small number of incidents: Out of 17,304 total incidents that involved the use of force in 2021/22, 57% were resolved by using unarmed physical tactics, and 31% through handcuffs or limb restraints. 1.6% of incidents were resolved drawing CED, and in 21 incidents out of 17,304 incidents CED were fired. In 86% of cases of CED use, the detainee was brandishing a firearm.

PSNI data (Oct 2020-Sept 2021) shows that CED is most commonly used in dwellings (76%), followed by roadway (11%). It is encouraging that CED was drawn in less than 1% of cases in a medical setting, and there were no cases of CED use in a custody setting. This trend continued during the reporting period April 2021 – March 2022, with 78% of cases involving CED occurring in dwellings.

The Human Rights Advisor watched a small random sample of body-worn video (BWV) footage relating to CED use, descriptions of which can be found in Annex A. All incidents involved people in a mental health crisis and in clear distress. In all but one incident the subjects were carrying a weapon, such as a knife, and were either threatening self-harm on people around them during or before the ARU arrived on scene. This report further considers the use of CED on people experiencing mental ill-health below in Chapter 'Impact'.

In 97% of cases involving the discharge of Taser in 2021/22, officers cited using the device for their own protection or the protection of officers as reasons for using Taser. In 84% of cases, officers gave 'protection of subject' as a reason for using the device. The PSNI currently do not collect data on incidents where subjects are threatening self-harm and subsequent use of CED.

CED can be drawn/aimed, arced, red-dotted (at which stage a red dot appears on the subject indicating where the CED would hit) or fired/discharged.¹⁴⁰ In their Use of Force statistics, PSNI distinguish between drawing and firing CED, but don't further distinguish between arcing or red-dotting.

RECOMMENDATION 6

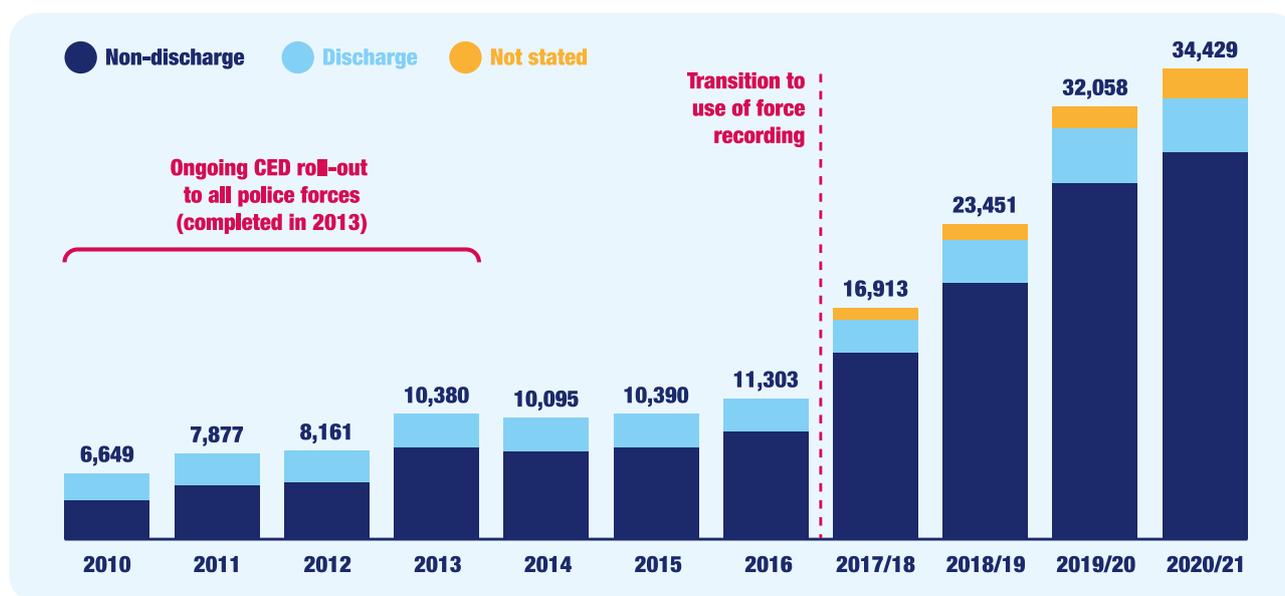
For PSNI to include these different 'stages' of CED use in their Use of Force statistical bulletins, including arcing and red-dotting.

USE OF CED ACROSS THE UK

All police services across the UK use CED. CED were first introduced into police forces in England and Wales in 2003. Initially trialled with specialist firearms officers in five forces, the weapon was made available in 2008 to non-firearms officers and subsequently rolled out to all 43 police forces in England and Wales in 2013.¹⁴¹ Over the past year, the Home Office has reiterated its commitment to the expanded use of Tasers. In 2019, Northamptonshire Police became the first force to arm all frontline officers with the weapon, a practice subsequently adopted by other forces.¹⁴² In March 2020, Home Secretary Priti Patel announced that forces will receive a further £6.7 million to purchase an additional 8,155 devices (UK Home Office, 2020).¹⁴³

In England and Wales, in a one year-period in 2020/21, CED was used in 34,429 incidents (the weapon was drawn), although not actually discharged in 90% (29,287) of these incidents, an increase of 7% (+2,371) from the previous year.¹⁴⁴ In comparison, in Northern Ireland, in the same time period, CED were drawn in 288 incidents and were fired in 21 incidents. This represented no change and a decrease of 12.5% respectively from the previous year. As in England and Wales, restraint and unarmed tactics were used more often than CED in Northern Ireland.

Figure 11: Number of times CEDs were used, England and Wales, year ending December 2010 to year ending March 2021



¹⁴¹ A Growing Threat to Life: Taser Usage by Greater Manchester Police | Resistance Lab

¹⁴² Should all frontline police officers use Tasers? - BBC News

¹⁴³ <https://www.gov.uk/government/news/forces-awarded-extra-funding-for-taser>

¹⁴⁴ Home Office (2021) '6. CED (conducted energy device) use: 6.1 Incidents involving CEDs' in 'Police use of force statistics, England and Wales: April 2020 to March 2021'. Accessed at: [Police use of force statistics, England and Wales: April 2020 to March 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales)

Comparable English police services in size are West Yorkshire Police, West Midlands Police, Northumbria Police, Merseyside Police, South Yorkshire Police and Greater Manchester Police.

Naturally, the policing situation in Northern Ireland can't be directly compared with England and Wales, as only ARU carry CED in Northern Ireland. However, it is sensible to look at the figures in England and Wales, as this would give a possible indication of what could potentially happen if all officers were issued CED in Northern Ireland.

Compared with Greater Manchester Police (GMP), for example, from April 2021 to March 2022, CED was drawn by PSNI officers a total of 288 times and discharged 21 times. In comparison, over a similar 12-month period, GMP officers drew CED 1,503 times, and fired 180.¹⁴⁵ GMP currently employs 7,263 full-time officers, comparable to the size of PSNI, although GMP polices a metropolitan area with a population of 2.8m, whereas the PSNI polices a larger geographical area that includes both urban and rural areas with a population of 1.9m. The firing of CED accounted for 0.1% of uses of force for PSNI in 2021/22, and 0.6% for GMP. GMP has been criticised for using CED disproportionately and without justification.¹⁴⁶

Furthermore, in line with the rise of CED use across England and Wales, CED use by GMP has risen. For example, between April 2018 and March 2019 CED was drawn 1,051 times and fired 183 times.¹⁴⁷ These figures rose to 1,500 and 180, respectively, between July 2021 and June 2022.¹⁴⁸ This indicates that the more officers are authorised to use CED, the more the weapon will be used.

In England and Wales, CED use (both discharge and non-discharge incidents), involved someone perceived as being from a Black ethnic group at a rate seven times higher than someone perceived as being from a White ethnic group in English and Welsh police force areas (excluding the Metropolitan police), and at a rate five times higher in the Metropolitan police force area.¹⁴⁹ UNICEF has also highlighted that CED are being used disproportionately on Black, Asian and Minority Ethnic (BAME) children in England.¹⁵⁰

¹⁴⁵ July 2021 to June 2022, Use of Force Greater Manchester Police, <https://www.gmp.police.uk/police-forces/greater-manchester-police/areas/greater-manchester-force-content/sd/stats-and-data/use-of-force/>

¹⁴⁶ **Greater Manchester Police officer repeatedly Tasered handcuffed man - BBC News. Taser usage by Greater Manchester Police has risen to its highest ever level | Resistance Lab**

¹⁴⁷ [gmp-use-of-force-2017-2018-infographic.pdf](#)

¹⁴⁸ **Use of force | Greater Manchester Police (gmp.police.uk)**

¹⁴⁹ Page 21, **Police use of force statistics, England and Wales: April 2019 to March 2020 (publishing.service.gov.uk)**

¹⁵⁰ **UNICEF Youth Justice Report UK 2020**

In comparison, the use of CED by An Garda Síochána amounted to 10 incidents in the first half of 2022.¹⁵¹ At the end of January 2021, An Garda Síochána had 14,539 members, compared to 6849 PSNI officers.¹⁵²

The Independent Office for Police Conduct (IOPC) published a report of their findings following a review of 101 independent IOPC investigations involving the use of CED in England and Wales from 1 April 2015 to 31 March 2020.¹⁵³ The report brings together an evidence base informed by analysis of existing data and literature, a review of 101 independent IOPC investigations that involved CED use over a five-year period from 2015 to 2020 and views and concerns expressed by community groups and stakeholders. As mentioned above, the report found that Home Office data shows that the number of times CED was used has increased, which may reflect an improvement in police recording practices or it may also reflect the increase of CED trained officers and CED available in police forces or officers dealing with more incidents that have the potential for conflict. IOPC made 17 recommendations in response to the issues identified in the report, which focused on three key areas: training and guidance, scrutiny and monitoring of CED use, and community engagement and input. Several recommendations were made to the College of Policing, the National Police Chiefs' Council (NPCC) regarding guidance and training. To the NPCC and Association of Police and Crime Commissioners, the IOPC recommended monitoring and greater scrutiny at the local and national level, including mechanisms to ensure community members can oversee and scrutinise CED use locally. To the College of Policing and the Royal College of Emergency Medicine, the IOPC made a recommendation regarding Acute Behavioural Disturbance and streamlining guidance by both bodies. To the Home Office, the IOPC made a recommendation regarding better collection, collation and presentation of use of force data. The IOPC further recommended that the NPCC put in place effective mechanisms for robust monitoring and scrutiny of the use of CED against children and furthermore undertake independent research to better understand the use of CED on people from an ethnic minority background, and Black people in particular. It is recommended to consider intersectionality, particularly race with age, gender and mental health and to examine the extent to which social prejudices, biases and assumptions can explain the rates of disproportionality.

151 Reported Use of Force Garda June 2022, <https://www.garda.ie/en/information-centre/statistics/use-of-force-statistics-june-2022.pdf>

152 **An Garda Síochána – Your Police Service - Some facts and figures - The Department of Justice, Strength of Police Service Statistics (psni.police.uk)**

153 **Independent Office of Police Conduct - Taser Review 2021**

CED IN DETENTION

Any recourse to physical force in respect of a person already deprived of his or her liberty, not made strictly necessary by the actual conduct of the detainee, is in principle an infringement of Article 3 because it has the effect of diminishing the human dignity of the individual involved and is unlikely to be justified. Any method of restraint used as punishment or retaliation by the police will violate Article 3, whatever the justification purports to be.

'If the use of force is not necessary and in the specific circumstances of the case not proportional with the purpose achieved, it amounts to cruel or inhuman treatment. Once a person is powerless and has lost the capacity to resist or escape the infliction of pain or suffering the proportionality is no longer applicable.'¹⁵⁴

The use of any force or a restraint once a person has been 'detained' is only justified in certain particular circumstances.¹⁵⁵ Persons in custody are obviously in a vulnerable situation.¹⁵⁶ The ECtHR has said:

'The Court emphasises that, in respect of a person deprived of his liberty, any recourse to physical force which has not been made strictly necessary by his own conduct diminishes human dignity and is in principle an infringement of the right set forth in Article 3 of the Convention. It reiterates that the requirements of an investigation and the undeniable difficulties inherent in the fight against crime cannot justify placing limits on the protection to be afforded in respect of the physical integrity of individuals.'¹⁵⁷

'55. The Court reiterates that Article 3 of the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment, irrespective of the victim's conduct. In order to fall within the scope of Article 3, the ill-treatment must attain a minimum level of severity, the assessment of which depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim, etc.

It is encouraging to see that CED is used very sparingly in custody settings. It has only been drawn once in 2021/22 and twice in 2020/21.

¹⁵⁴ Comment on the UN Convention in The United Nations Convention Against Torture and its Optional Protocol: A commentary, 2nd ed., Manfred Nowak, Moritz Birk and Giuliana Monina, OUP, 2019, page 443.

¹⁵⁵ Svinarenko and Slyadnev v Russia (GC) para 133 and Gorodnitchev v Russia, 102-108 (French only).

¹⁵⁶ Salman v Turkey, para 99 and see Ocalan v Turkey (GC) paras. 182 and 191.

¹⁵⁷ Ribitsch v Austria, para 38, see also Yankov v Bulgaria, para 117.

RECOMMENDATION 7

PSNI officers should never use CEDs in custody or where a person is already restrained and the relevant parts of the Conflict Manual should be amended to make this clear.

CED USE AND INDEPENDENT INVESTIGATIONS

The use of CED against a person engages Article 3 and the ECtHR has said:

'The Court considers that, in these circumstances, where an individual raises an arguable claim that he has been seriously ill-treated by the police or other such agents of the State unlawfully and in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to 'secure to everyone within their jurisdiction the rights and freedoms in (the) Convention', requires by implication that there should be an effective official investigation. This obligation, as with that under Article 2, should be capable of leading to the identification and punishment of those responsible. If this were not the case, the general legal prohibition of torture and inhuman and degrading treatment and punishment, despite its fundamental importance, would be ineffective in practice and it would be possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity.'¹⁵⁸

In Northern Ireland this independent role is carried out by the Police Ombudsman. Section 55(6) of the Police (Northern Ireland) Act 1998 and an agreed protocol.¹⁵⁹

Mechanisms are in place, both internally and externally, to ensure that PSNI is held to account for all uses of force by its officers. Where a firearm, an AEP or a Taser has been discharged, the Police Ombudsman will investigate the incident. Where a CED has been drawn or aimed at a subject, but not discharged, the Ombudsman must be notified, but will usually investigate only if a complaint is made. At the conclusion of the investigation, a Regulation 20 report on the investigation is completed.

In respect of complaints and allegations, the 2021/22 Police Ombudsman Complaints and Allegation Annual Report¹⁶⁰ shows that 22 allegations were made in 2021/22, this is a small decrease from previous years, where allegations regarding the use of CED was 24 in 2019/20 and 23 in 2020/21.

¹⁵⁸ Assenov v Bulgaria, para. 102, quoted in Morrison v Independent Police Complaints Commission, para. 34 and see also Kevin Fox v UK

¹⁵⁹ Public Complaints and the Role of the Police Ombudsman (Service Instruction SI0517), matters to be notified include, '(c) Use of AEP or TASER stun guns.'

¹⁶⁰ Office of the Police Ombudsman of Northern Ireland, Annual Report & Accounts 2021/22, <https://www.policeombudsman.org/PONI/files/13/13137997-ff19-48dc-b726-1aa76c23289d.pdf>

In a recent report of CED use on 18th May 2019, an individual experiencing mental health issues and posing no threat to others, was subjected to two CED strikes.¹⁶¹ The Ombudsman recommended disciplinary proceedings as the officers involved may have breached Article 4.1 of the Code of Ethics as they first failed to resolve the issue in a non-violent manner. The PSNI Professional Standards Department (PSD) however advised in their preliminary review that there was no evidence that the police officers involved in the incident had breached the Code of Ethics.

In another incident in November 2019, the Ombudsman concluded that police officers 'used graduated levels of force' in an effort to get a woman to drop a knife she was holding to her throat. This included two discharges of incapacitant spray, then two discharges of CED, followed by using two AEP impact rounds. Police officers provided immediate aftercare before ambulance staff took over and brought the woman to the hospital. The Police Ombudsman concluded that their actions were reasonable and proportionate.¹⁶²

CED AND PROPORTIONALITY/GRADUATED RESPONSE

The use of a CED assists a police officer because it can be used from a relatively safe distance and does not require the officer to grapple with the suspect directly. It is, therefore, more likely to be used when the suspect is, or is perceived to be, larger or stronger than the officer.

However, unlike attempting direct physical force 'hand to hand', a baton or handcuffs, discharging a CED is designed to impose very significant pain. The force used cannot be graduated or adjusted, the shock is either imposed on the suspect or not. The ability to warn the suspect of its impending use by drawing from its holster, pointing it or demonstrating the possibility of use by shining the laser pointer onto the subject ('red-dotting') do, helpfully, function as steps towards the discharge and allow a proportionate response to some extent.

The difficulty of a non-graduated response and inflicting significant pain is that it is more likely that sometimes the electrical discharge could be disproportionate. However, officers do have the ability to graduate their response to threats using a CED because the mere drawing of the weapon from the holster and giving a warning may result in a change in behaviour. Secondly, the CED weapon allows the officer to aim the weapon and to demonstrate that it is ready to fire by 'red-dotting' that is by switching on the laser pointer so that the red dot shows up on the body of the suspect making it clear how close the officer is to firing the weapon.

Article 4 of the PSNI Code of Ethics states that:

'Any use of force shall be the minimum appropriate in the circumstances and shall reflect a graduated and flexible response to the threat. Police officers may use force only if other means remain ineffective or have no realistic chance of achieving the intended result.'

¹⁶¹ Police deployment of Taser Stun Gun, 18 May 2019, paras 1.1 and 7.0.

¹⁶² **Police Ombudsman Annual Report and Accounts 2019/20**, p.25

IMPACT OF CED

MEDICAL CONSIDERATIONS

*'The short time it takes for the two metal probes to hit feels like an eternity and when they do, I involuntarily scream in agony as the electricity passes through me. The sensation is like nothing I have ever felt before: an agonising pulsing and cramping that seems to take over my own body at regular intervals. As well as being a painful experience, it is also disorientating, unfamiliar, and panic-inducing. The part of my brain that is able to reflect on the experience is frantically trying to classify it and compare it to something more familiar in order to reassure myself that I am safe – but to no avail. Thankfully the shock only lasts five seconds.'*¹⁶³

CED can result in a range of injuries, including from the probes penetrating the skin, muscular or strain injuries, and from unsupported falls. CED can also pose specific risks to people with certain medical conditions, and cardiac events caused by the electrical discharge have been recognised. Being subjected to a CED discharge is also very painful and can, like other forms of police force, have serious psychological impacts on individuals. The Scientific Advisory Committee on the Medical Implications of Less Lethal Weapons (SACMILL) has stated that the number of serious injuries caused by CED 'appears to be low, relative to the number of times the devices are used.'¹⁶⁴

INQUEST has highlighted concerns about the use of CED following several deaths in custody. Responding to the decision to bring criminal charges against the officers involved in the death of Dalian Atkinson, INQUEST stated that his death raised concerns of 'significant public interest, not least at a time when we are seeing increased arming of police with Tasers®'.¹⁶⁵ In Atkinson's case, as a specialist in intensive care medicine testified during the trial that Dalian Atkinson died due to his pre-existing medical conditions, his mental state, the use of the CED and kicks to the head.¹⁶⁶

163 Abi Dymond, the author's account of the use of a CED on her, page 1, other personal accounts of the effect of CED use are set out from page 55 – Electric-Shock Weapons, Tasers and Policing: Myths and Realities, Abi Dymond, 2022, Routledge.

164 Scientific Advisory Committee on the Medical Implications of Less-Lethal Weapons (SACMILL). (2016). Statement on the Medical Implications of Use of the TASER X2 Conducted Energy Device System. Retrieved from https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/595242/Medical_Statement_on_the_TASER_X2_system.pdf

165 Inquest. (7 November 2019). Crown Prosecution Service announce murder and ABH charges against officers in connection with death of Dalian Atkinson. Retrieved from: <https://www.inquest.org.uk/dalian-atkinson-cps>

166 **Dalian Atkinson: Kicks and Taser 'contributed to death' - BBC News**

Similar to the evidence found in Starmer's and Gordon's report in 2008, there is no reliable evidence regarding a direct link between the use of CED and death. However, underlying conditions such as heart disease and substance abuse together with the use of CED on an individual can contribute to that individual's death.¹⁶⁷

CED use also has neuropsychological effects that have remained under researched. A 2015 study from the US involving a randomised controlled trial of 142 healthy participants found that a five second CED exposure caused statistically significant reductions in one area of cognitive functioning, namely verbal learning and memory. The effects lasted on average less than an hour, but could have implications for how detainees behaved during detention and interviews.¹⁶⁸

VULNERABLE SUSPECTS¹⁶⁹

The Court has concluded that the threshold for violation of Article 3 is as follows:

'Ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3. **The assessment of this minimum depends on all the circumstances of the case, such as the duration of the treatment, its physical or mental effects and, in some cases, the sex, age and state of health of the victim.** Further factors include the purpose for which the ill-treatment was inflicted, together with the intention or motivation behind it, although the absence of an intention to humiliate or debase the victim cannot conclusively rule out a finding of a violation of Article 3. Regard must also be had to the context in which the ill-treatment was inflicted, such as an atmosphere of heightened tension and emotions.'¹⁷⁰

There are special protections that apply to anyone with vulnerabilities set out in the UN Convention on the Rights of People with Disabilities (CRPD), ratified by the UK and including the additional right to make complaints against the UK to the UN's CRPD Committee.¹⁷¹ Article 15(2) to that treaty states:

167 Zipes, Douglas, TASER Electronic Control Devices Can Cause Cardiac Arrest in Humans, *Circulation*. 2014; 129:101–11, accessed at <https://www.ahajournals.org/doi/10.1161/CIRCULATIONAHA.113.005504>

168 Robert Kane and Michael White, Taser Exposure and Cognitive Impairment, *Criminology & Public Policy*, 15(1). 2016

169 The present medical position is reflected in the PSNI operational guidance which notes that pregnant women, juveniles and children, persons of low body weight, persons under the influence of certain illegal drugs, person suffering from mental illness and persons with pre-existing heart conditions are generally considered to be more vulnerable to serious medical consequences as a result of CED use. Since the effects of CED on children and/or pregnancy have not been fully explored and the research in these areas is in its infancy.

170 Grand Chamber, para 86. Emphasis added.

171 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.' Article 1 of the CRPD.

'States parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.'

The expert commentators suggest:

'There are in fact several good reasons that suggest the need for a special approach to torture and other cruel, inhuman, or degrading treatment or punishment in the cases of persons with disabilities and, thus the added value of a provision to this effect in the context of the CRPD.

In the first place, as to the degree of suffering required for a specific treatment to reach the threshold of torture or of other internationally prohibited ill-treatment may vary depending on the circumstances of the individual victim, disabilities are to be taken into account in establishing whether either of the two situations has arisen.¹⁷²

Similarly, the CPT has stated that:

79. The potential effects of EDW [electrical discharge weapons] on the physical and mental health of persons against whom they are used is the subject of much argument ... In the absence of detailed research on the potential effects of EDW on particularly vulnerable persons (e.g. the elderly, pregnant women, young children, persons with a pre-existing heart condition), the CPT believes that their use vis- à-vis such persons should in any event be avoided. The use of EDW on people who are delirious or intoxicated is another sensitive issue; persons in this state of mind may well not understand the significance of an advance warning that the weapon will be used and could instead become ever more agitated in such a situation.¹⁷³

It is clear that whether the use of force is a violation of the prohibition on degrading treatment depends on the *nature of the detainee* (including disability, mental or physical health issues, age, and other possible vulnerabilities). In the circumstances of a police arrest or in custody, it may not be known to the police officers whether the person has any mental health issues or vulnerabilities and very difficult for those officers to assess the effect on a person of a CED and ensure they are not used on people with mental or physical health issues or any other specific vulnerabilities.

172 The United Nations Convention on the Rights of Persons with Disabilities: A Commentary, Valentina Della Fina and others, 2017, Springer, page 309.

173 20th General Report, 2010.

For instance, the application of a CED to a person with a mental health condition or personality disorder is likely to exacerbate the distress experienced by that person and may result in for, example, hyperventilation, extreme behaviour and panic attacks. An officer, aware of these particular issues or not making inquiries about such vulnerabilities that were reasonable in the circumstances is clearly at risk of violating Article 3.

However, it is often possible for the officer using force to report whether the person has a self-reported mental health condition as use of force reports are usually recorded independently of other police recording systems. When completing use of force forms, officers are asked to record whether they perceived the individual to have a physical disability or mental health concerns. PSNI perceived individuals as having a mental health condition in 41% of all use of force incidents. The following 'impact' factors, based on officer perception, were cited in CED use by PSNI: Alcohol (48%), Drugs (41%), Mental Health (67%).¹⁷⁴

In England and Wales, the figures are as follows: people perceived as having a mental health condition (15% of all use of force incidents) were involved in proportionally more incidents involving the use of CED (18%) and incidents where the Taser was discharged (24%).¹⁷⁵

This raises questions about PSNI's de-escalation training, particularly when dealing with difficult situations involving individuals suffering from mental health issues. These questions are highly important given the fact that those suffering from mental health conditions are more likely to react poorly to the police and situations involving the police.¹⁷⁶

Acute Behavioural Disturbance (ABD) is an umbrella term used to describe symptoms that can be caused by a number of conditions. It is also sometimes referred to as 'excited delirium'.¹⁷⁷ These conditions are associated with extreme mental and psychological excitement, which can be characterised by extreme agitation, hostility, exceptional strength and endurance without fatigue.¹⁷⁸ It can also be accompanied by rapid breathing, excessive sweating, an increased pain threshold, being hot to the touch and violence.

174 PSNI, Use of Force by the Police in Northern Ireland, 1 April 2021 to 30 March 2022, p. 9

175 6. CED (conducted energy device) use, Police use of force statistics, England and Wales: April 2020 to March 2021'. Accessed at: <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021#ced-conducted-energy-device-use>

176 Defence Scientific Advisory Council Sub-Committee on the Medical Implications of Less-Lethal Weapons (2011) 'Statement on the Medical Implications of Use of the Taser X26 and M26 Less-Lethal Systems on Children and Vulnerable Adults'. Accessed at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443842/DOMILL14_20120127_TASER06.2.pdf#:~:text=DOMILL%20has%20considered%20the%20medical%20implications%20of%20use,susceptible%20to%20the%20Taser%20than%20otherwise%20healthy%20persons%29.

177 The term 'excited delirium' is not recognised by mental health professional bodies and remains a contentious terms, see **'Excited delirium': term linked to police restraint in UK medical guide condemned | Deaths in custody | The Guardian**

178 The Royal College of Emergency Medicine. Acute-behavioural-disturbance (ABD): guidelines on management in police custody. Accessed at https://library.college.police.uk/docs/appref/Acutebehavioural-disturbance_Apr19.pdf

APP on mental vulnerability and illness covers mental health concerns, acute behavioural disturbance and intoxication, and emphasises the importance of communication, de-escalation and risk and threat assessments.¹⁷⁹ APP states that individuals suspected of experiencing acute behavioural disturbance, must be treated as a medical emergency and that officers should call an ambulance without delay and that 'whenever possible', a person suspected of acute behavioural disturbance should be 'contained rather than restrained until medical assistance can be obtained', and that they should only be restrained in an emergency. The IOPC, in their study, suggest that officer awareness and understanding of acute behavioural disturbance and the guidance on dealing with it, vary.¹⁸⁰

Some investigations showed evidence of adherence to certain aspects of guidance but not to others. In other cases, officers failed to adhere to guidance despite having recognised the signs of acute behavioural disturbance, and in some cases, officers completely failed to recognise the signs.

The Human Rights Advisor watched a small random sample of body-worn video footage relating to CED use. All incidents involved people in a mental health crisis and in clear distress.

In all but one incident the subjects were carrying a weapon, such as a knife, and were either threatening self-harm or people around them during or before the ARU arrived on scene. Having watched these, it is difficult to state with any confidence that, by the time the ARU was on the scene, that there was any other way the officers could have resolved the situation. In one instance, officers negotiated for three hours with a subject to put the weapon down. It is impossible to ascertain from the body-worn videos from the ARU officers whether a longer attempt to de-escalate before they arrived might have prevented the need to use a CED.

Subjects in a mental health crisis are challenging to reason with, but all officers depicted on video tried to engage with the subjects in a compassionate and reasonable manner. The primary focus of ARU is not and should not be dealing with people in a mental health crisis. Officers in the ARU are trained to use force and, given the nature of their role and the fact that they are called to an incident, expect to have to use force. Additionally, officers wearing their full protective uniform and carrying weapons could intimidate or aggravate the subject, although equally the serious nature of their presence may assist in resolving the situation without resorting to weapons. According to the CoP, 'effective communication could enable officers and staff to make more accurate risk assessments, by giving them extra time in dynamic situations and encouraging people to provide more information.'¹⁸¹

179 College of Policing. Mental vulnerability and illness, accessed at <https://www.app.college.police.uk/app-content/mental-health/mental-vulnerability-andillness/?highlight=acute%20behavioural?s=acute+behavioural#top>

180 Independent Office for Police Conduct, Taser Review (2021) accessed at https://www.policeconduct.gov.uk/sites/default/files/Documents/research-learning/IOPC_Taser_review_2021.pdf

181 **Conflict management skills | College of Policing**

The Human Rights Advisor sees potential in a plain-clothes officer trained in de-escalation to accompany ARU that respond to a mental health call that involves weapons.

In 97% of cases involving the discharge of CED in 2021/22, officers cited using the device for their own protection or the protection of officers as reasons for using CED. In 84% of cases, officers gave 'protection of subject' as a reason for using the device. The PSNI currently do not collect data on incidents where subjects are threatening self-harm and subsequent use of CED.

Mental health services and PSNI already work together, for example through the Multi-Agency Triage Team, and have received positive results.¹⁸² However, people in crisis and experiencing mental ill health should as far as possible not have to end up in situations that are tense and have the potential to escalate. Perhaps, these situations could be prevented through better linkage with mental health services and better funding of services and a different approach with mental health experts and officers attending these kinds of incidents together. Commenting on how to solve this is outside the scope of this report, but it is important to highlight that this is a systemic issue and responsibility to address this issue lies with policy makers.

RECOMMENDATION 8

To better understand the extent of subjects with mental health needs that the PSNI engage with, the Human Rights Advisor recommends collecting data on subjects threatening self-harm. This data could prove useful in advocating for a better linkage between mental health services and the PSNI.

CHILDREN AND YOUNG PEOPLE

There are particular concerns about the extent of compliance with the United Nations Convention on the Rights of the Child and the use of CEDs. In particular, the duty to act in the best interests of the child (Article 3) and the prohibition against ill-treatment in the CRC itself (Article 37). It is difficult to see how the use of a CED will ever be in the interests of a child. Furthermore, children may also be additionally vulnerable because of physical or mental health issues (or following the use of drink or drugs).

UN bodies have repeatedly called for the UK Government to ban the use of CED on children, highlighting the serious risk of physical and psychological harm they pose.

¹⁸² Policing and mental health related incidents, accessed at https://www.psni.police.uk/advice_information/policing-and-mental-health/

In its 2016 Concluding Observations, the UN Committee on the Rights of the Child urged the UK to

‘Prohibit the use of electrical discharge weapons, such as Taser guns, AEPs (Northern Ireland) and any other harmful devices on children and systematically collect and publish age disaggregated data on their use in order to monitor the implementation of such prohibition;’¹⁸³

In the period April 2021 – March 2022 PSNI officers have drawn CED in 3% of instances (out of 320 total incidents) and have discharged CED in 5% of instances (out of 21 total incidents) on children aged 13 to 17. This represents no change to the previous year.

PSNI started publishing the age of subjects in their statistical bulletins in 2017. From 2017 to 2020, one instance was recorded in which CED was fired on a child under 18, and 23 instances were recorded in which CED was drawn or red-dotted.¹⁸⁴

In England and Wales the number of Taser® incidents involving children aged between 11 and 17 years is:

- in 2017/18, 938 out of 12,755 (7.4%) incidents involved children aged 11 to 17 and 16 incidents involved children younger than 11;¹⁸⁵
- in 2018/19, this rose to 1,671 incidents out of a total of 22,059 (7.6%);¹⁸⁶
- in 2019/20, this increased to 2,795 incidents out of 32,057 (8.7%), 16 incidents involved children under 11;¹⁸⁷
- In 2020/21, 2,585 incidents out of 34,429 (7.5%) involved children. 6 incidents involved children under 11.¹⁸⁸

The use of CED in England and Wales on children has increased in line with the use of CED. Breakdowns of the type of use are not available for the first two data sets, but the most recent two data set shows that the majority of incidents (90%) were non-discharge events.¹⁸⁹

183 UNCRC Concluding Observations on the Fifth Periodic Report of the United Kingdom, CRC/C/GBR/CO/5, see also **CRC concluding observations 2016, paragraph 40 | Human Rights Tracker**

184 FOI Request PSNI Use of Tasers on Children Aged 17 & Under, accessed at <https://www.psni.police.uk/foi-disclosure-log/use-tasers-children-aged-17-under-request-and-under>

185 Police use of force statistics, England and Wales: April 2017 to March 2018, accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/764894/police-use-of-force-apr2017-mar2018-hosb3018.pdf

186 Police use of force statistics, England and Wales: April 2018 to March 2019, accessed at <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2018-to-march-2019>

187 Police use of force statistics, England and Wales: April 2019 to March 2020, accessed at <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2019-to-march-2020>

188 Police use of force statistics, England and Wales: April 2020 to March 2021, accessed at <https://www.gov.uk/government/statistics/police-use-of-force-statistics-england-and-wales-april-2020-to-march-2021>

189 See 114 and 115

When CED were first introduced in Northern Ireland, NICCY raised serious concerns regarding the decision-making process for the introduction of CED into operational use and how the implementation process raised serious concerns for the rights of children and young people, stating that: 'I have as yet not seen the safeguards by way of operational guidelines that will make sure children and young people will be protected from having Tasers used against them.'¹⁹⁰

In the Memorandum submitted by NICCY to the Children's Rights - Human Rights Joint Committee in November 2009, they restated that CED should not be treated as a 'less lethal' weapon but should be treated as 'potentially lethal', they also highlighted that the full effects of CED on children are not known.

In a March 2020 briefing¹⁹¹ Children's Rights Alliance for England (CRAE) outlined its concern about increasing CED use and fears that CED will be more frequently used on children as more officers are armed with the device. Children told CRAE that, even when a CED is not fired, the threat of violence from police carrying a CED is 'really frightening'.

In 2016, StopWatch said it was concerned that more children will be subjected to CED use if calls to make CED available to all frontline officers are realised.¹⁹² Like CRAE, it said that the physical and psychological effects of CED on children is a critical issue, and that its use must be closely monitored. StopWatch called for the firing of CED against children who 'look 14 years-old or younger' to be prohibited.

Strategies for Youth, a US based Human Rights Group, advocating for the rights of Children and Young People, recently published a report citing deployment of CED by police against young people, and research on their physical and psychological impact identifying the physical and emotional impact of CED on young people's developing brains, psyches, and bodies. It concludes that police need extensive training in de-escalation, adolescent psychology, effects of trauma and on negotiating and talking to young people as a first response, supported by enforceable policies and standards. The re-learning of the 'soft' skills of empathy, compassion, non-verbal communication, active listening, adaptability, rapport-building, critical thinking, observation, and conflict resolution.¹⁹³

¹⁹⁰ Commissioner Concerned Over Introduction of Tasers (niccy.org) 2008

¹⁹¹ Children's Rights Alliance for England. Children's rights and policing; Taser and children's rights. Retrieved from http://www.crae.org.uk/media/128554/CRAE_POLICING-TASER-PRINT-1.pdf

¹⁹² StopWatch. (28 April 2016). The Use of Tasers in London. Retrieved from: <https://www.stopwatch.org/uploads/documents/Briefing.Tasers.pdf>

¹⁹³ **The Use and Abuse Of Conducted Electrical Weapons (Cews) On Children And Youth**, Strategies for Youth (January 2022)

The Independent Office for Police Complaints (IOPC) put forward 17 recommendations in their 2021 CED review and called on the College of Policing to review training on the use of CED, particularly involving children. In the review the IOPC instructs police forces to ensure that effective mechanisms are in place for robust monitoring and scrutiny of the use of CED against children.

Responding to the report, Louise King, director of the Children's Rights Alliance for England and director of policy and campaigns at Just for Kids Law, said the cases noted in the report were 'alarming' and states that:

'We would like to see the use of Tasers on children eliminated but at the very least expect the IOPC recommendations to be urgently implemented to ensure Tasers are only used when absolutely necessary.'

More recently in April 2022, the IOPC has requested that police service in England & Wales refer all CED discharges on children under 18 where a complaint or conduct matter has arisen to it for the IOPC to consider how the incident should be investigated. The move aims to increase national scrutiny on the discharge of CED by police on children which is an area of concern for a wide range of stakeholders. Previously police forces in England and Wales only needed to refer incidents of CED use on children to the IOPC when particular criteria was met. This includes any uses that result in death or serious injury. As mentioned previously, all uses of CED are referred to the Police Ombudsman in NI.

The draft Chapter 12 on use of CED of the Conflict Management Manual does not contain any specific guidance on situations involving children and CED.

RECOMMENDATION 9

It is difficult to see how the use of CED will ever be in the interests of a child and therefore the guidance should be amended to set out the circumstances where this might, possibly, be true.

ETHNICITY/COMMUNITY BACKGROUND

In 2021, 0.48% of the population in NI were Black.¹⁹⁴ Black people have been over-represented in the use of Taser at 2% of incidents, thus not correlating with the small population number. Similarly, Travellers accounted for 0.14% of the NI population in 2021 and were represented in 1% of incidents where Tasers were drawn in 2021/22.¹⁹⁵

Research reported from the Home Office and others also indicates that CED were used disproportionately against Black people in Great Britain.¹⁹⁶ Evidence in relation to arrests, charges, and the use of force (Spit and Bite Guards) in Northern Ireland would suggest that the members of the Catholic, Nationalist, Republican community would be subject to twice as many uses of CED as individuals from the Protestant, Unionist, Loyalist community.¹⁹⁷

194 **2011 Census - Key Statistics for Northern Ireland - Report (nisra.gov.uk)**

195 Figures are rounded to the next integer, so the actual percentage might be a bit lower.

196 Footnote 84(?), page 41.

197 **A Review of PSNI's Use of Spit and Bite Guards by the NI Policing Board's Human Rights Advisor**, p. 30

SAFEGUARDS AND PROTECTIONS

TRAINING

All officers in PSNI must complete the required mandatory training before being provided with a CED. The Human Rights Advisor considered the current training curriculum for CED provided by PSNI.

All officers issued with a CED must have completed and passed the National Initial Taser® Training course. This consists of a minimum 18-hour mixed input training ranging from use of force legislation, device familiarisation and weapons handling drills as well as formally assessed range shoots and scenario-based assessments encompassing all of the elements of the course. There is subsequently an ongoing requirement that all CED officers complete and pass a 6-hour refresher annually to maintain their CED qualification.¹⁹⁸

The aim of the training session is to practice the use of CED in a potential operational scenario. The student will be provided with enough information and Intelligence to make the use of pre-emptive CED as the most suitable tactical option. However, if an officer decides to use containment and negotiation as their preferred tactical option, the scenario can allow for this option. For example, one of the scenarios presented to the Human Rights Advisor was attending the scene of a highly agitated and aggressive male armed with a sports bottle of acid. He is attempting to force entry into his best friend's house in order to confront his wife who is having an affair with his best friend. He has threatened to assault both parties with the acid.

The training presented to the Human Rights Advisor consists of the following items:

- Knowledge of law, procedure and dealing with people.
- Knowledge of Roles.
- Carrying, Handling and Shooting a Police Firearm.
- Participating in Incidents involving Firearms.
- Dealing with subjects on Foot.
- Taser Guidance and Roles.
- Taser Use and Safe Handling.
- Dealing with Vulnerable People.
- Operational and Tactical Skills.
- Post Deployment.

¹⁹⁸ **National Police Firearms Training Curriculum (NPFTC) | College of Policing**, CED Training presentation, <https://assets.college.police.uk/s3fs-public/2021-01/Combine%20FOIA-2020-073.pdf>

The training considered the human rights implications of using CED, including Articles 2, 3, and 8. Actions must be reasonable, proportionate, necessary, lawful, accountable, and justified.

DE-ESCALATION

De-escalation can be defined as a reduction of the level of intensity of stress and tension in adverse circumstances, particularly through scenarios involving authorities with coercive power.¹⁹⁹ It can be achieved through the employment of tactics that aim to reduce tension or conflict between individuals and reduce the need to rely on physical control and force. Authorities, and the police, have many legitimate reasons to ensure individuals comply with lawful orders or act peacefully when being arrested. However, should there be any difficulty with compliance or arrest, de-escalation should be the starting point. Officers tasked with administering force should be properly trained in de-escalation techniques so that they can avoid the use of force wherever possible. The varying forms of de-escalation are underpinned by the notion that officers should be genuinely committed to minimising harm and avoiding violence where it is not absolutely necessary to use force.²⁰⁰ This does form part of officer training but there is often a need to move quickly from escalation techniques to assist officers with learning how to effectively and safely use force and importance of the former can often get lost in practice.²⁰¹

Further information on de-escalation is provided in the Human Rights Advisor's Review of PSNI's Use of Spit and Bite Guards.²⁰²

According to the IOPC, it is imperative that police forces ensure a greater focus in training and guidance on communication and de-escalation skills. In particular, they must provide officers with the knowledge and skills needed to manage and de-escalate incidents involving vulnerable people, such as those who are under the influence of alcohol or drugs, have mental health concerns or learning disabilities, or who are displaying signs of acute behavioural disturbance. The introduction of the CoP's new conflict management guidelines and the proposed training to support it will hopefully have a positive impact on officers' use of de-escalation. Training at the College of Policing covers individuals with Learning Difficulties, neurodivergent individuals, medical conditions such as epilepsy, emotionally or mentally distressed individuals, and how these conditions may impact communication and de-escalation in different situations.

199 John Monahan et al., *Coercive Treatment in Psychiatry: Clinical, Legal and Ethical Aspects*, pp. 57-79 in *How To De-escalate a Risk Situation to Avoid the Use of Coercion* (Web Page, March 2011) <https://www.researchgatenet/publication/230218830HowtoDe-EscalateaRiskSituationtoAvoidtheUseofCoercion>

200 Victoria Police. (Melbourne, 2003) 'Victoria Police Manual', <https://www.police.vic.gov.au/policies-procedures-and-legislation#code-of-conduct>

201 The Human Rights Advisor and staff from the Policing Board attended refresher training on the use of force in June 2022.

202 **A Review of PSNI's Use of Spit and Bite Guards by the NI Policing Board's Human Rights Advisor** pages 56-58

The CoP provides guidance on how to assess an individual's vulnerability and how to respond to it.²⁰³ Furthermore, the CoP provides thorough guidance on non-physical conflict management skills and de-escalation.²⁰⁴ PSNI have advised that the CoP's conflict management guidelines are incorporated into their new Chapter 12 of the Conflict Management Manual – Use of Conductive Energy Device (CED), which will be published later this year.

BODY-WORN VIDEO

The current PSNI guidance on Usage of body-worn video (BWV) does not require officers to use BWV in all circumstances involving children or young people, only in a context where use of force is 'reasonably foreseeable'.²⁰⁵

RECOMMENDATION 10

Considering the vulnerable nature of children, the Human Rights Advisor recommends using BWV in all situations where an Officer is interacting or engaging with a child or young person (or someone who the Officer perceives to be a minor), regardless of the operational context, if BWV is available.

203 College of Policing, Authorised Professional Practice, Mental vulnerability and illness, accessed at <https://www.college.police.uk/app/mental-health/mental-vulnerability-and-illness>

204 College of Policing, Conflict management skills, accessed at <https://www.college.police.uk/guidance/conflict-management/conflict-management-skills>

205 PSNI guidance on Usage of body-worn video (BWV), August 2021

STATISTICS

This section provides PSNI statistics. The below table details the number of times a CED has been a) drawn b) fired and c) used in total by officers over the period of March 2021 to April 2022 compared to the year before.²⁰⁶

CED Use	Apr 20 – March 21	Apr 21 – March 22	% Change
CED Drawn	288	288	0%
CED Fired	24	21	-13%
CED Total	312	209	-1%

It will be interesting to observe whether this downward trend continues. More broadly, below is a bar chart detailing the yearly use of CED by PSNI (drawing and firing) covering the period from 2012/13 to 2021/22²⁰⁷.

Figure 6: Conductive Energy Device (CED), 2012/13 - 2021/22



What is clear from the above graph is that drawing and firing of CED has fluctuated year by year since 2012/13 with a continued increase until the reporting period 2019/20, followed by a steady downward trend.

²⁰⁶ All figures are taken from PSNI Use of Force by the Police in Northern Ireland 1 April 2021 to 31 March 2022, Accessed at: <https://www.psni.police.uk/sites/default/files/2022-09/PSNI%20Use%20of%20Force%20Statistical%20Report%201%20Apr%202021%20-%2031%20Mar%202022v2.pdf>

²⁰⁷ Ibid. p. 6

In relation to PSNI's use of CED in different geographical locations across Northern Ireland, detailed below is CED use (both drawn and fired) across policing districts from April 2021 to March 2022²⁰⁸. It is key to note that CED have been drawn and fired mostly in the Belfast City policing district.

Table 2: Use of force by Policing District, 1 April 2021 – 31 March 2022 ⁽¹⁾

Use of Force	Belfast City	Lisburn and Castlereagh City	Ards and North Down	Newry, Mourne and Down	Armagh City, Banbridge and Craigavon	Mid Ulster	Fermanagh & Omagh	Derry City & Strabane	Causeway Coast & Glens	Mid & East Antrim	Antrim & Newtownabbey	Total
AEP pointed	30	5	4	2	8	2	1	5	6	0	5	68
AEP discharged	6	0	0	0	1	0	0	0	1	0	0	8
Baton drawn only	63	6	9	10	19	26	16	30	12	8	7	206
Baton drawn & used	32	10	3	13	8	8	1	28	6	2	7	118
Irritant spray drawn only	40	8	14	16	25	27	24	25	16	22	12	229
Irritant spray used	45	5	10	20	12	34	14	32	22	10	16	220
Firearm drawn or pointed	224	15	23	19	35	28	7	16	13	25	35	440
Firearm discharged	0	0	0	0	0	0	0	0	0	0	0	1
Police dog	76	14	8	5	16	7	3	0	4	3	10	146
CED drawn	142	12	28	11	19	13	3	8	9	21	22	288
CED fired	10	0	1	1	1	2	0	2	2	2	0	21
Handcuffs / limb restraints	1,639	272	236	472	669	414	323	555	239	299	279	5,397
Unarmed physical tactics	3,554	465	305	751	1,162	954	616	962	360	442	464	10,035
Spit and bite guard	34	5	1	12	17	8	6	18	6	8	8	123
Water cannon deployed	2	0	0	0	0	0	0	0	0	0	0	2
Water cannon deployed and used	2	0	0	0	0	0	0	0	0	0	0	2
Total	5,899	817	642	1,332	1,992	1,523	1,014	1,682	696	842	865	17,304
% of Use of Force	34%	5%	4%	8%	12%	9%	6%	10%	4%	5%	5%	100%
Uses per 1,000 population ⁽²⁾	17	6	4	7	9	10	9	11	5	6	6	9

(1) Guidance notes regarding these statistics have been provided at the start of section 2.

(2) Rates per 1,000 population are calculated using NISRA's mid-2020 population estimates, the latest available data at police district level.

In terms of the rationale cited by the PSNI officer for using a CED, PSNI statistics branch publish a use of force by reason statistical table.²⁰⁹ When observing the data in the below table, it is clear that the most commonly cited motive for using a CED on a subject is the protection of a colleague, closely followed by the protection of the officer him or herself.

Table 3: Use of force by reason, 1 April 2021 – 31 March 2022 ^(1, 2, 3)

Use of Force	Protect self	Protect other officer	Prevent an offence	Prevent harm to subject	Effect arrest	Protect public	Protect property	Secure or protect evidence	Other
AEP	92%	95%	80%	89%	46%	74%	9%	21%	0%
Baton	87%	72%	62%	30%	60%	49%	17%	10%	4%
Irritant spray	93%	84%	66%	36%	60%	43%	13%	6%	2%
Firearm	97%	97%	85%	50%	66%	79%	12%	34%	<1%
Police dog	88%	78%	73%	49%	80%	81%	16%	33%	2%
CED	97%	97%	87%	84%	57%	63%	9%	24%	<1%
Handcuffs/ limb restraints	85%	78%	59%	63%	63%	44%	14%	10%	2%
Unarmed physical tactics	85%	80%	65%	61%	50%	36%	14%	8%	4%
Spit and bite guard	90%	95%	63%	20%	17%	35%	23%	2%	1%
Total	86%	80%	64%	60%	55%	41%	14%	10%	3%

- (1) Guidance notes regarding these statistics have been provided at the start of section 2.
- (2) An officer may report more than one reason for using each type of force.
- (3) Reason is not recorded on the use of force form when using the water cannon.

209 Ibid. p. 8

In regard to the most common physical setting in which CED have been used by the PSNI, the table below illustrates that domestic properties or dwellings are the most frequent site of both a CED being a) drawn and b) fired.²¹⁰

Table 5: Use of force by location, 1 April 2021 – 31 March 2022^(1, 2)

Use of Force	Roadway	Dwelling	Custody suite	Hospital	Garden/driveway	Other (3)	Car park	Motor vehicle	Public park	Total
AEP pointed	11	38	0	0	12	3	0	0	4	68
AEP discharged	3	4	0	0	1	0	0	0	0	8
Baton drawn only	108	30	0	1	22	20	11	1	13	206
Baton drawn & used	79	17	0	3	6	7	2	2	2	118
Irritant spray drawn only	90	72	0	2	24	20	12	1	8	229
Irritant spray used	98	53	0	3	23	20	18	2	3	220
Firearm drawn or pointed	124	232	0	3	43	20	10	2	6	440
Firearm discharged	0	1	0	0	0	0	0	0	0	1
Police dog	59	22	0	0	31	19	6	0	9	146
CED drawn	36	215	0	1	22	5	0	2	7	288
CED fired	0	19	0	1	1	0	0	0	0	21
Handcuffs / limb restraints	1,982	1,254	534	459	361	285	262	164	96	5,397
Unarmed physical tactics	3,449	1,766	2,182	642	480	483	466	394	173	10,035
Spit and bite guard	33	8	9	17	7	4	12	31	2	123
Water cannon deployed	2	0	0	0	0	0	0	0	0	2
Water cannon deployed and used	2	0	0	0	0	0	0	0	0	2
Total	6,076	3,731	2,725	1,132	1,033	886	799	599	323	17,304
% of Use of Force	35%	22%	16%	7%	6%	5%	5%	3%	2%	100%

- (1) Guidance notes regarding these statistics have been provided at the start of section 2.
- (2) A use of force incident may involve multiple locations (e.g. an incident could begin in a dwelling but finish on the street outside if the person attempted to escape). However, the recording system does not allow for multiple locations to be included for one incident, so the primary location is likely to be recorded.

210 Ibid. p. 10

Moreover, the following table details the most common type of incident that CED are a) drawn and b) fired in response to.²¹¹ It is key to note the CED have been drawn most frequently in firearms incidents and have been most frequently fired in firearms incidents.

Table 6: Use of force by type of incident, 1 April 2021 – 31 March 2022⁽¹⁾

Use of Force	Crime	Custody	Other	Public order	Domestic	Firearms	Traffic	Terrorism	Total
AEP pointed	3	0	2	0	2	61	0	0	68
AEP discharged	0	0	1	3	0	4	0	0	8
Baton drawn only	87	2	14	59	23	4	17	0	206
Baton drawn & used	45	0	12	37	16	1	7	0	118
Irritant spray drawn only	116	2	32	42	27	3	7	0	229
Irritant spray used	104	3	21	40	41	2	9	0	220
Firearm drawn or pointed	53	0	13	1	18	345	5	5	440
Firearm discharged	0	0	0	0	0	1	0	0	1
Police dog	54	0	9	22	14	44	2	1	146
CED drawn	22	1	10	0	10	241	2	2	288
CED fired	1	0	4	0	2	14	0	0	21
Handcuffs / limb restraints	2,356	562	760	531	723	282	164	19	5,397
Unarmed physical tactics	3,736	2,178	1,212	1,261	1,054	359	207	28	10,035
Spit and biteguard	61	18	12	15	15	1	1	0	123
Water cannon deployed	0	0	0	2	0	0	0	0	2
Water cannon deployed and used	0	0	0	2	0	0	0	0	2
Total	6,638	2,766	2,102	2,015	1,945	1,362	421	55	17,304
% of Use of Force	38%	16%	12%	12%	11%	8%	2%	<1%	100%

(1) Guidance notes regarding these statistics have been provided at the start of section 2.

211 Ibid. p. 11

PSNI also records impact factors that play a role in incidents recorded, such as alcohol, drugs, and mental health. In most incidents, all three factors play a role during those incidents.

Table 4: Use of force by impact factor, 1 April 2021 – 31 March 2022 (1, 2)

Use of Force	Alcohol	Drugs	Mental health	Other
AEP	45%	36%	78%	22%
Baton	66%	30%	18%	31%
Irritant spray	68%	32%	29%	22%
Firearm	44%	37%	57%	36%
Police dog	53%	32%	35%	39%
CED	48%	41%	67%	24%
Handcuffs / limb restraints	61%	38%	37%	24%
Unarmed physical tactics	69%	46%	43%	23%
Spit and bite guard	79%	63%	43%	10%
Water cannon deployed	0%	0%	0%	100%
Total	65%	43%	41%	24%

- (1) Guidance notes regarding these statistics have been provided at the start of section 2.
- (2) Impact factors are officer perceived. An officer may report more than one impact factor relating to each type of force.

In addition, the table of statistics below details the gender of those which PSNI have a) drawn and b) fired a CED upon.²¹² Men are overwhelmingly the most common gender demographic that have been subject to a) a CED being drawn in 88% of all cases b) a CED being fired in 86% of all cases.

Table 8 Gender of those individuals on whom force was used by type of force, 1 April 2021 – 31 March 2022^(1, 2, 3)

Use of Force	Male	Female	Unknown	Total	Total number
AEP pointed	93%	7%	0%	100%	69
AEP discharged	91%	0%	9%	100%	11
Baton drawn only	87%	7%	7%	100%	215
Baton drawn & used	95%	5%	0%	100%	120
Irritant spray drawn only	87%	11%	2%	100%	241
Irritant spray used	97%	2%	<1%	100%	233
Firearm drawn or pointed	90%	10%	0%	100%	518
Firearm discharged	100%	0%	0%	100%	1
Police dog	91%	8%	1%	100%	144
CED drawn	88%	12%	0%	100%	320
CED fired	86%	14%	0%	100%	21
Handcuffs / limb restraints	82%	18%	<1%	100%	4,918
Unarmed physical tactic	79%	20%	<1%	100%	6,601
Spit and bite guard	79%	21%	0%	100%	123
Total	82%	18%	<1%	100%	13,535

- (1) Guidance notes regarding these statistics have been provided at the start of section 10.
- (2) Gender may be officer perceived.
- (3) Percentage figures are rounded to the nearest integer and as a result may not sum to 100%.

212 Ibid. p. 14

**Table 9: Age of those individuals on whom force was used by type of force,
1 April 2021 – 31 March 2022** ^(1, 2, 3)

Use of Force	12 and under	13 - 17	18 - 24	25 - 34	35 - 44	45 - 54	55 - 64	65+	Unknown	Total	Total number
AEP pointed	0%	3%	16%	42%	19%	13%	4%	3%	0%	100%	69
AEP discharged	0%	9%	36%	27%	9%	0%	0%	0%	18%	100%	11
Baton drawn only	<1%	4%	25%	36%	14%	12%	<1%	0%	8%	100%	215
Baton drawn & used	0%	3%	32%	39%	20%	4%	1%	0%	1%	100%	120
Irritant spray drawn only	0%	4%	19%	35%	24%	12%	2%	<1%	2%	100%	241
Irritant spray used	0%	3%	23%	39%	20%	10%	4%	0%	1%	100%	233
Firearm drawn or pointed	0%	3%	18%	42%	21%	11%	4%	1%	0%	100%	518
Firearm discharged	0%	0%	0%	0%	100%	0%	0%	0%	0%	100%	1
Police dog	0%	3%	23%	35%	19%	13%	1%	0%	5%	100%	144
CED drawn	<1%	3%	19%	39%	22%	13%	4%	1%	0%	100%	320
CED fired	0%	5%	10%	38%	43%	0%	5%	0%	0%	100%	21
Handcuffs / limb restraints	<1%	11%	24%	35%	18%	8%	3%	1%	<1%	100%	4,918
Unarmed physical tactics	1%	11%	24%	34%	18%	8%	3%	1%	<1%	100%	6,601
Spit and bite guard	0%	7%	26%	42%	18%	6%	0%	2%	0%	100%	123
Total	<1%	10%	24%	35%	18%	8%	3%	1%	<1%	100%	13,535

- (1) Guidance notes regarding these statistics have been provided at the start of section 10.
(2) Age may be officer perceived.
(3) Percentage figures are rounded to the nearest integer and as a result may not sum to 100%.

Finally, the table of statistics below details the ethnicity of the subject that PSNI used a CED on²¹³. Upon examination of the data, it is clear that those in the white ethnic demographic have been subjected to CED use the most in both the drawn category (in 96% of cases) and the fired category (in 100% of cases)

213 Ibid. p. 16

Table 10: Ethnicity of those individuals on whom force was used, 1 April 2021 – 31 March 2022^(1,2)

Use of Force	White	Irish Traveller	Black	Unknown	Other Ethnic Group	Mixed	Asian	Total	Total number
AEP pointed	97%	0%	1%	0%	0%	0%	1%	100%	69
AEP discharged	100%	0%	0%	0%	0%	0%	0%	100%	11
Baton drawn only	87%	5%	1%	6%	<1%	<1%	0%	100%	215
Baton drawn & used	90%	5%	3%	1%	0%	1%	0%	100%	120
Irritant spray drawn only	88%	5%	4%	2%	<1%	1%	0%	100%	241
Irritant spray used	91%	3%	2%	1%	0%	3%	0%	100%	233
Firearm drawn or pointed	95%	2%	2%	<1%	0%	<1%	1%	100%	518
Firearm discharged	100%	0%	0%	0%	0%	0%	0%	100%	1
Police dog	93%	2%	1%	2%	1%	0%	1%	100%	144
CED drawn	96%	1%	2%	0%	<1%	1%	1%	100%	320
CED fired	100%	0%	0%	0%	0%	0%	0%	100%	21
Handcuffs / limb restraints	94%	2%	2%	<1%	1%	1%	<1%	100%	4,918
Unarmed physical tactics	96%	1%	1%	<1%	<1%	1%	<1%	100%	6,601
Spit and bite guard	97%	1%	2%	0%	0%	1%	0%	100%	123
Total	95%	2%	2%	1%	<1%	1%	<1%	100%	13,535

- (1) Guidance notes regarding these statistics have been provided at the start of section 10.
- (2) Ethnicity may be officer perceived.
- (3) Percentage figures are rounded to the nearest integer and as a result may not sum to 100%.

Annex A

The Board's Human Rights Advisor viewed extracts of body-worn video of incidents where CED were used by officers.

BWV 1 – Male, 2021

ARU was called to a dwelling by a local unit in relation to an incident where a male had been displaying threatening behaviour to his ex-partner. He had also been threatening to cut himself.

The video starts with the subject standing at the first floor window with an officer attempting to reason with him and asking him to come out. The subject did not seem to be carrying a weapon at that point.

He opened the door, shouting 'Shoot me, shoot me' and saying, 'I am not a threat'. He closed the door initially but then came back out. Officers deployed CED without warning, which caused him to fall. The officers restrained him and brought him to hospital, where he was later discharged.

BWV 2 – Male, 2021

This incident concerns a young male who was carrying several knives, had threatened self-harm and who seemed to be under the influence of alcohol and/or drugs. During the course of the video, it became apparent that the subject's baby had died. The footage starts with officers standing in the hallway of an apartment building, with the subject standing in front of the open apartment door holding a knife in his right hand and carrying two more in the elastic of his tracksuit bottoms. He seemed very drunk and to be slurring his words.

Officers had, apparently, been trying to reason with him for three hours before the footage started. When the subject started coming towards the officer, he deployed the CED without any advance warning.

The subject had a long history of disorderly behaviour and self-harm.

BWV 3 – Male Child/Teenager, 2021

This footage concerned a 15 year old male child living at a Residential Care Home. The teenager had been visiting his family home. Earlier he had his mother in a headlock with a knife to her throat. The footage started with an officer talking to the subject through a window with his mother standing next to him. The officer attempted to reason with the subject encouraging that he should come out of the house, saying that they would stand well clear of the door so that they could talk. The subject threatened to kill himself, saying that he never saw any people his own age and the last time he did he was stabbed in the face. A short scuffle ensued with his mother grabbing the blade of the knife he was holding. Both then disappeared from the window. The officers then broke down the door and entered the house. The subject crossed the house into the kitchen and the officer discharged his CED immediately without advance warning, although he shouted 'Taser, Taser' as it was being discharged. The subject fell to the ground and the officers were able to restrain him.

The teenager had a history of self-harming and reportedly suffered from multiple mental health conditions.

BWV 4 – Male, 2022

This footage was quite short, and concerned a 43 year old male. The video starts with officers at the door of an apartment, announcing themselves. A woman opened the door and came out, saying 'Please help him'. The subject had been threatening self-harm with a pair of scissors. The officer closest to the subject deployed CED, shouting 'Taser, Taser' at the same time.

BWV 5 – Male, 2022

This footage concerned a middle-aged male who seemed disturbed. His wife had phoned 999 in the early morning, concerned for his safety as he had apparently gone out with a bow and arrow to shoot at lampposts. He apparently believed that he only had days to live as the Taliban were coming for him and he also believed that the 5G network was a threat to him. The footage started when police attempted convince the subject to put down the baseball bat that he was holding. He repeatedly told the officers that they were an illegal organisation and were not real police officers. Officers had been pointing the red dot of the CED at him, indicating that the CED was ready to be deployed. When the subject raised the bat, the officer discharged the CED without advance warning, shouting 'Taser, Taser' after it had been discharged.

BWV 6 – Female, 2021

This incident concerned a 32-year-old female who had a history of self-harm, alcohol abuse and suffered from a personality disorder.

The footage started when both paramedics and the ARU were in the dwelling. The footage showed a paramedic coming out of the bathroom, where the subject was located. The paramedic told the officers that she was 'cutting herself again'. Consequently, the officer standing in the door of the bathroom discharged a CED, but only shouted 'Taser, Taser', after the fact.

BWV 7 – Male, 2021

This incident concerned a 40 year old male, who was threatening to self-harm with a knife. He had been in prison several times and at one point was classed as a high-risk perpetrator of domestic violence. The footage started when officers were standing in front of his house, with one officer talking to the subject who was standing in the corridor and the officer next to her carrying and pointing a CED. The female officer asked the subject 'Can you come out to us please?' several times, with the subject shouting that he would cut his throat and for the officers to step back. The officer discharged his CED, but only giving warning after it had already been discharged. Officers subsequently entered the house and attended to the subject, who had fallen to the ground.

Annex B

INTERNATIONAL HUMAN RIGHTS LAW ON USE OF CED

This section sets out the recommendations of three international human rights bodies, the UN, the Committee for the Prevention of Torture (CPT) and the European Court of Human Rights (ECtHR).

UN GUIDANCE

When the PSNI was preparing to issue CED to officers a judicial review was taken against the PSNI and the Policing Board and as part of the case the Lord Chief Justice set out some of the international human rights issues, including the concern about the possibilities of ill-treatment:

'[14] In its report on Portugal published in January 2008 the UN Committee against Torture made the following comments in relation to the use of Taser X26 weapons.

'The committee is deeply concerned about the recent purchase by the State party of electric 'Taser X26' weapons for distribution to the Lisbon Metropolitan Command, the Direction Action Corps, the Special Operations Group and the Personal Security Corps. The Committee is concerned that the use of these weapons causes severe pain constituting a form of torture, and that in some cases it may even cause death, as recent developments have shown (Articles 1 and 16). The State party should consider relinquishing the use of electric 'Taser X26' weapons, the impact of which on the physical and mental state of targeted persons would appear to violate Articles 1 and 16 of the Convention.'

[15] The applicant [a concerned parent] also relies on the report of 3 October 2008 by the UN Committee on the Rights of the Child following its examination of the United Kingdom's report when it made the following comment.

'The Committee, while welcoming the State party's abolition of the use of plastic baton rounds as a means of riot control in Northern Ireland, is concerned that they were replaced by Attenuating Energy Projectiles whose less harmful nature has not been proven. The Committee is also concerned at the authorisation of Taser guns for police officers in England and Wales, and in Northern Ireland as a pilot project, in both cases of which they can be used on children. The State party should treat Taser guns and Attenuating Energy Projectiles as weapons subject to the applicable rules and restrictions and put an end to the use of all harmful devices on children.'

[16] The respondents [PSNI] place considerable emphasis on the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and rely particularly on the following passage.

‘Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitating weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons.’²¹⁴

THE COMMITTEE FOR THE PREVENTION OF TORTURE

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment have stated:

‘66. The use of [electrical discharge weapons (EDW)] by law enforcement and other public officials is a controversial subject. There are conflicting views as regards both the specific circumstances in which resort to such weapons can be justified and the potential negative effects on health that the weapons can cause. It is also a fact that by their very nature, EDW lend themselves to misuse...

68. The CPT understands the wish of national authorities to provide their law enforcement officials with means enabling them to give a more graduated response to dangerous situations with which they are confronted. There is no doubt that the possession of less lethal weapons such as EDW may in some cases make it possible to avoid recourse to firearms. However, electrical discharge weapons can cause acute pain and, as already indicated, they are open to abuse. Consequently, any decision to issue law enforcement officials or other public servants with EDW should be the result of a thorough debate at the level of the country’s national executive and legislature. Further, the criteria for deploying EDW should be both defined by law and spelt out in specific regulations.

69. The CPT considers that the use of electric discharge weapons should be subject to the principles of necessity, subsidiarity, proportionality, advance warning (where feasible), and precaution ...

214 JR1’s Application [2011] NIQB 5.

70. In the CPT's view, the use of EDW should be limited to situations where there is a real and immediate threat to life or risk of serious injury. Recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible. Furthermore, recourse to such weapons should only be authorised when other less coercive methods (negotiation and persuasion, manual control techniques, etc) have failed or are impracticable and where it is the only possible alternative to the use of a method presenting a greater risk of injury or death...

72. Electrical discharge weapons are increasingly being used when effecting arrests, and there have been well-publicised examples of their misuse in this context (e.g., the repeated administration of electric shocks to persons lying on the ground). Clearly, the resort to EDW in such situations must be strictly circumscribed. The guidance found by the CPT in some countries, to the effect that these weapons may be used when law enforcement officials are facing violence – or a threat of violence – of such a level that they would need to use force to protect themselves or others, is so broad as to leave the door open to a disproportionate response. If EDW gradually become the weapon of choice whenever faced with a recalcitrant attitude at the time of arrest, this could have a profoundly negative effect on the public's perception of law enforcement officials...

76. ... The CPT knows of cases in which persons deprived of their liberty have been subjected to several electrical discharges in quick succession; such excessive, unnecessary use of force certainly qualifies as ill-treatment ...

82. Following each use of an EDW, there should be a debriefing of the law enforcement official who had recourse to the weapon. Further, the incident should be the subject of a detailed report to a higher authority. This report should indicate the precise circumstances considered to justify resort to the weapon, the mode of use, as well as all other relevant information (presence of witnesses, whether other weapons were available, medical care given to the person targeted, etc). The technical information registered on the memory chip and the video recording of the use of the EDW should be included in the report.

84. Whenever it transpires that the use of an EDW may not have been in accordance with the relevant laws or regulations, an appropriate investigation (disciplinary and/or criminal) should be set in motion.²¹⁵

215 20th General Report, 2010.

THE EUROPEAN COURT OF HUMAN RIGHTS

The Court has considered the use of CED on several occasions:

'The Court has previously found that subjecting a person to electric shocks is a particularly serious form of ill-treatment capable of provoking severe pain and cruel suffering.'²¹⁶

Note also:

'The Court also takes note of the CPT standards, according to which, the use of electrical discharge weapons should be limited to situations where there is a real and immediate threat to life or risk of serious injury, and recourse to such weapons for the sole purpose of securing compliance with an order is inadmissible. Furthermore, the CPT has recommended avoiding the use of electrical discharge weapons against the elderly because of their vulnerability, as well as against intoxicated persons who may become even more agitated as a result.'²¹⁷

216 *Znakovas v Lithuania*, para 46, see also *Grigoryev v. Ukraine*, para 90; *Anzhelo Georgiev and Others v. Bulgaria*, paras. 75-76, and *Kancial v Poland*, para 78.

217 Para 50.

Glossary

AEP	Attenuating Energy Projectile(s)
AFO	Authorised Firearms Officer
APP	Authorised Professional Practice
ARU	Armed Response Unit
BAME	Black, Asian, and Minority Ethnic
BWV	Body-Worn Video
CAJ	Committee for the Administration of Justice
CED	Conducted Energy Device(s)
CoP	College of Policing
CPT	European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment
CRPD	UN Convention on the Rights of People with Disabilities
CTSFO	Counter-Terrorism Specialist Firearms Officer
DOMILL	DSAC Sub-committee on the Medical Implications of Less-Lethal Weapons
DSAC	Defence Scientific Advisory Council
DSS	Dog Section Serial
ECHR	European Convention of Human Rights
ECtHR	European Court of Human Rights
EDW	Electric Discharge Weapons
GSB	Gold-Silver-Bronze command structure

IOPC	Independent Office for Police Conduct
MCA	Mental Capacity Act 2005
NDM	National Decision-making Model
NICCY	Northern Ireland Commissioner for Children and Young People
NPCC	National Police Chiefs' Council
PACE	Police and Criminal Evidence Act 1984 Police and Criminal Evidence (NI) Order 1989
PAVA	Pelargonic Acid Vanillylamide irritant spray
PPW	Personal Protection Weapon
PSD	PSNI Professional Standards Department
PSP	Personal Safety Programme
PSU	Police Support Unit
SFO	Specialist Firearms Officer
SOB	Specialist Operations Branch
TACT	Terrorism Acts 2000 and 2006
TSG	Tactical Support Group
UNCAT	United Nations Convention Against Torture, Cruel and Other Cruel, Inhuman or Degrading Treatment or Punishment



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