



Home Office

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Minister of State for Crime and Policing
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Mr Geraint Williams
Assistant Coroner
Cornwall and the Isles of Scilly

BY EMAIL ONLY

2nd April 2020

Dear Geraint,

Thank you for your Regulation 28 report, dated 6 February 2020, following the inquest into the death of Mr Marc Cole. I am the Minister of State for Crime, Policing and the Fire Service and have oversight of the policy on the police use of force. I am grateful to you for sharing your findings with the Home Office and for the opportunity to reflect on the evaluation of the medical implications of Conducted Energy Devices (commonly known as Tasers), along with the guidance and training for police officers who use Tasers in the UK.

I will begin by outlining the overall UK policy on the police use of force and on Tasers in particular, before setting out our response to your recommendation of a wholesale review of the effects of multiple Taser activations and the effects of sustained activations in order to provide fuller and more comprehensive advice, guidance and training on Taser to the police.

Due to the special nature of the role that police officers perform in serving the public, there are occasions when it is essential for them to use physical force to protect the public and/or themselves from harm.

The British model of 'policing by consent' is based on the principle that the power of the police comes from the common consent of the public, as opposed to the power of the state. Public consent is obtained by balancing the need to ensure public security whilst protecting civil liberties.

The policy in this country has long been that the police should not generally be armed. This is vital in promoting good relations with the public and the community they serve. It gives character to our policing that we should not readily give up. All police use of force must be proportionate and necessary. Less lethal weapons provide the police with more options to meet that requirement. They are defined as: weapon systems designed to be used by law enforcement directly against an individual or group of individuals to achieve a physical effect to mitigate a threat, without substantial risk to the subject of permanent or serious injury or death. While the actual outcome may, on occasion, be lethal, this outcome is less likely than when conventional firearms are used.

Approval of Less Lethal Weapons

Only less lethal weaponry that has been approved by the Home Secretary may be used by the UK police service. The evaluation and assessment processes before less lethal weapons are submitted to the Home Secretary for approval include, where appropriate:

- a needs analysis
- determination of operational requirement
- technical evaluation
- medical assessment
- operational performance trials.

In addition, when Home Office officials provide advice to the Home Secretary on new devices they also take into account relevant strategic, ethical, operational and societal issues, including an assessment of environmental factors. Of course, once a device is approved, relevant guidance and training are provided to the police and there is continued oversight of how Taser is being used. I have focused below on the medical assessment, guidance and training, and government oversight.

The Government believes that our approach to the use of less lethal weapons is in line with Articles 2 and 3 of the UN Basic Principles on the Use of Force and Firearms which state:

- *Article 2: "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 firearm..."*

Article 3: "The development and deployment of non-lethal incapacitative weapons should be carefully evaluated in order to reduce the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled."

Medical Assessment

Medical evaluation is an important aspect of the approval process of less lethal weapons. The Scientific Advisory Committee on the Medical Implications of Less-Lethal Weapons (SACMILL) provides independent advice to UK government departments and organisations on the biophysical, biomechanical, pathological and clinical aspects of less-lethal weapon systems.

SACMILL's membership includes an independent chairman and other independent members, who are mainly medical and academic experts from the public and private sectors, providing an appropriate balance of independent lay and medical expertise on the committee. SACMILL succeeded the Defence Scientific Advisory Council Sub-Committee on the medical implications of less-lethal weapons (DOMILL) in 2012.

SACMILL is responsible for:

- issuing independent statements on the medical implications of the use of specific less-lethal weapon systems, when used in accordance with published operational guidance provided to users;
- giving advice on the risk of injury from specific less-lethal weapon systems striking specific areas of the body, in a format that will assist both those responsible for developing policy and for operational users to help make tactical decisions.

SACMILL's medical evaluations of Taser use are published on Gov.UK¹. You may be interested to note that in their 2012 medical statement on the X26 Taser device (which would have been used by Devon and Cornwall police in May 2017), SACMILL refer to the risks of prolonged duration in paragraph 75²:

“For the majority of known Taser injury mechanisms (para. 12), reducing the physiological burden imposed by the discharge would likely reduce the risk of adverse outcome. DOMILL, therefore, considers that the duration of application of Taser discharge should be limited to that necessary to achieve the desired operational effect. Multiple discharges should be avoided where tactically feasible. These recommendations further reinforce advice given to users in the ACPO Guidance on Operational Use of Taser.”

As SACMILL recommendations are published they are incorporated into the College of Policing's National Taser training curriculum.

The Code of Practice for Armed Policing and Police Use of Less Lethal Weapons

¹ <https://www.gov.uk/government/publications/medical-implications-of-the-taser-x2>

² https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/443842/DOMILL14_20120127_TASER06.2.pdf

On the 14 January 2020 the Home Secretary approved a new Code of Practice for Armed Policing and Police Use of Less Lethal Weapons³. The Code makes clear that all new less lethal weapon systems, certain specialist munitions and significant changes to pre-approved less lethal weapons systems require approval by the Home Office before they can be used by police forces in England and Wales.

Although the Home Secretary approves specific devices, their actual deployment is an operational matter for chief officers and based on each force's assessment of the threats and risks in their areas. The code has a statutory basis in law, meaning all chief constables have a duty to have regard to it.

It describes their roles and responsibilities and sets out the basic principles of the selection, evaluation, approval, authorisation, acquisition and deployment of these weapons by the police.

The revised Code of Practice is used in conjunction with the College of Policing Authorised Professional Practice (APP) for Armed Policing. We believe that the Code and APP ensure that our police service maintains the high, nationally recognised standards for the police use of firearms, specialist munitions and less lethal weapons.

Manufacturer's Guidance for Law Enforcement

AXON, the manufacturer of Taser devices, issues guidance to law enforcement on the operational use of Taser. This guidance is issued to police forces along with the training package and with the devices themselves. The following was included in their latest warning/guidance to law enforcement in 2018⁴:

"Cumulative Effects. CEW exposure causes certain effects, including physiologic and metabolic changes, stress, and pain. In some individuals, the risk of death or serious injury may increase with cumulative CEW exposure. Repeated, prolonged or continuous CEW applications may contribute to cumulative exhaustion, stress, cardiac, physiologic, metabolic, respiratory and associated medical risks which could increase the risk of death or serious injury. Minimize repeated, continuous or simultaneous exposures when practicable".

³ The Code was published on The College of Policing website and on GOV.UK at <https://www.gov.uk/government/publications/armed-policing-and-police-use-of-less-lethal-weapons-code-of-practice> and can be accessed via <https://www.gov.uk/official-documents>

⁴ https://axon.cdn.prismic.io/axon%2F3cd3d65a-7500-4667-a9a8-0549fc3226c7_law-enforcement-warnings%2B8-5x11.pdf

Training

All officers who are selected to use Tasers have to pass a comprehensive training process and need to have an appreciation of the physical and psychological effects of these devices. This includes training officers to factor in the potential vulnerability of a person and factors such as mental health, age and stature when assessing each situation.

As set out in the College of Policing guidance (APP)⁵, all Tasers trained officers have to undergo annual refresher training in line with the most up-to-date training curriculum.

When confronted with a violent situation an officer uses this training and experience in conjunction with the National Decision Making Model (NDM)⁶ to decide the most appropriate use of force in the circumstances.

On your specific concern about the understanding of the risks of multiple Taser activations, the College of Policing Guidance, the APP sets out that:

“The duration of the initial discharge and any subsequent discharge must be proportionate, lawful, accountable and absolutely necessary. Any medical risk may be increased the longer or more often the device is discharged.”

Repeated or prolonged application of discharge is also listed as one of the risk factors associated with Taser use which has been identified from operational experience, medical evaluation, and the manufacturer’s guidance. The National Taser Training Curriculum includes scenario-based training designed to emphasise precautions and considerations relevant to all risk factors.

I understand that the College of Policing will submit a separate response to the Prevention of Future Deaths Report.

Monitoring and evaluation

I have set out some of the ways we ensure that only devices that are safe to use are put in the hands of officers who are well-trained and understand the risks they carry. As you would expect, however, given the importance of maintaining our existing model of policing by consent we also monitor the police use of force, including Taser.

In 2017, we introduced new transparency measures, which mean that all officers have to record the location and outcome of all police use of force, along with the ethnicity and age of those involved. Use of force incidents, are recorded by all 43 Home Office police forces in England and Wales and reported to the Home Office annually. This data is published annually, the most recent publication was 19 December 2019⁷.

⁵ <https://www.app.college.police.uk/app-content/armed-policing/conducted-energy-devices-taser/>

⁶ <https://www.app.college.police.uk/app-content/national-decision-model/the-national-decision-model/>

⁷ <https://www.gov.uk/government/collections/police-use-of-force-statistics>

The publication of this data brings unprecedented transparency and accountability and delivers a commitment to respond to public interest in relation to this complex area of policing.

In the longer term, as data quality improves, it will also provide an evidence base to support the development of tactics, training and equipment to enhance safety for all.

In addition, any new CED device being introduced into service by forces is subject to very close monitoring through bespoke reporting by both the police and Government.

There is a robust legal framework in place which sets out the process which must be followed for investigations conducted by the local force or the Independent Office of Police Conduct, established in the Police Reform Act 2002 and Police (Conduct) Regulations 2012. Any death or serious injury (DSI) that happens in police custody or as a result of, or immediately following, police contact must by law be referred to the IOPC.

The IOPC have stated that the police use of Taser is an area of considerable public interest and concern and that they will continue to monitor and maintain oversight of its use, and share learning arising from any cases that they are involved with.

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) is the independent inspectorate which works to promote "improvements in policing and fire & rescue services to make everyone safer". HMICFRS is independent of government, the police and fire & rescue authorities.

HMICFRS is charged in statute with inspecting the legitimacy, efficiency and effectiveness of the police service in England and Wales, and fire and rescue services in England. The purpose of the Inspectorate is to ensure standards are achieved, good practice is spread, performance is improved, and the public are engaged and assured. HMICFRS inspections include assessment of whether police forces use force in a fair and appropriate way.

We will continue to work with the College of Policing and National Police Chief's Council to reduce the risks associated with the use of less lethal weapons such as Taser.

Conclusion

I am grateful to you for highlighting your concerns about the use of Taser. As you would expect, we take seriously your comments concerning the circumstances of Mr. Cole's death. We have carefully reviewed the processes and safeguards in place for the police use of Taser, including the independent evaluations of the medical implications of Tasers carried out by SACMILL, the guidance available, the high standards of training, and the ongoing scrutiny of the Taser use. I am satisfied that they are adequate and help ensure that any use of force by the police is proportionate, necessary and as safe as possible.

Nonetheless, I accept that every death in police custody is a tragedy and our sympathies are with Marc Cole's family and loved ones.

A handwritten signature in blue ink, appearing to read 'Kit Malthouse', with a long horizontal flourish extending to the right.

Kit Malthouse MP
Minister of State for Crime and Policing