

Baton Rounds Report

A summary of seven Reports by the Police Ombudsman for Northern Ireland to the Secretary of State, the Northern Ireland Policing Board and the Chief Constable of the Police Service of Northern Ireland on the discharge of baton rounds by police officers during 2001 and 2002

Executive Summary

1. Under Section 55(4) of the Police (Northern Ireland) Act 1998, the Chief Constable of the Police Service of Northern Ireland can refer matters to the Police Ombudsman for Northern Ireland. The Police Ombudsman investigates and reports on these matters to the Secretary of State, the Chief Constable and the Northern Ireland Policing Board under Regulation 20 of the RUC (Complaints etc.) Regulations 2000. This report is issued as a statement as to the Police Ombudsman's actions, decisions and determinations, pursuant to section 62 of the Police (Northern Ireland) Act 1998.
2. In accordance with an agreed protocol, the Chief Constable routinely refers incidents relating to the discharge of baton rounds by police officers to the Police Ombudsman. The Police Ombudsman has now produced seven Reports relating to the discharge of baton rounds by police officers during 2001 and 2002. This paper summarises the findings of these Reports.
3. The seven incidents considered typically involved serious rioting, with attacks on the police by rioters using petrol, paint, acid and blast bombs. The police discharged 36 baton rounds during the incidents, which struck 26 persons (two persons were struck twice). At least 117 police officers were injured during the incidents, some of them seriously.
4. In all the incidents examined the Police Ombudsman's investigators concluded that the discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton rounds were fully in accordance with the relevant RUC/PSNI and Association of Chief Police Officers (ACPO) guidance. No occurrences of police misconduct were found.
5. Investigators from the Police Ombudsman's Office are currently investigating a further six referrals from the Chief Constable and five complaints from members of the public dealing with the discharge of baton rounds.

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Foreword

The use of baton rounds by the security forces in Northern Ireland has given rise to much debate, and on occasions significant concern has been articulated as to the need for their use. Injuries and deaths resulted from the use of the precursor of the baton round, the plastic bullet, and there have also been injuries consequential upon the use of baton rounds. In these circumstances the then Chief Constable, Sir Ronnie Flanagan, decided that it would be in the public interest for him to refer the discharge of baton rounds to me for investigation. Given the significant issues referred to above, I was of the view that it was in the public interest for me to investigate pursuant to Section 55(5) of the Police (Northern Ireland) Act 1998.

On each occasion on which an investigation pursuant to Section 55(5) is completed I am required by Regulation 20 of the RUC (Complaints etc.) Regulations 2000 to report on the investigation to the Secretary of State, the Chief Constable of the Police Service of Northern Ireland (PSNI) and the Northern Ireland Policing Board. Those reports are filed as soon as the investigation is complete.

This short research report has been prepared by the Research Branch of my Office, under the leadership of Dr. Malcolm Ostermeyer. It contains a review of seven Reports of investigations completed during the period April 2001 to March 2002 into incidents in which police officers discharged baton rounds. The Report addresses the guidance and legislation relating to the use of baton rounds and describes the investigative methodologies adopted by my Office. It also summarises my conclusions in respect of the legality, necessity and proportionality of the use of baton rounds on each occasion.

The function of this report is to inform the public and the police of the nature and outcome of each of these investigations. I make no other comment. It will be noted that any PSNI management issues that emerged in the course of an investigation were brought to the attention of the Secretary of State, the Chief Constable and the Policing Board. No recommendations in respect of criminal or disciplinary action were made as a consequence of these investigations.

Nuala O'Loan

Police Ombudsman for Northern Ireland



1. Introduction

The Chief Constable of the Police Service of Northern Ireland can refer matters to the Police Ombudsman for Northern Ireland under the provisions of Section 55(4) of the Police (Northern Ireland) Act 1998. The Police Ombudsman can then investigate and report on these matters to the Secretary of State, the Chief Constable and the Policing Board under Regulation 20 of the RUC (Complaints etc.) Regulations 2000. These reports are referred to as Regulation 20 Reports. This report is issued as a statement as to the Police Ombudsman's actions, decisions and determinations, pursuant to section 62 of the Police (Northern Ireland) Act 1998.

In accordance with an agreed protocol the Chief Constable routinely refers to the Police Ombudsman incidents relating to the discharge of baton rounds by the police. As a result of these referrals and the subsequent investigations the Police Ombudsman has produced seven Reports for the Secretary of State, the Chief Constable and the Policing Board relating to the discharge of baton rounds by the police during 2001 and 2002. This paper briefly summarises the findings of these Reports, which relate to the incidents listed below:

Incident location	Date
Lurgan	24 April 2001
Garvagh Road, Portadown	26 May 2001
Ardoyne, North Belfast	20-21 June 2001
Corcrair Road, Portadown	26 June 2001
Corcrair Estate, Portadown	12 July 2001
Ardoyne, North Belfast	26 July 2001
Ardoyne, North Belfast	9 January 2002

Investigators from the Police Ombudsman's Office are currently investigating a further six referrals from the Chief Constable dealing with the discharge of baton rounds and five complaints from members of the public in relation to the discharge of baton rounds during these latter incidents.



2. Guidance and legislation covering the use of baton rounds

The Police Ombudsman's investigators examine the discharge of baton rounds having regard to the guidance and legislation relating to the use of such weapons.

The police issue, use and deployment of baton rounds are covered by RUC Force Order 46/2000 (11 December 2000), which reflects the Association of Chief Police Officers' Manual of Guidance on the Police Use of Firearms.

The Criminal Law Act (Northern Ireland) 1967 provides the legal authority for the use of force by the police and the benchmark by which it is judged. It states that:

"A person may use such force as is reasonable in the circumstances in the prevention of crime, or in effecting or assisting the lawful arrest of an offender or suspected offender or of persons at large."

The actions of police officers in the use of baton rounds must appear on the available evidence to satisfy these criteria.

The application of law relating to human rights issues must also be considered in cases in which force is used. The applicable test is more rigorous than that under the Criminal Law Act. The term "no more than absolutely necessary" is used. The amount of force used must be proportionate to the achievement of the purpose for which it is permitted to be used.

The following points should be considered when assessing whether the degree of force used is "no more than absolutely necessary":

- The nature of the aim being pursued,
- Whether the use of force was proportionate in the given circumstances,
- Whether other options were considered before force was used,
- Whether the methodology used for the application of the force was in accordance with instructions and training.

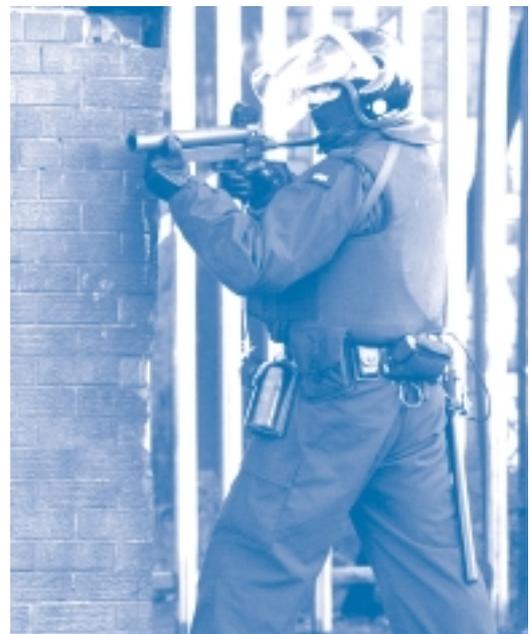
3. Investigation methodology

The Police Ombudsman's investigators routinely follow a number of investigative strands in the course of their examination of incidents that have led to Section 55(4) referrals. These would include:

- Examining all police documentary evidence (baton round discharge reports, Operational Orders, etc.),
- Retrieving and examining copies of police and army photographs and films and any local CCTV video recordings,
- Retrieving and reviewing of copies of police Command and Control audio recordings,
- Visiting hospitals in the vicinity in an effort to identify persons struck by baton rounds who have attended with injuries,
- Visiting the incident site, and if necessary photographing and/or mapping it,
- Taking statements from any witnesses
- Taking statements from police commanders and other officers involved,
- Talking to local community leaders,
- Monitoring media reports of the incident,
- Taking statements from any complainant who might have lodged a complaint as a result of the incident.

Due to personal safety considerations it is not normal for investigators or any other member of the Police Ombudsman's staff to visit the scene of an incident while any public disorder is still ongoing.

The baton guns used by police officers in these incidents are not normally seized and examined. This follows advice received from the Forensic Service of Northern Ireland to the effect that, save to say that the gun has been discharged, there is little forensic value in seizing a weapon.



4. Report Summaries

4.1 Report 1: Lurgan, 24 April 2001

Details of Incident

On the morning of Monday 24 April a joint military/police cordon was established to keep people away from a military operation to examine and defuse suspected explosive devices on the railway line adjacent to the Kilwilkie housing estate in Lurgan. By late afternoon a crowd of over 100 persons had gathered, throwing stones and petrol bombs at the security forces. As the military technical team attempted to leave the area at 9.00pm, the crowd threw some 40 petrol bombs at the police and military. Seven police officers were injured, three of whom required hospitalisation. There was a risk of the police sustaining further casualties.

A Police Inspector gave a warning to the crowd over a public address system that baton rounds would be discharged if the rioting did not cease, and then ordered the discharge of one baton round at a person who was about to throw a petrol bomb. The baton round did not hit the person, but the crowd dispersed and the security force personnel were able to leave the area. The matter was reported to the Police Ombudsman.

Police Ombudsman's conclusions

The Police Ombudsman concluded that the police had been subjected to a violent and sustained attack, and had demonstrated considerable restraint in their response. The discharge of the baton round was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton round were fully in accordance with the relevant RUC/PSNI and ACPO guidance.

4.2 Report 2: Garvaghy Road, Portadown, 26 May 2001

Details of Incident

After an approved parade by members of a Junior Orange Lodge, a large crowd of young persons attacked police on the Garvaghy Road. The attack was sustained and heavy: missiles thrown included golf balls, nuts, bolts, paving stones, iron bars and petrol and acid bombs, and a burning car was pushed towards the police. A total of 57 police officers were injured with a number requiring hospitalisation.

Shortly after 7.00pm police officers discharged four baton rounds; no warning was given because of the ferocity of the attack upon the police, but their use was authorised by the Police Inspector at the scene. All of these four baton rounds struck people. The attack on the police continued, and about an hour later an oral warning was given that baton rounds would be used. A Police Superintendent authorised the discharge of two further baton rounds, one of which struck a person.

Police Ombudsman's conclusions

The Police Ombudsman concluded that the police had experienced an extremely violent and sustained attack from rioters using potentially lethal weapons, and that a number of officers had received serious injuries. The scale of the disorder was such that earlier and greater use of baton rounds may have been justified. The discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. It was accepted that the circumstances of the situation were such that the giving of an oral warning for the discharge of the first four baton rounds was impractical. The deployment and use of the baton rounds was fully in accordance with the relevant RUC/PSNI and ACPO guidance.

4.3 Report 3: Ardoyne, North Belfast, 20-21 June 2001

Details of Incident

During a night of rioting in the Ardoyne area of North Belfast, police came under a sustained attack from a crowd of from 350 to 400 loyalist protestors in Glenbryn Park. Stones, bricks, fireworks and paint and petrol bombs were thrown at the police, and six shots were heard. At about 10.00pm the Police Inspector at the scene authorised the use of baton rounds, and one was discharged at two men carrying lit petrol bombs; neither man was hit. Subsequently another baton round was discharged at a man carrying a lit petrol bomb; this man was hit and dropped the petrol bomb. After a blast bomb was thrown at officers, injuring six of them, a baton round was discharged at a man about to throw a petrol bomb at an ambulance; it is not known whether or not this man was hit.

A Police Inspector gave a warning to the crowd over a public address system that baton rounds would be discharged if the rioting did not cease; the crowd cheered. Immediately afterwards a forklift truck was driven at speed into the police cordon, and an officer discharged a baton round at a man. Upon being hit by the baton round the man dropped an object that exploded. After gunshots were heard, an officer discharged a baton round at a man who was about to throw a brick at the police, striking him.

While this was going on, about 200 nationalist protestors in Brompton Park were throwing petrol bombs, gas cylinders, scaffold poles, paving slabs and planks at the police cordon. A Police Inspector gave a warning to the crowd over a public address system that baton rounds would be discharged if the rioting did not cease. A police officer then discharged two baton rounds at two men carrying large missiles, hitting them both, and another officer discharged two baton rounds at one man in the act of throwing a kerbstone, hitting him once.

Subsequently protestors on rooftops were throwing petrol bombs, stones and beer barrels at police units below. One baton round was discharged at a youth holding a lit petrol bomb; this missed the youth, who threw the petrol bomb at the police cordon. A total of 39 officers were injured during these incidents. A 15-year-old male suffered bruising on his arm, apparently as a result of being struck by a baton round. Members of the public have made 11 complaints against the police as a result of the night's proceedings; none of these relates to the discharge of baton rounds.

Police Ombudsman's conclusions

The Police Ombudsman concluded that the police had been subjected to violent, organised and pre-planned attack, and had demonstrated considerable restraint in their response. There is no evidence to suggest that the police's response was weighted against either the nationalist or the loyalist protestors. The discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton rounds were fully in accordance with the relevant RUC/PSNI and ACPO guidance.

4.4 Report 4: Corcrain Road, Portadown, 26 June 2001

Details of Incident

Rioting broke out in the vicinity of a bonfire on Corcrain Road, Portadown, and loyalist protestors threw stones and fireworks over the peace line into Obins Drive. These attacks escalated, and by 10.00pm about 250 persons were throwing petrol bombs, stones, metal spikes and fireworks at the police.

Subsequently two petrol bombs landed near a police vehicle but failed to ignite. Consequently the vehicle and a number of police officers were standing in a pool of petrol, and it was clear that if the petrol ignited there would be a serious risk of the officers being injured. A Police Inspector authorised the discharge of baton rounds, and a verbal warning was shouted to the crowd. An officer discharged one baton round at a masked man lighting a petrol bomb, missing him. The rioting subsided after police discussions with community leaders, and no further baton rounds were discharged. No police injuries were sustained.

Police Ombudsman's conclusions

The Police Ombudsman concluded that the police were at serious risk of injury during the incident. The discharge of the baton round was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton round was fully in accordance with the relevant RUC/PSNI and ACPO guidance.

4.5 Report 5: Corcrain Estate, Portadown, 12 July 2001

Details of Incident

There has been a history of public disorder at the “interface” site between Corcrain Road and Obins Drive. Police officers were aware of a threat assessment indicating that blast, petrol and acid bombs, fireworks and other material were available for rioters in the area. During the evening of 11 July minor disturbances broke out in Corcrain Road, with people attacking the police and the houses in Obins Drive and Obins Avenue with stones and petrol bombs. The residents in the Obins area retaliated. With the agreement of community leaders the police adopted a low profile, monitoring the situation.

However, by about 2.00am, a crowd of 200 persons were throwing petrol and acid bombs and fireworks at the police. A Police Chief Superintendent authorised the use of baton rounds, and a Police Inspector gave a warning to the crowd over a public address system that baton rounds would be discharged if the rioting did not cease. A police officer discharged a baton round at a masked man who was about to throw a large missile, hitting him. Two police officers discharged one baton round each at a man who was about to throw a lit object, possibly a blast-bomb; both baton rounds hit the man. The same two officers then discharged one baton round each at another man who was about to throw a lit object; again, both baton rounds hit the man. Water cannon were then used to push the crowd back, which enabled the formation of a secure police and military line. Several police officers were injured during the incident.

Two members of the public made complaints against the police as a result of being hit by baton rounds; one complainant had suffered a broken leg and the other bruising on his leg. Both of these complaints were investigated but no evidence of police misconduct was found.

Police Ombudsman’s conclusions

The Police Ombudsman concluded that, although the police had consulted with community leaders and adopted a low profile approach, the situation had deteriorated to the stage at which they were subjected to a sustained, violent and life-threatening attack. The discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton rounds was fully in accordance with the relevant RUC/PSNI and ACPO guidance.*

* A further baton round was discharged by a member of the Army during the incident, but as this falls outside the remit of the Police Ombudsman it was not investigated.

4.6 Report 6: Ardoyne, North Belfast, 26 July 2001

Details of Incident

The area surrounding the Ardoyne roundabout (at the junction of Twadell Avenue, Crumlin Road and Woodvale Road) is a community “interface” that has been the scene of sectarian violence and public disorder for many years. This has recently been exacerbated by the disputes over access to the nearby Holy Cross Primary School. During a day of sectarian tension in the area on 26 July, hand-to-hand fighting developed between rival nationalist and loyalist crowds. Police officers were initially forced to remain within their vehicles because of the heavy stoning in progress. By 11.45pm the situation had grown so serious that the Police Inspector on the scene requested that permission be granted to deploy baton guns; this was granted by an Acting Assistant Chief Constable.

Police officers from a Mobile Support Unit started deploying into a line in order to push back a crowd, but were attacked with bricks, masonry, bottles and acid bombs. Shortly before midnight, the Police Inspector at the scene instructed two officers to load their baton guns and to engage identified rioters; no public order warning was given because of the ferocity of the attacks. One officer discharged three baton rounds at men who were throwing bricks, hitting them all. The rioting then calmed, and a Police Superintendent withdrew the authorisation to use baton guns.

Two members of the public later made complaints against the police, alleging that they had been hit by baton rounds. Neither complainant matched the descriptions of the individuals at whom the police officers had discharged their baton guns. One complainant later withdrew her complaint; the statements given by the other were found to be unreliable and conflicting, and in particular there was no evidence to show that he had been struck by a baton round. A third person later appeared on a television news broadcast saying that he had been struck by a baton round; this person did match the description of one of the persons struck, but the Police Ombudsman has received no complaint from this individual. Footage of the incident shown on television also disproved statements from this and other witnesses about the extent and severity of the rioting.

Police Ombudsman's conclusions

The Police Ombudsman concluded that the police had been subjected to attack. The discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. It was accepted that the giving of a public order warning was impractical, owing to the heavy rioting that was occurring. However, it cannot be proved that the person targeted was more than 20 metres away from the police officer when the third baton round was discharged (ACPO Guidelines prohibit the use of baton guns at ranges of less than 20 metres, “unless there is a serious and immediate risk to life which cannot otherwise be countered”).

Thus it cannot be absolutely demonstrated that the deployment and use of the baton rounds were totally in accordance with the relevant RUC/PSNI and ACPO guidance.

Minor issues arising from this incident concerned the updating of training records of individual officers by the PSNI, and the use of qualified baton gun assistants.

4.7 Report 7: Ardoyne, North Belfast, 9 January 2002

Details of Incident

There had been frequent sectarian violence associated with the dispute about access to the Holy Cross Primary School during the latter part of 2001, but by November this had abated as a result of negotiations between the communities. However, an argument took place between two women outside the School at about 2.30pm on 9 January 2002. One of the women was arrested by police arriving at the scene shortly after, but by 3.00pm serious rioting and fighting had broken out in the area with large hostile groups known to be approaching. Three police officers had to draw their personal weapons while facing about 30 people carrying bricks and bottles in the School grounds, while rioters set fire to a police vehicle.

An Acting Assistant Chief Constable authorised the issue of baton guns at about 3.15pm, and five officers were detailed to carry them. However by 5.20pm it seemed that the area was becoming quieter and so the authority to use baton guns was withdrawn. Crowds were still gathering, and started throwing petrol bombs and fireworks at the police, and some rioters also attempted to push burning vehicles towards the police. Efforts by local representatives and the police to persuade the crowd to disperse failed, and so a Police Chief Superintendent again authorised the use of baton guns while a Police Chief Inspector gave a public warning of their deployment. Police officers were by this time coming under sustained attack from petrol bombs, bricks and bottles, and a Police Inspector's request to a local MLA to try to use his influence to quieten the crowd produced no positive result. At 9.35pm a Police Sergeant re-issued the public verbal warning by means of a police Land Rover public address system. Immediately afterwards an officer discharged a baton round at a youth, hitting him, and two other officers discharged rounds at men carrying lit petrol bombs, hitting them both.

As the rioting continued there was evidence of the crowd being directed by men using "walkie-talkies" and whistles. At 10.50pm an officer discharged two baton rounds at two men throwing stones and petrol bombs, hitting them both. Another officer discharged a round at a man carrying a petrol bomb, missing him, while a third officer discharged a round at another man carrying a petrol bomb, hitting him. At 11.05pm, a police officer saw a youth standing on top of a police Land Rover, pouring liquid from a container over it. Fearing that the liquid was flammable, the officer discharged a baton round at the youth who jumped away from the vehicle. Ten minutes later, an officer discharged a round at a man throwing broken paving slabs at other officers, hitting him.

Despite rumours circulating in the crowd that a gunman was in the area the situation then largely calmed, until by 2.00am the area was mostly quiet.

Three members of the public later made complaints against the police to the Police Ombudsman, although none concerned the discharge of baton rounds.

Police Ombudsman's conclusions

The Police Ombudsman concluded that rioting arose spontaneously, and that during it the police were at serious risk of injury from sustained and violent attacks. The discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. The deployment and use of the baton rounds were fully in accordance with the relevant RUC/PSNI and ACPO guidance. It was noted that all the relevant police documentation was completed correctly and copies were supplied promptly. The full cooperation of the Police Chief Superintendent in the investigation was also noted, and it was concluded that he had acted with particular attention to the guidance.



5. Overview

This paper describes the discharge by police officers of 36 baton rounds during seven separate incidents during 2001 and 2002. The incidents typically involved attacks on the police by rioters using bricks, masonry, fireworks, and petrol, paint, acid and blast bombs; the police were also shot at on at least one occasion.

At least 117 police officers were injured during these incidents, some of them seriously. Any of the incidents could have resulted in the police suffering fatal casualties.

The baton rounds discharged during these incidents struck 26 persons, two of them twice; this represents a strike rate of 78%. Baton round strikes were observed on body areas as shown in Table 1; it can be seen that the great majority of rounds (24 out of 28, equivalent to 86%) hit people's legs. Five persons reported being injured by baton rounds.

Table 1: Areas of people's bodies struck by baton rounds

Body area struck	Number
Leg/thigh/hip	24
Arm/shoulder	0
Torso	3
Unknown	1
Total	28

The Police Ombudsman carried out rigorous and thorough examinations of all seven incidents. Some minor criticisms of the police's action emerged: for example, it was felt that the police's planning for dealing with the incident in Lurgan in April had been insufficient. It was also felt that during some of the earlier investigations the police had sometimes been slow to provide relevant documentation, although resource-intensive operational situations such as Drumcree often contributed to this delay. However, the prompt supply of documentation in relation to the incident on 9 January 2002 was noted.

In the incidents examined the Police Ombudsman concluded that the discharge of the baton rounds was fully justified and proportionate, as were the authorisation and directions given. With the exception of the incident described at paragraph 4.6, the deployment and use of the baton rounds were in accordance with the relevant RUC/PSNI and ACPO guidance. No matters of police misconduct were found, and indeed the police were frequently found to have acted with considerable restraint. These findings are summarised in the Table in the Appendix.

Incident and date	Number of police officers injured during incident	Number of baton rounds discharged	Number of persons struck	Authorisation given	Justified, reasonable and proportionate use of force	Breach of RUC/PSNI or ACPO Guidelines
Lurgan, 24 April 2001	7	1	0	Yes	Yes	No
Garvaghy Road, Portadown, 26 May 2001	57	6	5	Yes	Yes	No
Ardoyne, North Belfast, 20-21 June 2001	39	11	7	Yes	Yes	No
Corcrain Road, Portadown, 26 June 2001	0	1	0	Yes	Yes	No
Corcrain Estate, Portadown, 12 July 2001	Unknown	5	3	Yes	Yes	No
Ardoyne, North Belfast, 26 July 2001	0	3	3	Yes	Yes	See paragraph 4.6
Ardoyne, North Belfast, 9 January 2002	14	9	8	Yes	Yes	No
Total	117+	36	26	N/A	N/A	N/A



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