



Review of the Use of Force by and against Victorian police



Review of the Use of Force by and against Victorian police

Ordered to be printed
Victorian Government Printer
July 2009
Session 2006–09
P.P. No. 165

Corrigenda page 10 of this report:

The fatal shooting of the person who was 15 years old occurred on 11 December 2008
not 16 December 2008.

LETTER OF TRANSMITTAL

To

The Honourable the president of the Legislative Council

And

The Honourable the Speaker of the Legislative Assembly

This report is presented to Parliament in accordance with section 28(2) of the *Police Integrity Act 2008*.

It deals with the outcome of a review I commissioned in October 2008 of the effectiveness of the policies, data collection, reporting, training and monitoring of the use of force by and against Victoria Police members.

A handwritten signature in black ink, appearing to read 'Michael Strong', is positioned above the printed name.

Michael Strong

DIRECTOR, POLICE INTEGRITY

CONTENTS

Letter of transmittal	3
Table of figures	7
Overview	8
Why is the Use of Force important?	8
Background to this review	9
Current context	10
Reviewing the reviews	11
Use of force data	11
Accountability	12
Key findings	14
Structure of this report	15
Part One - Reviewing the reviews	16
Reviews of critical incidents	16
Reviews in relation to the Use of Force Register	17
OPI 2009 review of the Use of Force Register	18
Frequency of reporting	18
Staffing	19
Under-reporting	19
Communication	19
Warning flags	20
Forced building entry	20
Analysis of data	20
Recent developments	21
Conclusion	21
Review of Operational Safety Principles	21
Operational Safety Tactics Training	22
OPI 2009 review of Operational Safety Tactics training	23
Conclusion	24
Command and Control of critical incidents	24
Case study – Victoria Police review of use of capsicum spray	26
Progress by February 2009	27
Comment	28
OPI 2009 review of the current use of Tasers	29
Background to Taser use in Victoria Police	29
The role of the Specialist Support Department	30
Commencement of operational use	30
Databases	30
Monitoring process	31
Taser Cam	32
Debriefings and reports	32

Management oversight	33
Conclusion	34
OPI 2009 review of Safe Street Task Force	34
Part One - Conclusion	35
Part Two - Data analysis	37
What was examined in the review	37
Police contacts and reported use of force.	38
Calls for police service	39
Reported use of force	40
Optional tactical equipment use	40
Capsicum spray or foam ordered	41
Type of incident reported	42
Complaints	43
Assaults and use of force against police	44
Types of force used against police	44
Injuries associated with use of force against police	47
Work Cover claims	48
What happens to those who use force against police?	49
Part Two - Conclusion	51
Part Three - Future Directions	52
Police culture	52
Operational Safety Principles	53
Training	53
Operational Safety Tactics training	53
Data collection	54
Data analysis	55
Monitoring and evaluation	55
The Critical Incident Management Review Committee	55
Role of Regions and Departments	56
Professional Development Committees	56
Audits	57
Debrief reports and review recommendations	57
Part Three - Conclusion	58
Definitions and glossary of key terms	59
Critical Incident Management Review Committee	59
Force	59
Force used by sworn employees	59
Force used against employees	59
Other situations involving force	60
Forced building entry	60
Police Operations Standing Committee	61
Use of Force Register	61
Use of Force Register Policy	61
Operational Safety Tactics and Training	62

Appendix One – Terms of reference	63
Appendix Two - Methodology	66
Appendix Three – Recommendations from OPI’s 2005 review	68
Appendix Four - Legislative and policy framework	73
Authority to use force	73
Section 462A <i>Crimes Act 1958</i>	73
Section 463B <i>Crimes Act 1958</i>	73
Section 10 of the <i>Mental Health Act 1986</i>	73
<i>Terrorism (Community Protection) Act 2003</i>	73
Operational safety and other equipment policies	73
Capsicum spray/foam	73
Firearms	74
Handcuffs	75
Batons	75
Appendix Five – Use of Force forms	76
Appendix Six – Chief Commissioner’s response	77

TABLE OF FIGURES

Figure 1 Overview of reviews	14
Figure 2 Types of incidents responded to by Critical Incident Response Teams	33
Figure 3 Force used by Critical Incident Response Teams	34
Figure 4 Use of force forms submitted by Street Safe Task Force	38
Figure 5 Number of police per calendar year contacts statewide	41
Figure 6 Total reports of use of force 1 July 2004 – 30 June 2008	41
Figure 7 Number of police contacts selected stations per calendar year 2005 – 2008	41
Figure 8 ‘Assault’, ‘brawl’ and ‘people causing trouble’ calls to selected stations, 2008	43
Figure 9 Reported uses of force 1 July 2004 – 30 June 2008, selected stations	43
Figure 10 Reported capsicum spray and foam use 1 July 2004 – 30 June 2008, selected stations	44
Figure 11 Reported capsicum spray and foam use compared with total reports of use of force report forms submitted 1 July 2004 – 30 June 2008, selected stations	45
Figure 12 Reported handcuff use 1 July 2004 – 30 June 2008, selected stations	45
Figure 13 Orders of capsicum spray or foam compared to reported use 1 July 2004 – 30 June 2008	46
Figure 14 Types of incidents resulting in use of force by Victoria Police	46
Figure 15 ‘Assault police’, ‘hinder police’ and ‘obstruct/resist arrest’ charges by calendar year 2005 – 2008	49
Figure 16 Types of force used against Police Statewide	49
Figure 17 Types of force used against police compared to capsicum spray use 1 July 2005 – 30 June 2008, selected stations	51
Figure 18 Injuries received by police 1 July 2004 – 30 June 2008	52
Figure 19 Frequency at which police officers are injured 1 July 2004 – 30 June 2008	52
Figure 20 Work Cover claims arising out of arrest, restraint or critical incident 1 July 2005 – 30 June 2008	53
Figure 21 Work-cover claims arising out of arrest, restraint or critical incident, selected stations, 1 July 2004 – 30 June 2008	53
Figure 22 Penalties on conviction for ‘assault police’ (<i>Crimes Act</i>) 2005 – 2008	54
Figure 23 Penalties for conviction of ‘assault police’ (<i>Police Offences Act</i>) 2005– 2008	54
Figure 24 Penalties for conviction of resist/hinder/obstruct police (<i>Police Offences Act</i>) 2005 – 2008	55

OVERVIEW

Why is the Use of Force important?

One of the features that distinguishes policing from other occupations is the lawful authority given to police to apply force when circumstances call for it. Victoria Police operates 24 hours a day for 7 days a week. In 2008 Victoria Police operational members had 3,437,247 contacts with people in a variety of circumstances. In 2008 an incident involving the use of force occurred every 2.5 hours and there was a critical incident every 49 hours.¹

The use of force is a continuum. Responses range from verbal commands to the use of lethal force.² In rapidly evolving situations police have to decide whether to ignore, back-off, confront or coerce a citizen. If they choose to use force, police are required to limit it to that which is appropriate in the circumstances.

Victoria Police as an organisation has a responsibility to both the public and its workforce to ensure police members are properly equipped to respond to potentially volatile situations. Police need to be able to assess a situation and take into account a range of factors to make informed decisions about how to respond. They need to be taught how to avoid the use of force or, when that is not possible, how to minimise any use of force.

There is significant public interest in ensuring police use their powers appropriately. The more extreme incidents involving police use of force, such as police shootings, receive extensive media attention and are subject to intense scrutiny by numerous internal and external bodies, including the Coroner. Less public attention is given to allegations of inappropriate or excessive use of force by police against citizens and hardly any attention is given to the use of force by citizens against police. While there is a significant body of research that demonstrates only a small percentage of police encounters with the public involve the use of force, there is little evidence about the extent of injuries involved or the circumstances that led to the use of force.³

Yet incidents in which police or citizens are injured in the course of the police carrying out their duties are important indicators of the effectiveness of policing and our social cohesiveness. In a democratic and law-abiding community where street violence appears to be increasing, it is important that police are properly trained and equipped to avoid physical confrontation wherever possible. Similarly, citizens should not be assaulting police. It is important that the authority of police is respected and that those who take on the job of policing are valued.⁴

1 Victoria Police Education Department Continuous Improvement Action Plan 2008/2009 p2

2 National Institute of Justice U.S.A. 2008 *Less Lethal Weapon Effectiveness, Use of Force, and Suspect & Officer Injuries* p10

3 U.S. Department of Justice (Unpublished) 2006 *Less Lethal Weapon Effectiveness, Use of force, and Suspect & Officer Injuries: A Five-Year Analysis* p8

4 Presentation to Braidwood Inquiry by Paul Kennedy, Chair Public Complaints Against the Royal Canadian Mounted Police 25 June 2008

Background to this review

In 1995, following 29 fatal shootings by police between 1987 and 1994, Victoria Police embarked on an innovative and nation-leading project, to address the 'use of force' by its members. Known as Project Beacon, the project changed Victoria Police practices. Rather than rushing into situations risking serious injury to all concerned, police were taught to adopt a planned approach. They were told

*the success of an operation will primarily be judged by the extent to which the use of force is avoided or minimised.*⁵

In 2005 the Office of Police Integrity (OPI) conducted a review of six fatal police shootings that had occurred between January 2003 and May 2005. This review included an examination of the training and education given to police about Operational Safety Tactics and mental health issues.

The 2005 OPI Fatal Shootings Review concluded

*It appears that Victoria Police has lost some of the strategic focus on safety and avoiding the use of force which it developed during Project Beacon. For the most part, the policy, practices and procedures have remained unchanged but the requisite ongoing and continuous attention to use of force issues as part of the planning decision-making of Victoria Police has fallen away. The result is a lack of effective risk management, a culture in which self-assessment, review and improvement are given insufficient attention, and a diminution of essential police training to accommodate other organisational priorities.*⁶

The 2005 OPI Fatal Shootings Review made 55 recommendations, 49 of which Victoria Police accepted in principle. The recommendations covered

- Guiding philosophy and principles (2)
- Special Operations Group (4)
- Equipment and procedures (8)
- Incident debriefing and review: policy and practice (4)
- Addressing situations involving people with a mental disorder (4)
- Education and training in resolving critical incidents (27)
- Specialist support for regional areas (1)
- Support and counselling for families of victims (1)
- Management information (4).⁷

Since the report of the 2005 OPI Fatal Shootings Review was tabled in Parliament, OPI has requested and received regular updates on the progress of the implementation of those recommendations.

⁵ Victoria Police History of Project Beacon p2

⁶ Review of fatal shootings by Victoria Police Office of Police Integrity Victoria 2005 p55

⁷ 2005 OPI review of fatal shootings by Victoria Police pp56-62

This OPI Review was commissioned in November 2008. It was prompted by concerns about the slow progress Victoria Police seemed to be making in implementing the recommendations it had accepted in principle three years earlier. These concerns were heightened by the announcement by Victoria Police in June 2008 that it was going to train and issue operational members with semi-automatic firearms. This announcement occurred in the context of calls to extend the range of operational police who would have access to training and use of Conducted Energy Devices (colloquially known by their most common brand name 'Tasers'). At the same time there was public debate regarding the adequacy of the police response to allegations of increased alcohol-fuelled violence in Melbourne's Central Business District and surrounding areas.

It was decided that OPI should review existing mechanisms within Victoria Police regarding the training, reporting, monitoring and evaluation of the use of force by police prior to the rollout of new devices that can be used coercively against citizens. As a significant proportion of complaints about police relate to use of force, it was considered timely to assess the existing systems to ensure they were adequate to give the public confidence the new devices would be used appropriately.

Current context

It is now a matter of public record that on 16 December 2008, shortly after this review was commissioned, Victorian police were involved in the fatal shooting of a person who was 15 years old. In January 2009 the Victoria Police Corporate Management Risk Division commissioned an examination of police shooting critical incidents that had happened since the 2005 OPI Fatal Shootings Review. A Project Team led by a former Victoria Police Superintendent was required to report by 20 February 2009. The Victoria Police Review found that between February 2006 and the end of December 2008, there had been 10 critical incidents involving police use of a firearm, three of which had resulted in the death of a citizen. In a further incident a person had died following a self-inflicted gunshot in police presence. The Review found common themes emerging from each of the incidents. These echoed those found in the 2005 OPI Fatal Shootings Review. The 2009 Victoria Police Review confirmed that Victoria Police were ill-equipped to respond to individuals affected by alcohol or drugs or with a mental health problem. It said there was a tendency for police to 'resolve' incidents quickly and that they lacked the communication skills necessary to de-escalate rather than inflame situations.

On 7 June 2009, the Chief Commissioner of Victoria Police, Simon Overland, announced there would be major changes to procedures for Victoria Police confronting potentially volatile situations.⁸ He is reported as saying Tasers will not be rolled out to all operational police, instead more resources will be given to critical incident response teams and police will upgrade existing firearms to semi-automatic weapons. In addition

new training will reverse current protocols of rushing to secure an early resolution... Officers will be retrained in how to identify and speak to vulnerable people and those affected by alcohol and drugs.⁹

⁸ *Herald Sun Sunday 7 June 2009 pp1, 6&7*

⁹ *Herald Sun Sunday 7 June 2009 p1*

In the report of the 2005 OPI Fatal Shootings Review tabled in Parliament, the then Director, Police Integrity said amongst other things

*Particular emphasis and immediate attention is required to equipping officers with the skills and confidence to manage people presenting with symptoms of mental disorder. Increased awareness of specialist support areas within Victoria Police and how they can help to resolve critical incidents are also required.*¹⁰

The recommendations in the 2005 OPI Fatal Shootings Review were directed towards restoring and maintaining a contemporary training regime and monitoring framework.

Regrettably, in the years since the OPI recommendations were made, Victoria Police continued to lose strategic focus on safety and avoiding the use of force. Rather than restoring a contemporary training regime and monitoring framework, the outmoded training regime and monitoring systems associated with use of force by and against police have continued to decline.

Since the 2005 OPI Fatal Shootings Review, use of force has been identified as one of the top four operational risks for Victoria Police. Yet until recently little has been done to strategically manage that risk.

It is heartening to see that the Chief Commissioner intends to address some of the issues revealed in the internal review of recent police shootings. But it should be noted shootings are only a very small component of the risks associated with use of force. It should also be noted the recent 2009 Victoria Police Review is just the latest in a long series of reviews associated with use of force.

Reviewing the reviews

Since the 2005 OPI Fatal Shootings Review there have been at least eight Victoria Police reviews relevant to the use of force. Currently the Victorian Police Education Department has nine major projects or reviews underway with one project having eight sub-projects.

Many of the reviews have made similar recommendations, but to date there has been no demonstrable corporate commitment to affirming that the success of any operation will be measured by the extent to which use of force is avoided or minimised. Little attention has been paid to properly measuring the prevalence or extent of the use of force by and against police members.

Use of force data

Centralised data collection about the use of force was established in 1995. It was intended to inform operational safety training, monitor trends, and act as an early warning system for excessive use of force. As early as 2002 an internal audit found there was non-compliance and under-reporting of the use of force, incomplete or inaccurate data being forwarded to the central registry and a backlog in data being entered on the database. Recommendations to address these issues had not been implemented by the time of the

¹⁰ Office of Police Integrity 2005 *Review of fatal shootings by Victoria Police* Letter of Transmittal

2005 OPI Fatal Shootings Review. Currently, some four years later and six years after these issues were first identified, this Review has found Victoria Police has made no progress in addressing these issues.

Despite the under-reporting of use of force by police, the available data indicates trends in the prevalence of use of force by police over the last four years are relatively steady. Figures in relation to use of force against police and injuries suffered by police indicate a modest but steady decline over the last four years.

Even so, the available data indicates that in 2008 an incident involving the 'use of force' occurred every 2.5 hours, and 7.3 per cent of all assault charges laid in the State of Victoria were 'assault police' charges. Operational police alleged they had been assaulted at the rate of one every 20 hours. Fifteen to twenty per cent of people charged with assaulting police, regardless of the severity of the assault, are sent to prison.

Accountability

The statistics about the use of force associated with policing are not just a matter for Victoria Police — the public have a stake.

The Victoria Police strategic plan, *The Way Ahead 2008 – 2013*, makes a commitment to providing a safer Victoria. It also includes an undertaking from Victoria Police to improve members' health, safety and well-being in addition to its statutory responsibility to provide a safe working environment for operational members.

For Victoria Police to deliver on these commitments to both the community and its employees, we are entitled to expect to see an overall decrease in use of force by and against police.

This means Victoria Police must provide an effective training regime to police that gives them the skills to avoid or minimise the use of force when they carry out their duties.

The Chief Commissioner has announced Victoria Police does not currently propose to extend the use of Tasers, but it is unlikely that the calls for their introduction will go away. Victoria Police must be in a position to monitor and report on the effectiveness of their new training regime. If the aim is to improve safety for police and others, introducing any new operational safety tactic needs to be evaluated to determine whether or not it is effective in avoiding or reducing the use of force associated with policing. It is also important to ensure there are no unintended consequences.

This OPI Review has found Victoria Police senior managers have not demonstrated a commitment to building a culture that is based on safety first and measuring success by avoiding or minimising the use of force. To date, despite having been under review for more than 18 months, Operational Safety Tactics training continues to rely heavily on operational safety equipment or hands-on tactics rather than communication skills. While there are systems in place for monitoring and evaluating use of force, they are not currently being used properly. Use of force data collection and analysis systems are inflexible, antiquated and under-resourced. Under-reporting of use of force is largely unchallenged.

The most recent finding of Victoria Police's own review that *'there is a tendency to revert to the 'must resolve quickly' style accompanied with a communication style that may inflame the situation'* indicates the extent of the work that needs to be done. It is now more than six years since there were early warning signs Victoria Police was straying from an approach that put safety first and avoided or minimised the use of force.

As demands on police to respond to public violence increase, police need a range of strategies to defuse potentially volatile situations or intervene in a way that doesn't result in injury to themselves or others. There is a risk that the focus on upgrading existing firearms to semi-automatic weapons will shift attention from the implementation of more fundamental changes necessary to effectively improve police practices related to the use of force.

Given the numbers of recommendations on similar themes made by this office, their own internal reviews and others, police know what needs to be done. To avoid or minimise the risk of injuries or deaths, Victoria Police Command must take urgent action in response to the findings in this report.

KEY FINDINGS

- There has been a proliferation of reviews since 2002 warning Victoria Police it is not effectively managing the risks associated with use of force. Most of the reviews have made similar recommendations, but, until recently, Victoria Police seems to lack the will or capacity to implement solutions to effectively address the identified problems.
- The current data collection system for use of force is not accurate or up to date. It is not used to inform policy changes or improve Operational Safety Tactics training.
- At the same time as continuing to require police to report the use of force in an antiquated paper-based system, Victoria Police takes no steps to monitor or otherwise deal with under-reporting, estimated to be anything from 20 – 70 per cent.
- There is little evidence to suggest Operational Safety Tactics training is informed by ongoing analysis, monitoring or research into the skills required by police to avoid or minimise the use of force.
- Since June 2006, Operational Safety Tactics training has not focused on mental health issues or making sure police have the crucial skills to identify and take appropriate action when someone may have a mental health problem.
- The Special Operations Group and Critical Incident Response Teams have established appropriate processes for managing and monitoring the use of Tasers. It is clear the specialist training of these police contributes to their prudent use of Tasers.
- It is disturbing that there are a number of stand-alone databases to do with use of force. In addition to the wasted effort caused by duplication, corporate knowledge is fragmented and dispersed. The failure of operational police to conduct debriefing sessions aggravates this problem.
- Although Victoria Police records substantial statistical data that is capable of contributing to the analysis of trends in the use of force against and by members, there is little evidence that Victoria Police is actively monitoring or strategically examining that data to inform police training and improve police practices.
- There is a need to re-invigorate the monitoring framework and management structure to drive strategic vision that puts safety first and manages the risks associated with the use of force.

Structure of this report

This report is divided into three key parts. Part One critically examines the plethora of reviews conducted by Victoria Police and others in relation to use of force by police. It also sets out the findings of the OPI Review Team's specific examination of

- The Use of Force Register
- Operational Safety Tactics training
- The use of Tasers in Victoria Police
- The Safe Street Task Force.

Part Two of the report examines data from a range of sources. It profiles six police stations that were selected on a random basis to cover a range of demographics. Information obtained in relation to Ringwood, Camberwell, Geelong, Melbourne West, Frankston and Werribee Police Stations is examined to highlight the type of information available to Victoria Police managers that could inform improved practices. Part Three of this report draws conclusions and makes a number of recommendations.

A glossary of key terms and list of abbreviations appears after the conclusion.

The terms of reference and methodology adopted by the Review Team are set out in Appendix One and Appendix Two. Appendix Three sets out in full the OPI recommendations made in 2005 OPI Fatal Shootings Review.

The detailed policy and legislative framework relating to use of force by police is summarised in Appendix Four. Victorian Police Use of Force forms are included in Appendix Five

The Chief Commissioner Simon Overland was provided with a draft copy of this report. His response is set out in full in Appendix Six.

Please note, although police pursuits are included in the Victoria Police reporting framework for use of force, this Review does not examine issues to do with police pursuits. Police pursuits give rise to complex issues that require detailed analysis outside the scope of this Review.

PART ONE - REVIEWING THE REVIEWS

Reviews of critical incidents

Generally the Critical Incident Management Review Committee will commission a review following a critical incident. Any recommendation arising from a review will be recorded on the Critical Incident Recommendations database. Commenced during Project Beacon, the Critical Incident Recommendations database is used to record and monitor the implementation of recommendations from critical incident reviews, Coroner's Court findings and some of the recommendations made in OPI's public reports. It is housed within the Victoria Police Education Department.

As of February 2009 there had been 1270 recommendations recorded. The oldest outstanding entry is from a 1998 incident. A review of the incident recommended

*reviewing the risk management strategies and systems surrounding high risk intercepts and that regular audit of high risk operations and risk management methodology needs to become part of standard operating procedure.*¹¹

The Critical Incident Management Review Committee minutes of 10 December 2008 note that of all the outstanding recommendations being monitored by the Committee (78), the Education Department had the highest number outstanding (24). In response to this issue, the Critical Incident Management Review Committee has decided that a 'Review (is) to be conducted in June 2009'.¹²

Overview of system policy and practice reviews

Issues about the use of force by and against police have been the subject of significant effort by numerous internal and external reviews since Project Beacon. (See Figure 1) Unfortunately, there are few tangible results to show for that effort

Figure 1 Overview of reviews

Year	2002	2003	2004	2005	2006	2007	2008	2009
<i>Use of force register</i>	✓			✓✓✓		✓		✓*
Operational safety principles				✓✓				✓*
<i>Operational safety tactics training</i>				✓		✓*		
Command and Control of critical incidents				✓		✓	✓	✓
Use of Capsicum Spray/ Foam						✓		

* Yet to be completed

¹¹ Victoria Police Critical Incident Recommendations database- Outstanding recommendations 2 February/2009 p2

¹² Victoria Police Critical Incident Management Review Committee minutes 10 December 2008 p 6

More details about these reviews are set out below.

Reviews in relation to the Use of Force Register

2002 Victoria Police Audit of Use of Force Register	
Key points	Progress by April 2009
<p>Issues identified included the following:</p> <ul style="list-style-type: none"> • In a random sample of original forms, 70 per cent were submitted by the members with relevant data missing or incorrect codes reported. • There was an unacceptable number of reports that had not been entered due to a backlog within the Register. • Of the 156 'chasers' sent to members regarding non-submission or problems, responses had not been received in 26 per cent of the cases. • There was clear evidence of a failure on the part of field and station supervisors to ensure compliance with the use of Use of Force policy.¹ 	<p>Little evidence to suggest any action taken by VicPol to effectively address these issues.</p>
2005 Victoria Police Audit of Use of Force Register	
Key points	Progress by April 2009
<p>This audit was undertaken as part of OPI's Fatal Shootings Review. The review made 18 recommendations and found issues identified in the 2002 audit of Use of Force Register <i>remain as matters of concern almost three years later.</i>²</p>	<p>Little evidence to suggest any action taken by VicPol to effectively address these issues.</p>
2005 OPI Fatal Police Shootings Review	
Key points	Progress by April 2009
<p>55 recommendations³ 49 recommendations accepted in principle by VicPol, including 27 relating to education and training in resolving critical incidents. Recommendations include the following:</p> <ul style="list-style-type: none"> • Enhancements be made as a matter of urgency to the Use of Force Register to ensure that robust reporting regimes, which the database can provide, are available. • The Register be used to inform and assist the Education Department in identifying use of force trends and the development of strategies and tactics to address them, and that regular reports on use of force trends be provided to operation Department heads and to the heads of Ethical Standards Department and the Corporate Management Review Division. • Intelligence gained from the Register be incorporated into all OST training, particularly in the understanding of the Operational Safety principles, so that the importance and relevance of the training is demonstrated to operational officers.⁴ 	<p>11 recommendations remain outstanding, 9 of these are the responsibility of the Education Department. Little evidence to suggest any action taken by Victoria Police to address issues associated with Use of Force Register.</p>
2005 Victoria Police submission to OPI's Fatal Police Shootings Review	
Key points	Progress by April 2009
<p>Acknowledged further investigation required into:</p> <ul style="list-style-type: none"> • Gaps between operational safety philosophy/principles and operational safety practice • Inadequate analysis of data and trends relating to use of force • Inconsistencies in managing critical incident reviews and debriefings • Possible deficiencies in Operational Safety Tactics, mental health issues training and Command and Control training. 	<p>Little evidence any action taken to address the areas identified for further investigation.</p>
<p>Table notes</p> <p>1 Victoria Police <i>Use of force Function audit</i> 2005 p19 2 Victoria Police <i>Use of force Function audit</i> 2005 p19 3 Office of Police Integrity Victoria, <i>2005 Review of fatal shootings by Victoria Police</i> pp56-62 4 Office of Police Integrity Victoria, <i>2005 Review of fatal shootings by Victoria Police</i> p55</p>	

2007 (September) OPI Letter to the Chief Commissioner	
Key points	Progress by April 2009
<p>OPI understood that ‘<i>virtually no action</i>’⁵ had taken place in relation to the recommendations relating to the register.</p> <p>OPI Director, Mr. G.E. Brouwer, wrote to the Victoria Police Chief Commissioner commenting ‘<i>these matters are particularly troubling given that the under-utilisation of the Register was clearly identified as an issue in mid-2005, and that little action has been taken in the two years since then</i>’ and requiring her ‘<i>assessment of the unsatisfactory progress.</i>’⁶</p>	Education Department conducted another review.
2007 (November) Victoria Police (Education Dept) Review of efficiencies and practices involving Use of Force Register	
Key points	Progress by April 2009
<ul style="list-style-type: none"> • Under-reporting, • Little or no reporting or analysis of data and • Lack of qualified staff being provided by management <p>Chief Commissioner advised OPI ‘<i>significant work has recently been undertaken to progress the identified issues. ...These recommendations will be presented to the Victoria Police People Management and Development Standing Committee (PMDSC) in February (2008). Regular reporting on the progress of the recommendations as they are implemented will occur. The PMDSC will have responsibility for monitoring this progress.</i>’⁷</p>	The People Management and Development Standing Committee did not monitor the implementation of recommendations and recommendations were not implemented.
Table notes	
5 Letter from OPI to Victorian Chief Commissioner of Police 16 October 2007 p1	
6 Letter from OPI to Victorian Chief Commissioner of Police 16 October 2007 p2	
7 Letter from Victoria Police to OPI – <i>Victoria Police Use of Force Register</i> 27 November 2007 p1	

OPI 2009 review of the Use of Force Register

As part of this review the OPI Review Team assessed the current situation in relation to the Use of Force Register. In addition to examining relevant documents, the Review Team met with management and staff of the Unit responsible for maintaining the Use of Force Register.

Frequency of reporting

In April 2009 there had been 53,700 Use of Force forms entered onto the Use of Force database since its inception in 1995. On average there are 10 to 20 Use of Force forms submitted to the Register every day. The Register also receives two to three incident debriefing reports a month.¹³

Staffing

The current staffing profile of the Register consists of Sergeant-in-charge with a Leading Senior Constable and unsworn part-time ‘data entry’ person. The Sergeant’s position has been vacant since October 2008 following the retirement of the previous incumbent. There is a ‘hold’ on re-advertising the position pending the outcome of one of the Education Department’s reviews.

¹³ Victoria Police Manual Instruction 104-4 specifies that debriefing reports must be forwarded to the Use of Force Register

Prior to vacating the full-time data entry position in June 2008, the previous incumbent had been on sick leave for three years. A 'part-time' employee had temporarily filled her position for two days a week. In June 2008 it then appears the Education Department's Human Resources Manager permanently reduced the position to 'part-time', although the Review Team were unable to find any documented rationale for this decision.

Staff who spoke to the OPI Review Team claim the data entry position needs to be full time if the Register is to be kept up to date and proactive analysis of data is to take place. The forms are complex requiring careful checking and auditing. The 2002 audit found 70 per cent of forms were incorrectly filled out. It recommended that the form be revised and modified, but this recommendation has not been implemented. In February 2009 the data entry staff member was entering data from forms submitted in August 2008; by April 2009 the data entry had advanced to forms submitted in November 2008. Monthly reports to senior management contain regular reference to the status of data entry.

Under-reporting

Based on previous review findings, current Register staff estimate that 20–30 per cent of incidents involving use of force are not reported as required by the Victoria Police Manual.

Despite the fact consecutive OPI Annual Reports in 2007 and 2008 referred to the disturbing lack of action in addressing *'the under-reporting of all incidents involving use of force by police, estimated to be up to 70 per cent'*, there is no evidence any Victoria Police Senior Manager has responded to this concern.¹⁴

In addition to Use of Force forms, incident debriefing reports are required to be sent to the Registrar. The purpose of a debriefing report is to identify the lessons learnt from an incident. By collating this information in a central repository, it is expected the Use of Force Unit, in conjunction with the Operational Safety Tactics Training Unit will identify issues that may have a whole of organisation impact and take appropriate action.

The OPI Review Team inspected the Use of Force forms submitted by the Critical Incident Response Team following Taser deployment but found no Debriefing Reports as required. Two reports involving siege/hostage incidents were also examined but neither had a Debriefing Report attached.

Communication

The only opportunity members of the unit have to stress the importance of up-to-date and accurate information about the use of force is in an address to police recruits in their eighth week of training. There is no formal and little informal communication between the Use of Force Unit and operational or intelligence units in the regions.

Warning flags

When police become aware of individuals or suspect vehicles that might be dangerous they are required to report these contacts to alert other police. The Use of Force Registrar is responsible for initiating warning flags on the LEAP system where a report of use of force identifies such a threat. The LEAP warning flags are an important mechanism for

¹⁴ Office of Police Integrity *Annual Report 2007* p41, *Annual Report 2008* p32

providing for the safety of other police who may subsequently be exposed to the threat in a planned operation or other context.

A printout of the warning flags entered on LEAP for the Use of Force reveals only 290 entries from the Use of Force Registrar over a 10-year plus period. Given the frequency that police attend incidents involving violence, this remarkably low figure suggests this mechanism is not working as it should.

Forced building entry

The entry of buildings by force pursuant to search warrants is relevant to the assessment of the degree of force used by police. The OPI Review Team identified three issues requiring examination by Victoria Police in relation to this activity. Firstly, the Operational Safety Tactics Training Unit reported a change in the course containing the forced building entry training and that only a limited number of courses are being held. Secondly, there is suspected under-reporting of the use of force when executing search warrants; and thirdly it appears that the search levels are not being classified at the appropriate level.

Analysis of data

When the OPI Review Team met staff at the Use of Force Unit in February 2009, they admitted they had limited analytical skills with which to interrogate the database. Only minor reports have been developed or requested. There have been no regular reports produced. The last detailed analysis on the use of force occurred in 2003.

Use of Force data is 'uploaded' weekly to the Victoria Police mainframe which gives corporate access to information in the database. The Corporate Statistical Services told the OPI review team that they have rarely used the data to initiate reports, nor have they been requested to provide reports from the data.

Similarly the Regional Intelligence Units advise that they do not use the data because they do not get requests about the data, they are aware of the backlog of data to be entered, there is difficulty in readily matching use of force data with LEAP sub-incidents, and the lack of a data dictionary and a data schema poses risks to the accuracy of the data.

The Ethical Standards Department uses data about the use of force as part of the risk assessment work it conducts. In addition, an investigator may sometimes seek information as part of an ongoing investigation. They advise use of the database is limited. There are difficulties in designing fresh queries because the system is not user friendly due to the 'clunkiness' (sic) of the system.¹⁵

Recent developments

In April 2009 a progress report provided to the OPI Review Team on the nine reviews currently underway in the Education Department indicated that a new Acting Sergeant who has computer literacy skills has commenced working at the unit. The focus of the Education Department's review in relation to use of force has been technological. The

¹⁵ Victoria Police Manager Strategic Initiatives Unit, Ethical Standards Department, email 18 February 2009

progress report said current off-the-shelf products 'do not meet our needs' and research and consultation is underway to implement a short term solution of transferring the data from the current database to an 'Access' database that the Acting Sergeant would build.¹⁶

Conclusion

The Register is not being used for its intended functions. It is not used to inform or improve Operational Safety Tactics training or to assist police to resolve potentially volatile situations without injury to themselves or others. It is not used as an early warning system for police who may be overzealous in the use of force. The data collection system is inflexible and antiquated. Data is not accurate, nor is it up to date. Under-reporting and non-compliance with Victoria Police policy continues unabated. All these issues were first identified six years ago.

Whilst there may be explanations for delays in implementing technological solutions, there is no reasonable explanation for the failure of Victoria Police senior management to ensure sufficient staff with appropriate skills were assigned to the Unit.

It is not surprising that inadequately resourcing the Unit has contributed to a lack of credibility in the Register and its data throughout Victoria Police. Yet despite this credibility issue, Victoria Police continues to require operational police to take the time to fill out complex forms and fax them for entry onto a system that is outmoded and not used for its intended purpose. At the same time as purporting to require adherence to reporting use of force, Victoria Police takes no steps to monitor compliance nor censure non-compliance.

Review of operational safety principles

When responding to incidents or planning operations that may involve any potential use of force, Victoria Police are required to apply the following 10 principles.

- Safety first – the safety of police, the public and offenders or suspects is paramount
- Risk assessment – is to be applied to all incidents and operations
- Take charge – exercise effective command and control
- Planned response – take every opportunity to convert an unplanned response into a planned operation
- Cordon and containment – unless impractical, adopt a 'cordon and containment' approach
- Avoid confrontation – a violent confrontation is to be avoided
- Avoid force – the use of force is to be avoided
- Minimum force – where use of force cannot be avoided, only use the minimum amount reasonable necessary

¹⁶ Victoria Police Use of Force Project *Management meeting notes* 1 April 2009

- Forced entry searches – are to be used only as a last resort
- Resources – it is accepted that the ‘safety first’ principle may require the deployment of more resources, more complex planning and more time to complete.¹⁷

2005 Victoria Police Submission to OPI Fatal Shootings Review	
Key points	Progress by April 2009
In its submission to the 2005 OPI Fatal Shootings Review, Victoria Police advised that the Education Department was to conduct comprehensive review of the Operational Safety Principles to commence in August 2005 and be completed in October 2005.	The review did not continue after the publication of the OPI report. ⁸ The OPI report said the principles were sound, but needed to be re-invigorated. ⁹ This statement was made on the understanding the review would continue.
2009 Victoria Police Corporate Management Review Department Examination of Police Shooting Critical Incidents	
Key points	Progress by April 2009
This review concluded <i>the Operational Safety Principles are still very relevant however these principles need re-invigorating with a particular emphasis on the benefits of creating time prior to engagement, and (where possible), using specialist resources to manage incidents involving the carriage of edged weapons by vulnerable persons.</i> ¹⁰	Implementation of recommendations being managed by Executive Management Group.
Table notes	
8 Victoria Police correspondence file <i>Review of Operational Safety Principles 2005</i> p6	
9 Office of Police Integrity Victoria 2005 <i>Review of Fatal Shootings by Victoria Police</i> p6	
10 Victoria Police Corporate Management Review Division <i>Examination of police shooting critical incidents between July 2005 and December 2008</i> p6	

Operational Safety Tactics training

2005 OPI Fatal Police Shooting Review	
Key Points	Progress by April 2009
27 recommendations were directed towards improving education and training in resolving critical incidents, including increasing staff at the Operational Safety Tactics Training Unit. Victoria Police agreed in principle with 26. All but five related to the Operational Safety Tactics training of which four remain listed as outstanding.	Limited evidence of sustained attention to implementing recommendations. In March 2009 (four months after OPI commenced this review) additional staff allocated to the Training Unit. Further review announced in April 2009.

¹⁷ Victoria Police Manual Instruction 101-1.4

2007/2008 Education Department Review of Operational Safety Tactics Training	
Key Points	Progress by April 2009
The Education Department 2007/2008 Business Plan outlined the intention to review Operational Safety Tactics training to identify the most efficient and effective way of delivering Operational Safety Tactics training to operational members across the State. ¹¹	Review is yet to be completed.
2009 Victoria Police Corporate Management Review Department Examination of Police Shooting Critical Incidents	
Key Points	Progress by April 2009
<p>This review examined Police Shooting Critical Incidents between July 2005 and December 2008 to identify common predictors.</p> <p>It identified five areas for improvement considered 'crucial if exposure to the risks associated with critical incident response and management are to be minimised'.¹² They were:</p> <ul style="list-style-type: none"> • Communication • Response readiness • Incident management • Tactical response • Specialist resources. 	Implementation of the recommendations to be managed by the Executive Management Group.
2009 Victoria Police Review	
Key Points	Progress April 2009
April 2009 – Victoria Police commissioned another review by an independent consultant to ensure that the new OSTT package and other training being delivered are relevant and contemporary and addresses the shortfalls identified.	To be completed by 30 June 2009
Table notes	
11 Victoria Police Education Department <i>Business Plan 2007/2008</i> p8	
12 Victoria Police Corporate Management Review Division <i>Examination of police shooting critical incidents between July 2005 and December 2008</i> pp80-83	

OPI 2009 review of Operational Safety Tactics training

To assess the current situation in relation to Operational Safety Tactics training the OPI Review Team reviewed relevant documentation, met with management of the Operational Safety Tactics Training Unit and visited the Essendon Operational Safety Tactics training facility.

The OPI Review Team established that

- After more than 18 months the Victoria Police Review of the Unit is not yet finalised
- Data from the Use of Force Register is not used to monitor trends or inform training. This is said to be because staff are not skilled in data analysis and because the data is unreliable
- The unit does not receive Incident Debriefing Reports. This means lessons learnt through incident debriefing sessions are not incorporated into training
- Occasionally the Unit is sent Critical Incident Review Recommendations by the Critical Incident Management Review Committee, but the unit does not examine the Critical Incident Recommendations database even though it is physically located near the Unit's offices.

- Efforts have been made to interrogate the WorkCover claims database but the information was considered to be of limited value.
- Although the Unit has noted escalation in the use of capsicum spray, it has not conducted any research into the reasons for this escalation.
- In December 2007, to accommodate undertakings given in the Enterprise Bargaining Agreement, the six-monthly, two-day Operational Safety Tactics training courses were cut 50 per cent to one-day courses every six months. This was contrary to an explicit recommendation in the 2005 OPI Report (see recommendation 24 Appendix Two).
- The 2005 OPI Report recommended that Operational Safety Tactics training regularly deal with people who appear to have a mental disorder (see recommendation 26 Appendix Two). The last time training scenarios dealt with responding to people who have a mental disorder was in training delivered between January to June 2006. The recent examination by Victoria Police of the 11 police shootings since the 2005 OPI Fatal Shootings Review found

Mental impairment, through mental illness, drugs or alcohol was prevalent in all these incidents.¹⁸

Conclusion

There is little evidence to suggest Operational Safety Tactics training is informed by ongoing analysis, monitoring or research into the skills required by operational police to avoid or minimise the use of force in carrying out their duties.

There has been no Operational Safety Tactics training since June 2006 to ensure police have the crucial skills to identify and take appropriate action when someone may have a mental health issue.

Command and Control of critical incidents

2005 OPI Fatal Shootings Review	
Key Points	Progress April 2009
The 2005 OPI Fatal Shootings Review provided five (all accepted in principle by Victoria Police) specific recommendations focusing on improving performance in the Command and Control role.	Limited evidence to suggest adequate action taken by VicPol to effectively address these issues.
2007 Victoria Police Working Party	
Key Points	Progress April 2009
<p>This working party examined Command and Control issues from the review of the G20 Summit. It noted that 40 of the 1194 recommendations on the Critical Incident Recommendations database related to Command and Control issues.</p> <p>It recommended</p> <ul style="list-style-type: none"> • Action be taken to identify current initiatives and projects across the Force relevant to Command and Control and Incident Management Systems and combine them into a broader project that addresses the classification of strategic, tactical and operational command roles • <i>That role qualification is subject to assessment and initial and recurrent training is undertaken to ensure skill currency and qualification maintenance.¹³</i> 	Limited evidence to suggest any action taken by VicPol to effectively address these issues.

¹⁸ Victoria Police Corporate Management Review Division *Examination of police shooting critical incidents between July 2005 and December 2008* p79

2008 Review of Critical Incident Database recommendations by Commissioned Officer

Key Points

Progress April 2009

In 2008 six of the 'command and control' recommendations recorded on the Critical Incident Recommendation' database were forwarded to a Superintendent to undertake a Command and Control Training Review. One of the recommendations came from a 2002 Coronial Hearing.

No action taken

2009 Victoria Police Corporate Management Review Department Examination of Police Shooting Critical Incidents

Key Points

Progress April 2009

This review found that in the 11 incidents examined '*command and control was generally non-existent or ineffective*'.¹⁴ Other points made in the report include the following

- *Force training in respect of critical incident identification, response and incident management does not appear to have penetrated through all operation ranks*
- *There appears to be a significant training gap in terms of refresher courses or practical exercises for operation supervisors*
- *Analysis of human resource data revealed that collectively, the 5 Regions have a minimum of 230 members performing higher duties to rank of Sergeant per month. It is likely the majority of these members are performing 251 shifts without having undergone critical incident management training*
- *In most instances, newly promoted sergeants do not undergo any training to prepare them for recognising, responding to and managing critical incidents (command and control) for up to 6-9 months after taking up a position as an operational supervisor*
- *OSTT training undertaken bi-annually by all police sergeants and senior sergeants, does not target supervisor roles or contain any significant 'command control' component.*
- *Although critical incident training exists for sergeant, senior sergeant and inspector levels, the nature of training provided does not adequately prepare these front line supervisors nor is there any on-going training in that regard.*¹⁵

Implementation of recommendations being managed by the Executive Management Group.

Table notes

13 Victoria Police G20 Review Command and Control pp8-9

14 Victoria Police Corporate Management Risk Division Examination of police shooting critical incidents between July 2005 and December 2008 p7

15 Victoria Police Corporate Management Risk Division Examination of police shooting critical incidents between July 2005 and December 2008 pp8, 66, 67, 81

Case study – Victoria Police review of use of capsicum spray

In 2007, at the request of the Critical Incident Management Review Committee, the Corporate Management Review Division conducted a review of the use of capsicum spray and foam. The outcome of this review provides an illustrative case study.

There were two reasons for commissioning the review. One was because the 2005 OPI Fatal Shootings Review recommended that the use of capsicum foam be extended to all operational members.¹⁹ The second was because

*Anecdotal evidence suggested that OC (capsicum) spray use was creeping outside policy boundaries (and the review was) to better understand whether existing policy is adequate and needs stronger management or is not meeting the operational requirements of Victoria Police.*²⁰

From January 1998 qualified Victoria Police members commenced using capsicum spray as an operational safety tactic option.²¹ At that time the Victoria Police Manual Instruction read

Only use OC spray/Foam:

- *In situations of violent and serious physical confrontation*
- *Where a person is involved in violent or other physical conduct likely to seriously injure themselves or result in suicide*
- *Where it is appropriate to deter attacking animals*
- *When a person is not passively resisting e.g. hanging limp or refusing to comply with instructions.*²²

The methodology of the 2007 review purportedly included examining compliance issues with the use of capsicum spray/foam. Amongst other things, the review found:

- The use of capsicum spray/foam was consistent over the monthly periods examined (three months)
- 73 per cent of all Use of Force reports submitted related to deployment of capsicum spray/foam
- The Use of Force Register indicated that capsicum spray/foam was, on average, being deployed across the state on 232 occasions per month.

The authors of the review advocated an amendment to the current 'criteria for use' of capsicum spray/foam to permit deployment when a serious and violent confrontation was imminent. Citing feedback from members, they suggested this would assist in reducing injuries to police and associated WorkCover claims by reducing the need to go 'hands on'.²³

On 4 July 2007, after receiving advice from the Victorian Government Solicitor, the Office of Deputy Commissioner approved the amendment to the Victoria Police Manual Instruction to include an additional criterion for use

In situations where a member believes on reasonable grounds a violent and serious physical

¹⁹ Capsicum foam has a range of between five and seven metres and is not dispersed as easily as capsicum spray

²⁰ Victoria Police File OC Spray & Foam Review File No. 48833/07 p3

²¹ Victoria Police Correspondence file – Use of Oleo Capsicum Spray – CIMRC requirement for Review p17

²² Victoria Police File Use of Oleo Capsicum Spray – CIMRC requirement for Review p7

²³ Victoria Police File OC Spray & Foam Review File No. 48833/07 p13

*confrontation is imminent.*²⁴

In providing the advice the Victorian Government Solicitor noted

*Obviously, the proposed amendment would necessarily place a higher standard of accountability/burden on members in that they are now required to make a mental analysis of whether or not they have a belief based on reasonable grounds that capsicum spray ought to be used in a factual situation.*²⁵

However, in February 2008 a Sergeant from Prosecution Headquarters submitted a report recommending a blanket provision to indicate to members each of the criteria for using capsicum spray should be subject to a belief based on reasonable grounds.

On 27 March 2008, the Victorian Government Solicitor supported the Sergeant's view and advised

*when the force provides training to its operational members in the use of capsicum spray, it should also educate them about the meaning of the words a reasonable grounds' and how they are to assess a risk bearing those words in mind.*²⁶

The file copy of the amended instruction dated 2 June 2008 read

Members may only use OC spray/foam where they believe on reasonable grounds it is necessary:

- *In situations of violent and serious physical confrontation*
- *In situations where a member believes on reasonable grounds a violent and serious physical confrontation is imminent*
- *In situations where a person is involved in violent or other physical conduct likely to seriously injure themselves or result in suicide*
- *To deter attacking animals*

*Do not use OC spray/foam when a person is passively resisting arrest e.g., hanging limp or refusing to comply with instructions.*²⁷

Progress by February 2009

In February 2009, the OPI Review Team found

- The additional amendment had been approved by the Director, Corporate Strategy and Performance, without any reference to the Deputy Commissioner or Critical Incident Management Review Committee.
- The advice of the Victorian Government Solicitor to include reference to the 'reasonable grounds' in members' training sessions had not been forwarded to the Education Department.

24 Victoria Police File OC Spray & Foam Review File No. 48833/07p12

25 Victorian Government Solicitor's Office letter re Review of the proposed amendments re capsicum p2

26 Victoria Police File Use of OC Spray – CIRMC requirement for review 2008 p58

27 Victoria Police Manual Instruction 101-3 7.2.1

- The Intranet site containing the Victoria Police Manual Instruction did not have the updated version. The Corporate Policy Unit explained that an administrative error had occurred where at some stage between June 2008 and February 2009 the entry on the intranet had reverted to the previous wording. (At the time of writing this error had been rectified.)
- Members of the Operational Safety Tactics Training Unit did not appear to be aware of the up-to-date version of the policy and the current version of the policy is not reflected in lesson plans.²⁸
- Specialist Support Department Standard Operating Procedures and the Operation Street Safe Task Force (Region 1 focus on CBD violence) briefing instructions do not refer to the current version.
- Local management in Operation Street Safe also require that police must charge the target of any deployed capsicum spray with an offence. This is said to ensure capsicum spray is not used as a ‘compliance weapon’ in policing the streets.

Comment

There are a number of issues arising from this case study. The 2007 review provided an opportunity to understand the reasons for the apparent increased use of capsicum spray.

Despite relying on data that had long been recognised as imperfect, the identification of 232 reported deployments per month supported the proposition that use ‘was creeping outside policy boundaries’. (These 232 monthly deployments had occurred before the criteria for capsicum spray had been extended.) Yet there was no examination about why this ‘usage creep’ was occurring. The issue of non-compliance with the policy was not addressed, nor was an apparent breakdown in the monitoring process. Rather than examine what appeared to be gaps between the 10 Operational Safety Principles, Operational Safety Tactics training and actual practice, the review recommended extending the policy to accommodate the usage creep.

The 2009 Victoria Police Examination of Police Shooting Critical Incidents found that ‘*there is a tendency to revert to the “must resolve quickly” style accompanied with a communication style that may inflame the situation, particularly those involving vulnerable people.*’²⁹ The increased frequency of the use of capsicum spray noted in 2007 may have been a valuable early indicator of this tendency.

The Commission for Public Complaints Against the Royal Canadian Mounted Police in reviewing the use of Conducted Energy Weapons found a trend

*where members have failed to properly assess the behaviour being presented to them, and then inappropriately categorized the behaviour as more threatening than it actually was.*³⁰

²⁸ Victoria Police *Session Plan Part 1* p2

²⁹ Victoria Police Corporate Management Risk Division *Examination of police shooting critical incidents between July 2005 and December 2008* p7

³⁰ Published Speech by Paul Kennedy Chair of Commission for Public Complaints Against the Royal Canadian Mounted Police, 5 March 2008 p2,

There is no evidence one way or the other to indicate whether Victoria Police officers are better skilled than their Canadian counterparts at properly assessing behaviour.

To establish the effectiveness of Victoria Police in avoiding or minimising the use of force and to understand the reasons for the apparent increased use of capsicum spray, it would be helpful to understand

- The circumstances of the use
- The behaviour of the subject and if or how that behaviour changed over the course of interaction
- What was known of the subject's past behaviour and interactions with police
- Situational factors that led the member to choose to deploy capsicum spray over other options.

An upgraded Use of Force form and Use of Force Register as recommended in the OPI 2005 Review have the potential to provide this information. Current Victoria Police recording and monitoring systems are not able to provide it.

OPI 2009 review of the current use of Tasers

As part of this more general review, OPI was concerned to establish the current status of Taser use within Victoria Police. Accordingly, the OPI Review Team met with managers from the Specialist Support Department and audited 18 per cent of the files held by the Special Operations Group and Force Response Unit.

Background to Taser use in Victoria Police

In November 2004, after a 12-month trial, the Governor in Council granted exemption from Section 5(1) of the *Control of Weapons Act* 1990 and permitted all members of the Victoria Police to carry and use X26Taser and cartridges manufactured by Taser International.³¹ The X26Taser is a conducted energy device that works in two ways. In 'probe mode' the device can simultaneously discharge two metal barbs that penetrate the skin. The probes are attached to thin wires connected to the device which carry an electric current. When triggered, the electric current effectively paralyses the person's skeletal muscles. In 'drive-stun mode' the device is applied directly to a person's body.³²

Victoria Police has only ever provided the authority to use the Taser weapons to the Specialist Support Department. Increasing public pressure from some quarters to extend the issue of Tasers to general duties operational personnel occurs despite ongoing controversy about inappropriate use in other jurisdictions. Western Australia, Northern Territory, Queensland, New South Wales and New Zealand police have authorised or are in the processes of authorising, the carrying and use of Taser weapons for trained general policing personnel.

31 Victoria Police Correspondence Air Taser Pilot Program p218

32 NSW Ombudsman 2008 *The use of Taser weapons by New South Wales Police Force*

The role of the Specialist Support Department

The Specialist Support Department workforce includes units known as the Special Operations Group and the Force Response Unit. The Force Response Unit comprises specialist teams known as Critical Incident Response Teams. The role of these specialists is to provide support to operational police involved in unplanned critical incidents or where police are carrying out planned operations involving an identified risk.

Specialist Support Department personnel are specifically trained to handle critical incidents, for example siege or hostage situations or individuals threatening suicide. In addition to firearms and other specialist equipment, members within the units are trained and authorised to use Tasers.

Commencement of operational use

The first operational use of the Taser by the Special Operations Group was on 8 January 2004. Records indicate that since that date the members of this group have deployed these weapons in police operations on 69 occasions. The Critical Incident Response Teams started using the weapon on 8 March 2005. By February 2009 records indicate members of these teams have deployed the weapon in operations on 31 occasions.

Databases

Both the Special Operations Group and the Force Response Unit maintain separate and different databases developed 'in-house' to record data about the use of force, including Tasers. Unlike the Force Response Unit, members of the Special Operations Group do not complete a pro-forma Incident Debriefing Report. Any lessons learnt in a debriefing from an incident or operation involving members of the Special Operations Group are entered in a report on their Taser database.

Every critical incident involving a Critical Incident Response Team is recorded on the Force Response Unit database. This database contains all the basic requirements, and the type of force used in the incident. Where a Taser is deployed additional details are required, including the particulars of the incident leading up to the use of the Taser.

The two Specialist Support Department databases address the shortfall between the Corporate Use of Force Register and the needs of managers in the Specialist Support Department to prudently monitor and refine process to do with the use of force. The database in use at the Force Response Unit enables management to retrieve statistical information in report form and monitor the trends in force use, injuries and types of incidents.

Because Critical Incident Response Teams respond to calls for assistance from general policing areas on a daily basis, the OPI Review Team examined the types of incidents most frequently resulting in a request for specialist support in the period 2005 – 2008.

Figure 2 Types of incidents responded to by Critical Incident Response Teams

Incident Type	2005	2006	2007	2008
Assist Crisis Assessment Team	7%	11%	8.1%	0.9%
Barricaded person	14.5%	13.3%	6%	10
Firearm incident	8.5%	7.4%	9.7%	5%
Psychiatric patient	18.5%	13.8%	12.7%	12.9%
Suicide intervention	8.5%	10%	30.5%	30.2%

The overall number of incidents attended to by the Critical Incident Response Teams has steadily increased over these four years. This may reflect an increased awareness of the expertise these teams can provide those involved in general policing.

Of significance is the data relating to use of force by these specialist teams in resolving critical incidents. On average, more than 58 per cent of critical incidents attended to by Critical Incident Response Teams are solved without recourse to the use of force.

Figure 3 Force used by Critical Incident Response Teams

Use of Force	2005	2006	2007	2008
Nil force used	85	110	120	119
Taser used	15	2	6	8
Flexicuffs applied	55	69	63	65
Total no. of incidents	151	188	196	202

Senior managers within the Department attribute these outcomes to a range of factors.

- Teams have a professional approach, their discipline and training creates a positive impression.
- Teams arrive at the scene in special attire and in numbers.
- A Sergeant is in charge of each team and attends the scene of each incident.
- Teams are experienced in dealing with critical incidents.

After the initial year where the X26Taser was used 15 times, the use has been minimal taking into account the 'at risk' incidents the team attended. Management assert these outcomes are the result of close monitoring, effective decision-making, detailed debriefings and disciplined personnel. Flexicuffs (plastic handcuffs) are routinely applied to arrested or secured persons.

Monitoring process

The OPI Review Team closely examined the process in place for monitoring the use of Tasers. The Standard Operating Procedures for both units are detailed and prescriptive. The criteria for using Tasers are the same as the initial criteria for using capsicum spray or foam. The Specialist Support Department management considered the extension

of criteria for using capsicum spray to include situations 'where the member believes on reasonable grounds a violent and serious confrontation is imminent' but concluded that the Taser criteria should not be altered. (See *Case study – Victoria Police review of use of capsicum spray above.*)

The Standard Operating Procedures of the Critical Incident Response Team state

(Tasers) are not to be used as part of a planned resolution without the authority of the Specialist Support Department Duty Officer/Senior who must seek authority from the Commander of the Specialist Support Division. ³³

The OPI Review Team found the Tasers themselves provide an accountability framework that can be thoroughly audited. Both the Taser weapon and the cartridge have unique identification. Each cartridge is marked with an individual serial number that is recorded on the electronic Asset Register of the Division. If a Taser is deployed, the cartridge is recorded on a Taser Incident Report. Officers regularly carry out inventory inspections. Each Taser device also has a unique serial number. Each device records the time, date, temperature and energy cell status of up to 2000 discharges.

Standard Operating Procedures require that this information is downloaded after an operational deployment and is attached to the Use of Force form and Incident Debriefing Report relevant to the deployment.

Files examined by the OPI Review Team did not contain these printouts, but Critical Incident Response Team managers have recently advised that printouts are now being dealt with as required by the Standard Operating Procedures. As the weapon has the capability to recall 2000 discharges, their previous non-compliance can be rectified. However, the OPI Review Team findings highlight the importance of regularly auditing processes and procedures.

Taser Cam

Taser also markets a Taser Cam attachment which initiates an audiovisual recording feature when the safety catch is released. The video file can be downloaded to the Taser database for storage. Limited to filming in the direction the weapon is pointing, this feature does provide a visual record of the subject's behaviour before the weapon is deployed. At this stage Victoria Police do not have any Taser Cam attachments. As a result they do not have the benefit of this additional accountability mechanism or access to this potentially invaluable learning and practice improvement tool.

Debriefings and reports

Under the Victoria Police Manual, any incident involving deployment of a Taser requires an Incident Debriefing Report to be forwarded to the Use of Force Register. Although members of Critical Incident Response Teams and Special Operations Group may carry out an arrest or resolve an incident, their role is to support operational police. It is the Operations or Forward Commander, that is, the most senior operational police member

³³ Victoria Police Force Response Unit Standing Operating Procedures 2007 p16

present at the scene of a critical incident or planned operation, who is responsible for conducting a debriefing if a Taser is deployed.³⁴

As stated above the OPI Review Team checked a random sample of Use of Force entries submitted by the Critical Incident Response Team following Taser deployment but found no Debriefing Reports as required. Two reports involving siege/hostage incidents were also examined but neither had a Debriefing Report attached.

Both the Force Response Unit and the Special Operations Group conduct their own debriefings. The member in charge of a Critical Incident Response Team at the scene submits a detailed Critical Incident/Debriefing Report to Specialist Support Department management. The Senior Sergeant or Inspector convenes the debriefing session. Issues arising are recorded and followed up by an appropriate person, for example a training officer.

Currently the Special Operations Group database can provide a printout of the key points from any debriefing session. This is not possible with Critical Incident Response Teams who use hand-written critical incident debriefing reports. After discussions with the OPI Review Team, management at the Force Response Unit have undertaken to address this issue.

The Critical Incident/Debriefing Reports compiled by the Specialist Support Units are filed with records at the Specialist Support Department.

Senior managers told the OPI Review Team that they are rarely invited to debriefings held by the Operations/Forward Commanders, however one Critical Incident Response Team file did contain a Report of a joint debriefing session.

Management oversight

The Commander of the Specialist Support Department receives a 'Resolution of Operation' at the completion of an operation which details the outcome of the operation. Files examined by the OPI Review Team contained no evidence that the Superintendent or Commander had seen the debriefing reports nor commented on the outcome of the operation. In meeting with the Superintendent it was clear that he had a good understanding of the circumstances in which Tasers has been used. This is not surprising given the relatively small numbers of occasions in which the weapon has been deployed. It nevertheless remains concerning that there is no auditable trail of senior management decisions in this important area. It is also concerning, given the controversy associated with these devices, that neither the Specialist Support Department nor Corporate Management Risk Division has conducted function audits of Taser use.

In discussions with the OPI Review Team, Senior Management of the Specialist Support Department have agreed to implement an auditable process that demonstrates the use of Tasers is actively monitored and evaluated by Senior Management to inform continuous performance improvement. Divisional Management has also agreed to implement a function audit regime relevant to X26Taser use and management.

³⁴ Victoria Police Manual Instruction 104-4

Conclusion

The OPI Review Team found the Specialist Support Department has established appropriate processes for managing and monitoring the use of Tasers. It is clear the specialist training of these police contributes to their prudent use of Tasers.

The monitoring process is significantly simplified due to the electronic and physical tracking safeguards within the X26Taser weapon itself, which in turn discourage improper use.

There is also room for improvement. Systems used by the Special Operations Group for providing electronic summaries of lessons learnt from debriefing sessions would assist the Critical Incident Response Teams. Senior Management has already agreed to improve accountability frameworks to ensure compliance with procedures and auditable trails of senior management decision-making. Similarly, after discussions with the OPI Review Team, the Division will implement a function audit regime.

The introduction of Taser Web Cams would provide an additional accountability mechanism and be potentially invaluable as learning and practice improvement tools.

OPI 2009 review of Safe Street Task Force

In October 2007, the Safe Street Task Force commenced in Region 1. Its objective was to implement a strategy that involved a highly visible police presence intended to prevent and deter public order and property offences within the central business district of Melbourne City and Division 2.³⁵ Police involved in the Safe Street Task Force include up to 40 newly graduated probationary constables. They work in an 'active enforcement' environment on Friday and Saturday evenings. Junior members are assigned to teams with Sergeants experienced in this style of policing. Police involved in the Task Force receive an 'information package' before commencing duty. The senior officer involved in operational duties (or Operations/ Forward Commander) also provides a briefing at the start of each shift.

The OPI Review Team spoke to the Officer-in-Charge of the Task Force to discover the extent to which the use of force by and against police working in such a volatile environment was being monitored.

The short answer is that monitoring the use of force by or against members of the Safe Street Task Force has not been considered a priority. The Officer-in-Charge of the Task Force told the OPI Review Team that he relies on reading mobile duty returns, daily incident fact sheets, arrest sheets or similar routine documentation to assess the extent to which force is used by or against police involved in the Task Force. He is not able to get up-to-date information from the Use of Force Register. He said there have been few formal incident debriefing sessions despite there having been a number of incidents that should have been subject to a formal debriefing. This means there have been few opportunities to progressively evaluate the effectiveness of specific strategies or to identify areas requiring improvement.

³⁵ Victoria Police Operation Street Safe Operation Order p1 z

At the time of writing, independent research is being conducted to assess whether, over time, the operational objectives have been achieved. That is, whether there has been an increase or reduction in the public order offence categories of robbery, assault, or wilful and criminal damage. This research will inform whether or not the strategy will be used in other areas of the State.

In the course of this review the OPI Review Team was able to obtain the following data in relation to the number of Use of Force forms submitted by the Task Force members to the end of October 2008.

Figure 4 Use of Force forms submitted by Street Safe Task Force

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Total
15	10	14	9	10	13	4	11	7	18	111

Without access to correlating incident facts sheets and other data held by Task Force management, these figures are difficult to interpret, but it is clear the variance in the figures and apparent seasonal fluctuation warrants further exploration. This data is clearly relevant to the circumstances in which similar operations could be undertaken in the future.

The Street Safe Task Force provides a unique opportunity to scrutinise the conduct of police deployed in ‘active enforcement’, to assess how well equipped they are to avoid or minimise the use of force, to understand environmental influences that may impact on levels of violence and to determine what strategies are effective in diffusing potentially volatile situations.

Hopefully the formal evaluation of the Task Force will include an analysis of use of force by and against police.

Part One - Conclusion

An overview of reviews conducted by Victoria Police demonstrates a pattern of indecision, lack of accountability, poor management and attitudes that accept use of force and associated injuries as ‘part of the job’. Most of the reviews have made similar recommendations, but, until recently, Victoria Police seemed to lack the will or capacity to implement solutions to effectively address the identified problems.

Of particular concern is the development of stand-alone databases recording the use of force. In addition to the wasted effort caused by duplication, corporate knowledge is fragmented and dispersed. Rather than improving corporate knowledge and providing operational police access to the lessons learnt by specialist support units and those involved in critical incidents, information is kept in-house. The failure of operational police to conduct debriefing sessions aggravates this problem.

The absence of significant progress in more than six years by the Victoria Police Education Department in implementing the recommendations made by many of the reviews is inexcusable.

The apparent lack of corporate governance in monitoring the progress by the Education Department, or managing the identified risks associated with the use of force by and against police, reflects poorly on the whole organisation.

Rather than a coordinated and strategic response to manage the risks associated with inadequately trained or ill-equipped police, Victoria Police appear to have adopted a 'quick fix' approach. In implementing a solution that requires coordination, resources or effort, Victoria Police's response has been demonstrably flawed, as illustrated by the review of the use of capsicum spray, or has simply resulted in another review.

PART TWO - DATA ANALYSIS

This section of the report examines data from a range of sources to provide a broad understanding of police use of force. No single data collection mechanism can provide a full picture of police use of force. Several methodologies, for example analysis of court records, citizen complaints, incident reports, all contribute to the general picture but each has advantages and disadvantages.³⁶ Issues to do with use of force include considerations as diverse as the occupational health and safety of police, the appropriateness of specific actions and uses of force in particular situations, groups within society who are over-represented in use of force statistics, the number and nature of contacts between police and the public, and compliance with existing policy requirements. Given the breadth of the issue of use of force by or against police, it is neither desirable nor possible to collect all potentially relevant information using one data source or collection technique. Proper examination of the use of force by or against Victoria Police requires information gathered from multiple sources.

Victoria Police stores a substantial quantity of statistical data. In addition to data on the Use of Force Register, there are a variety of data sources and methods for collecting information about the use of force by or against police.

What was examined in the review

The OPI Review Team analysed data in relation to Ringwood, Camberwell, Geelong, Melbourne West, Frankston and Werribee Police Stations and compared that with statewide figures.

Despite acknowledged limitations, the Use of Force Register is capable of producing considerable volumes of general and specific information on a variety of matters. Much of the data requires qualification, further enquiry or additional information, but this does not render it unusable or unhelpful.

The OPI Review Team triangulated data from the Use of Force Register to verify other information. This data comparison provided an indication of levels of under-reporting and was a valuable 'starting point' for further enquiries using other data available to Victoria Police.

The OPI Review Team obtained data from the Use of Force Register for all uses of force against Victoria Police members and all injuries to Victoria Police members recorded in the Use of Force Register from 1 July 2004 to 30 June 2008. Specific information was obtained from the Use of Force forms submitted from the six stations for each financial year from 2004/2005 to 2007/2008 in relation to

- The type of incident where force was used by police members
- Uses of OC spray
- Uses of handcuffs.

³⁶ National Institute of Justice and Tom McEwen, April, 1996, *National data collection on police use of force*, Institute for Law and Justice, Alexandria, Virginia p8. See also Charlie Mesloh, Mark Heynch and Ross Wolf (2008) *Less lethal weapon effectiveness, use of force, and suspect & officer injuries: A five year analysis*, Florida Gulf Coast University Weapons and Equipment Research Institute pp18-19

The OPI review team also collected data from Victoria Police in relation to

- Calls for police assistance for 2008
- Police contacts with members of the public
- WorkCover claims associated with critical incidents and with arresting and restraining offenders
- ‘Assault police’ and ‘resist arrest’ charges, court outcomes and sentences
- Allegations of assaults and uses of excessive force made against Victoria Police members
- Issuing records for OC spray and foam
- Warrants executed.

Police contacts and reported use of force

Only a very small proportion of contacts police have with the public result in an incident that gives rise to a report of the use of force.

Figure 5 sets out the number of contacts operational police throughout Victoria have with people by calendar year. Figure 6 sets out the total number of reports of use of force by financial year.

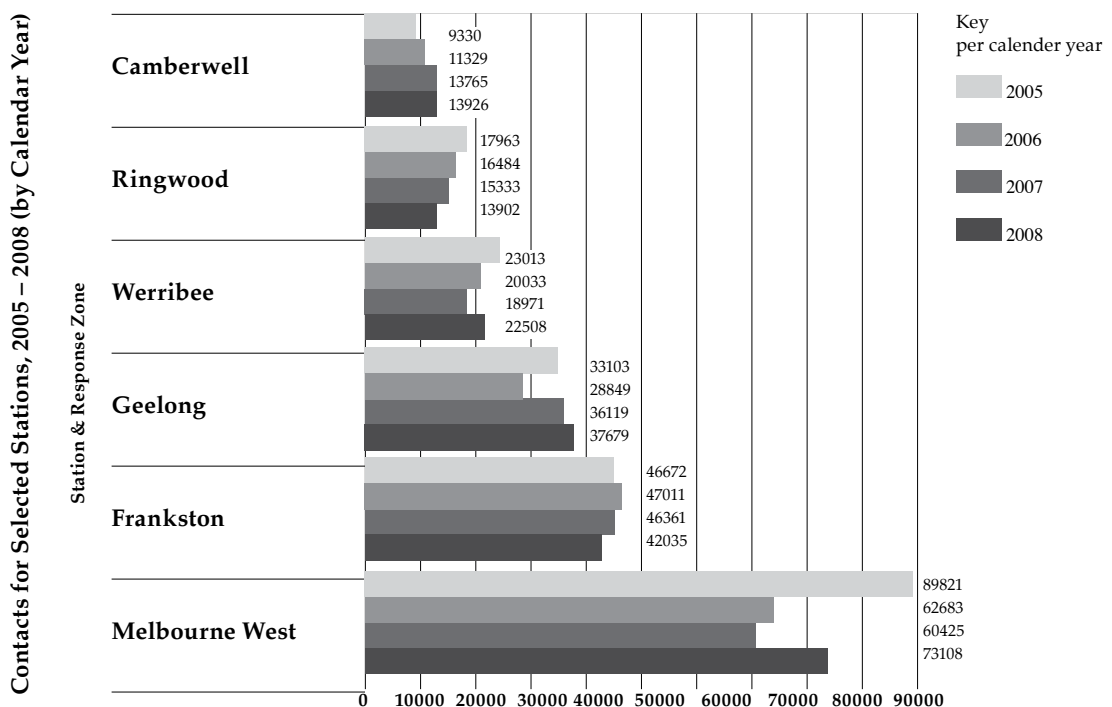
Figure 5 Number of police per calendar year contacts statewide

	2005	2006	2007	2008
Number of contacts	3,522,365	3,481,152	3,302,345	3,437,247

Figure 6 Total reports of use of force 1 July 2004 – 30 June 2008

	04/05	05/06	06/07	07/08
Reports of use of force	4407	4724	4784	4855

Figure 7 Number of police contacts selected stations per calendar year 2005 –2008



Predictably Melbourne West has the greatest number of contacts with the public. It is interesting to note that the public contacts by Ringwood police are decreasing.

Calls for police service

Police are regularly called to attend potentially violent situations. The Emergency Services Telecommunications Authority data indicates that in 2008 across the Melbourne metropolitan area and Geelong there were 135,567 calls for police assistance that indicated there was a potential for confrontation, that is, calls for ‘assaults’, ‘brawls’, ‘people causing trouble’ or the like. This is an average of 371 calls a day (approximately one every four minutes) where police face a potentially volatile incident, although it should be noted that there may be more than one call received in relation to a single incident.

Callout data was also collected for the six police stations. In 2008, they received a combined average of 1668 such calls a month, although there is considerable seasonal variation in these sorts of callouts. The highest numbers were recorded in March, October and December, while the lowest were recorded from May until August.

Frankston received the highest average number of calls per month (571.6), followed by Geelong (366), Werribee (285.6), Melbourne West (270.4), Ringwood (112.3) and Camberwell (62.5).

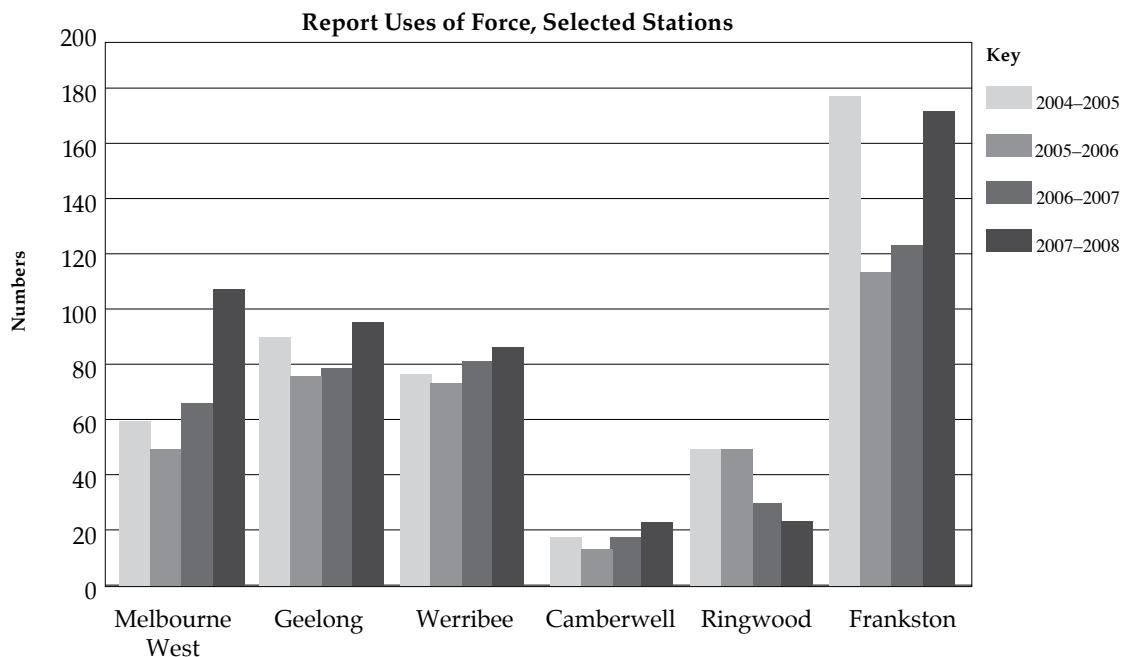
Figure 8 ‘Assault’, ‘brawl’ and ‘people causing trouble’ calls to selected stations, 2008

Station Name & Response Zone	Overall Total	Monthly Average
Melbourne West (1MW)	3245	270.42
Geelong (2GL)	4392	366.00
Werribee (2WE)	3427	285.58
Camberwell (4CL)	750	62.50
Ringwood (4RW)	1347	112.25
Frankston (5FK)	6859	571.58

In 2008 for every 40 calls with the potential for confrontation there was one reported use of force for the six selected stations. Although the apparent under-reporting of use of force makes it difficult to form reliable conclusions, this data indicates that the actual use of force by police to resolve potentially confrontational situations may be relatively infrequent.

Reported use of force

Figure 9 Reported uses of force 1 July 2004 – 30 June 2008, selected stations



This graph indicates that Frankston Police use or are subjected to all categories of force to a greater extent than the other stations reviewed. It may be that Frankston police are more diligent in reporting the use of force, but other data supports that, at least in the past, there has been more force associated with policing in Frankston than in other areas.

It is relevant to note that, although reports from Ringwood police appear to be decreasing in line with their decreasing number of contacts, in other stations reported uses of force do not correlate with numbers of police contacts. (See Figure 4)

Melbourne West had more contacts than other stations, and more contacts in 2005 than in 2008, yet there is a significant increase in reported use of force in the Melbourne West area in 2008 compared to 2005. This may reflect changes in the reporting culture but is more likely a product of the Safe Street Task Force and other changes to police responses to reported violence in Melbourne City.

Optional tactical equipment use

Figure 10 Reported capsicum spray and foam use 1 July 2004 – 30 June 2008, selected stations

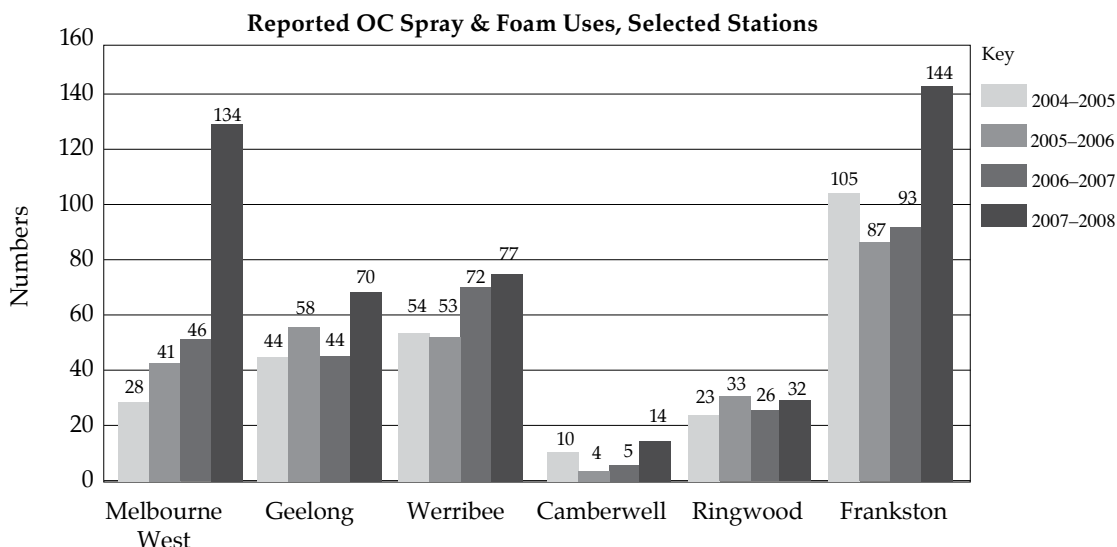
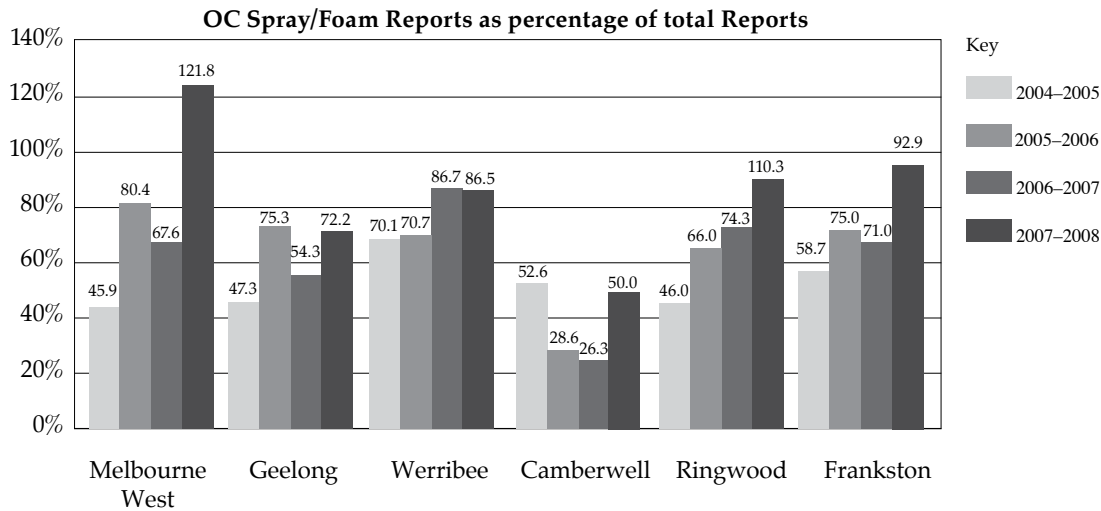
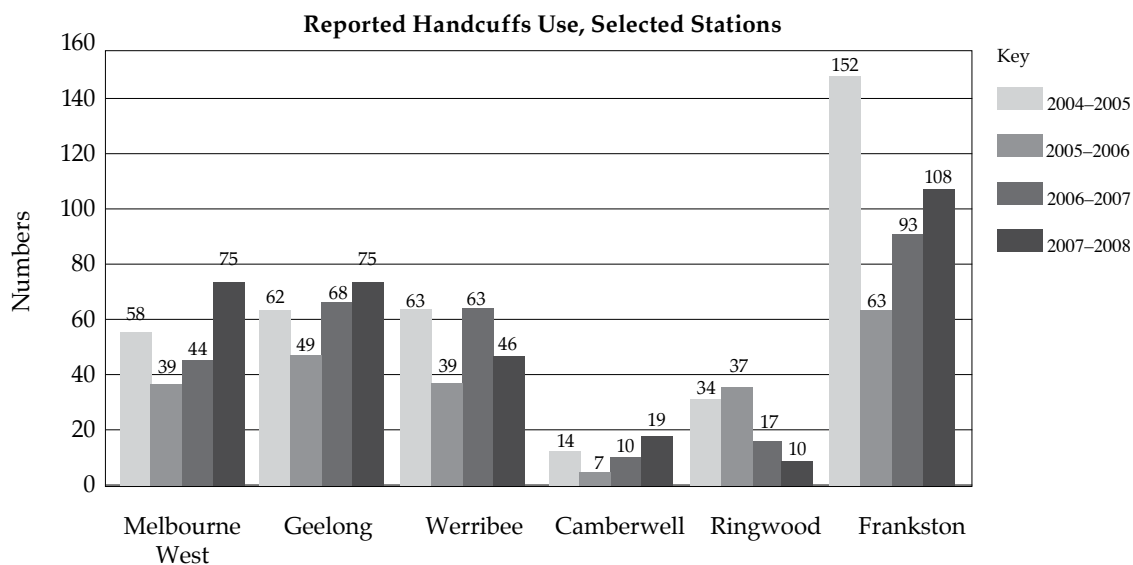


Figure 11 Reported capsicum spray and foam use compared with total reports of use of force report forms submitted 1 July 2004 – 30 June 2008, selected stations



Except for the figures for Melbourne West and Ringwood, these graphs indicate capsicum spray is involved in a consistent proportion of all reported uses of force across policing areas. Usage above 100 per cent indicates multiple police used capsicum spray or foam in the one incident. The marked increase in use of capsicum spray in Melbourne West in 2008 is indicative of the increased police activity associated with the Safe Street Task Force. More information is required to explain the significant increase in capsicum spray in Ringwood given the reduction in overall reports of use of force.

Figure 12 Reported handcuff use 1 July 2004 – 30 June 2008, selected stations



The use of handcuffs by police mirrors the use of force data seen in Figure 3, indicating a consistent pattern of handcuff use across policing areas.

Capsicum spray or foam ordered

To gain further insight into the accuracy of reporting use of force the OPI Review Team examined the quantities of capsicum spray or foam ordered by the various stations between 2004 and 2008.

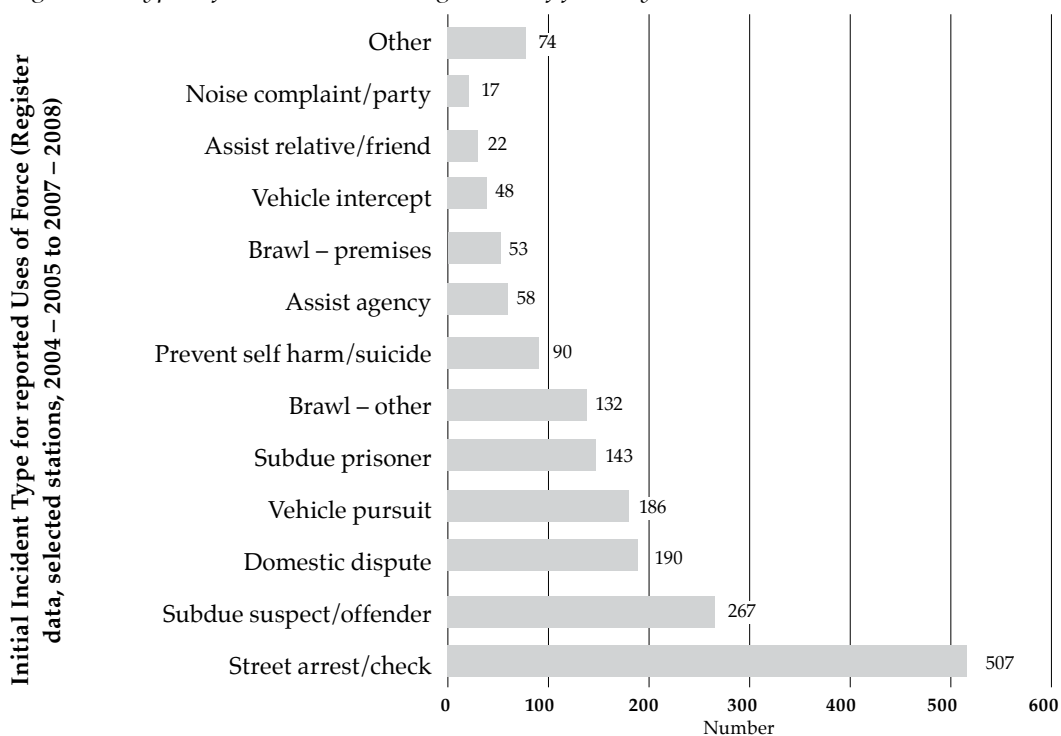
Figure 13 Orders of capsicum spray or foam compared to reported use 1 July 2004 – 30 June 2008

Station	Reported Uses	Quantity Ordered	Ratio
Camberwell	26	10	2.600
Frankston	375	483	0.776
Geelong	189	36	0.691
(Geelong Divisional Headquarters)	N/A	396	N/A
Melbourne West	177	370	0.478
Ringwood	106	239	0.444
Werribee	216	242	0.893
Grand Total	1089	1617.6	0.673

Although the data is inconclusive, the discrepancies between orders and reported uses (particularly Melbourne West and Ringwood) suggest under-reporting has been an issue over the four year period. Conducting a stocktake of unused supplies at the stations would verify the extent of the discrepancies, but that was beyond the scope of this review. The exercise was valuable from a compliance audit perspective and, in the case of Geelong, demonstrated the need for consistency in allocating supplies to a particular police station rather than Divisional Headquarters.

Type of incident reported

Figure 14 Types of incidents resulting in use of force by Victoria Police



It is predictable that force is used by or against police most frequently when police arrest or check someone in the street. Force is used in these circumstances nearly twice as often compared to any other circumstances, including when police are involved in subduing an offender or suspect.

The recent Victoria Police review of police shootings found police involved in critical incidents tended to approach the incident with a 'degree of complacency and lack of tactical skills'. This Victoria Police finding in the context of the statistical evidence reinforces how important it is for police to have a range of safe and effective field tactics in street policing.

A more detailed analysis of the incidents that give rise to the use of force at a local level could identify recurring themes in relation to precipitating factors or skill deficits to inform ongoing training. It might also identify best-practice policing areas or highly skilled individual police members as examples for others wanting to improve local street policing.

Complaints

Information from complainants can help to identify gaps in the reported use of force and shed light on the circumstances that give rise to complaints about use of force. Complaints data is not reliable as an indicator of the actual prevalence of use of force, but it can be useful to triangulate complaints data with other data to gain a fuller picture of use of force particularly where use of force has not been reported. Complaints involving the use of force by police are generally recorded by Victoria Police in the Register of Complaints, Serious Incidents and Discipline (ROCSID) as allegations of assault, use of excessive force, or misuse of police equipment.

In conducting the analysis of complaints the OPI Review Team collected complaints data for allegations of assaults, use of excessive force, and inappropriate use of capsicum spray. Some complaints about misuse of capsicum spray had been recorded as 'equipment' allegations rather than 'assault/excessive force' allegations. After these discrepancies had been resolved, the data for all these allegations was combined for analysis.

The combined complaints data indicated that 49 per cent of assault or excessive force allegations involved unarmed or 'hands-on' tactics, while complaints about capsicum spray and foam only accounted for seven per cent of such allegations.³⁷ This is in contrast to the types of use of force reported by police. (See Figure 8)

This discrepancy may suggest that members of the public are more likely to complain about the use of hands-on physical force by police. But it may also be linked to the type of circumstances where hands-on physical contact is as an alternative to capsicum spray deployment. Capsicum spray or foam cannot be deployed effectively in confined areas due to the risk of secondary exposure for police members. Complainants may be more likely to complain if the police contact happens in a private dwelling or place such as a bar or licensed premises.

³⁷ Refer to DOC/09/2206 (chart on "Type of Force Alleged" tab)

This hypothesis seems inconsistent with the data in Figure 11, where reports of use of force by police indicate use of force happens more frequently in public streets. It may be that complainants are more inclined to complain about police use of force in private dwellings or pubs etc., but perhaps police are more likely to report incidents of use of force when they happen in a public place.

It is beyond the scope of this review to test these hypotheses. The inclusion of this superficial analysis is intended to demonstrate that a more detailed analysis of the available data has the potential to provide police with significant insights into the tactical training needs of police and compliance audit issues.

Assaults and use of force against police

Data obtained from the LEAP (Law Enforcement Assistance Program) database indicates the following numbers of 'assault police' and 'resist arrest' charges laid by Victoria Police between 2005 and 2008.

Figure 15 'Assault police', 'hinder police' and 'obstruct/resist arrest' charges by calendar year 2005 – 2008

Offence Type	2005	2006	2007	2008
Assault police (Indictable)	235	272	299	259
Assault police (Summary)	2255	2023	2216	2253
Hinder police (Summary)	280	273	278	282
Obstruct/resist police (Summary)	21	13	14	10
Resist police	1431	1408	1499	1423
Total	4222	3989	4306	4227

These figures demonstrate a consistent pattern over the last four years. They also provide an indicator of under-reporting of use of force. Clearly a single incident involving use of force may result in multiple charges but only one report of use of force. However, if each of these charges had been reported as separate incidents of use of force, the figures for these four years would account for 46 per cent of all reports on the Use of Force Register over its 13 year life span. In 2007, a Senior Sergeant who reviewed the register found between 1 January 2007 and 17 August 2007 there were 817 reports of the summary offence of 'assault police' where a corresponding Use of Force form did not appear to have been submitted.³⁸

Types of force used against police

To assess the types of force used against police, data was retrieved from the Use of Force Register with the following alarming results.

³⁸ Victoria Police correspondence, Use of Force Register Review by Senior Sergeant August 2007 p3

Figure 16 Types of force used against police statewide

Types of Force	04/05	05/06	06/07	07/08	Total
Axe/Tomahawk/Hammer	14	15	19	17	65
Bat/bar/club	61	73	54	64	252
Bottle/glass	21	27	24	40	112
Bow and arrow	.	.	1	.	1
Chainsaw/mechanical tool	1	.	3	.	4
Dog - Other	3	7	11	5	26
Dog - Police	.	1	1	1	3
Expandable baton	2	1	1	2	6
Fixed blade knife/screwdriver/scissor	106	108	85	62	361
Folding/flick knife	8	8	12	11	39
Furniture	10	7	21	13	51
Gouge/bite	94	96	71	57	318
Grapple/wrestle	2070	1965	1873	1796	7704
Gun grab	23	26	30	17	96
Head butt	46	35	32	43	156
Held/swarmed	1015	1088	1173	730	4006
Homemade/other firearm	.	1	2	.	3
Imitation firearm	5	5	6	1	17
Inflammable material	8	11	3	5	27
Kick	429	431	422	459	1741
Knuckleduster	2	1	.	2	5
Machete/sword	13	13	7	12	45
Martial arts weapon	1	2	3	.	6
Pain compliance grip	33	39	28	48	148
Pistol	1	2	3	2	8
Plastic restraint	1	3	.	1	5
Police torch	3	1	7	1	12
Punch	558	517	463	432	1970
Radio/radio cord	.	.	1	.	1
Revolver	2	1	1	2	6
Rock/stone/missile	42	40	45	27	154
Shotgun	2	1	1	1	5
Smear/wipe/flick blood/bodily fluid	6	5	8	7	26
Spit saliva/blood	143	165	184	144	636
Syringe	5	2	2	5	14
Threat/menace - action	1801	1972	2034	2067	7874
Threat/menace - verbal	2558	2675	2698	2973	10904
Trained fighting skills (boxer/martial arts expert)	8	11	5	3	27
Tyre lever/jemmy	2	2	2	4	10
Vehicle	23	12	16	10	61
Total	9120	9369	9352	9064	36905

This data indicates over a four-year period, Victoria Police members were, at a daily rate, assaulted in the following ways:

- Kicked - 1.2 police
- Punched - 1.3 police
- Being held/swarmed - 2.7 police
- Wrestled with - 5.2 police
- Threatened by person's actions - 5.4 police
- Verbally abused - 7.5 police.

Every 5.8 days a police officer was assaulted with a bat/bar or club and every four days a police officer was attacked with a knife/screwdriver or scissors.

It is interesting to note that the majority of types of force reportedly used against police have been in a modest but steady decline over the period.

Figure 17 Types of force used against police, compared to capsicum spray use 1 July 2005 – 30 June 2008, selected stations

Melbourne West				Camberwell			
Force Type	05/06	06/07	07/08	Force Type	05/06	06/07	07/08
Grapple/wrestle	29	28	46	Grapple/wrestle	8	10	9
Held/swarmed	14	14	22	Held/swarmed	4	2	3
Kick	8	5	14	Kick	0	1	3
Punch	8	6	10	Punch	1	3	4
Threat - action	26	40	67	Threat - action	2	7	13
Threat - verbal	36	52	97	Threat - verbal	7	10	17
Reported use of capsicum (05 – 08)	177			Reported use of capsicum (05 – 08)	26		
Geelong				Ringwood			
Force Type	05/06	06/07	07/08	Force Type	05/06	06/07	07/08
Grapple/wrestle	45	46	65	Grapple/wrestle	25	10	7
Held/swarmed	27	33	22	Held/swarmed	14	6	1
Kick	13	6	17	Kick	4	1	2
Punch	20	10	12	Punch	6	1	2
Threat - action	44	45	50	Threat - action	23	25	18
Threat - verbal	56	67	77	Threat - verbal	41	27	20
Reported use of capsicum (05 – 08)	189			Reported use of capsicum (05 – 08)	106		

Werribee				Frankston			
Force Type	05/06	06/07	07/08	Force Type	05/06	06/07	07/08
Grapple/wrestle	34	44	36	Grapple/wrestle	57	63	77
Held/swarmed	17	30	15	Held/swarmed	35	49	27
Kick	9	17	13	Kick	10	12	14
Punch	7	8	6	Punch	10	15	16
Threat - action	43	36	52	Threat - action	65	80	82
Threat - verbal	50	58	71	Threat - verbal	88	94	112
Reported use of capsicum (05 – 08)	216			Reported use of capsicum (05 – 08)	375		

This data compares the more prevalent types of force used against police at the six selected stations for the last three years, and reported capsicum spray use for the last four years. Ringwood again goes against the trend. It is the only station with a reduction in all types of force reported against police; in particular there is a reduction in threats made against police. This is despite what appears to be a higher than predicted reported use of capsicum spray or foam. Data for Melbourne West for 2007/2008 again reflects the effect of increased numbers of police contacts aimed at quelling street offences. Frankston has reported high capsicum spray use and high levels of grappling/wrestling.

A more detailed examination may reveal whether differences in styles of policing, local demographics, or other factors explain the variation between policing areas.

Injuries associated with use of force against police

Figure 18 Injuries received by police 1 July 2004 – 30 June 2008

Injury inflicted	04/05	05/06	06/07	07/08	Total
Abrasions	156	133	104	109	502
Bruising	161	123	148	121	553
Bullet/pellet wound	1	1	.	1	3
Concussion	1	.	.	.	1
Emotional trauma	23	15	14	8	60
Fracture	10	5	4	6	25
Internal injuries	2	2	1	2	7
Lacerations - minor	115	123	106	80	424
Lacerations - severe/stab wound	4	9	3	4	20
O.C spray - effect disabling	1	3	4	.	8
O.C spray - effect minimal	5	5	2	1	13
Swelling/sprain	153	136	130	98	517
Unconsciousness	1	.	.	.	1
Total	633	555	516	430	2134

The Use of Force Register unedited statistics indicate over the four-year period, a police member was injured on average once every 16 hours and 26 minutes. This rate fell from every 13 hours and 52 minutes in 2004/2005 to every 20 hours and 26 minutes in 2007/2008. Without further analysis the data the number of occasions when members receive more than a single injury at the time of one incident is unknown.

Figure 19 Frequency at which police officers are injured 1 July 2004 – 30 June 2008

Year	04/05	05/06	06/07	07/08	Ave.
Hours Minutes	13:52	15:47	16:59	20:26	16:26

WorkCover claims

Not all injuries lead to WorkCover 'claims' or 'time off'. An Incident Report is supposed to be submitted to the Human Resources Department if a WorkCover claim is not submitted, but Victoria Police told the OPI Review Team that this data is not able to be analysed electronically.

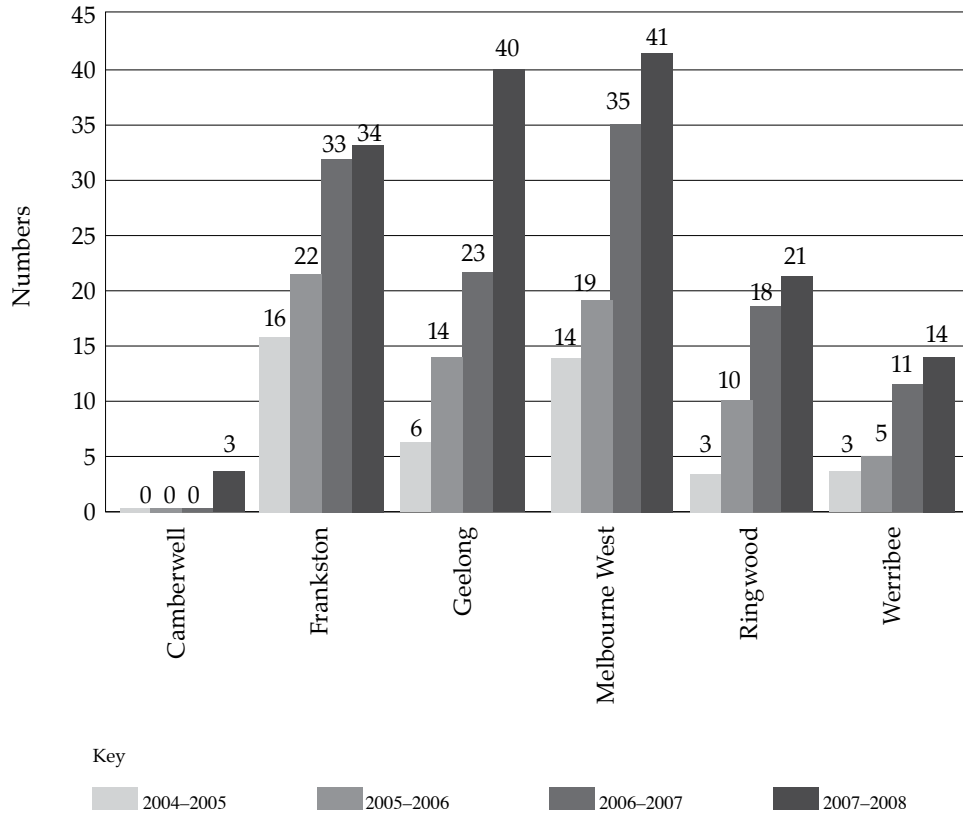
The available data indicates the cost of injuries to police members in financial terms is significant. The activity undertaken by the police officer at the time of any injury is recorded. Information in relation to WorkCover claims arising during an arrest or restraint or a critical incidents is set out in Figure 15.

Figure 20 WorkCover claims arising out of arrest, restraint or critical incident 1 July 2005 – 30 June 2008

Financial Year	Arrest/Restrain	Critical Incident	Total Claims	Total Cost	Days Lost
2005/2006	174	77	251	\$8,825,895.74	5107
2006/2007	242	73	315	\$7,278,754.77	3235
2007/2008	186	60	246	\$7,162,067.08	3211

The data for the six police stations reveals a concerning increase in the number of claims, particularly for Geelong. This may be evidence to support a hypothesis that Geelong has adopted an increased hands-on policing style.

Figure 21 WorkCover claims arising out of arrest, restraint or critical incident, selected stations, 1 July 2004 – 30 June 2008



The Comparison of Statistics (COMPSTAT) process is used by Victoria Police Command to monitor organisational performance. Through COMPSTAT Victoria Police management regularly examines WorkCover data to determine the effectiveness of its ‘zero tolerance’ to injuries strategy. However, the Victoria Police strategy does not appear to have identified the importance of monitoring injuries associated with use of force and the relationship between work-related injuries and the implementation of sound operational safety tactics. A far more comprehensive approach is required if safety-first principles are to become an integral part of police operational work.

What happens to those who use force against police?

The Victoria Police LEAP database includes information about the outcome of proceedings in which someone has been charged with assault police etc. The following analysis (2005 – 2008) matches the sentence recorded against the specific charge. This analysis does not take into account factors which may impact on the disposition for the assault such as concurrent sentencing, the seriousness of other unrelated charges, nor prior offence history.

The top ten sentencing outcomes for each category of offence (grouping the resist/hinder/obstruct police offences into one category) are presented in the following three graphs.

Figure 22 Penalties on conviction for 'assault police' (Crimes Act) 2005 – 2008

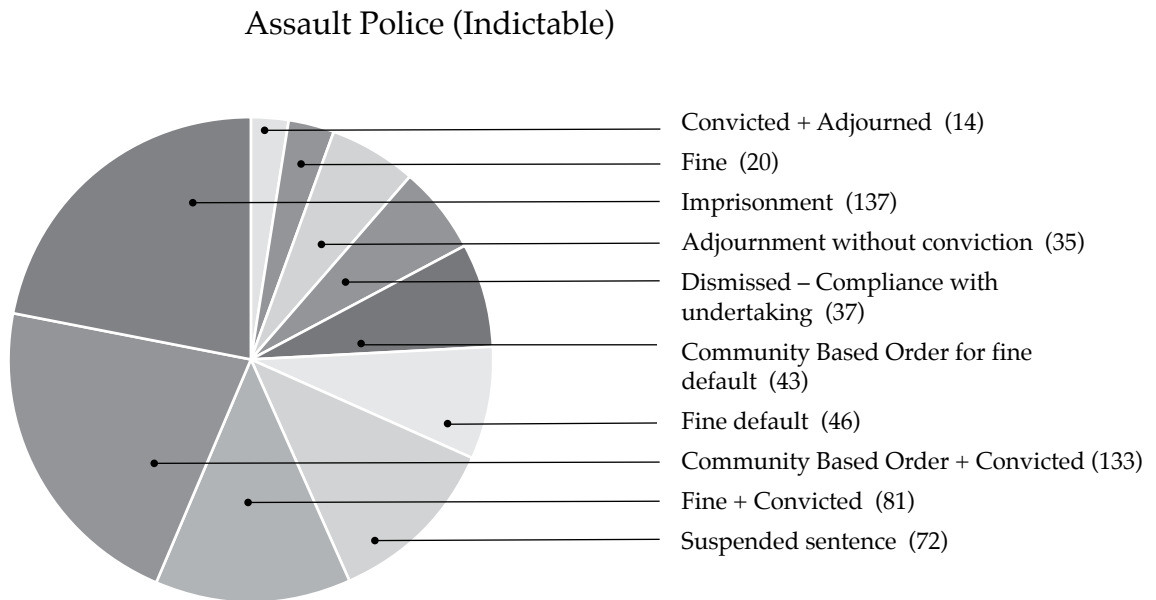


Figure 23 Penalties on conviction of 'assault police' (Police Offences Act) 2005 – 2008

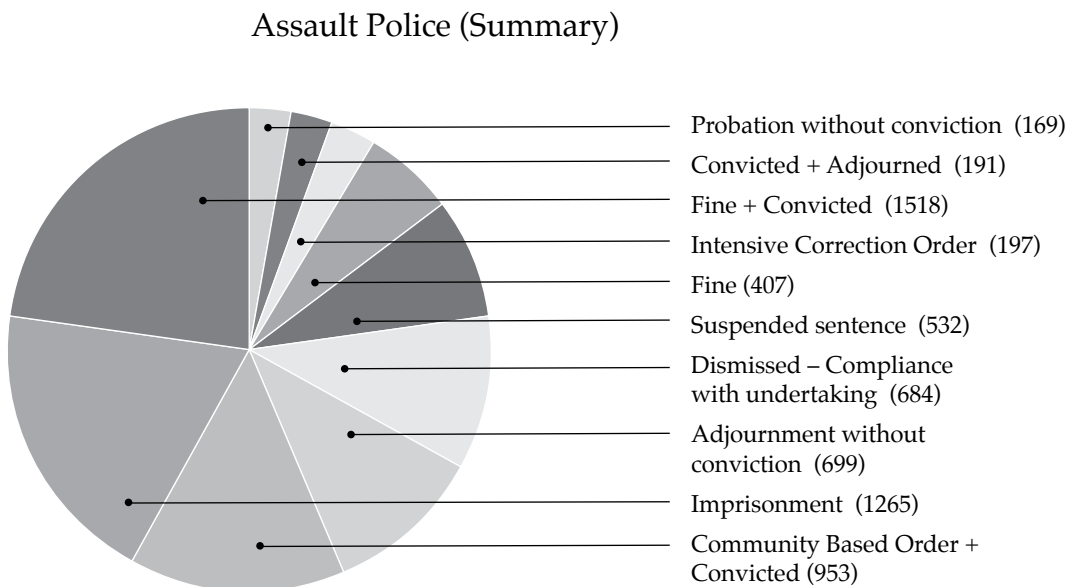
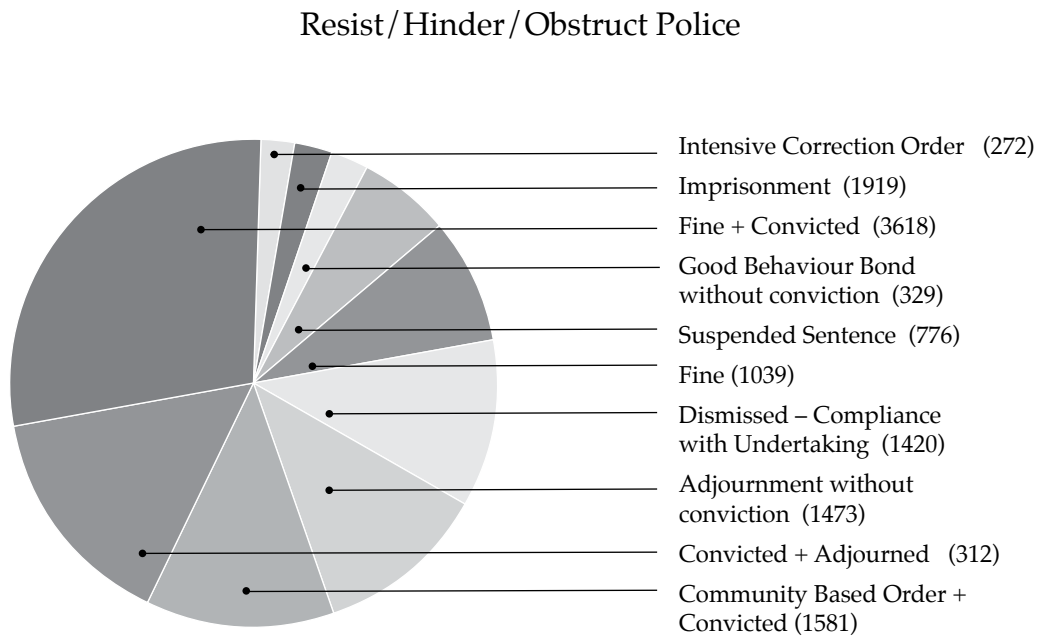


Figure 24 Penalties on conviction of 'resist/hinder/obstruct police' (Police Offences Act) 2005 – 2008



Part Two - Conclusion

It was beyond the scope of this review to conduct an exhaustive analysis of all the data available to Victoria Police relevant to the use of force. Most of the basic information comes from the Use of Force Register. Problems with under-reporting and the accuracy of data capture make it difficult to do anything other than hypothesise about trends in the use of force by and against police. Nevertheless the data in this section of the report suggests there are a number of avenues of further inquiry available to Victoria Police that could test these hypotheses. The snapshot of data examined in this section of the report is provided to demonstrate the value of an efficient database that is up to date and accurately records use of force information. Information from such a database when cross-referenced with other information collected by Victoria Police could be used to inform better and safer policing practices.

If Victoria Police wants to reaffirm its commitment to measuring the success of its operational activities on the extent to which the use of force is avoided or minimised, it must have an accurate record of the extent of force used by police and use that information to continuously improve safety for police and the communities they serve.

PART THREE - FUTURE DIRECTIONS

Professional policing relies on policing organisations having the capacity and will to accurately and objectively reflect on past performance, learn from mistakes and try new ways of doing things to improve practices and deliver quality policing services.

How police are taught to use their coercive powers against citizens needs to be based on a sound and relevant body of knowledge. Only a small percentage of police encounters with the public involve the use of force, but those that do provide significant insight into police culture, the quality of police training and policing standards.

Police conduct should reflect the values, attitudes and aspirations of the organisation in relation to use of force, for example safety first, protection of the public, measuring success by avoiding or minimising the use of force.

Training should be based on an understanding of the sorts of incidents where force is used and the sorts of incidents where force could have been used but was avoided, and incorporating this knowledge in the organisation's policy context. Training should also trial and evaluate new operational safety techniques.

How police practically use what they have learnt in their day-to-day interactions with the public should then be monitored and regularly evaluated, with lessons fed back to inform future training.

These fundamentals formed the basis of the Victoria Police use of force framework established by Project Beacon in 1995. Disappointingly that framework seems to have been significantly weakened over the last several years.

Police culture

Until very recently, the Victoria Police organisational response to issues relating to the use of force, exposed in this report, indicates a lack of ongoing, strong commitment to the values that underpinned Project Beacon.

Corporate documentation such as the *Way Ahead 2008 – 2013* states that the safety of members of the public and Victoria Police employees are priorities. Yet there is little information about how these priorities affect police responses to potentially volatile situations. There is currently no evidence to suggest there is a corporate commitment to measuring success in terms of avoiding or minimising the use of force.

Police are required to be both peace keepers and law enforcers. In the continuum of options for resolving situations where there is a risk of violence, the attitude, action taken and choice of words by a police officer at the beginning of an encounter have a large impact on how the incident will be resolved.

Training can emphasise pre-planning and risk assessment. Police can be taught to identify when and how to use force. But Victoria Police senior managers must set the tone for the attitude police bring to encounters. Victoria Police Command must shape

Victoria Police culture to ensure Victoria Police men and women are able to respond to the changing demands of modern policing and expectations of the Victorian community. Senior police managers must provide consistent messages about how to be both peace keeper and law enforcer. They must lead by example and demonstrate that having regard to human rights means not just treating everyone with dignity and respect, but also having regard to the safety of others: other police and members of the public.

The near collapse of the use of force framework established by Project Beacon now requires an urgent response. Senior Victoria Police management must act. To avoid future relapses, the need to avoid or minimise the use of force must become an integral part of Victoria Police culture. As leaders, Victoria Police senior managers set the cultural tone for the whole of Victoria Police.

Operational Safety Principles

Part of setting the cultural tone in relation to use of force involves re-evaluating the 10 Operational Safety Principles. The Operational Safety Principles should represent the attitude and values of Victoria Police to the use of force and provide a practical guide that is easy to remember for operational police.

As with the OPI 2005 review, the recent 2009 Victoria Police examination of police shootings found it is time for the 10 Operational Safety Principles to be '*re-invigorated*'.

The current Operational Safety Principles refer to conducting a risk assessment, but do not identify the importance of assessing the whole situation, the behaviour of other individuals, the environment, the likelihood of timely backup, or support etc. The current principles do not include the consideration of options to defuse the situation, nor do they state the importance of communicating clearly and calmly both to people at the scene of the incident and other police providing backup or support. These issues should be addressed.

Training

Operational Safety Tactics training

The Operational Safety Tactics and Training Unit is under review, and has been for the last 18 months. An independent consultant has recently been engaged and requested to report by 30 June 2009 on whether the new training package *is relevant and contemporary and addresses the shortfalls indicated*.

Irrespective of the outcome of the review, it is clear that Operational Safety Tactics training must be based on lessons learnt from incidents where force has been used. This requires informative, accurate and up-to-date data collection and data analysis about use of force. The acknowledged difficulties in data collection and analysis are unlikely to be resolved quickly. Yet this should not be used as an excuse to delay a review of training content. Immediate action needs to be undertaken to improve Operational Safety Tactics training. There is sufficient up-to-date information from the 2009 Victoria Police review of police shootings, backed up by the 2005 OPI Fatal Shootings Review, to confirm that operational police need more information and skills in

- Identification and appropriate response to situations that have the potential to become critical incidents
- Identification and effective response to people who are behaving irrationally either because they have mental health problems or may be affected by alcohol and drugs
- Effective response to people who are suicidal
- Tactical communication
- Command and control of a critical incident
- Risk assessments in creating or moving cordons
- Techniques to diffuse situations or create delays until specialist support is available ³⁹

Ensuring the ongoing accountability of the Operational Safety Tactics Training Unit is also an imperative. There has been a tendency for Operational Safety Tactics training to focus on using equipment rather than skills such as communication, negotiation and command and control. Demonstrating the success or otherwise of techniques that do not rely on equipment is a core function of the Unit and just as important as learning how to use defensive equipment. Once the Unit has access to effective data collection and analysis, it should provide regular reports to COMPSTAT on the impact of training initiatives. In the meantime, the Unit should be regularly monitored and held accountable for ensuring that outstanding recommendations from the 2005 OPI Fatal Shootings Review and the recommendations from the 2009 Victoria Police examination of police shooting critical incidents are implemented.

Data collection

Victoria Police must have the capacity to collect, collate and analyse data specifically related to the use of force. Information to be collected should continue to be in accordance with the guidelines set by the Australasian Centre for Policing Research.

This data should be regularly audited for quality assurance purposes to ensure it is accurate and up to date. Data input should be on user-friendly electronic forms. The database should be accessible and available for interrogation by police managers across all policing services. The data should be regularly matched and cross-referenced with other data sources, such as those identified in Part Two of this report. Matters able to be reported on through the various systems should include

- Trends in the use of force by and against police
- Charges and prosecution outcomes arising out of the use of force, for police and civilians
- Prevalence of use of force
- Police at risk of overzealous use of force
- Warnings for police about citizens who pose a risk to safety
- Policy compliance, including compliance in reporting use of force

³⁹ Victoria Police Corporate Management Review Division *Examination of police shooting critical incidents between July 2005 and December 2008* Executive summary

- Use of force associated with any operational initiative (e.g. Safe Streets Task Force)
- Lessons learnt from the use of force
- Any issues relevant for interagency cooperation and national benchmarking
- Discrepancies in use of force figures between policing areas
- Numbers and types of complaints arising out of the use of force
- Training needs analysis
- Risk management issues

Data analysis

In addition to an improved data collection capacity, Victoria Police must ensure there are qualified staff who can undertake and report on data analysis. Staff skills need to include the capacity to

- Develop and establish analysis datasets
- Undertake fundamental research of all the available data sets and provide sound statistical analysis
- Compile graphs, tables, spreadsheets, comparative statistics and reports
- Monitor data integrity
- Identify and recommend process improvements
- Provide first class customer service
- Brief senior members of Victoria Police on the use of force by and against Victoria Police.

Both the current Sergeant and Senior Constable positions at the Use of Force Registry should be considered for replacement with unsworn analyst roles.

Monitoring and evaluation

The Victoria Police Strategic Risk Register lists 'inappropriate use of force' by its members amongst the top ten risks to the organisation.

The Police Operations Standing Committee is responsible for overseeing the strategic management of this risk. Part of the risk management strategy has been to give responsibility for monitoring trends in the use of force to the Critical Incident Management Review Committee (which reports to the Police Operations Standing Committee).

The Critical Incident Management Review Committee

Members of the Critical Incident Management Review Committee include the heads of the Education and Corporate Management Review Departments. The Committee's functions include monitoring the implementation of the Critical Incident Recommendations database.

As Part One of this report indicates, there is an apparent disconnection between the recognition of use of force as a strategic risk and the Corporate activities directed at managing this risk. The number of recommendations where no action, or no substantial action, has been taken by those responsible for implementing recommendations are strong indicators that the Critical Incident Management Review Committee must become more active than it has been to date.

Victoria Police needs to adopt a proactive approach to managing the risk associated with the use of force. The Critical Incident Management Review Committee is chaired by a Deputy Commissioner. It can play an important role in driving the 'strategic vision' for Victoria Police rather than just calling for a review after a critical incident has occurred. It must demand a higher level of accountability and take a more assertive and rigorous role in managing the implementation of recommendations.

The Committee has access to all the corporate data relevant to the use of force. Through the Education Department it should be able to monitor trends in the use of force, be able to compare regions and departments, identify discrepancies in the data, and identify examples of both good and bad policing practice. It should take steps to make Regional and Department Heads accountable for ensuring compliance with use of force policies and driving a police culture that measures success on avoiding or minimising the use of force.

Regional and Department Heads should be required to demonstrate what risk mitigation strategies they have in place, how they are being evaluated, what is being done to address under-reporting and failure to conduct debriefing sessions and so on.

Reports on the recommendation implementation process, trend reports, Regional and Department comparisons and progress reports on risk mitigation strategies should all perform part of a regular report to the Executive Management Group. Given the public interest in the use of force by and against police, and in the interests of transparency and accountability, Victoria Police should publicly report on issues to do with use of force and provide researchers appropriate access to its raw data.

Role of Regions and Departments

Regional and Department Managers also have an important role in providing a more vigorous leadership and strategic focus on avoiding or minimising the use of force associated with policing. Each operational area should have risk mitigation strategies associated with reducing the use of force by and against police incorporated into their business plans.

With an improved up-to-date database, the Regional and Divisional Intelligence Units should be able to provide regular reports to managers identifying trends and potential issues for follow-up.

Professional Development Committees

Regional and Departmental Professional Development Committees have an important role in dealing with local complaint investigations about misconduct or complaints suitable for alternative dispute resolution. They are in a unique position to monitor

use of force and identify trends or possible misuse of safety equipment. Their role in overseeing complaint investigations provides an important opportunity to gain insight into the circumstances surrounding an incident involving use of force. This should then feed into Operational Safety Tactics training. The Professional Development Committees are also responsible for identifying individual police who may use force overzealously. The Committees can provide early intervention for these police, who may need to be subject to performance improvement plans.

To ensure knowledge gained by an individual Professional Development Committee becomes part of corporate knowledge, reports to regional management from these committees should be forwarded to the Critical Incident Management Review Committee or through the COMPSTAT process.

Audits

Function audits are a good way of detecting non-compliance with processes and procedures. There have been very few function audits of processes associated with the use of force. If the anecdotal information regarding overuse of capsicum spray, under-reporting of use of force and inadequate incident debriefing had been subjected to a function audit, the issues identified in the 2009 Victoria Police examination of police shootings and this Review would probably have been detected earlier. It is possible steps could have been taken to address these issues, in particular focusing on bringing a more safety-conscious attitude to potentially volatile encounters.

The introduction of any new tactical option should, after a period of operational use, be followed by a post-implementation audit. Changing the criteria for the use of capsicum spray and foam should have been evaluated in a post-implementation audit. This would have determined whether the changes have achieved their desired impact and identified if there were any unintended consequences as a result of the change. Similarly, proposed changes to Operational Safety Tactics training should be subject to post-implementation and ongoing evaluation processes.

The Professional Development Committees could play a role in ensuring regular audits are conducted on components of the 'use of force' policy and procedures.

Debriefing Reports and review recommendations

Reports on debriefing critical incidents must be centrally analysed and any identified issues or recommendations incorporated and addressed at a corporate level. Non-compliance with conducting and reporting debriefing sessions needs to be addressed throughout all operational areas of Victoria Police.

Part Three - Conclusion

The Chief Commissioner has recently announced that Victoria Police will improve its practices in confronting potentially volatile situations. This acknowledges and responds to the re-emergence of a trend by police to 'go in hard' rather than to 'back off'. Victoria Police must re-focus attention on establishing a culture embedded in principles of safety first, risk assessment, risk management and avoiding or minimising the use of force.

The current operational safety training and education of police does not meet the needs of police facing an increase in challenging and potentially volatile situations. Police must be given alternatives to a hands-on approach that is heavily reliant on tactical equipment such as capsicum spray and firearms. Training must re-focus attention on equipping police with the necessary skills to accurately assess situations and to identify individuals who may have a mental health problem or who are under the influence of alcohol and drugs. Police need to be taught a range of communication and negotiation skills to resolve or defuse these situations without the use of force, or, where the use of force is unavoidable, they need to be taught how to use force in a way that minimises the risk of harm to themselves and members of the public. Police must learn from mistakes and evaluate a range of tactical options to continually improve their response to these types of situations.

There appears to be significant under-reporting in relation to use of force. The current central collection of information about use of force is under-utilised, unreliable, out-moded and antiquated. Although Victoria Police records substantial statistical data that is capable of contributing to the analysis of trends in the use of force against or by members, there is little evidence that Victoria Police is actively monitoring or strategically examining that data to inform police training and improve police practices.

There is the basis of a monitoring framework and a management structure to drive strategic vision, but it needs re-invigorating. Victoria Police Command has the opportunity to act now and demonstrate a commitment to strategically managing the risk associated with inappropriate use of force. It must hold those responsible for improving systems and practices accountable. It must deliver a style of policing aimed at reducing violence and providing a safe community for all.

DEFINITIONS AND GLOSSARY OF KEY TERMS

Critical Incident Management Review Committee

This Committee reports to the Police Operations Standing Committee. Chaired by the Deputy Commissioner, membership of this Committee comprises Department Heads including the Assistant Commissioner Education Department. This Committee

- Makes recommendations involving opportunities for improvement in police systems, process, practice and policy arising out of the review of critical incidents involving police or identified through other sources of information
- Oversees Victoria Police responses and/or submissions, in relation to critical incidents, to the Coroner, Office of Police Integrity and other external review bodies such as the Aboriginal Deaths in Custody review
- Monitors trends relating to the use of force and forced entry to premises
- When appropriate, appoints a Critical Incident Review Panel.⁴⁰

Force

The Victoria Police Manual requires all members to report the use of force by and against them. The term 'force' includes

Force used by sworn employees

Any situation where sworn employees in response to an actual or perceived immediate physical threat and in the execution of their duty:

- Use or draw a firearm
- Use a baton against another person
- Use a noxious spray against another person
- Use any weapon, instrument or implement against another person
- Use any compliance or restraint hold, blow, punch, kick or other similar operational safety defensive tactic on another person
- Use handcuffs or similar restraint on another person
- Use a police dog in any activity which results in a person being bitten by the dog.

Force used against employees

Any situation where employees in the execution of their duty are

- Physically assaulted whether or not an injury results from that assault
- Threatened with assault by another, including by use of weapon, implement, instrument or force of other type

⁴⁰ Victoria Police Manual Instruction 104-4 paragraph 8.1

- Injured by the actions of another while attempting to subdue, contain or control that person or persons.

Other situations involving force

Any situation where sworn employees in the execution of their duty

- Force entry to a building, vehicle, vessel or other secured area in accordance with statutory or common law powers to search, seize or arrest
- Forcibly remove a person's clothing order to conduct a 'full search' in accordance with statutory or common law powers
- Forcibly obtain a person's fingerprints in accordance with section 464K or 464M, *Crimes Act 1958*
- Forcibly obtain a person's body samples in accordance with section 464ZA, *Crimes Act*
- Uses a firearm, OC spray or baton on any animal.

Forced building entry

There are three levels of classification for property searches. Police seeking a search warrant are required to undertake a risk assessment and classify the warrant accordingly.

Level 1 property searches are those where the assessment concludes that entry is likely to be granted or where there are minimal safety risks associated with the execution of a warrant.

Level 2 property searches are those assessed as follows

No threat posed to a third party or likelihood of a hostage situation and:

- *No armed resistance likely*
- *Evidentiary items may be readily destroyed*
- *Likelihood of offender fleeing or*
- *High probability of potentially hazardous materials or substances present.*⁴¹

Level 2 property searches require a sub-officer to be present and supervise the entry who has qualified at the Forced Building Entry Training (FBET) . This qualification lasts for a period of two years after which the police officer must be reaccredited.⁴²

Level 3 are those assessed as

- *Probability of confrontation with a person who is armed or is reasonably suspected to be armed with a firearm or other lethal weapon*
- *Prior history of significant violence (including mental disorder manifesting in violent behaviour)*

⁴¹ Victoria Police Manual Instruction 105-2 sub paragraph 4.1

⁴² Victoria Police Manual Instruction 101-2-9

- *Safety of a third party is at risk or*
- *High level of security present or hazardous entry likely (e.g. man traps) where specialist skills, equipment or entry techniques required are beyond those taught at the FBET Course.*⁴³

A Use of Force form must be submitted when a 'forced entry' to premises takes place irrespective of the level assessment. (VPM 105-2 11.3 refers)

Police Operations Standing Committee.

This Committee oversees and implements strategic direction and projects for operational policing and is responsible for monitoring at a strategic level the risk to the organisation of 'inappropriate use of force'. A Deputy Commissioner chairs it with membership comprising Department Heads and two independent members.

Use of Force Register

In 1995, as part of Project Beacon, the Use of Force Register was established

*To provide a means of monitoring trends in use of force by and upon police in accordance with Corporate and Ministerial requirements, at a depth and breadth which will provide management advice and feedback on operational policing strategies, training, personnel development and recruitment practices.*⁴⁴

Located at the Police Academy, the Use of Force Register Unit is part of the Victoria Police Education Department. In addition to identifying trends about the use of force to inform operational safety training and equipment development, data collected in the Register provides an early warning system in relation to individuals involved in multiple incidents involving use of force.⁴⁵

A Victoria Police member involved in an incident where force is used is required to complete a Use of Force form (see Appendix Three), then fax it to the Use of Force Registry for recording and filing.⁴⁶ As can be seen, the form is complex, with the majority of the data entered in coded numbers. In addition to incidents involving physical contact or injury between police and members of the public, a Use of Force form must be submitted

- After a 'forced building entry'⁴⁷ or
- At the conclusion of a police pursuit.⁴⁸

Use of Force Register policy

The Victoria Police Manual Instruction 101-4 states

The Use of Force Register records the details of incidents where force is used by or against

⁴³ Victoria Police Manual Instruction 105-2 sub paragraph 4.1

⁴⁴ Victoria Police Use of Force Register Standard Operating Procedures September, 2003 p1

⁴⁵ Victoria Police Manual Instruction Operational Safety 101-4

⁴⁶ Victoria Police Manual Instruction 101-4 4.2 p2

⁴⁷ Victoria Police Manual Instruction 105-2.11.3

⁴⁸ Victoria Police Manual Instruction 101-4.4.1.2

police as well as information about pursuits.

- *The principal aim of the register is to meet the safety needs of operational police and the community.*
- *The data supplied to the Use of Force Register by police enables the*
 - *Identification of contemporary trends in the operational environment, particularly the safety of police and the community*
 - *Development of training strategies and techniques to address identified risks*
 - *Development of appropriate operational safety equipment*
 - *Creation of Person Warning Flags according to section 4.2.1, VPM 103-6*
 - *Development of pursuit strategies and appropriate training.*⁴⁹

Operational Safety Tactics and Training

The role of the Operational Safety Tactics Training Unit includes

- Conducting the Operational Safety Tactics training Instructors' Course
- Research and development of the use of
 - Oleoresin Capsicum (Capsicum) spray
 - Capsicum foam
 - Ground defence training
 - Extendable baton
 - Road spikes.

The principal components of Operational Safety Tactics training are

- Defensive tactics – physical activity e.g. take-down compliance holds
- Firearms refresher training and qualification
- Scenario-based training (e.g. bank robbery).

⁴⁹ Victoria Police Manual Instruction Operational Safety 101-4

APPENDIX ONE – TERMS OF REFERENCE

REVIEW OF VICTORIA POLICE USE OF FORCE DATA, REGISTER & TRAINING

Terms of Reference

Objectives

To examine the effectiveness of Victoria Police policies, data collection, reporting, training and monitoring of the use of force by Victoria Police members in providing for the safety of police and members of the public .

Background

In 2005, the Office of Police Integrity conducted a review of fatal shootings by Victoria Police between January 2003 and May 2005. This review included an examination of the circumstances surrounding six fatal shootings over that period and Victoria Police policies, procedures and practices. Specific attention was paid to Operational Safety Tactics (OST) training and equipment, uses of force, and education and assistance in dealing with mental health issues which may have been factors in the fatal shootings examined.

The review made 55 recommendations, many of which were accepted in principle by Victoria Police. Follow-up of these recommendations indicates that the substantive status of a significant proportion of the recommendations remains uncertain. Specific concerns exist regarding the reporting of uses of force by and against members of Victoria Police, as well as the quality, reliability, uses and usability of data stored in the Victoria Police Use of Force Register. Some months ago, the Chief Commissioner of Police announced Victoria Police will be trained and issued with semi-automatic guns. Yet OPI understands the Victoria Police's Operational Safety Tactical training is now subject to a wide review by the People Management and Development Standing Committee.

In addition, recent public debate has focused on the adequacy of the police response to allegations of increased alcohol-fuelled violence in Melbourne's CBD and other areas. While Victoria Police Command advises that there are no current plans to issue all sworn members of Victoria with electronic control devices (Taser stun guns), internal pressure is likely to keep this issue on the agenda. Already a significant proportion of complaints received by OPI relate to the use of force, specifically the deployment of Oleoresin Capsicum spray. It is timely to conduct a review of training, policies and procedures associated with the use of force, before police have access to increased use of force options.

Methods

The Review Team will evaluate data collection tools, policies, data, requirements and information technology support architecture for reporting Victoria Police uses of force and recording in the Use of Force Register, including

- Forms and processes associated with reporting uses of force by or against Victoria Police members
- Policies and instructions governing the reporting of such uses of force
- Nature and quality of data captured and recorded in the reporting forms and in the Use of Force Register
- Capabilities and limitations of the Victoria Police Use of Force Register and the information stored in that Register.

The Review Team will examine OST training materials and documentation, policies and Victoria Police Manual instructions concerning OST training, levels of current OST training qualification within Victoria Police, information about the percentage of Victoria Police members holding current OST training qualifications/accreditation and the extent to which OST training is informed by empirical evidence about the current use of force and associated safety issues for police and members of the public. It is envisaged that OPI may attend an OST training course during this review of OST training.

The Review Team also intends to triangulate Use of Force reporting and arrests/charges for 'resisting arrest' or 'assaulting police', in order to identify current compliance with existing policies and trends in over- or under-reporting of differing uses of force. It will also correlate data on use of force and assaults against police in areas reporting changing patterns of violence in public places.

Outputs

This review should culminate in the preparation of a report to the Director suitable for tabling in Parliament that sets out the findings of the Review Team and makes any recommendations aimed at ensuring that Victoria Police OSTT, uses of force and the management and utilisation of recorded Use of Force data

- Facilitate the highest possible ethical and professional standards within Victoria Police
- Build community confidence in police capacity to respond to violence in public places
- Ensure that members of Victoria Police have regard to the rights protected by the Charter of Human Rights and Responsibilities.

Associated Reports & Documentation

Office of Police Integrity, *Review of Fatal Shootings by Victoria Police*, November 2005

OPI/07/382 – Use of Force

- DOC/08/11111 – Recommendations from Use of Force Register Function Audit 2005: Proposed Measurements & Assessments
- DOC/07/22443 – Memo re Use of Force Register progress
- DOC/07/19712 – Victoria Police audit of Use of Force Register 3 August 2005

APPENDIX TWO - METHODOLOGY

In carrying out the review, the OPI Review Team spoke and/or met with the following:

Management staff of

- Specialist Support Department
- Education Department
- Use of Force Register
- Operational Safety Tactics Training Units at Police Academy and Essendon
- Region 1
- Operation Street Safe
- Corporate Management Review Division

Members of staff of

- Corporate Statistical Services
- LINK Project
- Western Australia Ethical Standards Department
- South Australia Ethical Standards Department
- People Information and Analysis Planning and Performance Division
- Ethical Standards Department
- Police Communications
- Critical Incident Response Team Unit
- Specialist Operations Group

The Review Team visited the Essendon Operational Safety Tactics Training Unit although training had been temporarily suspended due to the Victorian bushfires.

The Review Team made 60 requests for information from Victoria Police and was provided with extensive documentation including

- Corporate Management Risk Division – Examination of Police Shooting Critical Incidents between July 2005 and December 2008
- Oleoresin Capsicum Spray Training Manual 1998
- Victoria Police Use of Force Register – Function Audit & Report to Office of Police Integrity 2005
- Use of Force Register Standard Operating Procedures 2003
- History of Project Beacon and Operational Safety Tactics Training

- Corporate Management Risk Division – Submission by Victoria Police in relation to the Director of Police Integrity ‘own motion’ investigation into six police shootings from 1 January 2003 – 13 September 2005
- Correspondence from Chief Commissioner Nixon re Use of Force Register 30 November 2007
- Critical Incident Management Review Committee meeting minutes (Oct 2005-Dec 2008)
- Police Operations Standing Committee meeting minutes (2007-2009)
- People Management and Development Steering Committee meeting minutes (Feb 2007-Dec 2008)
- Corporate Committee meeting minutes (Aug-Oct 2007)
- Regional Assistant Commissioner Forum meeting minutes (Oct 2007-Oct 2008)
- Records of issuing of capsicum spray/foam to Victoria Police work centres from 1 January 2005 to present
- Health and Safety Blue Print – Protecting Our People
- Victoria Police Response to OPI 2005 Fatal Shooting Review
- Victoria Police Strategic Risk Register
- Operational Safety Tactics training lesson plans & training syllabus
- Use of Capsicum Spray – Critical Incident Management Review Committee Requirement for Review 2007
- Review of Operation Safety Principles 2005
- Use of Capsicum Spray – Operational Practice 1995
- Use of Register Data
- Use of Force Register – Review of Efficiency & Practices and Recommendations 2007
- Use of Force Registry – Staff Levels and Up-Skilling 2006
- Correspondence Files re OPI 2005 Review recommendations 3, 4, 5, 32, 53, 54 and 55
- Region and Department Business Plans 2005 – 2008/2009
- COMPSTAT forum reports for Region and Operational Departments 2005 – 2008
- History of Promotional Programs in the 21st Century
- Force Response Unit Standard Operating Procedures
- Specialist Operations Group Standard Operating Procedures
- Statewide Operational Safety Tactics Training Facilities Review

The Review Team also examined research papers and reports from interstate and international sources.

APPENDIX THREE – RECOMMENDATIONS FROM OPI'S 2005 REVIEW

Guiding philosophy and principles

1. Victoria Police reinforce to officers that:
 - the objectives of Victoria Police are to protect life and property and to help those in need of assistance; and
 - the success of an operation will be primarily judged by the extent to which the use of force is avoided or minimised.
2. Victoria Police continue to adopt the ten Operational Safety Principles currently included in the Victoria Police Manual.

Special Operations Group

3. A Superintendent be placed directly in charge of the SOG to reflect the current responsibilities of the unit.
4. Victoria Police amend VPM Instruction 106-2 – SOG Attendance to include the requirement that the deployment of the SOG is immediately communicated to the Regional Assistant Commissioner. In the case of an incident tasked by the Crime Department, the Assistant Commissioner Crime should also be informed.
5. Victoria Police brings to the attention of all officers, including the SOG, the responsibilities of the Forward Commander.
6. VPM Instruction 104-1 be amended to provide that, in circumstances where it is practical, the Forward Commander should always be an officer senior in rank to the SOG Tactical Commander. The instruction should also specify that the Forward Commander always retains control of the incident.

Equipment and Procedures

7. A portable radio be carried at all times by all operational officers.
8. The use of the X26Taser by Victoria Police SOG and CIRTs continue.
9. The Taser be carried securely in the front of CIRT vehicles to enable immediate access.
10. A working party be formed as proposed in this report to review the use and deployment of the X26Taser, to consider the Coroner's recommendations and to report to the Chief Commissioner within twelve months.
11. The current policy of Sergeants and above being the only officers permitted to deploy OC foam be discontinued.
12. OC foam be distributed across the state for carriage in police vehicles.
13. Victoria Police promotes to operational units the capability and capacity of Critical Incident Response Teams to attend and assist in resolving critical incidents and to

provide timely advice to Forward Commanders across the State during critical incidents.

14. That Critical Incident Response Team staff be provided with additional training in understanding people with a mental disorder to enhance their capabilities to resolve critical incidents involving people with such a condition and to provide timely and consistent advice to Forward Commanders across the state. The Memphis Model, described briefly on page 38 (of the OPI 2005 Fatal Shootings review), may provide a useful model for the provision of such training.

Incident debriefing and review: policy and practice

15. It be a requirement that police who have fired shots leading to a member of the public being fatally wounded be routinely tested for the presence of illegal drugs and alcohol as soon as practicable, but within hours, of the incident and in circumstances which ensures the integrity of testing.
16. Victoria Police Manual 104-4 on Incident Debriefing be amended to require that debriefings occur where a person has died or been seriously injured as a consequence of police use of force or vehicle pursuit, that debriefings occur as soon as possible, and in any case within three days of the incident occurring; and the convenor of the debriefing to be either the Operations or Forward Commander and attendees include all, or a representative group of officers and supervisors from, units involved and or reporting emergency services or organisations.
17. All fatal or near fatal incidents as a result of Victoria Police use of force or vehicle pursuit be thoroughly and impartially examined by a Critical Incident Review Panel with the role and responsibilities outlined in this report.
18. The *Coroners Act* 1985 be amended so that essential witnesses can be required to give evidence in coronial investigations with proper protection of their right to silence in other jurisdictions.

Addressing situations involving people with a mental disorder

19. Victoria Police develop strategies to redress deficiencies in the understanding by police of mental disorder and how to respond to situations involving people with such a condition, including education and training for all operational officers; investigation of how the concepts underlying the Memphis Model could assist in responding to crisis calls involving complex issues about mental disorder; and cooperative arrangements with other organisations involved in responding to the particular needs of these individuals.
20. The Inter Department Liaison Committee develop and implement a protocol for the availability and deployment, on a 24-hour basis, of a senior mental health professional to advise, support and, where necessary, attend to assist Victoria Police Forward Commanders to resolve critical incidents involving people with a mental disorder.
21. That the role of the Inter Department Liaison Committee as the key body to oversee improved cooperative arrangements between Victoria Police and the Department of

Human Services be reinforced and that Victoria Police be represented at Commander or Assistant Commissioner level.

22. A Sub-Committee of the Inter Department Liaison Committee be formed by Victoria Police and the Department of Human Services, Mental Health Branch, comprised of operational officers to immediately focus on practical operational issues of concern, including issues relating to the deployment of Crisis Assessment Teams.

Education and training in resolving critical incidents

23. Quality assurance reviews of OST training be undertaken and that the process include interviews with officers and instructors.
24. The two-day, twice-yearly, OST training courses be maintained and address operational safety tactics training exclusively and that the days be of eight hours duration.
25. Divisions and Regions deliver other training, for example in First Aid and CPR, during an additional training day.
26. The next two OST training cycles focus on equipping officers with enhanced skills in dealing with people presenting with the symptoms of a mental disorder and that this area be covered regularly in future.
27. Training in tactical communication techniques be reintroduced into the OST training and be integrated with training on dealing with people who have a mental disorder.
28. The use of OC spray and OC foam at the fatal shootings of Mr. Hubbard and Mr. Chapman form the basis of case studies in the next two-day OST training program.
29. The Operational Safety Principle of cordon and containment be taught and practised. This should include development of Emergency Plans, the application of SMEAC (Situation, Mission, Execution, Administration, Communication), communication of the plan, allocation and communication of tasks during critical incidents, the use of radios and the maintenance of communication to all personnel throughout the incident.
30. The firearm-training package be delivered once a year with the alternate six-month OST course including only a qualification shoot.
31. The OST Training Unit maintain a training matrix of all OST subjects so as to monitor how frequently they are being taught.
32. The OST Training Unit obtain and analyse information from the Use of Force Register, Coronial findings, Incident Debriefings and Critical Incident Review Panel reports to identify areas for additional and remedial training and that such information from the preceding six months be made available to OST Instructors at the commencement of every OST cycle to assist them to demonstrate to students the practical relevance of the training they are undertaking.
33. Victoria Police produce testimonials to show the relevance and usefulness of OST training in critical incidents.
34. Victoria Police install closed circuit television for the Academy OST training facility and scenario village and provide video recording and display at other OST training facilities across the state.

35. Minimum standards for OST training facilities be documented using the Wangaratta facilities as a benchmark.
36. An audit of all OST training facilities be carried out against the documented standards and to ensure that the better facilities are used to capacity.
37. Scenario training to be more prescriptive, mandated and recorded in every two-day training program.
38. Portable radios be available to personnel during scenario training.
39. A formal scenario training debriefing methodology be developed and implemented at the conclusion of all scenario training.
40. The number of appropriately qualified instructors be increased.
41. Recruits only wear the equipment belt in accordance with the training they are receiving at the time.
42. Instructors, educators and mental health professionals who teach recruits consult and collaborate to ensure that elements of the training are coordinated and complementary.
43. Instructors all become OST qualified.
44. Squads of 24 be regarded as the maximum for effective non-classroom-based training sessions.
45. The distance-learning concept for current Critical Incident Management Training for officers who have been promoted to the ranks of Sergeant and Senior Sergeant be monitored and consideration given to incorporating structured and hands-on learning experiences that incorporate face-to-face training and scenario training.
46. Successful completion of the one-day Critical Incident Management Training Program be mandatory before duties at or above the rank of Sergeant be commenced, whether the duties be temporary or permanent.
47. Victoria Police deliver the current one-day face-to-face Critical Incident Management Training Program at least twice per annum to enable succession planning.
48. All officers currently performing duties at the rank of Sergeant or above who have not at least completed Critical Incident Management Training be directed to do so before the end of 2006.
49. Critical Incident Management Refresher Training be developed and attendance by operational officers every three years be required.

Specialist support for regional areas

50. That arrangements for the 24-hour deployment of specialist services for urgent and critical incidents in regional Victoria be developed.
51. Support and counselling for families of victims
52. Victoria Police establish with the Department of Human Services a formalised protocol to offer support and counselling to the families of people fatally shot by officers of Victoria Police.

53. Management information

54. The potential failure by Victoria Police officers to observe the 'Safety First Philosophy' and the 'Operational Safety Principles' be identified in the Victoria Police Risk Management Profile as one of the top ten risks to the organisation. This should ensure appropriate attention and risk management strategies are adopted.
55. Enhancements be made as a matter of urgency to the Use of Force Register to ensure that robust reporting regimes, which the database can provide, are available.
56. The Register be used to inform and assist the Education Department in identifying use of force trends, and the development of strategies and tactics to address them, and that regular reports on use of force trends be provided to operational Department heads and to the heads of ESD and the Corporate Management Review Division.
57. Intelligence gained from the Register be incorporated into all OST training, particularly in the understanding of the Operational Safety Principles, so that the importance and relevance of the training is demonstrated to operational officers.

APPENDIX FOUR - LEGISLATIVE AND POLICY FRAMEWORK

Authority to use force

In addition to common law powers to use force in self-defence or to prevent a breach of the peace, the authority for the use of force by police is provided within legislation.

Section 462A Crimes Act 1958

Force should only be used when:

- It is not disproportionate
- There are reasonable grounds necessary
- It is necessary to prevent continuation or completion of indictable offence; or
- It is necessary to effect or assist in affecting the lawful arrest of a person committing or suspected of committing any offence.

Section 463B Crimes Act 1958

Any person may use such force as may reasonably be necessary to prevent the commission of suicide or any act, which he/she believes on reasonable grounds, would, if committed, amount to suicide.

Section 10 of the Mental Health Act 1986

A member of the police force may apprehend a person who appears to be mentally ill if the member of the police force has reasonable grounds for believing that:

- The person has recently attempted suicide or attempted to cause serious bodily harm to herself or himself or to some other person; or
- The person is likely by act or neglect to attempt suicide or to cause serious bodily harm to herself or himself or to some other person.

Terrorism (Community Protection) Act 2003

Police are authorised to detain and decontaminate persons for the purpose of protecting people from Chemical/Biological/Radiological (CBR) contamination as a result of a terrorist action or suspected terrorist action.

Operational safety and other equipment policies

Capsicum spray/foam

In January 1998, approval was granted for all qualified Victoria Police personnel to carry and use capsicum spray as an Operational Safety tactical option.⁵⁰ In 2003, Transit Police

⁵⁰ Victoria Police Correspondence file – Use of Oleo Capsicum Spray – CIMRC requirement for Review p17

were given approval to use capsicum foam for use on the trains because it does not dissipate and is less likely to contaminate the air conditioning. Due to similar concerns, in January 2004, capsicum foam was issued to all police stations with A & B category cells, for use by Sergeants and Supervising Sergeants. In 2007, Victoria Police extended the authority to use capsicum foam to all qualified personnel.

In 2008, an amended instruction for the criteria for using capsicum spray and/or foam was issued to read

Members may only use OC spray/foam where they believe on reasonable grounds it is necessary:

- *In situations of violent and serious physical confrontation*
- *In situations where a member believes on reasonable grounds a violent and serious physical confrontation is imminent*
- *In situations where a person is involved in violent or other physical conduct likely to seriously injure themselves or result in suicide*
- *to deter attacking animals.*

Do not use OC spray/foam when a person is passively resisting e.g., hanging limp or refusing to comply with instructions.⁵¹

The amendment was significant as it involved the inclusion of the wording '*believes on reasonable grounds*'.

Firearms

The purposes of police being armed with a firearm are

- To protect themselves and the public
- For the lawful destruction of animals.⁵²

The justification for use of firearms:

Except for the lawful destruction of animals, a sworn employee issued with a firearm:

- *Must not draw the firearm unless extreme danger is anticipated*
- *May only discharge the firearm when they reasonably believe it is necessary to protect life or prevent serious injury. Warning shots should not be fired.⁵³*

The instructions for the carriage and handling of firearms by Victoria Police are detailed and prescriptive and are regularly scrutinised by the Coroner and Courts.

⁵¹ Victoria Police Manual Instruction 101-3 7.2.1

⁵² Victoria Police Manual Instruction 101-3 6.1

⁵³ Victoria Police Manual Instructions 101-3 6.3.

Handcuffs

A person arrested or taken into custody should be handcuffed if the member reasonably believes it to be necessary in the circumstances.⁵⁴

Batons

Unlike other operational safety equipment, there is no specific written policy within the Victoria Police Manual setting out the circumstances for using a baton. The general law requires the use of a baton to be proportional to the threat. Authority to carry the equipment is found in the Victoria Police Manual Instructions.

⁵⁴ Victoria Police Manual Instructions 101-3 9.1

APPENDIX FIVE – USE OF FORCE FORMS

USE OF FORCE DETAIL SHEET						VP Form 237A																			
REPORT DATE	<input style="width: 90%;" type="text"/>	REPORT TIME	<input style="width: 90%;" type="text"/>	MEMBER REG. NO.	<input style="width: 90%;" type="text"/>	MEMBER STATION	<input style="width: 90%;" type="text"/>	Fax Seq	<input style="width: 90%;" type="text"/> / <input style="width: 90%;" type="text"/>																
POLICE MEMBERS INVOLVED UNIT CALL SIGN				<input style="width: 90%;" type="text"/>	WORKLOAD FOR SHIFT		No. Tasks Pending	<input style="width: 90%;" type="text"/>	No. Tasks Completed	<input style="width: 90%;" type="text"/>															
Family Name			1.			2.			<input style="width: 90%;" type="text"/>																
Reg. No.			<input style="width: 90%;" type="text"/>			Station			<input style="width: 90%;" type="text"/>																
Previous Shift Concluded			Date			<input style="width: 90%;" type="text"/>			Time			<input style="width: 90%;" type="text"/>													
FORCE USED BY MEMBER																									
on PERSON	A.			B.			C.			A.			B.			C.									
3. Force Type	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
4. How Force Used	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
5. Use of Force Outcome	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
6. Injury Inflicted	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
7. Severity of Injury	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
8. Source of Weapon	<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>									
OST Training generally effective?						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No <input type="checkbox"/> 3. Not Used						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No <input type="checkbox"/> 3. Not Used													
OST Equipment generally effective?						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No <input type="checkbox"/> 3. Not Used						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No <input type="checkbox"/> 3. Not Used													
Confronted without warning?						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No													
Response Planned?						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No						<input type="checkbox"/> 1. Yes <input type="checkbox"/> 2. No													
FIREARM		Warning		Aimed		Reactive		Accidental		Warning		Aimed		Reactive		Accidental									
No. of Shots		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>									
OTHER PERSONS INVOLVED (If more than 3 Other Persons Involved, add extra sheets)																									
Family Name			A.			B.			C.			<input style="width: 90%;" type="text"/>													
Given Name/s			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
DOB			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
Sex M/F/U			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
9. Ethnic Appearance			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
10. Height			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
11. Build			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
12. Person Type			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>													
M.N.I.																									
13. Behavioural Factors																									
FORCE USED AGAINST MEMBERS																									
MEMBER		1			2			1			2			1			2								
3. Force Type		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
4. How Force Used		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
5. UOF Outcome		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
6. Injury Inflicted		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
7. Severity of Injury		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
8. Source of Weapon		<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>			<input style="width: 90%;" type="text"/>								
FIREARM		Calibre		<input style="width: 90%;" type="text"/>		14. State of Firearm		<input style="width: 90%;" type="text"/>		Calibre		<input style="width: 90%;" type="text"/>		14. State of Firearm		<input style="width: 90%;" type="text"/>		Calibre		<input style="width: 90%;" type="text"/>		14. State of Firearm		<input style="width: 90%;" type="text"/>	
No. of shots fired		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>		<input style="width: 90%;" type="text"/>			

APPENDIX SIX – CHIEF COMMISSIONER'S RESPONSE



3. JUL. 2009 15:39

CHIEF COMMISSIONER
CHIEF COMMISSIONER

NO. 010 P. 1

3. JUL. 2009 15:22

CHIEF COMMISSIONER
CHIEF COMMISSIONER

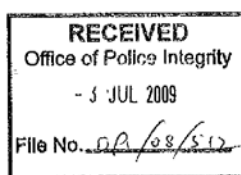
NO. 009 P. 2



VICTORIA POLICE

Simon Overland AM
Chief Commissioner of Police

Mr Michael Strong
Director, Police Integrity
Office of Police Integrity
Level 3, South Tower
459 Collins Street
Melbourne Vic 3000



Victoria Police Centre
627 Flinders Street
Melbourne 3006
Victoria Australia
Telephone [61 3] 9247 6890
Facsimile [61 3] 9247 6863

PO, Box 416
Melbourne 3006
Victoria Australia

Dear Mr Strong

RE: Office of Police Integrity Report 'Review of the use of force by, or against Police'

Thank you for providing me with a draft copy of the report, 'Review of the use of force by or against Police'. I appreciate the opportunity to provide early comment.

Victoria Police does not disagree with a majority of the findings of the report, as they accord with our own findings on the issues.

Recently, Victoria Police commissioned Mr Mick Williams to undertake a review and provide recommendations on a number of matters, including those raised in the report. His recommendations are in line with those of the report.

Victoria Police recognises that there are a number of issues around use of force that must be addressed. We will continue to work towards resolution of these issues through the implementation of the recommendations of the report, as well as those put forth by Mr Williams.

In particular, we will be taking a close look at the current level of training provided at all levels of the organisation, with a refocus of the core elements of police response. This includes enhancing tactical communication and awareness training, the ability to effectively engage with vulnerable people, and cordon and containment skills.

Victoria Police remains committed to fulfilling its responsibility to the public and its workforce, through the implementation of change and a clear vision for the future.

Yours sincerely,

Simon Overland
Chief Commissioner

