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APPENDIX 'A'

Your reference:

Our reference: KG/189/2003

Date: 13th. March 2003



METROPOLITAN POLICE SERVICE

Dagenham Police Station
561 Rainham Road South
Dagenham
Essex
RM10 7TU

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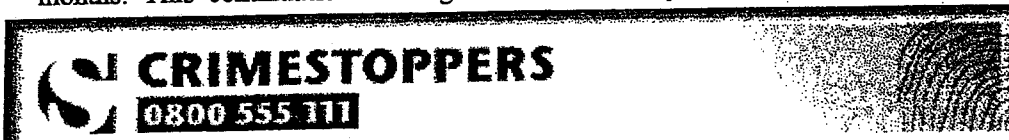
Mr. J. Boath.
Constabulary and Security Manager.
L.B.B.D. Parks Constabulary,
Barking Park Lodge,
Longbridge Road,
Barking,
Essex. IG11 8TA

Dear Jim,

I am sorry about the delay in replying to your letter concerning the profile of the Parks Constabulary and the proposed changes but it was necessary to seek some legal advice on two of the proposals.

I will deal with each point in the order that you raised them, mentioning the legal issues;

- 1) There is no police objection to the proposed change of title from Parks Constabulary to Parks Police.
- 2) The vehicles that are fitted with, and can use blue lights, are governed by The Construction and Use Regulations, The Road Vehicle Lighting Act 1989 and The Road Vehicle Lighting (Amendment) Regulations 2003. Police drivers undertake a variety of courses and specialist training allowing the use of such equipment and I would have reservations about the use of this equipment by untrained drivers. I believe that the lights would not be used to facilitate progression on public roads but are for use in Parks, as such I would have no objection to this. Having stated this all of your drivers should be aware of the above legislation.
- 3) Issue of Batons-As you will change your title to Parks Police legally you would be able to issue batons to your officers for "self-defence" purposes. Having stated this my personal opinion is that such equipment in untrained hands is a danger to both the public and the officer using it. Metropolitan Police Officers undergo a strict training programme in the use of batons and are retrained every six months. This continuation training ensures the safety of all persons and is a recognised National



standard that is recorded and available to defend officers in the event of either criminal or civil proceedings being taken against them. I strongly recommend that this proposal is not adopted.

I trust this assist's with the review currently being conducted.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'L. Hayhoe', written in a cursive style.

Leonard Hayhoe. Chief Inspector (Operations)





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APPENDIX 'B'

Barking and Dagenham Briefing Note

Introduction

Stewart-Price Associates [on behalf of COSPA] has been asked to provide advice to Barking and Dagenham Parks Constabulary on the following issues:

- The use of the term 'Parks Police'
- The fitting of blue lights to their vehicles
- The carrying of batons by their officers

This document is produced using

- 'Current counsel's advice
- The Metropolitan Police policy
- Home Office policy
- Research of current legislation

COSPA would be happy to consult further if this was felt desirable.

The Use of the Term Parks Police.

The term 'police force' is defined by the Police Act 1996. A police force is, generally, a force responsible to the Home Office, with a defined police area and a police authority established within the terms of the Act. There are 43 such police forces within England and Wales. The term includes other forces established by statute (e.g. British Transport Police, Ministry of Defence Police)



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This definition is taken by all leading authorities as defining such terms as 'police', 'policing purpose' etc.

Sec 90(1) Police Act 1996 states:

Any person who with intent to deceive impersonates a member of a police force or special constable, or makes any statement or does any act calculated falsely to suggest that he is such a member or constable, shall be guilty of an offence.....

Both the Metropolitan Police and the Royal Borough of Kensington and Chelsea have sought counsel's advice on the use of the term 'Parks Police' and have been advised that it could be taken to falsely suggest that the constables are members of a Home Office police force. The advice proffered was that using the term 'police' was therefore undesirable.

The parks constabularies of both Kensington and Chelsea and Wandsworth term themselves Parks Police and have done so for over ten years. To date no objection has been raised.

It is arguable that using the term 'Parks Police' makes it clear that this organisation is distinct from any Home Office police force. This would not be the case if the organisation referred to itself as, say, Barking and Dagenham Police.

In the present climate it would seem unlikely that the Metropolitan Police would wish to pursue a prosecution over what would amount to a minor, technical infringement of the law at worst.



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The primary considerations should, therefore be:

- Would such a change in title enhance the performance of the organisation?
- Would such a change in title induce a raised public expectation of the service they could expect to receive from the organisation which could not realistically be met?

Provided that the local authority is satisfied that enhanced performance can be achieved without public expectation being raised unrealistically there would appear to be no reason why such a title change should not be pursued.



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Fitting of Blue Lights

The fitting of blue lights to vehicles used on a road is governed by regulation 3 of the Vehicle Lighting Regulations. Apart from certain specialist organisations e.g. The Coastguard their use is confined to 'emergency service vehicles'. These are defined as vehicles being used for a police, fire brigade or ambulance purpose.

The term police is defined by the Police Act 1996 (see above). A vehicle can only be being used for a policing purpose if it is being used on behalf of a Home Office Police Force or some other force established by statute (e.g. British Transport Police). ~~As Barking and Dagenham Parks Constabulary fall outside of this definition it follows that fitting blue lights to their vehicles would constitute an offence/~~

The Carrying of Batons by Park Constables

Truncheons and batons, including the expanding variety, are made offensive weapons for the purposes of The Prevention of Crime Act 1953 which created the offence of Possession of an Offensive Weapon. This is a serious offence which carries a maximum of five years imprisonment for a first offence. As such it is an arrestable offence.

The full offence is

'Possessing an offensive weapon in a public place without lawful authority or reasonable excuse'.

There has been considerable debate recently as to whether police constables have lawful authority to possess offensive weapons such as batons. Until the enactment of the Police Reform Act 2002 no such authority had been granted by parliament, although such authority was implied in various pieces of legislation. The Police Reform Act 2002 provides such authority to police constables as defined by the Police Act 1996.



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There is no such lawful authority for parks constables to possess such weapons in a public place, and it therefore follows that if they were to possess such weapons lawfully it would be by dint of their having reasonable excuse for their possession.

There is precedent in law for persons who reasonably fear being subject to 'imminent attack' to be considered as having reasonable excuse for possessing a weapon. However all of the decided cases demonstrate that once the danger has passed the reasonable excuse ceases to exist. The question is, therefore:

Are parks constables permanently in fear of imminent attack as a result of the nature of their duties?

This question was considered by Samuel Wiggs QC in opinion he supplied to the Metropolitan Police in 1990. This advice is currently accepted by both the Metropolitan Police and the Home Office. Mr Wiggs' conclusion was that such a reasonable excuse could not be held to exist on a permanent basis.

This is, of course, merely opinion and does not have the weight of a decided case. It is possible that a jury, and subsequently the Appeal Court, may take a contrary view. However, at the present time the local authority would be placing their employees and themselves at risk of both criminal proceedings and civil litigation if they were to issue batons on a permanent basis.

Recently Wandsworth Parks Police have issued their officers with expanding batons. The Metropolitan Police approach to this decision is that it is a matter of 'organisational sovereignty' and that, whilst they doubt the legality of issuing this equipment they would not consider taking action unless complaints were received from an independent source. It will be interesting to watch subsequent developments as these could provide a definitive judgement.

Elaine Price

Stewart-Price Associates

30th January 2003