**Evidence of harmful effects to civilians, infrastructure & the environment.**

* the evidentiary relevance of preparation, planning, design and simulation to the legal *actus reus* of a criminal conspiracy charge – as defined by the expression “*agree to pursue a course of conduct”.*
* the need for specific technical and scientific evidence, as well as evidence of civil service practice and government policy on nuclear deterrence preparedness, to the presentation of a triable case.

*the importance of evidence relating to contingency target planning*

1. Hopefully by this stage that reader will now be able to appreciate just how important it is to narrow the scope of any potential prospective prosecution, so as to identify specifically those aspects of government defence planning, in which contingent scenarios and strategies have been devised, tested and even “game-played”, for the possible future use of the weapon system here in issue.
2. Obviously, as with any criminal prosecution, its chances of success improve astronomically according as to both the quantity, but more especially the quality, of the evidence which the prosecutor is able to adduce in support of their case. Here, of course, as dealt with elsewhere one predicts legal impediments, in the shape of a refusal to give consent to prosecution by the Attorney-General, as a principal preliminary issue which will likely forestall and render redundant any serious effort or opportunity to come to grasp with the detail and nuance of the evidentiary case. However, bear in mind that one of the two tests to be applied by the A-G, if they follow their publicly stated position[[1]](#footnote-1), is the application of the so-called “evidentiary test”, whereby one of the grounds upon which the A-G might “legitimately” claim to refuse consent to a prosecution, would be a finding on their part that the putative prosecution lacked an adequate evidentiary basis, so as to fail to be more likely than not to secure a conviction. For this reason, therefore, it is especially important, even at the preliminary stages, to have prepared one’s case by way of evidentiary materials, as well as it is possible in the circumstances.
3. In this instance, evidence will essentially need to go to two separate, but complementary factual issues, as follows:

Medical, Structural and Environmental Effects Evidence.

1. The scientific and medical evidence regarding the human and environmental consequences and effects of exploding a Trident II SLBM weapon. In particular, of course those consequences and effects going to the specific factual elements of the crime, namely “loss of life, injury to civilians, harm to civilian objects and finally, long-term and severe harm to the natural environment”. This evidence is quite largely already available in the “public domain”, and has often been already usefully collated in online sources etc.**[[2]](#footnote-2)** It should be recalled however that, separate and specific account should be taken of a) the explosive blast , b) the firestorm or incendiary, and finally c) the radioactive fallout effects of such a detonation, or indeed more typically the combined effects of a series of such destinations.
2. The impact and effectiveness of this evidence, is naturally greatly increased, by the creation and submission of specific “expert witness” statements or reports, tailored by their authors to dealing with the specific targeting options or scenarios, for which in turn there is good practical evidence as forming part and parcel of the British Nuclear Trident targeting plans. While it is probably fair to observe that, with such massively unpredictable variables as prevailing weather conditions and wind directions, fluctuations in daytime and night-time populations, consequences of prior warning of attack and quality of civil defence preparedness etc., variations in possible harmful outcomes will often be of a very large scale of possible differences ; nonetheless, so large-scale and long-lasting should such effects be shown to be, as to satisfy the relevant test on probative value with respect to each factual element of the crime, at any point in the range of consequences anticipated – specifically even at its lower end in each instance. Consequently, a so-called “even in a best case scenario” test might be adopted by experts in order to promote the quality of the evidence adduced.
3. In the event, as at the time of writing, we have obtained such expert evidence reports regarding the medical, structural and both local & global environmental consequences of the use of the Trident SLB M weapon system, as against various known strategic, political and military C4I [[3]](#footnote-3) targets in and about the city and oblast of Moscow and which, as will be dealt with in greater detail below, comprises in the attack scenario targeting option upon which the present prosecutor proposes to principally rely in the first instance; from no fewer than three eminent British experts in the field, as follows:

[1] **Dr. Frank Boulton**

Co-founder, Edinburgh branch of MCANW, 1981 (Branch Chair, 1987-1989),

Board Member, Oxford Research Group 1999 to 2008 – Company Secretary from 2004 to 2007,

Current Board member, Medact (UK affiliate of IPPNW); Medact Board Chair 2007 to 2012).

Who in his Report speaks to primarily the scale of human health effects and degredation in availability of medical treatment and assistance consequent upon such an attack, and in particular who exhibits the follow three further major works, per :

(1) “Unspeakable Suffering : the humanitarian impact of nuclear weapons” edited by Beatrice Fihn (Reaching Critical Will), **“F.B.1”**

(2) Multidecadal global cooling and unprecedented ozone loss following a regional nuclear conflictMills, M. J., O. B. Toon, J. Lee-Taylor, and A. Robock (2014), , Earth’s Future, 2, 161–176, doi:10.1002/2013EF000205 **“F.B.2”**

(3) “Blood Transfusion Services in the wake of the humanitarian and health crisis following multiple detonations of nuclear weapons” Frank Boulton**“F.B.3”**

**[2]**  **Dr. Philip R Webber**

 Chair of Scientists for Global Responsibility

Who in his Report speaks to primarily the catastrophic consequence upon infrastructure essential to civilian survival and the medium and longer term after effects upon the natural environment, including especially climate and ecology. In particular, he exhibits the follow two further major works, per :

**P.W.1** :“UK nuclear weapons: a catastrophe in the making?”

**P.W.2** “Humanitarian Consequences”

**[2] Mr. John Ainslie**

 Coordinator of Scottish CND

Who in his Report speaks to, among other matters, the humanitarian consequences of a nuclear attack by one Trident submarine on likely primary targets in and around Moscow. He exhibits a Study which he published in February 2013 entitled “*If Britain fired Trident*” and is sub-titled “*The humanitarian consequences of a nuclear attack by a Trident submarine on Moscow”* and which was written as a contribution to the international conference on the Humanitarian Impact of Nuclear Weapons which took place in Oslo in March 2013

The study explores the complex interaction between the different effects of the detonation of several nuclear weapons in a modern urban area. Blast damage, firestorms and radioactive fallout would combine to create a very high level of destruction. Those who survived the initial effects would be faced with a chaotic and deadly situation. Around 5 million people would be killed in the short term, including around 790,000 children. There would be many additional longer term casualties.

Contingency Targeting : Options & Scenarios.

1. This obviously contemplates such evidence of the detail and extent of policies and especially plans for the targeting scenarios and options for the use of the Trident weapon system, that have over the relevant time period, been created under orders and direction of the Secretary State for Defence, as the accused party, for the hostile use of the British Nuclear Deterrent.
2. It is well-known, and has been the stated policy of successive British Administrations, since in effect obtaining a so-called “independent British Nuclear Deterrent”, that the precise circumstances anticipated for the triggering of a so-called British “nuclear launch threshold”, have remained a highly guarded state secret ; for the precise purpose and intention of increasing a potential enemy’s ambiguity and uncertainty as to how far he can go before activating such a trigger – thereby in HMG’s political view, enhancing and strengthening the effectiveness of our national Nuclear Deterrent.
3. This stretches even to remaining coy, or even more candidly downright evasive, about our preparedness to use our “Nuclear Deterrent” as a “first-strike weapon”. Take for instance the following explanation offered in the Ministry of Defence’s own written evidence to the House of Commons Defence Select Committee[[4]](#footnote-4), in relation to its very recent enquiry titled “Deterrence in the 21st Century”

 “While the UK does not rule in or out the first use of nuclear weapons, in order not to simplify the calculations of a potential aggressor by defining more precisely the circumstances in which the UK might consider the use of nuclear capabilities, UK nuclear doctrine is exclusively one of deterrence. Maintaining ambiguity over when, how and at what scale nuclear weapons might be used enhances the deterrent effect.”

Accordingly, obtaining evidence as to the detail of such a “threshold” will probably prove extraordinarily difficult if not impossible.

1. Fortunately, however, for the purposes of the contemplated prosecution, that should prove no serious impediment, as in addition to its being deliberately vague and ambiguous about the detail of any such “threshold”; Her Majesty’s Government has been equally and helpfully adamant and open that such a threshold does nonetheless exist, and furthermore explicit that the British Nuclear Deterrent is no mere feint or ruse, but rather that it will be used, as a hostile weapon system, as, if and when those “threshold conditions”, whatever they may be, are satisfied or exceeded.
2. As evidence in support of this policy position, in addition to the material quoted earlier, I would further cite the following statement which appears again in the Ministry of Defence’s own Written Evidence to the Defence Select Committee’s recent enquiry[[5]](#footnote-5), as follows:

**“Effective Deterrence**

12. Deterrence is only likely to succeed if the envisaged use of force (and, in the case of wider dissuasion, incentives) is credible and deliverable, and its potential is communicated unequivocally to those whose decision-making it seeks to affect. Each of those component elements are expanded on briefly below:

**. . . .**

 (b) *Credibility*. Credible deterrence is based not just on a level of capability, but also upon the demonstrable will to use that capability. If there were no circumstances in which Britain would be prepared to use its nuclear or conventional forces, then neither would have any deterrent value. Credibility depends as much on political will as it does upon military capability.

 **. . .**

24. Both deterrence and coercion will depend upon the perceived credibility of the threat. An essential part of our credibility rests on the possession of sufficient military capability—both conventional and nuclear—and consistent messaging that, **when circumstances warrant it, we can and are prepared to use it..”**

It is this stated policy position which is all that really counts for proving the “contingent intention” aspect of the “conditional conspiracy” element of the crime as charged.

1. When it comes to the actual targeting options and scenarios, I suggest that for reasons of simplicity and comprehension, it might prove best to limit the prosecution case, at least in the first instance, to only such options and scenarios as contemplate a fully independent British Government weapons launch – in particular independent of and separate to any such attack as may be simultaneously contemplated by the United States, whether or not as part and parcel of a NATO nuclear launch commitment.
2. It has long been recognised, that the British Trident Nuclear weapons system is not in the least part truly independent of US systems integration and even possible control. Equally, HMG has long stated that our British Nuclear forces are fully committed to and integrated with our NATO command and control responsibilities and commitments. However, the Government has also long professed that it has retained the ability and capacity to launch an independent British nuclear attack, in the event of its determining circumstances to exist justifying such an independent operational use. Accordingly, for the present prosecutorial purposes, I would recommend, as I say at least initially, dealing with this topic on that as it were “common” premise.
3. Perhaps somewhat surprisingly, there are in fact very few credible targeting scenarios which involve just the ‘independent’ use of the UK Trident SLBM nuclear weapons system. Whilst, there are undoubtedly good circumstantial basis for contending certain other scenarios, the one scenario which stands out as being most well established or long-standing and for which there is a good deal of expository evidence available in the public domain, is the so-called “Moscow Criterion” and it is with this targeting scenario alone, which I now propose in the next segment to concentrate on, at least as an initial institutional prosecutorial commencement strategy.
1. see elsewhere under title "JR draft Skeleton Argument". [↑](#footnote-ref-1)
2. <http://www.banthebomb.org/index.php/news/63-trident/1421-if-britain-fired-trident> [↑](#footnote-ref-2)
3. C4I = Command, control, computing, communications and intelligence [↑](#footnote-ref-3)
4. Ibid. ftnt.#6 @ para.18 [↑](#footnote-ref-4)
5. Ibid. ftnt.#6 [↑](#footnote-ref-5)