

**Criminal Justice Act 1988, s.30**  
**Magistrates Courts Act 1980, s.5E**  
**Criminal Procedure Rules (2014), r.33.3(3) & 33.4**

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## **EXPERT EVIDENCE REPORT**

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**NOTE:** only this side of the paper to be used and a continuation sheet to be used if necessary. All sheets and paragraphs to be consecutively numbered. If Reports are to be typed please use double spacing.

**Professor Paul Rogers**

### **Contact address**

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### **Qualifications :**

Obtained BSc (Hons), ARCS, DIC and PhD at Imperial College (University of London)

### **Relevant experience and accreditation :**

Previously:

Lecturer at Imperial College,  
Senior Scientific Officer, East African Community  
Principal Lecturer, Huddersfield Polytechnic

Currently (since 2002):

Professor of Peace Studies, Bradford University

Relevant experience:

Frequent lecturer at senior UK defence colleges since 1982.  
Four years as External Examiner for postgraduate degrees at the Royal College of Defence Studies and the Joint Service Command and Staff College.  
Chair of the British International Studies Association (2002-04)  
Chair of the UK Alternative Defence Commission (Phase 2 – 1984-87)  
Has written well over 150 academic papers and written or edited 26 books, the latter including three editions of the *Guide to Nuclear Weapons* and (as joint author) the *Directory of Nuclear, Biological and Chemical Arms and Disarmament*.  
Has given written and oral evidence to the House of Commons Select Committees on Defence and Foreign Affairs.

# Report

1. I have studied materials provided by the prospective Prosecutor in this instance. I understand that the prosecution posture and “theory of case” relates to political and strategic propositions with respect to the incoming Conservative government’s intention to replace the current Trident nuclear system with a “*like-for-like*”, initially this being the construction of four ballistic missile submarines deployed with submarine-launched ballistic missiles that are broadly comparable in their capabilities to the current missiles.
2. I have also studied the Expert Evidence Report submitted by Dr Richie of the Department of Politics at the University of York and agree fully with his conclusion that the rationale for the Prosecution case is persuasive. While the primary consideration concerns the “Moscow Criterion”, I would, in addition, contend that the case relates also to what are termed sub-strategic nuclear weapons deployed on Trident submarines.
3. While these may be seen as war-fighting weapons rather than having what is primarily a political function, there is clear evidence that this is not the view of HMG. It is appropriate therefore to summarise the origins and development of low-yield nuclear weapons as part of the Trident system and, in the absence of any statement to the contrary, its successor.
4. For more than forty years the UK has maintained a force of tactical nuclear weapons with explosive power broadly in the range of the bombs that destroyed Hiroshima and Nagasaki – of the order of 10 kilotons. In addition to UK strategic nuclear weapons, Britain also developed a range of tactical nuclear weapons, principally bombs, which were deployed on a number of land-based and carrier-based strike aircraft from the late-1950s onwards. These included the Scimitar, Buccaneer, Jaguar and Sea Harrier, and the Lynx and Sea King helicopters. In addition, US-made nuclear depth bombs were carried by Nimrod maritime patrol aircraft and US-made Lance missiles and nuclear warheads, and nuclear artillery shells, were deployed with the British Army.

5. By the end of the 1980s, the mainstay of the tactical force was the WE-177 series of warheads in the form of free-fall bombs for use against land-based targets and anti-submarine bombs for helicopter delivery.
6. The Trident system was originally intended to constitute just the strategic nuclear force for Britain, but it was subsequently decided to phase out Britain's WE-177 tactical bombs carried on Tornado strike aircraft. As a consequence, a number of warheads for the Trident missile system were adapted to produce a lower explosive force so that they can be used in a tactical or "sub-strategic" role. From April 1998, the new Trident submarines therefore constituted Britain's strategic and sub-strategic nuclear forces.
7. A proportion of the Trident warheads, possibly about one-sixth, is deployed as sub-strategic or tactical warheads, by configuring them to detonate as "boosted primaries" ("strategic" warheads have a "primary" nuclear explosion which is "boosted" to initiate a more powerful "secondary" detonation). The sub-strategic warhead is likely to have an explosive yield similar to that of the older WE-177 tactical nuclear bomb, around 5-10 kilotons, rather less than the Hiroshima bomb.
8. The last Labour government announced that each Trident submarine on patrol would carry up to 48 warheads, likely to comprise a mix of up to six single-warhead sub-strategic missiles and around 10 multiple-warhead strategic missiles.
9. Although Britain is in a position to use its nuclear weapons without reference to its NATO allies, the common practice has been to contribute its forces to NATO. This practice continues with Trident, both in relation to the strategic and sub-strategic versions of the missile.
10. Until the late-1960s, NATO's nuclear policy was codified in a document MC14/2, known as the "tripwire" policy. This envisaged a massive nuclear response to any Soviet initiation of war and was developed when NATO had a massive nuclear superiority over the Soviet Union. By the early 1960s, the United States had developed numerous tactical nuclear weapons and was leaning towards the use of such weapons in nuclear exchanges which might fall short of all-out nuclear war.

**11.** By the late-1960s, the tripwire policy was becoming untenable as the USSR began to match NATO's nuclear forces. NATO therefore developed a new policy, commonly termed flexible response, codified in document MC14/3 of 16 January 1968. This was entitled the Overall Strategic Concept for the Defence of the NATO Area, and covered general conventional and nuclear policy, with the details of the latter developed by the Nuclear Activities Branch of the Supreme Headquarters, Allied Powers in Europe (SHAPE), at Mons in Belgium.

**12.** Flexible response envisaged two levels of nuclear employment, selective use and general response. The former involved the use of a limited number of nuclear warheads against Soviet troops and their logistic support, in the belief that their advance could be halted without escalation to all-out nuclear war. Numbers of warheads used might range from a handful up to around a hundred, depending on circumstances. If the policy failed and the conflict escalated, NATO would move to general response, which amounted to all-out nuclear war.

**13.** The NATO policy of the first use of nuclear weapons was not promoted widely in public, where all the emphasis was placed on nuclear weapons as an ultimate deterrent. Even so, the policy was made clear on relatively rare occasions, as in this example of evidence from the Ministry of Defence to a Parliamentary Select Committee in 1988:

“The fundamental objective of maintaining the capability for selective sub-strategic use of theatre weapons is political - to demonstrate in advance that NATO has the capability and will to use nuclear weapons in a deliberate, politically-controlled way with the objective of restoring deterrence by inducing the aggressor to terminate his aggression and withdraw.”

**14.** With the ending of the Cold War, there was some easing of NATO nuclear policy, with withdrawal of a substantial proportion of NATO nuclear weapons from Western Europe as the Soviet Union withdrew from Eastern Europe, and the possibility of first use was considered increasingly unlikely, but not abandoned as a facet of NATO policy.

**15.** As Russian conventional forces deteriorated dramatically with the decline of the Russian economy and the collapse of the defence budget in the 1990s, the Russian armed forces came increasingly to rely on nuclear weapons for their security. Even with more recent improvements in the Russian economy, this is still to an extent the case. At its Washington Summit in April 1999, NATO endorsed its policy of maintaining sub-strategic nuclear forces in Europe.

**16.** Since the 1950s, Britain has deployed nuclear weapons on many occasions outside the immediate NATO area of Western and Southern Europe and the North Atlantic. This has included the Middle East, South-East Asia, the Indian Ocean and during an early phase of the Falklands War. This raises the question as to whether sub-strategic, or indeed strategic, Trident warheads, might be used independently of NATO and whether their primary purpose remains political.

**17.** Britain reserves this right, and one of the more detailed assessments of the range of options for sub-strategic Trident warheads was made in the authoritative military journal *International Defense Review* in 1994:

“At what might be called the “upper end” of the usage spectrum, they could be used in a conflict involving large-scale forces (including British ground and air forces), such as the 1990-91 Gulf War, to reply to an enemy nuclear strike. Secondly, they could be used in a similar setting, but to reply to enemy use of weapons of mass destruction, such as bacteriological or chemical weapons, for which the British possess no like-for-like retaliatory capability. Thirdly, they could be used in a demonstrative role: i.e. aimed at a non-critical uninhabited area, with the message that if the country concerned continued on its present course of action, nuclear weapons would be aimed at a high-priority target. Finally, there is the punitive role, where a country has committed an act, despite specific warnings that to do so would incur a nuclear strike.”

**18.** It is worth noting that three of the four circumstances envisaged involve the first use of nuclear weapons by Britain, but what is also clear is that the function of the UK nuclear force, including the sub-strategic Trident warheads, remains political. The clearest recent statement of this is in the Ministry of Defence’s evidence to the Defence Select Committee’s 2013/14 inquiry into *Deterrence in the twenty-first century*, (11 March 2014):

“Ultimately, deterrence and coercion are about conditioning or changing the perceptions of a potential opponent in order to influence or persuade them. They are different from war-fighting, which involves the actual use of physical force to degrade or destroy the capabilities of an adversary to the point where they are unable or unwilling to continue resistance.”

**19.** This is in line with the 1988 Defence Select Committee evidence cited above.

**20.** Thus, in all aspects of British nuclear policy, nuclear weapons serve a political purpose and are not seen as war-fighting weapons. The relevance of sub-strategic weapons to the argument, notwithstanding their political purpose, is that their existence makes early use and, indeed, first use more likely in crisis circumstances and it is far from clear that if sub-strategic nuclear weapons came to be used in a conflict, that there would be any prospect of avoiding escalation to a strategic exchange, with all the consequences that would entail.

**List of any Materials referred to and exhibited hereto.**

N/A

**Details of any other Literature, Publications and other Material relied upon.**

(1) the Ministry of Defence to a Parliamentary Select Committee in 1988:

(2) *International Defense Review* in 1994  
Ministry of Defence’s evidence to the Defence Select Committee’s 2013/14 inquiry into *Deterrence in the twenty-first century*, (11 March 2014):

(3) Ministry of Defence’s evidence to the Defence Select Committee’s 2013/14 inquiry into *Deterrence in the twenty-first century*, (11 March 2014):

**Statement of facts supplied.**

Instructing Party’s Extract of Advice on Prosecutorial Posture

**Statement as to facts within knowledge**

All other facts

**Statement regarding any examination, measurement, test or experiment done and relied upon.**

N/A

## Summary of Conclusions

I find the present Prosecutor's "theory of case", in so far as it describes and seeks to rely upon that rationale, to be both entirely credible and consistent with what I know of the UK Government's political and strategic stance in these matters including in my view also with respect to much, if not indeed all, aspects of its so-called "sub-strategic" planning and preparedness as well.

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I have read and understand my duties to the Court as an expert witness (as set out at CPR r.33.2), and I have complied with and will continue to comply with those duties.

This Report consisting of . 7 . page(s) signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature

*P. Rogers*

Dated the

*26* day of *Sept* 201*5*.