



**The Sheku Bayoh Public Inquiry**

**Witness Statement**

**Martin Graves**

**Taken by** 

**on MS Teams**

**On 12 and 13 October 2022**

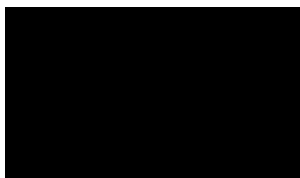
**Witness details**

1. My name is Martin Graves. My year of birth is 1963. My contact details are known to the Inquiry.

**Experience**

2. I joined the Metropolitan Police Service (MPS) on 22 February 1982 and held the rank of sergeant from January 1997 until my retirement in September 2012. I maintained an operational role until my retirement, including being deployed at the Olympics and Notting Hill carnival in August 2012. The full details of my experience are set out in my CV. However, I served in a number of operational roles in both uniform and plain clothes. This included work as a surveillance officer on a number of operations. I have been public order trained since 1984 and been involved in policing numerous public order and major disturbances across London and the UK. From 1988 to 1994

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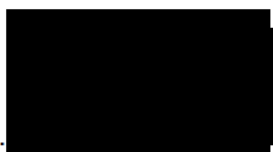


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I worked on the Territorial Support Group. This unit provides the MPS front line response to major disorder and dealing with the control of violent subjects, detainees and their restraint and relocation. I have also worked on high risk escorts around the country during the prison officers' dispute and been responsible for the detention, and transportation of high risk terrorism prisoners.

3. From March 2000, I was employed within the Central Officer Safety Unit. Until March 2011 I was the training manager for this unit based at Peel Centre, Hendon Police College. I had direct responsibility for the training packages provided in relation to conflict management, arrest, restraint and personal protection for the 5000 plus staff passing through the college each year. This included the training, monitoring and development of over 500 personal safety cascade trainers together with a dedicated team of 16 lead trainers. I also took part in numerous development and evaluation projects which saw direct working with both custodial and health service trainers in relation to safer restraint and its medical implications.
4. From 2008 until 2010 I was an ACPO TASER trainer and was directly involved in the roll out and training to non-firearms Specially Trained Officers (STOs) within the MPS. In April 2011, I moved to New Scotland Yard as the MPS Senior Advisor and Subject Matter Expert in relation to personal safety. This role includes the creation of curriculum and the review and development of service training packages, policy and equipment. I retain my qualification as an officer safety trainer and have been responsible for its practical delivery since 1996.
5. I am regularly called upon to provide expert witness reports around the use of force by police and the training they receive. I have provided in excess of 200 statements and actual expert testimony in excess of 100 cases on behalf of the MPS, IOPC, CPS and Police Federation of England and Wales, together with a

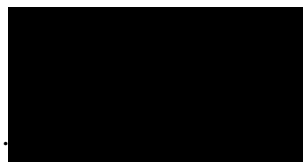
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number of other forces including South Wales, various Scottish forces, Dorset, Bedfordshire, Merseyside, GMP and Cambridgeshire.

6. I'm asked whether I've ever trained as an initial tactical firearms commander (ITFC) or provided training to Inspectors in their role as ITFCs. No, I haven't. However, I was a trained firearms officer and I have delivered training on a regular basis to firearms trained officers, both protection officers and residential protection officers, so I'm aware of the deployment guidelines etc, at that time when I was delivering training. I was also a trained tactical advisor and a PIM manager, so I'm aware of these aspects of policing. I used to deliver training in relation to risk assessment and managing restraints within the custody arena on the initial custody course within the MPS. Additionally, I have worked in an area control room, in Scotland Yard on the 999 system.
7. Within the Met, when I worked there we didn't have area control rooms, we had individual control rooms within each borough. So I was what we called a CAD Supervisor; I was a sergeant supervisor for the control room for many years before I moved over to officer safety. That control room was run by a sergeant or a senior PC. The years I was there as a sergeant I was a control room supervisor, so I would have taken the role of deploying staff, taking control of major incidents, etc., until such time as possibly another senior officer was brought in, but I would probably be the control room supervisor in that situation with a sergeant or an inspector on the ground running that side of things. I've also worked at Scotland Yard as both a call receiver, as a sergeant call receiver and dispatcher. Again, that's about deploying resources, making decisions around who goes to what, looking at risks, assessing risks, etc., making decisions on whether specialist equipment or specialist resources are required. So, I haven't done the inspector role within the control room set-up in Scotland, being the person making the decisions, but I have made those decisions in a smaller control room for a large area of London as the supervisor controller of that control room.

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8. I'm asked specifically if I have made decisions about the deployment of armed response to incidents. It's a slightly different set-up within the MPS, because the armed units within the MPS are already deployed, they're already out actively, they don't have to have an authorisation to deploy, but I would be the one making the decision to request or assign armed units to particular calls.

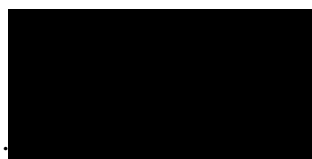
### **Information considered**

9. I was instructed by the Crown Office and Procurator Fiscals Office to produce a report on the use of force by the police in the restraint of Sheku Bayoh (COPFS-00024). This report is dated 13 April 2018. In preparation providing this statement, I watched the Inquiry evidence of PC Craig Walker, retired PC Alan Paton, retired PC Nicole Short, PC Ashley Tomlinson and Inspector Steven Stewart. I also reviewed the following material: the Combined Audio and Video Timeline (SBPI-00047), the Use of Force SOP (PS10939), the Probationer Training OST course manual (PS11538 (a)), the OST PowerPoint (PS17208) and the Critical Incident Management SOP (PS11003).

### **Management of the Incident: Command and Control**

10. I have been asked about the command and control of the incident including the role of the Area Control Room. In terms of the initial reports to the police, I understand there were six 999 or 101 calls from 5 people, with one individual making a second call. The reports were generally of a well built or muscular man in the street carrying a knife. I understand that one individual reported that the subject took a "flying kick" at his car. I think with that information and intelligence available, the requirement for specially trained and equipped staff was a necessity, certainly, to consider. From memory, it's the divisional sergeant that requests the ARV and the Dog Unit. I would've expected the control room to automatically have considered that and looked at the availability of them for this particular call. There's nothing on the Combined

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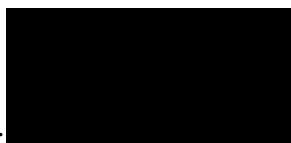
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Audio and Video Timeline (SBPI-00047) that I viewed that indicates that was considered prior to the request from the sergeant (call sign 411).

11. My reasons for saying that specialist resources should be considered immediately by the control room is to straight away take the terrorist threat out of the equation; standard best practice. You're sending unarmed, unprotected officers to deal with a male in a public place; the subject is not contained - they're not in a house - so they're in a public place, they've got free range to move around, apparently armed with a large knife, has already displayed violence towards others, i.e. kicking the car and approaching people in cars with the knife. So with all of that intelligence and all of those risk factors, there's an excerpt from the control room where they're instructing the officers to attend and make an on-scene assessment, which I totally understand.
12. What I don't hear are warnings from the control room to the officers to remind them of their officers' safety, to remind them of approaching with caution because he's armed with a knife. It is literally, "Go to the scene and make an assessment." I appreciate we're going back a lot of years now and a lot of things have changed within the service. I was surprised at that. I would expect the control room staff or supervisor, purely on that information and that intelligence, to consider the requirement for shields, taser, firearms, Dog Units, something along those lines that would assist the unarmed officers to actually deal with this individual, should it become a situation that was exactly what was painted on the tin. If it was considered by them prior to the request from sergeant with call sign 411 it wasn't evident from the information that I initially reviewed or explicit on the Combined Audio and Video Timeline (SBPI-00047).
13. In terms of the factors relevant to the assessment of risk, that is all of the things I've already mentioned. The fact that there had already been an

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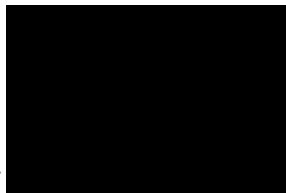


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approach to at least one member of the public. Whilst I appreciate it was damage to a car, if that person had then decided to get out of the vehicle, they would've been in immediate risk from a knife attack. I think the immediate danger to the public was high, if not higher initially before the officers arrived. Then obviously the shifting of focus from members of the public to the officers would have decreased slightly the risk to the members of the public because the focus of the subject was then upon the officers rather than, as it had been previously before the officers arriving, on members of the public passing in cars etc.

14. I am asked about the access the ACR would have had to local information about the locus in Kirkcaldy. Access to local information is a failing of central control rooms. I came from the Metropolitan Police and when the service centralised, that was always one of the issues; that the control room staff were not always aware of local issues or local requirements; for example, dead spots on the radio, what the actual area might be like, what it was noted for etc. So, unless there was somebody there who knew the area from previous calls, possibly came from the area, I wouldn't have expected a member of staff to have that much of a knowledge of the actual area, other than what was available to them on the systems, i.e. street map, Google Earth etc., things like that which are the systems that they use to assist them in the deployment and allocation of resources.
15. I am asked specifically if the officers in the ACR would have been aware of the proximity of the locus to a psychiatric hospital. Possibly not. I don't know the systems at Bilston Glen in 2015, but certainly on other control room systems, when you put a location in, you normally get a dropdown list of other calls that might be relevant to this one. So, it looks at the area and then if, let's say it's linked to a domestic situation nearby in the street, you would normally get a warning coming up or a link message would come up which says "May be duplicate to" or, "May be linked to." So, if there was a report

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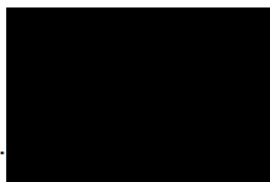


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related to an individual absconding from a secure ward, that may be flagged on such a system. It depends on how the system is set up. One of the areas where I used to work many years ago had exactly the same type of location, and whenever a call came out to the street that that particular hospital was in, it always flagged up as a possible cause for the call, if that makes sense. But then obviously it was a matter of then the control staff looking at it and making that assessment as to whether or not it could be linked. If there's a disturbance in the street at seven o'clock in the morning, it might even be the case of, "Can somebody have a look to see if we've got anybody missing from the hospital currently?" Something like that's about local understanding of the regular calls and the risks that are posed in that area.

16. I think a lot of this information, even now, with the moving into central control rooms, a lot of this information comes from the local officers now. It's about those local officers feeding that into the control room to say, "It's near the psychiatric hospital - have we got anybody missing?" because they might have been briefed on it from the start of their shift. So a lot of the local information is held within the local staff and the local officers that patrol and police that area. They will know that there's a hospital there. If it's a hospital that's got a reputation of regularly losing patients that would be something that the local officers would know and might then add that to the mix of the intelligence.
17. If they're going to a particular night spot, say, and they know that certain nights, certain groups are in this night spot and certain things happen, that intelligence that they're aware of due to their local patrolling and local policing of that area. But then again, if you put a location in that's irregular, an exact location, for example, the local pub. If Gallagher's was a regular problem and if they put Gallagher's pub in – then what would come up on the system at the control room would be a list of calls over the last 28 days to Gallagher's that could be linked to or relevant to that particular call coming in. So that would

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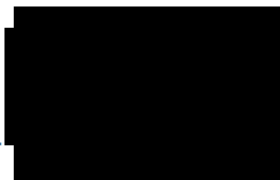


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be information for the controller then to look at and say well, "We've never had one on a Sunday morning, but we've had ten on a Saturday night". So "Is it an overflow from Gallagher's pub, is it linked to Gallagher's, or is it linked to something else?" Then they've started to piece the intelligence and the information together.

18. I'm asked what enquiries I would expect a reasonable ACR inspector to make when he becomes aware of a call like the one in this incident. I would say examining the system to see if there's been similar calls in the area. Let's take, for example, if Mr Bayoh had had a domestic disturbance at the house and that had been reported, knowing that a black male had wandered out from a domestic disturbance earlier on that morning, might that be linked? So it's about interrogating the system and what you've got. However, that information and that intelligence is limited to some degree. The first things you look at are similar calls in that area to similar incidents. So "Have we had that type of call at that time in the morning before, have we got a particular individual who might be this person who's caused problems in the past?" Yes, again, it's about really looking at the call history for that particular location and then looking at, like, calls that could be linked to that. If the hospital became a concern, I would've expected an enquiry possibly to the hospital to see if they had anybody missing. Even prior to that, possibly just looking at the system, which wouldn't be part of the control room system, but looking at whether there were any reported absconders currently missing from the hospital. So it might not have happened that day; it might have happened the day before or a couple of days before. It could be somebody coming back to the hospital who's causing an issue.
19. Again, depending on the calls, what I would normally then instruct if I had a particularly good witness who had reported the incident, I might request that one of the dispatchers call that informant back and try and glean more information, "Where did they come from, where are they now? Give me a

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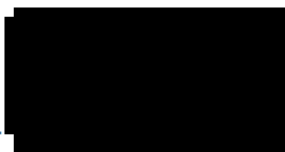
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better description” etc. just to try and get more intelligence and more information for the officers prior to their arrival.

20. Based on the information that they had at that time, I’m asked what conclusion do I think a reasonable ACR inspector would’ve reached as to the likely risk to Mr Bayoh, the officers and the public. I think, initially, there was a risk to Mr Bayoh but there was more risk – higher risk – to the public, and then once the officers arrived, a higher risk to the officers. Once the officers arrived and engaged with Mr Bayoh, obviously the risk to him does start to rise substantially because he’s now being confronted by officers who are going to have to do something about this individual and the allegations that he’s in possession of a large knife and has already committed, to some degree, criminal activity by damaging or attempting to damage a vehicle and threatening members of the public. So I think that the initial assessment of risk across the board to Mr Bayoh, the officers, and the public has to initially be high by the inspector, hence the requirement for the officer safety warning to the officers attending, “Remember your officer safety, dealing with an edged weapon” etc. I think it couldn’t be classified as anything other than a high-risk level, Grade 1 call.
21. In terms of the risk to Mr Bayoh, there’s an allegation he’s walking down the centre of the road, could he be hit by a car either accidentally or intentionally. If he runs towards a car with a knife, could that person panic and run him over? As I said, then the officers arrive, and the officers are duty-bound to deal with that individual and deal with that situation to protect the public. So again there is now a much higher likelihood of officers having to resort to using force on Mr Bayoh. So again that increases the risk to him.
22. I think the risk to the members of the public is self-evident, and the risk to the officers, is now facing a person allegedly armed with a large kitchen knife, large build, erratic behaviour with the minimal officer safety tools and

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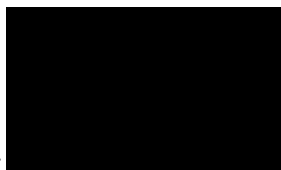


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equipment that they're in possession of. Whereby, if we were looking at now, with what's happened over recent years, it's unlikely that those officers would be deployed or would be asked to deal with that in the initial term. Or if they did, they'd be asked to stand off and observe, pending the arrival of specially trained officers who are equipped with Taser. Back in 2015, yes, we were at a severe terrorist level, but we certainly hadn't had some of the things that have happened over the last four or five years but we're starting to become far more aware of the risks, shall we say, to the lone individuals, loose in the streets. Sending a dog or an ARV to the incident may add additional risk to the subject. However, it's just another officer who will be dealing with that individual. Obviously, the risk of an armed confrontation should he produce the knife, then there's less lethal tactical options available to the firearms officers in the same way that there are lethal options. But that risk to Mr Bayoh would increase irrespective of who turns up. The risk of serious injury or death would rise substantially should an armed response vehicle turn up or possibly a dog, but certainly with an armed response vehicle.

23. I'm asked how the assessment of the call as a Grade 1 call informs the resources which were allocated to the incident. Certainly, it's an immediate response call; you have to get somebody there. I think the decision has to then be made as "Do I send local officers, unarmed officers; do I send unarmed officers with support of armed officers or specialist trained officers possibly with the Dog Unit?" Then the call at some point-- to then deploying those additional resources to the call.
24. The speed at which this developed obviously negates an awful lot of that decision-making because the decision, to some degree, was taken out of the inspector's hands because it was dealt with very quickly on the ground. The officers had obviously made the decision, whether they came across it by accident or, saw him and approached as they did, getting quite close. The response officers having made that decision to approach the male and assess

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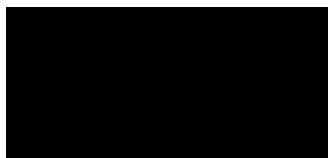
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the male, I think from there it developed so quickly. There's little or no additional information going back to the control room until such time as Nicole Short is assaulted. So there's not a lot of additional information going back to the control room to allow the inspector to make that decision as to whether or not he now deploys the ARVs. It's one of those judgment calls.

25. I understand the nearest ARV was in Edinburgh and was 27 miles away. Inspector Stewart's evidence suggests that that's around a 25 minute journey. If I put myself in the control room supervisor's position, knowing the travelling time, I may have made the decision to deploy and then cancel on route if not required rather than wait and deploy when they were required. The downside of that approach is that, if you've got an ARV unit running to an incident in Kirkcaldy and then something else comes out which is an armed incident, you're diverting them possibly in the completely opposite direction to get to another incident. So it is that judgment call about managing resources for the control room supervisor. However, at that time in the morning on a Sunday, is it going to be one of the only calls that possibly come out that would require ARV attendance? This is my personal opinion. I think I would've deployed the ARV from the outset, got them running, but it wouldn't have made any difference to the situation as it developed because it developed so quickly; it was over within minutes. So it wouldn't have made a difference.
26. In terms of categorising it as a firearms incident, I would've wanted confirmation that the informants had seen the knife which, from memory, at least two of them had said yes and actually described the knife he was holding. I understand one of the witnesses described Mr Bayoh as carrying the knife and chasing the car. With that information, yes, I would say it was an incident that ARVs would've been deployed to.
27. I'm asked whether I would have wanted a report back from the officers going to the scene before I made a decision to deploy? Personally, I would've

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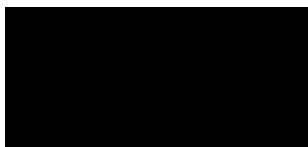
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deployed based on the information that they had. Based on the criteria of the travelling time, and should the ARVs be required, getting them to the scene, the time delay of getting them there, and then having officers having to try and contain that incident without the support of ARVs. So I would've rolled them straight away but I would've asked for an update, which the ACR Inspector did, i.e. an assessment and an update from the officers on their arrival of the intel and the information. Obviously, he didn't get that because of the fast-moving development of the incident.

28. I'm asked whether a reasonable ACR officer would wait for the local officers to arrive and to report back before deploying an ARV specifically in the circumstances that Inspector Stewart speaks to knowing that the local officers had been dispatched and were due to arrive at the scene very quickly. It's certainly a consideration. Would that couple of minutes make a lot of difference to the call out? Probably not. In these circumstances it certainly didn't. If the inspector was aware that they were virtually on scene. My understanding of the evidence was that we hear him actually asking for the updates and assessments as the first van, the main transit van's driving round the roundabout onto Hayfield Road. It is literally, 10 or 15 seconds away from contacting Mr Bayoh. It's certainly a consideration and if he knew they were that close, would a minute, a couple of minutes make that much difference, probably not. So, yes, it may well have been a viable option to do that.

29. I'm asked whether I would expect a reasonable ACR inspector to categorise that incident as a critical incident at that time. Personally, no. I don't think it meets the criteria. Once we realise we have an unresponsive subject who is having medical issues, I think it would have been declared there and then by me on the scene. But at that point, "male armed with a knife" wouldn't fit the normal criteria for a critical incident. It would be a standard call that would be dealt with by officers. The fact that an ARV may have been assigned to it wouldn't automatically make it the criteria for a critical incident. The definition

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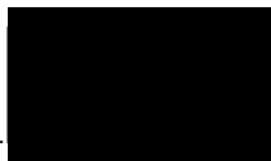
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of a critical incident includes the effectiveness of the police response will impact on confidence in the police. Once they were possibly dealing with a serious injury/possible death in police contact, that would be the point it meets the standard criteria for declaring it a critical incident. Subsequently, it meets most of the criteria, but at that point of the reports of the well-built male with a knife, I don't think it meets the criteria or any of the requirements for a declaration of a critical incident at that time.

30. I'm asked what resources would a reasonable ACR inspector have deployed to this incident and why. I would say at least two, if not, three units I would have expected to be deployed. The ARVs were considered, the Dog Unit was considered again and was rolling from Edinburgh, but, that would have a long travel time. This is just one of the unfortunate side impacts of modern-day policing is that a lot of specialist resources are sometimes at great distances from where incidents take place. The Police Support Unit would be an option if they were on duty, even just to offer protection with shields. One of the big issues here is it's different from dealing with an incident in a location to dealing with an incident in the open air. People would turn around and say, "We'll contain the person who's the subject or suspect" – very difficult to do with a limited number of officers in an open space. It's a virtually impossible task that you're asking officers to do. Whereas if they were in a house, you can put somebody at the front door, put somebody in the backdoor and keep them in the house. You might actually quite easily outstrip your resource pool trying to deal with an individual in a large open space.

31. I'm asked whether a reasonable ACR inspector would require feedback from response officers dispatched to the locus in order to complete his assessment as to the appropriate categorisation of the incident and the resources and management it required? On an ongoing basis, yes, you'd have to have the feedback from the officers on the scene. Based on the information and intelligence, the initial grading and the initial response would appear to be

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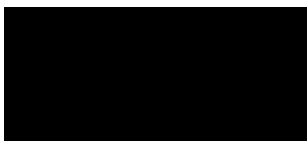
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correct. But, as I said, he did request that because at the end of the day the ARV wasn't running, and he needs that information as soon as possible to make that tactical decision as to whether officers and members of the public are at risk and an ARV would be required as part of the resources to control that situation.

31. Knowing the distances and, having dealt with similar situations where you know that the backup was going to be some way away, I personally would have rolled the ARV straight away. In this situation, it wouldn't have made a difference. But if the ARV was then ten minutes down the road when I got the information that it was an incident to which they were required, they are ten minutes closer to providing support for the unarmed staff. As I said, it is a judgement call made by the member of staff, by the inspector at the time, based on the information and his understanding of what was going on at the time. You've asked my opinion – that's what I would have done in that situation. My criteria for that would be the fact that they are 20/25 minutes away, and if it does become what we think it might be and officers need an ARV, they're ten minutes closer up the motorway than they would be when I finally roll them. However, I'm sure there is a deployment criteria or a deployment protocol for the ARVs for the control room supervisor. I haven't see that. So if that dictates that that's not their standard practice, then it's not their standard practice.
32. I'm asked how long would a reasonable ACR inspector wait for feedback in circumstances like this? I think I wouldn't wait more than a couple of minutes after officers have reported they were on scene. So once the officers have arrived, I would be expecting within a couple of minutes, if not a minute, some update coming back from the officers on the scene.
33. I'm asked if response officers were already on route to the locus by the time a reasonable ACR inspector learned of the incident, how long would a

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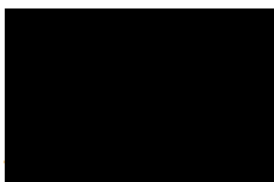


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reasonable ACR inspector wait for feedback. My answer is exactly the same as a minute and a half to two minutes after arrival, having emphasised to the officer arriving that it's urgent that they update control as soon as possible or on arrival. Inspector Stewart does actually say he's monitoring, so that should impress to the officers that he's waiting for it, "Get me some feedback ASAP."

34. I'm asking, in the absence of feedback, what steps would a reasonable ACR inspector take to seek or secure that feedback? I'd say direct contact with the officers on scene. Allocation of more units or checking, if other units were attending, how far away they were so that you've got an idea of who can get on scene and give you the information you need. So it might be the supervisor, might be the sergeant. He should have known, all the units were being assigned, and obviously other units arrived quite quickly after the initial scuffle on the floor. So I would have been identifying those other units and communicating with them, "I want an update. As soon as you arrive, let me know what's happening." By then, there were two units on scene, so I'd be calling the officers individually, calling the units requesting an update.
35. Looking at the Combined Audio and Video Timeline (SBPI-00047) – we have the first bit of feedback is coming in at 07:20:42: we've got the emergency button being pressed, then we've got the report of Officer Short being injured then we've got a second emergency button being pressed. Obviously those three, you're now dealing with an urgent assistance call, the officers are requesting urgent assistance. This comes maybe 30/40 seconds before the transmission at 07:21:38 stating "male secure on the ground". It indicates that the incident has developed, it's developed in the wrong direction, officers are now shouting for help and an officer has been injured. So that, again, immediately starts to raise concerns and raise the risk level to those officers because, linking back to the original intelligence of the "male armed with a knife", are they now wrestling or dealing with a male armed with a knife? Has the officer who's been knocked to the ground, have they been stabbed? This

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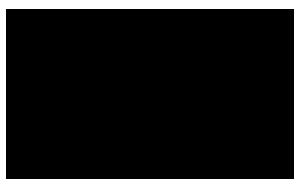


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is all going through your head in the control room trying to work out what's actually going on.

36. These transmissions are certainly feedback to the ACR. Whether it's feedback to deploy the ARV, I wouldn't say that's a fine point, because you've had no confirmation that the person is in possession of the knife. All he now knows is that some sort of altercation has happened between the officers and a subject. So I don't think it would be relevant to then say, "Right, run the ARV," at that point. I would want further information where it would certainly indicate to me that the incident is developing and developing quite quickly. So it would certainly be more units and possibly passing that information to the ARVs or passing that information to the dog van.
37. In terms of making a decision to roll the ARVs at that point, you've got to consider, they are still 25 minutes away. At that point, obviously contact has been made and the situation has developed. Is it now an ARV situation or is it something the officers have to deal with because of the quick development of the situation? As the controller, I would be waiting for confirmation of whether this person was in possession of a knife and then, as I say, another 30 seconds later, you've got the male detained. So it wouldn't have made that much difference. At that point, the Inspector would either be chipping in and trying to ask for information or just monitoring, waiting for more information to come from the officers on scene.
38. The feedback which says, "Male secure on the ground," that's the information you're waiting for, "The person has been secured." At that point, you're then looking at who's injured, what are the injuries, have we recovered the knife? It's a more investigative role from the ACR rather than, "Do you need more units?" Because, at that point, you're basically saying, "We've got them. We've got them under control." So, yes, I think at the point, as I said, that

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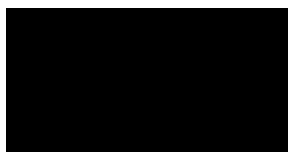
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would not be a stand down but certainly, “Do I actually need the ARVs?” – probably not at that point.

39. In terms of further steps a reasonable ACR Inspector would take if he didn't have the feedback needed, I would say if you can't contact the officers on the ground who are actually on scene, you've then got to start thinking, “Why can't they respond on the radios?” So if nothing was coming back, are they now injured and unable to respond? Are they engaged in communication, or engaged in the incident, so they're not able in that way to respond? I would want to know if there were other units close by who were attending, and then I would ask them to give me the update immediately. But then you'd let it run a couple of minutes, two or three minutes more, I think. If you can't get back in contact with them, something then might be wrong. Whether I would then make the decision to roll the ARV? It is a hypothetical question and it's a very difficult one to answer because it didn't happen that way. It went very quickly from zero to ten, and the inspector can only really respond on the intelligence and information that he's got. So until such time as he's given more information, having made the initial decision to have the ARV standby, ready to go if necessary, he hasn't really been given any further information up until the point when you realise, as the subject is secured, to change that assessment really. So there's not much he could have done until such time as that information came in or then there was a period of time where no information was coming in, nobody was able to give him an update, to make the decision based on the original set of information.
40. I'm asked what directions would a reasonable ACR inspector have given to the officers that had already been dispatched to the scene, and at what point? I think an awareness or a reminder that it could be a knife incident, to consider their officer safety and to update as soon as possible, the fact that he had the ARV, which he did. He said he has got the ARV on standby to deploy armed officers.

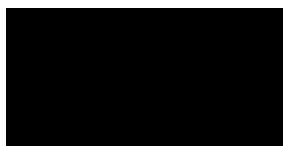
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41. I'm asked what procedures and steps would you have expected a reasonable ACR inspector to have implemented at this point to manage the incident? I think they deployed the staff that were available locally, made the local APS, the supervisor, aware of the situation, considered the dog van, considered the ARV. As I say, possibly the support unit would have been another option or another consideration if they were on duty and available. Yes, pretty much everything there. Everything that was done was done. As I said, my only difference – it wouldn't have changed the situation in any way – was I would have probably rolled the ARV on the basic information that I had, that there was three members of the public who had all said that this person was in possession of a knife. So I think I would have rolled them. Obviously, the officers could have got there and not found him. It could have been, "He's wandering around the streets and we can't find him," in which case, the ARV would have got to the area and would have been available should they have found him. But they didn't, they came straight across him in the street exactly where the people had said he was and the situation developed in the space of a minute/a minute and a half.
42. I'm asked whether, in terms of safe response procedures, the response officers should have been directed not to approach or detain the subject because of the level of threat. This would be a difficult decision to make. Best practice in relation to edged weapons is the mnemonic CUT, which the first part is "Create distance". So, unlike a firearm, a pointed weapon, a sharp implement or knife, a pair of scissors or something like that, has to be basically where you are. It has to come into proximity of you to cause you damage or proximity to a member of the public. The risk to the public was very high, and I think to indicate to officers not to approach or not to engage, but not to attend or stand back and meet at a rendezvous point (RVP) at a safe distance would have been the wrong decision to make based on the risk to the members of the public. However, getting close to the individual, again,

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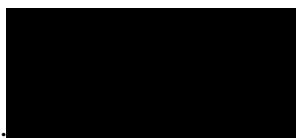


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is not always a good thing to do. If you can keep that distance, it gives you that reactionary time to deal with anything that the subject is doing. Mr Bayoh was closing down the gap on the officers but, again, the officers could have possibly stopped a little bit further back. But I think to not engage and not attempt to communicate and find out what was happening would have been the wrong decision to make. I think they did everything correctly, which was go to the scene, locate the individual and attempt to engage the individual. We run a drill called the “21-foot drill”, and it’s how quickly somebody can close down the gap between where they are and where you are and draw a weapon and use a weapon on you for you to then have that gap to respond and deal with it when it arrives. A fit person can cover a lot of ground over a very short period of time. So being six, eight, ten feet away from somebody doesn’t give you that much of a reactionary time should somebody pull a knife and lunge at you. So the “Create distance” is try and keep that distance.

43. The second line of that is “Use cover”. PC Walker, to some degree, I think, on his evidence relates to this without telling the reasons why he did it. He hangs around the front of the van and has the front end of the van between him and Mr Bayoh. We joke about it as sometimes you run around the car and you’re being chased around the car. As long as that car is between you and the individual, they can’t hurt you with a knife. Then, obviously, the third is the “Transmit” for help, and that was the bit that didn’t appear because it developed so quickly. But what I would have expected is, “We’ve found him, we’ve got him. He’s here,” and, again, that update for the control room. So I think they did the right thing in terms of going to the incident. I think to stand off and not engage put members of the public at a greater risk. Obviously, our duty to the public is their protection, that’s what we’re there for. Therefore, I think they did the right thing to engage. Their methodology of engaging could have been better with hindsight – hindsight’s a lovely tool – but they kept their distance initially from him, he closed the distances down, they did try and use cover in some shape or form. They developed different tactical options to try

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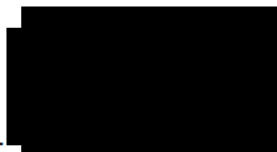
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and deal with Mr Bayoh, the CS and the PAVA, batons, but none of them were effective.

44. I am asked to describe the roles and the responsibilities of the personnel who would be involved in the command and control of an incident like this. The initial response on the ground of the officers arriving, somebody within that group would have taken the role of contacting and dealing with Mr Bayoh. The other officers would then take positions of what we call "cover", therefore they're covering that officer dealing with that individual. The supervisor, the APS, was aware of and was, I believe, travelling to the scene. On their arrival, I would have expected them to then take control of that situation, should it have still been developing and still been ongoing. Without the critical incident being declared up until that point, the command structure is on the ground at the scene until such time as that critical incident is declared. Once it is declared, then basically whoever the supervisor of the lead person is on the ground, they basically become the bronze because they are there dealing with the situation. The silver becomes the control room supervisor, i.e in this situation the ACR Inspector, and they would then notify a senior officer who was on call and that senior officer would then become the Gold once they've been notified and briefed. But until such time as that critical incident was declared, the actual management and running and organisation of that particular incident was the responsibility of the staff on the ground and the local supervisor to go to the scene and take control of that situation. So Inspector Stewart doesn't become part of the command and control of the incident until a critical incident is declared or until such time that he takes control of it. In that situation, he's not in the best position to give directions or run that incident. People on the ground are the best people to do that. So what would normally happen on arrival, as I said, normally a senior PC or somebody who's got slightly more experience would tend to take control directing the units to where they need them, where they want them, etc., and giving them tasks and roles. Once the supervisor arrives on scene, I would

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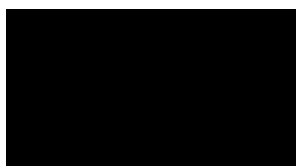
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expect that supervisor to take on that management role of the incident that is taking place. If they then, at that point, either them or one of the other officers declares that as a critical incident or a major incident, then the situation changes because we then start looking at bringing in the bronze, silver, gold command structure and methodology around that particular format.

45. I'm asked if the incident been declared a firearms incident, what difference, if any, would that have made to the outcome? If it had been declared a firearms incident, then sending unarmed officers to a declared firearms incident would not be standard practice. It would possibly be a case of directing the officers to a rendezvous point (RVP). It might be Gallagher's car park or somewhere nearby where the staff could be placed, ready for deployment. But you would not generally deploy unarmed, unprotected officers into a declared firearms incident. Inspector Stewart made a decision not to immediately deploy the ARV and asked specifically for an update from the officers arriving on scene as to whether they needed the ARV. Irrespective of the fact that that was then ignored or not heard by PC Walker and PC Paton, or acted upon by PC Tomlinson or PC Short as the second officers on scene, I think the lack of time available basically negated any other action from the Inspector other than having made the decision not to deploy, he waited for an update. That update didn't come and when the update did come, the incident would appear to have been done and dusted and the person was in custody. So that would, again, remove the fact of it then becoming or it needing to become a firearms incident.

46. I'm aware that Inspector Stewart wasn't at his post at the time that the grade 1 call came in. So he was then subsequently informed that a grade 1 call had come in. Certainly within a control room setting normally you would have somebody taking over from you to relieve you for breaks, etc. If not, then nine times out of ten you would have a delegation process in place. So, if the inspector wasn't there and there was a sergeant in there possibly as a dispatcher, it may well be the case that there was a system that when you took

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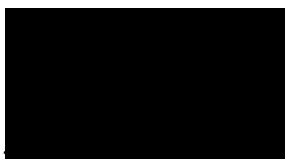
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a comfort break that you said to another member of staff “you’re in charge until I get back.” There should be some form of formal delegation process in place for that. In terms of whether the Inspector would have been required to have a handheld terminal on him during breaks, I’m not aware, going back to 2015, that there was anything available like that. But even if there was, how much can you do on a handheld terminal? You would need access to different systems, etc. And going back to 2015, the computer world, certainly within the police area wasn’t particularly fantastic.

47. I’m asked whether my views would alter depending on whether a firearms incident had been declared at an early stage, i.e. prior to the arrival of the officers at Hayfield Road, or if it had happened at a later stage, i.e., after their arrival. If it had been declared a firearms incident prior to their arrival, then they shouldn’t have gone, they shouldn’t have been sent to the scene. If it was then declared once they arrived on the scene and they saw the knife and then declared it as a firearms incident, then that changes because they’re already on scene and it’s very difficult for them to then fully withdraw from the scene without putting members of the public in danger. So, yes, the management and the response would have been slightly different if they were already on scene and then it was declared a firearms incident. It’s very difficult for them to actually then withdraw at that point.

48. I’m asked whether when Inspector Stewart became aware of the incident he could have cancelled the direction to the officers to attend the incident and to meet at a rendezvous point and await the arrival of an ARV. If the inspector’s assessment had been such that the officers were at risk and it would—required a firearms response, then, yes, that would be reasonable. I don’t think that was his assessment, therefore the deployment of officers directly to the scene to assess the situation was the correct course of action.

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49. I'm asked, in my opinion, had the incident been declared a critical incident, what difference, if any, would that have made to the outcome? It would've instigated the requirement of an identified bronze on scene, which probably would have been the APS. On directions of silver, it would have been Inspector Stewart. He would have made a tactical decision as to what he wanted to do, and then he would've instructed the bronze to instigate that action plan on the ground. So that might well have been set up an RVP, put units at the opposite ends of the road, etc. So that would have changed the command and the control of the incident would have started to be directed tactically by the silver, who would have been Inspector Stewart and the ACR. I'm asked whether this alters my views in any way? Would it alter in any way if it had been declared at an early stage, say, prior to the arrival of the officers at Hayfield Road? If it had been declared, then, yes, as I said, I would have expected probably a different response rather than, "Go to the scene and make contact with the individual." But it wasn't, so yes, I think what happened was the correct course of action based on the assessment that the ACR and the local officers made.
50. I'm asked if a declaration of a critical incident was made at a later stage, i.e., after the officers' arrival, would that alter my opinion? I think, again, it goes back to the same answer: it would have changed who was running that situation or who was running that incident. I would have expected some more formal direction from the control room to be implemented by somebody identified on scene as to basically be made the bronze at that point.

**Risk assessment: on route to the locus**

51. I'm asked about the risk assessment that would be carried out by the officers on their way to the locus taking into account the information that was known to them at the time, as to what factors were relevant to their assessment of risk to Mr Bayoh, the officers and the public. In terms of Mr Bayoh, it's difficult because we are dealing with four individuals who would all have perceived

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that situation in a slightly different way and would all have had different levels of information. So, from recollection, PC Walker mentions the severe terrorist threat, being aware of that and that being part of his thought process on the way there. So, again, dealing with Mr Bayoh, if you're thinking that that individual could be a terrorist and this could be a terrorist incident, again, that would change your perception of the level of risk and the actions that the individual might undertake as against somebody who was drunk, aggravated after a domestic disturbance or something like that. It's something different to deal with. It's a different outlook on what the individual might do. It's difficult to say what the risk to Mr Bayoh at that point was, other than the fact that the officers intended to find him, hopefully disarm him of the knife and then find out why he was in possession of the knife and why he was running around the streets at seven o'clock on a Sunday morning. So the initial risk to Mr Bayoh was reasonably negligible, I think, other than the fact he was going to come into contact with the police and have to answer for what he'd been doing.

52. In terms of the risks to the officers, the factors would include how many officers were actually attending, what was their availability, the size and makeup of Mr Bayoh, so he'd been described as reasonably tall, muscular, in possession of a weapon, a level of violence or aggressive behaviour towards members of the public, the fact that it was an open area, so it's difficult to contain, difficult to deal with individuals in an open area. So they'd be the initial five points that they would have to consider and, having considered all of those, I think immediately the officers would be looking at a high-risk definition of the threat level to them having to deal with an individual of that description armed with a knife in an open space. These factors are relevant to member of the public but I would add to that that members of the public aren't trained, don't have any equipment on them to deal with these individuals, so they would probably be at a higher risk than the officers would be.

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53. I'm asked how a reasonable officer's risk assessment would inform the tactical options which were available to them. The officer safety training they'd received should've kicked in and they should be thinking about the best practice around dealing with knife incidents, and looking at that creating distance, utilising cover and transmitting for relevant protection or trained officers and specialist equipment, should it be required. So I would have expected that to start forming part of their tactical decision, so things like not jumping out the van and running towards the person; but possibly staying in the van, locking the doors, speaking to the person through the window. If they come to the van, can you talk to them through the window? Because then you've got the protection of the vehicle – things like that. But you won't always be thinking around that, "I want to keep a safe distance." That "safe distance" is what we would normally say in officer safety, that arm and a half length. I want to triple or quadruple that. I want to be talking to this person from the other side of the street, if I can. I want to be able to — if I need to — get something between me and them, if they approach me. So whether that be a vehicle, bit of street furniture, a lamp post, something that I can use for protection. So you're looking at that side of it and dealing with the situation slightly differently than they would with a normal interaction or a normal stop with an individual, dealing with them far closer and probably all face-to-face or slightly off-centre.
54. The National Decision Model (NDM) is part of that risk assessment process. It works as a dynamic model just the same as it does for a pre-planned model, and that's the natural thought processes of the brain working around the system. The NDM can appear to be a little bit wordy, but it is a basic solution of, "What do I know? What am I considering? What do I think? What assessment am I making? What options are open to me to deal with this situation?", and considering all of these and then making a decision, but also then if it doesn't work or you get out and they don't do what you think they're going to do, "What's my next option?" Always having that plan B or that

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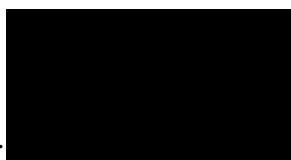
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second option available to you to continue that assessment process because it's not something you just do once, jump out the van, deal with it. You do it and then you make a decision, and then you might have to change that decision quite quickly and, on the hoof, because the first one hasn't worked, or you haven't had the response from that action that you think you were going to get?

55. I'm asked whether staying in the police vehicle would be an appropriate tactical option. I would say that knowing that other officers were en route that it is certainly a consideration. Probably not knowing how long the other officers were going to be, again, would have to be considered that as part of that. If you knew they were only a couple of minutes away, or if you knew they were ten minutes away or 20 minutes away, etc. The options open to the officers at the time were numerous, everything from stay in the vehicle, get out and engage, engage at distance, engage close up. It was all available to them. Other than laying those options out, it's very difficult to say which was the "correct option". The correct option is the one that they chose at the time based on the information that they had available to them. Whether that turned out to be the best option is the matter for discussion.
56. What is not evident from either the oral evidence is whether the officers talked about how they were going to deal with the situation if they found the subject. That would be standard practice. I wouldn't have expected them to be driving there together, not saying anything to each other or discussing what they were about to go and deal with, so I'm sure there was some discussion and some mutual "This is what we're going to do. I'm going to get out, I'm going to talk to him," etc., etc. So, I think that as part of that assessment process that decision had probably already been made before they arrived or as they arrived on scene and realised that they had Mr Bayoh in front of them.

**Risk Assessment: PCs Walker and Paton arrival at the locus**

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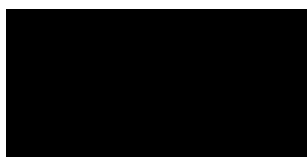


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57. In light of the information known to PCs Walker and Paton, I'm asked what factors were relevant to the assessment of risk to Mr Bayoh, the attending officers and the public. Certainly the fact that they can't see the knife shouldn't dissuade them from the level of risk that the person may still be in possession of it. How it might alter the approach or the choice of tactical option is the fact that, in some circumstances, being slightly closer to somebody who may be in possession of a knife allows you the ability to prevent that knife from being accessed. So sometimes the tactical option is actually better to be closer to the individual rather than further away. So this may have been something that they've considered within their approach, but during this time they're trying to maintain some distance with Mr Bayoh continually closing that gap down and walking towards them. So the fact that the knife wasn't visible shouldn't deter them or shouldn't detract from the level of risk that the officers were still perceiving or still probably under at that point. It may have just altered the fact of how they then dealt with him. In terms of Mr Bayoh's demeanour and behaviour, it's not unusual for people to ignore officers or ignore officers' commands. Obviously, that lack of response or that lack of compliance would then lift the level of officer response. Again, by somebody not doing what they're told, by their actions, by their actions and gestures, not specifically through words, but by their actions and gestures, are showing non-compliance to towards the officer. Therefore, that lifts the level of risk and lifts the level of response that the officer may well then go to.

58. Obviously, the use of verbal commands is a strong tactical option to use. The approach on this occasion seems to be more one of command and control of the individual by using loud verbal commands, rather than an engaged communication style trying to build a connection with the individual. So that, I think, again, was probably a predetermined approach that the officers had decided upon, that on identifying the individual they were going to try and control the scene, control the individual by using their dominance and their verbal commands as the first port of call in relation to tactical options. So I

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think we shouldn't diminish the fact that the knife wasn't visible. The officers would have still approached that situation as a knife incident until such time as it was proved otherwise.

59. I'm asked what conclusion a reasonable police officer attending this scene would reach in terms of a likely risk to Mr Bayoh, the officers and the public. When they've just arrived at the scene, there's no apparent information that Mr Bayoh is trying to self-harm or he's a threat to himself at that point. There's certainly a high level of risk to members of the public even though it's a Sunday morning, it's quiet and there shouldn't be that many people out, but any passing member of the public or anybody who comes into the proximity of that individual is at risk and quite severe risk of being attacked or being injured. The officers themselves have had to place themselves in that position of risk to deal with the situation. They are now at risk of injury and risk of attack by having to try and confront and deal with Mr Bayoh. So I think there's a high risk to the public, a high risk to the officers, but until such time as the officers have to engage or are forced to engage with Mr Bayoh physically, the risk to him at that point is reasonably low. I consider that Mr Bayoh is a risk to the officers as A) he's in possession of a knife, B) he's already approached members of the public, and attempted a flying kick at a car. That's not normal behaviour. It is behaviour that shows a level of aggression from Mr Bayoh. So all of that combined automatically makes him a risk to the officers. The officers are having to engage him because of his behaviour and the allegation that he is in possession of a large knife. So there is an identifiable risk to the officers.
60. A reasonable officer would have classified it as a high-risk situation. Their tactical options, accordingly, will be that they will not want to get overly close to Mr Bayoh unless they have to. The officers in this situation used an initial tactical option, after trying to use verbal commands to control him. This was the use of an incapacitant spray; this is designed to deal with subjects at a distance rather than close proximity. So again, the tactical option steers itself or lends

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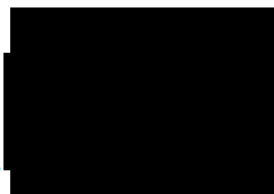
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itself to the fact that they're trying to keep Mr Bayoh at a distance whilst trying to bring him under control. I'm asked whether an appropriate tactical option would have been for the officers to remain within their vehicle and communicate with Mr Bayoh from there. It was certainly an option if they thought the risk to themselves was great enough to warrant not having physical contact with Mr Bayoh. So, it was an option, but it wasn't the option that they chose.

**Risk Assessment: PCs Tomlinson and Short arrival at the locus**

61. I'm asked about PCs Tomlinson and Short, in light of the information they had on arrival at the locus, what factors were relevant to their assessment of risk to Mr Bayoh, the officers at the scene and the public. In my view, the same factors apply as those mentioned for PCs Walker and Paton, the difference being here that they're now arriving with two other officers already engaged with Mr Bayoh. So that changes slightly the dynamic of the situation. There's now four officers, one subject. At that point, they're arriving as back up, they're arriving as support and there are now four officers to deal with the individual. So it changes their perception of the risk slightly, but then, again, if they then believed or perceived that either PC Paton or PC Walker had been injured or assaulted in any way by Mr Bayoh, that again would have raised their risk level or their threat level to the fact that an assault of some description had already taken place whether it had or not, or whether it was due to the fact that PC Paton had self-contaminated himself with his CS. I recall the evidence of PC Tomlinson that when he arrived at the scene, he thought that PC Walker had been slashed so that would raise his risk assessment of the situation.
62. I'm asked whether I would you expect an officer arriving at the scene, to transmit that information, i.e. that he thought an officer had been slashed, and seek medical assistance. In ideal circumstances, yes, it would be it would have been good for information to be put out to the other units arriving. However, in reality, the officer is now highly charged with adrenaline and is

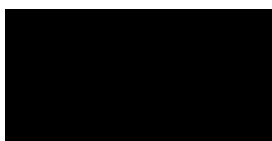
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having a stress-related response to seeing what he believes to be one of his colleagues as being slashed. I would have expected one of three options: he immediately engages Mr Bayoh to try and protect the officers from further injury; or that he goes to the aid of the injured officer; or he freezes and does nothing. They would be the three standard responses from an officer in such a high-stress situation, and as it was, I believe Mr Bayoh took that tactical option away from him because he started to approach PC Tomlinson from where he had been and was walking towards him anyway. So it took that decision process away from him. He now had to deal with Mr Bayoh.

63. I'm asked how the risk assessment carried out by PCs Tomlinson and Short on arrival inform their tactical options. In relation to PC Tomlinson, you've now got to think, if his honest-held belief is that another officer has just been slashed with a knife, whether he sees the knife or not, the level of force that he may be considering and the level of threat to himself and PC Short must be up there around a lethal level. He must be thinking that he and one of his colleagues could die in this situation. Therefore, the risk assessment is as high as it goes, threat assessment is as high as it goes, and therefore the level of force that he may be now considering as appropriate and necessary to stop this individual from assaulting him or his colleagues is going to be very high.
64. In relation to PC Short, I think the relevant factor to add to PC Short's assessment is her admission – both within her statement and certainly within her evidence that she gave – of her, to some degree, fear of knife-related incidents and knife-related attacks. She's a small officer. That has to come into the equation. Compared to Mr Bayoh, she's a lot smaller. She'd be a lot weaker in upper body strength. Her ability to possibly go one-on-one with him would be greatly reduced as against PC Paton or PC Walker, who are both reasonably big men. So that has to be considered in the fact of how she would

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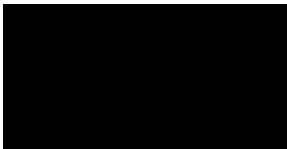
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perceive that incident as against any other officer or other officer at the scene. So she may have deemed herself to be at a greater risk because of that.

**Initial Contact: PCs Walker and Paton**

65. I'm asked to categorise Mr Bayoh's offender behaviour at the time of PC Walker and PC Paton's arrival at the locus. Mr Bayoh is displaying non-verbal resistance by his gestures, by the fact that he's not complying with the directions given by the officers. It would be classed, as per their training, Level 2. Or perhaps Level 2 stroking on Level 3 depending on where you are, but the fact that they are issuing commands, they're giving instruction to the individual and the individual is failing to comply with those instructions. When the officers encounter him at first, he's described as walking towards them with his palms open towards them. So they can't see a knife, they can see his hands although he could have the knife on his person. At that point he's actually Level 1, he's just walking towards them. As soon as they issue a verbal command, and then he fails to comply with that verbal command, then that raises it to Level 2, bordering on a Level 3. It would cause the officers to think what are the reasons why this person is not complying? Is it just because they don't want to or is it because they've done something wrong, they're in possession of something that they shouldn't have, therefore they don't want to engage with us and they don't want to allow the officers any tactical advantage to get close to them? So, it's already starting to raise the risk level to the officers because of that non-compliant behaviour.
66. Potentially it would also raise questions of whether Mr Bayoh was under the influence of drugs, alcohol, or was having some kind of mental health episode especially with the officer mentioning in his statement that Mr Bayoh looked "crazy". Obviously, it's not a descriptive performance, but making that comment should automatically be making the officers consider, "Is this person in a rational state of mind to be able to understand what I'm asking them to do,

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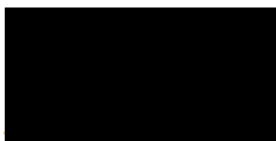


and also, actually, for that rational decision to comply with what I'm asking them to do?"

67. I'm asked what level of response is appropriate with Level 2 offender behaviour. The training analogy in Scottish police and using their force continuum, is set out in slides 18, 19 and 20 the OST theory powerpoint (PS17208) and module 1, section 8 of the Probationer Training OST course manual (PS11538 (a)). It works on the plus-one process so that the level of the officer response can be one above what the actual level of resistance or perceived level of resistance is from the officers. So, if you're looking at the officer response and they were to make a decision that tactical communication hasn't worked, so basically they've tried tactical communication by way of issuing verbal commands, that has not been successful, so even if you kept them at a Level 2 as a response from the subject, the officer response could then lead to Level 3, which would be control skills, and those control skills could include physical control skills by taking hold of the individual, or using an incapacitant or an irritant to try and control them. This type of approach and this type of continuum ladder hasn't been used in the UK for some time. Most forces have moved away from it because it does to some degree tie officers' hands in being able to arrive at the correct tactical option for a particular set of circumstances as they perceive them to be at the time. It is considered by a lot of people who are involved in training and officer safety to be too rigid in its approach and in its application, and it tends to be used by investigators and barristers to criticise tactical option choices irrespective of whether, in the level of law, it was appropriate, justifiable in the circumstances. This is sometimes used as a tool to contradict that. By 2015, a lot of other forces had moved away from this particular approach of getting officers to understand their tactical options and how they should account for their actions.

68. I am asked what tactical options would be open to a reasonable officer in these circumstances. Always taking into consideration the information intelligence

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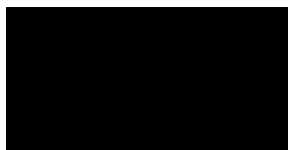
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that there's a knife involved, I would always look for the officers to try and deal with Mr Bayoh at a distance. Therefore, using a tactical option of possibly drawing a baton or deciding to move in and physically restrain him, I think, would have been an incorrect course of action. Continuing tactical communication or making a tactical choice to deal with him at a distance – i.e. possibly with an irritant spray, whilst maintaining that reactionary gap, that good distance from Mr Bayoh, was probably the best option at that point. Other tactical options open to the reasonable officer would include running away. If they honestly thought that he was in possession of a knife, get back in the vehicle, lock the doors. They haven't got much more really, other than what they might call a-- I think I raised it earlier, it's what they call a floating containment, whereby you would put a surround of officers around the individual at a distance and you would try and mirror their movements whilst trying to communicate, whilst trying to engage with them. Very difficult to do in an open space without a large number of officers and, again, it then puts more officers at risk of attack. The more officers you deploy to the scene, the more risk of officers then being injured from a knife attack. Updating the ACR, both for the benefit of the ACR and the officers on the way to the scene is certainly a tactical option that you would want to be doing. However, certainly in this particular situation, there was very little time between initial contact and deployment of a tactical option, and then the officers obviously ending up in a physical altercation with Mr Bayoh. If that standoff had happened, had lasted a bit longer, then yes, I would have expected one of the four officers to be giving some form of update, not just to the control room, but also to the attending supervisor who was coming as well, the Acting Police Sergeant.

69. If any of the attending officers didn't hear Inspector Stewart's transmission to attend the scene and report back, they would have been aware of the need to report back if they were able to do so; it's a standard process. You're not always able to, and also, if you're concentrating and your focus is on the situation and on the subject, remembering to do a radio transmission can

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sometimes slip. Looking at the timeline, that transmission from the inspector was literally as they were turning up on scene. So their attention, I would suggest, was more focused on having seen Mr Bayoh and then their whole focus is on dealing with him as they arrived, getting out of the vehicle, approaching and what to say, etc., and probably not on the radio. In the same ways, once they're engaged with Mr Bayoh, until such time as there is a natural gap or something in there, which would allow one or other of the officers to shift their focus from Mr Bayoh to using their radio, then yes, you would expect an update at some point, which is why I said earlier within the first couple of minutes of their arrival at the scene, you would expect some form of update, but this one developed so quickly from them arriving and getting out of the vehicle. I don't think there was either the opportunity or the ability for them to shift their focus from Mr Bayoh to considering updating the control room.

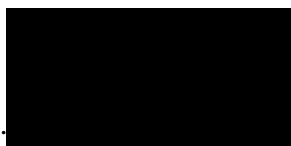
70. The tactical option used by the officers on their arrival at the scene was a reasonable one in the circumstances. Once they'd had the non-compliant action from Mr Bayoh and he wasn't responding to the verbal commands, certainly drawing and considering the use of incapacitant was a viable tactical option. Especially in light of the fact that there was a weapon suspected or believed to be in their possession. As I said, keeping that distance and dealing with them at that distance is the appropriate thing to do. I'm asked specifically whether this is the case, if on initial arrival, Mr Bayoh was not behaving in a threatening or aggressive manner. I don't think it does make a difference, based on the information that the officers had. At that point the officers had all of the information: at least three individual sightings of the knife and a description of the knife, his size. Although Mr Bayoh was non-threatening and hadn't actually done anything at that point, I think the immediate control of him under those circumstances was the officers' prime objective to prevent anything worsening quickly, i.e. him drawing a knife, running away, injuring or possibly attacking a member of the public or something like that.

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71. I'm asked whether it is of any consequence that, at the point of that initial contact with Mr Bayoh, he had not been positively identified as the subject that the officers were looking for. I agree that Mr Bayoh had not been positively identified. I think the officers made the assumption that he was the individual concerned in that situation based on the description and the location. So there's a possibility it's not him, but I think taking everything into consideration, they've got reasonable grounds to believe or suspect that that individual is the person who they're looking for and, given the risk level, if he is the individual, they have to use suitable control measures to be able to deal with Mr Bayoh in those circumstances.
72. I'm asked about stop and search procedures and whether they would be appropriate for use in these circumstances. If you suspect an individual is in possession of a knife, you're more likely to approach that individual and detain them and control them prior to search. You're not going to increase the risk to yourself by standing back and saying, "Excuse me, sir, we think you might have a knife," and allow them the ability to draw that weapon and then possibly use it on you. I've dealt with similar situations where you've got reasonable grounds to suspect an individual is in possession of a knife, you will go in, you will detain them and restrain them and then search them for the weapon that you believe that they're in possession of.
73. I'm asked to categorise and comment on the responses by PCs Walker and Paton at Hayfield Road and, to what extent, if any, the responses differed from that of a reasonable officer. The officers approach was quite authoritarian, but I can understand the reasoning behind that, wanting to try and control the individual – the verbal dominance approach of communication, we call that. It's a methodology of trying to dominate the individual, get them to comply with your instructions to minimise the risk, or minimise the requirement to possibly use other force. It works quite well in a lot of circumstances, but in certain circumstances it doesn't work and it

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actually, if anything, can aggravate the situation. In this situation, with the demeanour and what we now know about Mr Bayoh's previous behaviour earlier in the day, it's my opinion that it probably wouldn't have worked with him and would, if anything, just wind him up. But obviously, the officers weren't aware of that, so their chosen tactical option, probably wasn't the best at the time. Possibly a softer communication approach might have gleaned a delay or a slightly different response from Mr Bayoh, but obviously we'll never know that. I can see and understand why the officers made the decision to try and verbally dominate him, considering the fact that they believed he was in possession of a large knife, and with the location they were in and the whereabouts of members of the public, I can totally understand why they chose that tactical option.

74. I would suggest, at the initial contact, the link to the alleged behaviour, which is to some degree unusual or bizarre, which is a factor, and the staring comment about him looking crazy – staring, bulging eyes looking through you – I would suggest that a reasonable officer would start to put two and two together and consider drug or alcohol intoxication or possibly mental ill health at that point. I don't think there's sufficient there, at that point in that initial contact, for the officers to make the link to ABD or excited delirium, because they haven't got a lot of the other trigger points or warning signs or warning points that would associate to ABD / excited delirium.

75. I think it's also relevant at that point, I'll refer to slide 26 of the OST theory PowerPoint (PS17208). The bullet points used to identify a person displaying excited delirium are somewhat misleading compared to what we would now give as a list of behaviours from somebody possibly suffering. I mean, the primary one is "A person may exhibit violent behaviour in a bizarre and manic way." At that point, other than taking a flying kick to a car, there hadn't really been any violent behaviour, so that hadn't really materialised. The others are:

- Constant, purposeless, often violent activity

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- Meaningless speech and hallucinations with paranoid delusions
- Abnormal strength and pain tolerance
- CS may not work

The first two are not really demonstrated at that point of the officers initial contact "Abnormal strength and pain tolerance" was not displayed until they used batons, and then they tried to restrain him. "CS may not work" – again, this wasn't apparent until they tried it. So at that initial point, other than the fact "This person's looking straight through me, he's looking a bit crazy, and doesn't look like as if they're all there," then those three things would point to me to this person may be suffering mental illness, maybe drug or alcohol induced issues. I would expect them to be considering that but not, at that point, excited delirium or ABD.

76. I'm asked to categorise the response of Walker and Paton. It's initially a level 2 reasonable officer response (communication skills): They made the decision to try and deal with the individual using strong verbal commands which then escalated as per their training under the CUT mnemonics, creating distance, and using the cover of CS or PAVA at a distance, using that control skill of the incapacitant to try and prevent the person from encroaching on their space, complying with their commands, stopping doing what they're doing basically, and take that ability for them to resist further or increase their level of resistance against the officers. So yes, there is some tactical choice based on the situation that they found themselves in.

77. I'm asked about the evidence of PC Paton in which he addresses the possibility of an alternative course of action, namely parking in Gallagher's pub car park and waiting for the arrival of an ARV, and just observing and monitoring Mr Bayoh and providing feedback to the ACR and whether this would be an appropriate course of action. Yes, I think it was certainly a course of action that, if they've considered it, was appropriate, the issue being, as I said earlier, the fact that there is still a danger to members of the

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public. So they may have decided that's what they wanted to do. However, if they had, either the control room or the supervisor could have directed that they search the area for the subject.

**Initial Contact: PCs Tomlinson and Short**

78. I'm asked to categorise Mr Bayoh's offender behaviour at the time that PCs Tomlinson and Short arrived at the locus. I think at that point, PC Tomlinson was probably not aware of the fact that incapacitants had been deployed. PC Tomlinson certainly was under the impression or believed that one of the officers had been attacked, so that would have been an assaultive resistance or serious or aggravated resistance. We're at the top level here: we're at 5 or 6. I would say if he's honestly believed he'd been slashed with a knife, we're looking at Level 6. Therefore, the officer's response, based on his training, could well be a Level 5 deadly force response.
79. Obviously, those officers aren't equipped with anything that should deliver deadly force. They're not armed officers, so what we are then looking at where deadly force may be applied would be the application of force to target areas that would carry a much higher degree of risk of serious injury. So that could be headshots, it could be strikes to the throat area or something like that, which wouldn't be normal target areas for officers trying to utilise their officer safety skills. PC Tomlinson speaks to hitting Mr Bayoh in the head with his baton which is a Category 6 response. He believes there has been a Category 6 profile behaviour, so he's looking at this person has just seriously assaulted one of his colleagues, and there are aggravated resistances: the fact that Mr Bayoh punched PC Short to the head, and knocked her to the floor. He does actually say in his evidence, that he thought he had killed her. So there you've now got his belief that one officer has been killed by being punched and knocked to the floor, and another officer has been seriously injured by being slashed, believed with a knife, he now has that top level resistance from the

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individual and, therefore, based on his training, could consider a tactical option that may be considered as having the potential to create deadly force.

80. In light of the actions that had already been taken by PCs Walker and Paton, I'm asked what tactical options would be open at that stage to a reasonable officer arriving at the scene. I'm unsure whether PC Tomlinson was aware that PAVA or CS Spray had been used as a tactical option. PC Tomlinson actually chooses that as his first tactical option. Again, I would suggest, that the same process of thought is going through his mind: "If I want to keep the person at a distance, I want to be able to deal with them away from me because I believe they may be in possession of a knife, etc." Therefore, his tactical option choice has been PAVA. So, if he had known that PC Walker and PC Paton had already deployed incapacitant spray and it had failed, he probably wouldn't have chosen that as a tactical option, he would have gone for something else. He would have probably gone straight for his baton but, as it was, he'd gone for what he thought at the time was the best tactical option. So it was very similar to what PC Paton and PC Walker had: stand back, create distance, try and communicate, utilise cover if necessary, get back in the van, run away. That was exactly the same set of options to them, and his choice of tactical option of PAVA was, again, a relevant and correct choice based on the information that he was in possession of.
81. On a related point, PC Tomlinson does a demonstration during his evidence of the spray stance. PC Paton does this also, but PC Tomlinson is asked a direct question in relation to the outstretched hand, being that it's a bit of a rangefinder and a targeting thing. The main reason why we get officers to put their outstretched hand out with a flat hand is because it's the international sign for stop, and officers with that, even if the verbal commands aren't going through or the person doesn't understand what you're trying to say to them, that means "Stop, don't come any closer." If they're not taking any attention of the non-verbal cue, the fact that the officer has drawn a piece of equipment

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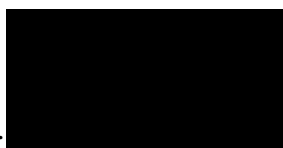


and is threatening to use it and are not responding to the verbal commands, this is all lifting the level of resistance, because they're now not responding to three forms of communication: the non-verbal cue, the verbal cue and the active threat of the piece of equipment.

82. Therefore, that level of resistance now is climbing incrementally and, as I said, this is one of the problems about using these levels. There are lots of crossovers with people's actions across these levels but, at that point, you've now got three distinct non-compliant elements to Mr Bayoh's behaviour: closing the gap; refusing to comply with the verbal commands; not taking any notice of the non-verbal cue of the hand out saying "Stop, stay where you are," or the threat of the CS and PAVA being drawn and pointed in his direction. There's four things that he's not taking any notice of. So I think that overall level, it's quite difficult to say but, we're past passive resistance now. We're not just not doing what we're being told, we're now actively approaching, actively encroaching on the officers, not listening to what they're being asked to do, not responding to the non-verbal cues. So we are climbing that ladder quite quickly.

83. In terms of PC Short's response, in her evidence she speaks to hearing the warning regarding the PAVA/CS spray being given and then seeing the spray deployed. She then heard PC Walker saying "It's not working". I would have expected her to then choose a different tactical option to what had already been deployed. So for her, that's basically her baton, or be prepared to use her empty hand tactics to defend herself or try and restrain the individual. So I would have expected her to draw her baton. In terms of other tactical options available to her, she could have transmitted an update to the control room, which would have again instigated a review of the deployment required. It would also have informed other officers coming to the scene that it had been deployed. So it helps them prevent becoming cross contaminated, but also would inform their choice of tactical option on their arrival. Depending on

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her then-perceived level of risk to herself, she may have decided to, say, get back in the vehicle, irrespective of her duty of care to her colleagues. She may have decided that or she may have decided to back away and move away from the individual because of her fear of attack. So any of those would have been open to her.

84. I'm asked what factors are relevant and material to my assessment of those options. The risk factors are there and these are being added to as we go forward: the fact that now you've got the non-compliance; you've got the non-effect of the incapacitants; the fact that the individual is now being seen visibly to be wide-eyed, clenched fists, a lot more non-verbal communication; but also the fact of each of the officers' explanation as to the demeanour of Mr Bayoh being wild, crazy, bulging eyes, etc. All of this now is adding to the fact that this individual is probably in an irrational state, maybe under the influence of drugs or drink or both, maybe suffering from some form of psychotic episode or mental ill health issue. As you relate to the fact that police officers aren't medical experts, it's just about identifying these warning signs and putting the pieces together. The fact that this person is not just a violent individual, there's something behind it that's causing this episode, causing this level of resistance and this level of violence from the individual. Referring back to the list in the OST Powerpoint in relation to symptoms of excited delirium – you've now added that to the mix, the fact that incapacitant's not working on the individual. Whilst there are individuals within society who it doesn't work on, it's usually about one in ten, and in all the years I was a police officer, I only ever came across two in the community who were not responsive to CS and PAVA. It usually has quite a good success rate. Therefore the officers should be putting the pieces together and at least considering that ABD/Excited Delirium could be a factor in Mr Bayoh's behaviour.

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85. In relation to the tactical option of withdrawing to a vehicle or a place of safety, I think the main issue you have got to consider is, certainly for PC Tomlinson, he believes he's now got an injured colleague who's been slashed. Human nature will push him or would push him to try and intervene and make a difference in that situation to try and protect the officer, but also trying to control and restrain the individual concerned – the suspect who, he believes, has done that act. So whilst yes, that option to withdraw, that option to get back in the vehicle or etc. is a viable one, I think you've got to look at the situation as a whole as PC Tomlinson probably saw it. There's a likelihood you would increase the risk to yourself by trying to decrease the risk to somebody else, if that makes sense. If he thinks that there's a vulnerable colleague there who's already injured and is possibly going to be attacked again, then you would place yourself as the control measure between that vulnerable person, the same as you would do with a member of the public. You would try and put yourself between the member of the public and the risk. So I don't think it's something that probably even crossed PC Tomlinson's mind. PC Short, on the other hand, as I said, that may have been something she considered, and as it was, she tried to distance herself from Mr Bayoh after Mr Bayoh approached PC Tomlinson. So I think she'd already made that decision and she wanted to stay as far away from him as possible and was not comfortable engaging him, and I can understand that given her size, demeanour, body strength, etc. and her capabilities to be able to probably successfully deal, certainly one-on-one, with Mr Bayoh in those circumstances.

**Assault of Nicole Short: Hypothesis 1 - punch to back of head (no stamp)**

86. In the hypothesis that PC Short was punched to the back of the head but that there was no stamp, I would categorise Mr Bayoh's offender behaviour as serious assaultive behaviour. The punch and the other impact factors, taking into consideration, the comparison between PC Short and Mr Bayoh size-

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wise, strength, etc. It would definitely be classed as a serious assault, certainly assaultive resistance, if not serious or aggravated resistance. We're looking at level 5, level 6.

87. I'm asked what impact would that behaviour have on a reasonable officer's assessment of risk. I think, if they witnessed that or believed that to have taken place, the level of risk for them, again, is that Mr Bayoh is now a major risk to any officer that's in the area, and obviously that risk also has to pass onto members of the public. So any member of the public in the area may well also be assaulted by Mr Bayoh. The appropriate level of response includes the use of the defensive tactics; so you're looking at strikes, you're looking at the use of batons, the use of incapacitants, the use of restraint techniques; that physical approach to dealing with that risk. That's the case, even if you put it at Mr Bayoh's behaviour at a lower level at level 4.
88. I'm asked what tactical options would be open to a reasonable officer; this would be anything within the arsenal and the defensive tactics I have described above. So you're looking at the use of batons, the use of empty-hand tactics which would include restraints and strikes, the application of handcuffs, the use of incapacitants sprays. Although some had been tried and found unsuccessful, any of these could have been used by any of the officers on scene and involved in the incident.
89. I'm asked to categorise PC Tomlinson's response to the assault, in terms of him striking Mr Bayoh on the head with a baton, and to indicate whether his response differed from that of a reasonable officer in those circumstances. I think we must look at what PC Tomlinson's perception was at the time he delivered the actual strikes to the head. He, having seen PC Short knocked to the ground or punched to the ground as he describes it, he said he believed that PC Short had been killed. So if that was his belief at the time and he believed that deadly force had been used by Mr Bayoh on PC Short, his

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proportionate and appropriate level of response – could be the use of lethal force to prevent that from happening to another officer or a member of the public. The baton strike to the head would certainly be considered as a defensive tactic. I made a reference in my report in relation to their training around understanding the medical implications of strikes to different parts of the body. The general training would normally indicate that strikes to the head and strikes to certain other parts of the body are carrying a much higher risk of serious injury and a potential death. So that would be a consideration for PC Tomlinson in his decision to strike Mr Bayoh to the head.

**Assault of Nicole Short: Hypothesis 2 - punch to back of head, followed by stamp(s)**

90. I'm asked about a second hypothesis that Nicole Short was punched to the back of the head, followed by a stamp or stamps, as demonstrated by PCs Walker and Tomlinson in their evidence. I'm asked to categorise that offender behaviour. It certainly would indicate a sustained and prolonged attack on the officer. Even if the blow to the head and knocking her to the floor may not cause or may not be considered it could cause serious injury, obviously stamping on an individual who's helpless and on the floor greatly increases the risk of internal injuries to the spleen, the kidneys, the liver, etc. So, there is a possibility that that could cause not just serious injury, but possibly death to the individual who's been stamped on the floor. So would result in the reasonable officer assessing a high level of risk. Consequently the level of response which is appropriate, with that hypothesis, could be reasonably high. There wouldn't be any issue with using a level 4 response as they would be trained, and they would describe it as defensive tactics. So that could be anything from using their baton, using CS and PAVA, restraints, trying to apply handcuffs and pull a person away. What I would say in situations like this, we tend to revert to type and we use tactics that may not have been trained from the manual or from officer safety training. This should be highlighted during training as to effects of stress. The front of the manual

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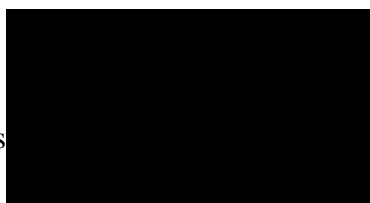
does however contain a paragraph that mentions this and the fact that this in itself does not make the action unlawful.

91. I'm asked to categorise PC Tomlinson's response to the assault, in terms of him striking Mr Bayoh on the head with a baton and to indicate whether his response differed from that of a reasonable officer in those circumstances. PC Tomlinson's response was a reasonable one in these circumstances. I think you've got more justification for the use of a higher level of force than in hypothesis 1 because you're getting more assaultive behaviour occurring - blows to the head; serious injury; possibility of death; being stamped on the floor; risk of serious injury; possibility of death; internal injuries, etc. If those added stamps were to be delivered by Mr Bayoh, then the level of force used by officers to prevent that from continuing would be of a very high level and could be considered by the officer as the application of deadly force, whether it caused a death or not.

#### **Restraint - taking Mr Bayoh to the ground**

92. I'm asked to categorise Mr Bayoh's offender behaviour at the point of him being taken to the ground. I would describe it as level 4/level 5, depending on just how serious it was in terms of blows to Nicole Short i.e. which hypothesis was correct. Level 5 is assaultive behaviour and sits above level 4 which is active resistance (no assault or attempt to assault). Level 5 is where the subject physically assaults or attacks the officer. Therefore both the punch and the stamp fit this definition. However the injury potential of the stamp could be deemed as higher and under the NDM would increase the risk even further. As explained in relation to hypothesis 1 and 2, this would cause the reasonable officer to assess a high level of risk. A level 4/level 5 response would be appropriate. In terms of options available, the option of taking Mr Bayoh to the ground and restraining him was an appropriate tactical option. At the end of the day, what you're trying to prevent is further assault, so the

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fact that the subject has punched another officer and has knocked them to the ground, that takes that officer out of the equation in relation to assisting in the restraint of that individual. Officers are trained that the safest and sometimes the best place to deal with resistive individuals is the ground. It has many benefits, not least of all giving a stable platform for the officers to work against, but also acts as basically like a third officer, or an extra officer, by giving that flat platform for officers to push against and restrain an individual against.

93. In terms of other options which might be open to officers in this situation, the only other way of actively trying to deal with Mr Bayoh would have probably been the use of multiple strikes to gain compliance in other words, strikes to dysfunction his limbs, strikes to dysfunction his legs and his ability to fight and resist, and then take him to the floor. Backing off from the situation at this point would not have been an appropriate option. Not with PC Short incapacitated on the floor. I think at that point they had to some way protect her. They hadn't distanced Mr Bayoh from her on the floor to prevent further injury, so that would have meant some form of physical contact, whether that had been with a baton, pushing him away, trying to get between him and the officer on the floor but I think that would have been their prime objective, to try and protect PC Short on the floor.
94. If the option of using batons had been selected, I'm asked what difference might that choice have made. I think, if that was the case, irrespective of the final outcome of the incident, I think Mr Bayoh would have sustained some serious injuries from the baton strikes around his upper body and probably his head under the circumstances of one or possibly two officers using their batons in that situation. I think the risk of injury is obviously more substantial from being struck with a metal baton; there's a risk of broken bones. If there were further head shots to be delivered, then those headshots could quite easily cause serious concussions, compressions, brain injuries, etc. So the

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risk of serious injury from a number of baton strikes, I would suggest, are far greater than the expected injury potential of taking someone to the floor and restraining them on the floor. The techniques that officers are taught are specifically designed to lower the risk of injury by using multiple officers to control the limbs, and therefore reduce the ability of that individual to injure the officers and injure themselves in that situation. It looks unsightly, it looks sometimes over the top, but it is designed specifically to try and reduce the risk to the individual as well as the officers.

95. I'm asked to comment on the response by PC Walker, in particular, in relation to how his response differed from a reasonable officer in terms of the method in which he took Mr Bayoh to the ground. Whilst the tactic used by PC Walker isn't textbook or possibly within the manual, it's a method that's used regularly by officers in the heat of the moment to just take people to the floor. The risk of it is it can sometimes cause secondary injuries to the individuals, to the subjects, in relation to them hitting their heads, sometimes putting their hands out to protect themselves and breaking and dislocating elbows and shoulders and things. But that's the officer's decision to get them to the floor as quickly as possible with a view to then being able to control the limbs and the head, and then eventually restrain that individual, either mechanically or physically, by the use of multiple officers. PC Walker didn't have his baton in the first place, so that basically took one of his tactical options away from him. He later picks one up, which I believe was his colleague's baton but he did not use this to attempt to control Mr Bayoh. I would suggest if he had used multiple baton strikes at this time the injury potential would have been quite high as they would most likely have been upper body and head strikes. Having decided not to use the baton his tactical options at that time were limited other than what we call going "hands on" and having to try and restrain the subject. He didn't really have a lot left in the toolbox to be able to use on Mr Bayoh.

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96. There's no such thing as an approved technique. What there is a list of options for officers to utilise which they have been trained in using. That does not, under law, negate that anything else that they do would be unauthorised or be unlawful at the time. I often give the analogy of many years ago where I was dealing with an armed suspect who was in possession of a firearm, and I basically ran him over with my car; and at the time, I believed I was in mortal danger of being shot because the person was carrying a firearm and was standing in front of me, pointing the gun at my car. I'd never been trained to do that; I'd always been told not to try and run people over in police cars, but it was the only thing I could consider doing at the time. It did not make my actions unlawful or unreasonable in the circumstances as I found myself in. Therefore, officers who revert or do things that are outside of their police training, does not automatically indicate that that person has done something unlawful or incorrect. It must be looked at in the circumstances to as how the officer found themselves and believed them to be in and their perceptions.
97. Therefore, terminology like "approved hold" or "approved technique", I think, gives the misleading impression that an officer is only allowed to do those things, and if they do anything that isn't in the manual or hasn't been taught to them, that they're automatically in the wrong. So, therefore, it's not a terminology I would use. Therefore, the fact that an officer has done something that was outside of their police training shouldn't automatically cast doubt on whether or not that was a lawful action or not. We must look at it in the rule of law and not the fact that this particular tactic or technique that was used does not appear in any manual and does not form part of the police officer's training. A number of officers and a number of people have other interests, have other things that they do. Some officers are trained in martial arts, so if they were to use a martial art technique to incapacitate somebody, that would not make that automatically unlawful, it would just mean that they've reverted to something that they know how to use and are very comfortable with. As long as that is proportionate and reasonable in the

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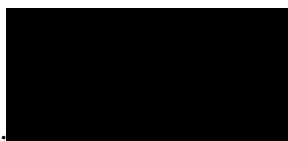
circumstances that they found themselves in, it would not make it an unlawful act. So we must look at it under the guise of the law rather the guise of “this does not appear in the manual” or “this was not trained”, that the officer was not trained in how to do this. So I think that that analogy must always be borne in mind when we look at somebody doing something outside of their police training, rather than “this is automatically incorrect or wrong; they shouldn’t have done it.”

98. I’m asked about the method in which PC Walker took Mr Bayoh to the ground. As I understand it one description of is that he shoulder charged Mr Bayoh. The other description is that he brought him down in a bear hug. I’m asked to comments on these methods of bringing Mr Bayoh to the ground. They’re both actions that I could see an officer attempting to either shoulder charge and shove the person out of the way, or wrap their arms to prevent them from using their arms. At this point, the officers may still be considering that Mr Bayoh may be in possession of a knife. So they may want to try and wrap his arms to take his arms away from him – or his ability to draw weapon – but probably my primary thought process would be to get him away from PC Short; and then my second one is, hopefully, to try and get him on the ground so that we can start that control process in a slightly easier and safer environment.

**Restraint: position of Sheku Bayoh; duration; number of officers involved; use (and position) of force and bodyweight applied to Sheku Bayoh: hypothesis 1 – prone restraint**

99. I’m asked about Mr Bayoh’s offender behaviour during the restraint specifically in relation to the hypothesis of Mr Bayoh being in the prone position. Again, he’s actively resisting the officers, so he’s a minimum of a level 4 at this point. He’s trying to get off the floor; he’s trying to pull his limbs away and does pull his limbs away from the various officers during the restraint. On this point about the difference in perception of body position, I

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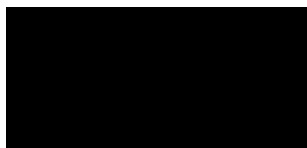


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very rarely have dealt with one of these incidents or restrained an individual where they've stayed in one position throughout the whole of the attempted restraint. Certainly, with the descriptions of the officers concerned of him bench pressing and pulling his arms around and wriggling around on the floor, I would suggest – and seriously consider – that he has probably been in a number of different positions whilst on the floor when the officers have attempted to restrain him. Some of those may well have been on this front; some of them may well have been on his back; some of them would probably been on his side. So he's probably being seen by different individuals, at different times, in all of those positions. Whether he stayed in that one position for the whole control period – I very much doubt that that's been the case and that he has moved from position to position whilst the officers have attempted to control him.

100. But yes, all of the descriptions of the different positions and the different actions of Mr Bayoh during the attempted restraint would certainly say level 4 of active resistance – even, to some degree, there's some comments in relation to him kicking out with his legs, or pulling his head back, which, if perceived by the officers, could be perceived as assaultive resistance whereby he's trying to actively assault the officers who are attempting to restrain him; but I'd say a level 4 as active resistance. Basically, he's trying to prevent himself from being controlled and restrained on the floor.
101. I'm asked what impact does that have in terms of the officer's assessment of risk and their response to the situation. Until such time as they have him under full control – and that means both arms and the legs and, to some degree, the head is under full control – and that person is then being placed either into some form of physical restraint, i.e., somebody is holding onto that particular limb, or they've been placed in mechanical restraints, i.e., they've got handcuffs on, they are still a major threat to the officers because they can break free at any time. So that continued resistive behaviour from the subject

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would have to be met by tactical options from the officers that will eventually achieve the goal of them being able to place him or them in restraints, whether that be physical or mechanical. There's various things that are taught to officers in relation to being compliant, joint locks, use of handcuffs, compliance techniques, etc., that can assist in the eventual restraint of that individual.

102. I'm asked what impact Mr Bayoh's behaviour would have had on a reasonable officer's assessment of risk. It changes from the different positions. So, on their front they have the ability to push up, this bench press position; it sometimes makes it easier for them to get up onto all fours and then eventually off the floor. Obviously, if they're lying on their back, there's a risk of them then biting or spitting at the officers because they're facing up towards where the officers are. It's also easier for them to kick out if they're lying on their back; they can lift their legs and kick out in that position. So there's different risks from different positions. In relation to the risk to Mr Bayoh, there's quite a lot of emphasis put in training on persons being restrained in a prone position. However, the actual prone position is not the issue; the issue with being in the prone position is, if then force is applied to the individual, that prevents their ribcage from expanding or prevents their diaphragm from moving in relation to their breathing mechanisms. So the actual prone position, in itself, is not a greater risk to the individual; it's the impacting emphasis of then if there's additional weight placed on the individual, i.e. an officer lies across the back of the individual or their arms are restrained in a position whereby they can't raise their shoulders. So that's the only really increased risk in relation to prone restraint.

103. Some experts may disagree but, having dealt with many restraints where the person is restrained in a prone position and come out of the restraint with little or no ill affects , the actual position of being prone is not the major issue here. The issue is the additional features of the weight being placed upon them, or

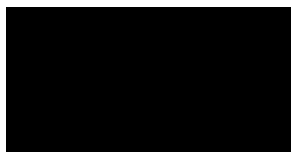
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their inability to move their abdomen, and therefore their diaphragm being unable to rise and fall into the ribcage. Once the person is in restraint and say placed in handcuffs, there is a push for officers to try and restrain the individual on their side to release that pressure on the rib cage, and release that pressure on the abdomen, which then allows the diaphragm to move more freely. So there's distinct difference between the control phase of such an action and the actual restraint phase. The best way to describe it is a first aid recovery position – that's what you're trying to hold them in –officers are shown how to hold an individual, even if it takes three or four officers to hold that individual in that position. However, that can only be done once it is safe and practicable to do that. So the individual does have to have some form of restraint placed upon them before that position can be achieved and safely maintained.

104. I'm asked about my comments on the length of the restraint and the number of officers involved in the restraint. I understand the Inquiry has heard evidence that, from the CCTV it appears that Mr Bayoh is on the ground at 7.21.13 and then there's an activation from PC Tomlinson's emergency button at 7.21.19. I understand that PC Tomlinson gave evidence in the inquiry that Mr Bayoh was on the ground by that point. Thereafter, at 7.21.38 PC Smith transmits: "Male secure on the ground." 7.22.24, PC Walker transmits: "Male in cuffs. Still struggling." I understand that the first officer to restrain Mr Bayoh was PC Walker. He was quickly joined by PC Tomlinson, then PC Paton, then PC Smith, then PCs Gibson and McDonagh and, finally, PC Good. The restraint is continuing until 7.25.17, in which PC Smith transmits: "This male now certainly appears to be unconscious, breathing, not responsive. Get an ambulance for him." I understand the Inquiry heard evidence that by that point handcuffs and leg restraints had been applied. He's obviously still restrained at 7.29.30, when Sergeant Maxwell transmits: "This accused is now not breathing. CPR is commencing."

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105. There is no specific timeframe placed upon a restraint. Again, the difference between the control phase and the actual obtaining full restraint of the individual needs to be heightened, needs to be explained. The majority of the time during these sorts of incidents is taken up attempting to gain control of the limbs and place the individual in a position where they can be safely restrained, whether that be the application of handcuffs or the application of lock restraints, physical restraints on them and also leg restraints, if necessary or if considered required.
106. So, this particular incident, the actual restraint from the person being taken to the floor, the control phase, and them then being placed in handcuffs, although to the front, and in leg restraints or leg straps, or "fast straps" as the officers there refer to them as, was around four minutes, which is not an excessive amount of time, based on my review of this type of incident and this type of restraint. I have seen restraints last seven, eight, nine minutes, or attempted restraints last much longer than four minutes, but I've also seen them completed in a couple of minutes. The main factor here to consider is the level of resistance being offered by the individual, the capabilities of the officers in being able to actually apply the different types of restraint holds, obviously, size, weight, et cetera, all of these impact factors come into play when looking at whether or not the time period was reasonable based on all of those factors. But there is no set time, like, if it's not done within five minutes you should disengage. Disengagement comes for one of three reasons; you are unable to control the individual and you might then decide on other tactical options which, in this case, had already been attempted and failed; the officers become so fatigued that they are unable to maintain the control of the restraint that they are attempting; or that the subject actually overpowers the officers and manages to actually disengage from the officers by either getting up or rolling away from them.

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107. But the simple answer is there isn't a set time within training. What is heightened within training is that it should be completed as soon as practicable and once the restraint is applied and it is safe to do so that individual should be moved from the prone position as soon as possible. It's a safer option having a restrained person on their side. As explained, when they're on their back, even if they are handcuffed, they can still spit, they can still attempt to bite officers. Even with leg straps on, it's far easier to lift your legs up forwards from a supine position than it is to do any damage from a prone or a side position.
108. In terms of the number of officers involved in a restraint, a standard restraint or multi-officer technique that they're taught during training looks at adding officers on the various limbs as the restraint process continues. So the first option would be to restrain both arms, so there's two officers, at least one officer on the legs, so there's three officers, and then normally another officer would go to the head, would control the head and would then become that monitoring point to keep a check on the subject. So the minimum that we would suggest for such an activity would be four. It is, however, not unusual to see five, six or even seven officers engaged in such a restraint. You will sometimes see that if they're particularly strong you may need two officers to maintain control of the legs. It may need more than one officer to assist in restraining the arms and then obviously you would hopefully have an officer coming in and assisting in the application of handcuffs and assisting in the application of the leg restraints. So four minimum, five's not unusual, six is not unusual, anything more than that and then we start to look at officers getting in each other's way and actually hindering the restraint process rather than actually helping to achieve it.
109. In relation to an officer being at the head and monitoring the subject, I'm unsure of the practice in Scotland in 2015. That section of the handout has been redacted and I've not been given any access to that side of their training. Standard practice across the country, which included Scotland at the time. I left at the end of 2012 and certainly then the use of a head control and the use of

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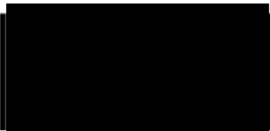
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leg control was a standard part of what we would class as multi-officer restraint or sometimes referred to as “prisoner relocation tactics”, so team tactics employed, as I said, a minimum of four, sometimes five officers, and one of those roles would be head control - not so much head monitoring, but certainly head control. I would say that the understanding has to be about where they are in the process. The control phase can be two, three, four, five minutes long and then once they get that individual in restraint – whether that be physical or mechanical – then the adrenaline, the stress levels start to drop, officers start to recover their breathing. Until you’ve actually physically been involved in what could technically be described as a four, five-minute struggle, it takes a while for the heart rate to come back down, for officers to be able to start thinking about other things other than what they’ve just been involved in – but the monitoring bit, unless there’s somebody outside of the actual physical restraint, takes that role. It’s not really until the person is physically restrained when this monitoring process is capable of being done, and the officers on scene can actually then start to look at and monitor the individual they’ve been dealing with.

**Restraint: general**

110. I am asked to comment at all on the force applied to Mr Bayoh as he lay on the ground. I understand there is evidence, which is in dispute, that PC Walker lay across Mr Bayoh’s back. I have viewed the following still images, **PIRC-04247** and **PIRC-04248** and snapchat video footage PIRC 03371 and PIRC 03370. The still images are not particularly clear. I believe I’ve seen them before; I’ve seen some of the stills from the reconstruction originally done by the investigators. In the image, PIRC 03379 I would say that’s probably an officer lying across the legs. That’s the standard position you’d lie at 90 degrees to the subject’s legs, wrap the legs up and put your upper body weight across the legs and it’s also the standard position for application of straps. Overall, It’s very difficult to tell from those stills and video clip and I made a similar comment

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within my original report. And it's also very difficult to see the actual body position of Mr Bayoh on the floor. What I would say is that the configuration of the other officers appear to be more upright other than the one that appears to be lying across his legs. So they would appear, from those very fleeting images, appear to be more in the latter stages of the restraint, possibly when the handcuffs have been applied or when they've got some degree of control over Mr Bayoh. They certainly don't seem to be placing their full bodyweight, i.e., lying, across Mr Bayoh. But that doesn't mean that they weren't then exerting downward pressure through their arms or through their hands in the grasps that they had on him.

111. That said, downward pressure is one of the control measures in prone restraint. It's to basically lock the person against the ground. Obviously, if that pressure is applied over any area of the body, i.e., the back of the rib cage, the chest area or the abdomen, that can then interfere with the breathing mechanism. So in training, officers are taught to try and avoid doing that. That doesn't mean it won't happen during the initial control phase, but they're told to limit any downward pressure to a minimum and try to avoid it if possible.

112. I am asked to comment on evidence, which I understand came from a number of witnesses, that the restraint bore resemblance to a collapsed rugby scrum. Certainly in the early stages of the control phase when they're first getting to grips with and trying to control the subject, it can look very messy and very over the top. It can look like it's just a group of individuals all lying on the floor. What's normally happening during that phase is officers are trying to get hold of various limbs, i.e., getting hold of the arms, et cetera, and being able to pull the arms away from the body so that they can then manipulate them into positions where they can be handcuffed. It's quite common for somebody lying on the floor to have their arms underneath them. So, again, officers may well be on top of that individual trying to lever out the arms from underneath the body. From recollection from the officers saying that Mr Bayoh was doing that,

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but what he was doing was assuming a sort of a press up position which would indicate that his arms were in front of him on the ground and not out to the side, which is where the officers would be trying to get them to so that they can place handcuffs on them.

113. I'm asked whether at that time whether a reasonable officer would have monitored or arranged to have monitored Mr Bayoh's breathing during the restraint. Again, during the control phase, the officers' attention, the officers' focus is upon placing Mr Bayoh in a position where they can place handcuffs on him and probably limb restraints. So at that point, the focus is not on him per se in relation to his breathing, they're trying to safely place him in a position where they can put him in handcuffs. Certainly, within England and most of the forces within the UK, by 2015 we had adopted and implemented what we call "the safety officer" and the safety officer was to take an overall view or an overall overview of the restraint process and be in a better position because they weren't involved in the actual restraint. Under these circumstances, with this incident, that person didn't arrive because there were still jobs to be done in relation to controlling the arms, the head and the legs, etc. Again, with the training within Scotland at the time I can't comment. I'm not aware of whether they had adopted that approach that was being used in other forces in relation to modifying the training to include this safety officer that had been sort of implemented and suggested through training development.

114. I'm asked to comment on the significance of the environmental factors such as the weather, the temperature, Mr Bayoh's state of dress. I don't have any comment to make in terms of the restraint. But, going back to excited delirium, one of the tell-tale signs or one of the warning signs for excited delirium or ABD, which doesn't appear to be repeated through the training for the officers, was increased body temperature and hot to the touch. Part of the training was around that you'd regularly get people taking their clothes off when they started to get to the heightened state within ABD. It doesn't seem to form part of the

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Scottish training as a warning, certainly not on what I've seen, but it is a well-known factor that people who are under the influence of drink and drugs, possibly anti-psychotic medication, etc., and may be considered suffering or approaching elements of ABD that one of the tell-tale signs is this high body temperature and as a result of that people take clothes off, tearing shirts off, things like that. So you could correlate that with the fact it was a very cold day, why is this person out with a t-shirt? Obviously, it could be a totally innocent realisation as well.

115. But in relation to the actual restraint, not really. Even when you get to the first aid, if anything, it would help, because you can get down to the skin quite quickly, you can deliver CPR far easier on somebody who was wearing just a t-shirt rather than a t-shirt, a jumper, a puffer jacket, etc. So I don't think it would have had any relevance to the officers during the actual restraint. In terms of the suggestion that someone should have got a blanket to keep Mr Bayoh warm while they were waiting for the ambulance. Possibly. However, we're starting to go away from officer safety and going into first aid application. If you run through the initial doctors' ABC, etc for first aid, they've done everything that they should be doing: they've done an assessment of his responsiveness, they've decided that the person's unresponsive, they've checked for breathing, they've started CPR, they've attempted rescue breaths. That's the primary concern there is the person breathing. We haven't got down the ladder to start looking at things like shock, hypothermia and things like that. We're still dealing with the breathing and the CPR issue. So, yes, a consideration, but way down the line from what they were actually dealing with, which was administering CPR.

## **Miscellaneous**

116. I'm asked to describe de-escalation techniques and explain what they are designed to achieve and the possible outcomes when such techniques are

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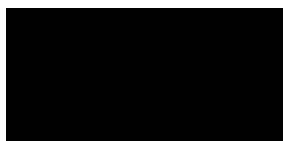
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employed. De-escalation is being able to assess the situation of the individual and apply different techniques to different situations rather than having a one size fits all approach to policing. Different types of communication styles work differently with different people. Also just things like understanding human nature and human reactions to certain non-verbal cues so. You sometimes find that female officers are actually far better at de-escalating situations and when you dig down into some of the reasons behind that, it's normally they tend to be better communicators, they tend to be more empathetic individuals than a lot of male officers are. Also it's something as simple as if you are a really large built male you can, just by your mere presence, appear intimidating, especially if you're standing there in uniform and you've got all this equipment on your belt or on your vest. So it is understanding what can aggravate and what can escalate situations and trying to avoid those things to the best of your ability. It is really about being flexible and being able to communicate well where you can, but also just thinking about things like your positioning, how you're standing, having a relaxed stature and things like that but not taking it so far the other way that you then look as though you're vulnerable and an easy target. It's finding that middle ground where you can still maintain a presence and an authority but without looking or appearing aggressive or overbearing.

117. De-escalation wasn't trained in 2015 under that heading. The OST training manual (PS11538 (a)). has a section on the communication module. Now, throughout that communication module there are references to not so much de-escalation tactics, but methodologies to use to prevent escalation in confrontation and conflict. I wasn't aware of any specific inputs within the Scottish forces at the time as it went over to Police Scotland. There are lots of inputs around the country, around the UK that specialise on that, using various models and looking at various methodologies of building rapport and control through communication skills, looking at body language, looking at barriers to communication in relation to mental health, drugs and alcohol use and things like that. The de-escalation related input is found in the tactical

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communications section, which is Section 4 in module 1. It covers the attitude cycle, what is commonly referred to as Betaris Box, the assault cycle and its linking into their escalation fears. When that's being delivered as a lesson, a lot of emphasis is normally put on that in relation to understanding warning signals and how not to mirror and how not to display those aggressive signs yourself. So it's done as a bit of a double-edged sword. If it's delivered in the right way that's where you would normally see a lot of the de-escalation discussion going on throughout that communication within Section 4 and certainly Section 7 as well about warning signals and danger signs, etc.

118. I'm asked whether it would have been an appropriate tactical option for PCs Paton and Walker to attempt de-escalation at the point of initial contact with Mr Bayoh. I think there were alternative approaches to Mr Bayoh, taking out what we know now. I think there was an opportunity to attempt a level of engagement or a level of communication lower than what they decided that morning. However, that doesn't make the decision that they'd made, taking into consideration all of the intelligence and information that they had, specifically believing that he was possibly in possession of a large knife, that the authoritarian, the verbal dominance process that they adopted and tried, was incorrect, but there was an option for them to try a different approach.
119. I'm asked what a reasonable officer would have known of the risk of positional asphyxia in 2015 and the steps that a reasonable officer would take to mitigate the risk of positional asphyxiation while restraining Mr Bayoh, whether that be in the prone position or the supine position. Certainly in relation to the training provided or the information provided to the officers within Scotland at the time, it was not as complete as it could have been in terms of what was known elsewhere at the time. Also, it was slightly misleading, certainly the first aid input is somewhat misleading in relation to the actual causes of positional asphyxia. This is not uncommon across the country even now, and I deal with a lot of cases where this is a mitigating factor within the cases. The issue is

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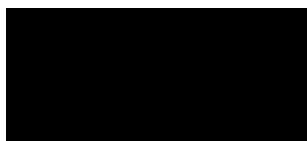
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that officers believe or have been informed that this can only happen when a person is in the prone position and can only happen when somebody lies across them or puts weight across the back of them. This is not the case. I've dealt with cases where the position that the person was in was handcuffed to the rear, sitting in the back of a van slumped forward and that position has interfered sufficiently with the breathing mechanism to cause asphyxiation due to the position.

120. Also, I think the other thing that a lot of officers are unaware of now and have been for many years is understanding the requirement for oxygen against the ability to take that amount of oxygen in. A lot of officers, when asked what positional asphyxia is, "It's an inability to breathe." That's not the case. It's an inability to be able to take sufficient oxygen in set against what the body requirements are. So, if you require a specific amount of oxygen and if, because of the position it's in or the condition it's in, you can only take in half of that, you will asphyxiate. That is the definition of asphyxiation. I think that understanding is lacking even now in a lot of officers. But at the time, certainly looking at the resources that have been provided or were provided at the time for the officers, and also the initial training given at a training school for new officers, it's somewhat misleading and somewhat lacking in detail in relation to the actual causes and warning signs and risk factors for positional asphyxia.

121. Based on what they've got within their training, I think they would have been concentrating on things like him being held in a prone position, so basically on his front. They would have made some effort, once safe to do so, to look to check whether the person was breathing. But a lot of the other risk factors, for want of a better terminology, would not appear to them to be relevant. So he hasn't got a beer belly, he's not particularly rotund or anything like that. He was fighting against them, so therefore, a lot of the times you see within the training well, if they're shouting at you or they're moving about and they're fighting against you, they're breathing. Well, yes, they are, but are they breathing

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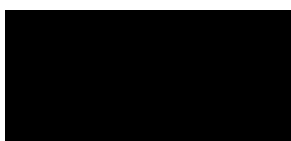
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sufficiently for the oxygen requirement for their body to maintain consciousness? So the warning signs they would have been trained in don't appear to be present with Mr Bayoh. For example, the officers would have been trained to notice if somebody goes from violent to passive very quickly or goes from passive to violent very quickly and understanding that that could be them fighting for breath or fighting to get out of the position that they're being held in to be able to breathe. So I think at the time that's all they would have been looking for was the fact that they had him in a prone position and they would have been looking to get him out of that prone position as soon as they could once they had sufficiently secured him.

122. I'm asked in what circumstances (if any) do I consider it would be appropriate for an officer to strike a suspect with a vehicle on arrival at a scene, with reference to the evidence of PC Walker on day 6 of the Inquiry. I think if you are considering that as a tactical option, the level of the threat posed by the individual either to yourself, other officers or members of the public would have to be of a serious or aggravated resistance level, so a level 6 under their training, which could, under the right circumstances, may warrant a level 5 deadly force or lethal force option. So it would have to be something like the person was attacking a member of the public with the knife, possibly was self-harming, was stabbing themselves with the knife, possibly, but it would have to be some form of serious threat either to another officer or member of the public or possibly Mr Bayoh himself.

123. I believe the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry's website.

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Date Signed.....16<sup>th</sup> November 2022 .....

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