



The Sheku Bayoh Public Inquiry

Witness Statement

James Young

**Taken by [REDACTED]
on MS Teams
On 12 July 2023**

Witness details

1. My name is James Young. I am 54 years old. My contact details are known to the Inquiry.
2. I am currently an Inspector with the Police Service of Scotland. I have 27 years' police service as at July 2023 and am based at Jackton. I am currently the Operational Lead for Taser and for the Specially Trained Officer Programme, which is the programme to train and equip a certain number of police officers, non-firearms officers, with taser.
3. I gave a statement to the inquiry (SBPI-00153) and gave evidence to the Inquiry on 22 November 2022.

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National Officer Safety Training Review and Evaluation Report

4. I have been referred to my National Officer Safety Training Review and Evaluation Report (PS11533). I have been asked whether I had any experience of undertaking a review of this kind at the time of conducting this review. No, I did not. The role I was in at the time was my first time in a training role. However, I wasn't tasked with carrying out the review I put forward the proposal that a review should be carried out.

5. At some point in 2013 or 2014 I changed my role within the Scottish Police College. I had been a course sergeant in charge of probationers and then I moved to work as a training support sergeant. In this role, I was responsible for curriculum maintenance. This involved updating the general probationer training manual, as and when required, having responsibility for the exams unit, line management of physical education instructors who were primarily responsible for the delivery OST and First Aid at Tulliallan. Subsequently, I had some involvement with the annual OST refresher course and developed an awareness of the content of the training together with the challenges and issues connected with this.

6. When I took on the new role, I noticed that, while the probationer training was standardised, that since the creation of Police Scotland with no standardised OST refresher programme across the former legacy forces. Therefore, probationers went to force where they had legacy force training that could contradict the training they received at the Scottish Police College.

7. I then got involved in the OST practitioner group. This is where each legacy force came together under the supervision of the Chief Inspector of Tulliallan to decide the content of the refresher program. I believe that was CI Stuart Ord at that time. The Chief Inspector of Tulliallan initially chaired the OST practitioners group and had responsibility for the annual refresher training. However, this was later devolved to an Inspector who had no experience of

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OST. Through this OST practitioner group it became apparent what was in the refresher programme was contradictory to the probationer OST training programme. There was also a disparity in terms of actually what was trained, as well, between the former legacy forces. The refresher training programme lacked quality assurance, lesson plans and risk assessments (all of which were present in the probationer OST programme). There was also lack of governance and quality assurance within the OST refresher training. When I say a lack of governance, I mean a lack of management by senior staff. I have been asked whether there was a head of training at this time who had overall responsibility for OST. At the time I became involved with OST, I believe the Head of Training was [REDACTED]. However, by the time I submitted my review the Head of Training was Chief Superintendent [REDACTED] (who is now retired).

8. At that time, I had no responsibility for the content of the OST probationer training or refresher training programmes. However, my concerns about the situation prompted me to speak to managers and suggest that a review should be undertaken as there was a risk to the organisation if there wasn't one standardised programme. I had a number of conversations with CI Stuart Ord at that time and he appreciated that there was a need for a standardised national refresher training. As there was definitive contrast between the probationer OST Training and then what officers received at refresher training back at their forces.

9. My National Officer Safety Training Review and Evaluation Report (PS11533) discusses my concerns at page 5, *"Although a national standardised core programme was developed and delivered to student Police Officers at PSC – Tulliallan, this core programme was not always replicated at the annual refreshers, with some Legacy Forces maintaining their own programmes and techniques. This has led to a disparity of approach to training and supporting processes. There has been no national review since the programme was*

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introduced and since the inception of Police Scotland.” At the time of my review the PSC was the Police Scotland College, Tulliallan. Its name has now reverted back to the Scottish Police College.

10. As part of the review process, I made contact with the College of Policing and a number of forces in England¹, and that was just to see to get an understanding or an idea of what the national picture looked like and what was getting delivered across the rest of the UK. There was a benchmarking process to evaluate whether our training was consistent. Obviously, there would be differences because we have different legal systems. However, I wanted to get an idea of how these forces delivered their OST, what documentation they used, how they quality-assured their programmes, how their programmes came about, what was the provenance behind their programmes, why did they decide on certain techniques, etc.
11. A lot of the time, Scotland is a bit isolated from other police forces because we're not a Home Office force. None of the former legacy forces were Home Office forces, so we didn't come under the National Police Chiefs' Council or the College of Policing. I wanted to make sure that we were at a similar level to what the rest of the UK were doing.

Findings of the OST Review

12. Page 21 of the review report (PS11533) provides a summary of the review's findings. The findings include that *“there is a lack of a standardised approach, with some Divisions reverting back to Legacy Force techniques and teaching methods.”* Also, that *“There are no methods in place to monitor compliance to the programme, effectiveness of training or competency of trainers.”* There was a core probationer OST programme with a manual, standardised lesson

¹ Outlined in page 18 of PS11533 - Metropolitan Police, West Midlands Police, Greater Manchester Police, Thames Valley Police, West Yorkshire Police, British Transport Police, Ministry of Defence Police, and the Civil Nuclear Constabulary.

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plans and quality assurance process in place. However, there was not the same standardised approach to recertification training, with quality assurance for the divisional instructors.

13. I have been asked to explain what I would have been looking for in terms of quality assurance. To have a proper quality assurance programme, first of all you have to have that training documentation in place. A training course requires to have standardised course content, a manual, assessment methods for that course to ensure that students meeting the learning outcomes of the course. As part of that, you have to ensure that the instructors who are delivering that course are current and competent to deliver that training and using standardised training delivery methods. You have to know what training your instructors have received, to what level, and have an ongoing assessment of competence to ensure that they are actually delivering what they are supposed to deliver. A further finding was that there was no standardised approach for management of reporting of use of force or discharge of CS or PAVA spray to PIRC.

14. However, what was in the manual could be at times in conflict with what was actually being taught by instructors. By way of example, I experienced some instructors telling students that the best way to deal with someone who is in possession of a weapon or a knife is to physically control them because that way they can't hurt you. This approach goes against the training ethos of CUT. We taught in 2015 officers who are faced with a knife to, where appropriate, **C**reate distance, **U**se cover and **T**ransmit. Immediately going in to physically control someone with a knife puts the officer at grave risk of injury. In the early days of my police career, I recall that training given in relation to knife incidents had a strong emphasis on gaining physical control. I continued to see this type outdated training being delivered intermittently during my quality assurance visits (conducted as part of my OST review) in 2014/2015. Teaching officers to attempt to physically control persons with a

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knife is problematical, as inevitably some will use it and potentially get seriously injured. There is not enough time in the programme to teach officers to effectively use this tactic and become totally competent at it.

15. So what the training ethos was, what was in the manual and what was actually taught to students on a day-to-day basis, I could say with a degree of certainty would have been in conflict. In my view, the lack of tactical training, and the lack of de-escalation training, resulted in the default position, for many officers, was to obtain physical control.
16. In 2016, with the introduction of the new programme, we changed the acronym to CUTT, which stood for **C**reate distance, **U**se cover, **T**ransmit and chose **T**tactical option.
17. The review also found that there were no risk assessments in place for external venues, i.e. divisional venues, no risk assessments in place for the risks associated with the training or with the techniques themselves, in so far as I was aware, or for delivering a technique on a member of the public. That is something that requires to be incorporated into your clinical governance. It is necessary to understand the medical implications of the techniques in the programme. There was none of that.
18. I have been asked whether the content of the training programme was subject to a lessons learned process after the events of 3 May 2015. No. I wasn't informed of the incident. I became aware of it through the media. All the improvements and enhancements had nothing to do with the incident involving Sheku Bayoh. There was no direction given to me to review training in light of this incident. I have never been sighted on the circumstances surrounding the incident via Police Scotland.

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Value of OST within Police Scotland

- 19. In my review, at page 23 it states, *“It is strongly felt that OST is given a low priority, not only by many senior officers but by divisional officers also.”* I have been asked how I became aware of this. It was partly through response to the questionnaires. It was also something that was heard during the focus groups, through speaking to officers, and also through my own experience and working operationally at divisions. I would go as far as to say for most police officers, that there’s a strong dislike of OST. It was known as, at that time, the worst day of the year in relation to your OST day.

- 20. I tried to peel back the reasons for that as part of my research for the report. From focus groups and speaking to officers, one of the reasons for this was that many officers, if they had been in the police for say 15 years, they’ve been turning up and doing the exact same thing, for 15 years. They didn’t see it as operationally relevant to their role because we were asking them to do techniques that were very difficult, and that officers weren’t using in practice.

- 21. Also, it’s important to understand that staff have varied skill levels, like in any organisation, especially when it comes down to physical skills. You get some people who are physically inept; you get some people who are extremely fit; some people have good coordination and other don’t. It’s a combination of everything, in addition to the manner of teaching.

- 22. The OST programme, both the probationer training and the refresher training, was stale and needed revitalised. It needed rebranded. It needed totally reviewed in order to get the buy-in and the support of the officers there. My experience was that we had senior officers who paid very little attention to officer safety training in my view. I suppose it was seen as a necessary evil and I think it wasn’t given the importance and the credence that I think it deserved due to the high risk that it carries.

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23. I have been referred to my previous inquiry statement (SBPI-00153) where I say *“In the run up to the creation of Police Scotland, there was work ongoing for a couple of years prior to this on reform workstreams or standardisation workstreams – so the likes of firearms, custody arrangements – so that, come 1 April 2013, all the firearms officers in Scotland worked in a similar way. However, OST didn’t have a standardisation workstream.”* I have been asked whether this surprised me and whether I consider that the OST training programme out to have had a standardisation workstream. No, it didn’t surprise me. I’ll be candid in the respect that OST wasn’t seen as high-importance and I think there was far too many senior officers at the time had no knowledge of use of force, OST, and for some reason it was not given the importance I think it deserved. It’s one of these elements of police training that is used hourly, daily, and the risk that it carries and the risk of negative outcomes of OST, in my view, are very high. Consequently, I placed a massive importance on officer safety training, on conflict resolution. I didn’t see that replicated by many senior officers.

Requirement for procedures for regular review of the OST training programme

24. I have been asked if I am aware of any guidance or best practice about how often OST training programmes should be reviewed. I don’t think there’s any set timeframe, I think the guidance from the Quality Assurance department says they should be reviewed regularly. Now, I don’t know what the definition of regularly means. However, in my view, a programme should be evaluated annually. Any OST programme should also be evaluated and reviewed if any new information, research, methodology comes to light of significance that is made available to the authors of that programme. In terms of when the OST programme was last fully evaluated, I am unsure. I don’t think the programme had been evaluated for a long time.

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25. I have been asked who has responsibility for the deciding what should be in a probationer training programme for OST. In terms of who that person is now, I'm not involved in OST anymore, so I don't know who chairs the Use of Force Monitoring Group. I think it's the chief superintendent operational support division. I think, ultimately, it's the ACC ops support because I believe they have the use of force portfolio, but, as I haven't been involved in OST for a while, I don't know the governance structure now.

26. I have been asked the same person had responsibility for the content refresher programme of training and the frequency of the training. The content of the programme should be approved at executive level, and also it's a matter for the Chief Constable to decide how often officers receive their annual recertification training. It was one day annually. I put a proposal in to move to two days and I moved out of OST before that proposal was fully decided on; however, I understand that the Chief Constable made a decision to move the annual refresher from one to two days duration.

27. I have been asked at the time I was conducting my review and comparison with English police forces whether if I considered the frequency and length of recertification training. Yes, I did and it was generally consistent. It usually consisted of between a five-day, 40-hour initial programme, then maybe a six-hour annual refresher. We had some forces who did as much as a 70/80-hour initial programme and two-day refresher. I think there was a mandated minimum contact hours. I can't remember what they were, but I don't think we were that far off the minimum contact hours.

Training on conflict management of intoxicated persons or those experiencing mental health crisis

28. I have been referred to Police Scotland's 11th position statement (SBPI-00355), paragraph 18 where it says "*The use of force SOP, version 1.03, section 8 covered mental health issues, disorders and syndromes. However,*

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as Inspector Young explains, there was no specific training on management of acute intoxication or mental health crisis in the context of a conflict management situation or as part of the OST programme.” I have been asked whether I accept that police officers would be dealing with individuals under the influence of drugs or alcohol, or individuals experiencing mental health crisis regularly. Yes, I do. I have been asked what skills or training would police officers rely on when dealing with such situations. First of all, we have to look at dealing with someone who’s intoxicated. There are basic conflict resolution skills and there are basic interpersonal, intercommunication skills that people have. Also, there was basic communication skills training delivered to probationers at Tulliallan.

29. In my whole time in the police, I’ve never been trained how to speak to someone and I think that’s a common theme. We rely on the officers’ own interpersonal skills, I believe, and, in my view, too much to an extent. This was addressed to some degree in the changes to the programme brought in in 2016. However, I continue to have that concern now. My own personal view is that the training delivered to officers in communication skills, conflict resolution and de-escalation still can be greatly improved.

30. I do recognise that training people to deal with someone who is intoxicated is very, very difficult. There are no hard and fast rules. There’s no set of learning outcomes or assessments that you can give somebody to deal with someone who’s drunk. However, there are basic skills that can be taught but, as I have explained, it’s a very difficult area to teach. I think one of the issues that I highlighted when I did the review was that we relied very heavily on officers’ own skills to get them through very many situations. For example, realising that, if you’re particularly aggressive towards a drunk person, you very often then get that aggression back. So officers were relying on basic communication skills, basic interaction and interpersonal skills. Additionally, there was a lot of material in relation to this that actually appeared in the

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manual, as there was a big section regarding tactical communications. However, what was actually delivered in the OST training programme as a whole in this area is up for debate. Due to lack of scenario-based training, there was no way to practice and assess an officer's communication/conflict resolution skills. From my experience, the only training officers received in tactical communications was a PowerPoint presentation during probationer training² and nothing thereafter.

31. I have been referred to Police Scotland's 11th position statement (SBPI-00355), paragraph 14 which states *"Of all the academic research papers Inspector Young read and the consultation he carried out, pointed to the need for the police to be better trained in conflict management, de-escalation skills and strategies and in dealing with and responding to the needs of vulnerable people and those in crisis."* I have been asked whether I felt Police Scotland were lagging behind the research that was out there and specifically the practice of other police forces. I can't say with great certainty. My view was, yes, we were. One of the challenges I encountered was that there was no one at a senior level that had, for want of a better word, a grip on OST and it was left to someone at my level. I had a passion for it and an interest in it which made me go out and do a great deal of research for the OST review. Most of the work in relation to this required to be done in my own time, signing up to Google Scholar and then reading as many research papers and books on the subject as I could.

32. From what I read and what I saw down south, I think we weren't the only one that were lagging behind in respect of conflict resolution skills and the softer side of OST. At the time of the new programme in 2016, I didn't have the time or resources to do a significant revamp of the programme and enhance the programme to the level of where I thought it should be in terms of conflict

²PS17208, pages 9 to 11

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resolution training but from benchmarking, I noted that other forces could also improve in this area. It was always meant to be an incremental process.

33. I have been referred to Police Scotland's 11th position statement (SBPI-00355), paragraph 10 which states, *"As a result of his review of the OST programme and his research in 2014, 2015, Inspector Young considered that changes were required to the national OST programme and that the guidance in the OST programme and the manuals was outdated, inadequate and needed to be revised. This was particularly in respect of de-escalation strategies, tactics and conflict management, (2) mental health issues, (3) ABD, and... (5) dealing with subjects and disabilities."* I have been asked to comment on this. The manual and the OST training programme itself were outdated and inadequate. The OST programme wasn't outdated when it came to the physical intervention techniques but, as far as tactics and tactical skills, such as conflict management and de-escalation, were concerned, I think we were lacking. I think we were behind the training of other police forces in the UK. In my view we were also outdated in terms of how we trained our officers. All the academic research I had read about conflict management, tactics and de-escalation, recommended scenario based training as the most effective way to transition the skills from training to real life situations.

34. In my previous SBPI statement³ and in oral evidence before the Inquiry⁴ I have explained that conflict management and de-escalation training was brought into the new OST programme in 2016. I have been asked when similar conflict management and de-escalation training would have been used by other police forces, for example by those in England and Wales. I don't know. I became involved in the College of Policing's conflict resolution programme because I think it had been highlighted through the Home Office forces as well that there was a lack of conflict resolution and safer resolution.

³ SBPI-00153 at para. 45.

⁴ 23/53/7 – 23/54/16.

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However, I couldn't honestly say how far behind the Police Scotland programme was in relation to other forces.

Experience of dealing with Acute Behavioural Disturbance

35. I have been asked about my own experience of dealing with individuals experiencing what is known as excited delirium or acute behavioural disturbance. I have had at least 3 experiences in dealing with persons who, in my view, were showing signs of ED/ABD. The one I recall most is occurred in possibly sometime in late 1990s/early 2000s. It involved a white female, in her mid 20s who had been ejected from a bar in a city centre for acting in a bizarre and aggressive manner. Police were called after the female, on being ejected, was shouting and acting aggressively in the street. On our arrival the female was shouting and screaming incoherently, sweating profusely, and running around. Her eyes were wide and she was constantly pulling at her clothing. Back then I had no knowledge of excited delirium and we assumed she was experiencing a mental health episode. We immediately moved to try and restrain her, for her own safety (due to her being next to a busy road), but she started to violently resist. She showed abnormal strength and due to her strength and wet skin, two male police officers could not control her. We had to call for assistance and in the end it took four male police officers to eventually restrain her. She was conveyed to hospital as she had sustained some cuts and bruising to arms, legs and head and also in order to have her assessed for her mental health. Due to her violent and bizarre behaviour and the fact that she had been drinking, the doctors refused to examine her, and she was taken to a police office and placed in a cell until she eventually calmed down.

36. After I became aware of excited delirium or acute behavioural disturbance, I have often reflected that this could have had a negative outcome as we did everything then, that is contra-indicated now. The other incidents I dealt with

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took place after I became aware of excited delirium or acute behavioural disturbance and I approached them completely differently. I contained where I could, got assistance, contacted an ambulance and only restrained for such times as we had to, to get the subject to hospital.

37. One of these incidents was post 2015/2016 and the other was post 2018. Both of these incidents involved white men. The first one was a disturbance. I wasn't the first on scene but other officers were there. When I arrived, these officers were trying to physically control a male. To me it was immediately obvious that the man was displaying symptoms of ABD. I remember he was incoherent, sweating heavily, constantly in motion, and displayed bizarre behaviour. He appeared scared and panicky as opposed to aggressive. I instructed the officers to let the individual go. We remained close to the individual and called for an ambulance. However, we were advised that the ambulance wouldn't be attending – it wasn't recognised as an emergency. As the individual was next to a busy main road, to prevent further harm we had no other option to restrain the individual. We took him straight to hospital.

38. The second incident was a call regarding a male acting suspiciously. The man was reported to be naked and he was outside the bottom of a block of high-rise flats. Again, other officers had attended and were there before I arrived. I think there were four officers by the time I arrived at the scene. It transpired that he wasn't actually naked. He was wearing boxer shorts and I could see that his other clothes were lying nearby. The officers were in the process of trying to restrain him. I noticed that he was incoherent, pacing back and forward, and sweating. He was within a large bin area which was three sided. There was no immediate requirement to restrain him. I instructed officers to take a step back and contain him within the bin area. I requested an ambulance. I now can't recall whether it was our area control room or the ambulance control room that refused the request for an ambulance. After containing him for around 10 to 15 minutes, he calmed

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down to a degree. At that stage, we detained him under the Mental Health Act and took him to hospital.

Guiding Principles on Use of Force published by PERF

39. I have been referred to Guiding Principles on Use of Force published by the Police Executive Research Forum (PERF) (SBPI-00356). It has been explained to me that this document details sharing of information between Police Scotland and PERF. At page 90, it notes that Assistant Chief Constable Bernard Higgins from Police Scotland, together with a senior police Officer from Greater Manchester Police, spoke to a PERF Conference on 7 May 2015. It states that they *“made it clear that in their agencies, general patrol officers typically equipped only with a baton, chemical spray and handcuffs would be expected to deal with the threat of a knife-wielding subject primarily through de-escalation and tactical approaches and without calling in specially trained public order officers or firearms officers unless the threat escalated.”*

40. I have been asked to comment on that based on the programme as it was in May 2015. I agree that police officers were expected to deal with these types of incidents; the OST programme for many years had included basic what we call knife defence, which is primarily to deal with a subject or an individual who has a knife in his hand or is coming towards you with a knife and there’s no other means to prevent that. In terms of the comments about the use of de-escalation and tactical approaches, whilst this is what was maybe expected of officers in the view of senior officers, there was very little, if any, training provided to equip officers to de-escalate.

41. I have been referred to pages 96 and 97 of Guiding Principles on Use of Force (SBPI-00356). This summarises information I shared with PERF delegates during a visit to Tulliallan in November 2015: *“The officer safety training focuses on areas such as tactical communications, tactical*

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positioning, teamwork and de-escalation. Sergeant Young said that in the past Police Scotland focused much of its officer safety training on techniques as opposed to tactics. More recently, the agency has shifted its training focus to tactics and decision-making". Pages 96 and 97 goes into some detail about the training in, and use of, de-escalation by police officers. I have been asked to clarify whether I was speaking about the OST programme in 2015 or the new programme which commenced in 2016. Yes, this was speaking about the new programme. By this time, I had done a lot of work on what needed to go into the new programme as far as conflict resolution and de-escalation was concerned. I had trained a lot of my instructors in that as part of the process, and even although we hadn't launched the new programme, I was trying to slowly integrate that ethos into the instructors so that instructors could still now start talking about de-escalation and tactical positioning. So whilst the new programme hadn't been launched, per se, it was not far off and we were trying to drip feed and integrate this ethos and some of these theories into the training at that time. Hence why I've clarified that our focus prior to the new programme was focused on technique and not so much tactics.

42. I have been asked whether tactical positioning was something that was taught in old programme in 2015. Tactical positioning was something that formed part of the old programme. It wasn't referred to as tactical positioning; it was referred to as "contact and cover". Again, although we were trying to rebrand it and use words that were consistent with terminology that was being used down south as well. We were trying to refocus it, and for me it had to be refocused onto tactics or balanced with tactics. So tactical positioning has always been in the programme in some form. But I think we were trying to revitalise it a bit.

43. I have been referred to page 98 of Guiding Principles on Use of Force (SBPI-00356), and Scenario 2 "*Man with mental illness wielding a baseball bat: Officers responded to a man with obvious mental illness wandering the street*

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with a baseball bat. As the subject advanced towards the police car, the officers backed the vehicle up to maintain a safe distance. Once they exited the vehicle, officers established tactical positioning and communications, maintaining a larger reaction gap and a slightly higher profile with their baton and chemical spray because of the possible threat posed by the baseball bat. Officers used communication techniques appropriate for the individual experiencing a mental health crisis. For example, the officers removed their hats to enhance eye contact and eventually convinced the subject to drop the bat and surrender." I have been asked whether any of the techniques demonstrated in this scenario would have been trained in prior to my OST review and the introduction of the new programme in 2016. We have to look at what was in the programme and what was actually being delivered day-to-day. As I've explained previously, I can't say what was delivered in refresher training prior to the new programme. Although the principles of contact and cover and reaction gap were in the programme in 2015, due to lack of training documentation, quality assurance and disparity in training, it is difficult to ascertain if and to what extent they were taught. We had officers delivering what they wanted at times.

44. I have been referred to page 100 of Guiding Principles on Use of Force (SBPI-00356) where, in relation to tactics, it says "*Consider the nature of the threat, not just the weapon itself. Police Scotland officers are trained to look not solely at the weapon a subject may possess, but also at the threat it poses. Is the knife being swung about, and if so, is it being done offensively or defensively?*". I have been whether this refers to OST training in 2015 or after the change in the programme in 2016. In the 2015 programme, if you look in the manual, we talked about threat and risk assessment, identification of threat and risk, classification of threat and risk. There is a part in the 2013 manual that talks about identity, capability and intent and that that should form

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part of your threat assessment⁵. Looking at identity, capability and intent in relation to a person with a knife, you still should be assessing what their intent with that knife is. Just because someone's got a knife doesn't mean there is intent to harm, so that person's actions, or their verbal communication or whatever it may be, could give the officers an idea of how to assess what that person's intent was.

45. Some people's intent may be to harm others, some people's intent may be to harm themselves, some people's intent may just be to scare. It's very difficult to assess these things operationally. What I found during my evaluations and talking to officers and instructors is that that part of the training, on identity, capability and intent and threat and risk assessment was, a lot of the time, neglected. The ethos that OST instilled was that a knife equals high risk. This shouldn't be the case. Just because someone has a knife doesn't necessarily make them high risk. One of the issues with OST is that there are only 2 levels of risk: high and unknown. When officers deem someone to be high risk, this affects their response options meaning that they will probably revert to a higher tactical option which isn't always necessary.

Equality Impact Assessment dated January 2016

46. I have been referred to the Equality Impact Assessment in relation to the Use of Force SOP (PS12083), dated January 2016. I have been asked what triggered the EIA to be undertaken. It was because we needed one, and there wasn't one in place before. I wasn't aware of my duties under the Equalities Act, so that's not what prompted it. I was naive to that. Nobody had ever informed me of a statutory requirement to have these types of documents. I think it was advice obtained from our equalities and diversity department - probably someone from policy support - that we needed an EIA. Because the EIA, as it was known then (now the EQHRIA) wasn't specifically for the

⁵ PS10938 at page 10

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programme: it's for the SOP. Although the SOP incorporates the programme, so in a roundabout way it covers both. I did the best I could with the EIA, with the limited knowledge that I had. I did some training on my own round about what an EIA is, what it should incorporate, what benefits it should bring, etc.

47. On page 1, it states the EIA *"Highlighted the need for a proportionate response to dealing with persons with mental health issues and the use of effective de-escalation techniques and the need for sharing practice and working together with partners. All of the above will be incorporated into the new OST programme which supports this SOP. It has been identified that more guidance will require to be provided in relation to mental health/disability issues surrounding search/tactical communications/arrest. Full consultation was carried out with partners to provide appropriate guidance in respect of mental health and disability issues surrounding tactical communications, arrest and search. OST manual and guidance documents were sent to Police Scotland mental health training, Safer Communities, E&D for review and guidance. This guidance will be incorporated int[o] the new OST manual."* The EIA gave me the opportunity to highlight what was missing, in my view and in the view of many others, from the programme, and gave it a platform and it gave an evidence base to outline what should be in the programme.

Use of Force Data Monitoring

48. I have been referred to Police Scotland Position statement 9 (SBPI-00354) paragraph 19, where it states that the Use of Force Monitoring Group was created in May 2016. I drafted the terms of reference for that group. The way I envisaged the Use of Force Monitoring Group was to monitor the effectiveness of our OST training through data. My ambition was that every time the group met, we would produce a data report to the group in relation to how often techniques have been used, injuries to officers and subjects.

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49. We would then have that decision-making ability to look at the data and say, “we’re seeing this or we’re seeing that.” As opposed to before, we are managing up the way, we were telling the senior officers, “Well, I would know based on my own knowledge, experience and skills.” My view of bringing into existence the Use of Force Monitoring Group, was so it could be in the reverse. It should have been a case of more senior officers ~~You tell~~ telling me what I needed to do, and then doing it. One of the outcomes I wanted from that group was to bring use of force data to that group so that we could examine if our program is effective, is it proportionate, is it in line with our statutory responsibilities, etc.

50. I have been asked was it envisaged that the use of force monitoring group would also be monitoring use of force in terms of whether it was proportionate or disproportionate against people from certain racial or ethnic minority backgrounds. In terms of background, we had challenges with governance in relation to who would be ultimately responsible for the OST program, who would make executive decisions on the program, and all that we had to have in terms of putting a governance structure in place so that there was that ultimate decision-making ability based on evidence, based on what data was brought to the group.

51. At that time, we had no idea who we were using force on, so we didn’t know at that time if our use of force was disproportionate against people from minority ethnic groups. The aim for me was that ultimately we would present the data to the Use Of Force Management Group so that senior officers were sighted and thereafter direct actions to address any issues. My view was we can’t effectively monitor our own program if we don’t have all the data. Data is imperative to quality assurance and being able to determine if a program is effective or not and proportionate, etc. I think during that journey became aware of the Home Office review by former Chief Constable David Shaw who was tasked with leading a review into what use of force data should be

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recorded and published. I think that review influenced me in terms of the requirement to publish the data. So, I think did a couple of papers to the Force Executive requesting that once we have this data in place that to be open, fair and transparent, we should publish it externally.

Use Of Force Recording And Reporting On Race And Ethnicity

52. I have been asked how detailed the categories of race and ethnicity are on the use of force forms. There are 24 different ethnicity categories that officers can choose from in the Use of Force form. These categories were provided to me by Equality and Diversity Advisors. Police Scotland uses a different classification system to Home Office forces. The Home Office use their own standardised ethnicity classification system and provide that to all Home Office forces, which is has ethnicity categories of IC1/IC2, etc.

53. I have been asked about Police Scotland’s external performance quarterly reports. By way of example, I have been shown the external performance report Quarter 1 for 2021-2022⁶. At pages 9 and 10, I can see that this provides a breakdown of the ethnicity of subjects recorded in the use of force forms. I have been asked about the comparison of the ethnicity statistics from these use of force forms on pages 10 and 11 of that report: “

Ethnicity	% of Population (2011 census)	% of UOF forms submitted Quarter 1 2022/23 YTD
White	96.0	93.6
Black and Minority Ethnic (BME) communities	4.0	5.1
Unknown	-	1.0

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The table above shows the breakdown of subjects ethnicity recorded on Police Scotland "Use of Force" forms for the period Quarter 1 year-to-date 2022/23 as follows:

- *96.0% of the population (according to the 2011 census data) was of white ethnicity, of the "Use of Force" forms submitted during the recording period 93.6% had a subject of white ethnicity*
- *4.0% of the population (according to the 2011 census data) was from black and minority ethnic (BME) communities, of the "Use of Force" forms submitted during the recording period 5.1% had a subject from BME communities*
- *From the "Use of Force" forms submitted during the recording period 1.0% had a subject with unknown ethnicity, no comparison is provided to the 2011 census data"*

54. I have been asked about these ethnicity categories and why the BME communities are considered as a whole when analysing the use of force data. The ethnicity classifications provided in the external UOF report do not wholly represent the ethnicity categories that officers can choose from in the use of force form. As explained, there are 24 different ethnicity categories that officers can choose from in the form. These categories were provided to me by Equality and Diversity Advisors. I have no knowledge of why ethnicity comparisons in the external report are reported in this manner. I've not been involved in the publishing of the data. I have not had an input on the format or how it would be published or presented externally, but I definitely broke it down internally. In my view, we just can't broad stroke and say, "You're not disproportionate because we don't use a disproportionate use of force against black and minority ethnic groups." We have to be specific in what groups we're referring to.

55. I have been referred to Police Scotland Position statement 9 (sbpi-00359), paragraph 25 which says *"no disproportionate use compared with the census*

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data at the time was identified by the Use of Force Management Group or from Inspector Young's reviews of the data. Where the data suggested there may be a cause for concern, this would be investigated by the OST compliance officer." I have been asked when I did my review of the data, referred to in my Inquiry evidence. I can't remember **exactly** when I reviewed the Use of Force data regarding ethnicity. However, it would have been sometime after 2018 when the data became available. I believe may have been in 2019 that I reviewed it, so we had a year's data to work from.

56. I have been asked whether I looked at the census data against each individual ethnic minority group or whether I looked at it the way they do in this performance report where it is all in two categories i.e. white and black and minority ethnic. I didn't clump together different ethnic categories. I broke it down into individual groups and compared it to the census data where I could because in the census data it doesn't have every ethnicity or ethnic classification.

57. I have been referred to what appears to be SPF minutes of the Custody Division's Short Life Working Group on use of force meeting dated 25 October 2019 which appears within SPF submissions on SBPI request on concerns-complaints to Police Scotland (SPF-00470) at pages 25 to 27. I can see from the list of attendees that I was present at this meeting. I have been asked what this group is and what the purpose of it is. It's a Short Life Working Group created by Custody Division within Police Scotland to look at issues and challenges around use of force within the custody environment.

58. I have been referred to page 26 where the following comments have been attributed to me under a heading of "root core analysis" *"JY commented that Police Scotland does not currently have any proper processes in place to investigate/examine instances where force is used by staff, and that this is a concern as he believes the opportunities to gain learning and address*

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shortcomings are being missed.” I have been asked if I am speaking specifically about where use of force is used in a custody environment only or if I mean the use of force generally by officers in Police Scotland. I mean the use of force generally. The Use of Force Form is simply a data gathering form. It is not used to review or to make determinations on the appropriateness of the force.

59. In the past, we explored the possibility of using the Use of Force form to review individual use of force and making a judgment as to whether that officer’s actions were proportionate, reasonable and necessary and whether there were any lessons to be learned or training implications. However, this wasn’t feasible. In an ideal world that would be the situation; However, we simply didn’t have the staff and I would probably say in the vast majority of instances, the detail provided by the officers on the form in the free text box was woefully insufficient for us to ever make any sort of determination on whether that force was proportionate or not. I did look at what we could do about this as an organisation. This wasn’t part of my original OST review; however, I can’t remember exactly when I considered this. My conclusion was that we ought to have a mechanism in place to review individual officer’s use of force. By the time I left OST, we had put forward some suggestions, and I think they now do debriefs, but I think it’s voluntary. Getting into the actual weeds of every use of force incident is a significant challenge.

60. I have been asked if I consider that every use of force requires to be reported and overseen. My personal view is yes. In a hypothetical situation you may have an officer out there that is using wrong techniques. They’re maybe using force when they don’t have to use force because they lack conflict resolution or conflict management skills. So we can’t grasp the opportunities to retrain people and to enhance our training. Whilst we have data on use of force, and we can ask officers, “was that use of force effective?”, and they’ll say, “Yes,” and we can turn around and say, “Well, 70 per cent of our use of

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force encounters are effective,” and it make sense, there is no way, in my view, of monitoring if officers are following their training.

61. I have been asked what would prompt an investigation into use of force. Yes, in most cases it would be a complaint or, for instance, some sort of video evidence that came to light or whatever. We didn't prompt. It wasn't our role, our remit, from the detail we had on the forms, to prompt some sort of investigation or review of an incident. That normally came to us from Professional Standards or sometimes divisional inspectors through the complaints process back then.

62. I have been asked if there is a requirement on officers to complete a Use of Force Form. Yes, there always has been this requirement. Similarly, there is a requirement to complete CS spray and PAVA discharge forms. I have been asked if there are any consequences for police officers if there is a failure to complete either a use of force form or a CS/PAVA discharge form. It is not a punitive matter if there is a failure to complete either of these forms and there is no disciplinary process in place if an officer fails to do so. This is something that I've been arguing against for a long while, that until there is, we are relying on officers to voluntarily submit these forms. There may be many instances of use of force that occur out there that are never reported.

63. I have been asked where there are consequences for police officers in England or Wales if there is a failure to complete use of force forms. I don't know.

Assessment Of Refresher Training

64. I have been referred to back to the Custody Division's Short Life Working Group on use of force minutes (SPF-00470), at page 26. This states *"In terms of the assessment of staff at OST training - JY confirmed that the current course is assessable, and staff require to be 'signed off' as competent by OST*

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instructors. However JY concedes that he believes that there is a reluctance to 'fail' staff due to making individuals non-operational and impact that that would have on policing, and specifically local operational policing.” I have been asked what made me think that there was a reluctance to fail staff. In my view, any training must have some sort of assessment element because if you don't, then you don't know if your training's been effective or not. In the annual re-certification, I introduced very basic assessment criteria.

65. There was an assessment at the end of the course. Now, it wasn't the type of assessment I wanted to bring in, but it was the type of assessment I had to bring in: the bar for assessment was low. Also, speaking to instructors, speaking to students, etc., I knew anecdotally that because of the way we set up our OST training back then, it was the same instructors who delivered at the same venues they normally worked or had worked at that police station. They knew the individuals coming on the course, so there wasn't that delineation between being an instructor and being a friend, colleague etc. I believe that there was a reluctance for some instructors, especially since the assessment came in, that they were potentially passing people who maybe shouldn't have passed simply because of personal connections or whatever. But again, it is very anecdotal and there was no science behind it, there were no data behind it, there were no evidence. It's just one of these things you pick up.

66. I have been asked if there is data available on the pass and fail rate. Yes. I don't believe anybody failed OST since we brought in the assessment criteria. I think there was a few who failed it due to their physical condition, they physically couldn't but, the assessment criteria were relatively low, and it was basically, the way I brought it in was at least we could have some comfort that at the end of that course the officers know how to use a baton and their PAVA. They know how to use at least one physical intervention technique because in a day there was just no time to do a full assessment. So, I don't

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remember anybody failing it because of ability. There were people who failed it due to their physical condition.

67. I have been asked if I know whether that assessment criteria have changed at all. I don't know. I couldn't answer if there's still a formal assessment at the end of the course.

Use of the National Decision Model in May 2015

68. I have previously given evidence that that it was my understanding that while the National Decision Making Model (or National Decision Model as it later became known) (NDM) appears in the 2013 Manual, it wasn't taught to officers during OST probationer training. However, I was aware that it was taught in the firearms/public order environment.⁷ I have now had sight of three lessons plans, PS11465, PS11456 and PS11458 which I have been told are for the Probationer OST course as at May 2015. I can see that all of these lesson plans refer to the NDM, including an OST Theory lesson (PS11465) which states at page 1: *"By the end of the lesson students will be able to: [...] 9. Explain the National Decision Model. [...] 11. Choose the correct tactical option for dealing with different levels of violence in line with the National Decision Model."* I have been asked to comment on this. To the best of my knowledge, the NDM was not taught to probationers as part of OST theory and not referred to during practical training. Prior to 2016, I don't recall it being referred to in refresher training. The core of all police decision making should be the NDM. Although reference was made to the NDM in the 2013 manual, there was no mention of it in the OST theory PowerPoint (PS17208), therefore no reference to it during practical training. For me, this was a significant omission. This was why I included an increased number of slides into the new PowerPoint in the 2016 programme and directed that

⁷ SBPI-00153 at para 62.

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the NDM be the core aspect of police use of force training. This made us comparable with what was being taught in the rest of the country.

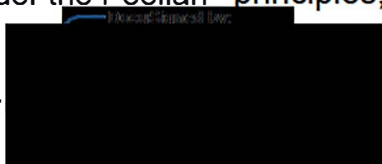
Observations on current OST Programme

69. I have been asked whether I have concerns about the current OST training programme. I think that OST Training to officers still can be significantly enhanced and improved. In my view, it needs meaningful scenario-based training. Public order, firearms and taser training have meaningful, valuable and properly resourced scenario-based training. All the academic research indicates that this is how the training of this kind should be done. In my opinion, we are still falling well short of putting officers into meaningful scenario-based training which are instructor lead. Having recently completed my annual OST refresher, I noted that, although there is a theory input that covers de-escalation, there was no practical elements or scenario/situational based training to practise was what delivered in the theory lesson, or no practical training in tactical/ conflict resolution/de-escalation skills. The only practical training received was technical practice of control and restraint techniques. We were provided information around the signs and symptoms of ABD but no information was provided around the management of someone who is exhibiting signs of ABD. I think this is a risk.

70. The way I envisaged the new 2-day refresher course was that it would be inclusive of all the techniques on day 1 and day 2 would be all the instructor lead scenarios, that way you can train officers in tactical positioning, conflict resolution and de-escalation properly. The operational first aid was to be taught separately. However, when the refresher training was increased to 2 days, half a day was allocated to first aid. So officers are not getting much more time in refresher training than they were originally prior to this change.

71. I think the public would be concerned about the lack of training that officers have in resolving conflict. Under the Peelian principles, police officers should

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only use force after persuasion has failed. If you look at the ECHR, force should be a last resort. Unfortunately, I still don't think that we have that in practice.

Miscellaneous

72. I have been asked whether there was training for officers on who would be in charge in relation to a response team attending a knife incident. There is no training on this, so far as I am aware. But in my experience, it will depend on who is attendance at the incident. Sergeants and Inspectors have police incident training, if a Sergeant or an Inspector were present at the scene they would take charge. Where an incident is attended by constables, often the most experienced officer takes control. However, incidents are fluid and dynamic; it is for the officers themselves to decide. One less experienced officer may have dealt with a similar situation recently and be better equipped than an officer with longer service. There is talk in training about the general principles about team work. Dealing with incidents of this kind comes down to the individual officers' judgement, experience, decision making, leadership skills, even personality.

73. I have been asked whether training is provided which officers communications with ACR and specifically in relation to providing feedback feeding back. Officers get a communications or airwave input at Tulliallan. They are taught how to speak over the radio, what kind of language to use. It's possible this is covered within that training. Certainly, from my experience, it is drummed into you to provide updates to the control room and tell them where you are. It is common police practice to do that.

74. 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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September 4, 2023 | 11:56 AM BST

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