

## Transcript of the Sheku Bayoh Inquiry

Wednesday, 22 November 2023

(10.00 am)

LORD BRACADALE: Good morning and welcome to this hearing in the Sheku Bayoh Public Inquiry. I am going to begin by inviting Senior Counsel to the Inquiry to indicate the evidence that will be introduced in this hearing.

Ms Grahame.

MS GRAHAME: This hearing is focused on training provided to officers. I intend to call three witnesses, commencing with Inspector Young this morning. He will speak to the officer safety training that was being given to officers in the period leading up to May 2015 and how training changed after that.

Next week we will hear from Dr Stevenson, who will be giving evidence about the medical implications of the training given, particularly in connection with topics including positional asphyxia and acute behavioural disorder.

Later in the final week of this hearing we will hear from Inspector Bradley who is the current head of operational training for Police Scotland. He will give evidence about the current training programme and work in progress.

For this three-week hearing the Inquiry team have taken a large number of very detailed witness statements

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1 from those involved with officer safety training prior  
2 to 2015 and at the current time. They cover a wide  
3 variety of topics regarding tactical communications and  
4 de-escalation, restraint, positional asphyxia and the  
5 training given to officers on handling those suffering  
6 from mental health problems, drink and drugs  
7 intoxication.

8 Having considered those statements, it is my view  
9 that there would be very little benefit to you the Chair  
10 to hear from these witnesses beyond what is contained  
11 within their statements in oral evidence. Their signed  
12 witness statements are evidence in themselves and will  
13 be available to you for consideration and will be made  
14 available to the public on the website in normal course.

15 With that in mind, the approach I have decided to  
16 take with this hearing is to focus on a limited number  
17 of witnesses where I consider hearing additional oral  
18 evidence will assist you in fulfilling your Terms of  
19 Reference and to rely on the website to provide that  
20 more detailed information to the public via the  
21 publication of these statements.

22 Next year we will hear further evidence in relation  
23 to training, including from Martin Graves who will  
24 provide expert evidence on the officer safety training  
25 programme, diversity training received by officers, and

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1           those in the Crown and PIRC will also be addressed in  
2           later hearings.

3           Finally, we have still to hear from one witness to  
4           conclude evidence on post-incident management by  
5           Police Scotland and that is Police Sergeant  
6           Gordon Miller. I hope to take that evidence during the  
7           course of this block of hearings.

8           LORD BRACADALE: Thank you. Can we have the witness in now  
9           please.

10           (Pause).

11           Have a seat. Good morning, Inspector Young. Thank  
12           you for returning to the Inquiry. May I remind you that  
13           you are still subject to the affirmation that you made.

14           Ms Grahame.

15           INSPECTOR JAMES YOUNG (recalled)

16           Questions from MS GRAHAME

17           MS GRAHAME: Good morning Inspector Young.

18           A. Morning.

19           Q. Welcome back.

20           A. Thank you.

21           Q. When I was looking at my notes I realised that it was  
22           one year ago today that you last gave evidence before  
23           the Inquiry. You were very helpful last time and gave  
24           a summary of your background. Would you mind if I just  
25           briefly recap some of that so everyone knows the

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1 position?

2 A. Of course.

3 Q. In 2012 you were working as a police sergeant at  
4 Tulliallan doing probationer training; is that --

5 A. That's correct.

6 Q. Then in October 2013 you took over responsibility for  
7 officer safety training that was delivered at  
8 Tulliallan?

9 A. That's correct.

10 Q. But you were responsible, as I understand it -- was that  
11 just to probationers or was that to anyone who attended  
12 Tulliallan?

13 A. At that time it was only for the probationer training  
14 programme at Tulliallan.

15 Q. Thank you. Then in September 2004 you moved to Jackton  
16 and you took over the role of National Officer Safety  
17 Coordinator.

18 A. That's correct, yes.

19 Q. And that covered -- that role covered probationer  
20 training and did it also cover refresher training?

21 A. Yes, it did.

22 Q. So it was both at that time --

23 A. At that time, yes.

24 Q. -- or at that stage. And then the date that we have  
25 been focusing on in this Inquiry has been 3 May 2015, so

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1           you were National Officer Safety Coordinator at that  
2           time?

3           A. That's correct, yes.

4           Q. And I think you told us when you last gave evidence that  
5           you qualified as a first aid instructor in 2015; is that  
6           correct?

7           A. Roundabout that time. I don't remember the exact date  
8           or year, but yes, that sounds accurate, yes.

9           Q. Was that before May of 2015 or after?

10          A. I couldn't honestly say. I don't know exactly the date.

11          Q. And then in 2016, in October, you were promoted to  
12          the head of officer safety training?

13          A. That's correct, yes.

14          Q. So you were in charge of that entire department or -- if  
15          I can call it that?

16          A. The operational elements, yes. Obviously I had  
17          chief inspectors and superintendents etc above me but my  
18          main responsibility was the operational aspect of the  
19          programme, yes.

20          Q. So can you help the Chair understand the role of  
21          National Officer Safety Coordinator and then how that  
22          differed from being the head of the officer safety  
23          training?

24          A. Yes, so as a sergeant, as the officer safety training  
25          coordinator, my primary role was simply about ensuring

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1           we had sufficient resources in place to meet the demand  
2           of the programme. It was about mainly managing the  
3           team, so I really didn't have any input at that time  
4           into the content of the programme. As I say, it was  
5           coordinating all the refresher courses across the  
6           country, making sure we had sufficient resources,  
7           sufficient venues, to meet the demand placed by -- on  
8           the programme.

9           Q. So initially you had been a trainer at Tulliallan --

10          A. Yes.

11          Q. -- with probationers. Then you were coordinating at  
12          Tulliallan and then you became the head of the officer  
13          safety training?

14          A. Yes.

15          Q. Thank you. And you continued as head of officer safety  
16          training and at some point you were also given the role  
17          of dealing with training in relation to tasers?

18          A. That's correct, yes.

19          Q. And at some point you then left aside your officer  
20          safety training role and moved into tasers full-time?

21          A. That's correct, yes.

22          Q. And was that March 2022?

23          A. It was, yes.

24          Q. Sorry, March 2020?

25          A. Yes.

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- 1 Q. Sorry, my mistake. So from March 2020 you left aside  
2 the officer safety training parts of your work and  
3 focused exclusively on the tasers?
- 4 A. Yes.
- 5 Q. And is it tasers you're still working with today?
- 6 A. It is, yes.
- 7 Q. Thank you. I see in one of your statements, which is  
8 SBPI00153, paragraph 6 -- so just to remind you, that is  
9 your statement from last year, 21 March 2022, and  
10 I think in paragraph 6 you say that you actually have  
11 a number of qualifications in relation to training.
- 12 A. That's correct, yes.
- 13 Q. And what it says is:
- 14 "I have a Higher National Diploma in training and  
15 development, a Bachelor of Arts in tertiary education  
16 and a teaching qualification in further education."
- 17 A. That's correct, yes.
- 18 Q. So are these distinct from your work as -- in  
19 Police Scotland as a trainer, or are they part of the  
20 qualifications that you have obtained during the work  
21 that you're doing as a trainer?
- 22 A. They were -- the diploma was part of my training role.  
23 The -- my degree was supplemented -- which I did in my  
24 own time and then paid for in my own time, yes.
- 25 Q. And when did you do your degree?

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1 A. My goodness ... 2017 maybe? I can't remember exactly,  
2 sorry.

3 Q. No, that's absolutely fine. Were you training at that  
4 time in Police Scotland?

5 A. Yes.

6 Q. Thank you. Can I move on and ask you about during the  
7 time you have been involved in officer safety training,  
8 so as a trainer, as a coordinator, as the head of the  
9 department, were you aware of concerns being expressed  
10 by the Scottish Police Federation, at times, about the  
11 nature of the training that was being given?

12 A. I believe prior to myself coming into the role I think  
13 there was a working group prior and I think it was under  
14 the auspices of ACPOS at that time where concerns had  
15 been raised about potentially the disparity of the  
16 training that was being delivered across the legacy  
17 forces, but personally I never engaged with the  
18 Federation in that respect, no.

19 Q. And when you say when you came into the role, was that  
20 before you became the national coordinator, or was it  
21 before you became the head?

22 A. It was before I became the coordinator.

23 Q. Right. Thank you.

24 Now, when you gave evidence last year I asked you  
25 about a number of statements, and I'm not going to go



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1 through those again today, but for your own use there  
2 are copies in the blue folder in front of you. Now,  
3 there were three PIRC statements from 14 September 2015,  
4 11 December 2017 and 12 January 2018. We went through  
5 those last time but if you wish to refer to them, please  
6 let me know.

7 Then you also had given us an Inquiry statement last  
8 year in advance of giving evidence and that was from  
9 21 March 2022, and again there's a copy of that in your  
10 folder if you -- I might refer to some paragraphs at  
11 moments and we will bring it up on the screen as we did  
12 before.

13 Could you give me a moment please. I wonder perhaps  
14 if we could very briefly adjourn because I understand  
15 there's a difficulty with the system.

16 LORD BRACADALE: (Inaudible - mic turned off).

17 (10.14 am)

18 (Short Break)

19 (10.22 am)

20 LORD BRACADALE: I'm sorry about that, Inspector. There is  
21 a difficulty with the facility that allows the evidence  
22 to be displayed on the screen but I understand that that  
23 is now resolved.

24 Ms Grahame.

25 MS GRAHAME: Thank you. Thank you very much.

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1 I was just about to move on to the statement that  
2 you have provided us this year, so this is your second  
3 Inquiry statement, and it is dated 12 July 2023 and it  
4 is SBPI00362. We will see if we can get that up on the  
5 screen. Just like magic. So you will see, inspector,  
6 at the -- as we move down that first page, you will see  
7 that this is a statement from 12 July 2023, that you  
8 gave to the Inquiry team and it is 30 pages. If we  
9 could look at paragraph 74 please, which is the final  
10 paragraph:

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

15 And again, as it was last year, you have signed all  
16 of the pages of this statement but on the screen we have  
17 your signature redacted.

18 A. That's correct.

19 Q. But on your copy -- you have a copy in the blue  
20 folder -- it's your signature that's on the page?

21 A. Yes.

22 Q. Thank you. And you knew that this would be part of the  
23 evidence available for the Chair and be put on the  
24 website when you signed?

25 A. Yes.

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1 Q. Thank you. Now, last year you gave evidence about the  
2 OST manual 2013 and you talked about that being  
3 version 2 that had come out and can I just be clear,  
4 this -- you said last year it came into force, or came  
5 out on 1 September 2013. At that time you were still  
6 a police sergeant training probationers in Tulliallan?

7 A. Yes.

8 Q. It wasn't until the following month, the October, that  
9 you became the national coordinator?

10 A. Not the national coordinator, the coordinator at  
11 Tulliallan.

12 Q. Sorry, the Tulliallan coordinator.

13 A. Yes.

14 Q. So at the time this manual came out you were still  
15 actively engaged with training recruits at Tulliallan,  
16 were you?

17 A. Yes.

18 Q. You confirmed in your previous evidence that this  
19 manual, the 2013 manual, would have been the one that  
20 was still in force in May 2015?

21 A. That's correct, yes.

22 Q. And you said in evidence last year that in terms of  
23 probationers having access to that manual, the 2013  
24 manual, they were all given a copy when they came for  
25 their probationer training --

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- 1 A. Yes.
- 2 Q. -- at Tulliallan. Would that have been in advance of  
3 their training or on their first day?
- 4 A. On their first day or couple of days, yes.
- 5 Q. Thank you. I think you also said in your evidence it  
6 was the core reference document for probationer training  
7 of the officer safety training programme and as well as  
8 all probationers getting access to it and being given  
9 a copy, that all the officer safety instructors at  
10 Tulliallan and all the officer safety instructors  
11 throughout the force -- the force areas were also given  
12 copies?
- 13 A. Yes.
- 14 Q. So would you have received a copy when you were a police  
15 sergeant dealing with probationer training  
16 in September 2013?
- 17 A. Yes.
- 18 Q. Thank you. And when you refer to that as being a core  
19 reference document, that was then used as the basis from  
20 which all the training after 1 September 2013 was rolled  
21 out to probationers and serving officers who were doing  
22 refresher training?
- 23 A. Yes, it was the central reference point for the  
24 probationer training programme, yes.
- 25 Q. Thank you. I would like to go through some information

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1           we have heard or that is available to the Chair in  
2           relation to some of the officers that were at  
3           Hayfield Road on 3 May 2015 but in relation to their  
4           training.

5           May I begin with -- there were three probationers on  
6           3 May 2015 that we have heard from and they were  
7           PC Ashley Tomlinson, PC James McDonough and  
8           PC Kayleigh Good. They were all present at  
9           Hayfield Road that day.

10          Can we begin with Ashley Tomlinson please. As  
11          I understand it -- and what I have done is I have asked  
12          for copies of the SCOPE records to be available, hard  
13          copies, in your folder and you should be able to find  
14          them and I'm going to take you through very briefly some  
15          information we have. I won't ask for these documents to  
16          be put up on the screen, that's not necessary, but if we  
17          can begin with PC Ashley Tomlinson. For the benefit of  
18          those behind me, this is a SCOPE record, PIRC 01203, but  
19          I don't need it up on the screen.

20          (Pause).

21          You will be familiar with SCOPE records, I would  
22          imagine?

23          A. Yes.

24          Q. We understand that he joined Police Scotland, as it was  
25          then, on 30 September 2013 and I think in the SCOPE

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1 record the very first entry on the table which you will  
2 see on page 2 says 30 September 2013.

3 A. Yes.

4 Q. Thank you. And he gave evidence to this Inquiry and  
5 said he would have been a probationer until  
6 about September 2015; is that about right?

7 A. Yes.

8 Q. So are officers really probationers for a couple of  
9 years?

10 A. Roughly around about two years, yes.

11 Q. Thank you. For an officer starting on  
12 30 September 2013, as Officer Tomlinson was, he would  
13 have received his probationer training on the basis of  
14 the 2013 manual?

15 A. Yes.

16 Q. And he also attended officer safety training refresher  
17 training on 23 November 2014. So that's  
18 23 November 2014. And you will see there it says:

19 "OST~..."

20 Officer safety training:

21 "... requalification and OST first aid SPELS  
22 requalification."

23 And the date is 23 November 2014 and it appears to  
24 have been for one day.

25 A. That's correct.

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1 Q. We understand that the training he received was under  
2 the 2013 manual and he was actually taught by  
3 an Alan Smith, who was another officer who was at  
4 Hayfield Road, and also an Alasdair Shaw. That  
5 information won't appear on the SCOPE records in front  
6 of you, will it?

7 A. No.

8 Q. You will just -- if you take that from me at the moment  
9 as the case. For those behind me the statement from  
10 Alasdair Shaw is PIRC 00501 and he talks about being the  
11 trainer for that course, requalification course, with --  
12 and PC Tomlinson was in attendance.

13 Then can we look please at PC James McDonough's  
14 SCOPE records. That's -- again, I don't need this on  
15 the screen but it's PIRC 01243.

16 I understand that he was a probationer in May 2015  
17 and he had been in post around six months. He joined as  
18 a special constable on 20 November 2013. He did initial  
19 training and on 6 October 2014 he became a full-time  
20 constable, a probationer effectively. And you will see  
21 that date, 6 October 2014, on his SCOPE record there.

22 Do you see that? It's the bottom entry.

23 A. Yes, at the bottom. Yes.

24 Q. And then he explained he did a special constable  
25 conversion course on 11 November 2014 based on the 2013

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- 1 manual.
- 2 A. (Nods).
- 3 Q. Does that sound like the correct procedure?
- 4 A. Yes, it does.
- 5 Q. I see here on his SCOPE record it says:
- 6 "OST~..."
- 7 Officer safety training:
- 8 "... requalification."
- 9 From 11 November 2014 and we understand PC McDonough
- 10 viewed that as a special constable conversion course.
- 11 Is there anything that is unusual about listing it on
- 12 his SCOPE record as effectively a requalification or
- 13 a refresher training?
- 14 A. No, because he would have received his initial training
- 15 as a special constable and then it's a requalification.
- 16 Q. So can you tell us, the initial training for a special
- 17 constable, is that markedly different from the initial
- 18 training as a probationer?
- 19 A. I can't comment on what it was like before I came into
- 20 post but certainly from when I was in post it was
- 21 exactly the same, so a special constable received the
- 22 exact same officer safety training initial course as
- 23 full-time officers.
- 24 Q. Thank you. And again, just to be clear, PC McDonough
- 25 would have been trained on the basis of the 2013 manual?



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- 1           A. Yes.
- 2           Q. Thank you. Then PC Kayleigh Good. Again, for the  
3           benefit of those behind me it is the SCOPE record  
4           PIRC 01202. PC Good gave evidence that she joined  
5           the police on 5 January 2015 and she had OST training  
6           between 2 February 2015 and 6 February 2015. So if we  
7           look at her SCOPE record we can see that she appears to  
8           have had some sort of values and ethics briefing on  
9           6 January 2015 and I didn't see any particular reference  
10          to initial training on that day on the SCOPE record.  
11          She does, however, have OST, officer safety training,  
12          initial listed as 2 February 2015 to 6 February 2015.  
13          So would that have been her initial training in  
14          the February?
- 15          A. Yes.
- 16          Q. Right. So it's not the case that an officer can start  
17          with the police on day one and immediately go into  
18          training, they can have a slight lag, can they?
- 19          A. Sorry, in what respect?
- 20          Q. Right, she -- we hear that she joined in the January.
- 21          A. Yes.
- 22          Q. But the initial training on the SCOPE record seems to  
23          have been in the February.
- 24          A. Yes.
- 25          Q. Whereas other officers appear to have started and gone

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1           straight into initial training. Is that unusual or  
2           different in any way?

3           A. Initial OST training are you referring to?

4           Q. That's what it says here. Initial OST training,  
5           6 February -- sorry, 2 February to 6 February 2015.

6           A. So there wasn't a set time when officers would receive  
7           their initial training during -- or initial OST training  
8           during their initial training period at Tulliallan. It  
9           would very much depend on how many other courses were  
10          in, venue availability, so some courses would maybe wait  
11          until week 4 or 5 to get their OST training. Other  
12          courses would get it sooner than that, sometimes later.

13          Q. But it would be the same training course?

14          A. Exactly the same training, yes.

15          Q. And for PC Good it would have been on the 2013 manual?  
16          She has had the training in February 2015.

17          A. Yes, it would be, yes.

18          Q. And there was nothing unusual about the fact that she  
19          started in the January but didn't get training until  
20          the February?

21          A. No, it was common.

22          Q. Quite common?

23          A. Yes.

24          Q. Thank you. And we have also heard from PC Good that her  
25          first shift was in the April and she was a probationer

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- 1           and Constable Smith was her -- Alan Smith was her tutor  
2           constable, mentor. Is mentor a reasonable phrase?
- 3       A. Tutor/mentor, yes, you could use both.
- 4       Q. Again is that quite common to be coupled with  
5           a tutor/mentor?
- 6       A. Yes.
- 7       Q. Thank you. And we have a statement from a David Agnew.  
8           Did you know David Agnew?
- 9       A. Yes.
- 10      Q. Was he also one of the trainers?
- 11      A. He was one of the civilian physical education  
12          instructors and one of the lead OST instructors at  
13          Tulliallan.
- 14      Q. Can you explain to the Chair what's the difference  
15          between a trainer who is delivering training to  
16          probationers or refreshers, and a civilian physical  
17          education instructor?
- 18      A. So the civilian educational instructors are not  
19          police officers. They -- primarily their role is the  
20          physical education, drill and officer safety training  
21          and they receive training to allow them to deliver that  
22          training to probationers.
- 23      Q. How many trainers are usually conducting each initial  
24          probationer course?
- 25      A. It depends on the size of the course. You will have

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1 a lead instructor and then depending on the size of the  
2 course it could be five or six instructors normally.

3 Q. Will there be usually a mixture -- would there have  
4 been, at that time, a mixture between police officers  
5 and civilians, or would it just depend on availability?

6 A. No, there would usually be the mix of police officers  
7 and civilians because the civilian instructors, one of  
8 their primary roles was delivery of OST so normally they  
9 would be present during all OST training.

10 Q. And was there any difference between being trained on  
11 the 2013 manual by a police officer compared to  
12 a civilian PE instructor?

13 A. Not in my view, no.

14 Q. And they had both received the same training, had they,  
15 to deliver that training to probationers?

16 A. Yes.

17 Q. And tell us, in terms of training and the trainers or  
18 the civilians, were they all working from the 2013  
19 manual at that time in 2015?

20 A. Yes.

21 Q. So for the Chair when he comes to consider matters, is  
22 it fair for him to take the approach that Tomlinson,  
23 McDonough and Good, who were all probationers in 2015,  
24 had received copies of the 2013 manual, had been trained  
25 in relation to the 2013 manual with initial training and

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1           if they had had refresher training, that would also have  
2           been on the back of the 2013 manual?

3           A. For the initial element it's fair to say that. For the  
4           refresher element, unfortunately there was no way of  
5           telling what training they actually received because it  
6           was back at Force. And as I outlined in my review and  
7           my previous evidence there was that disparity across, so  
8           it was very difficult to ascertain what training they  
9           would have received back at Force for the refresher.

10          Q. So at that time in 2015 you wouldn't have personally  
11          been delivering refresher training to anybody at that  
12          stage?

13          A. In 2015 I was because I had moved down to Jackton in  
14          2015, but in my time at Tulliallan I had -- I only would  
15          deliver refresher training to the Tulliallan staff who  
16          required refresher training.

17          Q. Thank you. I would like to move away from the  
18          probationers who were present at Hayfield Road and turn  
19          to Alan Smith, who was an officer in attendance. Again,  
20          you have his SCOPE records, hard copy in front of you,  
21          for those behind me it is PIRC 01205.

22                 I understand he joined Fife Constabulary on  
23          30 August 2004. Can you see that he was given his -- he  
24          was receiving training in 2004 and he has a probationer  
25          post-initial course and an induction course. Those

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1           dates are 20 December to 24 December 2004. He had also  
2           had an induction course in the August to September of  
3           2004.

4           A. Yes.

5           Q. He has given evidence to the Inquiry and said he was one  
6           of the officer safety trainers. Do you remember  
7           Alan Smith?

8           A. I don't, no.

9           Q. He said he had also gone through additional training and  
10          previously been an authorised firearms officer, although  
11          he had stopped that role prior to 3 May 2015.

12          My understanding is that for officers who wish to be  
13          firearms officers, they have additional training on top  
14          of what would normally be given to a constable or  
15          someone in a response team?

16          A. That's correct, yes.

17          Q. Have you ever been involved in that sort of training,  
18          firearms officer training?

19          A. I was a firearms officer but I wasn't a firearms  
20          instructor, so I received the training not delivered it.

21          Q. Thank you. And he gave evidence that he was personally  
22          delivering refresher training to officers about two or  
23          three times a month at around the time of May 2015.

24          Would that be quite common, for trainers to be giving  
25          training two or three times a month, or does it vary?

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1       A. It would vary. At that time we had I suppose -- well,  
2       apart from legacy Strathclyde Police all the other  
3       forces it was a part-time model, so the officers would  
4       work on a response shift or at a division and would be  
5       drafted in to deliver OST refresher training as and when  
6       it was required.

7       Q. Right. And we know that he was a Fife Constabulary --  
8       he was drafted into Fife Constabulary, so that would  
9       have been with a part-time training regime in place?

10      A. Yes.

11      Q. Thank you. He described himself in evidence as having  
12      a good working knowledge of all the OST source  
13      techniques and training, and is that what you would  
14      expect from someone who was trained to be a trainer?

15      A. Yes.

16      Q. Thank you. And for someone like Alan Smith, who is  
17      a trainer, if he is doing any training after  
18      1 September 2013, would that have been on the basis of  
19      the 2013 manual?

20      A. It should be.

21      Q. I think from what you said earlier in September 2013 all  
22      trainers were given a copy of the manual?

23      A. As far as I was aware, yes.

24      Q. Now, Smith was given training to become a trainer by  
25      David Agnew, and again for the benefit of those behind

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1 me that's PIRC 00503, and on page 7 of his PIRC  
2 statement David Agnew mentions Smith at the top of  
3 page 7 -- sorry, no, PIRC 00503, let's just have that on  
4 the screen for a moment and we will look at page 7 and  
5 I think it is at the top of the page he mentions Smith.  
6 There we are. If we can go back to the previous page  
7 and just read -- so he said -- this is the statement of  
8 David Agnew:

9 "I have been asked by the investigators if I was the  
10 instructor on the Officer Safety Training Instructor  
11 Course at Tulliallan on 02/12/2013 - 13/12/2013. I can  
12 confirm that I was the instructor on this course.  
13 I have checked the OST instructor assessment system and  
14 have confirmed this information. This system is  
15 maintained solely at the Police College by staff on  
16 campus here. I can confirm the location of this course  
17 is the Scottish Police College. I think it was  
18 [redacted] who instructed this course alongside myself.  
19 I have been asked by the investigators if I have any  
20 memory of who was on this particular course. Due to the  
21 passage of time I do not, however I have been asked if  
22 I have any personal knowledge of PC Alan Smith. I do  
23 not know this individual. however, I have provided the  
24 investigators with

25 "... OST Instructors Course (course registration



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1 form) - PC Alan Smith~..."

2 And that's the module/course registration form:

3 "This document details the above named individual  
4 was present on this course. I can confirm that [he] ...  
5 successfully passed this course. The course was taught  
6 as per the content discussed previously and the manual."

7 He had previously, in his statement he talks about  
8 the 2013 manual. So for someone who has been given this  
9 instructors course and who has successfully passed the  
10 course, would you -- in relation to the 2013 manual --  
11 would you expect them to have a reasonably good working  
12 knowledge of the techniques and the content of that  
13 manual?

14 A. Yes.

15 Q. Right. Can I move on now to other officers who were at  
16 Hayfield Road who were not probationers, they were not  
17 qualified trainers or instructors, but they had more  
18 years of service.

19 If we could look first of all in relation to some of  
20 the SCOPE records. Let's look at the SCOPE record for  
21 Alan Paton. Again, I won't ask for this to be up on the  
22 screen but you can look at the hard copy and this is  
23 PIRC 01207 for those behind me.

24 Now, I understand that he joined Fife Constabulary  
25 also and that was on 13 September 2001. We can see that

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1           he had an induction course on 13 September 2001 from his  
2           SCOPE records that lasted until 21 September and then he  
3           is listed as having officer safety training from  
4           14 September to 21 September 2001. Do you see that on  
5           the SCOPE records?

6           A. Yes.

7           Q. So he had around 14 years' service by 2015.

8                     Then if we can look briefly at the SCOPE records for  
9           Craig Walker. Again, without putting it on the screen,  
10          it's PIRC 01206. You can look at the hard copy. Walker  
11          was another officer who joined Fife Constabulary and he  
12          joined on 30 August 2004 and you will see at the bottom  
13          of his SCOPE record or the table it says that he had  
14          police staff induction course, data protection training  
15          and probationer post-initial course and then officer  
16          safety training and he seems to have begun his  
17          probationer period with some training which involved  
18          officer safety training and an initial probationer  
19          course. Do you see that?

20          A. I see that, yes.

21          Q. And is that -- that would be a while ago, that was  
22          ten years prior to May 2015, but again it appears that  
23          even at that time probationers were being given training  
24          courses, although not under the 2013 manual obviously.

25          A. No.

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1 Q. Could we turn to the SCOPE records for Maxwell,  
2 PIRC 01201. We won't put that up on the screen. He is  
3 another officer who also joined Fife Constabulary and  
4 that was on 21 July 2008, so he had seven years' service  
5 in 2015. Again, it would appear that he commenced his  
6 probationer period with an induction course and there's  
7 references there on that table to a number of different  
8 courses that he was given at that time when he arrived.

9 And then Short, PC Nicole Short, not on the screen,  
10 PIRC 01200, the SCOPE record. She joined Fife  
11 Constabulary on 20 July 2009. She had six years'  
12 service in 2015; do you see that?

13 A. Yes.

14 Q. And again, it would appear she began her probationary  
15 period with Fife Constabulary by being given an  
16 induction course and other probationer courses.

17 Then Gibson, SCOPE record PIRC 01204. Joined Fife  
18 Constabulary again on 20 February 2012, had three years  
19 of service by 2015 and was no longer a probationer at  
20 that time. And again we can see the induction course  
21 and the training that was given when PC Gibson joined  
22 Fife Constabulary.

23 So all of these officers with more service who were  
24 no longer probationers, they were all part of Fife  
25 Constabulary, that's one of the legacy forces we have

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1 heard about --

2 A. Yes.

3 Q. -- before Police Scotland came into existence on  
4 1 April 2013.

5 A. Yes.

6 Q. Sorry, I had to think about that date there.

7 Now, for Gibson I understand that he was -- he had  
8 three years' service in 2015, but wouldn't have received  
9 training under the 2013 manual, neither would any of  
10 those officers. None of them would have been trained  
11 because they all joined before 2013.

12 A. So they wouldn't have received the training as per the  
13 2013 manual, yes.

14 Q. So they would have received training under different  
15 manuals and different materials prior to the creation of  
16 the 2013 manual?

17 A. That's correct, yes.

18 Q. And I understand that there may be some issues in  
19 recovering manuals and materials prior to -- or for  
20 those officers in relation to them.

21 A. Yes.

22 Q. But for all of those officers they would all have had  
23 refresher training on an annual basis?

24 A. Yes.

25 Q. And that would have continued presumably throughout

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- 1           their service?
- 2           A. That's correct, yes.
- 3           Q. And from 1 September 2013 you mentioned earlier that
- 4           they should have been trained on the 2013 manual for
- 5           each of their refresher training courses, but you
- 6           weren't in a position to confirm that personally.
- 7           A. I mean, I don't know what the -- I don't recall any
- 8           national decision being made that they must be refreshed
- 9           in that manual back at Force. I made that decision
- 10          later on, but I don't know -- so I don't recall any
- 11          I suppose direction, memo, etc, coming out saying that
- 12          they will have -- you know, "You must all be trained --"
- 13          or the training must all be delivered from this manual.
- 14          Q. Right. When did you issue the direction that everyone
- 15          should be trained under the 2013 manual?
- 16          A. I think it would be roundabout 2015. I can't -- there
- 17          was an email I put out to all officer safety instructors
- 18          across the country to say that the only techniques that
- 19          should be delivered is from the 2013 manual. I think it
- 20          was around about 2015.
- 21          Q. Do you remember when in 2015 you issued --
- 22          A. No.
- 23          Q. -- that instruction?
- 24          A. I'm sorry, no.
- 25          Q. Can you help me, was it before May or was it

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1 after May 2015?

2 A. I couldn't honestly say. I mean it may even be 2014,  
3 I don't know. I really don't know.

4 Q. No, that's fine. So you issued the instruction at some  
5 point, 2015 or maybe 2014 --

6 A. Yes.

7 Q. -- for trainers who had received a copy of the 2013  
8 manual from September 2013 when it came in. Was there  
9 anything stopping them using that manual, the up-to-date  
10 manual to deliver training?

11 A. To use the 2013 manual?

12 Q. Yes.

13 A. No.

14 Q. Do you know of any reason why they wouldn't be using  
15 that manual, particularly in Fife?

16 A. I couldn't refer directly to Fife. There was a general  
17 consensus that -- well, there was many instructors,  
18 divisional instructors, who didn't agree with the  
19 techniques that were in the 2013 manual. There was --  
20 from speaking to a number of instructors, they preferred  
21 their own techniques that they had maybe been taught  
22 previously. There was a number of barriers. One of the  
23 barriers, I think, as well from feedback was that it  
24 came from the central, it came from the college and they  
25 would prefer -- you know, they preferred their own

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1 techniques, their own way of training. So that was  
2 a number of the challenges that we faced back then to  
3 have parity across the country with regards to refresher  
4 training.

5 Q. I think you spoke about that when you gave evidence last  
6 time.

7 A. Yes.

8 Q. Do you remember if there were any particular regions or  
9 legacy forces that were resisting the move to the 2013  
10 manual?

11 A. There was -- I mean, we had instructors from -- probably  
12 from most of the divisions who were -- you know, who  
13 would -- who weren't particularly happy that we had to  
14 refer only to 2013 manual. I wouldn't be able to  
15 comment on whether there was more from one area or from  
16 another. I know there were some from the west area,  
17 there were some from the east area and from the north as  
18 well, so -- but I don't think there was any particular  
19 area where I would say that it was particularly  
20 challenging in respect of not wanting to comply with  
21 what was in the 2013 manual.

22 Q. Right, thank you. Can I check with you that up  
23 until May 2015 there was one day of annual refresher  
24 training given to officers?

25 A. Yes.

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- 1 Q. That's been changed now, I think it's now two days?
- 2 A. It's now two days annually, yes.
- 3 Q. Do you remember when it changed?
- 4 A. To two days?
- 5 Q. To two days.
- 6 A. I think it was just prior to COVID, so maybe around  
7 about 2020ish, or around about there.
- 8 Q. I think we went into lockdown in March 2020, so~...
- 9 A. Yes. It may have been 2019 but I think it was 2020,  
10 around about there.
- 11 Q. All right, thank you. I would like to ask some  
12 questions about the refresher training that officers  
13 would have had sort of prior to 3 May 2015, so the most  
14 recent refresher training they had. We understand that  
15 Walker had refresher training on 5 November 2014.
- 16 A. Okay.
- 17 Q. And that's from the SCOPE records as well and that  
18 included OST, officer safety training, and first aid  
19 which I think was called SPELS.
- 20 A. Yes.
- 21 Q. So that was six months prior to the incident in May 2015  
22 and Maxwell had that training, that refresher training,  
23 on 6 November 2014, so again about six months prior.  
24 Alan Paton had refresher training on 4 January 2015,  
25 again OST and first aid, around four months prior to the



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1 incident in May. Nicole Short had refresher training on  
2 25 February 2015, three months prior, and PC Gibson had  
3 refresher training on 4 March 2015. So within a period  
4 of roughly six months prior to the incident all of those  
5 officers that I have named: Walker, Maxwell, Paton,  
6 Short and Gibson, had had a day's refresher training and  
7 at that time the manual in place was the 2013 manual.

8 A. Yes.

9 Q. At the refresher training prior to May 2015 if they were  
10 receiving training in relation to changes that appeared  
11 in the 2013 manual, would trainers be drawing their  
12 attention to changes, modifications, significant matters  
13 that had altered, or are you not able to help me on  
14 that?

15 A. I wouldn't be able to say. It was very much down to the  
16 individual instructor on the day.

17 Q. All right. For -- you said that probationers would have  
18 been given the manual in 2013. What about -- what  
19 access would refresher training people have, students  
20 of -- can I call them refreshers or is that --

21 A. Yes, refreshers, yes.

22 Q. What access would the refreshers have to the 2013 manual  
23 prior to May 2015?

24 A. Unless there was hard copies available then I would  
25 probably say very little, if any at all.

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1 Q. Right. If they wanted to have access to that manual,  
2 how would they get a copy, or get access to it?

3 A. It would depend on the individual division or legacy  
4 force whether they had placed the manual on their  
5 divisional intranet site. I don't think it was  
6 available -- I don't think it was available through the  
7 national intranet site, so if an officer at division  
8 wished access to the manual they would -- again, I can't  
9 say with any degree of certainty but they would probably  
10 have to request that manual in a hard copy from their  
11 local OST instructors.

12 Q. Is that the position now, that people have to seek  
13 out --

14 A. No.

15 Q. No. What do you do now?

16 A. It's on the operational safety training intranet landing  
17 page.

18 Q. So for a refresher now, they can access it through the  
19 intranet --

20 A. Yes.

21 Q. -- if they wish to see it?

22 A. That's correct, yes.

23 Q. Is anyone given hard copies now?

24 A. I wouldn't be able to say. I'm not -- like I say,  
25 I haven't been involved with OST for a number of years

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1           now so I don't know.

2           Q. Of course, sorry. Do you know prior to 2015, May 2015  
3           in particular, was there any expectation on the part of  
4           people doing refresher training to access the manual  
5           either in advance to look at it or refresh their memory,  
6           or print off copies, or anything along those lines?

7           A. Again, I can't say for certain but I would doubt it very  
8           much.

9           Q. Right. I would like to ask you some questions about  
10          other statements we've got about refresher training that  
11          was given to the officers. I appreciate that you  
12          weren't personally delivering that but I would like to  
13          ask you about whether the descriptions accord with what  
14          you would have expected --

15          A. Okay.

16          Q. -- in your role at that time. Because in May 2015 you  
17          were the coordinator.

18          A. Yes.

19          Q. Let's look first of all at PC Walker, Craig Walker. So  
20          we have heard that he had refresher training on  
21          5 November 2014, six months before the incident that we  
22          are looking at, and there is information -- evidence  
23          available to the Chair from an Alasdair Shaw. Do you  
24          remember Alasdair Shaw? He was an instructor.

25          A. No, I can't say I do.

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1 Q. Let's look at his Inquiry statement please, SBPI 00156,  
2 and this is his signed Inquiry statement that's  
3 available to the Chair. He has given a description of  
4 some of the training that he was delivering at that  
5 time. So you will see the statement there,  
6 Alasdair Shaw, taken on 23 February last year and  
7 I would like to look first of all at paragraph 9 please  
8 and he says here:

9 "As part of the recertification training, we used  
10 a training checklist. I've had sight of a training  
11 checklist. I can't say whether this was the version in  
12 use in 2014/2015. However, it covers positional  
13 asphyxia, excited delirium and also restraint and knife  
14 defence techniques, all of which I would expect in  
15 a training checklist."

16 So can I ask you is that something that instructors  
17 were using in 2014 and 2015, a training checklist?

18 Would you like to see the one he is referring to?

19 A. Yes please, if that's okay.

20 Q. Of course, absolutely. So we see it is footnoted  
21 number 2 and maybe we can get that checklist on the  
22 screen.

23 (Pause).

24 Well, we can come back to that.

25 A. Of course.

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1 Q. But in general would it accord with your recollection at  
2 that time you were coordinator that a training checklist  
3 would cover positional asphyxia, excited delirium and  
4 restraint and knife defence techniques and that would be  
5 for refresher training?

6 A. Yes. We had a -- we provided a checklist that would  
7 cover all the techniques that had to be taught during  
8 that day and it was just an easy pro forma guide for the  
9 instructors to work their way through.

10 Q. Right, and was that something that all the instructors  
11 were provided with to work through?

12 A. I can't say then. I know we updated it and I sent it  
13 out with an instruction that it should be used, or it  
14 must be used. Whether it was getting used then --  
15 because I mean, to remember I became the coordinator,  
16 the national coordinator kind of late 2014/early 2015,  
17 so I can't exactly recall when I would send out these  
18 instructions, but I know that some forces prior to me  
19 coming into post would do the checklist, others didn't.  
20 Some instructors would use one, others wouldn't.

21 Q. Right. Certainly it would appear that Alasdair Shaw,  
22 who gave refresher training to PC Walker  
23 in November 2014, has looked at a training checklist  
24 that he was using?

25 A. Yes, and that's the best practice at the time, yes.

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1 Q. So that was best practice at the --

2 A. Yes.

3 Q. Certainly a practice that Shaw appears -- says --

4 A. Yes.

5 Q. -- certainly in his statement to be using. So there may  
6 have been instructors who were not using best practice,  
7 but certainly from what Alasdair Shaw is saying, that is  
8 best practice?

9 A. It would appear to be, yes.

10 Q. And can we look please at paragraph 13 of his Inquiry  
11 statement:

12 "Positional asphyxia."

13 Now, again this is what Alasdair Shaw is saying:

14 "Generally training of take downs normally involved  
15 bringing a subject down into the prone position. When  
16 we were teaching about take downs to the prone position,  
17 we would pretty much always stress the risks of things  
18 like positional asphyxia, making sure that we weren't  
19 keeping that person in the prone position for any length  
20 of time, they were always getting them up and away from  
21 that position as quickly as possible. I like to think  
22 that certainly whenever I was teaching I would always  
23 reinforce that message. So when you look at that check  
24 sheet you probably see a small bit there on positional  
25 asphyxia and someone may think, 'Well, they don't talk

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1           about that very much'. But we would talk about that for  
2           every technique that involves somebody coming down into  
3           the prone position; we would remind them of the dangers  
4           of positional asphyxia and if you were bringing somebody  
5           on to there to try and alleviate the pressures of that."

6           Now, from that description from Shaw, who was an  
7           instructor, does that accord with your recollection of  
8           what people were teaching at that time?

9           A. That's what should be being taught, yes.

10          Q. So again, that's what should have been --

11          A. Yes, that's --

12          Q. That's the approach that should have been taken?

13          A. That's correct, yes.

14          Q. Right. Can we look at 14 please and Alasdair Shaw says:

15                 "We taught students to be aware of the signs of  
16                 positional asphyxia. We would remind them that just  
17                 because somebody can speak and shout, it doesn't  
18                 necessarily mean that they're able to breathe properly.  
19                 I would remind them that although someone's able to get  
20                 air out of their lungs they might not necessarily be  
21                 able to get air back into their lungs at the same rate.  
22                 Just because they're shouting or verbalising, 'I can't  
23                 breathe', doesn't mean that they're breathing properly.  
24                 That person may be struggling to breathe. We would get  
25                 them to look out for behavioural changes. For example,

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1           if we have a custody who has been fighting with us and  
2           all of a sudden stops fighting and goes limp, then we  
3           need to make sure that they're breathing properly.  
4           Conversely, if we've got somebody who is really starting  
5           to struggle and fight, is the reason for that because  
6           they are literally fighting for their lives, are they  
7           struggling to breathe so to be mindful of that. We  
8           would train students to look out for the physical  
9           symptoms such as cyanosis of extremities including lips  
10          and fingertips, if they're starting to go a blue or  
11          purple colour that could be a sign that the person's not  
12          getting enough oxygen, to listen out for any sort of  
13          gurgling or rasping sounds coming from that person. So,  
14          these were the things that we were asking students to be  
15          aware of."

16                 Sorry, my voice is going slightly.

17                 So again, reading that description from  
18          Alasdair Shaw about the type of training that he was  
19          delivering, does that accord with your recollection of  
20          what should have been taught?

21          A. Absolutely, yes.

22          Q. Yes, thank you. And then can we look at paragraph 16  
23          please:

24                 "We would always make sure that we were teaching  
25          students to be mindful of where they were putting their



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1           bodyweight and their hands. Some of the techniques that  
2           we did involved, for example, a knee going onto  
3           a custody's shoulder for some of our ground pin  
4           techniques. When we were teaching that we would teach  
5           students that the knee should be on the shoulder and we  
6           would point out that it shouldn't be on the head,  
7           shouldn't be on the neck, shouldn't be on the back or  
8           anything like that, it should always be on the shoulder  
9           that we were putting that pressure."

10           I'm interested in his description here. Does that  
11           accord with what your understanding of the training at  
12           that time should have been?

13           A. Yes.

14           Q. Was that good practice?

15           A. That's best practice, yes.

16           Q. So he says:

17           "We would always make sure that we were teaching  
18           students to be mindful of where they were putting their  
19           bodyweight and their hands."

20           Can you help the Chair understand a little bit more  
21           about what was behind that training and that instruction  
22           to participants on a refresher course?

23           A. Yes, so I'm assuming he is talking about prone restraint  
24           here.

25           Q. He certainly -- he referred to prone restraint earlier

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- 1           in paragraph 13, I think it was.
- 2       A. Yes. So when we taught prone restraint we would always
- 3       teach the students where the danger areas were, if you
- 4       wish to call them that, so that's normally in the centre
- 5       of the back, down the spine, anywhere that would put
- 6       direct pressure on to the chest cavity or the lungs or
- 7       the diaphragm. So to try and mitigate that we always
- 8       taught that any pressure to restrain someone in the
- 9       prone should be through the shoulder blade area, or the
- 10      shoulders, so be mindful of if they're putting -- if
- 11      they're using their hand to use -- to facilitate that
- 12      restraint then best practice and wherever possible then
- 13      it would be through the shoulders. That (inaudible) and
- 14      if it was using the knees then it would be through the
- 15      shoulders and that allows -- that still allows that
- 16      person to be restrained but also allows the chest
- 17      cavity, the diaphragm, etc, to move.
- 18      Q. And so if it's focused on the shoulders, is that
- 19      avoiding the back and the spine completely?
- 20      A. Yes, if possible, yes.
- 21      Q. If possible. Now, this reference here to telling
- 22      students to be mindful of where they're putting their
- 23      body weight, can you explain a little bit more about why
- 24      that was being taught?
- 25      A. So in -- I suppose in a violent struggle it's not always

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1           possible to be extremely accurate where you are pinning  
2           someone, or where you are when you are trying to prone  
3           restrain and we had seen in the past many times where  
4           officers would just simply lie over the back of  
5           a subject, for whatever reason. That was obviously  
6           their own reasons. So that's why we always, I suppose,  
7           contra-indicated that wherever possible, that where  
8           possible try not to use the officer's own body weight  
9           across, I suppose, the back or the chest area of an  
10          individual because of the potential implications of  
11          that.

12         Q. And what were the potential implications of that?

13         A. So when you place pressure through the back, especially  
14          the weight -- particularly of a person, then that  
15          minimises or at times will stop the chest being able to  
16          expand, the diaphragm being able to push up and  
17          obviously that then has that negative impact on that  
18          person's ability to breathe and because of that the  
19          chemical build up that occurs, so it's simply about  
20          trying to ensure that that person has as little pressure  
21          on the chest area as possible.

22         Q. You have talked about pressure, you have talked about  
23          body weight. To what extent are they the same thing or  
24          different when you're talking about avoiding pressure or  
25          avoiding body weight?

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1       A. So body weight can obviously be placed in a number of  
2       different ways. It can be placed by simply lying across  
3       that person so your upper body is on top of their upper  
4       body. It can be through the knees, so your weight's  
5       going down through your knee. So it's just the weight  
6       of that person -- that officer or that person.

7       Q. Is that the equivalent of what you say is pressure,  
8       applying pressure?

9       A. Yes.

10      Q. And you said you had seen -- was that examples of  
11      officers lying on the back of someone who was prone?

12      A. Many times.

13      Q. Many times. When was that? Can you help the Chair  
14      understand?

15      A. Since whenever I started in the police. It wasn't  
16      uncommon.

17      Q. When did you start with the police?

18      A. 1995.

19      Q. Right.

20      A. It wasn't particularly uncommon to see officers lying  
21      across violent individuals because at times that's  
22      potentially the only way they can protect themselves and  
23      others.

24      Q. Right. And so this training which was being given, for  
25      example -- this is Alasdair Shaw's statement and you

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1           have agreed was part of the training at the time, so  
2           that would have encouraged or advised officers to be  
3           mindful of putting their body weight?  
4       A.   Absolutely.  
5       Q.   And when the word there is used of being "mindful", what  
6           does that actually mean?  
7       A.   I mean I wouldn't -- I don't know in what context this  
8           officer is using it. I would obviously -- it's about --  
9           for me it's contra-indicated: wherever you can, you  
10          don't do it. So it's about ensuring, where you can,  
11          that you don't put pressure on the areas that may cause,  
12          you know, severe medical implications.  
13       Q.   Right. If you were doing it were there any -- was there  
14          any guidance at that time for refresher training on how  
15          long you should do it, or how quickly you should get off  
16          or anything like that?  
17       A.   As soon as safe.  
18       Q.   And what does that actually mean?  
19       A.   As soon as the threat and the risks from that person is  
20          mitigated.  
21       Q.   Mitigated?  
22       A.   Yes.  
23       Q.   Not avoided completely?  
24       A.   I would say not avoided completely. I would say  
25          mitigated.

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1 Q. We have heard other evidence last year from  
2 a Joanne Caffrey who said there's always the option  
3 if -- she had seen -- I'm summarising here. I don't  
4 have the exact quotes, but she had seen situations where  
5 a lot of officers were trying to restrain someone but  
6 they were so strong that they couldn't restrain the  
7 person and it was always an option to remove themselves  
8 and consider a different option. I mean, that might be  
9 sprays or it might be containing the subject but you  
10 could withdraw, I think was the word, or disengage. Was  
11 that something that was being taught in terms of  
12 refresher training?

13 A. Yes. So as part of the training if you attempted or  
14 precluded physical restraint then the training was that  
15 you should disengage and consider other tactical  
16 options.

17 Q. Right. Thank you. Let's move on to paragraph 17  
18 please, again sticking with Shaw's statement:

19 "I am asked whether lying across a subject would be  
20 an inappropriate or risky form of restraint. Where  
21 an officer was lying over the back or the neck and  
22 the head, yes. For some techniques we would lie across  
23 the legs. For example if we were applying Fastraps we  
24 would lie across the legs to secure them, so if you have  
25 somebody prone on the ground we wouldn't want the

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1 officer coming up above the leg line when you're doing  
2 the restraint. One officer would lie across the legs to  
3 secure the legs and a second officer would come in and  
4 apply those Fastraps in theory."

5 A. That's correct.

6 Q. So again, just looking at this for a moment, from what  
7 you have said a moment ago, inspector, Alasdair Shaw is  
8 asked whether lying across a subject would be an  
9 inappropriate or risky form of restraint. He appears to  
10 agree if an officer was lying over the back or the neck  
11 or the head. That sounds like what you have -- you  
12 would agree with that from what you have just said.

13 A. There's an element of risk absolutely.

14 Q. Then can I ask you a little more about lying across the  
15 legs. We have heard evidence that officers were  
16 lying -- at least one officer was lying across the legs  
17 on 3 May and when he says:

18 "... we wouldn't want the officer coming up above  
19 the leg line~..."

20 What does that actually mean?

21 A. So you wouldn't -- wherever possible and if it can be  
22 avoided, you don't want the officer who is trying to  
23 control the legs going any higher than the top of the  
24 legs.

25 Q. Right. Is that the -- before they reach your waist or

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1           your bottom or any of that, or is it --

2           A. Yes, and it's for two reasons. The higher up the legs  
3           you are -- so if you do go into the area of the bottom  
4           or even the lower back then that subject is still able  
5           to engage their legs. And the second reason is  
6           obviously the higher up the body you go then the closer  
7           you are to the chest cavity, the closer you are to the  
8           diaphragm and the closer you are to potentially  
9           interfering with the breathing mechanism.

10          Q. So again these things were taught to refreshers at this  
11          time?

12          A. Yes.

13          Q. Can we move on to paragraph 18 please and this is  
14          a paragraph headed:

15                 "Subjects under the influence of substances/excited  
16                 delirium."

17                 Now, we have heard a lot of evidence about excited  
18                 delirium but can I ask you -- this was from Shaw who was  
19                 teaching refresher training in November 2014:

20                 "I'm asked what was taught to students in 2014/2015  
21                 regarding the restraint of subjects who were under the  
22                 influence of drugs and alcohol. I think at that 2014  
23                 time period we would refer to things like excited  
24                 delirium. So that is a phrase that we used for  
25                 custodies we may encounter who were perhaps under the



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1 influence of drink or drugs. We reminded students that  
2 it may not be that they're behaving in that way because  
3 of drink or drugs, that it may be a medical condition or  
4 mental health implications that's causing that person to  
5 behave that way. So we would always ask students not to  
6 assume that somebody is behaving in a particular way due  
7 to intoxication as there may be another cause."

8 So this is what Alasdair Shaw says he was training  
9 at the time. Does that accord with your understanding  
10 of what should have been trained --

11 A. Yes.

12 Q. -- in terms of the 2013 manual?

13 A. That's correct, yes.

14 Q. Can I ask, was a distinction made about people who were  
15 under the influence of drugs or alcohol and people who  
16 were suffering from mental health problems?

17 A. If I'm specifically referring to excited delirium, then  
18 one of the list of possible causes of someone to behave  
19 in that way can be either drink or drugs, or an acute  
20 mental health crisis, so it was more about the signs and  
21 the symptoms that they were exhibiting and the safe  
22 management, not about the cause. Because if you -- if  
23 we teach causes then we have -- you know, people look  
24 for solutions for that specific cause, so it's not for  
25 us to determine what the cause of that is. It's for us

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1 to safely manage as much as we can or as best as  
2 possible the signs and symptoms of that behaviour.

3 Q. We have heard people give evidence saying that it  
4 wouldn't be fair to expect officers to be able to  
5 diagnose a medical condition or the cause of behaviour.

6 A. Exactly.

7 Q. So there's no suggestion there that you were  
8 distinguishing between intoxication for some reason  
9 being the fault of a person and mental health not being  
10 their fault; that wasn't the distinction that was being  
11 drawn?

12 A. It shouldn't be, no. It's about the signs and the  
13 symptoms they're exhibiting and the safe management of  
14 those signs and symptoms.

15 Q. Right, thank you. Can we look at paragraph 19 please,  
16 again just sticking with Shaw's statement for the  
17 moment. He says:

18 "We would teach students to identify signs of  
19 excited delirium. This would include a person is  
20 behaving in an unusual manner, if they're not responding  
21 to verbal commands, they're not listening to what you're  
22 saying, if there's behavioural changes including having  
23 unusual strength. Also, if they're hot to the touch, if  
24 they're sweating profusely, or if they're not responding  
25 to pain. For example, if you were to baton somebody and

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1           they didn't respond to that and it almost seemed they  
2           weren't flinching, that could be a sign that that person  
3           is experiencing that excited delirium, that could be one  
4           of the effects of that. Failing to react to CS spray  
5           may be another sign. Someone that is experiencing  
6           excited delirium, the effects of CS might be minimal or  
7           none at all."

8           Again, from your recollection in 2014 was that the  
9           sort of information that was being shared with refresher  
10          students?

11         A. The information is correct and again -- and I keep going  
12          back, sorry, but whether it was being -- whether that  
13          information was being provided during every refresher  
14          course, I couldn't say.

15         Q. No. So Alasdair Shaw, whose statement this is, was the  
16          instructor in November 2014 when PC Walker was given his  
17          refresher training so he was asked in his statement to  
18          give an explanation and a description of the training he  
19          was giving the students at that time. So if that is  
20          his -- that's his evidence, he signed that statement.  
21          If that is what he was doing, would that accord with  
22          your understanding of what ought to have been taught  
23          under the 2013 manual?

24         A. Yes.

25         Q. Thank you. Could we look at paragraph 22 now please and

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1           it says:

2                   "For both excited delirium and positional asphyxia,  
3           if officers suspected either was happening that they  
4           should treat it as a medical emergency and get an  
5           ambulance out as quickly as possible. Or even if the  
6           person is already in the back of the van, for example,  
7           take them straight to the Accident and Emergency  
8           Department if that's going to be quicker. We would tell  
9           them never bring somebody that's showing those signs and  
10          symptoms into police custody. Because all that would  
11          happen is the police custody staff would hopefully  
12          identify it and tell them to take them straight up to  
13          the hospital. So we would always reinforce it has to be  
14          treated as a medical emergency."

15                  Again, if Alasdair Shaw was delivering that  
16          training, would that accord with what your understanding  
17          is of what it should have been?

18          A. Yes.

19          Q. And then finally on this statement -- I'm appreciative  
20          of the time but I might have time just to complete  
21          this -- paragraph 23:

22                  "People who were under the influence of drugs and  
23          alcohol or suffering a drug-induced psychosis, we would  
24          treat these people in the same way that we would be  
25          treating people with excited delirium, regardless of

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1           whether there was a known cause or not. Excited  
2           delirium training covered dealing with people who were  
3           heavily intoxicated with drink, drugs, or maybe  
4           experiencing some sort of psychological hallucinations.  
5           It would also cover people who've even had a medical  
6           emergency like a head injury or some sort of diabetic  
7           emergency perhaps that might cause it. It was umbrella  
8           training except we needed to cover all these sort of  
9           scenarios that you might encounter as a police officer  
10          and how you would deal with them. It wasn't a specific  
11          thing to deal with somebody who is on drugs or somebody  
12          who has a head injury. We would outline the signs and  
13          symptoms we would look for and how to alleviate them and  
14          we would cover this under an excited delirium bracket."

15                 If we can go back up the page so you can see that on  
16          the screen. First of all, do you agree with  
17          Alasdair Shaw when he says:

18                         "People who were under the influence of drugs and  
19                         alcohol or suffering a drug-induced psychosis, we would  
20                         treat these people in the same way that we would be  
21                         treating people with excited delirium, regardless of  
22                         whether there was a known cause or not."

23                         Do you agree with that?

24          A. Partly. Again, it's -- we try to stay away from  
25          specific causes because certainly in my experience

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1 officers would get too caught up in what was the actual  
2 cause of the behaviour and unless you have specific  
3 information that it is maybe a medical emergency, or  
4 that person has got some sort of condition that was  
5 causing that, I think this is too specific. And he is  
6 right in the respect that it is an umbrella term, but  
7 whilst I think in the manual it does list some of the  
8 potential or possible causes of someone behaving in that  
9 manner, then for me I think this is too specific how --  
10 this is not how I trained it, going into specifics like  
11 that, but it's in it line generally.

12 Q. And he says:

13 "It wasn't a specific thing to deal with somebody  
14 who is on drugs or somebody who has a head injury."

15 And if we can go down to the next page -- so in this  
16 paragraph he says:

17 "We would outline the signs and symptoms we would  
18 look for and how to alleviate them ..."

19 Do you agree with that sentence?

20 A. Yes, that's about what behaviour the person is  
21 exhibiting and how you manage that behaviour safely, or  
22 as safe as you can.

23 Q. So in the training that was being given to refreshers  
24 there wasn't any expectation put on the officers that  
25 they should diagnose the cause of the behaviour?

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1 A. No.

2 Q. Whatever the behaviour was they could see, they would  
3 manage it the same way; is that fair?

4 A. That's fair, yes.

5 MS GRAHAME: Thank you. I'm conscious of the time, I wonder  
6 if that that might be --

7 LORD BRACADALE: We will take a 20-minute break at this  
8 point.

9 MS GRAHAME: Thank you.

10 (11.33 am)

11 (Short Break)

12 (11.52 am)

13 LORD BRACADALE: Yes, Ms Grahame.

14 MS GRAHAME: Thank you.

15 When I started looking at Alasdair Shaw's Inquiry  
16 statement I referred you initially to paragraph 9, so  
17 that's SBPI 00156, and there was a reference to  
18 a training checklist for the recertification or the  
19 refresher training. Let me just remind you what it  
20 said, paragraph 9:

21 "As part of the recertification training, we used  
22 a training checklist. I've had sight of a training  
23 checklist."

24 And you said you would quite like to see it so we  
25 have provided you, in the break, with a hard copy and we

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- 1           can get that up on the screen, PS11096 and we see it  
2           says:
- 3           "Officer safety training (OST) record of training -  
4           annual requalification course."
- 5           So this is the training checklist for refresher  
6           training?
- 7           A. That's correct.
- 8           Q. And is requalification effectively the same as refresher  
9           training?
- 10          A. Yes.
- 11          Q. And we can see a list, a table, with detailed items  
12          listed, so let's quickly look through that. There's the  
13          date, the venue, the instructor names and the  
14          instructor's initials and on this occasion it says LI,  
15          SO, SO, and there's the safety briefing, SPELS, cordons,  
16          warm up, then "Tactical positioning", and I see there  
17          "Contact and cover", and I will be coming on to that  
18          later when I ask you questions about the manual.
- 19          A. Okay.
- 20          Q. And then we've got other things like blocks, strikes,  
21          holds, search procedure. Down at the bottom on the  
22          left-hand side it talks about Fastraps application and  
23          that's the leg straps or the leg restraints that we have  
24          been talking about --
- 25          A. Yes.



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1 Q. -- and you talked about an officer maybe being over the  
2 legs of a subject.

3 A. Yes.

4 Q. Then on the right-hand column we also see references to  
5 training in handcuffing, holds and restraints -- that's  
6 at top on the right-hand column of that page --  
7 handcuffing, holds and restraints, ground defence,  
8 breakaways, and then at the bottom on the right-hand  
9 column it talks about CS and PAVA. We have heard  
10 evidence that in 2015 there was a transition from CS  
11 over to PAVA spray?

12 A. That's correct.

13 Q. So we have heard that some officers had CS and one  
14 officer had a PAVA spray already; is that right?

15 A. That's correct.

16 Q. So there was training in both sprays at refresher  
17 training?

18 A. Yes, because there's subtle differences between the two,  
19 but yes.

20 Q. Thank you. And then on to the next page we see Fastraps  
21 are continued, baton techniques, armlocks are mentioned,  
22 CS/PAVA is continued, baton blocks and then  
23 "Miscellaneous/awareness inputs", and here we see  
24 excited delirium is the number one and we also see PIRC  
25 awareness and stop and search guidelines are also

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- 1           mentioned.
- 2           Where it says "Miscellaneous/awareness inputs", what
- 3           is the distinction between this and the actual
- 4           techniques or physical acts that are being taught?
- 5       A.   So for the awareness inputs these are areas of the
- 6           curriculum that can't actually be physically practised
- 7           so we can only give an awareness of them.
- 8       Q.   Right. For that awareness inputs prior to May 2015,
- 9           were there any videos or demonstrations given or,
- 10          you know, visual methods of communicating the
- 11          information to the recruits or the -- sorry, the
- 12          refreshers?
- 13       A.   Sorry, are you referring to outwith the actual one-day
- 14          recertification day or --
- 15       Q.   No, I'm talking about the -- this is a form that is
- 16          a checklist for refresher training.
- 17       A.   Yes.
- 18       Q.   And Shaw had said in his statement he used it --
- 19       A.   Yes.
- 20       Q.   -- and looked one out for us. And I'm wondering with
- 21          that training that's given on this checklist for
- 22          awareness inputs, for example excited delirium, were
- 23          there any demonstrations or videos incorporated into
- 24          that awareness training?
- 25       A.   No.

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1 Q. Not at that time?

2 A. No, it was a verbal update, verbal inputs.

3 Q. Right. Were there any demonstrations given by

4 instructors as far as you know?

5 A. It would be -- the only demonstrations for the

6 miscellaneous part was on spit hood and the shields.

7 Q. Right, thank you. And can I ask you also about the --

8 above that it says "Baton blocks". The first thing

9 there is positional asphyxia and that comes under baton

10 blocks.

11 A. It's what jumped out at me when I first looked at the

12 checklist here as well, as to why it's positioned there.

13 Q. Was that part of baton blocks or was that more of

14 awareness/miscellaneous?

15 A. So positional asphyxia was something that was referred

16 to throughout the day and all the refresher courses that

17 I assessed and I reviewed, you know, it was good to see

18 that positional asphyxia was really, you know, well

19 covered and reinforced, so not just -- as I say why it's

20 sitting in the baton blocks section I couldn't explain,

21 but positional asphyxia was I suppose a golden thread,

22 if you want to call it that, that would run through,

23 you know, holding restraints, takedowns, anywhere -- any

24 technique that involved a prolonged element of restraint

25 then positional asphyxia would be referred to, and

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1 I witnessed that, you know, in the refresher courses --  
2 prior to the 2016 programme, the refresher courses that  
3 I reviewed and assessed.

4 Q. And when you use the phrase "golden thread", just for  
5 others listening can you explain what you mean by that?

6 A. So it was I suppose one of the essential elements of  
7 officer safety training at the time and it was something  
8 that ran through most techniques if there was an element  
9 of restraint involved in those techniques and it was, as  
10 I say, reinforced a number of times from my experience.

11 Q. And we have briefly touched on that. I'm going to come  
12 back to positional asphyxia when we go through the  
13 manual.

14 It says towards the bottom of that second page:

15 "This form is to be completed for every annual  
16 requalification course delivered."

17 So was this training checklist, or certainly one  
18 like the one we have in front of us which was referred  
19 to by Shaw, was this provided for all the refresher  
20 training?

21 A. So unless I'm mistaken, this was the training checklist  
22 that I designed and which makes it even worse that  
23 positional asphyxia is under baton blocks, but this was  
24 the checklist that I designed and provided to ensure  
25 that consistency and adherence to the programme.

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1 Q. Now, Alasdair Shaw says in his Inquiry statement he used  
2 this in November 2014 when he was teaching the refresher  
3 training to Constable Walker. So do you remember --  
4 does that help you in remembering when you prepared this  
5 checklist and sent it out to instructors?

6 A. Unfortunately no, my memory of dates is pretty  
7 shambolic, so I think this was -- I think along with the  
8 email about adherence to the 2013 manual, this was the  
9 first two elements that I produced towards the step to  
10 consistency and standardisation, so whether -- I think  
11 it was one of the first -- the email on this was one of  
12 the first steps I took, so it possibly could have been  
13 as early as late 2014, yes.

14 Q. So if Alasdair Shaw is referring to having used it in  
15 refresher training on the -- let me just be absolutely  
16 clear, I think it was 5 November 2014 -- it would have  
17 been prior to that date that you created this checklist?

18 A. I know there was -- there was a number of checklists in  
19 use by various legacy forces. Some of them used their  
20 own checklists but this looks very, very familiar to the  
21 one that I produced so the assumption from that would be  
22 that it would be around about that time.

23 Q. From your best recollection does this look like the  
24 checklist you prepared?

25 A. It does, yes.

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1 Q. Thank you.

2 Then on the final page, for completion, there is  
3 also a part of the checklist to note the students who  
4 have failed to attend or who have been injured or  
5 perhaps have not practised a certain technique or left  
6 halfway through the course?

7 A. Yes.

8 Q. All right. Thank you very much.

9 I would like to move on now to ask you some  
10 questions in connection with Acting Police Sergeant  
11 Maxwell and we -- we looked at his SCOPE record earlier  
12 this morning before the break. He took refresher  
13 training on 6 November 2014 and that included OST and  
14 first aid SPELS training.

15 Now, there's a signed Inquiry statement available to  
16 the Chair, so evidence from a Ross Crawford who was an  
17 instructor. Do you remember Ross Crawford?

18 A. I do, yes.

19 Q. Is he someone who was one of the instructors you knew or  
20 you had contact with?

21 A. Yes.

22 Q. He taught Maxwell on 6 November 2014 his refresher  
23 training and we -- his statement also makes it clear,  
24 Crawford, that he also taught refresher training to  
25 Gibson, Constable Gibson, who received his refresher

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1 training on 4 March 2015. So Ross Crawford was teaching  
2 refresher to Maxwell in November 2014 and Gibson in  
3 the March of 2015.

4 Can I ask you to look at the Inquiry statement of  
5 Ross Crawford which is SBPI 00391, and again I would  
6 just like to go through some of the things he tells us  
7 and tells the Chair, some of the descriptions he has  
8 given, and see if it accords with your recollection of  
9 what was being taught.

10 A. Of course.

11 Q. So you will see this is Sergeant Ross Crawford's Inquiry  
12 statement from 15 August this year and if we could begin  
13 by looking at paragraphs 29 to 31. I think they simply  
14 are the paragraphs where he recognises that he taught  
15 Scott Maxwell, although I don't think he had a personal  
16 recollection but he checked records in relation to that.

17 Let's move on to paragraph 35 please, and he is  
18 talking here about training on arrest and restraint  
19 techniques in 2014/2015 and this is during the period  
20 that he has taught Maxwell and Gibson. So in  
21 paragraph 35 he says:

22 "I am asked if I have any recollection of if  
23 restraint techniques were covered in the recertification  
24 training in 2014/2015. Yes, there would be restraint  
25 techniques that would be covered in the course yes."

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1           And that's consistent with the checklist that we  
2           have looked at:

3           "I wasn't aware that you were going to ask me about  
4           specific techniques. It's not something that I have  
5           taught or instructed for a number of years but, from  
6           memory, all the techniques that were shown in the OST  
7           refresher programme were those that were taught during  
8           the full officer safety training programme."

9           Would you agree with that statement, that all the  
10          techniques that were shown in the OST refresher  
11          programme were those that were taught during the full  
12          officer safety training programme?

13         A. Again, that's -- if that's what Ross Crawford is saying  
14          that he delivered then yes, I would agree.

15         Q. Right. And he says:

16                 "I think the programme was broken down into empty  
17                 hand techniques, rigid handcuffing techniques and  
18                 straight baton techniques. Yes, I recognise those  
19                 techniques that are on that checklist as being delivered  
20                 as part of the recertification course."

21          And again, that would accord with what you have told  
22          us already --

23         A. That's correct.

24         Q. -- about the checklist.

25          If we could look at paragraph 36:



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1            "I am asked if the recertification training in  
2            2014/2015 covered the risk associated with restraining  
3            someone in the prone position. Yes, it did."

4            And again that accords with what you told us before  
5            the break?

6            A. (Nods).

7            Q. And in 37:

8            "I am asked to what extent did the recertification  
9            training in 2014/2015 cover the risk associated with  
10            restraining someone in the prone position. So, in terms  
11            of positional asphyxia or restraint-related asphyxia,  
12            that was one of the two specific medical conditions that  
13            were covered as part of the officer safety  
14            recertification course. The second condition covered  
15            was excited delirium. The instructors would highlight  
16            the condition of positional asphyxia, what it was, the  
17            risk factors which could contribute to the condition,  
18            such as any signs or symptoms for officers to recognise  
19            and be prepared to administer first aid."

20            So in relation to that passage, if I can stop there  
21            for a moment -- could we have it back on the screen  
22            perhaps? Would you agree with all of that?

23            A. Yes.

24            Q. Yes. So that is the type of training that was being  
25            delivered --

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1 A. Yes.

2 Q. -- during that period? Let's move on then to the second  
3 part of the paragraph:

4 "So, yes, that was one of the key considerations  
5 that formed a thread if you like throughout the whole of  
6 the OST programme, officers were being made aware of,  
7 and being able to identify the signs and symptoms of,  
8 positional asphyxia."

9 Now, in fact you have just used the phrase "golden  
10 thread", so I can assume from that you agree with what  
11 Ross Crawford is saying here --

12 A. Yes, I do.

13 Q. -- that it was a thread that would come through all of  
14 the training?

15 A. Yes.

16 Q. "The fact that it can occur when a subject is placed in  
17 a position which interferes with their ability to  
18 breathe normally, which restricts the diaphragm."

19 Is that the sort of information that was shared with  
20 refreshers during that period?

21 A. It should have been, yes.

22 Q. Yes:

23 "It was highlighted throughout the training that  
24 death can occur rapidly as a result of positional  
25 asphyxia. So, officers were well aware of the

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1           condition, what the risk factors were in relation to  
2           that and the signs and symptoms that they should be  
3           looking out for when dealing with a subject who is being  
4           restrained, as that can obviously increase the risk of  
5           positional asphyxia."

6           Again, from Ross Crawford's statement it appears  
7           that he was not giving all the specifics that  
8           Alasdair Shaw gave. Would that be in line with your  
9           recollection of how officers were trained?

10          A. Should be trained, yes.

11          Q. Yes. Thank you. Let's look at 38 and then 39:

12                        "I am referred to paragraph 5 of my ..."

13                        He had given a PIRC statement and he has said:

14                        "Medical conditions and considerations ..."

15                        This is a quote from his PIRC statement:

16                        "... are a common thread across the demonstration of  
17                        all techniques during the course of the training."

18                        So I think we have already discussed that you agree  
19                        with that?

20          A. Yes.

21          Q. Then at 39 he says:

22                        "I am asked since I was referring to the  
23                        probationary training officer safety course manual in  
24                        this section of my statement, was the topic of medical  
25                        conditions and considerations to be considered during an

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1           arrest or restraint also covered within the refresher  
2           training in 2014/2015."

3           Sorry, I didn't read that out very well there, but  
4           he was referred to the manual -- so this is the 2013  
5           manual that we're talking about -- and:

6           "... was the topic of medical conditions and  
7           considerations to be considered during an arrest or  
8           restraint also covered within the refresher  
9           training~..."

10           And that was 2014 and 2015, and he replies:

11           "Yes. Absolutely, yes."

12           A. Yes.

13           Q. And again, in terms of what was being done by  
14           Ross Crawford and what you considered to be best  
15           practice, or good practice, that is the sort of  
16           information you would have expected to be shared with  
17           refreshers?

18           A. Absolutely, yes.

19           Q. Thank you:

20           "So, during the officer safety recertification  
21           training, positional asphyxia or restraint-related  
22           asphyxia and excited delirium were highlighted and  
23           discussed. Police officers need to recognise both of  
24           those conditions when dealing with a subject."

25           Now, I just want to be clear. As I understood what

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1           you said earlier, you weren't expecting refreshers to be  
2           able to diagnose a particular condition or recognise  
3           symptoms as such, or the cause of those symptoms, but  
4           you did expect them to recognise behaviours and manage  
5           those behaviours in a particular way?

6           A. They were -- in the programme they were taught about  
7           signs and symptoms, yes, because that's obviously  
8           crucial to how someone would -- so the signs and  
9           symptoms are what are exhibited by the individual. The  
10          causes, no. They weren't expected to know the cause of  
11          the signs and symptoms.

12          Q. So do you agree with what Ross Crawford is describing  
13          here in terms of the type of refresher training that he  
14          was delivering at the time?

15          A. Yes.

16          Q. Thank you. And then if we can look at I think 42 you  
17          see here -- this is what Crawford says in his statement:

18                 "I am asked if recertification training in 2014/2015  
19                 covered the dangers of compression of the chest. Again,  
20                 it's been a significant number of years since I've  
21                 delivered the recertification training, but positional  
22                 asphyxia is something that, as a condition, I've been  
23                 aware of since I joined the police in 2002."

24                 I was interested to read that because that seems to  
25                 have been something that's been mentioned to officers

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1           for a substantial period of time.  Dos that accord with  
2           your recollection?

3           A.  Yes.

4           Q.  So since 2002, at least according to Ross Crawford,  
5           police officers have been advised about the risks of  
6           positional asphyxia?

7           A.  Yes.

8           Q.  During restraint?

9           A.  Yes.

10          Q.  And during prone restraint?

11          A.  As far as my experience has been, and I joined  
12          the police seven years prior to that, I was made aware  
13          during my early years in the Police Service about  
14          positional asphyxia, yes.

15          Q.  Right, so did you join in 1995?

16          A.  Yes.

17          Q.  And even since then that's -- the risks were --

18          A.  If I remember correctly, yes, it was always something  
19          that was mentioned.

20          Q.  Right.  And did that training, even in those days, also  
21          include warning against the risk of lying on someone's  
22          back or putting pressure on the chest?

23          A.  As far as I recall it was always about where possible to  
24          have the pressure on the shoulder areas.

25          Q.  Right.  There was mention above of the chest.  You will

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1           see there, "dangers of compression of the chest", second  
2           line of paragraph 42. We have heard evidence that when  
3           doctors talk about a chest they actually basically mean  
4           the whole torso, back and front.

5           A. Yes.

6           Q. Is that the understanding that police officers have?

7           A. That's what's contained within their -- or was contained  
8           and still is, within their officer safety training,  
9           regardless of whether that person is prone face down or  
10          on their back, compression to that area, whether it's  
11          through the back or through the front, can have the same  
12          effect.

13          Q. Right, thank you. Can we look at paragraph 43 please:

14                 "In terms of the risk factors, Inspector Young  
15                 mentioned alcohol or drug intoxication, if a subject is  
16                 unable to move from that prone position, again things  
17                 like size, obesity, age, muscle fatigue, the body  
18                 position being face down anything that would restrict  
19                 the diaphragm and affect the person's ability to breathe  
20                 normally would be considered a risk factor, is my  
21                 understanding and was always my understanding of what is  
22                 considered positional or restraint-related asphyxia."

23                 So he is actually referring to something you have  
24                 given evidence about. Would you agree with that -- I'm  
25                 not asking if you agree with your own evidence, but

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1           would you agree that Ross Crawford's understanding of  
2           what's been said about the risk factors is correct?

3           A. Yes.

4           Q. And he goes on to say:

5                        "So, hands restrained behind somebody's back, by  
6           means of rigid handcuffs, would increase the risk of  
7           positional asphyxia. So, officers should be aware of  
8           that when dealing with a subject. So, yes, if somebody  
9           was prone and there was a restriction placed on  
10          somebody's chest, then that would, for me, would be  
11          a risk factor, and that is something that officers would  
12          need to be aware of when dealing with that subject."

13          You would agree with that comment?

14          A. Yes.

15          Q. And is this something that is shared during refresher  
16          training with officers, the need to be alert to these  
17          risk factors?

18          A. In my experience, yes.

19          Q. And are the officers who are doing this training made  
20          aware that they not only need to be aware of the risks  
21          but they need to take action to avoid those risks, or  
22          mitigate those risks, or counter those risks?

23          A. Yes, wherever possible then the officers are taught to  
24          counter or mitigate those risks as best they can.

25          Q. Right. And is it explained to those officers during



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- 1 training how they can counter or mitigate risks that  
2 relate to positional asphyxia?
- 3 A. Yes.
- 4 Q. And how are they taught that?
- 5 A. So the first one, which I have already spoken about, is  
6 not putting direct pressure either on the chest area or  
7 the back area, so the restraint being through the  
8 shoulders area and also then removing that person from  
9 that position as soon as possible.
- 10 Q. Right. Anything else? We mentioned before the break  
11 the possibility of withdrawing or disengaging. Are they  
12 taught about that?
- 13 A. They're taught that -- whether they were taught that  
14 back then~... When we introduced a Tactical Options  
15 Model that was one of the options available to officers  
16 and it always has been depending on the circumstances,  
17 so disengagement is obviously a mitigating factor  
18 because it would prohibit or prevent the restraint in  
19 the first place because if you disengage you may not  
20 have to restrain and by disengaging you can allow that  
21 individual to calm down, the adrenaline to dump, the  
22 chemical cocktail to reduce, which all that would reduce  
23 the risk of positional asphyxia if a restraint was  
24 required.
- 25 Q. And we -- I think I mentioned Joanne Caffrey to you

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1           before the break and she gave evidence about disengaging  
2           and potentially containing a subject. Was that  
3           something else that would be discussed in training as an  
4           option?

5           A. I really don't think it was particularly an emphasis  
6           placed on that back at this time but it was certainly  
7           something that we emphasised -- or I emphasised during  
8           the new 2016 programme. But obviously with excited  
9           delirium, acute behavioural disturbance, contain rather  
10          than restrain should be the tactic, if you identify  
11          that. Obviously it's not always possible to do so, so  
12          it's always an option but whether it's an option in  
13          every circumstance, every circumstance has to be taken  
14          on its own merits, its own threats, its own risks, so  
15          while disengagement could be an option it's not always  
16          an option in every circumstance.

17          Q. And no doubt you would agree that it will be for the  
18          Chair to consider all the circumstances?

19          A. Of course.

20          Q. Thank you. Can we look at paragraph 44 please. So  
21          again this is Ross Crawford's statement:

22                 "I am asked if the recertification training on  
23                 2014/2015 insofar as it relates to restraint covered the  
24                 following topics outlined below. I am asked if it  
25                 covered the application of weight and pressure to

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1 a subject, particularly in the torso area when  
2 restraining someone and the number of officers involved.  
3 Yes, I don't recall specifically if it covered  
4 specifically the number of officers involved, but I do  
5 recall when we were demonstrating throughout the  
6 teaching of restraints, considerations around positional  
7 asphyxia were highlighted, particularly around pressure  
8 being placed on the subject."

9 Again, does that accord with what you have been  
10 telling us today?

11 A. Yes.

12 Q. Thank you. Could we look at paragraph 46 please.

13 Ross Crawford was asked about the role of a safety  
14 officer. He says:

15 "I don't recall there being training on the use of  
16 a safety officer. I think that's now been brought into  
17 the programme. So, I'm aware that we do talk about  
18 safety officers now, but I don't think that was  
19 something that was highlighted in 2014. There was  
20 a couple of techniques around a sort of two or  
21 three-person team. It was in the manual at that time.  
22 Whilst I don't think it was highlighted specifically  
23 that one of the officers was a safety officer, it was  
24 highlighted that normally, between the two or the three  
25 officers dealing with that subject, best practice was to

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1 identify an officer that would lead, and it was normally  
2 the officer who took control of the head of the suspect  
3 that would be identified as the lead officer. So that,  
4 in my opinion, would be similar to what's now referred  
5 to as a safety officer."

6 We will pause there for a moment. We had heard  
7 evidence at an earlier stage in the Inquiry from  
8 officers who maybe weren't clear about the term "safety  
9 officer" and Ross Crawford here seems to be mentioning  
10 he is not sure if that term was used and taught as  
11 a role, a specific role, but he does mention:

12 "... normally the officer who took control of the  
13 head of the suspect would be identified as the lead  
14 officer."

15 Can you tell us a little bit more about that  
16 training that was given, so in 2014?

17 A. I think what Ross is referring to here is what we used  
18 to call two or three-person team which now I think is  
19 referred to as violent prisoner tactics and that's  
20 a specific technique that's used to either -- to place  
21 individuals in a cell who are being violent, resisting,  
22 and during that specific technique we do identify  
23 an officer who will control the head. Primarily that's  
24 to ensure the safety of the individual but also aids in  
25 the restraint of that individual because controlling

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- 1           the head can have an effect on the rest of the body.
- 2           So I think that's what Ross is referring to here.
- 3           If you're talking about general restraint, ie out on the
- 4           street in an area, you know, in a house or wherever it
- 5           may be, where you're trying to either arrest or control
- 6           a violent individual, there wasn't a reference to safety
- 7           officers in that circumstances, but there definitely was
- 8           reference to it in the violent prisoner technique.
- 9           Q. In terms of training, refresher training in 2014, was
- 10          there a reference during that training about an officer
- 11          identified as a lead officer to take control of the
- 12          head, even if the term "safety officer" wasn't used?
- 13          A. Yes, but in my experience that was specifically -- it
- 14          was specific to that violent prisoner technique.
- 15          Q. Right, so not in connection with a more general
- 16          restraint?
- 17          A. Not in connection with a more general control or
- 18          restraint technique. We obviously mentioned that you
- 19          have to be cognisant and aware of breathing, positional
- 20          asphyxia, but at that time there was no mention of one
- 21          particular person who should be specifically monitoring
- 22          the individual for that.
- 23          Q. So in the period between 2014 and May 2015 there was no
- 24          specific training about someone being appointed to that
- 25          role to monitor a subject's breathing during

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1 a restraint?

2 A. No, in my experience it was the responsibility of all  
3 involved in that. But no, there wasn't any specific  
4 what we would refer to as a safety officer, so no.

5 Q. When you say it's the response -- it was the  
6 responsibility of all, how would the officers involved  
7 in a restraint know that it was everybody's  
8 responsibility?

9 A. Because everybody was trained to be aware of the signs  
10 and the symptoms in terms of what to look for, what  
11 to -- you know, but I totally understand that if you are  
12 controlling a leg then you're not in a position to  
13 monitor that person's breathing. If you're even  
14 controlling arms, you may not be around about the head  
15 area, so whilst everyone in my view should have  
16 a responsibility to be aware of the signs and symptoms  
17 and monitor as best they can the individuals, then I can  
18 understand that it's -- because no one -- and even if  
19 you -- even if we did have a safety officer back then,  
20 we have still got to remember that it still can't be --  
21 if you have only got three officers or two officers then  
22 it's still particularly difficult. You can't allow just  
23 one officer to try and control an individual whilst  
24 you're watching their breathing because then you  
25 wouldn't be able to control them.

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1 Q. Right.

2 A. So there wasn't anybody who was specifically identified  
3 back then.

4 Q. I'm interested in the idea that everyone should have  
5 responsibility and if I could ask maybe some questions  
6 about that at the moment.

7 A. Of course.

8 Q. This idea of individual responsibility on each  
9 officer -- obviously depending on the circumstances and  
10 what they could see and where they were, but what  
11 information, what training was given to officers at that  
12 time, 2014/2015, about having individual responsibility?  
13 We have heard evidence that the police are -- you know,  
14 everyone has different ranks, everyone has different  
15 roles and we may have heard about some officers might  
16 feel slightly uncomfortable about pointing something out  
17 to someone if they're more senior.

18 In relation to this idea of individual  
19 responsibility, maybe seeing something, was there  
20 a requirement to do something about that?

21 A. There was no -- to the best of my recollection there was  
22 never any specific training informing officers that they  
23 have individual responsibility during a control and  
24 restraint incident. In my view we have an obligation,  
25 we have a duty to preserve life, so therefore I would

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1           assume or envisage that it's each individual officer's  
2           responsibility to ensure that they meet that duty. But,  
3           just as you say, it can be extremely difficult at times  
4           because if you are controlling legs, if you're  
5           controlling arms, if you're trying to stop yourself from  
6           being assaulted, stop others from being assaulted, or  
7           stop someone from harming themselves, then that  
8           individual responsibility~... But for me it's about  
9           having that responsibility of preserving life and that  
10          duty to preserve life as best -- to the best, you know,  
11          the best of your ability.

12         Q. Am I right in saying that there are ethical  
13          responsibilities on officers? Is the duty to preserve  
14          life one of those ethical obligations?

15         A. Yes, and a statutory obligation obviously.

16         Q. And a statutory --

17         A. Yes.

18         Q. And is that explained to probationers when they come  
19          into the service?

20         A. Absolutely.

21         Q. So would you expect all serving police officers to know  
22          that they have an ethical obligation to preserve life?

23         A. Yes.

24         Q. In a situation where an officer can see something that  
25          is putting that life at risk, would that be when they



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1           should maybe -- that obligation kicks in, or there is  
2           a trigger there for them to take steps to help preserve  
3           that life?

4           A. In my view, yes.

5           Q. And could providing that help also include maybe  
6           interjecting or offering assistance and saying, "Perhaps  
7           you should not do that, that could be risking life"?

8           A. I would accept that, yes.

9           Q. When we talk about a duty to preserve life, is that both  
10          to the public and to subjects within that public,  
11          suspects?

12          A. Yes, and themselves.

13          Q. And themselves, and officers. Thank you. Does that  
14          individual responsibility vary on officers if they are  
15          in a position of seniority or have a supervisory role?

16          A. Not in my view. I mean, every officer is a constable,  
17          whether it's a chief constable right down to a police  
18          constable, so in my view every constable has a duty to  
19          preserve life.

20          Q. And that would include -- would that include  
21          probationers?

22          A. Yes, in my view.

23          Q. And would it include sergeants or acting sergeants?

24          A. In my view, yes.

25          Q. Constables you have already mentioned and would it also

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1 include more senior officers?

2 A. Yes.

3 Q. So if any officer was in a position to see something  
4 happening which placed a life at risk, they would be --  
5 it would be open to them, regardless of rank, regardless  
6 of role, regardless of the status of other officers, to  
7 interject and say something?

8 A. In my view absolutely, yes.

9 Q. And would that be a duty on them to do that, if they saw  
10 a risk to life?

11 A. From myself, yes.

12 Q. Thank you. Could we move on please to paragraph 48.  
13 Now, this relates to Ross Crawford's comments about what  
14 was covered in the SPELS training. I understand that's  
15 first aid SPELS training.

16 A. Yes.

17 Q. "I am asked to outline what was covered in the SPELS  
18 training as it relates to the aforementioned question.  
19 It was part of your primary survey, officers would need  
20 to undertake a primary survey of the subject, identify  
21 dangers to them and to the casualty to members of public  
22 and then assess the casualty's responsiveness. So, look  
23 for a response from the casualty, and then obviously  
24 look to establish if the casualty is, in fact,  
25 responsive, or if they're not responsive, are they

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1 breathing?"

2 Perhaps we should look at the previous paragraph  
3 just to give the context there. So 47:

4 "I am asked if there was training in relation to  
5 assessing whether someone was breathing and not  
6 breathing during an arrest or restraint. Well, that  
7 would be covered in part of the SPELS training. In  
8 terms of doing your initial assessment of the casualty  
9 to establish the casualty's level of responsiveness."

10 So the phrase here that I'm interested in is the  
11 breathing or not breathing and Ross Crawford then goes  
12 on to say there's a primary survey which officers carry  
13 out, they identify dangers to them, to the casualty, to  
14 members of the public and then they assess the  
15 casualty's responsiveness.

16 Can you help the Chair understand what training was  
17 given to officers in 2014/2015, in the SPELS training or  
18 first aid training, about checking responsiveness and  
19 seeing if the casualty or the subject was breathing or  
20 not breathing?

21 A. So, as far as I can remember, at that time we were using  
22 the acronym DR ABC, which is danger, response, airway  
23 breathing and circulation and that was the list of  
24 priorities that you would check for. First of all you  
25 would check if there was an immediate danger to yourself

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1 or to the casualty, so that's things like if there's  
2 electrical wires lying there, you know, if it there's  
3 any other danger that you can see, and then you would go  
4 in to see if that subject was responding, so responding  
5 to various stimuli, so that would be either voice or  
6 pain, so you would speak to the casualty, you would ask  
7 them if they were okay, you would identify yourself as  
8 a police officer and you would see if they responded to  
9 that. If not you would then do some sort of movement to  
10 see if they responded to that.

11 Then the next one is airway, so is their airway  
12 occluded, is there anything you can do to clear that  
13 airway, are they breathing? So actually you would  
14 physically check if the chest goes up and down, if there  
15 are breath signs coming from nose or mouth and then  
16 after that would be circulation, so is there any sort of  
17 bleed, whether it be catastrophic or otherwise.

18 So that, from my recollection, is what Ross is  
19 referring to where he is talking about the primary  
20 survey.

21 Q. Right, and we have heard that acronym before, Dr ABC,  
22 and we have also heard that in terms of response and  
23 checking if it there's a pain response there's reference  
24 to the Glasgow Coma Scale and checking -- some people  
25 may pinch an earlobe, or there would be pressure put on

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1           the chest.

2       A. Yes.

3       Q. Does that accord with your recollection?

4       A. Of the training at that time, yes.

5       Q. But nothing -- I think we have heard that it didn't

6           involve slapping a face or anything along those lines?

7       A. Not that I remember, no. No.

8       Q. No. When it -- you have talked about breathing as being

9           an important part of that acronym, the DR ABC, and the

10           reference in Ross Crawford's statement is to breathing

11           or not breathing. We have also heard evidence that in

12           terms of first aid training there was a breathing and

13           not breathing normally?

14       A. Normally, yes.

15       Q. Now, was that trained in 2014?

16       A. I remember it being trained at some point, when it was

17           brought in I couldn't recall.

18       Q. And when you say "brought in", do you mean brought in in

19           terms of general first aid training, or brought in

20           specifically by Police Scotland?

21       A. I mean -- I don't know. I don't know. I just remember

22           we used to always get taught either breathing or not

23           breathing and then at some point when -- I genuinely

24           can't recall. At some point we talked about not

25           breathing normally. Some people referred to it as

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1           agonal breathing, that gasping, rasping breathing. When  
2           that was brought in, I don't know.

3           Q. Ross Crawford goes on to talk about this but I'm  
4           wondering if it -- well, let's look at the rest of this  
5           paragraph and see if that helps in any way. So we had  
6           gone about halfway through, so he is talking about the  
7           breathing/not breathing element and he says:

8                        "So yeah, during the primary survey officers would  
9           be looking to check for normal breathing, ensuring that  
10          there was normal breathing. Again whilst undertaking  
11          the restraint training I don't recall specifically there  
12          being training about how to identify if a casualty is  
13          breathing or not breathing, other than highlighting to  
14          officers that, you know, that it would be their  
15          responsibility to monitor the health of the subject. If  
16          it at any point they felt the subject was not breathing  
17          then they should immediately respond to that, whether  
18          that's carrying out first aid or contacting an ambulance  
19          via the personal radio."

20                        So it does mention not breathing normally but I'm  
21          not sure that he is talking about breathing and not  
22          breathing normally as the two alternatives.

23                        Does that help you in any way recollect whether  
24          there was reference to not breathing normally?

25          A. Unfortunately, no, sorry.

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1 Q. So if it's right, as Ross Crawford says, that when he  
2 was doing training, if it at any point they felt the  
3 subject was not breathing then they should immediately  
4 respond to that, do you think that was the training that  
5 was --

6 A. Yes.

7 Q. Certainly what Ross Crawford was giving in 2014/2015?

8 A. Yes, I would say it's consistent, yes.

9 Q. But at some point there was training brought in that you  
10 had to look at whether it was breathing -- the person  
11 was breathing normally?

12 A. At some point, yes.

13 Q. Right. Thank you. Could we look at paragraph 49. It  
14 says:

15 "I am asked if I was taught what to do when a person  
16 is unresponsive and not breathing in particular when to  
17 commence CPR. This would be covered in part of the  
18 SPELS training. So, if we identified that a casualty or  
19 a subject was then unresponsive or not breathing, then  
20 CPR should commence immediately."

21 Was there any part -- do you agree with that  
22 description?

23 A. Yes.

24 Q. Was there any part of the training in 2014 or 2015 that  
25 described if it appeared the person was breathing --

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1           hadn't completely stopped breathing, that CPR should  
2           start in any event, or was the training restricted to if  
3           they are not breathing start CPR?

4           A. As far as I recall it would be if that individual was  
5           not breathing then that would be the indicator to  
6           commence CPR. If they were breathing then if I remember  
7           the training was what can you do to maintain that  
8           breathing, so that would be putting them into the  
9           recovery position, making sure their airway was  
10          unoccluded, etc.

11          Q. But it wouldn't include start CPR at that stage?

12          A. Not that I remember, no.

13          Q. Did it become the position at a later point that where  
14          it was the breathing and not breathing normally, that  
15          became the distinction; when it was not breathing  
16          normally was the guidance about starting CPR changed for  
17          officers?

18          A. I couldn't comment on that. The first aid element was  
19          not really my area of expertise, sorry.

20          Q. Oh, right, thank you.

21                 Let's move on to paragraph 51 please. This is:

22                 "Training on positional asphyxia and excited  
23                 delirium/acute behavioural disturbance in 2014/2015."

24                 And he has referred back to paragraph 5 of his PIRC  
25                 statement -- sorry, page 5 of his PIRC statement which



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1 he had prepared at an earlier stage and he was asked to  
2 comment in relation to a recertification checklist and  
3 we have talked about that earlier today. He goes on to  
4 say:

5 "As it relates to the recertification training in  
6 2014/2015, I am asked if I could explain briefly what is  
7 taught about the correlation between handcuffing  
8 a subject and positional asphyxia and the excited  
9 delirium. So, in terms of what was taught in relation  
10 to positional asphyxia and excited delirium, these would  
11 be medical conditions or implications that were  
12 continuously referred to by instructors in my experience  
13 throughout the course, in line with all the information  
14 that was contained in the OST manual. They would be  
15 highlighted as conditions that officers need to be aware  
16 of. Information was given around the risk factors as we  
17 have discussed already, and what the signs and symptoms  
18 were of both. Taking positional asphyxia first, the  
19 subject should be moved from the prone position or any  
20 position in which there's a likelihood that their  
21 diaphragm or their ability to breathe normally is  
22 restricted. So, in terms of handcuffing it would be  
23 highlighted that if a subject was handcuffed to the  
24 rear, depending on that individual's shape, build, size  
25 and intoxication, through alcohol and drugs, then by

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1           handcuffing that person to the rear and using handcuffs  
2           that could contribute as a risk factor to increased  
3           likelihood of positional asphyxia."

4           Now, here there is a reference -- and I have asked  
5           you about positional asphyxia before, so I have your  
6           evidence on that, but here there is a reference to, "the  
7           likelihood that the diaphragm or their ability to  
8           breathe normally is restricted", and it would appear  
9           that Ross Crawford is talking about a situation where  
10          refreshers are trained that there may be restrictions to  
11          breathing and that meant they should be moving the  
12          person into a different position.

13          A. Yes.

14          Q. And was it clearly explained during training at that  
15          time to refreshers that a person could be in a certain  
16          position and have their breathing restricted?

17          A. Yes.

18          Q. So they -- they wouldn't necessarily reach a stage where  
19          they were not breathing, but because of that restriction  
20          to breathing they should be moved out of their position?

21          A. Yes, because if an individual is in a certain position  
22          then that position itself, along with other factors, can  
23          impede their normal ability to breathe, or their ability  
24          to breathe normally, so -- and we highlight what those  
25          risk factors are and therefore, as far as I have always

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1           remembered and it is what I experienced, was that you  
2           only had a person in that position for as long as you  
3           had to.

4           Q. So although there may not have been that distinction of  
5           breathing and not breathing in relation to CPR and that  
6           aspect of it, DR ABC, in relation to the training given  
7           on positional asphyxia the concept of not breathing  
8           normally would have been addressed in training; is that  
9           fair to say?

10          A. The risk factors would -- were certainly addressed, yes.

11          Q. Thank you. Let's look at paragraph 52 please:

12                         "In terms of excited delirium, again this was  
13                         highlighted during the recertification course as being  
14                         a condition officers need to be aware of. Instructors  
15                         would highlight what was characterised by the term,  
16                         excited delirium, for want of a better expression. The  
17                         fact that people who are in that state can be dangerous,  
18                         but also that they may die as a result of that condition  
19                         and therefore, anyone exhibiting signs or symptoms of  
20                         excited delirium should be treated as a medical  
21                         emergency and be assessed at hospital immediately. In  
22                         addition to that, there was some information given about  
23                         what the causal factors of that could be, either through  
24                         drug intoxication, alcohol intoxication, or like  
25                         a psychiatric illness. I think, at that time, I didn't,

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1 I don't know if it's still the same, cocaine was one of  
2 the most commonly associated illegal drugs that had the  
3 potential to induce excited delirium."

4 If we can go back up the page please, I would like  
5 to ask you some questions about this.

6 Does this description given by Ross Crawford in his  
7 statement accord with your recollection of the  
8 understanding at that time?

9 A. Yes.

10 Q. We have heard --

11 A. Yes.

12 Q. -- that things have moved on since 2014 --

13 A. Yes.

14 Q. -- in relation to excited delirium and the Chair has  
15 a lot of evidence available to him in relation to that,  
16 but does this match your understanding of the training  
17 that was given that police officers should be looking at  
18 the symptoms, looking for the examples of the behaviours  
19 or things -- signs that were happening, but it should be  
20 treated as a medical emergency, whatever the cause?

21 A. Yes.

22 Q. Thank you. Can we look at paragraph 53 please:

23 "So, from an officer safety perspective, that was  
24 things that they should be aware of because there was  
25 a risk to them, and again, it was stressed that somebody

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1           in that state, that is a medical condition, needs to be  
2           assessed by somebody at a hospital.  Somebody who's in  
3           that condition will need to be monitored when they're  
4           restrained at all times.  If they're going to be removed  
5           or transported, if at all possible, not in the prone  
6           position, because as we've already discussed, that would  
7           be a risk factor for positional asphyxia and officers  
8           should be aware that if that person's condition were to  
9           deteriorate, they would need to be ready to provide  
10          first aid to that subject."

11           I'm interested in the sentence in the middle,  
12          "Somebody who's in that condition will need to be  
13          monitored when they're restrained at all times", so  
14          that's obviously Ross Crawford's statement about the  
15          training.  Given what we have been talking about, no  
16          safety officer but perhaps an officer might be at  
17          the head monitoring, what training exactly was being  
18          given to officers about the need to monitor when they're  
19          restrained at all times?  This is for someone who they  
20          have identified as having signs of what at that time was  
21          called excited delirium.

22          A.  I think this is an example of one of the challenges that  
23          we faced back then in that we told officers the signs  
24          and the symptoms and we told officers -- what we lacked  
25          then was the safe management and being very clear on

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1           what the safe management was, so I think we did use  
2           expressions like "monitored at all times" but we didn't  
3           really define what that should look like and what that  
4           should be.

5           I think what Ross is referring to here is that if  
6           you suspect someone is in a state of excited delirium  
7           then their physiological signs should be monitored,  
8           their breathing, their colour, et cetera, et cetera, but  
9           in my view anybody who is restrained should be  
10          monitored, so I think that's what he is referring to  
11          there, without putting words in his mouth.

12         Q.   So looking back now, if officers were being trained, as  
13               Ross Crawford appears to be saying, that they were being  
14               trained at refresher training that they should be  
15               monitored at all times, but as you have just said you  
16               weren't giving specific training on how that could be  
17               carried out, do you have any views or comments about the  
18               adequacy of that aspect of the training, looking back  
19               now?

20         A.   I mean, one of the reasons why we, or I included the new  
21               module or the new elements on acute behavioural  
22               disturbance and we sought external advice to make sure  
23               that what we were delivering was accurate, was current,  
24               was because we had identified that gap, that it's all --  
25               it's all very well telling a police officer what to look

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1           for but we're not telling them how to safely manage that  
2           and I don't think that's what we did back then. We  
3           didn't talk about contain rather than restrain where  
4           possible, we didn't talk about only restrain as a last  
5           resort and for the shortest time possible, so we  
6           found -- and again, I did it myself in years gone by  
7           where your first option -- sorry, not your option, but  
8           your first action was to get that person physically  
9           under control, which, if someone is in a state of  
10          excited delirium, is not always the best approach.

11                 So I think in hindsight and in looking back, yes,  
12          I think we weren't giving all the information that we  
13          should have given back then.

14          Q.    So a lot of information being given at the refresher  
15          training about spotting the signs, spotting symptoms,  
16          identifying behaviour that might constitute some sort of  
17          psychosis or intoxication, mental health issue --

18          A.    Yes.

19          Q.    -- excited delirium, but in terms of the training that  
20          was being given to officers about dealing with that,  
21          they were told it was a medical emergency and they had  
22          information about positional asphyxia and the risks of  
23          positional asphyxia in relation to pressure and avoiding  
24          putting pressure on the back, but in terms of monitoring  
25          that person, the subject, there really wasn't much

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- 1 further training given at that time?
- 2 A. I -- that would be my experience. We weren't specific  
3 enough back then about how they should be monitored,  
4 what you're looking for. I think we were, I suppose,  
5 assuming that that would fall into your DR ABC.
- 6 Q. Right. So did you -- was the assumption at that stage  
7 in 2014/2015 that DR ABC was sufficient to provide that  
8 monitoring technique?
- 9 A. Yes, I think so. In terms of monitoring when  
10 restraint -- when restrained, I mean we were very  
11 specific about leg restraints, you know, we told them  
12 15 minutes, loosen the legs, keep an eye out for  
13 these -- you know, swelling of the legs, reddening of  
14 the legs, etc. I don't think we were as prescriptive.  
15 We talked about general monitoring. I mean, I think in  
16 my experience all officers knew about monitoring  
17 breathing, you know, changes of colour, cyanosis, etc,  
18 but I don't think we were specific when we talked about  
19 that, or specific enough.
- 20 Q. Right. You have just mentioned leg restraints and you  
21 said you were specific about the timing, 15 minutes  
22 I think you said.
- 23 A. Yes, yes.
- 24 Q. Was that the training that was given in 2014?
- 25 A. Yes.



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1 Q. So did that mean the leg restraints could only remain on  
2 for 15 minutes?

3 A. No. It was a case of every 15 to 30 minutes -- I think  
4 it was 15 minutes -- they should be repositioned so they  
5 should be -- you know, they should be loosened and  
6 replaced, so loosened to let the blood flow again and  
7 then replaced.

8 Q. I see. And that was trained in 2014?

9 A. So that specific timings and that specific management  
10 was within the manual.

11 Q. Right, thank you. But no specific timings given for  
12 restraint itself, or a person being in the prone  
13 position for a specific time?

14 A. No, and I don't think I -- I have looked extensively,  
15 I can't see any academic or scientific evidence that  
16 says this is -- you know, gives an accurate time. For  
17 all the research I did, it's for the shortest time  
18 possible. That's all I could ever find and that's  
19 discussing with colleagues from down south, discussing  
20 from colleagues across the world and other police  
21 agencies. I couldn't find any evidence of you could  
22 only limit it to X amount of time because the risk  
23 factors for everyone are different.

24 Q. So presumably there's no safe period of time. You  
25 can't -- you can't tell officers, "If you only do it for

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1           three minutes, it's perfectly safe"?

2           A. No, no.

3           Q. Because there's so many different factors and  
4           circumstances that will have a bearing on the risk?

5           A. Absolutely.

6           Q. And the risk to that individual?

7           A. And every individual is different.

8           Q. So there's no safe period that can be identified, as far  
9           as you know?

10          A. As far as my experience is concerned, no.

11          Q. And is that part of the reason there's an emphasis on  
12          doing it for as short a period as possible?

13          A. Yes.

14          Q. Thank you. So let's move on to 54 please and 55. We  
15          will start with 54. So Ross Crawford talks here about:

16                 "... both conditions were discussed and formed an  
17                 important part of the recertification programme. They  
18                 weren't taught in a classroom type teach, but they were  
19                 highlighted by, in my experience, highlighted by the  
20                 instructors, who conveyed the information or refreshed  
21                 the information that most of the officers who had  
22                 undertaken that course it should be a refresher.

23                 Because, as I say, for as long as I can remember, and  
24                 I think probably for as long as officer safety training  
25                 has been taught in Scotland, positional asphyxia and

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1 excited delirium have been key considerations as part of  
2 the training."

3 Would you agree with Mr Crawford, Ross Crawford,  
4 that they have been key parts, key considerations?

5 A. They have definitely been key considerations, but, as  
6 I say, we (inaudible) about the management of excited  
7 delirium.

8 Q. Right. Look at paragraph 55. He says that he is asked  
9 about positional asphyxia and excited delirium, they:

10 "... formed an important part of the recertification  
11 programme in 2014/2015, would I have spent  
12 a considerable amount of time ensuring that I was  
13 communicating this to students that were in attendance,  
14 answering any questions and making sure that I covered  
15 as much information as possible. Yes, it does."

16 Does that accord with your recollection that  
17 instructors teaching positional asphyxia and teaching  
18 about these signs and symptoms would be spending  
19 a considerable amount of time and would be covering as  
20 much information as possible?

21 A. Yes.

22 Q. Thank you. Finally, can I ask you to look at  
23 paragraph 57. Ross Crawford says -- he has been asked  
24 if he can expand on an officer's individual  
25 responsibility, what that would entail:

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1            "I mean, for me, that would entail monitoring that  
2            individual to ensure that they were okay, that they were  
3            breathing, and being able to identify any deterioration  
4            in that person's condition, and immediately summoning  
5            help and being able to provide first aid to that  
6            individual should it be required."

7            So he is talking about what his understanding would  
8            be. Do you have any view about whether in terms of the  
9            training that was delivered in 2014/2015, the other  
10           officers who had the refresher training would be able to  
11           identify or be looking to identify a deterioration in  
12           the person's condition, or are they simply looking for  
13           breathing and not breathing?

14        A. For me I'm pretty confident that the vast majority of  
15           officers that I trained and I observed others training  
16           would be able to identify a deterioration in someone's  
17           condition, and again I think that comes from the  
18           monitoring of the responses, their breathing, again  
19           I say the colour of -- you know, the colour. So I think  
20           in general, you know, in my experience I'm quite  
21           confident to say that the vast majority of officers that  
22           I experienced would be able to, yes.

23        Q. Right, and so there would be some attention to  
24           a deterioration in terms of the officers who are  
25           restraining a subject or watching a subject, monitoring

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1 a subject?

2 A. Yes.

3 Q. So it wouldn't be simply either breathing or not  
4 breathing. They would be looking to see any  
5 deterioration?

6 A. Whether that was actually written down and is part of  
7 a policy or part of the manual, I can't recall, but from  
8 my experience, yes.

9 Q. And you are confident that anyone you trained would have  
10 been looking for deteriorations?

11 A. Yes.

12 Q. And certainly Ross Crawford is talking about from his  
13 perspective he would be looking to identify  
14 a deterioration?

15 A. Yes.

16 MS GRAHAME: Yes. Thank you very much.

17 I'm conscious of the time and I am about to move on  
18 so I wonder if that might be --

19 LORD BRACADALE: We will stop for lunch and sit at  
20 2 o'clock.

21 (1.02 pm)

22 (The luncheon adjournment)

23 (2.01 pm)

24 LORD BRACADALE: Ms Grahame.

25 MS GRAHAME: Thank you. I would like to move on to the

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1           refresher training that PC Alan Paton and  
2           PC Nicole Short had. We mentioned under reference to  
3           the SCOPE records earlier today that Paton had refresher  
4           training on 4 January 2015 and that included OST and  
5           first aid SPELS training and Short had refresher  
6           training on 25 February 2015, also including OST and  
7           first aid SPELS training. Both received their refresher  
8           training from instructors including Graham Patience. Do  
9           you remember Graham Patience?

10          A. The name slightly rings a bell, but no.

11          Q. Right. PC Paton also received refresher training from  
12          Alan Smith, who was one of the officers at  
13          Hayfield Road, but in relation to Graham Patience he has  
14          signed a witness statement that's available to the Chair  
15          as evidence to consider and I would like to just go  
16          through some of that with you, just in the very same way  
17          that we did this morning.

18          A. Okay.

19          Q. Thanks. So you will see on the screen SBPI 00385,  
20          PC Graham Patience. This is his Inquiry statement and  
21          at paragraphs 56 and 59 he says that he delivered these  
22          refresher courses on 4 January 2015 and 25 February 2015  
23          which were attended by Paton and Short, that he  
24          delivered this training as per the 2013 manual. So he  
25          has given a statement to the Chair saying he at least

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1           was using the 2013 manual during those two refresher  
2           training programmes in 2015 and that would be in  
3           accordance with what you said this morning that should  
4           have been done.

5           A. Yes.

6           Q. Thanks. Could we look at -- start with paragraph 60  
7           please. He had given a statement to PIRC previously and  
8           he was referred to that and this is a quote on the  
9           screen from that PIRC statement:

10                 "I have been asked by the investigators if there was  
11           anything taught specifically about recognising a person  
12           suffering from drug induced psychosis. I must clarify  
13           that this was covered within the excited delirium  
14           chapter of the manual. I would discuss with students  
15           that excited delirium could be drug induced, and was  
16           commonly caused by cocaine, but could be caused by other  
17           substances also. We would discuss signs and symptoms  
18           and how to recognise when someone was suffering from  
19           this. I must note the overarching principle taught with  
20           regards to this was when officers were to identify an  
21           individual as suffering from either positional asphyxia  
22           or excited delirium, they should be considered a medical  
23           emergency and treated as such."

24                 So that was his statement to PIRC that he refers to  
25           in the Inquiry statement and I think that seems to

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1           accord with what you have been talking about this  
2           morning; is that fair to say?

3           A. Yes.

4           Q. So someone with those signs and symptoms, whatever the  
5           cause, whatever brought those signs and symptoms on,  
6           they should primarily be treated as a medical emergency.

7           A. Yes.

8           Q. And is that the type of training that was being given?

9           A. At that time, yes.

10          Q. So can we move on please to the next paragraph, 61:

11                   "I am asked to outline the topics that were covered  
12                   during the 2014/2015 recertification programme  
13                   insofar as it relates to Excited Delirium."

14                   And he says:

15                   "... it's hard to remember exactly now because it's  
16                   not clearly treated as that now."

17                   And I think we have mentioned earlier, things have  
18                   moved on significantly from -- nowadays from the  
19                   references about excited delirium that were in the 2013  
20                   manual?

21          A. Yes.

22          Q. The Chair has a lot of evidence about that already in  
23           front of him and we will touch on that again later when  
24           I look at the manual. But he says in 62:

25                   "To assist with my memory, I am asked if the



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1 following areas were covered [in] the recertification  
2 training ... I am asked if signs and symptoms of Excited  
3 Delirium was covered ... Yes, we would much the same as  
4 it is now. You would run through every kind of stage of  
5 it, what to look for. It's how somebody would be  
6 acting, and the type of behaviour displayed."

7 So again he seems to be focusing there on it's the  
8 behaviour that's being exhibited which is of  
9 significance?

10 A. That's correct, yes.

11 Q. And at 63 he says:

12 "I am asked if the risk factors ... were  
13 covered ..."

14 And he says yes, they were. At 64 he is asked about  
15 the management of someone exhibiting excited delirium  
16 and he says:

17 "It was about making sure that an ambulance was  
18 called because the person could potentially go into  
19 cardiac arrest".

20 Do you agree with that, that that was part of the  
21 training in 2015?

22 A. Yes.

23 Q. And we have heard evidence in the Inquiry that that is  
24 done by officers using their personal radio and that  
25 information is relayed to ACR who can then call for an

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1 ambulance if required?

2 A. Back then, yes.

3 Q. And that was the position then?

4 A. Yes.

5 Q. If we can move the screen down a bit please:

6 "That was one of the main features of it, that it  
7 was to be mindful over anything else. If somebody was  
8 acting (as excited delirium was at the time) in such an  
9 excited manner and their heart rate would be elevated  
10 potentially, to be mindful that this person could suffer  
11 cardiac arrest at any time. So, it must be treated as  
12 a medical emergency. That was the kind of overriding  
13 thing about it."

14 Is that your recollection of the approach that was  
15 being taken at the time?

16 A. Yes.

17 Q. Thank you. Then if we can move on please and he is  
18 asked:

19 "... if the topic of excited delirium was only  
20 covered in OST training and not the SPELS [refresher]  
21 training~..."

22 And he said:

23 "Yes, as the SPELS was literally CPR and recovery  
24 position at the time ..."

25 So the training on excited delirium actually was in

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1 the OST course material?

2 A. Excited delirium was in the OST material, yes.

3 Q. Thank you. If we can look at 66. He says:

4 "As it relates to officers being trained to call an  
5 ambulance if someone was exhibiting signs of Excited  
6 Delirium, I am asked if the recertification training ...  
7 also covered the type of information that should be  
8 communicated to a call handler or paramedics on the  
9 scene. I wouldn't say specifically. It was more a case  
10 of monitoring the person and rather than corralling  
11 somebody in, or not necessarily taking hold of somebody  
12 unless it became assaultive. It was more of a case of  
13 monitoring somebody the best you can until a more  
14 qualified help came, making sure that an ambulance is on  
15 the way."

16 I'm interested in your views on this paragraph as it  
17 describes the type of training that was being given at  
18 that time.

19 A. I don't know if this was just this officer's way of  
20 delivering. I don't remember any training material at  
21 that time talking about corralling, or as we would  
22 probably call it now contain rather than restrain, and  
23 I can't remember much in the manual at all at that time  
24 about the safe management, so I don't know if this is  
25 coming from his own knowledge of, you know -- or --

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1 I don't think this is a lift from the manual, but that's  
2 a way to deal with that incident, yes.

3 Q. Is there anything that is said there that you would  
4 disagree with in terms of the training --

5 A. There's nothing I would disagree with, no, other than  
6 whether it was in the manual or not --

7 Q. Right.

8 A. -- is debatable.

9 Q. Right, thank you. Then look at 67:

10 "During the recertification training ... I am asked  
11 if anything was taught in relation to communicating for  
12 example, that a subject was struck in the head with  
13 a baton or that CS spray had been used on the subject.  
14 Well, from a personal level, that would be a kind of  
15 no-brainer, a common sense approach to me. That's  
16 something that I would personally pass, yes. However,  
17 at the time of the training, it's difficult to recall if  
18 that was something that would be a generic thing but,  
19 certainly, it would be information that I would expect  
20 officers to pass. You know, if somebody had been  
21 sprayed with CS spray at the time or had been batoned,  
22 I would expect that that would be something that was  
23 conveyed to medical staff on the handover, but it's hard  
24 to recall if that was an actual part of the teach at the  
25 time."

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1           I'm interested in any comments you have about the  
2           sort of information that would be communicated over ACR,  
3           communicated through them to the medical -- the  
4           ambulance personnel. Do you have any recollection of  
5           training that would be given at that time?

6           A. I don't recall anything in the training at that time  
7           that outlined what information should be passed to the  
8           ACR if one of these tactical options were to be used,  
9           and I think I agree with the officer here that for me if  
10          you -- if an officer struck someone with a baton or  
11          deployed their CS spray or there was an injury as  
12          a result of the restraint, then I would expect that  
13          information to be passed to the ACR so they could then  
14          pass it to the ambulance service which then allows them  
15          to triage that appropriately.

16          So yes, I mean that is the common sense, best  
17          practice thing to do, but as far as specific training on  
18          what to pass, I don't think there was anything.

19          Q. Thank you. Could we look at the next paragraph, 68. He  
20          was:

21                 "... asked if officers were taught on actions to  
22                 taken upon identifying someone exhibiting Excited  
23                 Delirium in addition to treating the situation as  
24                 a medical emergency and calling an ambulance. If  
25                 I could start with what not to do side of things, it was

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1 kind of stressing the fact that it wasn't always best  
2 practice to maybe hold somebody down. If somebody could  
3 be given the space to potentially calm down or something  
4 like that, then that was a method to consider, because  
5 of some of the signs evident of somebody with excited  
6 delirium could be the fact that they might be afraid of  
7 reflections and things. They might see that as  
8 a threat. The large movements that somebody might take,  
9 the way they're moving themselves about, to be mindful  
10 of things like that. I'm not saying it's wrong, but to  
11 consider it, to give somebody the space, the element of  
12 freedom, to contain rather than to immediately restrain  
13 somebody, unless it was relevant at the time to do  
14 that."

15 I'm interested in your comments about this  
16 paragraph. Maybe we could go back up to the beginning  
17 of it so you can see the start. So he is talking  
18 about -- obviously we have spoken earlier about excited  
19 delirium, medical emergency, calling an ambulance, and  
20 he says:

21 "... it was kind of stressing the fact that it  
22 wasn't always best practice to maybe hold somebody down.  
23 If somebody could be given the space to potentially calm  
24 down or something like that, then that was a method to  
25 consider~..."

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1 I'm interested in your recollection of any training  
2 at that time that relates to maybe giving someone space  
3 to calm down?

4 A. I would need to see the manual because sitting here at  
5 the minute I can't recall exactly what -- the specific  
6 wording of the 2013 manual as it relates to this.  
7 I don't know if this is -- because he is using terms on  
8 this paragraph that definitely weren't in the 2013  
9 manual, contain rather than restrain, talking about if  
10 a person is showing signs of ABD they're -- you know,  
11 being afraid of reflections in glass and stuff like  
12 that, I don't think that was in the 2013 manual. So  
13 maybe in this paragraph he is -- what he has  
14 subsequently learned he is maybe referring to there.

15 But, as I say, yes, that's best practice and that's  
16 what we talk about since 2016. I'm not sure that's in  
17 the 2013 manual so maybe that's where this is coming  
18 from, his knowledge from what's been subsequently  
19 taught.

20 Q. We will have a look at the 2013 manual later --

21 A. I may be wrong, but I don't think that's ...

22 Q. That's very helpful, thank you. Could we look at --  
23 well, let's move on to 69:

24 "... there was instruction about that kind of thing,  
25 about what to consider, given the circumstances you're

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1           faced with. You have the option of taking hold of  
2           somebody, but equally that might not be the best action  
3           to take at the time. Could you consider giving them the  
4           space while still containing them? So that was the  
5           options."

6           And again there's the reference there to the word  
7           "containing". Was there training given at the time to  
8           officers about thinking about what their options were,  
9           thinking about whether restraint was the best course of  
10          action?

11         A. Whether individual instructors would provide that  
12          information during their courses, may be the case.  
13          I don't -- at that time that really wasn't the ethos of  
14          the officer safety training programme. I don't recall,  
15          you know, contain and negotiate being within the OST  
16          manual as an option then. And these were all the --  
17          I suppose the omissions that I identified as we moved  
18          forward and we brought in the Tactical Options Model and  
19          more down -- roundabout the National Decision Model, was  
20          teaching officers these additional options that in my  
21          experience were never really taught.

22         Q. So this may be about the more enhanced 2016 training  
23          that was provided at a later time?

24         A. I suspect that may be the case because the phrases and  
25          the terms that are being used here weren't really



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1           commonplace back in 2013 at all.

2           Q. All right, thank you. Could we look at paragraph 71,  
3           and again he is talking about the recertification  
4           training and he was asked if it covered the topic of  
5           restraint of subjects who were under the influence of  
6           drugs or alcohol and he says -- PC Patience says:

7                     "I don't think it was specific. I think it was just  
8           on a general, like we talked about a couple minutes ago  
9           about, you know, considering all the aspects of it and,  
10          again, as with everything in OST, it was options open to  
11          you."

12                    Sorry, it's difficult to read out that section but  
13          he -- his recollection appears to be he didn't recall  
14          specific training on the topic of restraint of subjects  
15          who were under the influence of drugs or alcohol. Is  
16          that correct --

17          A. Yes, that's correct.

18          Q. -- to your recollection?

19          A. There was no specific training on that, no.

20          Q. No.

21          A. It was a risk factor. It was always mentioned as a risk  
22          factor, but no specific training as to how to either  
23          communicate or restrain someone who was under the  
24          influence of drugs and alcohol.

25          Q. Where there is an absence of training on a specific

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1           topic, is the matter then simply left to the discretion  
2           of the officers?

3           A. I would probably suggest so, yes.

4           Q. Based presumably on their own skills and experience and  
5           what they see others doing?

6           A. Based on their own knowledge, experience, skill, we --  
7           at that time we relied heavily on people's own  
8           interpersonal skills.

9           Q. And was that for all officers, there was a reliance on  
10          their own skills?

11          A. I never received any training in how to communicate with  
12          violent individuals, how to de-escalate, any of that  
13          conflict resolution, so yes, if you take that omission  
14          it would be that we would be relying on officers' own,  
15          you know, self communication skills.

16          Q. And that was when you started as an officer, was it, you  
17          didn't receive any of that training?

18          A. Never received any of it as I started or -- the first  
19          time I actually received any sort of -- and it wasn't  
20          even specific -- was when I undertook my firearms  
21          training.

22          Q. Right. When was that?

23          A. 2001, 2002.

24          Q. So for officers training to become firearms officers,  
25          they would receive that specific training?

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1           A. There was additional training to firearms officers and  
2           I believe potentially public order trained officers, but  
3           I couldn't say for certain. But whether there was  
4           specific training or not or, it was an expectation of  
5           you and you were -- they tried to enhance your existing  
6           skills. There was definitely -- you know, I suppose if  
7           you want to call it enhanced communication provided  
8           during firearms training because of the nature of the  
9           role.

10          Q. But nothing specific for probationer or refresher  
11          training in the normal officer safety training  
12          programme, even up to 2015?

13          A. I don't recall any communication, de-escalation type  
14          training. It was in the manual, but I don't ever recall  
15          it being in the PowerPoints for initial courses and  
16          I don't ever recall receiving it or seeing it done in  
17          refresher training, no.

18          Q. We will come back to that when we look at the manual and  
19          PowerPoint.

20          A. Okay.

21          Q. So I think, moving on to 72, Graham Patience talks  
22          about:

23                 "... how to identify an individual experiencing  
24                 a mental health crisis."

25                 And he is asked if the recertification training

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1 covered that and he said:

2 "Yes, because one of the scenarios, and I think it's  
3 still pertinent in the current training, if you have  
4 a scenario-based part of training, there was usually  
5 somebody going through a mental health crisis. For  
6 example, you may have the students involved, expecting  
7 that it's going to be somebody who's going to be  
8 committing a crime or something like that and the person  
9 they're faced with may be somebody that's going through  
10 a mental health crisis. It changes the situation  
11 completely. So yes, that was definitely involved."

12 And I'm interested in this paragraph, not just in  
13 relation to the mental health crisis aspect but also in  
14 the idea that he is talking about -- here talking about  
15 a scenario-based part of the training. Do you remember  
16 what type of training was being provided at this time?

17 A. I -- as part of my national review I visited a number of  
18 training venues across the country to review and  
19 I suppose baseline and benchmark what was being carried  
20 out across the country. I didn't see any scenario-based  
21 training in all -- as I say, maybe this officer  
22 delivered it during when he was delivering his training.  
23 I never saw any evidence of scenario-based training.

24 Q. And we have heard something of scenario-based training  
25 and we have other statements available, in fact I think

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1           we will be coming on to a paragraph in Graham Patience's  
2           statement later where he talks about there being quite  
3           a lot of benefits of scenario-based training. Can you  
4           explain to the Chair what that is?

5        A. So if you -- all the -- if you look at the available,  
6        I suppose, or what I could find, academic  
7        articles/research that I could find and from talking --  
8        speaking to other forces across the world, for  
9        a practical activity such as officer safety training,  
10       control and restraint, the best -- one of the best  
11       teaching methods that will get the best results is that  
12       operationally based scenario-based training. So that is  
13       where you put your students in an as realistic as you  
14       can situation, with a role-player and the role-player  
15       will have a brief. That role-player will act out  
16       a situation and that officer has to put their training  
17       into practice in a practice-based situation. And, as  
18       I say, for me and probably for most other people in this  
19       type of training environment, scenario-based training  
20       for these practical activities is by far the best type  
21       of training you can deliver and it gets the best  
22       results.

23       Q. And when you say it gets the best results, what sort of  
24       results are you talking about?

25       A. So it embeds the learning. If you are -- if you're

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1           working -- if your assessment criteria or your learning  
2           outcomes are based on a practical activity then the best  
3           way to assess that practical activity is through  
4           a practical assessment, if that makes sense. So if you  
5           want to embed learning, if you want to make sure your  
6           learning outcomes are met for a practical activity, the  
7           best way to do that is through a practical scenario and  
8           that -- because that then allows you -- allows that  
9           officer, or that student to put what he or she has  
10          learned into practice, what they have learned into  
11          practice and it allows the instructors to assess if  
12          they're meeting those designated assessment criteria.

13         Q. And so it allows the officer to take account of all the  
14          training and information they have been provided with,  
15          use their own interpersonal skills, access whatever  
16          equipment is required and respond in a sort of -- the  
17          equivalent of a real life situation?

18         A. Exactly. It's -- I mean we can -- we can teach someone  
19          how to use PAVA spray in a gym hall, we can teach  
20          someone how to swing a baton in a gym hall, but they  
21          were in isolation. Few officers will ever spray PAVA  
22          spray in that isolated type of environment, so what we  
23          want -- the best way to train that activity is, as you  
24          say, to put them into that role-playing situation where  
25          they have to be cognisant of the situation, they have to

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1            assess that threat and risk, they have to make -- they  
2            have to choose a tactical option that's proportionate,  
3            necessary and reasonable and they have to deal with that  
4            situation as it unfolds, so that -- if you don't have  
5            scenario-based training it's very sterile and it's not  
6            realistic, it's not operationally relevant.

7            Q. So that scenario-based training will give them, that  
8            individual officer, what is akin to actual real life  
9            experience but in a controlled environment, and would it  
10           be fair to say it's also exposing them to scenarios they  
11           might come across in real life?

12           A. If done properly, yes.

13           Q. Which can be quite stressful or worrying for the  
14           officer?

15           A. Yes. I mean one of the -- I suppose the negatives is  
16           you can't -- you can't realistically replicate the  
17           operational environment and the threat that you face in  
18           that environment. Introducing a training plastic knife  
19           or baseball bat or whatever, will never ever replicate,  
20           you know, the actual physical environment if you are  
21           faced with a baseball bat or a knife or a particularly  
22           violent individual, so it has to be a bit more measured,  
23           you know, and a bit more controlled, but as best you  
24           can, as you say, to expose the officers to that and it  
25           allows them also to see their own shortcomings and maybe

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1           their -- and it allows the instructors there to identify  
2           if they need potentially more training on interpersonal  
3           skills, tactical communications, on their movement and  
4           their threat and risk awareness -- threat and risk  
5           assessment, situational awareness, etc.

6           Q.   So creating a much, much more realistic situation  
7           which -- can the officers then learn more from having  
8           gone through that experience rather than just being  
9           taught from a manual?

10          A.   Taught from a manual and just carrying out techniques on  
11          a compliant -- not -- or a compliant colleague, because  
12          that's how it was always done, so whilst -- again, there  
13          has to be caveats to that because you can't fully  
14          control a subject maybe to the same extent that you  
15          would have to in an operational environment and training  
16          environment because of injury, etc, but if you look at  
17          firearms training, public order training, even taser  
18          training now, it's all very, very heavily scenario-based  
19          because it's accepted that's the best type of training  
20          for that type of activity.

21          Q.   And that's your own personal experience, that it is  
22          a better type of training?

23          A.   By far, yes.

24          Q.   But from your knowledge of training in 2014/2015, you  
25          didn't see any examples of scenario-based training in



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1           what you watched?

2           A. Not in OST, no.

3           Q. Although Mr -- Graham Patience does seem to be  
4           describing a scenario-based part of training involving  
5           someone who is suffering from a mental health crisis but  
6           you think that could have been something he was doing  
7           himself?

8           A. Potentially, potentially.

9           Q. Right, thank you. Could we move on to paragraph 84  
10          please. Graham Patience is asked about the time he had  
11          to teach excited delirium alongside other topics and  
12          whether the amount of time he had to teach those topics  
13          affected the quality or adequacy of training and he  
14          says:

15                 "I think so, yes, but on balance, I suppose the move  
16                 to a two-day course gives us more time these days."

17                 You have told us about it now moving to two days.  
18                 Do you have any comments or thoughts about -- in  
19                 2014/2015 it was only one day, you have told us that  
20                 already -- about the amount of time that people had,  
21                 instructors had, to train refreshers?

22          A. I think it was part of my -- one of my review  
23          recommendations but in any case I did put briefing  
24          papers in. In my view one day was insufficient and so  
25          what we had to do to mitigate that was we removed

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1 a number of techniques from the programme because what  
2 we were finding was that I think we had 84 different  
3 techniques in the programme, many of which officers had  
4 never used, wouldn't use, told us they wouldn't use,  
5 they were fairly complicated, so what we had to look at  
6 was do a use of force review and identify those  
7 techniques that were most commonly used and most  
8 effective and remove a number of parts of the programme  
9 to allow us to better train the officers in a smaller  
10 amount of techniques because what we were finding was we  
11 had officers coming in for a day and maybe spending  
12 30 seconds practising 80 techniques, so what we had was  
13 officers leaving that day having been exposed to 80  
14 techniques but really not being entirely comfortable in  
15 many of them.

16 Q. And did that review then provide for space to teach  
17 things like excited delirium, recognising signs and  
18 symptoms, or was it only really in relation to  
19 techniques and rationalising those?

20 A. So I can't remember the lesson plan, how long was  
21 allocated to the excited delirium input, but I think  
22 that was actually negated because we had introduced the  
23 standalone mandatory training on acute behavioural  
24 disturbance in 2016, so there wasn't a need to talk  
25 about excited delirium, (a) that had been replaced, the

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1 term itself, but also we had replaced the input -- the  
2 physical input during OST with the mandatory online  
3 training.

4 Q. So the changes post-2016 freed up time within the OST  
5 programme because excited delirium became a standalone  
6 matter?

7 A. Yes.

8 Q. Could we look at paragraph 89 please. This is where  
9 Graham Patience is asked to talk about training on  
10 arrest and restraint techniques in 2014/2015 and now and  
11 initially at 89 he says:

12 "I am asked if the recertification training ...  
13 insofar as it relates to restraint cover the following  
14 topics outlined below. I am asked if it covered the  
15 application of weight and pressure to a subject during  
16 restraint, particularly in the torso area."

17 So you remember this is -- we looked at statements  
18 previously and I think Shaw was asked the same sort of  
19 questions.

20 A. Yes.

21 Q. So Graham Patience has been asked the same question and  
22 he says:

23 "Yes, it was. That was definitely included. As  
24 I said before, there was a lot of time, a lot of effort  
25 put into the fact that you shouldn't be putting any

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1           pressure on the centre line on the spine, neck, that  
2           kind of thing and again being mindful and you put it out  
3           to the class what could that cause and the answer that  
4           would be expected would be positional asphyxia. I still  
5           do it to this day, making sure that we're not putting  
6           pressure on the spine or the centre line of the back so  
7           that's a big aspect of control and restraint."

8           And again, does that accord with your recollection  
9           of the training that was given at the time?

10          A. Yes, it does.

11          Q. And when he talks about the centre line of the back and  
12          spine, is there a distinction there that we should be  
13          aware of?

14          A. Not a distinction per se, but the centre line obviously  
15          runs down the centre of the back and so it's that  
16          general area, you know, the centre, either side of the  
17          centre line.

18          Q. And again where he is talking about pressure, that could  
19          be weight, body weight as well?

20          A. Yes.

21          Q. Thanks. Could we look at paragraph 92 please:

22                 "I am asked if the training covered the appointment  
23                 of a safety officer in particular when attending a knife  
24                 incident. Not exactly, no, that's not something that  
25                 I'd be aware of. Again, I think it would be up to the

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1           officers attending to make sure that they're keeping  
2           themselves and their colleagues safe and anybody else,  
3           keeping the public safe."

4           So I think he doesn't remember a safety officer in  
5           particular at that stage either.

6           A. No.

7           Q. And that's actually what you have said already?

8           A. Yes, that's correct.

9           Q. 95 please:

10           "I am asked if the recertification training ...  
11           insofar as it relates to restraint cover the risk  
12           associated with restraining someone in the prone  
13           position. Yes, that's as it is now. That's not  
14           changed, because the risk is still the same and, again,  
15           the main ones for me would depend on body size and  
16           alcohol intoxication, etc. That's still a big risk and  
17           that's still taught the same."

18           And I think that's what you have been telling us  
19           today?

20           A. Yes, there is slight changes, to what we talk about.  
21           You know, it used to all just be positional asphyxia, we  
22           now talk about restraint-related asphyxia and we have  
23           brought into positional asphyxia that it's not  
24           necessarily having just to lie in a prone. You can have  
25           positional asphyxia if you're in the W position, if

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1           you're sitting, so there's other parts that have been  
2           brought in since to try and I suppose qualify what  
3           positional asphyxia is.

4       Q.   We heard evidence last year that someone had been  
5           sitting in the back of a police car with their  
6           handcuffs --

7       A.   Yes.

8       Q.   -- tied behind -- their hands behind their back and that  
9           had caused a positional asphyxia.

10      A.   That's right, yes.

11      Q.   Is that the type of thing?

12      A.   That type of thing, yes, and it's more common in the  
13           back of a cell van where there's not any space to put  
14           your legs straight so the person has to bring their  
15           knees to their chest, especially -- depending on their  
16           body size, their weight, that -- so whilst they're not  
17           actually lying prone, they can still experience the same  
18           difficulties of positional asphyxia. So they brought  
19           those in so -- but what he was saying is it's roughly --  
20           you know, the risk factors, etc, haven't changed.

21      Q.   And in terms of the main ones as he describes it, the  
22           risks are explained to the officers and they were  
23           explained then in 2014/2015 and they're explained now.

24      A.   That's correct, yes.

25      Q.   And the main risks, from what you have been saying,

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1           relate to the spine, pressure or weight on the back and  
2           that sort of centre line?

3           A. Yes.

4           Q. Can we move to 105 please. He is asked:

5                     "... if identifying someone exhibiting positional  
6                     asphyxia and signs and symptoms of Positional Asphyxia  
7                     was covered in the recertification ..."

8           He said:

9                     "Yes, definitely. You would certainly be looking  
10                    for, you know, one of the big ones was somebody telling  
11                    you they can't breathe. You know, it's to be mindful of  
12                    that might be them expelling their last breath. It's  
13                    somebody that is in difficulty, telling you they can't  
14                    breathe, and, you know, be mindful that you're not  
15                    ignoring that. There'd be as Inspector Young has  
16                    already said potentially a colour change."

17                    Is that the cyanosis that I think you mentioned this  
18                    morning?

19           A. Yes.

20           Q. "The person goes from being compliant to beginning to  
21                    fight or the reverse. It could be somebody who's  
22                    actively trying to resist you start to go limp. That's  
23                    something else to be mindful of. It's another sign that  
24                    somebody could be affected by that. Yes, that's the  
25                    main ones for me, certainly."

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1                   Are those the main ones for you too?

2           A. Yes, behavioural change, changes in their breathing,  
3           changes in their posture, etc, yes, just as that says.

4           Q. And that was being trained at the time?

5           A. Yes.

6           Q. Then if we could go on to 115 please. So

7           Graham Patience says:

8                   "I am asked to outline what the recertification  
9           training on Positional Asphyxia is now at present day  
10          and if there have been recent significant changes.  
11          I wouldn't say it's changed much. As I said before, the  
12          signs and symptoms are still the same, the management of  
13          it is still the same. It's always stressed about being  
14          live to it and making sure that you're not creating  
15          additional risk when somebody's restrained. Keeping off  
16          the back, that's something that's always reinforced and,  
17          just being live to it, and making sure that you're  
18          taking somebody away from that risk by moving them off  
19          that position whenever it's safe to do so."

20                   Would you agree that keeping off the back is  
21          something that's always reinforced?

22          A. When you can, yes.

23          Q. Thank you. Could we look at 117 please. He is asked --  
24          Graham Patience has asked here:

25                   "... if officers received training on de-escalation



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1 or de-escalation techniques during recertification~...  
2 and if so, did it form part of the scenario-based  
3 training."

4 And he says:

5 "It wasn't an actual teach."

6 Do you understand what that phrase means?

7 A. Yes.

8 Q. Then tell me.

9 A. So when we talk about "teaches" we talk about  
10 formalised -- a formalised teach where you have the aims  
11 and outcomes of that teach and how to deliver that  
12 teach, that lesson I suppose if you want -- if you call  
13 it that. When people say, "That wasn't a teach", then  
14 it's a more informal -- potentially an awareness session  
15 or a chat, something like that.

16 Q. Right, thank you. So we could substitute "lesson" for  
17 "teach", if we're confused?

18 A. Yes.

19 Q. "There was a few of the scenarios involved."

20 So again Graham Patience here seems to be talking  
21 about scenarios and scenario-based training here:

22 "Everybody's ability is different, so you would have  
23 some officers that could be faced with the same scenario  
24 that somebody else had with a different outcome."

25 Presumably you will agree with that?

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1 A. Yes.

2 Q. Yes:

3 "Say, for instance, you might have the subject who  
4 ultimately ended up being arrested or something in one  
5 situation but the same scenario being put to a different  
6 officer, their ability, they might be able to  
7 de-escalate it without the subject having to go any  
8 further. They might become compliant. So, although  
9 maybe not an actual teach, it was something that was  
10 talked about de-escalation strategies and how using your  
11 tactical communication can de-escalate a situation.  
12 Again, that's almost an expected skill of a police  
13 officer."

14 I'm interested in this idea -- he uses the phrase  
15 "de-escalation strategies" and he also talks about  
16 "tactical communication". Can you explain to us the  
17 distinction there?

18 A. So tactical communication has always been defined as the  
19 ability to communicate to gain control or compliance, so  
20 what I didn't like about that was that there is a direct  
21 correlation between communication and compliance. I've  
22 never particularly liked the word "compliance" in the  
23 first place, I don't think it has the correct  
24 connotations. But that's -- so tactical communications  
25 was limited -- from my experience and up until the new

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1 programme 2016 was limited to a very small part of -- or  
2 a part of the manual and I don't remember it ever  
3 actually being taught, like how to communicate with  
4 someone in that conflict situation.

5 Tactical communications and de-escalation I suppose  
6 could be argued is roughly the same thing. You're  
7 trying to diffuse a situation without having to resort  
8 to force by the use of either verbal communication or  
9 positional -- or position, and it's something that  
10 police officers have kind of always done but as this  
11 officer says here, it was a kind of expected skill.  
12 Now, not every police officer -- not every person has  
13 that skill, not every police officer has that skill.

14 So de-escalation is basically about defusing the  
15 situation. Tactical communication to me was always  
16 about gaining compliance and control and I think there's  
17 for me -- maybe a subtle but a distinct difference.

18 Q. Thank you. We will come on to what's in the manual  
19 later, but the manual refers to tactical  
20 communication --

21 A. Yes.

22 Q. -- in 2013?

23 A. Yes.

24 Q. Thank you. So if we look at paragraph 118

25 Graham Patience then says:

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1            "Insofar as it relates to conflict management, I am  
2            asked what recertification training officers received  
3            for dealing with a subject who has been identified as  
4            suffering from Excited Delirium ... I think that was  
5            contained in the teach for that, about when you're  
6            looking out for the signs. Again, spinning the National  
7            Decision-Making Model, would it be something you're  
8            obviously going to try and de-escalate it by talking  
9            with them. If that works, then that's great. If that  
10           doesn't, then you preclude that and then move on to  
11           something else. It might be that you eventually have to  
12           put hands on somebody. So, it's kind of taught at  
13           various points through the day, or would have been,  
14           about de-escalating. Maybe not directly, but it's  
15           something that would be introduced in various teaches  
16           because it's applicable to various different parts of  
17           the training."

18           Now, there's quite a lot in that paragraph and  
19           I wonder if we could go through that and I will ask you  
20           for your views. He is talking about conflict management  
21           and the recertification training that officers would  
22           receive and he talks about the National Decision-Making  
23           Model and we have heard evidence last year about the  
24           National Decision-Making Model and how it was used by  
25           officers to put information in and review their -- what

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1           was happening as they attended an incident.

2           So can I ask you, Graham Patience seems to be  
3           talking about this type of training being incorporated  
4           in this 2014/2015 not as a standalone or as a specific  
5           teach or lesson, but incorporated into the OST training  
6           that officers were getting and I wondered if you had any  
7           comments on that?

8           A. Again, that wasn't my experience. I don't recall  
9           instructors ever talking about conflict management as  
10          such. I don't remember them ever making reference to  
11          National Decision -- or the National Decision-Making  
12          Model as it was back then. Again, when he talks there  
13          on the scenario-based training I didn't see any evidence  
14          of that, so what he is saying there is again potentially  
15          that is what he delivered, or he has taken what we  
16          brought in, in 2016 and he is referring to that. But,  
17          as I say, personally I never saw any evidence of this  
18          type of training being delivered.

19          Q. Do you remember any training at that time where officers  
20          would be trained to -- if it works -- so he is talking  
21          about sort of communicating -- trying to de-escalate and  
22          he says:

23                 "If that works then it's great. If that doesn't  
24                 then you preclude that and you move on to something else  
25                 and that might be putting hands on somebody."

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1           Was there any training where officers went through  
2           or talked through those stages where you maybe talk to  
3           somebody, see if you can de-escalate and, if not, you  
4           preclude that and move on to a different option?

5           A. I mean, to achieve what you ask there would require some  
6           sort of scenario-based training and again, from my  
7           experience, there was -- I didn't see any evidence of  
8           scenario-based training back then so how could then  
9           an officer during a training environment do that, if  
10          that's not in a scenario, unless, as I say, maybe this  
11          officer did it off his own back and that's a type of  
12          training that he involved. But generally I didn't --  
13          I didn't see any evidence of that type of training at  
14          that time.

15          Q. If there was some sort of scenario-based training  
16          designed to allow an officer to practice trying to  
17          de-escalate, working that it fails, and then they have  
18          to pick another option, could you help the Chair  
19          understand how that type of scenario-based training  
20          could be developed?

21          A. So the whole purpose of a scenario-based training is the  
22          instructor, the role-player, needs to know what the  
23          outcome, or what the desired outcome is going to be and  
24          therefore that role-player can thereafter direct the  
25          officer so that they can achieve what we are trying to

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1 get them to achieve, if that that makes sense.

2 So you could have a situation -- or a scenario where  
3 the role-player will act in an aggressive manner, they  
4 will shout, they will swear, they will throw things  
5 about, etc, whatever it may be. That officer will then  
6 have to react to that in a proportionate and appropriate  
7 manner and it may be that you can then assess the  
8 threat, threat and risk assessment, so they may decide:  
9 well, that person is being aggressive to me, they're  
10 coming towards me, I perceive that they're going to be  
11 violent so I may disengage, I may retreat if possible --  
12 withdraw, sorry, if possible, I may use my baton, I may  
13 use my PAVA spray, I may decide, because of my skill  
14 level, to use empty hand or controlled restraint  
15 techniques. So you will know that's what you're looking  
16 to assess, their ability to do that.

17 Conversely you could have a scenario where the  
18 role-player can still be shouting, swearing, being  
19 violent, you know, "rah rah rah", exhibiting signs of  
20 violence or threats but not actually make any immediate  
21 threat to that officer, they may be an immediate -- you  
22 know, wouldn't close the reaction gap to that officer  
23 and what you're looking for there, the desired outcome  
24 of that is for that officer to use their tactical  
25 communications or their de-escalation skills to be able

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1           to just talk to that individual, to ascertain maybe the  
2           reasons for their behaviour and to try and de-escalate  
3           that situation, using the strategies that we have  
4           provided to them.

5           Q. And that would be created as part of a scenario-based  
6           training?

7           A. Yes.

8           Q. Was there anything -- if we leave out scenario-based  
9           training, what was in the 2013 manual that could have  
10          helped an officer work out how to communicate with  
11          a subject who maybe wasn't closing that reaction gap, or  
12          who wasn't exhibiting violent tendencies, or who wasn't  
13          shouting and swearing?

14          A. I mean the only -- the only model that we had back then  
15          was what we called the five-step appeal model, and again  
16          that was all about gaining compliance. So that was  
17          where you would make a number of appeals to the  
18          individual, and I can't remember the exact -- every step  
19          at the minute, you will see it from the manual, but it's  
20          roundabout you will, I suppose, make them aware of how  
21          they're behaving, you will tell them what they may lose  
22          by that behaviour, whether it be financial, whether it  
23          be family, social, end up being arrested, and then you  
24          will basically then just say, "Is there anything that  
25          I can do or say that will prevent you from doing this



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1           behaviour?" And if they say no, then the final outcome  
2           of that is a physical intervention. To me it's a very  
3           restrictive model and we removed it in the 2016  
4           programme, so that was all that was available.

5           We did give them some information in the manual, and  
6           again it's debatable to what extent this was taught  
7           practically, but we did give them some information  
8           roundabout the conflict resolution model whereby it  
9           talked about, you know, what the threat assessment was,  
10          how that person is behaving, what options you could  
11          have, etc, so -- but it was limited. It was limited.

12          Q. And the goal of that five-step line of communication,  
13          which we will come back to, the goal of that was  
14          compliance?

15          A. Yes, so comply and away, so either comply by ceasing and  
16          desisting your behaviour, or you end up I suppose being  
17          arrested, I would imagine.

18          Q. And so I'm clear, compliance to an officer would be  
19          stopping what they're doing?

20          A. That's the way it was taught, yes.

21          Q. All right, thank you.

22          A. Following instructions, yes.

23          Q. Following instructions?

24          A. Yes.

25          Q. And was there any consideration given in relation to the

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1 five positive steps of communication to the impact of  
2 someone who is suffering from mental health problems,  
3 for example, or who was intoxicated?

4 A. Not that I recall, and obviously those are -- I mean we  
5 did talk about barriers to communication in the manual  
6 and obviously intoxication, drugs, mental health  
7 challenges, I suppose learning/physical disabilities,  
8 etc, they were all included because they were obviously  
9 barriers to communication, English not being the first  
10 language, etc. We spoke about that. But again, to the  
11 extent that that was actually delivered to the students,  
12 I would be very surprised if it was at all. It was in  
13 the manual but I don't think it was delivered.

14 Q. All right, thank you. Could we look now please at 133  
15 and then 145. I'm going to ask you about a mnemonic  
16 called CUTT. I think it starts on 133:

17 "Training in relation to knife incidents and knife  
18 defence in 2014/2015~...

19 "I am asked what recertification ... was [then] ...  
20 on knife incident defence insofar as it related to  
21 officers approaching a subject reported to be in  
22 possession of a knife. There was only one real  
23 practical lesson about it, but there was more the talk  
24 about creating distance. There's a principle an  
25 acronym, CUTT, and it says 'Creating distance, use

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1 cover, transmit', obviously use your radio, 'and  
2 consider other tactical options'."

3 I think there's other information available to the  
4 chair that said this was originally CUT, but later  
5 developed into CUTT; is that correct?

6 A. Yes, I added another T, yes.

7 Q. You added the other T?

8 A. Yes.

9 Q. We will come on to that. I'm interested in what he is  
10 saying here, Patience is saying:

11 "There was only one real practical lesson~..."

12 So officers attending an alleged knife incident or  
13 a potential knife incident, there's one real practical  
14 lesson and it's all about CUTT. Now, in 2014/2015  
15 I think it was CUT.

16 A. Yes.

17 Q. Tell us about CUT?

18 A. So CUT was the acronym for the actions an officer would  
19 take when faced with an edged weapon threat and I know  
20 that this officer speaks about -- we're talking about  
21 approaching a subject reported to be in possession of  
22 a knife, that's not how it was taught. How it was  
23 taught was if an individual spontaneously presented an  
24 edged weapon at the officer. There was no mention of  
25 tactical approaches, etc, and when being spontaneously

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1           presented with an edged weapon threat, the training was  
2           you would create that distance; where you could you  
3           would use any cover available, and you would shout  
4           "knife".

5           Now -- and so that was the training at the time and  
6           it was basically delivered in the manner of during  
7           training your colleague would be given a knife, he would  
8           present it at you and the student would move back,  
9           creating a safe distance, use cover, shout "knife", so  
10          that everybody else there knew there was a knife, and  
11          according to that acronym that's where it stopped.  
12          There was no training on what do you do after that and  
13          that's why we brought in the second T later on, but the  
14          training at the time was simply that, you practice that  
15          a couple of times.

16         Q. But as I understand what you have said, the trigger to  
17          considering CUT was someone brandishing a knife?

18         A. That's how it was taught, yes.

19         Q. That's how it was taught in training at that time?

20         A. Yes.

21         Q. So for an officer who was attending a knife incident but  
22          who couldn't see a knife, would the -- would this  
23          acronym provide them with some mechanism to deal with  
24          that situation, or would they be looking elsewhere in  
25          their training for assistance?

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1       A. Yes, mainly they would be looking elsewhere in their  
2       training, so we talk about contact and cover -- I know  
3       you mentioned that earlier. We talk about contact and  
4       cover. We talk very much about reaction gaps, so  
5       whilst -- and we did talk about, you know, if there is  
6       potential for a knife then obviously you increase your  
7       reaction gap. But again, that was the issue -- one of  
8       the issues, one of the challenges with the previous  
9       programme was there was no tactical training, if that  
10      makes sense. There was no training to officers to carry  
11      out safe tactics. It was very, very technique based,  
12      which is fine but you need the tactics and the  
13      communications to balance that, so I think it was -- the  
14      training was limited in that respect.

15     Q. So for an officer who was attending a knife incident  
16     where they attend but they can't see the knife, it could  
17     be concealed. They would be thinking about contact and  
18     cover, which I have said we will look at when we look at  
19     the manual --

20     A. Yes.

21     Q. -- and increasing the reaction gap but not necessarily  
22     CUT?

23     A. No. As I say, the way that was -- the way that was  
24     delivered -- and if it that's the only way it's  
25     delivered then that's normally what the officers will

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1 take from it, but that was delivered specifically in  
2 that context of that spontaneous presentation.

3 Q. So the distinction -- is the distinction if you turn up  
4 and can't see a knife but suspect there might be one  
5 concealed, you make sure there's a significant reaction  
6 gap between you and the person, but if you have no idea  
7 that there might be a knife but someone presents it  
8 suddenly and without warning, then that's when you  
9 create distance, you move back so the reaction gap is  
10 greater?

11 A. Yes.

12 Q. So that's the sort of distinction between those two  
13 elements?

14 A. Yes.

15 MS GRAHAME: Thank you. I'm -- if you could give me  
16 a moment. The stenographer may be requiring a break.

17 LORD BRACADALE: Yes. We will take a 15-minute break at  
18 this point.

19 (3.00 pm)

20 (Short Break)

21 (3.15 pm)

22 LORD BRACADALE: Yes, Ms Grahame.

23 MS GRAHAME: Thank you. I was going to go back to  
24 Graham Patience's Inquiry statement and this time look  
25 at paragraph -- let's start with 137 please. Thank you.

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1           We're continuing in relation to training in response to  
2           a knife incident:

3           "I am asked what the recertification training  
4           was ... on knife incident defence and identifying the  
5           most appropriate tactical option insofar as it relates  
6           to officers approaching a subject reported to [be]  
7           carrying a knife in public or alleged to have a knife in  
8           their possession. Again, officer discretion always  
9           comes into it, but it's about individual risk  
10          assessment. For me at the time, it was about not  
11          approaching, and the onus always seemed to be about  
12          creating that space, not putting yourself at the risk of  
13          being cut. There was very little about getting hands on  
14          somebody with a knife, or I think I mentioned already  
15          earlier on, there's slight differences now in the  
16          programme where, if you're compromised and you have no  
17          option to get away from somebody with a knife, there are  
18          tools we can use to deal with that, or to minimise the  
19          risk, but there wasn't a lot about approaching a subject  
20          with a knife in 2013/'14."

21          Looking at that paragraph, do you agree with what  
22          Graham Patience is saying?

23          A. Yes. I thoroughly agree there wasn't anything about  
24          approaching an officer with a knife. You had to rely on  
25          other aspects of the training. And again, about their

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1 risk assessment, obviously we did teach officers about  
2 risk assessment, how to conduct a risk assessment, the  
3 elements to consider whilst carrying out that risk  
4 assessment.

5 Q. And he mentions here the:

6 "For me at the time, it was about not approaching,  
7 and the onus always seemed to be about creating that  
8 space, not putting yourself at the risk of being cut."

9 And just before the break you were talking about  
10 approaching someone where you can't see a knife, it's  
11 about making sure there's an increased reaction gap?

12 A. Where possible, yes.

13 Q. Where possible and if they pulled out a knife on you it  
14 was about using CUT and create distance, perhaps move  
15 back from them.

16 A. Yes. What I would say though, there was I suppose --  
17 some of the training was contradictory in the respect  
18 that you may have officers who had been trained for  
19 a while, for many years, and it was all about gaining  
20 control, so it was about closing that distance because  
21 there was -- a previous school of thought was if you can  
22 control that subject then they can't have access to the  
23 knife, so the quicker you can get in close, close with  
24 that individual and control the limbs, particularly  
25 obviously the arms, then that was a way of dealing with



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1           someone suspected to be bearing a knife. And that's the  
2           way I -- up until I became an OST instructor, that's  
3           always the way I approached it because that's what I was  
4           taught.

5           So, as officers do in a high-stress situation, they  
6           rely on, you know, what comes to them first or what  
7           they're more familiar with, so there was very much  
8           a contradiction in terms where -- and we were seeing it  
9           operationally, we were seeing CCTV evidence of officers,  
10          you know, closing the subject where the information  
11          intelligence was that they may have been in possession  
12          of a knife, and trying to assert that physical control.

13         Q. So if one of the officers had, say, 14 years experience  
14          and had had training right up until the 2015 incident,  
15          is that the sort of timescale where he may have had  
16          training in the initial period about closing down that  
17          gap rather than creating distance?

18         A. It's a distinct possibility and again, depending on who  
19          instructed him at what time because, as I say, there was  
20          instructors who -- that was what they believed in and  
21          despite best efforts would continue to deliver that.

22         Q. When did it become the training that a gap should be  
23          created or that gap should be increased?

24         A. I mean that concept has always been there, you know, of  
25          a reaction gap, of staying outwith the fighting arc and

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1           if there is a knife then, you know, best practice is to  
2           increase that reaction gap. But, as I say, that's --  
3           that is what's been taught maybe -- I don't know, since  
4           the middle 2000s. Again, I couldn't say. That would  
5           just be a guesstimate. But I know for a fact there was  
6           still instructors talking about closing gaps, you know,  
7           exerting control, that kind of thing.

8           Q. Certainly in relation to officers who were taught by  
9           Graham Patience, it would appear they were taught about  
10          CUT --

11          A. Yes.

12          Q. -- and they were taught about increasing the gap?

13          A. Yes.

14          Q. So, insofar as Graham Patience is concerned that good  
15          practice was being taught?

16          A. It would appear to be, yes.

17          Q. And for officers who attend that training, who are  
18          taught best practice by someone -- an instructor like  
19          Graham Patience, would they take that on board, would  
20          you expect -- would your expectation be that officers  
21          would take on board new training and new ideas, new  
22          techniques, and evolve in their thinking?

23          A. That would be the gold standard, yes, and that would  
24          be -- definitely for me that's the ultimate goal. But  
25          again, you have to consider situations being different,

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1           you have to consider officers risk-assessing  
2           differently. When you risk-assess a lot of it is based  
3           on your own skills, your own experience, your own  
4           knowledge, your own assessment of threat and risk.  
5           Everybody has a different assessment of threat and risk,  
6           or can have, so whilst -- and again, we have to also  
7           consider that it's not always available that created  
8           distance. If you're in a confined space, a house,  
9           a close, you know, whatever, then creating that distance  
10          sometimes isn't always an option, or maintaining that  
11          large reaction gap isn't always an option. I would like  
12          to think that the majority of officers would take that  
13          type of training on board because it's there to protect  
14          them and it's also there to protect the subject.

15         Q. Leaving aside the sort of gold standard for a moment, if  
16         we just think about just a reason -- an ordinary  
17         reasonable police officer who is complying with their  
18         SOPs and their training and the law, would you expect  
19         that reasonable officer to have regard to the up-to-date  
20         training?

21         A. I would expect it, yes.

22         Q. Yes. Can we look at paragraph 138 please. So this just  
23         follows on here:

24                 "I am asked if the following tactical options were  
25                 taught during the recertification training in 2014/2015

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1 as it relates to attending knife incidents. Firstly,  
2 I am asked if remote rendezvous point was taught. Yes,  
3 an RVP, it's a commonly used tactic, basically for  
4 officers to group prior to engaging with somebody.  
5 Again, depending on the threat, it's not always the best  
6 option for everybody to go straight to the incident.  
7 It's a way for officers to kind of hot brief, and have  
8 a quick discussion about resources, about who may do  
9 what, and what tactics or what action they might take  
10 when they get there. So, it's a meeting point prior to  
11 attending an incident. It's an often-used tactic."

12 Is that something that you recognise, the tactic of  
13 a remote rendezvous point?

14 A. Yes, it's a common tactic but it doesn't form part of  
15 the OST curriculum.

16 Q. Right. So in the 2013 manual and in the training in  
17 2014/2015, was there any training at all about remote  
18 rendezvous points?

19 A. Not that I recall, no.

20 Q. How would officers be aware that that was an often used  
21 tactic or was a tactic open to them, if it's not part of  
22 the training?

23 A. It would probably come from experience so, you know,  
24 they may have worked with a more experienced officer who  
25 used this tactic. They would then take that on and so

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- 1           forth and so on, so~...
- 2           Q. We heard evidence from one of the police officers who  
3           had been at Hayfield Road who spoke about this type of  
4           tactic and the possibilities of that and he certainly  
5           seemed to be aware of it, but that wouldn't have been  
6           from OST training?
- 7           A. Not from OST. He may have got it from other elements of  
8           training, but certainly it wasn't in the curriculum, OST  
9           curriculum, no.
- 10          Q. Right. And when you say, "He may have got it from other  
11          elements of training", can you think of any other  
12          elements of training where that specific option,  
13          tactical option, is mentioned?
- 14          A. It may -- again, it's difficult to recall. It may form  
15          part of the probationer training programme, it may be  
16          mentioned in that and incident management. If any of  
17          the officers had possibly did or were doing their  
18          temporary sergeant they may have, or on a police  
19          incident officer course, where it's heavily emphasised.  
20          I can't comment on what other training courses would  
21          talk about that.
- 22          Q. We have heard people talk about the Gold, Silver, Bronze  
23          command structure --
- 24          A. Yes.
- 25          Q. -- and how that can be used in relation to an incident.

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1 A. Yes.

2 Q. Was there specific training for officers in relation to  
3 that structure and how that could be developed as part  
4 of an incident, response to an incident?

5 A. Not within the OST curriculum, no.

6 Q. In some other training programme?

7 A. I mean it's heavily -- it's the mainstay of firearms  
8 training, public order training, I suppose incident  
9 management events but whether your officer on the shift  
10 would even be familiar with that structure is debatable.

11 Q. Well, certainly from his evidence he seemed to be  
12 familiar with it as an option and he talked to the -- he  
13 gave evidence to the Chair about it.

14 I wonder if you could look at the SCOPE records,  
15 remember we looked at them this morning? And if you  
16 could look at the one for Alan Paton. And you obviously  
17 have the hard copy and you have a list of the training  
18 courses that he has been on according to his SCOPE  
19 record. I'm not going to ask that that be put on the  
20 screen, but for those behind me it's PIRC 01207.

21 Just looking at that list of training courses,  
22 I wonder if you could help the Chair, are there any of  
23 those courses where you think information about that  
24 type of tactical option might have been shared as part  
25 of a training programme?

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1       A. There's nothing that I see from this that requires  
2       a Gold, Silver, Bronze command structure.

3       Q. No, I'm thinking about the remote rendezvous point?

4       A. Oh, the rendezvous point, sorry.

5       Q. Yes, sorry, that was my mistake.

6       A. Nothing I can see of the courses listed that would talk  
7       about RVPs.

8       Q. So perhaps more, as you said a moment ago, from  
9       experience rather than a particular course?

10      A. Yes, and it's not uncommon, you know, it's a common --  
11      it's a common tactic, a RVP, so do you require specific  
12      training to know about it? I would say no.

13      Q. Right, so officers can learn on the job --

14      A. Yes.

15      Q. -- in relation to that?

16      A. Yes.

17      Q. Thank you. Can we look at 139 now please, so back again  
18      to PC Graham Patience's statement, and he says:  
19             "Secondly, I am asked if 'observe, wait and  
20             feedback' was taught. I would say so, yes. It's not  
21             something that would specifically be taught in OST or  
22             anything, it's not really applicable to the OST  
23             programme. Along with RVP, it's not something that we  
24             would teach but, again, it's basic policing techniques,  
25             I would say."

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1 Do you agree with that?

2 A. Yes.

3 Q. So you would expect that most serving officers would be  
4 aware of these tactical options and know what they were?

5 A. I would suggest so, yes.

6 Q. And if we could move on to 140:

7 "I am asked if it is not applicable to OST, where  
8 would it be taught. That's a good question. Not  
9 something that I would be able to put my finger on.  
10 It's more of an instruction really. Certainly, things  
11 like meeting at an RVP or staying back and giving  
12 feedback, it would be something that would probably be  
13 instructed over the radio at the time by a supervisor or  
14 something like that. It's not really something that  
15 would be instinctive, I would say."

16 Do you agree that it could be something that came  
17 over the radio?

18 A. Potentially, yes. As I say, many of the ACR staff have  
19 had additional training in incident management and that  
20 would be something that, especially if it maybe came  
21 from the inspector who may also have an initial tactical  
22 firearms kind of background, it wouldn't surprise me if  
23 they gave that -- an instruction of that sort.

24 Q. We have also heard evidence that it is open to  
25 individual officers to say, "Hang back, let's meet at



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1 a remote rendezvous point before we all converge on an  
2 incident", and you're nodding as I say that, so is that  
3 something that can be done as well?

4 A. Depending on the circumstances, but it's always an  
5 option.

6 Q. Yes. So individual officers themselves could also ask  
7 other officers to rendezvous at a certain point?

8 A. Absolutely.

9 Q. And we're moving on to 141:

10 "I am asked if 'verbal dominance or a hard stop'  
11 approach was taught. Again, it's not something that  
12 would be applicable to the OST programme, but that would  
13 potentially fall into your sort of tactical  
14 communication side of things, to gain compliance. That  
15 would certainly be part of that. On first engagement  
16 with a subject, your first attempt would be to try and  
17 get verbal compliance. If it's somebody with a knife,  
18 you'd hope that that would be enough to get them to put  
19 the knife down and comply, and gain control after that.  
20 So, yes, that definitely would be part of it."

21 Would you agree with that description?

22 A. Yes, that was the ethos at the time, yes.

23 Q. Thank you. Then 142:

24 "I am asked what the recertification training  
25 was ... in relation to the management of knife incidents

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1           and identifying the most appropriate option when  
2           arriving at an incident where circumstances of a knife  
3           remained concealed on the subject and is not visible.  
4           Again, that would come down to how you approach the  
5           subject and what tactical communication you're using,  
6           obviously asking them if they have a weapon on them.  
7           You would ultimately be keen to get control of that  
8           person at some point to affect a search because you  
9           still have to act on the information that you've got, to  
10          see if the person potentially has a knife. So, you'd  
11          want to either confirm it or confirm they haven't got  
12          one. So, you'd have to get hands on at some point."

13                 Do you agree with that?

14          A. If that person is not going to cooperate with you then  
15          you have a duty, you know, to potentially detain them  
16          and effect a search, so the only way to do that is to  
17          physically control the person, yes.

18          Q. All right, thank you. Can I ask you to look at -- I'm  
19          going to ask you to look at 152 but we may need to go to  
20          the immediate prior -- if we go to 151 first of all and  
21          Graham Patience in this part of his Inquiry statement  
22          was asked to look at something you had said in your  
23          second Inquiry statement and you had said:

24                 "By way of example, I experienced some instructors  
25          telling students that the best way to deal with someone

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1           who is in possession of a weapon, or a knife is to  
2           physically control them because that way they can't hurt  
3           you. This approach goes against the training ethos of  
4           CUT. We taught in 2015 officers who are faced with  
5           a knife to, where appropriate, Create distance, Use  
6           cover and Transmit. [That's CUT]. Immediately going in  
7           to physically control someone with a knife puts the  
8           officer at grave risk of injury. In the early days of  
9           my police career, I recall that training given in  
10          relation to knife incidents had a strong emphasis on  
11          gaining physical control. I continued to see this type  
12          outdated training being delivered intermittently during  
13          my quality assurance visits (conducted as part of my OST  
14          review) in 2014/2015. Teaching officers to attempt to  
15          physically control persons with a knife is  
16          problematical, as inevitably some will use it and  
17          potentially get seriously injured. There is not enough  
18          time in the programme to teach officers to effectively  
19          use this tactic and become totally competent at it."

20                 And Graham Patience says at 152 that he would agree  
21                 with what you have said:

22                 "I've never seen anybody teach the fact that you  
23                 could go in and take control, because that would  
24                 completely go against what the training would have been  
25                 at the time, and you're putting yourself at huge

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1 criticism if you ever taught a student to, 'Aye, just go  
2 in and take control of the person with the knife'.  
3 That's certainly nothing I ever taught, and I would  
4 agree with the inspector's concerns there if he did see  
5 that."

6 So it seems that Graham Patience was not teaching  
7 that as part of refresher training prior to May 2015 and  
8 you obviously have concerns that that lingered and you  
9 saw it on occasions. Did you see it anywhere in Fife?

10 A. No.

11 Q. No. Thank you. I would like to look at 157 please and  
12 this relates to Graham Patience's comments:

13 "There's another one where you would essentially get  
14 the person in an arm wrap, and you're close in where the  
15 knife is essentially sort of kept to the rear, so the  
16 only potential cut you could have is maybe against your  
17 stab vest."

18 Is this in relation to a technique to allow you to  
19 gain control of someone with a possible knife?

20 A. I think what he is referring to here is one of the new  
21 techniques that potentially was introduced whereby if  
22 you are presented with an edged weapon and you cannot  
23 withdraw or use a tactical option -- you know, a baton,  
24 PAVA, or whatever it may be, then I think for a short  
25 period of time they were teaching an arm wrap where you

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1           would wrap the hand with the knife in against your body.

2           I was certainly shown that in my latest OST. Whether  
3           it's still in, I don't know.

4       Q.   Maybe I should look at 156 above because it does talk  
5           about recent changes that have been introduced for knife  
6           incidents and defence and there's a couple of holds now.  
7           So this seems to be a new part of the training  
8           programme --

9       A.   Yes.

10      Q.   -- for officers dealing with knife incidents?

11      A.   It appears to be, yes.

12      Q.   But that wasn't something that was being taught in  
13           2014/2015?

14      A.   No.

15      Q.   Thank you. Then can we look at 165 please. Now,  
16           there's talk here of paragraph 4.6 of what is the Use of  
17           Force SOP and I don't need to go to that SOP but we have  
18           heard evidence last year about paragraphs 4.6 and 4.7 of  
19           that SOP. 4.6 relates to profiled offender behaviour,  
20           which is categorised at six levels ranging from  
21           compliance up in terms of severity of behaviour.

22      A.   Yes.

23      Q.   And also 4.7 related to reasonable officer response and  
24           that was categorised up to level 5, which was deadly --  
25           a response~... So again it went up in grades of

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1 severity.

2 As I -- can we look at paragraph 165, we have it  
3 here on the screen. Without looking at the actual  
4 levels, we don't need to go through each of the levels,  
5 but you will see that level 1 is compliance, and then we  
6 will go through just as we -- level 2 is verbal  
7 resistance and/or gestures, moving up to passive  
8 resistance; level 4, active resistance; 5 is assaultive  
9 and 6 is serious/aggravated assaultive resistance. Keep  
10 going. And then Graham Patience was asked:

11 "... if recertification training ... covered the  
12 Profile Offender Behaviour as outlined above."

13 And he said:

14 "Yes, that hasn't changed at all. The profiled  
15 offender behaviour hasn't changed. Yes, it was  
16 pertinent at the time."

17 And I think, as we will see at some point, it's in  
18 the 2013 manual.

19 A. Yes.

20 Q. At 167 he says:

21 "I am asked what level of risk of the Profile  
22 Offender Behaviour would I apply to the following  
23 situations."

24 And he goes through that in some detail and I don't  
25 need to go through that with you. The Chair can

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1           consider that statement as it is. But as I understand  
2           the position, paragraph 4.7 of the Use of Force SOP  
3           which contained reasonable officer responses, levels 1  
4           to 5, has been removed now from the up-to-date manual;  
5           is that right?

6           A. Yes.

7           Q. Can you explain why that is?

8           A. It was replaced with the Tactical Options Model.

9           Q. Right, so it's a direct swap, if you like?

10          A. Yes. What we found was that the reasonable officer  
11          response and the profiled offender behaviour was quite  
12          a restrictive model and basically you would have  
13          a direct correlation between profile offender behaviour  
14          and thereafter what your option can be and there wasn't  
15          any, I suppose, really cognisance given to impact  
16          factors, warning, danger signs, etc. So it was -- in my  
17          view it was quite a restrictive model. I know that the  
18          College of Police in England and Wales did away with it  
19          because of that fact and they have just simply replaced  
20          it with the National Decision Model and that's what we  
21          did. So we replaced it with the National Decision Model  
22          and the Tactical Options Model.

23          Q. So it's completely removed from the training as such?

24          A. Yes.

25          Q. And now officers are taught about the National

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- 1           Decision-Making Model?
- 2       A. Yes, we still talk about profiled offender behaviour but  
3       not in that direct correlation to reasonable officer  
4       response options. Basically we -- profiled offender  
5       behaviour is helpful because it allows officers to  
6       articulate the behaviour of an individual, but we have  
7       removed that direct correlation to: if someone is  
8       showing this, you can do this but you can't do that,  
9       which doesn't take into account the differing  
10      circumstances, the different factors.
- 11      Q. And we heard evidence last year that there are six  
12      profiled offender behaviours but only five reasonable  
13      officer responses?
- 14      A. Reasonable officer responses, yes.
- 15      Q. So there wasn't a direct correlation for every single  
16      profiled offender behaviour either?
- 17      A. No. No, and that model had been in existence I think  
18      from the '80s or the '90s and it was outdated, and again  
19      it didn't take into account, you know, the benefits of  
20      the National Decision Model.
- 21      Q. And tell us -- tell the Chair please about the benefits  
22      of the National Decision-Making Model and the Tactical  
23      Options Model; how has at that improved training for  
24      officers?
- 25      A. So before we would teach officers, as I said, if



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1 a subject is doing X, Y -- or X, then you draw a line on  
2 a graph and it comes to your reasonable officer response  
3 option. It doesn't take into account, as I said, impact  
4 factors, warning signs, danger signs, age, sex, build,  
5 all these kind of things. There are all these impact  
6 factors in a situation.

7 The benefit of the National Decision Model is it's  
8 that cyclic model which you can use a number of times  
9 during the one incident as your information and your  
10 intelligence changes, which inevitably it does change  
11 and sometimes very rapidly. So instead of having  
12 correlations and being quite restrictive, it allows you  
13 to work through in a manner that's less restrictive,  
14 it's -- and it allows you to take into account different  
15 areas that then lead into the next part of the model,  
16 which lead into the next part of the model and then as  
17 anything changes you can just re-spin.

18 Q. So it's more flexible?

19 A. Much more flexible, yes.

20 Q. And does it allow you to adapt your options depending on  
21 the information and intelligence you have?

22 A. Yes. So it allows you to take your information  
23 intelligence, it allows you to formulate a threat  
24 assessment based on that, from that threat assessment it  
25 basically allows you to -- what your options could be

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1 based on that threat assessment, what your police powers  
2 are, your policies are and what action you could take  
3 and then you just -- as that information intelligence  
4 changes you just go through it again. And it's  
5 a worldwide accepted model and it doesn't have to be  
6 within a conflict situation, it can be utilised and  
7 applied to any policing situation.

8 Q. And the tactical options, is that an opportunity for  
9 during training to explore those tactical options and  
10 train officers more about the tactics that they can  
11 adopt?

12 A. Yes, so before we ever spoke about -- we spoke about  
13 techniques and techniques only, so batons, control and  
14 restraint. The Tactical Options Model introduces and  
15 allows officers more awareness around about they can  
16 disengage, they can withdraw, they can call specialist  
17 assistance and it just reminds them -- so the Tactical  
18 Options Model sits in the options and contingencies part  
19 of the NDM and it fits nicely in there.

20 Q. So, when the Chair comes to look at later manuals such  
21 as the 2016 manual, he will be able to consider the  
22 Tactical Options Model and National Decision-Making  
23 Model, that will be within that later model -- manual?

24 A. Yes, it was in the 2016 manual, yes.

25 Q. Right. And that is -- and a consistent approach both in

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1 England and Wales but also more internationally, I think  
2 you said.

3 A. Yes, specifically England and Wales. I know they have  
4 introduced it in the US to various -- I know it is in  
5 use in Australia and other places.

6 Q. Right, thank you. Can I ask you to look at  
7 paragraph 172 please. Graham Patience says here -- this  
8 follows on from a number of paragraphs. He says:

9 "... circumstances where you place weight on  
10 a person during restraint. Level 4, because, you know,  
11 the person is actively resistant, there's a physical  
12 form of resistance. As it says there, they're actively  
13 obstructing. So, yes, if there was a level of restraint  
14 being put on somebody, because it's a way off the scale  
15 from compliance. This person's clearly not being  
16 compliant, so you have to gain control by some means and  
17 I would certainly say it'd be coming up about level 4."

18 So he is talking about profiled offender behaviour  
19 where someone is resisting, actively resisting complying  
20 with police officers, and he is indicating that would be  
21 roughly about level 4?

22 A. Active resistance, yes.

23 Q. Active resistance, right. And then he comes on to talk  
24 about paragraph 4.7 of reasonable officer response but  
25 I think I have already spoken to you about that.

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1           Now, there was a part I had noted -- give me  
2           a moment. Essentially there was a part of  
3           Graham Patience's statement where he talked about  
4           completion of use of force forms and I had noted it as  
5           172 but I must have made a mistake with my numbering.  
6           I may be able to check that shortly. He had indicated  
7           there's always a requirement for teaching that, but in  
8           your -- here it is, 171. I was close, 171. Oh, no, do  
9           you know -- I seem to have something wrong~...

10           Can I simply ask you was there any training in  
11           2014/2015 which was about completing use of spray forms,  
12           having discharged a CS spray, anything about having to  
13           complete forms about that and anything about having to  
14           complete use of force forms where you have used force  
15           during your shift?

16        A. Yes, so on the creation of Police Scotland and the  
17           subsequent creation of PIRC and that statutory  
18           requirement to report to PIRC any firearms discharge,  
19           there was notification sent out by the force of the  
20           requirement to submit a CS, as it was, a PAVA discharge  
21           form, so that was a requirement.

22           There is a requirement, I suppose, if you call it  
23           that, an expectation, that officers will also submit  
24           a use of force form, but that's not always done -- or  
25           wasn't, anyway, sorry.

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1 Q. I'm interested in the level of training that would have  
2 been given as part of OST in relation to paperwork,  
3 completing forms, that type of thing. Do you remember  
4 if that was part of the training programme?

5 A. Not back then, no.

6 Q. No?

7 A. No.

8 Q. So although you are training techniques in terms of  
9 using force on a subject, the paperwork aspect of that,  
10 if I can call it that, about forms, that wasn't covered  
11 at all?

12 A. It may be covered by individual instructors saying, "If  
13 you use force you have to submit a form", or, "If you  
14 discharge PAVA/CS, you have to submit this form", but  
15 I think that was potentially -- that was the extent of  
16 it, yes.

17 Q. Nothing more sort of detailed than that type of thing?

18 A. Not to my recollection, no.

19 Q. Not to your knowledge?

20 A. No.

21 Q. So how would officers again be expected to be aware of  
22 the requirement to complete forms if they used force or  
23 discharged a CS spray?

24 A. Again, I know there was a memo with regards to the  
25 requirement, so a memo into the intranet and thereafter

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1           if a memo is published then it's the Divisional  
2           Commander's responsibility to ensure that memo is  
3           distributed down to the officers under their command.  
4           I think there was also a memo around about -- you know,  
5           in my time there was a number of memos around about use  
6           of force forms and the requirement to complete them.

7           Q. So in terms of raising awareness amongst the serving  
8           police officers, it's not all down to the OST programme  
9           or training programmes, it's also about awareness from  
10          the work that you do every day and being in a police  
11          office and speaking to other officers, that type of  
12          thing?

13          A. You could say that, yes.

14          Q. Can I ask you about your expectations about refresher  
15          training. It's once a year. Some witnesses have given  
16          comments about the effectiveness of that. Others have  
17          spoken about whether it should be more regular or others  
18          have said no. There seemed to be differing views and  
19          I'm interested in your expectations. What do you think  
20          about training, refresher training once a year in terms  
21          of keeping officers up to speed with their skills?

22          A. My personal view is that once a year is not sufficient.

23          Q. And what are your concerns if it is only once a year?

24          A. The biggest one is obviously the skill fade, so when you  
25          pack an awful lot of information, training, instruction

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1           into one or two days and don't give people enough time  
2           to sufficiently replicate or practice that, then it gets  
3           forgotten relatively quickly.

4       Q.   And when you say "relatively quickly", can you help the  
5       Chair understand what you mean?

6       A.   I mean, I can't give a -- you know, I couldn't give  
7       a definite, "You will forget it in two months or  
8       three months", but from my experience -- I mean, I have  
9       had officers who would say to me, "I can't remember what  
10      I trained on last week", or to -- you know, because it  
11      was such a whirlwind -- and I'm talking about the  
12      programme back then, it was such a whirlwind of far too  
13      many techniques in 30 seconds per technique, you know,  
14      they would have forgotten it by the afternoon.

15           So for that type of activity, for me, you know, at  
16      least every six months. And again, I don't know what  
17      the science is, as I say, I haven't been involved in  
18      many years, so -- but that's my own personal view. My  
19      view is it's a very, very high risk activity, control  
20      and restraint, use of force, and I think the training  
21      and the amount of time that's dedicated to that training  
22      should reflect that.

23      Q.   If there was training every six months, what would your  
24      expectations be about their ability to recall the  
25      training and put it into practice if they were faced

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- 1 with a situation?
- 2 A. My expectations would be that they would be more  
3 proficient because they're more familiar with the  
4 training, but you can have training every six months,  
5 it's not how often you train, it's the effectiveness of  
6 the training. So it's what you actually train, how you  
7 deliver it. You can train every three months and if  
8 it's substandard or insufficient training then it's --  
9 it's not -- it's pointless. So for me it's  
10 a combination of frequency and effectiveness of the  
11 training.
- 12 Q. And you have talked about techniques and the number of  
13 techniques that could be trained.
- 14 A. Sorry.
- 15 Q. No, sorry, you have talked about the large number of  
16 techniques that are trained in refresher training. Do  
17 you have any views about maybe restricting the number of  
18 techniques that are being taught during the annual  
19 refresher; would that help retention and avoid skill  
20 fade?
- 21 A. Yes, I --
- 22 Q. At least in relation to those particular~...
- 23 A. Yes, my belief and experience would be yes, the more  
24 time you can practise a particular technique then the  
25 more you will retain that technique, the more you will



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1           be proficient in it, so to reduce the number of  
2           techniques whilst increasing the length of time you get  
3           to practise those techniques in my view would increase  
4           the proficiency and confidence in the officers.

5           Q. So fewer techniques with more time to practise. And is  
6           there -- is there a way that, you know, in your position  
7           as national coordinator or head of the department, was  
8           there a way that you were able to analyse which  
9           techniques were the most used?

10          A. Yes, it's within the -- my national review, so we looked  
11          at all the use of force forms that had been submitted  
12          and we were able to extract the data of what techniques  
13          were used more often. We also -- I think over 2,000  
14          evaluation forms were put out. We held focus groups.  
15          So we got the data from there and we realised very  
16          quickly that -- and I can't remember the exact  
17          percentage, it's in the review document, but we realised  
18          very quickly that there was a large number, or a large  
19          part of that programme was never getting used  
20          operationally for a number of reasons.

21          Q. I would -- I would like to come on to the manual now.  
22          We have talked a lot about the 2013 manual in sort of  
23          abstract. I would like to come on and look at that with  
24          you if I may and we will be able to get that up on the  
25          screen. There's roughly about 30 pages in module 1 that

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1 I'm particularly interested in. There's one or two  
2 other elements. I will need to give you the doc ID for  
3 that manual and it's PS10938.

4 So we will have that on the screen. I'm going to go  
5 through module 1 and also some other pages with you and  
6 just again to put this into context before we start,  
7 this manual came into being -- into force, if you like,  
8 on 1 September 2013?

9 A. Yes.

10 Q. And at that time you were an instructor in Tulliallan?

11 A. Yes.

12 Q. And you were given a copy of this manual?

13 A. Yes.

14 Q. And from then on the training you delivered to  
15 refresher -- well, to probationers would have been on  
16 the content of this manual?

17 A. Yes.

18 Q. As I understand your statement you didn't have any input  
19 into this manual or how it was drafted, or the  
20 techniques included; that was just something that you  
21 were given at that time?

22 A. Yes, I wasn't involved in OST at the time of the  
23 writing, no.

24 Q. Thank you. So that's September 2013. In October 2013,  
25 a month later, you become responsible for OST training

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1 at Tulliallan for probationers and then the following  
2 year, September 2014, you were the National Officer  
3 Safety Coordinator?

4 A. Yes.

5 Q. And this manual is something that you were familiar with  
6 both as a trainer and then through your other roles?

7 A. Yes.

8 Q. Let's look at module 1 if we can go down the page  
9 please. I won't go through the index. I will just take  
10 you, if I may, to page 2, first of all. You see  
11 module 1, officer safety theory, and if we can move down  
12 please. I want to try -- to go to the first sort of  
13 text. Here we are. So that's the covering page and  
14 then we will go on to the next page. So that's module 1  
15 and it lists 14 sections and then it says, "Section 1",  
16 and it has "Aims" and "Learning outcomes" at the  
17 beginning.

18 If you go down please on to -- I have this as page 3  
19 of the manual, it is headed "module 1", human rights.  
20 Let me just check. That's PDF page 3, is it? If we go  
21 down to the bottom of that page we can see the number 3  
22 and I just want to check I'm not using the incorrect  
23 numbering. There we are, page 3. Is that PDF page 3 as  
24 well? Can we just check? It's page 3 I want to look  
25 at. It's not.

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1 Well, I will be able to check that tonight, but if  
2 we're on the right page at the moment can we go to the  
3 top of that page please, so this is page 3 of the  
4 manual. Module 1, "Human Rights Act" and so this is the  
5 very first thing that we see in the manual itself and it  
6 talks about the Human Rights Act conferring a number of  
7 rights and the main concerns for officers who may  
8 require to use some degree of force in the execution of  
9 their duty are Articles 2, 3 and 5. And you explain  
10 what those articles are on that page, or that's part of  
11 the training, and Article 2, paragraph 2, which is at  
12 the bottom of the page:

13 "Deprivation of life shall not be regarded as  
14 inflicted in contravention of this article when it  
15 results from the use of force which is no more than  
16 absolutely necessary."

17 Now, is it part of the OST, or was it part of the  
18 OST training from the instigation of this manual that  
19 you taught probationers and refreshers about the  
20 importance of human rights and Article 2?

21 A. It was taught to probationers during initial courses.

22 I don't recall it being taught during refresher courses.

23 Q. All right. So for any officer who was joining the  
24 service at some point after 1998 or early 2000s, would  
25 they have had training on human rights at that point?

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1       A. They would have it during their initial probationer  
2       training at Tulliallan, there was a human rights lesson,  
3       and I believe it was referred to in the OST programme  
4       back then for the initial course and officers may have  
5       referred to it during refresher training, but it wasn't  
6       in the curriculum for refresher training, so it would  
7       have been haphazard whether instructors referred to --  
8       they maybe made mentions to Article 2.

9       Q. Would serving officers have had any other discussions  
10      about Article 2, or the importance of using force no  
11      more than absolutely necessary up to May 2015?

12     A. I couldn't say.

13     Q. Certainly not part of the curriculum for OST?

14     A. No, no.

15     Q. And then if we can move on to the following page,  
16      page 4. I would like to look at the section regarding  
17      the mnemonic PLANE and I would like to look at that, if  
18      we can go down to the bottom -- yes, so if we can have  
19      that on the screen, we will see that PLANE stands for  
20      proportionate, legality, accountable, necessary and  
21      ethical.

22             Now, we heard evidence last year from one of the  
23      officers about this mnemonic and how it was something in  
24      his mind in relation to making sure that any use of  
25      force was legal and he was justified in using that

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1 force, so can you explain to us what the training was  
2 for both probationers and refreshers in terms of the  
3 2013 manual.

4 A. So for the probationers, during the initial OST course  
5 there was a PowerPoint presentation and that was  
6 included, part of their OST theory, which was day one of  
7 their initial OST course.

8 The refreshers had no classroom input to them, so  
9 there was a reference to PLANE and again that was  
10 usually, in my experience, and certainly I delivered it,  
11 was we would make reference to PLANE all the time. So  
12 we were talking about a technique, we would always talk  
13 about it has to be proportionate, reasonable and  
14 necessary, you know, but there was no, I suppose,  
15 formalised lesson or teach delivered during the  
16 refresher course.

17 Q. But your expectation would be that serving officers  
18 would be aware of the PLANE mnemonic and what it means?

19 A. Yes.

20 Q. And that they would understand why they're being taught  
21 that?

22 A. I would suggest so, yes.

23 Q. Yes. So serving officers, from 2013 at least, would  
24 know that officers should record their decision to use  
25 force and must be able to account for why they chose

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1 a particular course of action and in some cases what  
2 other options may have been available and why these were  
3 not chosen. We heard evidence last year about  
4 preclusion.

5 A. Yes.

6 Q. There might be a number of options available.

7 A. Yes.

8 Q. If you are to use minimum force, you may want to try  
9 less forceful options first, preclude them and then move  
10 on up the scale, or you may decide those less forceful  
11 options are simply not going to be successful.

12 A. Yes.

13 Q. And move straight into a higher level.

14 A. Yes.

15 Q. Is that a reasonable --

16 A. Yes, preclusion is part of the accountability part, yes.

17 Q. And your expectation would be that all officers --  
18 serving officers would know about preclusion?

19 A. I would like to think so, yes.

20 Q. And using minimum force?

21 A. Yes.

22 Q. And I think in your Inquiry statement -- we don't need  
23 to go to this, it's paragraph 68 of SBPI 00153. I think  
24 you weren't sure if "ethical" was actually in the 2013  
25 manual, but looking at it now --

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1 A. It is, yes.

2 Q. -- on page 4 can you see it can -- it does?

3 A. I see it. Yes, of course, yes.

4 Q. Right. And I think you spoke earlier today about the  
5 ethics and was that something to do with  
6 a code of conduct?

7 A. Police Scotland code of ethics, yes.

8 Q. Code of ethics, thank you.

9 Then could I ask you something else that  
10 Graham Patience said in his statement and again we don't  
11 need to go to that, but it's paragraph 162. He talked  
12 about when he was doing his training that there were  
13 wall posters around, some would have the PLANE mnemonic  
14 on them and there was other information available to  
15 officers from those posters. Do you remember -- does  
16 that accord with your recollection?

17 A. Yes. Most OST training venues would have a number of  
18 posters, normally with reasonable officer response  
19 options, with profiled offender behaviour, with PLANE,  
20 etc, displayed on the -- on the walls of the venue, yes.

21 Q. So any officer who was having -- would this be in  
22 Tulliallan, or generally wherever they were having their  
23 training?

24 A. It was wherever -- definitely they were permanently  
25 displayed in the training area at Tulliallan. Some of



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1           the areas that I visited in '14 and '15 didn't have  
2           them, some did. Some would put them up just when --  
3           because these gym halls were maybe used for other  
4           purposes, so when they were used for OST some of the  
5           instructors would put them up, others wouldn't.

6           Q. I understand there's a training location, or was, in  
7           Glenrothes --

8           A. Yes.

9           Q. -- for 2014/2015 trainees. From your recollection, did  
10          they have posters up?

11          A. I couldn't remember, sorry.

12          Q. You can't remember.

13                    Can we move on to the next page please, page 5.

14                    This is headed up "Use of force" and it says "Criteria  
15                    for use of force":

16                    "An officer's use of force must be reasonable. It  
17                    is possible to demonstrate that the force used was  
18                    reasonable by two methods."

19                    And here it talks about justification and  
20                    preclusion. We have mentioned preclusion already. To  
21                    what extent were those principles reinforced at  
22                    refresher training?

23           A. Again, that would come down to -- because there wasn't  
24           a formalised lesson during -- like a formalised,  
25           I suppose, theory lesson delivered, it would be very

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1           much down to the individual -- at that time very much  
2           down to the individual instructor as to what extent they  
3           would make reference to justification, preclusion,  
4           PLANE.

5           Q.   So would it always be mentioned to probationers?

6           A.   It was part of the OST theory, yes.

7           Q.   But for refreshers it would depend on the instructor?

8           A.   At that time, yes.

9           Q.   And there preclusion is said:

10                   "Other force options must have either been attempted  
11                   and failed, or have been considered and found to be  
12                   inappropriate under the circumstances."

13                   And:

14                   "Force can be described as the use of strength,  
15                   power and energy, but includes anything that tends to  
16                   produce an effect on the mind or will of another."

17                   And we heard an example last year about standing in  
18                   front of a doorway and blocking an exit could in itself  
19                   be a use of force?

20           A.   Absolutely, yes.

21           Q.   And if we look at section 3, which is the top of the  
22                   right-hand column here, it says:

23                   "Section 20 - Constables: general duties."

24                   And if we go down to number 2, it is talking about  
25                   when taking lawful measures:

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1            "... a constable must take every precaution to  
2            ensure that a person charged with an offence is not  
3            unreasonably or unnecessarily detained in custody."

4            And:

5            "Police officers use force to establish control of  
6            people and situations for the following reasons ..."

7            And I'm interested in that reference there to  
8            police officers using force to establish control. Was  
9            there an emphasis then at that time on control?

10          A. Absolutely. The emphasis was on control and compliance,  
11          yes.

12          Q. Yes. And I think you have explained that's now changed.  
13          The emphasis has changed now to some extent.

14          A. I think we tried to change it in 2016. To what extent  
15          now -- how that's progressed, I couldn't comment. But,  
16          yes, we tried to get away from that ethos of authority  
17          and ethos of control, compliance, that kind of thing.

18          Q. We have heard that you're no longer a police force,  
19          you're now a police service and is that part of this  
20          ethos of changing the general approach?

21          A. I couldn't comment on the reasoning why we changed that.  
22          That would be for others, I'm afraid.

23          Q. All right. If we move further down the page we see  
24          there:

25                "Whatever the use of force, the officer will require

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1           to answer: 'Could the officer have achieved the same  
2           lawful objective by using a lower force option?'"

3           So is this something that was emphasised, the idea  
4           of using minimum force?

5       A. Well, yes. You know, we talk about least intrusive, we  
6       talk about the minimum, the minimal amount of force for  
7       the minimal amount of time, so, yes, that was  
8       emphasised, yes.

9       Q. So even in the 2013 manual there were -- officers were  
10      encouraged to be thinking about using the least forceful  
11      option?

12     A. Again, it's in the manual and to say it again, to what  
13     extent it was delivered to the officers during the  
14     refresher training is -- I couldn't say because --

15     Q. So definitely taught to probationers.

16     A. Yes.

17     Q. But it would be up to individual trainers for refresher  
18     training?

19     A. Yes, at that time, yes.

20     Q. Can I see the last paragraph on this page 5:

21                 "Two officers confronted with the same set of  
22                 circumstances may react differently. They may select  
23                 different force options each of which they perceived to  
24                 be appropriate and reasonable for them. It is for each  
25                 officer to justify their individual course of action.

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1           The Police Scotland National Decision Model should be  
2           considered at all times."

3           So we have heard evidence last year that it is for  
4           each individual officer to justify their own use of  
5           force.

6           A. Absolutely.

7           Q. And that each individual officer has to justify every  
8           distinct use of force?

9           A. Absolutely, yes.

10          Q. And so even if it there's three baton strikes, they have  
11          to justify each of those three baton strikes.

12          A. Yes.

13          Q. And there's reference there to the National Decision  
14          Model and it says it should be considered at all times.  
15          Now, I think you said -- we will come on to other  
16          references to that in the manual, but you said there  
17          wasn't really a lot of training on that.

18          A. No.

19          Q. No. So it's referenced in the 2013 manual but not --

20          A. Yes, that's correct, yes. It was ...

21          Q. So was that -- that final paragraph there, was the  
22          position on the manual and the way it was trained the  
23          same for that: always taught to probationers, up to  
24          individual instructors for refreshers?

25          A. Yes, and to an extent -- because not all parts of the

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1 manual, so not everything that's in the manual would  
2 have been physically delivered in a theory lesson to  
3 probationers. It may at times be referenced, parts of  
4 the manual, and then -- you know, from my experience  
5 very little of any of this that was in the manual was  
6 actually -- apart from the techniques -- was actually  
7 referenced during refresher training.

8 MS GRAHAME: Right. And then if we move on to page 6, we're  
9 coming on to tactical communications and given the time  
10 I'm going to suggest that perhaps we don't address that  
11 today.

12 LORD BRACADALE: Yes, very well. We will adjourn now until  
13 tomorrow morning at 10 o'clock.

14 (4.15 pm)

15 (The Inquiry adjourned until 10.00 am on Thursday,  
16 23 November 2023)

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# Transcript of the Sheku Bayoh Inquiry

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