

Transcript of the Sheku Bayoh Inquiry

Thursday, 23 November 2023

(10.00 am)

LORD BRACADALE: Good morning, Inspector Young. Ms Grahame.

INSPECTOR JAMES YOUNG (continued)

Questions by MS GRAHAME (continued)

MS GRAHAME: Good morning, inspector.

A. Morning.

Q. Yesterday we had turned to the 2013 manual, which you recognised as the one you had dealt with from 1 September 2013. It was PS10938 and I think we had got to page 6 of that manual.

Now, is it fair to say that when the Chair comes to look at and consider this manual in more detail -- he can obviously read the content himself. But I'd like to ask you one or two questions in relation to some of the topics.

A. Of course.

Q. So we're starting back on page 6, please, and this was tactical communication, and you gave evidence yesterday about tactical communication and you explained the distinctions between that and de-escalation. I think we're getting closer.

No, all right. It doesn't like the mornings, the system. What we'll do is perhaps just allow some attempts to fix that. While we're doing that, I'll move

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1 on. We can come back to that.

2 I wonder if it would be possible to get something

3 else on the screen, Graham Patience, we looked at his

4 statement yesterday, and it was SBPI00385 and

5 I'm interested in paragraph 39, and I think yesterday

6 you explained that you were confident that the

7 probationers would receive training in terms of the

8 content of the manual. You weren't actually able to see

9 how each individual trainer would do refresher training

10 on the manual?

11 A. That's correct, yes.

12 Q. And yesterday we went over the evidence that the Chair

13 has from Shaw and Crawford and Patience to look at how

14 they taught specific refresher training.

15 A. Yes.

16 Q. Let's go back briefly to PC Patience. Paragraph 39 he

17 talks about an earlier statement, and he says:

18 "... 'I personally would read the OST manual word

19 for word so as I was sure not to miss anything.' I am

20 asked if this was an individual preference or a general

21 practice amongst instructors during recertification in

22 2014/2015. Certainly, it was an individual preference

23 for me. There's a lot to remember, the manual at the

24 time was enormous so you can't expect to remember

25 absolutely every detail. Again, it's an important thing

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1 you're doing there, so I would tend to have the manual
2 in front of me and read through just so I wasn't missing
3 anything in particular. I thought it was quite
4 important."

5 Does that appear to be certainly an example of
6 an individual preference from Graham Patience to
7 actually read out sections of the manual?

8 A. Yes, and I did see that replicated at times in other
9 venues, yes.

10 Q. Right. And was that with other trainers?

11 A. Yes.

12 Q. So more than one trainer would use the manual as -- not
13 just as a source document, but actually to read from
14 when they're doing recertification?

15 A. From my experience, yes.

16 Q. Thank you. And you also mentioned yesterday that there
17 were PowerPoints. I wonder if we could look at those.
18 We'll see -- I have two versions of a PowerPoint,
19 I understand it is from 2013. One is in colour and
20 one's black and white. I'll show you the colour one,
21 and that is PS17208. And I think you've been shown
22 these before and you've recognised them.

23 A. Yes.

24 Q. So if we move down the page slightly, you'll see that
25 there are a number of slides on this PowerPoint. Now,

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1 yesterday, am I correct in saying that you said they
2 were used as a technique to train refresher and perhaps
3 to probationers?

4 A. Not a refresher.

5 Q. Not --

6 A. These -- yes, the probationers would receive an OST
7 theory input where they would receive a theory lesson
8 prior to the practical element.

9 Q. Right. So when we look at this PowerPoint, is that
10 an example of the PowerPoint presentation that would be
11 given to probationers in around 2013?

12 A. Yes, that's the pre-Scot -- excuse me, pre-Police
13 Scotland version, yes.

14 Q. Right. So that's prior to them becoming Police Scotland
15 on 1 April 2013?

16 A. Round about that time.

17 Q. Could we look at the first page again, please. It does
18 say "Police Scotland" there?

19 A. So obviously that's been changed, then. I think we
20 changed the format to make it -- so if you look at the
21 graphics that's the Scottish Police College graphics and
22 their logos et cetera, we changed the PowerPoint to make
23 it consistent with the Police Scotland corporate
24 graphics.

25 Q. So would this have been the version being used --

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- 1 A. Round about 2013, obviously, if it says Police Scotland,
2 yes.
- 3 Q. Police Scotland, they were coming in (inaudible). So
4 some of the formatting would have been changed from the
5 pre-1 April 2013 position?
- 6 A. Yes.
- 7 Q. Right. Thank you. And in terms of this PowerPoint, did
8 instructors use it in the normal way, stand in front of
9 the group and use it as a means to go through what is
10 effectively the content of the 2013 manual?
- 11 A. Yes.
- 12 Q. So really the slides that the Chair will see on this
13 PowerPoint reflect the content in an abbreviated way
14 that this was being highlighted in the training to
15 probationers?
- 16 A. Yes.
- 17 Q. Thank you. So let's look at -- well, let's go through
18 a few of these pages. You'll see -- I should, sorry,
19 can we see the date at the bottom of that top page?
20 It's just at the very bottom. Yes, it says
21 "24/07/2013". So would this have been a version in use
22 in the July 2013?
- 23 A. That's the date it would have been finalised and
24 published, yes.
- 25 Q. Right. Does "PB" mean published?

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1 A. No, that's the author.

2 Q. Oh, I see. Sorry. Let's move on and look at the next.

3 So it sets out the aims and outcomes that are sought.

4 Keep going, please. We'll look through this quickly.

5 Yesterday we looked at the Human Rights Act Article 2,

6 and then it begins "Use of force" and the fundamentals

7 are there on the screen.

8 A. Yes.

9 Q. We talked yesterday about reasonable necessity, minimum

10 proportionate, we talked about PLANE.

11 A. Yes.

12 Q. Keep going, please. And the criteria for use of force,

13 again we looked at that yesterday in the actual manual,

14 justification, and preclusion. So the probationers

15 would have their copy of the 2013 manual and they would

16 have a PowerPoint presentation from an instructor?

17 A. Yes.

18 Q. Keep going, please. And then we move on here to

19 "Tactical communications", and again can I confirm some

20 of this information is extracted from the 2013 manual?

21 A. Yes.

22 Q. And used as a teaching tool?

23 A. A teaching aid, yes.

24 Q. And it gives some information about:

25 "Do not underestimate the visual impact of your

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1 appearance and body language".

2 And it explains that only:

3 "20% of information is taken in through the ears."

4 And they talk about:

5 "Words/Intonation/Volume."

6 A. Yes.

7 Q. And those topics will have been discussed in the class

8 and addressed in training?

9 A. Yes.

10 Q. Thank you. And moving on, please. I think yesterday

11 you talked to us about the five-step positive style of

12 tactical communications. Again, there's a more detailed

13 explanation of that in the manual?

14 A. Manual, yes.

15 Q. But this sets out the five essential sort of points.

16 A. Yes.

17 Q. And would an instructor have used both the PowerPoint

18 and then the manual itself to explain each of these five

19 points to probationers?

20 A. Yes. The probationers would have the manual in front of

21 them during the theory input and they would be -- they'd

22 be referred to the more -- the more context, the more

23 information that's contained within the manual, yes.

24 Q. So for an instructor like Graham Patience, he would have

25 had the PowerPoint presentation to speak to, he would

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- 1 have been reading things from his manual, and the
2 probationers would themselves have had copies of the
3 manual in front of them?
- 4 A. Not -- I wouldn't imagine Graham Patience would, because
5 Graham Patience wasn't an instructor at the Scottish
6 Police College. He only, as far as I remember, only did
7 the refresher training at division --
- 8 Q. Oh right, sorry.
- 9 A. -- where they didn't utilise the PowerPoint.
- 10 Q. I was confused there.
- 11 A. Sorry.
- 12 Q. So we've been talking about probationer training with
13 the PowerPoint and them having the manual?
- 14 A. Yes.
- 15 Q. And the trainer would have the manual as well?
- 16 A. Yes.
- 17 Q. But Graham Patience would be doing the refresher
18 training separately, and we looked at his statement
19 where he said he read out from the manual?
- 20 A. Yes.
- 21 Q. Would he have had a PowerPoint or not for refresher?
- 22 A. Unless he has made his own way, you know, used his own
23 methods to get it, then no.
- 24 Q. So this would only have been applicable for the
25 probationers?

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1 A. Yes, he would have received it during his instructor
2 course, but he wouldn't have access to it or utilised it
3 during annual refresher training.

4 Q. And is this the type of PowerPoint presentation that
5 would have been given to potential instructors in their
6 training course?

7 A. Yes, it was more detailed, obviously. But following
8 roughly the same format, yes.

9 Q. Thank you. And keep going, please, further down. So
10 again, there's more detail about tactical
11 communications, again it says:

12 "... for gaining compliance."

13 And I think yesterday you spoke about that emphasis
14 on compliance in relation to tactical communications?

15 A. Yes.

16 Q. Keep going, please. And then it talks about:

17 "Threat assessment and risk categories."

18 And:

19 "There is no such thing as a low risk."

20 A. Not in officer safety training, no.

21 Q. Right. Next slide, please. Keep going. And then there
22 are -- there is a slide in relation to "Warning signs".

23 Yesterday you spoke about the lists of warning signs,

24 danger signs, and impact factors. And so do we also

25 see, if we move on to the next slide, that that has been

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1 lifted from the manual and warning signs and danger
2 signs are discussed on the PowerPoint.

3 And I think the next slide, please, deals with
4 "Impact factors".

5 A. Yes.

6 Q. And if the Chair wishes to look at that in more detail,
7 he can go through the 2013 manual.

8 A. Yes.

9 Q. And essentially those main points are being lifted from
10 that?

11 A. That's correct.

12 Q. Now, as I understand the refresher training, it was
13 updating already experienced and skilled serving police
14 officers, but in the same principles that come from the
15 2013 manual?

16 A. Yes.

17 Q. Thank you.

18 Can I ask you about some other matters. You said in
19 paragraph 29 of your own statement to the Inquiry:

20 "My own personal view is that the training delivered
21 to officers and communication skills, conflict
22 resolution and de-escalation can still be greatly
23 improved."

24 And I wondered if you could share those thoughts
25 with the Chair today. You talked yesterday about the

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1 regularity of training. I asked you about whether
2 annual was the best. You talked about scenario
3 training. I wonder if there's anything else you'd like
4 to share with the Chair about what improvements you
5 think could be achieved with training?

6 A. I think the background of this, as I've previously
7 mentioned, is that our training has been very heavily
8 focused on the technical aspect, the technique side of
9 officer safety training, and in my view that needed to
10 be balanced by providing officers with better training
11 and conflict resolution skills and de-escalation skills.

12 If you only teach or train an officer to use
13 physical skills, then because that's all you train them
14 in, then that's probably what they will resort to. We
15 relied on officers' own interpersonal skills,
16 communication skills, and officers have that to varying
17 degrees. Some are very good at it, others not so good
18 at it. But if you only teach officers one particular
19 set of skills, then it would come to pass that that's
20 what they would resort to.

21 As I say, I did an awful lot of research, spoke to
22 colleagues across the world, and looked at what the
23 scientific papers were saying, and it was all heading
24 down towards officers needed enhanced and improved
25 conflict resolution and de-escalation skills.

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1 We're meeting different challenges in our
2 communities and we need to be better prepared for that,
3 so my view was that officers required, for me,
4 standalone training that would complement the physical
5 skills, in conflict resolution and de-escalation, and in
6 my view -- and I suppose as I alluded to yesterday --
7 the most effective way to deliver that training is
8 through scenario-based training. Giving officers the
9 theory behind de-escalation, giving officers the tools
10 round about conflict resolution, and then allowing them
11 to practice that in a practical scenario-type
12 environment.

13 You will see now that, I believe the College of
14 Policing are moving heavily towards scenario-based
15 training for conflict resolution skills. You will see
16 a massive push in places like the US and Australia,
17 et cetera, for that type of training. And we need to
18 enhance our softer skills to minimise our resort to use
19 of force where possible.

20 Q. What is the -- you've given some explanations in your
21 statement about the attitude to training, and we will
22 come on to that again today when we look at your review,
23 and some of those attitudes have been less than
24 positive, let's say. Do you find that if it's
25 scenario-based training that officers engage to

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1 a greater extent, or enjoy it more?

2 A. When we introduced basic scenario training in 2016, the
3 vast majority of the results I received were positive
4 with regards to that. The officers enjoyed it. But we
5 did get pushback in respect that officers -- many
6 officers during the evaluation, they didn't particularly
7 like acting out scenarios in front of their peers, and
8 I think that's a common theme in many organisations or
9 professions. But I think the overwhelming majority, in
10 my view, they preferred that type of training. Maybe it
11 was because it was something new, it was something that
12 hadn't been done previously. Officers had been used to
13 coming for many, many years and getting the same
14 training year-in, year-out. It became stale. So there
15 was mixed feelings, but in my -- from what we -- the
16 data that we had, it was more positive than negative.

17 Q. And in terms of the impact it had on their duties and
18 their ability to perform the role in the public after
19 they've left the training environment, did you see any
20 benefits with that?

21 A. That's a difficult metric, because you have to look
22 extensively at are we seeing a reduction in use of
23 force? Are we seeing more officers moving towards the
24 conflict resolution skills? Are we seeing maybe
25 a reduction in assaults? Are we seeing a reduction in

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1 injuries? And that wasn't something that we got to the
2 bottom of. We started that work because, as you say,
3 that was an important, for me, and a metric that we
4 needed to measure to see if the introduction of
5 scenario-based training had been successful.

6 What we also have to remember is the scenario-based
7 training I introduced in 2016 was very basic. It was
8 a first -- I suppose a first step, an incremental
9 process to full role-player led scenario-based
10 assessment -- scenario-based training, so ... I suppose
11 the only measure I can have is the feedback from the
12 officers that I received. There wasn't that data work
13 carried out that would have, I suppose, given the
14 results that we need to see.

15 Q. So when you left the role as head of officer safety
16 training, was that work in progress at the time you
17 moved on to full-time taser training?

18 A. It was work I'd commenced, yes. But as I say, it's
19 a very difficult -- it's very difficult to measure.
20 I suppose it's akin to the absence of crime if there's
21 an officer on the street. You can't measure that. You
22 can't measure the impact a police officer has, you know,
23 just with their presence, because we can only measure
24 the crimes that occur. You can't measure the crimes
25 that don't occur.

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1 So it's similar to that. We don't know if
2 an officer who has taken what they've learned during
3 that scenario-based training and don't use force, then
4 we can't measure that, if that makes sense.

5 Q. Yes. And yesterday I think you said each individual
6 officer is different, with different skills, different
7 interests as well, I imagine. Without that anecdotal
8 response it must be difficult to tell what type of
9 person they are?

10 A. And as is a common theme throughout officer safety
11 training, use of force training, is that each officer
12 perceives risk -- threat and risk -- differently and
13 will potentially act in a different manner to their
14 colleagues, depending on, you know, how they're -- how
15 they're -- how they react to that stressful incident or
16 that violent incident. So yes, it's very hard to -- to
17 measure.

18 Q. I think yesterday when we were looking at the manual
19 there was a paragraph that indicated you can have two
20 different officers with two different responses?

21 A. Absolutely.

22 Q. They can still be reasonable, but they will perceive
23 things differently.

24 A. Absolutely.

25 Q. Could we maybe briefly go back to the PowerPoint

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1 presentation we were looking at a moment ago, PS17208,
2 and I'm interested in -- we've gone back to the
3 beginning. If we can move down to the slide that says
4 "Positional asphyxia". Sorry, I've not got numbers on
5 this. It's after "Edged weapons". Keep going, please.
6 It's the next one. Thank you.

7 So this is the start of the PowerPoint in relation
8 to positional asphyxia, and as we were going to look at
9 the manual and look at the details on positional
10 asphyxia, we'll have to leave that for the Chair's
11 benefit.

12 But can we move on, please, to -- three on, please,
13 and we should see a slide headed "Excited delirium", and
14 there seem to be a number of slides on positional
15 asphyxia; is that a reflection of the detail and the
16 time that will be spent with probationers on that topic?

17 A. Yes, it's reflective as well of the importance, yes.

18 Q. And, again, with excited delirium, we discussed that
19 yesterday: there are -- that's the first slide. There's
20 another slide in relation to that. Was that also given
21 some prominence in the training for probationers?

22 A. Yes.

23 Q. This was in 2013, and we briefly touched on this
24 yesterday. Were you aware that there had been
25 recommendations in England and Wales -- and we may hear

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1 further evidence about this next year -- in the
2 consequence of a death of a man called Roger Sylvester
3 in 2004 where in relation to the death of a black man
4 who had been restrained and died, restrained by the
5 Met Police, that there had been recommendations that the
6 terms "Positional asphyxia" and "Excited delirium"
7 should be abandoned. Were you aware of that at the
8 time?

9 A. No.

10 Q. No. And were you aware that that same review after the
11 death of Mr Sylvester had indicated that all officers
12 should be continuously monitoring if they were involved
13 in a restraint?

14 A. I wasn't aware of -- I'm not aware of that particular
15 case. 2004 was well before I became involved in this
16 area of business.

17 Q. Right. And equally you wouldn't know that they'd
18 recommended an urgent review about dealing with
19 vulnerable people, people with mental health issues or
20 that type of thing?

21 A. I read a number of reviews and a number of papers. But
22 I don't recall that particular one.

23 Q. Thank you.

24 So in the 2013 manual, I think yesterday you said
25 there wasn't as much emphasis on -- well, they still had

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1 excited delirium, we can see that in the PowerPoint.
2 Positional asphyxia was taught in the same way. And
3 there hadn't been the emphasis on dealing with people
4 with mental health problems or drink and drugs
5 intoxication.

6 Can I ask you to clarify one thing, and if we look
7 at your statement, it relates back to yesterday's
8 evidence you gave about CUT?

9 A. Yes.

10 Q. Could we look at your statement which is SBPI00153, and
11 that's last year's statement.

12 A. Okay.

13 Q. And if we can look at paragraph 63, and this is under
14 the topic, last year, "Training in relation to knife
15 incidents", and:

16 "I am asked what training officers would have had in
17 2014/2015 on responding to a person in possession of
18 a knife. Then we used to train officers, and there's
19 a variation of it now, in what we called the CUT
20 principle."

21 We heard about that yesterday.

22 "So if you are presented with a subject in
23 possession of a knife, then you would carry out what we
24 call the CUT principles, which is create distance, use
25 cover and then transmit~..."

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1 And then you mention:

2 "... adopt a tactical option."

3 I think that's the new version, CUTT?

4 A. Yes.

5 Q. The extra T was added by you to reflect what happens
6 next?

7 A. Yes.

8 Q. "The way I saw the majority of that trained was not
9 really to approach someone in possession or suspected of
10 being in possession of a knife. We did talk about
11 contact and cover and reaction gaps to make sure that
12 you stay a safe distance away. We talked about where to
13 position themselves so that if that person does come
14 towards them they're able to react. They maintain
15 a safe distance. Then we talked about knife defence as
16 well. So back then we were taught about how to strike
17 out the police-issue baton to try and knock the knife
18 out the person's hand or to try to at least keep them
19 back to a safe distance. So that's what they were
20 taught in relation to dealing someone with a knife. But
21 the contact and cover principles, the principles of
22 maintaining a reaction gap, they can be applied to any
23 situation and it would have been appropriate to apply in
24 a situation if you suspect someone's got a knife.
25 I can't remember it being taught in a manner of how to

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1 approach someone safely who you suspect may be in
2 possession of a knife."

3 So that was your paragraph last year.

4 Can I ask you to look at your most up-to-date
5 Inquiry statement, if we can get that on the screen.

6 And this should be dated 12 July 2023, and it's
7 SBPI00362, and if we can look at paragraph 14, and in
8 this Inquiry statement from this year you say:

9 "However, what was in the manual could be at times
10 in conflict with what was actually being taught by
11 instructors. By way of example, I experienced some
12 instructors telling students that the best way to deal
13 with someone who is in possession of a weapon or a knife
14 is to physically control them because that way they
15 can't hurt you. This approach goes against the training
16 ethos of CUT. We taught in 2015 officers who are faced
17 with a knife to, where appropriate, Create distance, Use
18 cover and Transmit. Immediately going in to physically
19 control someone with a knife puts the officer at grave
20 risk of injury. In the early days of my police career,
21 I recall that training given in relation to knife
22 incidents had a strong emphasis on gaining physical
23 control. I continued to see this type [of] outdated
24 training being delivered intermittently during my
25 quality assurance visits~... Teaching officers to

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1 attempt to physically control persons with a knife is
2 problematic as inevitably some will use it and
3 potentially get seriously injured. There is not enough
4 time in the programme to teach officers to effectively
5 use this tactic and become totally competent at it."

6 Now, you gave evidence about CUT and the different
7 emphasis yesterday, but just to be absolutely clear, in
8 terms of last year's statement and this year's
9 statement, can you explain exactly what you mean,
10 please?

11 A. So in the -- in my previous statement I was simply asked
12 round about the CUT principle. I believe this when
13 I was asked -- sorry, actually I can't remember. But
14 what I was trying to explain there, I suppose, was that
15 whilst the CUT principle is the principle that was
16 taught and has been taught for many years, when I first
17 took over, 2014, in doing quality assurance visits,
18 I was still seeing at times the instructors teaching the
19 CUT principle, but also saying, "There is another way
20 that this can be dealt with". So they were straying
21 outwith the curriculum, as such, and I just wanted to
22 clarify that in that statement, that we were still
23 seeing it, because depending on the circumstances,
24 depending on the stress level of the officer, the
25 assessment of threat and risk and all the impact

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1 factors, et cetera, officers may still decide -- that's
2 their call to make that decision and justify that
3 decision if they decide that the best course of action
4 is if they can't visually see the knife, then they make
5 that decision to then physically control that person so
6 that person can't access the knife, and that's their
7 call.

8 Q. So in the past there was very much an emphasis of taking
9 control and going in if you can't see the knife and
10 getting the job done as quickly as possible. And there
11 may be officers that remembered that --

12 A. (Inaudible - overspeaking).

13 Q. -- and still took that as their default position?

14 A. Yes.

15 Q. There may have been instructors that still taught that
16 because they liked that approach?

17 A. Absolutely.

18 Q. But the 2013 manual did not take that approach, did not
19 recommend that?

20 A. No.

21 Q. As far as you're concerned, instructors shouldn't have
22 been teaching that, they should have been teaching
23 an alternative, but the CUT principle and the CUTT was
24 also part of that?

25 A. Yes, I think what the instructors were doing was trying

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1 to fill the gap because we didn't teach officers how to
2 properly approach someone with a knife because there was
3 no scenario within training. So whilst we did talk
4 about reaction gaps, contact and cover, you know, one of
5 the examples I saw was when one of the officers -- or
6 one of the students asked the instructor and that's when
7 the instructor said, "This is what you could do",
8 which~...

9 Q. Thank you. We don't have the manual at the moment, but
10 I'd like to ask you some other questions about the 2013
11 manual in relation to what it said about diversity, and
12 I noticed, and the Chair and those behind me can look at
13 page 28 in due course of the 2013 manual, there is
14 mention of diversity, a short paragraph, but there's no
15 mention of race or ethnicity in relation to that. Were
16 you aware of any additional training, beyond the wording
17 in the manual, which covered diversity that would have
18 been included in the OST programme?

19 A. I mean, there was additional training, equality and
20 diversity training throughout the Force delivered by
21 different departments. But it really didn't form part
22 of the OST programme back then, no.

23 Q. Right. And the one other topic that I said I would come
24 back to was contact and cover. Now, this was part of
25 module 2 in the 2013 manual, regarding empty-hand

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1 techniques, and it's page 39 of the manual. I wonder,
2 could you explain what the training was in relation to
3 contact and cover?

4 A. So contact and cover is one of the few elements of the
5 course where the officers would actually have to set up
6 and walk through a very, very basic scenario. So
7 contact and cover is the principle whereby you have what
8 we call a contact officer and you have what we call
9 a cover officer.

10 Q. Can I pause you there --

11 A. Of course.

12 Q. -- because I see that we now actually have the manual on
13 the screen. It's page 39 of the manual, which
14 I understand might be page 45 pdf. It might make it
15 easier for you to see that. There we are.

16 "Contact and cover" is on the screen:

17 "When two officers are dealing with a subject they
18 should adopt the contact and cover principle. This
19 enables one officer to take control, whilst the other
20 officers takes up observations from a safe distance."

21 And:

22 "The contact officer~..."

23 Is that the person who is speaking or is seeking to
24 engage?

25 A. Yes.

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1 Q. "... is responsible for the communication between the
2 subject and the officers.

3 "The cover officer is responsible for ensuring the
4 area around the officers and subject is safe.

5 "The contact officer should position themselves with
6 at least a 4-6-foot reactionary gap from the subject.

7 "The cover officer should position themselves to the
8 side of the subject, again with at least [the same]
9 reactionary gap~..."

10 They are in a L shape, and:

11 "If the subject poses a threat, both officers should
12 be in their defensive stance and be prepared to draw PPE
13 equipment. If required, it would be beneficial for one
14 officer to draw their CS, with the other drawing their
15 baton."

16 So at the start of this process they're in
17 a defensive stance; is that envisaged?

18 A. It may -- I mean, it may be what we call the interview
19 stance. It depends on their assessment of threat and
20 risk from the behaviour of the individual.

21 Q. What is the interview stance?

22 A. The interview stance is basically when your hands are
23 down, round about your belt, midriff area.

24 Q. Right.

25 A. Whereas with the defensive stance your hands are up like

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1 that (indicates).

2 Q. We've seen demonstrations of that.

3 A. Yes.

4 Q. Sorry, I interrupted you in relation to explaining
5 contact and cover. Tell us when that would be used?

6 A. It could be used for any interaction between an officer
7 and an individual. Again, depending on the threat and
8 risk posed. I mean, if you're just going to take
9 a statement or if someone's wanting to report a crime or
10 speak to you, you don't automatically have to go into
11 this -- this -- this contact and cover principle. It's
12 mainly used if you have information intelligence that
13 you have to stop and speak to someone. It may be part
14 of a stop and search. It may be part of, you know, when
15 you've located and identified a suspect, whatever it may
16 be. And that -- and the principle is whereby one
17 officer will normally be face-on square to the
18 individual. That will be the contact officer.

19 The cover officer will usually be off, either at
20 a 45-degree angle or a 90-degree angle depending on
21 their assessment of threat and risk.

22 The contact officer will engage the subject, talk to
23 them, whereas the cover officer is responsible for
24 observing the actions of the subject, maintaining
25 a situational awareness of the surrounding area, and

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1 basically covering their colleague and providing that
2 safety for them.

3 Q. Why are they looking out for situational awareness?

4 A. Because a good police officer needs to be aware what's
5 happening around about them at all times.

6 Q. Are they looking at members of the public who might be
7 approaching?

8 A. It could be members of the public. It could be friends
9 of the person they're talking to. It could be anything.

10 Q. And you mentioned the angle depending on the level of
11 risk, and you've talked about high risk, and
12 I understand there's no such thing as low risk, so
13 unknown risk or high risk. What angle are they at if
14 it's high risk?

15 A. It's not as prescriptive as that.

16 Q. Right.

17 A. I mean, for me, either be at a 45 or a 90-degree angle
18 if we suspected someone to be high risk.

19 Q. And what's the benefit of adopting this technique,
20 contact and cover?

21 A. The benefit is obviously, first of all you maintain the
22 reaction gap. So you're at least 4 to 6 feet away from
23 the subject. Actions will always beat reaction. So
24 maintaining that gap and the contact and cover formation
25 allows that additional time to react to any actions of

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1 the subject. The contact and cover allows the cover
2 officer to maintain that situational operational safety,
3 and if they're positioned properly, they can even see
4 round the back of the subject at an angle. They're in
5 a position, they can concentrate on that subject and the
6 surrounding area.

7 So it's just a safer approach to deal with somebody
8 who you may have information intelligence or who you've
9 assessed as higher risk.

10 Q. Does this allow officers some time to engage in
11 communication or tactical communication with the
12 subject?

13 A. Absolutely. And when you remain -- if you maintain that
14 reaction gap, one of the benefits of that, especially if
15 someone is in crisis or someone's agitated, then it
16 allows you to stand off and it gives them a bit more
17 space. It puts them a bit more at ease, especially with
18 uniforms and I suppose the authoritative nature that the
19 police have got, being close to some people, and getting
20 too close can sometimes increase their agitation.

21 Q. Any time limits involved in this, or can it last as long
22 as the officers wish?

23 A. Absolutely.

24 Q. The reference there to being:

25 "... in their defensive stance and prepared to draw

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1 PPE equipment."

2 Is this designed to be used up until the point you
3 think PPE needs to be drawn, or potentially used?

4 A. I mean, you can do contact and cover whilst utilising
5 your personal protective equipment, so it's not
6 uncommon, and we trained it whereby one officer would
7 have their PAVA drawn and the other would have their
8 batons drawn as a tactical communication, whilst still
9 engaging with the individual.

10 Q. Thank you.

11 I'd like to move on and ask you some questions about
12 the options that officers might have in a particular
13 scenario, and what training they would have received,
14 either as probationers or as refreshers, which would
15 assist them in assessing what their options were and
16 what the best course of action was.

17 A. Yes.

18 Q. So if -- and I appreciate all officers are different,
19 but if we just assume it's a reasonable -- hypothetical,
20 reasonable officer.

21 So if officers were attending a knife incident, and
22 multiple calls were coming in from the public at around
23 7.00 in the morning, shortly after 7.00, and within
24 about eight minutes there's six emergency calls made
25 from different members of the public, so there's a --

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1 not a corroboration, but there's a number of independent
2 people saying there's an issue. And they speak of
3 an African-looking male chasing a complainer's car, he
4 may be carrying a knife, he was big with muscles, about
5 6-foot, he was jumping in front of cars and stopping
6 them, and other calls mentioned a 9-inch blade.

7 These calls are largely graded 1 by the ACR. We've
8 heard evidence that's an immediate threat to life. And
9 the acting police sergeant in charge of the response
10 team who respond to that incident requests all units to
11 respond and requests all units and an ARV.

12 So that's the scenario, and two officers are the
13 first to arrive at the scene. There's no other members
14 of the public around at that time, but it is
15 a residential area, there are hospitals nearby, we've
16 heard evidence there's churches nearby.

17 The first officer who alights the vehicle realises
18 that the man was, as he put it:

19 "... high on something, his eyes were bulging out of
20 his head, it was raining and blowing a gale and the man
21 was wearing a wee T-shirt."

22 As he put it, and he had his -- but he had his palms
23 out and they didn't see a knife.

24 Now, in that scenario what specific aspects of the
25 training that officers would have had under the 2013

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1 manual, either as refreshers or as probationers, what
2 specific aspects of the training would assist them and
3 help them with choosing options on what to do in that
4 situation?

5 A. So the first element of the training would be the
6 training delivered round about risk assessment. So that
7 would be assessing the risk posed by an individual,
8 whether it be the person, any objects, or the place. So
9 that's the first thing we always taught was assess the
10 risk posed by that.

11 The second part would be assessing the risk and
12 ascertaining if that subject had the means, the
13 opportunity or the ability and intent to cause harm,
14 either to themselves or to us.

15 What you're looking for when we talk about means and
16 opportunity, ability, intent, we're looking for that
17 officer to negate at least one of them. So we have to
18 identify, as part of the training, and they would be --
19 we would expect officers to assess: does the individual
20 have means to do me or others harm, do they have the
21 opportunity, do they have the ability, and what is their
22 intent?

23 Now, intent is very difficult, because intent is
24 a difficult one to establish.

25 The means, as in are they -- you know, do they have

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1 anything -- do they have a weapon in their possession,
2 do they have the means to do harm?

3 Opportunity is the main one that police officers --
4 or the easiest one that police officers can negate.

5 And then ability, does someone have the actual
6 physical ability to do harm?

7 So that's the first elements of the training, and
8 then once they assess that risk, it's then they will
9 look at, or they will be taught to look at what's the
10 profile offender behaviour; what behaviours is the
11 subject exhibiting that would give them cause for
12 concern that would assess the near threat and risk
13 assessment?

14 Once they've established that threat and risk
15 assessment, they would look at what options they have
16 available to mitigate that risk posed. Now, we've
17 already talked about contact and cover and reaction gap.
18 For me that's the first -- that's the first actions that
19 we taught that officers could have utilised in that
20 situation, because by maintaining that reaction gap you
21 remove the opportunity of the subject or the individual
22 to do you harm.

23 But then, as I say, we talk about reaction gap, so
24 either maintaining or increasing that reaction gap is
25 what was taught that could assist as well.

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1 Additionally they're taught how to use and utilise
2 their personal protective equipment, so that would be
3 their PAVA spray or their batons. It would be up to
4 them at that point to decide -- and we go through
5 justification, preclusion, run through the criteria for
6 use of force, what would be a reasonable, necessary and
7 proportionate response to the threat posed. And that's
8 quite a lot, and that has to be done in a very, very
9 short period of time. And on some occasions, other
10 times they have longer to do that.

11 So that's the elements of the training that in my
12 view were delivered that would assist in the situation
13 that you've explained.

14 Q. Thank you. That was helpful.

15 As you went through, you talked about an officer
16 assessing the profiled offender response. In addition
17 I think you told us yesterday that under the 2013 manual
18 there was still reference in training to the reasonable
19 officer --

20 A. Yes.

21 Q. -- response?

22 A. Yes.

23 Q. And is that something that an officer who had been
24 trained under the 2013 manual would also be considering
25 as part of his response to the profiled offender

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1 behaviour?

2 A. Yes, sorry, when I went on to talk about utilising
3 personal protective equipment, contact and cover, that's
4 all part of your reasonable officer response options.

5 Q. Right. And moving on from that, if the officers arrive,
6 the scenario is the same as I just described, but in
7 addition the subject is not shouting, not brandishing
8 a knife, not acting in an aggressive manner at that
9 stage, but essentially says nothing, and the officers
10 shout that they want him to get down, put down the
11 knife, so he just simply does not respond. What sort of
12 training have the officers had under the 2013 manual
13 that would then allow them to consider their options?

14 A. That takes back to -- for me that's you then falling
15 into your tactical communications element of the
16 programme, and the only training they'd receive in that
17 is what was discussed round about the tactical
18 communications element. They may have used -- they may
19 have tried to use the five-step appeal, they may have
20 tried to think about what their intonation, what their
21 body language is like. But as I said, because of the
22 absence of scenario-based training back then, that's all
23 the training they would have had.

24 Q. So at that point the tactical communications that we
25 looked at yesterday, and which are within the 2013

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1 manual, would be the type of training that may assist
2 officers --

3 A. Yes.

4 Q. -- in responding?

5 A. Yes.

6 Q. That would include the five-step positive --

7 A. Five-step, yes.

8 Q. -- communications.

9 A. Yes.

10 Q. And the things that you discussed yesterday --

11 A. Yes.

12 Q. -- and are in the manual?

13 A. Yes.

14 Q. Can I ask you, if the subject remains non-verbal, he's
15 simply not engaging, what training in 2013 was available
16 to allow officers to rationalise that and consider the
17 risk and process that element?

18 A. That wasn't part of the curriculum. So they're -- as
19 I say, because of the absence of scenario-based
20 training, there was no training to cover that. Apart
21 from their own interpersonal skills and apart from the
22 tactical communications training already discussed.

23 Q. So, given what you said yesterday, did that then fall
24 back on to their own skills and their own discretion?

25 A. Yes.

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1 Q. And yesterday we talked about, or you mentioned in
2 evidence, the possibility of people with disabilities,
3 perhaps, deaf, or language communication difficulties,
4 perhaps English isn't their first language. Was there
5 much training on that for officers in the 2013 -- from
6 the 2013 manual?

7 A. No.

8 Q. So, again, did that fall back on their own experiences,
9 their own discretion?

10 A. Or any other additional training they may have received
11 from other areas of the business. But not -- not within
12 OST, no.

13 Q. And, as you said yesterday, no scenario training for
14 officers at that time under the 2013 manual?

15 A. That's correct, yes.

16 Q. And thereafter if officers elected to use sprays, and
17 they had no impact on the subject, and he continued to
18 show no response apart from at one point perhaps wiping
19 some of the spray from his face, in that scenario for
20 officers where the subject is at that stage non-verbal,
21 has had no -- the spray has had no impact, what sort of
22 training would prepare officers for responding to that
23 scenario?

24 A. So during initial training and refresher training we did
25 what we call transitional training, which is officers

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1 would move between various, or other parts of their PPE.
2 So we would have their -- if you had two students, for
3 instance, one would -- I wouldn't say "play their part",
4 but one would act as an aggressor, and that officer, the
5 officer would, say for instance, draw their spray and
6 that would be ineffective and they would have to
7 transition to another tactical option, whether that
8 would be their baton. Or we would do it the other way
9 where the colleague would have a pad, they would strike
10 the baton, that would be ineffective. They would then
11 have to disengage because it hasn't worked, they would
12 have to transition to another tactical option, whether
13 that be empty hands, whether it be drawing spray. So
14 yes, that's what they did.

15 Q. I think yesterday I, under a reference, I think, to
16 Graham Patience's statement, we talked about a remote
17 rendezvous point, observe, wait, feed back, we talked
18 about de-escalation, we talked about verbal dominance or
19 a hard stop. Is -- I think yesterday, as I recall your
20 evidence, you said that there wasn't really any specific
21 training under the 2013 manual in relation to those
22 options and that would have come from an officer's
23 experience or awareness from their practice, because
24 some of those were more common than others, no doubt.

25 A. Yes.

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- 1 Q. So in relation to withdrawing and disengaging if no
2 impact -- the CS or PAVA had had no impact, what
3 training from the 2013 manual would have existed in
4 relation to the right time to withdraw or disengage
5 completely?
- 6 A. It wasn't covered. We did obviously speak about
7 maintaining that reaction gap. But we didn't discuss
8 during training the concept of contain and negotiate,
9 which may have been an option in the situation that you
10 describe. So that wasn't -- that wasn't discussed in --
11 back then.
- 12 Q. Can you help the Chair understand, you talked about
13 transitions and training in transitions. How did that
14 differ from saying: here's other options, like remote
15 rendezvous point and de-escalation and observe, wait,
16 feedback, that type of thing?
- 17 A. So when we talk about transitional training,
18 transitioning between different tactical options it was
19 more of a drill than a scenario if that makes sense.
20 I think what you're describing there would be
21 a scenario --
- 22 Q. Right.
- 23 A. -- whereby you give information to a student and they
24 have to come up with a list of actions they would take
25 and act that out.

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1 Transitional training is a drill and it's simple, it
2 was one on one, just, you know, getting that officer to
3 practice being able to utilise a tactical option. That
4 wasn't working, transition to another tactical option.
5 So it wasn't a scenario, it was a drill, if that makes
6 sense.

7 Q. Mm-hm. So, again, in terms of -- for an officer who was
8 facing that situation, they would have to fall back on
9 their own discretion, their own experience, their own
10 skills?

11 A. Yes.

12 Q. No training really in helping an officer work out what
13 to do there?

14 A. No.

15 Q. And what training did they get in relation to giving
16 feedback to ACR?

17 A. From~...?

18 Q. As part of the OST training?

19 A. None. It wasn't included.

20 Q. What training did they get as part of OST training in
21 2013 about things like specialist resources, so dog
22 units, ARVs, waiting for them, requesting them, who can
23 authorise them, any of that information?

24 A. Again, it wasn't included in the OST curriculum. Going
25 back to the feedback to ACR, asking for specialist

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1 resources, I would always mention that when I was
2 delivering the training, that these were always
3 available, and as would other instructors. But, as
4 I say, it wasn't part of the curriculum back then, so it
5 was down to the individual instructor whether they --
6 and to what extent they would talk through that type of
7 situation or those options. There wasn't a standardised
8 consistent approach.

9 Q. So was there anything in the 2013 manual about that?

10 A. About?

11 Q. Feeding back to ACR, specialist resources?

12 A. Not that I'm aware of.

13 Q. I should say I haven't found anything, but ...

14 A. No. No. Without going through it again --

15 Q. Ah-ha.

16 A. -- as far as my recollection is, then no. No.

17 Q. All right.

18 Now, I'd like to move on, please, but before I do
19 I should perhaps ask you to look at another PowerPoint
20 presentation, PS18621. Now, this is just to confirm
21 that you recognise this. Is this, am I right in saying
22 this is a later PowerPoint presentation?

23 A. Yes.

24 Q. When did this one date from?

25 A. I think this -- if now it's being referred to

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1 as operational safety and not officer safety, that will
2 be for the new 2016 programme.

3 Q. Right, so this is the programme that came in later --

4 A. Yes.

5 Q. -- after you had been in post for a while?

6 A. Yes.

7 Q. And the Chair will be able to look at this later at his
8 leisure. Would this be used for the same purpose as the
9 PowerPoint we looked at shortly a moment ago, for
10 training probationers?

11 A. So we -- they identified a gap, obviously. The
12 challenge we had was that many of our -- or most of our
13 facilities that we delivered refresher training to, we
14 didn't have classrooms, we didn't have facilities to
15 deliver a PowerPoint. So we put it on to the Moodle
16 e-learning platform and it was a mandatory lesson that
17 officers had to go through prior to coming on the
18 refresher. But it was also the PowerPoint that
19 probationers would get as well.

20 Q. So this would have been viewed by all of the refresher
21 students as well as the probationers?

22 A. Yes.

23 Q. Post-2016?

24 A. Yes.

25 Q. Right. So unlike -- as I understand from your

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1 statement, you didn't introduce pre-reading to the OST
2 training until after the 2016 programme came into play?

3 A. When we put in the new programme we introduced
4 a pre-read -- a mandatory pre-read. And again, as
5 I say, that was to fill that gap that we couldn't
6 physically deliver it, but I wanted every officer to be
7 refreshed in the theory aspect every year.

8 Q. Right. And that was something else that was missing in
9 2013?

10 A. Yes.

11 Q. I'd like to ask you some questions about -- yesterday
12 you mentioned your review.

13 LORD BRACADALE: Just before you do that, Ms Grahame, can
14 I just ask a question?

15 Was there any -- in relation to the training on the
16 use of sprays, was there any warning given as to the
17 risks of self-contamination with the spray? In other
18 words, getting it on your own face?

19 A. Yes, sir. Yes, that was heavily emphasised, in
20 particular with CS spray. The possibility of
21 cross-contamination for CS spray was far greater than
22 PAVA spray. So that was heavily emphasised during the
23 training, sir, that if you spray that, then most people
24 in the vicinity will get the effects of it, yes.

25 LORD BRACADALE: Thank you.

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1 Thank you, Ms Grahame.

2 MS GRAHAME: Thank you.

3 So yesterday we talked about when you changed your
4 role at Tulliallan. You'd originally been, I think,
5 a police sergeant trainer?

6 A. Yes.

7 Q. You then became in charge of the probationer training at
8 Tulliallan, and then you moved on to the national
9 coordinator role?

10 A. That's correct, yes.

11 Q. And I think if we go back to your Inquiry statement,
12 we -- paragraph 6, so that is SBPI00362, paragraph 6,
13 you say:

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

21 Could you explain that to the Chair?

22 A. So I think since 2008 there was a standardised OST
23 initial course that was delivered to all probationary
24 officers when they attended at Tulliallan. As part of
25 their probationary training, once they complete their

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1 element at Tulliallan, they would go back to their force
2 for in-force training, which is normally on local
3 procedures on the differences -- because Tulliallan
4 doesn't take into account the -- the local procedures
5 and I suppose the local differences that the legacy
6 forces had. So they had to go back and receive that --
7 that localised training.

8 As part of that, most forces, and I think all
9 actually, would give them an OST refresher as such
10 before they went back out, and that at times differed
11 across the country. The legacy force programmes -- so
12 the legacy forces had control of their own OST
13 programmes that they delivered in force, and at times
14 differed in various aspects quite significantly from
15 force to force.

16 And then obviously from their officers going back on
17 the refresher training, even though there was
18 a standardised programme at Tulliallan, the legacy
19 forces had their own in-force OST programmes.

20 In the main, they followed the core of the
21 probationer, the national programme. But there was some
22 significant differences as well. And when I took on the
23 post, when I started doing my review, my quality
24 assurance visits, I noted at times that whilst in the
25 main what was contained within the core programme was

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1 consistent across the country, there was still some
2 variances and some disparity in what was being taught,
3 and for me that was a significant risk.

4 Q. Can you help the Chair. You've talked about significant
5 differences between the OST training in the legacy
6 forces and at Tulliallan. Can you give any examples of
7 those differences to the Chair which related to Fife
8 Constabulary?

9 A. My recollection, I -- I can't remember back to exact
10 examples of what I saw different in each individual
11 force area, and I can't recall what I reviewed or what
12 I observed particularly at Glenrothes. So no, not with
13 the passage of time, I couldn't tell you exactly what
14 differences I saw. And I would be guessing or assuming
15 if I gave a response.

16 Q. Thank you. And then moving on to page 7 -- sorry,
17 paragraph 7, you then say you:

18 "... got involved in the OST practitioner group~...
19 each legacy force came together under the supervision of
20 the Chief Inspector of Tulliallan to decide the content
21 of the refresher program."

22 You think it was Chief Inspector Stuart Ord at that
23 time. He:

24 "... initially chaired the OST practitioners group
25 and had responsibility for the annual refresher

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1 training. However, this was later devolved to
2 an inspector who had no experience of OST."

3 Do you remember who that was?

4 A. That was Inspector Jackie Cottrell(?).

5 Q. Right. So:

6 "Through this OST practitioner group it became
7 apparent what was in the refresher programme was
8 contradictory to the probationer OST training programme
9 ... a disparity in terms of actually what was trained,
10 as well, between the former legacy forces."

11 And you say:

12 "The refresher training programme lacked quality
13 assurance~..."

14 What's that?

15 A. So the quality assurance process is where the content of
16 a training programme is reviewed for its adherence to
17 the documentation and the curriculum and how it should
18 be trained.

19 Q. And lesson plans, what were they?

20 A. So lesson plans are documents that outline the format of
21 a lesson, of a course, and how it should be delivered,
22 timings, content, et cetera.

23 Q. And were they in relation to probationer training at
24 Tulliallan?

25 A. Yes.

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- 1 Q. Or did they also relate to refresher courses?
- 2 A. There was no lesson plans for refresher courses apart
3 from, I think, legacy Strathclyde.
- 4 Q. So we have a number of lesson plans, I think maybe we
5 can bring one up on screen, PS11456 -- we'll come back
6 to paragraph 7 in a moment -- and we see this is headed
7 up, "Lesson plan", "Officer safety training", there's
8 a lesson title, and it relates to student officers; is
9 that probationers?
- 10 A. Yes.
- 11 Q. And as we look down the page we should see on this one
12 it says at number 3:
- 13 "List the possible medical implications in relation
14 to the above procedures, including excited delirium and
15 positional asphyxia (if applicable)"
- 16 And 4 is:
- 17 "Apply the techniques with reference to the National
18 Decision Model ... including the use of force."
- 19 So these are examples, we have two or three of
20 these, they are examples of the sort of lesson plan
21 given to probationers in the OST programme?
- 22 A. Yes.
- 23 Q. But nothing equivalent to this for refreshers?
- 24 A. Not in the previous programme. We've brought them in
25 obviously for the 2016 programme.

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- 1 Q. Thank you. Yes, this still relates to the 2013
2 situation.
- 3 A. Okay, sorry.
- 4 Q. Let's go back to your Inquiry statement, please. We
5 were on paragraph 7, SBPI00362. So you had said:
6 "The refresher training programme lacked quality
7 assurance, lesson plans~..."
8 And then you say:
9 "... and risk assessments (all of which were present
10 in the probationer OST programme)."
11 What were risk assessments relating to?
- 12 A. So a risk assessment is where you look, you review
13 an activity, you identify the health and safety risks
14 contained within that activity, and then you put
15 measures in place to mitigate.
- 16 Q. Did that relate to the actual training itself?
- 17 A. Yes.
- 18 Q. "There was also lack of governance and quality assurance
19 within the OST refresher training."
20 Tell us about the issues with the refresher
21 training; what was the lack of governance?
- 22 A. The -- from my experience when I first moved in to
23 a national role or -- just --
- 24 Q. That's 2014, September 2014?
- 25 A. Yes. Yes. It just appeared to me that nobody had

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1 an overall management of the OST programme. I suppose
2 for want of a better phrase, no one had a grip of it at
3 a senior level. It was left to officers at constable
4 rank to decide the content of the programme, and whilst
5 they were very experienced and knowledgeable, there was
6 no scrutiny applied to that by senior management. And
7 in fairness to them, because they didn't have that
8 extensive -- or that level of knowledge of use of force
9 or officer safety training. So there just appeared that
10 the senior officers who had overall management and
11 responsibility for the OST programme, I don't think had
12 the required knowledge and the skills to properly manage
13 that.

14 And whilst I understand that at a senior management
15 level you have to rely on advisors or subject matter
16 experts to advise you, I just felt it was kind of left,
17 and I don't think it was given the importance that
18 I think it required and the attention I think it
19 required due to the risk involved in it.

20 Q. And what were those risks that you were concerned about?

21 A. So I'm not talking about the risks involved in training,
22 because to a great measure they could be mitigated.

23 I am talking about the risk of using force in the
24 operational environment. The risk involved in restraint
25 and control, and using, you know, personal protective

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1 equipment. For me it's a very high-risk activity, and
2 I think it's because it's something that got used on
3 an hourly, daily basis in policing, I sometimes don't
4 think that the risk is totally appreciated. And in my
5 view it's a high-risk environment.

6 Q. And high risk to the public --

7 A. High risk to the public, yes.

8 Q. -- from officers using force?

9 A. Yes.

10 Q. And I think you said in your statement that we've heard
11 Police Scotland came into being on 1 April 2013. Was
12 there no work stream in relation to OST training up to
13 the commencement of Police Scotland?

14 A. No, there is no -- like other areas such as firearms,
15 et cetera, there was no reformed work stream for OST.
16 So there was no work done to standardise OST for the
17 introduction of the national force.

18 Q. And why was that not done for OST; do you know?

19 A. I couldn't say. I couldn't say.

20 Q. And then, once you came into the national role
21 in September 2014, you've said here that there were
22 issues about the -- you felt no one had a grip of it,
23 I think you said; is that correct?

24 A. That was my impression. As I say, I don't -- for
25 whatever reason, whether it was maybe people don't

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1 appreciate the risk if they're not involved in that area
2 of business the way I was, it just didn't seem to be
3 given high priority, in my view.

4 Q. You've said earlier today that you felt that OST could
5 have been improved at that time. If we could look at
6 paragraph 33 of your statement, you were referred to
7 a comment that had been made in a position statement,
8 and you were quoted as -- this is a quote from that. It
9 says:

10 "... 'As a result of his review of the OST programme
11 and his research in 2014, 2015, Inspector Young
12 considered that changes were required to the national
13 OST programme and that the guidance in the OST programme
14 and the manuals was outdated, inadequate and needed to
15 be revised. This was particularly in respect of
16 de-escalation strategies, tactics and conflict
17 management, (2) mental health issues, (3) ABD, and~...
18 (5) dealing with subjects and disabilities.'"

19 Is that a fair reflection of your views at the time?

20 A. Yes.

21 Q. And did you feel that all of those areas could be
22 improved and should be improved?

23 A. Absolutely, yes.

24 Q. You said a moment ago you were concerned about the
25 risks?

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1 A. Yes.

2 Q. You then go on to say in paragraph 33:

3 "The manual and OST training programme itself were
4 outdated and inadequate. The OST programme wasn't
5 outdated when it came to the physical intervention
6 techniques but, as far as tactics and tactical skills,
7 such as conflict resolution and de-escalation, were
8 concerned, I think we were lacking."

9 And that's something that you have been telling us
10 this morning?

11 A. Yes.

12 Q. You say:

13 "I think we were behind the training of other police
14 forces in the UK."

15 Could you tell us a little bit more about that?

16 I know you said you did research as part of your review.

17 A. When it came to, I suppose, conflict resolution and the
18 way that was trained when I visited other forces, they
19 were, I suppose, ahead of us in terms of conflict
20 resolution training, scenario-based training. So in
21 that respect, yes, I think -- I mean, I did the review
22 and, you know, I suppose did my benchmarking exercises
23 with other forces to see what good practice was out
24 there, then I would suggest we were slightly behind,
25 yes.

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1 Q. And we may hear evidence next year from Martin Graves
2 about Her Majesty's Inspectorate of Constabulary, who
3 did a review in 2007.

4 A. Yes.

5 Q. Which, as I understand he will give evidence, was quite
6 damning about the training in England and Wales at the
7 time, and that prompted a review which substantially
8 changed a number of the areas that you've highlighted
9 here?

10 A. Yes.

11 Q. Had there been any attempt, as far as you know, to take
12 on board lessons from the situation in England and Wales
13 by the time you came in as national coordinator?

14 A. I'm not aware of that, and I'm not aware -- I believe,
15 potentially, maybe 2 -- I can't remember the exact date,
16 but I think there was an ACPOS working group
17 established. But I didn't think it went as far as
18 the -- as what we were seeing in England and Wales with
19 regard to recommendations. And we -- I never received
20 any, I suppose, direct instruction from the executive or
21 senior management to review our current training. So
22 I don't think there was any -- not cognisance but
23 I don't think it came that we needed to review our
24 training, or nobody told us we had to review our
25 training, if that makes sense.

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1 Q. We may hear from Martin Graves next year -- he is not
2 giving evidence about this aspect -- that the Met in
3 particular developed an award-winning video
4 demonstrating how officers could deal with people with
5 mental health issues.

6 A. Yes.

7 Q. You obviously recognise that description?

8 A. Yes.

9 Q. And he understood that that had gone to Strathclyde.
10 Did that ever find its way to you?

11 A. Yes. So I got a -- I requested a copy of it. I was
12 a member of the UK OST practitioner group, which gave me
13 really good insight into what other forces were doing,
14 what the National Police Chiefs Council Self-defence,
15 Arrest and Restraint Group, I was a member of that and
16 through my contact with the Met I got hold of that video
17 and I submitted a briefing paper asking if we could
18 replicate that, because in my view we needed to do more
19 to inform the public of, you know, how we control and
20 restrain, why we control and restrain, and the reasons
21 why we do it. Because I think it can be easily very --
22 it can be easily sensationalised when you talk about
23 those five officers or six officers on one, when the
24 reality is that it's an extremely, extremely difficult
25 activity to undertake. It's very, very difficult to

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1 restrain someone, and the more numbers you have the
2 safer it is. And I thought that more needed to be done
3 for us to inform the public of that.

4 Q. Inform the public as well as train the officers?

5 A. As well as train the officers, absolutely.

6 Q. And as part of your role at that time -- so you came
7 into that role in September 2014 -- you quickly realised
8 the difficulties that you've explained here in this
9 paragraph. And as I understand it, you then embarked on
10 a review, which commenced on 1 December 2014?

11 A. Yes.

12 Q. Now, I think you say in your Inquiry statement you
13 weren't actually instructed to do that?

14 A. No.

15 Q. But you volunteered. You felt that was necessary, and
16 you wanted to do that review; is that correct?

17 A. Absolutely, yes, that's correct, yes.

18 Q. So was there any pressure on you, or request on you, to
19 do this work? Or was it simply something you thought
20 needed done?

21 A. It's when I came into post and I was able to obtain
22 a national picture, and that's when I identified the
23 challenges and the issues that needed addressed, which
24 prompted me to propose to my senior management that we
25 needed to urgently review our position with regards to

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- 1 OST.
- 2 Q. Once you came into that role, the national role
3 in September 2014, how long was it before you realised
4 you had an issue here that you wanted to review?
- 5 A. I realised prior to going into the national role,
6 because whilst I was the OST coordinator at Tulliallan,
7 I was getting introduced to the national picture, and
8 I was seeing then the issues that were in place at that
9 point.
- 10 Q. So when your review started on 1 December, how long did
11 it take you to get that authority from your senior
12 officer to actually carry out that review?
- 13 A. Instantaneous, it was~...
- 14 Q. So some time in November?
- 15 A. Yes, I would suggest so, yes.
- 16 Q. That you made that request?
- 17 A. I believe so, I couldn't be ...
- 18 Q. And you've talked about -- already about the UK-wide
19 Officer Safety Training Practitioners Group. So as part
20 of your review, as I understand it, you've told us in
21 your statement you engaged with groups and other bodies?
- 22 A. Yes.
- 23 Q. And that was one of them?
- 24 A. Yes.
- 25 Q. And they existed at the time you came into the national

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1 role?

2 A. Yes.

3 Q. Is that true? And could you help the Chair understand
4 what -- the work they did, tell us a little bit more
5 about that work?

6 A. So they were part of the National Police Chiefs Council,
7 which is obviously -- it relates to England, Wales and
8 Northern Ireland, whereby each chief constable in the UK
9 and Northern Ireland form a council where they look at
10 various aspects of policing in England, Wales and
11 Northern Ireland. Many of the chief constables will
12 have a national portfolio, whether it be in armed
13 policing or public order or use of force or domestic
14 violence, whatever it may be, local policing, whatever.

15 The National Police Chiefs Council put forward
16 a lead who is responsible for the training of officers
17 in England and Wales. They have what they call
18 a practitioners group, Self-defence, Arrest and
19 Restraint Group, which is made up of practitioners from
20 a variety of forces who get together regularly and meet
21 and discuss the issues, they meet and discuss the
22 advancements, how training can be enhanced, and the
23 content of the manual, of their OS -- it was called
24 their personal safety training manual at that time,
25 which is published through the College of Policing.

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- 1 Q. And so there were -- members of that group covered
2 a number of jurisdictions, such as Scotland and England.
- 3 A. Yes.
- 4 Q. And you attended for Scotland?
- 5 A. Yes.
- 6 Q. And did they share updates in relation to officer safety
7 training?
- 8 A. Yes.
- 9 Q. So was this a group which allowed you to learn lessons
10 and see what the up-to-date research was and that type
11 of thing?
- 12 A. That was invaluable, yes.
- 13 Q. Yes. And was that -- your attendance there was because
14 of your role as a national coordinator?
- 15 A. Yes.
- 16 Q. Had there been a member from Scotland on that group
17 prior to you joining?
- 18 A. I believe prior to Police Scotland, there may have been
19 members from time to time from some of the legacy
20 forces, I believe Lothian and Borders had a membership
21 of it, I think, I think Strathclyde, but I don't know
22 how long for they actually -- they actually partook in
23 the group. Excuse me.
- 24 Q. Do you know if anyone from Fife Constabulary had been on
25 that group before Police Scotland came into existence?

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1 A. I couldn't say. I don't think so.

2 Q. All right. And I also understand from paragraph 48 to
3 51 of your statement that you were part of a Use of
4 Force Monitoring Group; is that right? Let's look at --
5 it might be referenced in, 48 to 51, "Use of force data
6 monitoring", you start to talk about that, and you'll
7 see that you say:

8 "I drafted the terms of reference for that group.
9 The way I envisaged the Use of Force Monitoring Group
10 was to monitor the effectiveness of our OST training
11 through data."

12 Was this a new group that was created by you, or was
13 it something that existed before?

14 A. No, it was one of the recommendations from my review.
15 We had no national group that would look at OST in its
16 entirety, a group where we could get decisions made that
17 provide that effective and proper governance to OST. So
18 initially it was started -- I proposed this group, it
19 started as the OST monitoring group, which was chaired
20 by the head of leadership and training, and then
21 thereafter it progressed into the Use of Force
22 Monitoring Group being chaired by the assistant chief
23 constable.

24 Q. So this wasn't a group which existed before your review?

25 A. No.

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1 Q. This arose out of the recommendations in your review,
2 which we'll come on to later this morning. I'll come on
3 to that later, then, if it's arisen out of your review.

4 And then, as I understand it, there was also
5 liaison, and you can help me if this was before or after
6 your review, liaison between the NHS and Police
7 Scotland.

8 A. (Nods).

9 Q. Now, I'm going to ask you about a Dr Stevenson, who
10 I think you met on that group. Was that group where you
11 linked in with -- liaised with the NHS, was that before
12 your review or after your review?

13 A. I think I started looking to engage with partners
14 after -- after the review. So I think that would
15 probably --

16 Q. Right.

17 A. -- be in the preparation for the new programme.

18 Q. Right. I'll come back to that then. Thank you.

19 I'm conscious of the time, actually.

20 LORD BRACADALE: Yes. Well, we'll take a 20-minute break at
21 this point.

22 (11.30 am)

23 (A short break)

24 (11.51 am)

25 LORD BRACADALE: Ms Grahame.

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- 1 MS GRAHAME: Thank you.
- 2 We were about to start looking at your review,
3 inspector. So this is PS11533, and we'll bring that up
4 on the screen now. And on page 1 we'll see that this is
5 entitled, "National officer safety training review.
6 Review and evaluation report", and it's
7 dated April 2015, so this was the month before the
8 events on 3 May 2015, and it's your report and review
9 and you wrote it; is that right?
- 10 A. That's correct, yes.
- 11 Q. Thank you. And does this, in essence, encapsulate what
12 you thought about the training, the OST at that time,
13 and made a number of recommendations where you thought
14 improvements could be made?
- 15 A. Yes. It was mainly in relation to, I suppose, policy
16 and procedure. Although there are some references to
17 the content of the programme itself. But, as I said,
18 that was always meant to be an incremental progress.
19 For me the main risks, you know, at this time was the
20 lack of the standardisation, the lack of policies and
21 procedures. So that's mainly what the review focused
22 on. Although I did, obviously, consider the content of
23 the programme also.
- 24 Q. So on page 3 of this review, you say at the top of
25 the -- at the introduction, at the top of that page:

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- 1 "This report briefly details the current position
2 nationally of Officer Safety Training~..."
- 3 But was this the sort of big issues, the high-level
4 issues that you had recognised and identified as part of
5 your review process?
- 6 A. That's correct, yes.
- 7 Q. And that was the review that had been conducted between
8 1 December 2014 up to the date of this report?
- 9 A. Yes.
- 10 Q. Thank you. And in paragraph 2 you say you're hoping it:
11 "... will ultimately form a national training
12 strategy and minimum effective standards for OST,
13 development and management~..."
- 14 And you say:
- 15 "This work will propose recommendations that will
16 form the basis and management of a national officer
17 safety training programme."
- 18 A. Yes.
- 19 Q. And this is the programme you've mentioned, which was
20 then brought in, in 2016?
- 21 A. Yes.
- 22 Q. That's what this then became at a later stage?
- 23 A. That's correct, yes.
- 24 Q. So you mentioned the background briefly. We'll look at
25 that:

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1 "OST was first introduced to the Scottish police
2 service by Strathclyde Police in 1995 following the
3 death of PC Lewis Fulton."

4 And a training programme was developed after that
5 and you mentioned the background generally?

6 A. Yes.

7 Q. Can we look at the next page, page 4, please, and you
8 say:

9 "As time progressed, a disparity in the way that OST
10 was being delivered across the different Legacy Forces
11 was identified and as a result concerns were raised by
12 the Scottish Police Federation at the ACPOS General
13 Interests Committee."

14 So was it the Scottish Police Federation that
15 initially raised concerns about the quality of the
16 training?

17 A. I believe so, kind of round about 2006/2007. And
18 I think that was mainly in reference to there was no
19 national probationer training programme, so each legacy
20 force delivered OST independently.

21 Q. I see.

22 A. And that's what -- and it was at times markedly
23 different. And I think that's why the federation
24 initially raised their concerns.

25 Q. When was the national probationers programme introduced?

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1 A. I believe it was 2008.

2 Q. So prior to that it would have been legacy forces that
3 did the probationer training?

4 A. That's correct. Just to clarify, I've taken this
5 background from source documents that I was able to find
6 and identify. So I wasn't --

7 Q. This isn't from your personal recollection of events?

8 A. No. No.

9 Q. Thank you. And then I think as we go down the page, it
10 says:

11 "In August 2008, a project mandate/remit was
12 submitted to ACPOS Personnel and Training Committee for
13 their consideration. Members subsequently approved the
14 formation of the National OST Review Project as outlined
15 above.

16 "Below is a summary of the recommendations that were
17 subsequently agreed."

18 This was a previous review, was it?

19 A. Yes.

20 Q. So this was not your review?

21 A. No.

22 Q. But you're simply narrating the history?

23 A. That's correct.

24 Q. Can we move on to the next page, page 5, please. You
25 say at the top:

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1 "An Equality Impact Assessment was completed
2 in January 2010."

3 So that was four years before you took over as
4 national coordinator. Was that in relation to the
5 Equality Act at the time?

6 A. I would suggest so, yes.

7 Q. "No evidence of who signed the project off or any
8 documentation for the rationale for the chosen
9 techniques can be found."

10 So did you actually look to see where the -- you've
11 told us yesterday when you came into the role, the 2013
12 manual was already in existence, they'd arrived the
13 month before. Were you not able to find documentation
14 about how that had been created, how the techniques had
15 been selected, how the -- none of that?

16 A. No, I couldn't find any evidence or rationale or
17 provenance as to why the content of that manual was as
18 it was. Anecdotally I understood where it came from.
19 But as for any documentation, I couldn't --
20 I couldn't -- I couldn't find them.

21 Q. Right. Then the next, if we move down the page, please,
22 and we see at the end of the next paragraph you say,
23 you're mentioning meetings, but you say:

24 "... there appeared to be no clear lines of
25 communication and many practitioners were and are

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1 unaware of what was agreed. Many members of these
2 groups have ... moved on and much of what was agreed was
3 never implemented by the ... Legacy Forces."

4 So there seems to have been some difficulties with
5 communication and uptake in relation to previous -- the
6 previous review?

7 A. That's correct, yes.

8 Q. Then you go on to sort of comment that:

9 "Although a national standardised core programme was
10 developed and delivered to student Police Officers
11 at~... Tulliallan, this core programme was not always
12 replicated at the annual refreshers, with some Legacy
13 Forces maintaining their own programmes and techniques.
14 This ... led to a disparity of approach to training and
15 supporting processes."

16 And that's exactly what you were telling us earlier
17 today?

18 A. Yes.

19 Q. "There has been no national review since the programme
20 was introduced and since the inception of Police
21 Scotland."

22 And you then say, you will see it in bold there
23 towards the bottom:

24 "To ensure that police training is meeting the needs
25 of the service ... it should be:

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1 "'Regularly reviewed and evaluated at all levels to
2 assess relevance achievement and improve future
3 effectiveness'."

4 And that comes from Police Scotland, the National
5 Model for Quality Assurance of Training and Education.

6 A. That's correct.

7 Q. Was that a Police Scotland guidance document or~...?

8 A. It was at the time, yes.

9 Q. So their own national model for quality assurance of
10 their training and education programme did recommend
11 regular reviews and evaluations?

12 A. Yes.

13 Q. But those hadn't been done?

14 A. Not since 2007/2008, no.

15 Q. Thank you.

16 Towards the bottom of page 5 you say:

17 "During the transition to Police Scotland, most
18 areas of business had a reform work stream including
19 Public Order and Firearms Training."

20 You've mentioned that today.

21 "OST did not have its own reform work stream to
22 review and standardise the programme. It became
23 apparent that many areas of OST required to be reviewed
24 to mitigate risk to personnel and [if we can move the
25 page down] the organisation, to introduce an effective

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1 and standardised training programme and to maintain the
2 organisation's focus of 'keeping people safe'."

3 So as much for the public as anyone else?

4 A. Very much so, yes.

5 Q. So the -- you've then entitled "... National Officer
6 Safety Training Review", which commenced on
7 1 December 2014, and continued, and we see there, until
8 1 March 2015. And then you prepared -- you wrote your
9 review and it was published in April that year?

10 A. Yes.

11 Q. And you set out the aim of the review, and you set out
12 your terms of reference.

13 And then over the following pages, I think you
14 summarise your overview and give us a snapshot of the
15 way things were in each of the different divisions and
16 you go through A division, C division, and you go right
17 through.

18 Could we look, please, at P division, which is on
19 page 14. And you then -- essentially is this a snapshot
20 of the training in P division, one of the legacy
21 forces --

22 A. Yes.

23 Q. -- during the time you were doing your review?

24 A. Yes.

25 Q. And you tell us they had ten officer safety trainers.

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1 You say:

2 "All are operational Officers with the exception of
3 1, who is deployed within TLD."

4 What was that?

5 A. That's Training, Leadership and Development. So TLD is
6 a national division responsible for -- mainly
7 responsible -- or ultimately responsible for the
8 training of the Force. But within each division you'll
9 have an officer who is attached to TLD but is mainly
10 responsible for training in that particular division.

11 Q. Right. And you say here:

12 "P Division was previously assisted by trainers from
13 OSD but these have now been withdrawn by OSD."

14 Can you explain some of that background?

15 A. Yes, so OSD is Operational Support Division, which is
16 a national division, and prior to Police Scotland, if
17 you were in a, I suppose, a support role, whether it be
18 a public order team or a firearms, you would be -- the
19 division would be responsible for you, you would be part
20 of that division. The move to Police Scotland, all the
21 specialist officers were taken into a national division,
22 and the decision was made by the commander of that
23 national division that they would not be delivering --
24 or allowing their officers to assist in the training of
25 local divisions.

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- 1 Q. Right. So they were taken in nationally --
- 2 A. Yes.
- 3 Q. -- rather than dealing with each legacy force?
- 4 A. Yes.
- 5 Q. And you've said there that there was no identified OST
- 6 coordinator for P Division?
- 7 A. No, correct.
- 8 Q. So were these trainers not coordinated by any
- 9 individual?
- 10 A. At that time the training sergeant who was attached to
- 11 the local training department had the kind of --
- 12 I suppose the ultimate responsibility of ensuring that
- 13 there was sufficient instructors in place to meet the
- 14 training demand. And he would then make the resource
- 15 requests to have these officers abstracted from their --
- 16 their local policing shift to assess with OST training
- 17 as and when was required.
- 18 But as far as programme, as far as, I suppose, that
- 19 higher level coordination, then no.
- 20 Q. Am I correct in saying that you said yesterday that some
- 21 of the trainers were part-time, some were full-time?
- 22 A. Yes.
- 23 Q. Do you remember in Fife Constabulary what the position
- 24 was?
- 25 A. They are all part-time.

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1 Q. All part-time?

2 A. Yes.

3 Q. And you've then gone on to say at that time:

4 "There were no persons managing [use of
5 force]/PIRC."

6 Explain some of the background there?

7 A. So prior to the formation of Police Scotland, each
8 legacy force had its own processes, procedures, for
9 recording use of force. Obviously with the creation of
10 Police Scotland and the subsequent creation of PIRC, we
11 had a statutory obligation or requirement to report
12 firearms discharges to PIRC. So, as of 2013, that
13 responsibility was placed on the only full-time unit,
14 full-time OST unit in Scotland which was the legacy
15 Strathclyde unit. So they assumed the national
16 responsibility for reporting all, at that time, CS
17 discharges to the PIRC.

18 Q. I was going to say, we've heard that for the purposes of
19 classification discharging your CS spray counted as
20 a firearm?

21 A. It counted as a firearm discharge, yes.

22 Q. And that had to be reported to PIRC within a certain
23 period?

24 A. Yes.

25 Q. And that that came into force on 1 April 2013?

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1 A. That's correct, yes.

2 Q. Thank you. And then you mentioned the training venue
3 they had in Fife at Glenrothes, and if we can move
4 further down the page, please, you say:

5 "There are no set assessment criteria for students.
6 There is no method in place to assess the competency of
7 trainers. There are no Quality Assurance processes in
8 place."

9 And that's specific to P Division which covered
10 Kirkcaldy?

11 A. That's correct, yes, and it was -- that was replicated
12 throughout the country to be honest.

13 Q. I mean, this is not a unusual picture for P Division?

14 A. No.

15 Q. There were many issues like this?

16 A. Yes.

17 Q. You say:

18 "Trainers use a mix of EDIP/problem/solution/teach
19 method of training delivery."

20 Could you explain that sentence, please?

21 A. So that's -- they are two teaching methods that can be
22 employed, so EDIP is explain, demonstrate, imitate and
23 practice, and problem/solution/teach is just a different
24 teaching method, so an EDIP instructor would explain
25 what the technique entails, would then -- that

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1 instructor would then demonstrate that technique to the
2 students who would -- and they would then imitate that
3 and then go away and practice that.

4 Whereas with problem/solution/teach, it's just
5 a different teaching method where, as opposed to
6 explaining first, you would demonstrate what the problem
7 is you are trying to overcome. You would then give them
8 a solution, which would be the technique, and then they
9 would go and practice.

10 Q. And --

11 A. And, sorry, there was a mix of that in P Division
12 because EDIP was the teaching method employed by Lothian
13 and Borders Police, and problem/solution/teach was the
14 teaching method employed by the Scottish Police College.
15 So, prior to Police Scotland if you did your OST
16 instructor's course delivered by the senior instructors
17 from Lothian and Borders, they would teach you EDIP, but
18 if you did your instructor's course at the Scottish
19 Police College you would have been instructed to deliver
20 problem/solution.

21 Q. I'm wondering if that was confusing slightly for the
22 students, or did it not make much difference?

23 A. It was confusing, yes.

24 Q. Was it?

25 A. Yes.

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1 Q. And none of those methods involve scenario training,
2 like you've described?

3 A. No. No.

4 Q. And then you say:

5 "Officers apply the techniques to compliant subjects
6 only."

7 Explain the impact of that.

8 A. So when you are -- and particularly with a control and
9 restraint and empty-hand technique, the health and
10 safety of the officers is paramount, and the minimising
11 injury. So therefore the -- if you are practising on
12 your colleague, they will be compliant, they won't
13 resist, they won't put up a level of resistance.
14 Because if they put up a level of resistance, the use of
15 force might have to be greater and the injury potential
16 increases.

17 So whilst you could be technically proficient, it's
18 not realistic. And that's one of the drawbacks and
19 challenges of this type of training activity.

20 Q. Were there question marks over how effective that would
21 make the officer in a real-life situation?

22 A. Exactly.

23 Q. Thank you. And then you say that:

24 "P Division follows the current ... Tulliallan
25 programme for the annual recertification although

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1 differences in techniques taught have been observed."

2 I think you mentioned that earlier, that there
3 were -- and you described significant differences in
4 some ways but you've noticed there that there are
5 differences in some of the techniques?

6 A. Yes.

7 Q. Do you remember any of them that were different?

8 A. I wouldn't be able to say with any certainty now.

9 Q. All right. You say:

10 "They use a generic safety briefing."

11 What's the significance of that?

12 A. So we found that -- or I found that there was different
13 safety briefings being utilised at different legacy
14 forces. But there is a generic safety brief that's used
15 at the Scottish Police College for probationer training,
16 and if I've said this, that would mean that P Division
17 would use that safety briefing.

18 Q. So at least to that extent they were consistent with
19 Tulliallan?

20 A. Yes, and as far as my memory goes, P Division were
21 generally one of the more compliant divisions when it
22 came to teaching the same core techniques as were taught
23 at Tulliallan.

24 Q. Right. You've mentioned that Glenrothes is risk
25 assessed, you've talked about that earlier, and you say:

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1 "P Division uses its own version of assessment and
2 course return forms."

3 Was that of any concern?

4 A. No. It was good to see that they did use a course
5 return form. It was good to see that they did use
6 an assessment checklist. But, again, it just differed
7 slightly.

8 Q. Right.

9 A. And it just, again, I suppose kind of interfered with
10 that consistency.

11 Q. Thank you. You say:

12 "Police officers receive 8 hours learning contact
13 time per annum."

14 What does that mean, "learning contact time"?

15 A. So that's the amount of hours they will receive for
16 their annual refresher training.

17 Q. Right. And then you mention more senior officers.
18 I won't go into that.

19 Can we move on to the next page, page 15, please.

20 It says:

21 "Special constables receive a 4 day course and
22 thereafter annual recertification. PCSO's receive
23 a 4 day course and thereafter annual recertification."

24 Can you give us a little bit more explanation of
25 that?

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1 A. In relation to the special constables or in relation to
2 PCSOs, or both?

3 Q. Yes, they both appear to deal with a four-day course?

4 A. Yes.

5 Q. Was it the same course, I think yesterday you said it
6 was the same course?

7 A. It became the same course. Back then I believe it
8 was -- yes, that was -- the issue was that if you -- the
9 training provided to probationers was a five-day course,
10 and special constables and PCSOs at that time received
11 a slightly shortened abbreviated course which didn't
12 include all the content, which, again, we identified as
13 a risk. It has to be consistent across the board
14 because they face the same risks.

15 Q. Sorry, I should have asked you to explain what PCSO is?

16 A. So that's a police custody and security officer,
17 a civilian member of staff who would work in the custody
18 environment looking after the care and welfare of
19 custodies.

20 Q. Yesterday we talked about PC McDonough who became -- who
21 initially was a special constable.

22 A. Yes.

23 Q. And that's the sort of course he would have had at Fife
24 Constabulary, a four-day special constable's course?

25 A. I would assume so, yes.

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1 Q. Then you talk about some equipment that's delivered, and
2 then you move on to the V Division. I won't ask you to
3 look at that.

4 Can I then ask you to go on to page 17, please. And
5 this talks about "Evaluation methodology":

6 "Consultation was carried out with the Quality
7 Assurance Unit at PSC - Tulliallan to develop the most
8 appropriate method of programme evaluation."

9 Now, I think you said earlier you hadn't been
10 trained in carrying out reviews, but you saw the
11 necessity to do one and you volunteered to do that in
12 your role.

13 So was this -- why were you looking for
14 an appropriate method of evaluation?

15 A. Just for the reasons that you mentioned. I had never
16 conducted a review of this before. Whilst I had -- at
17 that time I believe I had completed my diploma and
18 training, so I knew about how to conduct programme
19 evaluation. For me it's best practice to approach and
20 get advice from experts who -- that's their job, is to
21 carry out programme evaluations.

22 Q. And so you went to the Quality Assurance Unit to get
23 their advice. Was that before you started the process?

24 A. That's correct. Obviously I wanted the -- you know,
25 I wanted the valuation to be robust, yes.

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1 Q. And you said that:

2 "During the evaluation period, 5 main evaluation
3 methods were employed~..."

4 And you list those. Could you talk the Chair
5 through those, please?

6 A. Yes, of course. So evaluation questionnaires, again
7 with the assistance of the Quality Assurance Unit, we
8 produced questionnaires that were sent out to, I think
9 it was over 2,000 officers, and we utilised one of the
10 quality assurance staff to analyse that data and put it
11 into a format that could be understood.

12 We reviewed and gathered data from all use of force
13 forms that were submitted during the valuation period.
14 We conducted focus groups. So we -- during OST training
15 we would gather officers aside and ask them a series of
16 questions, and that was able -- that enabled us to get,
17 I suppose, more context, more information than what's
18 contained in evaluation forms. We visited divisions, to
19 response shifts et cetera and spoke to officers there.
20 The benchmarking aspect is obviously what we discussed
21 before, was speaking to colleagues in the rest of the
22 UK, and the divisional approach, sorry, was -- is part
23 of the focus group, I suppose. The divisional approach
24 was we looked at what each division was doing and we
25 spoke to officers within the respective divisions.

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1 Q. So a lot of research done by you under those five
2 methods.

3 And then you go on to say, if we move down the page
4 "Evaluation questionnaires", you say that they were sent
5 to officer safety trainers, operational officers, and
6 probationers, student police officers?

7 A. Yes.

8 Q. So it wasn't just simply one group --

9 A. No.

10 Q. -- that you sought data from?

11 A. No.

12 Q. And you've detailed those in appendix B, if the Chair
13 wishes to look at those in more detail. And you say
14 that:

15 "Each level of user was asked to provide opinions on
16 the programme, what techniques they used
17 operationally~..."

18 Does that mean in their sort of day-to-day work?

19 A. Yes.

20 Q. "... what techniques they felt were too difficult or
21 complicated, what techniques they preferred, how the
22 programme could be improved, and what were the four most
23 important aspects of the programme."

24 Was that in relation to the sort of techniques and
25 strategies they used in their day-to-day work?

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1 A. That's correct, yes.

2 Q. And you contained the results of that in appendix C to
3 your review.

4 Can we turn on to the next page, please, "Use of
5 force forms", and it says:

6 "All [use of force] Forms submitted nationally
7 during the evaluation period were interrogated and the
8 results noted. In total, 422 [use of force] Forms were
9 submitted during the evaluation period. A breakdown of
10 the techniques used is contained within Appendix D".

11 We have heard some evidence about use of force forms
12 and use of spray forms, and a suggestion has been made
13 that maybe it was slightly erratic, the completion of
14 these. Could you tell us about your experience when you
15 were trying to gather in the data?

16 A. So going back to the legacy force days, there was,
17 again, that disparate approach to submitting use of
18 force forms, recording use of force data. Some areas
19 just wouldn't -- didn't record it. Others it was -- as
20 you say, it was sparse, varied. So that's not a big
21 dataset. That's a relatively -- that's a small dataset
22 for me, only 422 forms during that evaluation period.
23 Again, that was one of the aspects that we needed to
24 look at, was how do we ensure that officers are
25 submitting use of force forms when they should be.

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1 Q. Were you endeavouring to recover all of the use of force
2 forms throughout the whole of Police Scotland?

3 A. Yes, at this time I think, maybe with the exception of
4 one or two forces, all had moved on to the submission of
5 use of force forms on SCOPE.

6 Q. Right. We've heard of that.

7 Now, the review period started on 1 December 2014,
8 and finished at the end of March, or in March. Sorry,
9 1 March 2015. You've said that's a low number. What
10 would you have expected if every officer who uses force
11 on a shift is genuinely completing a use of force form?

12 A. For me that should have been in the thousands, well into
13 the thousands.

14 Q. But you only recovered 422?

15 A. Again, I can't exactly remember, but I think either one
16 or two forces, either didn't record use of force data or
17 didn't record it in a format that could be recovered, or
18 it was in a format that it would have taken months to
19 extract all that data. So this is only the use of force
20 forms on SCOPE.

21 So~... but yes, that's -- for me it was a shockingly
22 low number.

23 Q. Do you remember what the position was in relation to the
24 former Fife legacy force?

25 A. No, I -- I don't think they utilised SCOPE prior to,

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1 obviously, Police Scotland. And I don't know when they
2 transitioned to SCOPE. I think they still used paper
3 copies, and it was collated. But, again, if I remember,
4 P Division or legacy Fife didn't have anybody to manage
5 these -- these forms.

6 Q. Thank you. Can we move on to focus groups, please:

7 "In addition to the 1287 evaluation forms completed,
8 282 officers took part in small focus groups. These
9 consisted of operational officers spoken to during their
10 annual recertification or during their operational tour
11 of duty."

12 I think you mentioned that just a moment ago. And:

13 "They were asked similar questions to the evaluation
14 forms and their opinions noted."

15 And you've collated those in appendix E.

16 And then the benchmarking exercise, you say:

17 "... a number of police forces in England were
18 contacted and spoken to at length. Details of their
19 programmes and processes were obtained."

20 And you've listed there the forces that -- those
21 forces that you personally contacted --

22 A. Yes.

23 Q. -- as part of the review. And it included the Met?

24 A. Yes.

25 Q. And it also included the College of Policing?

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- 1 A. That's correct.
- 2 Q. Thank you. Just keep moving down, please. And you say
3 you also approached the Scottish Prison Service and they
4 provided details of their programme?
- 5 A. Yes.
- 6 Q. What was the benefit of speaking to the Scottish Prison
7 Service?
- 8 A. So obviously the Scottish Prison Service have a control
9 and restraint element to their -- to their -- to their
10 role, and obviously they have to be trained in -- to
11 always -- I was very interested to see what their set up
12 was, what their governance processes were, what they
13 trained, how they trained, why they trained.
- 14 Q. And was that markedly different to the programme you had
15 in place at the time?
- 16 A. It was different in the respect that they operate in
17 a different environment, and most times it's a very
18 confined environment the Prison Service operate in. So
19 their techniques were -- from my recollection were aimed
20 at that type of environment. It differed -- some of
21 their techniques differed significantly to ours, but
22 again that was usually because of the reason of the
23 operating environment.
- 24 Q. Thank you. And then if we can turn to page 19, you move
25 on to the summary of evaluation process. And you talk

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1 about a breakdown of the statistics, and you mention the
2 appendices, and you talk about, "Evaluation
3 questionnaires and focus groups", and you said:

4 "The main finding from the ... questionnaires was
5 that the current programme delivered at Divisions varied
6 from area to area. Differing approaches to training
7 delivery were evident, with some techniques that are
8 contained in the manual at ... Tulliallan not being
9 taught and other techniques which are not in the manual
10 being taught."

11 So in fact some of the techniques were simply missed
12 out completely.

13 A. Yes.

14 Q. For those doing refresher training?

15 A. Yes.

16 Q. Or formerly legacy force probationer training?

17 A. Yes.

18 Q. And you've given some quotes, I think, from some of the
19 questionnaires there.

20 And you say, then, if we move down the page:

21 "The most important aspect of OST ..."

22 And you give the four most important, if we can move
23 down slightly:

24 "Handcuffing.

25 "Basic empty hand techniques.

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1 "Basic hold and restraints.

2 "2/3 person teams."

3 Can you help us understand what those are?

4 Obviously handcuffing speaks for itself.

5 A. So basic empty hand techniques are your blocks, your
6 strikes, and then basic holds and restraints are the
7 various different types of holds and restraints that
8 we -- so come along holds, straight arm bars et cetera,
9 those techniques that are used to restrain
10 an individual.

11 Two and three person teams is what's now known as
12 violent prisoner tactics, and that is where you have to
13 restrain an individual who has been assaultive or
14 violent to place them into a police cell.

15 Q. So in terms of officer safety training, the most
16 important techniques were -- all four of those relate to
17 use of force?

18 A. Yes.

19 Q. So they were considered the most significant in terms of
20 the responses you got from the questionnaires?

21 A. Yes.

22 Q. There's no mention there of communication or
23 de-escalation --

24 A. No.

25 Q. -- or any of that. That wasn't considered one of the

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1 most significant?

2 A. Not -- so this is simply based on the responses from the
3 officers. But to be fair, I already had that in hand
4 because that was coming in. That was going to be
5 improved.

6 Q. Right.

7 A. But it was, I suppose, disappointing to see that that
8 wasn't high up in the list of priorities for me.

9 Q. And when we say "most important", was that a reflection
10 of what they used most often or what they considered
11 most significant, or perhaps they're the same things?

12 A. I think anecdotally for me it's because the programme
13 had always been focused on these types of techniques;
14 that maybe I didn't explain the evaluation properly, and
15 they would -- and the officers involved in the valuation
16 assumed that it was simply to do with the techniques,
17 and what techniques they -- so maybe it's the -- it may
18 be the nuance of the wording that was in the evaluation
19 report.

20 Q. Thank you. But then you note that in terms of the
21 questionnaires that were returned:

22 "They felt that OST was given a low priority by
23 managers~..."

24 Which I think you've talked about already:

25 "... but many also viewed this training as 'boring',

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1 'irrelevant' and 'a necessary bind'."

2 I mentioned earlier there was a sort of negative
3 slant on some of the responses.

4 A. Yes.

5 Q. Could we move to the next page, please, page 20. And we
6 see here that:

7 "Trainers reported back that there was insufficient
8 training material to assist them in delivering effective
9 training."

10 Can you give us a little bit more detail about that?

11 A. So that was in reference to the fact that there were no
12 lesson plans. There was nothing to instruct the
13 trainers on, I suppose, the minute-by-minute,
14 hour-by-hour structure and what should be delivered, how
15 it should be delivered, the aims, the learning outcomes,
16 how they're going to be achieved.

17 So basically the instructors had the manual, they
18 had a checklist, and they felt it was basically down to
19 them how they delivered it, and what order they
20 delivered it. And, again, that's got its advantages,
21 but it's also got its disadvantages.

22 Q. So that was something that trainers, when they
23 responded, expressed concern about?

24 A. Yes.

25 Q. And I think you've already talked to us about different

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1 trainers having different styles and methods?

2 A. Yes.

3 Q. You say:

4 "These findings were consistent with the valuation
5 forms submitted by all level of user and focus groups."

6 So was there consistency across the board in
7 relation to the use of training materials?

8 A. Yes. That was mainly in relation to access to the
9 information that they required. So, as I believe
10 I spoke about yesterday, there was no access to the
11 manual at that time, unless you had a hard copy lying
12 about somewhere. And some of the responses were in
13 relation to: well, if I've used force and then
14 I'm required to write a statement, I want to make sure
15 it's consistent with the training within the manual, but
16 I can't access a manual to reference back.

17 Q. Right. Moving on to use of force forms, you talk about
18 the results from those were compiled:

19 "As anticipated, the majority of 'use of force'
20 related to handcuffing with 94% of all ... Forms
21 involving handcuffing techniques. The following breaks
22 down the percentage of 'Use of Force' Forms utilising
23 the remaining techniques within the programme."

24 And then you give -- I appreciate what you've said
25 about the number, the number of forms that you had at

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1 your disposal. But then we can see the different
2 references and there are -- if we move down the page
3 we'll see all of them. And again, equally it appears
4 that holds and restraints and Fastraps are the greatest
5 number that are used and CS and PAVA, and to some extent
6 baton, are next on the list.

7 Takedowns, is that when someone's brought down to
8 the ground?

9 A. Yes.

10 Q. All right. Thank you. And it says the next paragraph,
11 if we can look at that:

12 "A possible issue with these results was a disparity
13 of approach as to when a [use of force] Form should be
14 submitted. Submission procedures varied between
15 Divisions, with many officers uncertain as to the
16 circumstances of when a [use of force] Form should be
17 submitted."

18 Can you give us a little bit more explanation of
19 that?

20 A. Each legacy force had, I suppose, different criteria for
21 when an officer should submit a use of force form.

22 So, for example, legacy Strathclyde was -- you had
23 to submit a use of force form for any use of force with
24 the exception of compliant handcuffing. So that's when
25 you don't actually have to use force to handcuff

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1 someone, they are happy, if you can say that, to be
2 handcuffed, they don't offer any resistance.

3 Others, it was only if certain uses of force were
4 utilised. Others, it was only if there was an injury.
5 And others didn't -- and many of the officers that
6 I spoke to really weren't sure of when they would submit
7 a use of force form or not. So that was a priority.

8 Q. Was there any training about that, standardised national
9 training at that time?

10 A. No.

11 Q. Moving on to benchmarking. You say this:

12 "... was carried out with English and
13 non-Home Office forces as outlined above."

14 That's both English forces like the Met and other
15 non-Home Office, they're two separate things?

16 A. Yes.

17 Q. "All of these forces use the ACPO Personal Safety
18 Training ... Manual of Guidance."

19 You've mentioned that:

20 "This manual outlines a number of prescribed/agreed
21 techniques with each force choosing which techniques are
22 more relevant to their operational needs."

23 So did there seem to be some difference between
24 different forces in England and Wales as well at that
25 time?

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1 A. So the difference in England and Wales was that they
2 had, I suppose, a tool box of techniques. So they had
3 an approved number of techniques, and it was then down
4 to each individual force to decide, I suppose, based on
5 their own demand profile, what techniques they would use
6 in their force.

7 But if -- the advantage of that is whatever
8 technique they chose, it's an approved, recognised, you
9 know, quality-assured technique. So if ten forces
10 decide they wanted to use a technique, or technique
11 number A, or technique A, sorry, that technique will be
12 exactly the same in all ten forces.

13 Q. That wasn't the position in Scotland with the legacy
14 forces?

15 A. No.

16 Q. They didn't have a tool box as such, a national agreed
17 standard?

18 A. No.

19 Q. Thank you. You then say:

20 "These forces all used the SPEAR system."

21 Can you explain what that was?

22 A. The SPEAR system is basically a self-defence system.
23 It's not a martial art, but it's a method of
24 self-defence, it's a private company who have created
25 this SPEAR system, and that was taken on by ACPOS as

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1 their primary self-defence system.

2 Q. Right:

3 "ACPO guidance is for 12 hours PST training per
4 annum."

5 We may hear next year from Martin Graves that that
6 was -- the national guidance was 12 hours a year. What
7 were they doing in Scotland at that time?

8 A. So I was on an eight-hour shift, but if you take out the
9 breaks you have to, you know, give the officers, we were
10 talking maybe six and a half hours' contact time.

11 Q. Right. Then it goes on to say:

12 "The forces benchmarked all adhered to this guidance
13 but a number of other forces do not."

14 So does that mean the ones you'd listed did adhere
15 to that guidance?

16 A. I can't remember exactly, I just know that at that time
17 that 12 hours' minimum contact time was a recommendation
18 and wasn't -- it wasn't a mandatory requirement.

19 Q. I think you go on to say that it was guidance only at
20 present but steps were being taken to make this training
21 contact time mandatory?

22 A. Yes.

23 Q. "Each force benchmarked had a centralised team with lead
24 instructors responsible for policy training and
25 compliance. Most utilised full-time trainers. Within

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1 England and Wales there is a high priority given to
2 Personal Safety Training with the ACPO Self Defence
3 Arrest and Restraint Group meeting regularly."

4 What was your view about that approach taken down in
5 England and Wales compared to the position in Scotland?

6 A. When I first got introduced to the ACPO Self-defence,
7 Arrest and Restraint Group and was exposed to what they
8 were doing, I thought there was quite a stark difference
9 in terms of the robust governance, the priority
10 provided -- you know, given to personal safety training,
11 the structures, their management, their governance.

12 I think it was potentially in stark contrast to what we
13 had. I felt we had, I suppose, quite a kind of ad hoc
14 kind of approach, which needed to be formalised and,
15 I suppose, reflect what they have in the rest of the UK.

16 Q. And was what they were doing in England more in line
17 with what you were hoping to achieve --

18 A. Absolutely, yes.

19 Q. -- as part of your review?

20 A. Yes.

21 Q. You say:

22 "There is a recognised national programme operated
23 in conjunction with the College of Policing who outline
24 minimal requirements for PST trainers and adherence to
25 national occupational standards."

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1 We've heard a number of things about the College of
2 Policing. What was your experience of the work that
3 they were doing?

4 A. I -- I thought the work they were doing was very good.
5 What the College of Policing gives you is that top
6 cover. They -- if they produce a training package then
7 you know that it's fully quality assured, that it's
8 fully researched and governed, so it will stand up to
9 scrutiny. I just didn't think ours at that time would
10 potentially stand up to scrutiny.

11 And the College of Policing have more resources at
12 hand, they have identified staff for their various
13 portfolios who work outwith the forces in England and
14 Wales, who are there to support those forces in England
15 and Wales, and it's really the first time I had come
16 into contact or had any exposure to the College of
17 Policing and taken from where we were, I was very
18 impressed with the work that they did.

19 Q. Thank you. You then say:

20 "The forces benchmarked all deliver some form of PST
21 training to all police officers and police staff who may
22 come into contact with the public. All venues and
23 techniques are subject to regular risk assessment
24 processes."

25 Now, I'm interested to read there that it's not just

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1 the venues that had the risk assessment there, but you
2 say the techniques are subject to regular risk
3 assessment. Was that something that you noted about
4 England and Wales?

5 A. Yes. And as I say, that's all part, I suppose, of their
6 more established and robust processes.

7 At that time I think it was -- I think it was only
8 legacy Strathclyde, I think, who had risk-assessed the
9 techniques and the potential impact on the community, on
10 members of the public who those techniques were being
11 employed on, and that was something I really wanted to
12 ensure we had in place.

13 Q. Thank you. Let's move on to section 5 of your review
14 and report, "Summary of review findings", and you set
15 out the introduction, and then the main findings are
16 given, and you talk -- we'll go through these, if I may:

17 "Supporting processes".

18 And you've given a number of bullet points. You say
19 that:

20 "... there is a lack of a standardised approach~..."

21 Which we've talked about already. If we can move on
22 to the next page. You talk about disparity of
23 approaches and standards:

24 "... no centralised unit to monitor compliance and
25 develop policy.

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1 "... no [QA]~...

2 "... differences in administration processes~...

3 "... no standardised approach to processes including
4 forms, assessment methods, programme content, training
5 delivery methods or management of [use of force]/PIRC.

6 "... no standardised risk assessments in place for
7 techniques and venues.

8 "... lack of supporting documentation and
9 guidance~...

10 "... ongoing issue with trainers~..."

11 What does it mean, "Not being released by RMUs,
12 leading to a shortage of trainers"?

13 A. So an RMU is a resource management unit. The resource
14 management units are responsible for ensuring that at
15 any particular time there are sufficient officers on
16 duty, and the resource management units are responsible
17 for abstracting officers to training courses cognisant
18 of the bigger picture of the operational demand. And at
19 times we were trying to deliver OST training using the
20 part-time divisional instructors and we would say, "We
21 need to put on X amount of courses, they need to go on
22 these days", and RMUs or divisional management would
23 say, "We can't really source officers due to operational
24 demand". So it was, I suppose, that constant challenge
25 in trying to balance ensuring that divisions had

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- 1 sufficient officers to meet their operational demand,
2 but also to deliver the training. And that's the
3 problem with having part-time instructors; when you
4 don't own them, you can't deploy them as you see fit.
- 5 Q. So we've heard that Fife used -- the former legacy
6 forces used part-time trainers?
- 7 A. Yes.
- 8 Q. Are you aware of how often that situation with lack of
9 resourcing occurred?
- 10 A. When I moved down to Jackton and took over the national
11 coordination I don't know -- I can't speak specifically
12 for P Division but it was an ongoing issue. You know,
13 you would put a course on, allocate two instructors and
14 then you would just receive notification from RMUs that
15 they're removing one of the instructors. So it was
16 an ongoing challenge for me to ensure that we had
17 sufficient resources.
- 18 Q. Would that involve courses being cancelled?
- 19 A. Courses were cancelled due to that, yes.
- 20 Q. And so managing to give annual refresher training to all
21 the officers that needed refreshed, would that prove to
22 be a difficulty?
- 23 A. It was, yes.
- 24 Q. And then you say:
- 25 "Training delivery to Police Staff differs from

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1 Division to Division."

2 Is that non-serving officers?

3 A. That's mainly in relation to police custody and security
4 officers.

5 Q. Right, and you said:

6 "There is no recognised communication strategy~..."

7 You've mentioned that:

8 "Difficulties ... experienced in communicating
9 with~... trainers, administrators, divisional management
10 and divisional officers on a national level."

11 So it appears from your summary of these supporting
12 processes that there were a number of areas where
13 difficulties existed and were continuing in relation to
14 the provision of OST to officers.

15 A. Yes.

16 Q. That's on there.

17 A. Yes.

18 Q. And you then go on to talk about the programme itself.

19 And the first thing you say there on page 22:

20 "There are too many techniques contained within the
21 programme with not enough time to learn these to
22 an acceptable level."

23 And I think you mentioned that that was -- did you
24 have 80-something techniques?

25 A. I think it was 82 or 84, I think, from memory.

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1 Q. And officers were being given seconds, really,
2 30 seconds to try and train on a technique?

3 A. Yes.

4 Q. And was that enough time for anyone to learn a technique
5 properly?

6 A. Absolutely not, no.

7 Q. Do you have -- I mean, I imagine some techniques are
8 more complicated than others. How much time would you
9 wish to give either a probationer or a serving officer
10 time -- how much time would you like them to have?

11 A. It's an extremely difficult question to answer. I mean,
12 each person has their own abilities, their own skill
13 levels, their own levels of coordination, fitness.

14 I suppose a way to assess that is when you deliver
15 your teaching, you know, at the beginning, and as they
16 progress through that training event, it's -- you should
17 set an assessment criteria, an assessment level, and
18 that's your way to gauge if that officer has learned,
19 you know, what you have taught them to an acceptable
20 level.

21 And if they don't get there, then they may need to
22 re-do their development training. So it's difficult to
23 say how long each technique should be because officers
24 may learn it very quickly and reach that level of
25 assessment they should get.

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1 Q. So is that assessment made depending on the participants
2 of each course, or do you work towards an average
3 officer, or some other standard? The least experienced,
4 least stable officer?

5 A. No. So in OST unfortunately it is -- we refer to it as
6 the lowest common denominator. We have to -- it's not
7 for the assessment level, but how we teach has to be to
8 those with potentially the least amount of skill, the
9 least amount of knowledge, the least amount of
10 coordination, et cetera. And at times that can kind of
11 hold others who are more proficient back a bit.

12 But as far as the assessment is concerned, you look
13 at your aims and your learning outcomes of your training
14 event, and an assessment should be how are you going
15 to -- how you -- how can you judge if those officers
16 have met those aims and learning outcomes.

17 So if you are going to teach someone how to,
18 suppose, use a baton, one of your -- that would be one
19 of your learning outcomes: at the end of this training
20 you will be able to strike with a baton, your assessment
21 has to be something that's related to that learning
22 outcome. So your assessment could be you have them
23 stand up and you watch them demonstrate baton use.

24 Q. Right. Then as we move on to page 23, you talk about:

25 "Many of the techniques are overly complicated and

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1 have never been used operationally:

2 "The programme is not sufficiently operationally
3 relevant ... insufficient time ... to learn ... core
4 techniques ... not enough emphasis placed on the
5 techniques that are used most frequently.

6 "... no vehicle techniques (vehicle
7 removal/placing/removing suspects from vehicles/dealing
8 with suspects ...)."

9 Would that include using a vehicle as a means of
10 creating distance between covering yourself or
11 protecting yourself?

12 A. No.

13 Q. No.

14 A. Not in this context, no.

15 Q. No. And then you talk about the most important aspects,
16 and say that:

17 "Although there are disparities ... the following
18 are standard approaches."

19 And you give those details, if we move down the
20 page. It's:

21 "All [of them] have a 1:8 trainer student ratio.

22 "[They all] deliver OST theory as per the ...
23 Tulliallan manual."

24 And:

25 "The majority of basic techniques are taught

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1 similarly."

2 If not exactly the same.

3 You made contact with the health and safety and
4 professional standards department, but there were no
5 statistics available on officer assaults or complaints
6 in relation to use of force. And you said:

7 "It is strongly felt that OST is given a low
8 priority, not only by many Senior Officers but
9 Divisional Officers also."

10 And:

11 "No other area within the training function, trains
12 every Police Officer ... and [other] Staff ... initially
13 and annually [and] with most [officers using these]
14 skills many times per day."

15 So that's really what we're talking about here,
16 isn't it? It's every single police officer who is sent
17 out to deal with the public will have had some sort of
18 OST training, and they will be using that every single
19 time they're out on shift?

20 A. Yes, the likelihood is high, yes.

21 Q. Yes. And then I think on page 24 you talk about:

22 "The risk[s] to the Public, Staff and the
23 Organisation ... if OST is not properly applied."

24 And you focus there on "keeping people safe". You
25 put that in quotation marks, speech marks. What's

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1 "keeping people safe"?

2 A. So that was -- and it's not a motto, but that was the
3 corporate ...

4 Q. Brand?

5 A. Brand, yes. That was Police Scotland's aim or
6 objective.

7 Q. Right.

8 A. Yes.

9 Q. And you talk about:

10 "... the importance of OST must be raised and the
11 possible risks to the Public, it's Staff and the
12 Organisation of incorrectly and poorly applied officer
13 safety training must be mitigated."

14 So you recognise that risk in this review?

15 A. Yes.

16 Q. And then you detail your recommendations, of which there
17 are 28?

18 A. Yes.

19 Q. And the Chair will be able to look through those in
20 detail. Again, I think there's an emphasis on you would
21 like to achieve standardisation, you would like to bring
22 the administration and the paperwork into a consistent
23 approach across Scotland.

24 Can we look at recommendation 3, please, and you
25 talk specifically about:

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1 "Following training evaluation, programme design,
2 and agreement to implement supporting processes the
3 national 'Use of Force' SOP and Officer Safety SOP be
4 reviewed and updated to ensure standardisation of
5 approach and a current point of reference for all Police
6 Scotland employees."

7 And I'm interested in the relationship between what
8 we've heard are standard operating procedures, of which
9 there are many in the police, and the actual training
10 manual. Was that something you felt that needed to be
11 improved, the consistency between the two of those?

12 A. So standard operating procedure should only provide
13 direct instruction, and any information that's contained
14 elsewhere shouldn't really have been in the standard
15 operating procedure.

16 So what we found, when I reviewed the use of force
17 SOP, I found that the existing SOP was -- contained
18 loads and loads from the manual, which shouldn't be in
19 there, because the SOP is about direct instruction
20 round about policies, procedures, et cetera.

21 So anything that's contained within the training
22 manual shouldn't really have been in the SOP, and
23 I think that's a misconception round about SOPs and that
24 they should have every piece of information available.
25 But if that information is contained elsewhere and

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1 that's a more appropriate place for it to be, then
2 that's where it should be.

3 So if it relates to training, then it shouldn't
4 really be in the SOP; it should be in the training
5 manual.

6 Q. So did you want to rationalise the SOP for use of force
7 and the manual so that the training information was in
8 the manual, the direct instructions were in the use of
9 force SOP?

10 A. Yes. With links.

11 Q. With links?

12 A. Yes.

13 Q. And would that then become available to officers on the
14 intranet?

15 A. That's correct, yes.

16 Q. Was the use of force SOP already available to officers
17 on the intranet at that time?

18 A. I would imagine it would be but I couldn't say for
19 definite.

20 Q. All right. Thank you.

21 Then we see a recommendation 4. You talk about
22 there should be:

23 "National guidance on [use of force] forms [and that
24 should be] introduced."

25 Was that to improve the situation which you had

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1 discovered about effectively the lack of use of force
2 forms that you were able to recover?

3 A. Yes.

4 Q. And then recommendation 5:

5 "A more operationally relevant, focused approach is
6 implemented into OST."

7 And what was your intention by recommending this?

8 A. So that's when I wanted to introduce more around
9 scenario-based training, de-escalation, conflict
10 resolution, dealing with vulnerable people, and tactics.
11 And I know that's a lot in two lines of
12 a recommendation, but that was always meant to be once
13 we had our policies, our procedures, our standardisation
14 and consistency in place, then we would look at, you
15 know, some potentially radical improvements, as we
16 hoped, to the programme.

17 Q. And did you feel that those skills, de-escalation,
18 communication, would be more operationally relevant for
19 officers?

20 A. Absolutely.

21 Q. Looking at recommendation 6, I'm interested in the final
22 line of that as we go down. It says:

23 "This new programme will then be subject to
24 an Equality Impact Assessment."

25 It's just the last line of that. You say in your

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1 statement to the Inquiry no one had told you there
2 needed to be an equality impact assessment done. Can
3 you tell us a little bit more about that?

4 A. So the equality -- the advice and the information I got
5 was that an equality impact assessment should only be
6 done in relation to a policy or an SOP, and I have to
7 admit I was very naïve in my understanding of equality
8 impact assessments back then, and the only reason that
9 I undertook an equality impact assessment was because
10 I was directed to because I had reviewed the use of
11 force SOP.

12 So the use of force SOP required an EQA, an EHRIA or
13 an EIA, which I didn't realise had to include the
14 programme as well. And once I got that guidance, then
15 we could move forward with the EIA. But that took
16 a while for me to get my understanding to a level where
17 it should have been.

18 Q. How did you ultimately get that understanding?

19 A. I contacted the Equality and Diversity Unit, and,
20 I suppose received a crash course in how to complete and
21 undertake an EIA.

22 Q. When you say you contacted them, was that sort of
23 proactive steps that you took to find out more?

24 A. Yes.

25 Q. Had you been offered that assistance previously?

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1 A. No.

2 Q. Right.

3 Let's look, please, at recommendation 10. I think
4 one of the -- this suggests you say:

5 "It is proposed that a DVD be produced showing the
6 teaching of all techniques, with a breakdown of
7 component parts of the techniques."

8 Was this something you thought would improve the
9 training if there were actual consistent -- well, videos
10 that could be played?

11 A. Yes. What we found was that at times some of the
12 divisional instructors may only be delivering four or
13 five courses throughout the year, so they experienced
14 a similar skill fade to the students. And I was in
15 regular contact with many instructors who would tell me
16 that they were quite nervous about coming back and
17 delivering an OST course because of the passage of time
18 between when they delivered it the last time.

19 So I intended to produce a DVD which would show how
20 those techniques should be delivered, how they should be
21 taught, and that would aid -- as a, you know,
22 an aide-mémoire for the instructors when it was time for
23 them to come back and deliver the refresher training.

24 Q. Thank you. And without going through all of the
25 recommendations in turn, I think many talk about how you

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1 would like to see consistency achieved, standardisation,
2 improved training for trainers, improved engagement
3 generally with the training, and prioritising the
4 training, assessing whether it had been done well and
5 whether officers had engaged fully with it.

6 A. Yes.

7 Q. Is that a fair summary --

8 A. Yes.

9 Q. -- of your recommendations? Thank you. And they're all
10 listed with the appendices at the rear of this review.

11 I was going to briefly go back and just ask -- I had
12 touched on some of the organisations or groups that
13 arose -- arising out of your review, and I am interested
14 in moving on to what happened after you completed your
15 review. But if we could just complete the reference to
16 the groups that you were on. We'd touched on the Use of
17 Force Monitoring Group and you explained that this arose
18 after the review.

19 A. Yes.

20 Q. So could you tell us a little about that group and what
21 its purpose -- what was it designed to achieve?

22 A. So the Use of Force Monitoring Group came from the
23 OST -- the Officer Safety Training Monitoring Group, and
24 for me it was imperative that we had that formalised,
25 visible governance structure in place, that

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1 decision-making ability, to provide scrutiny to the
2 programme, to bring in stakeholders, partners within
3 an organisation who could advise, you know, and make the
4 product the best it could be. So that collective,
5 I suppose, views and opinions and things I would maybe
6 never have considered.

7 But also within the police it gives that top cover,
8 it gives that approval process, so that -- and then that
9 decision-making process, and I think that's kind of the
10 main terms of reference of that group was to provide
11 that governance structure, that decision-making process
12 in relation to changes, in relation to issues or
13 challenges that were identified.

14 MS GRAHAME: Well, I would like to ask you some further
15 questions about the work that they did. I'm conscious
16 of the time now.

17 LORD BRACADALE: Yes, well, we'll stop for lunch until
18 2 o'clock.

19 MS GRAHAME: Thank you.

20 (1.00 pm)

21 (The short adjournment)

22 (2.01 pm)

23 LORD BRACADALE: Yes, Ms Grahame.

24 MS GRAHAME: Thank you very much.

25 Just before lunch I was asking you about the Use of

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1 Force Monitoring Group, and there's a couple of things
2 I'd like to just clarify with you in relation to them
3 and the work that they were doing.

4 Could I ask you to look, first of all, at -- well,
5 let me remind you, first of all, about some evidence you
6 gave last November, so 22 November last year, and I had
7 asked you about collating data, and you said:

8 "Answer: As far as our data was concerned, we
9 hadn't identified any disproportionality in relation to
10 the use of force. As a matter of fact, the only
11 disproportionality I think we identified was against
12 males, because males I think -- I think there was
13 a higher proportion of use of force against males."

14 Now, I don't know if you remember that, but there
15 was a passage of evidence where I was asking you if
16 there was data that we could maybe try and recover, and
17 you had been telling me about the equality impact
18 assessment, the review that you were doing, and you said
19 you hadn't identified any disproportionality in relation
20 to the use of force. That was in relation to black men
21 compared to white men, if I can put it as bluntly as
22 that.

23 Now, in paragraph 51 of your up-to-date Inquiry
24 statement, which is SBPI00362, can I just look at one of
25 the comments you make there. And if we can look at

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1 paragraph 51, and at paragraph 50 you had been talking
2 about the Use of Force Monitoring Group, and asked about
3 whether they were monitoring use of force in terms of
4 whether it was proportionate or disproportionate against
5 people from certain racial or ethnic minority
6 backgrounds, and what you say there is:

7 "At that time, we had no idea who we were using
8 force on, so we didn't know at that time if our use of
9 force was disproportionate against people from minority
10 ethnic groups."

11 Can you just clarify for me, last year you were
12 saying: well, there wasn't any. This year, you've told
13 us earlier today about the small number of use of force
14 forms you were able to recover on SCOPE, and then you
15 said here you didn't know if your use of force was
16 disproportionate.

17 Can you tie all of that together for me?

18 A. So if -- what I'm referring to in paragraph 51 is before
19 I had updated and introduced the new use of force forms.
20 So post-2000 and whenever -- so what I was referring to
21 in my previous evidence was, I think, post-2018, when we
22 had a year's worth of data from the new use of force
23 form, which captured ethnicity.

24 So, prior to 2017 or 2018, I think, the old use of
25 force form, even though it was on SCOPE, didn't capture

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1 ethnicity, and that for me was a massive risk, or
2 a massive omission. So I updated the use of force form
3 so that we could capture age, ethnicity, et cetera.

4 So the dataset I was referring to when we said, or
5 when I said that we hadn't identified any
6 disproportionality was a year from when we had
7 introduced the new use of force form.

8 Q. Do you remember when that new use of force form was
9 introduced?

10 A. I think it's 2017, 2018 maybe, I can't remember exactly.

11 Q. So the forms that we've been talking about today were
12 ones that you recovered between 1 December 2014 and
13 1 March 2015?

14 A. Yes.

15 Q. And you've explained that at that time some use of force
16 forms went on to SCOPE but there were certain forces
17 weren't putting them on SCOPE.

18 A. Yes.

19 Q. And it was only later that the use of force form was
20 altered by you to include ethnicity, and that then
21 allowed you to build up some forms and some data to
22 allow you to form a view?

23 A. Yes.

24 Q. All right, thank you.

25 Can I ask you about -- I mentioned earlier the

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1 liaison that you did between the NHS and Police
2 Scotland.

3 A. Yes.

4 Q. And you explained to me that was after your review. So
5 can we maybe just go back to that for a moment.

6 I'm particularly interested -- you said that you liaised
7 with partners, and the NHS was one of them.

8 I'm interested in the work that you did with the liaison
9 group involving Dr Stevenson; do you remember
10 Dr Stevenson?

11 A. Yes.

12 Q. Right. You've given some information in your statement,
13 and we'll hopefully hear from Dr Stevenson next week,
14 but can you remember what was it that Dr Stevenson did
15 for Police Scotland? When, as a result of your review
16 you starting liaising, what role did he have?

17 A. So initially Dr Stevenson -- well, still is -- was
18 a consultant in accident and emergency medicine -- or
19 emergency medicine at Glasgow Royal Infirmary at that
20 time. Dr Stevenson, I believe had involvement with
21 legacy Strathclyde police in some sort of medical
22 advisory capacity, and I know his name was mentioned in
23 that capacity to me previously.

24 I was asked to sit on a group looking at the
25 management of persons under the influence of new

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1 psychoactive substances in a custody environment from
2 an officer safety/use of force perspective, and
3 Dr Stevenson was on that group. I became aware of his
4 work round about acute behavioural disturbance which
5 I was extremely interested in. We made contact, and
6 from thereon we -- I attended a number of presentations
7 delivered by him, a number of seminars, and I then
8 visited the College of Policing because they were
9 putting together a national acute behavioural
10 disturbance training package that I was interested in.

11 I then, on the back of that work, developed our
12 training package and had Dr Stevenson, I suppose,
13 clinically assure that, to make sure it was accurate.

14 I had raised to my senior management that I was
15 concerned regards to the provenance of the previous
16 manual, the 2013 manual, of the provenance and the
17 medical, I suppose, accuracy, or the accuracy of the
18 medical information contained within that manual, and
19 had it ever been clinically assured, to which I was told
20 no, they didn't think so.

21 So for me a priority was to ensure that any medical
22 information we were providing in our manual was
23 clinically assured, accurate, current. So I -- that's
24 when I proposed the creation of a clinical governance
25 group, primarily to clinically assure what we were

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1 delivering within OST training, but obviously that had
2 maybe a wider reach into other aspects of police first
3 aid training, public order medic training, et cetera.
4 So I raised that issue with my executive lead.

5 I think we approached a couple of medical
6 professionals to see if they would undertake the role as
7 an independent clinical advisor, to which it was awarded
8 to Dr Stevenson. And then after that, Dr Stevenson
9 reviewed the medical implications section of our manual
10 to ensure that it was clinically assured.

11 Q. I was going to ask you that. So the Chair will see in
12 module 1, use of force, in the 2013 manual there's
13 a section on medical implications and that was the
14 section that Dr Stevenson looked at?

15 A. In the~...?

16 Q. 2013 manual?

17 A. No, that was the 2016 manual.

18 Q. Oh, sorry, it was only the 2016 -- has he ever looked at
19 the 2013 manual?

20 A. Not to my knowledge. He may have, but I don't think it
21 was directed by myself, no.

22 Q. Not as part of your liaison with him?

23 A. No.

24 Q. So he only became involved with that work in relation to
25 the 2016 manual?

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- 1 A. As far as I remember, yes.
- 2 Q. And that would be a chain -- did that cause the manual
3 to be amended or changed in medical matters, as a result
4 of Dr Stevenson's input?
- 5 A. I think there were some slight changes to the acute
6 behaviour disturbance section, as suggested by
7 Dr Stevenson. I don't recall any major changes to the
8 medical implications sections as a result of his review.
- 9 Q. Did he review the 2016 PowerPoint at all?
- 10 A. I may have provided him with that, but I don't think so
11 because the PowerPoint is a straight lift from the core
12 reference document, which is the manual.
- 13 Q. Right. And is there any -- did you keep any record or
14 audit trail of the advice that Dr Stevenson gave to
15 Police Scotland?
- 16 A. Yes, it was in the version control log for the manual.
- 17 Q. The version control?
- 18 A. Yes. So any changes to the manual was version
19 controlled, why those changes were included, who they
20 were advised by, so that was in the version control
21 change.
- 22 Q. And do you remember which version in the 2016 manual
23 reflected the involvement of Dr Stevenson?
- 24 A. I couldn't say now, no, sorry.
- 25 Q. All right. Thank you. Was he the -- you've said that

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- 1 he was a consultant in accident and emergency. Was
2 there any other consultant or specialist medical
3 professional involved, or was it just Dr Stevenson?
- 4 A. On the clinical governance group there was Dr Stevenson
5 and then the force medical advisor, who is employed by
6 the police.
- 7 Q. Right. So no other external consultants engaged?
- 8 A. Not that I'm aware, because I don't think I ever have --
9 although it was my proposal, I don't think I ever sat on
10 it. I think I moved prior to it coming into operation.
- 11 Q. So you never sat on the clinical governance group, as
12 such?
- 13 A. Not that I recall.
- 14 Q. Thank you. And you mentioned the force medical advisor.
15 Do you remember who that was?
- 16 A. I can't remember her name. It's Dr Sandy somebody~...
- 17 Q. So it wasn't a role that Dr Stevenson also carried out?
18 It was --
- 19 A. No, I think for clinical governance to be able to stand
20 up to scrutiny, you have to have more than one doctor on
21 the panel, so that if medical advice is provided there's
22 another doctor there to either corroborate that advice
23 as being accurate or to, I suppose, challenge that
24 advice.
- 25 Q. Do you remember if the other force medical advisor was

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1 in another -- a role similar to Dr Stevenson or
2 a different --

3 A. I think she was the force doctor. I think she was the
4 head -- you know, the occupational health doctor,
5 I think.

6 Q. Thank you. Can I ask you again about something we
7 touched on earlier, the equality impact assessment for
8 use of force, and you've spoken about that before lunch.
9 Again, I would like you to perhaps clear something up
10 for me. Could I ask you to look at PS12083, please.
11 And you'll see that this is, "Equality impact
12 assessment, summary of results", and it relates to the
13 use of force SOP.

14 Did you have a hand in the preparation of this, or
15 working towards completing it? This is dated --

16 A. 2016.

17 Q. -- January 2016.

18 A. Yes, this would be the one I wrote, yes.

19 Q. The one you wrote. And can we have a look at this, if
20 we just move down the page, please. And it says:

21 "The aim of this Procedure is to provide police
22 officers ... with policy and guidance around Police
23 Scotland's criteria for the use of force, wearing of PPE
24 and policy in relation to mandatory operational safety
25 training requirements~..."

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1 And then there's, "Summary of analysis and
2 decisions", and if we can move down the page it details:

3 "Highlighted the need for a proportionate response
4 to dealing with persons with mental health issues and
5 the use of effective de-escalation techniques and the
6 need for sharing practice and working together with
7 partners.

8 "All of the above will be incorporated into the new
9 OST programme which supports this SOP."

10 So this related to the actual use of force SOP, but
11 it seems to be saying that particular provisions make --
12 providing a proportionate response to dealing with
13 people with mental health issues was going to be
14 incorporated into the programme?

15 A. Yes.

16 Q. And that would be the 2016 programme?

17 A. Yes.

18 Q. Was this to align both the SOP and the 2016 programme?

19 A. Yes. So the SOP obviously required significant review
20 and change, but because the training programme is part
21 of use of force SOP, if that makes sense, then
22 consideration around the equality impact of the
23 programme has to be included.

24 Q. Right. And then we see at the bottom of that table
25 there:

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1 "Further guidance was provided in relation to
2 cultural issues surrounding search."

3 And:

4 "Use of force monitoring did not cover protected
5 characteristics."

6 At that time --

7 A. Yes.

8 Q. -- when this was prepared?

9 A. Yes.

10 Q. And can we move down, please? Keep going. And so that
11 is the form, or that summarises the assessment that was
12 being carried out by you?

13 A. Yes, that summarises the full equality impact
14 assessment, yes.

15 Q. Tell us what you had to do to complete that form,
16 please.

17 A. So the basis of the equality impact assessment is to
18 look at a procedure or a practice and identify the
19 potential implications of that procedure or practice on
20 to protected characteristics with regards to the
21 Equality Act. So we have to look at the -- what our
22 policies are, what our procedures are, what our training
23 is, and then identify and assess the impact of that on
24 the protected characteristics as outlined in the
25 Equality Act.

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1 And then they, as I say, identify what potentially
2 needs to be within their policy or practice to ensure it
3 is compliant, what should be within your training to
4 ensure that you can try and mitigate those implications,
5 and minimise the effect of those, policy and practice.

6 Q. So this relates specifically to the use of force SOP.
7 I think earlier you said there's a link to the training
8 in relation to the SOP. They're both to be aligned in
9 relation to use of force. And here it's saying use of
10 force monitoring didn't cover protected characteristics?

11 A. It didn't.

12 Q. Sorry, did not?

13 A. Protected data, no.

14 Q. Does that cover both the training programme as well as
15 the use of force SOP?

16 A. Yes.

17 Q. And where it says:

18 "Further guidance was provided in relation to
19 cultural issues surrounding search."

20 Again, are those areas that have been identified
21 that are not included, that further guidance is
22 required?

23 A. So further guidance -- it was identified that further
24 guidance was required and further guidance was provided
25 in this version of the manual.

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- 1 Q. And then in the paragraph above that, it says:
- 2 "It has been identified that more guidance will
- 3 require to be provided in relation to mental
- 4 health/disability issues surrounding search/tactical
- 5 communications/arrest. Full consultation was carried
- 6 out with partners to provide appropriate guidance in
- 7 respect of mental health and disability issues
- 8 surrounding tactical communications/arrest/search. OST
- 9 manual and guidance documents were sent to Police
- 10 Scotland mental health training, Safer Communities E&D
- 11 for review and guidance. This guidance which will be
- 12 incorporated into the new OST manual."
- 13 So is this arising out of your review and the
- 14 recommendations that you put in place?
- 15 A. Partly, but it's also -- it's arising from the issues
- 16 that we identified within the equality impact
- 17 assessment.
- 18 Q. Right. So they could stand alone, your review and the
- 19 equality impact assessment, but to some extent they've
- 20 both identified issues that you had identified?
- 21 A. Yes.
- 22 Q. You gave evidence last year, and indicated that race
- 23 should be completely disregarded in terms of the
- 24 National Decision-Making Model and risk assessment. I'd
- 25 like to go back over that and make sure I've got your

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1 complete answer there, because it would appear that you
2 are considering protected characteristics when you are
3 looking at an assessment of the manual and the SOP.

4 So can I just be exactly clear what you mean when
5 you said last year it shouldn't be part of it but it
6 does now appear to be part of it?

7 A. So I think I was referring to -- at that time the
8 guidance that we got from Equality and Diversity was
9 that -- and again, this was I suppose a standard --
10 a standard position that I got from the other forces as
11 well, was that, like, race is not a consideration when
12 using force in respect of it should be based on threat
13 and risk. So all use of force should be based on threat
14 and risk.

15 I think back then that was slightly, maybe,
16 a misplaced or naïve position, because threat and risk
17 can also involve protected characteristics and protected
18 characteristics can have an impact on how officers can
19 identify threat and risk, and I think that was something
20 that was missing back then when I did that equality
21 impact assessment.

22 Subsequent equality impact assessments have captured
23 that, and have identified that. And again, that's from
24 looking at evidence, from getting further advice from
25 Equality and Diversity, and that whilst, yes, use of

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1 force should be based on the threat and risk posed by
2 that individual to themselves or others, that can be
3 impacted on by -- you know, by disability, by race. So
4 we needed to look, I suppose, further into that, which
5 we did in future equality impact assessments.

6 Q. So we've heard some evidence about race in the Inquiry
7 and we hope to hear more evidence next year. And we may
8 have heard about a concept called "colour-blindness"
9 where it may be suggested that it's artificial to simply
10 ignore race and the impact of race.

11 A. Yes.

12 Q. And I think, as I understand the thinking, it has moved
13 on from the idea that you can simply ignore that?

14 A. Yes.

15 Q. So now would you say that there is a recognition that
16 race can be a factor, or the perception of race can be
17 a factor?

18 A. Absolutely. If I think back to that EIA from seven,
19 eight years ago, I don't think -- if my memory serves me
20 right, there's no reference to confirmation bias,
21 unconscious bias, et cetera, and so -- and aspects such
22 as that. So when I have written subsequent EIAs, or as
23 they are now called equality and human rights impact
24 assessments, and the current one for taser, which
25 I wrote -- I think it's something like 44 pages long --

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1 makes significant reference to the impact to -- on race,
2 yes.

3 Q. And is part of that recognition of race and the impact
4 that race or perceived race may have on the actions of
5 officers something that is now recognised as part of the
6 training?

7 A. I can't say what training is delivered in respect of
8 that from an OST perspective. But definitely from my
9 own perspective at the minute, and taser, then
10 absolutely, yes.

11 Q. We may hear more evidence about the current training
12 programme later in this hearing.

13 A. Yes.

14 Q. Thank you.

15 I think the impact assessment PS12134, if we could
16 have that on the screen, please, and you'll see that
17 this is an equality and human rights impact assessment.
18 It relates to the national initial operational safety
19 training programme manual. Was this another assessment
20 that you had some involvement in?

21 A. I mean, it looks like the one I wrote, but I'd have to
22 see the signature and --

23 Q. Do you want to move down to the end --

24 A. Is that okay?

25 Q. -- and we'll see ...

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1 A. I've written a few, so ...

2 Q. Right. I think there's appendices at the back. It may
3 be -- sorry, I've not got the page number. Keep going
4 up.

5 A. Yes, so this is mine from June.

6 Q. I think we missed a page where your name was mentioned.

7 A. Yes.

8 Q. Keep going, please.

9 "9. Management log."

10 The name and designation is given as J Young?

11 A. Yes.

12 Q. And you are James Young. Would that be you, then?

13 A. Yes, this is me.

14 Q. So it says 6 June, 2016. Would that have been you that
15 was involved in this?

16 A. Yes.

17 Q. Thank you. Can we go, sorry, I don't have the page
18 number, I'm looking for the reference -- oh, page 14.
19 Page 14. I do have the number. I think it says
20 Article 14 at the bottom of that page, I saw it a moment
21 ago:

22 "Prohibition of discrimination."

23 And there's a reference there to it being, "Not
24 applicable". Can I ask why it's not applicable?

25 A. I can't answer that. It's obviously what's been written

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1 at the time, and, as I say, we've moved on since then,
2 but~...

3 Q. Right. All right. Thank you very much.

4 Thinking about events after the review, so your
5 review was dated in April 2015, and we've been hearing
6 about the incident in Hayfield Road on 3 May 2015. So
7 that was the month after your review. Can you help me
8 with whether that had any impact, the death of Mr Bayoh,
9 had any impact on the work you'd been doing with regard
10 to reviewing the manual and trying to improve the
11 training that was given to officers?

12 A. No. I wasn't even made aware -- you know, through my
13 role, I was never officially notified of the incident.
14 I became aware of the incident through the media. I was
15 never asked to do any sort of work because of his death.
16 I didn't -- because I was unaware of the circumstances,
17 it didn't impact my work at all. For me this work had
18 been in the pipeline, and where I wanted us to be, or
19 where I thought we should be, was in the pipeline
20 before -- before that date.

21 Q. I'm wondering if there were any processes or procedures
22 which involved a lessons learned, either a group or
23 a process that may have reflected on training and issues
24 to do with training that you might have become involved
25 in?

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- 1 A. I wasn't involved in anything like that, no.
- 2 Q. Nothing. Were you ever asked to look at training issues
3 or investigate training issues that may have arisen out
4 of the incident at Hayfield Road?
- 5 A. No.
- 6 Q. There's information available to the Chair which
7 indicates that there are documents that can be prepared
8 by Police Scotland called training needs analysis
9 documents. Have you heard of one of them?
- 10 A. Yes.
- 11 Q. Could you explain what they are?
- 12 A. So a training needs analysis document is when a business
13 area identifies a requirement, whether it be a gap in
14 knowledge or a gap in processes or procedures, that
15 requires to be filled by a training event or a training
16 course or ... So the person identifying that training
17 need will conduct and submit a training needs analysis
18 which will outline the reasons why that training is
19 required, what training is required, and what it needs
20 to achieve.
- 21 Q. Who would do a training needs analysis?
- 22 A. So it would be the business area that requires that
23 training.
- 24 Q. When you say "the business area", if we're talking about
25 Fife Constabulary, as it was at one time, or officers in

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- 1 Kirkcaldy~...?
- 2 A. I think -- are we talking about then or --
- 3 Q. Yes.
- 4 A. -- now?
- 5 Q. In 2015 --
- 6 A. In 2015.
- 7 Q. -- after the death of Mr Bayoh, who would it have been
8 that might have considered a training needs analysis to
9 be carried out?
- 10 A. In specific respect to the incident?
- 11 Q. Well, which department, which rank of officer? Have you
12 any~...?
- 13 A. No, it can be -- a training need analysis can be
14 initiated by a number of different people.
- 15 Q. Right.
- 16 A. It could be department heads or it could be executive
17 leads, or it could be people who work in a specific
18 department. So~...
- 19 Q. Individual officers?
- 20 A. Individual officers.
- 21 Q. And if they had identified a training need, would they
22 simply embark on a needs analysis or would they speak to
23 a senior officer about doing one, or is there
24 a department they would go to?
- 25 A. So I think all training needs analyses have to be

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1 submitted to the training leadership and development
2 department.

3 Q. Right.

4 A. And they would then assess that training needs analysis,
5 in respect of is it achievable, resource, financial
6 implications, what's required to deliver that training.

7 So I believe they are ultimately responsible for
8 approving that training event.

9 Q. And as far as you know, round about 2015, could they
10 embark on an assessment of training needs themselves
11 proactively without some sort of request from
12 an individual or a department?

13 A. I don't think --

14 Q. You don't know?

15 A. I don't think I can answer that, no, I wouldn't know.

16 Q. No, that's fine.

17 As part of your role as head of OST were you ever
18 asked to be involved in an analysis of training needs?

19 A. No.

20 Q. Has that ever been part of that role, as far as you
21 know?

22 A. I've never been requested to do it. So, I mean,
23 I suppose if I was requested to conduct a further review
24 of OST training provision, then it would be my
25 responsibility and my remit. But I was never requested

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1 to do it. The improvements that we were making was from
2 our own knowledge.

3 Q. So if the department, TLD, have received a request and
4 an analysis is carried out, and they identify from that
5 training needs analysis that particular training is
6 required, either by an individual or in relation to
7 a particular area or anything like that, how would they
8 then go about implementing the recommendation that that
9 needs analysis had come up with?

10 A. So if -- I think there would be a number of either
11 committees or government structures -- governance
12 structures that would have to go through, I believe. It
13 would probably, first of all, have to be approved by the
14 head of TLD and thereafter I assume it would go to
15 an executive lead who would then approve that training
16 in cognisance of financial resource implications, a more
17 strategic -- a more strategic view on that.

18 Q. I suppose I'm trying to understand why you, as head of
19 training, wouldn't be involved in that at all. Is it
20 just seen as a completely different department from you?

21 A. Sorry, I'm not understanding.

22 Q. So they are trying to identify training needs, and
23 you're the head of a department who provides training.

24 A. Yes.

25 Q. Would it not make sense for you to be communicating if

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1 there's training needs out there, either so you can find
2 out that there's a big gap that's been identified or you
3 can find out that something more needs to be done in
4 relation to current training. But if nobody is talking
5 to you and communicating with you about it, there could
6 be problems that are being identified by TLD and you're
7 in the dark?

8 A. Yes, I mean, I suppose nothing ever came down to way to
9 me to say: I want you to look at this, or: we have
10 identified that and can you, you know, put a training
11 event together to fill that training gap. Everything
12 always came up the way, you know, it came from us. It
13 was ourselves that identified through our own research,
14 through our own work, that these were in my view the
15 challenges and issues we faced with operational safety,
16 and I would then put them up the way for approval. But
17 nothing ever came down to me, no.

18 Q. Right. Can I ask specifically in relation to training
19 needs analysis documents, in what circumstances would
20 they be prepared and created. Can you give any
21 examples?

22 A. So, for instance, I would imagine changes to
23 legislation, it may need -- significant changes to
24 legislation, it may need a significant amount of
25 training for officers to ensure they're compliant with

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1 that legislation.

2 Again, post-incident reviews, and lessons learned
3 would -- is one that I think would require a training
4 needs analysis for that. Potentially during, like,
5 cyclic reviews of business areas and the training
6 that's, you know, maybe through annual reviews, maybe
7 through reviews that haven't been conducted for a while
8 and we've been delivering a training event for many
9 years, that may be outdated. So a training needs
10 analysis would be submitted to allow that training to be
11 updated.

12 Q. So in terms of post-incident review, it would have been
13 possible for a training needs analysis to be carried out
14 after Mr Bayoh died?

15 A. Yes, I mean I wouldn't see any reason why it couldn't
16 be.

17 Q. And had you been asked to assist in any way or
18 contribute in any way to that, would that have been
19 something you could have done?

20 A. Yes.

21 Q. But you were never asked to do anything like that?

22 A. No.

23 Q. I'd like to move on to another document please, "Guiding
24 principles on use of force", SBPI00356, and this is
25 a document dated March 2016, so almost a year after

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1 Mr Bayoh died, and it's a document prepared by a group
2 called the Police Executive Research Forum, or PERF for
3 short, and the forum are an American organisation.
4 I think we can go -- if we go to page 121, there's
5 an explanation of who PERF are. And it's page 121.

6 Right, we don't seem to have it here, I'll read out
7 what I have. They are an independent research
8 organisation that focuses on critical issues in
9 policing, and it was founded in 1976, and it identifies
10 best practices on fundamental issues such as reducing
11 police use of force. And they're based -- it's
12 an American organisation.

13 A. Yes.

14 Q. Thank you. I'd like to ask you some questions about
15 this. Could we go back to the beginning, please. And
16 keep going. If we go down to page 1, which is
17 "Acknowledgments", further down, please. Keep going.

18 Right, stop there, so that is effectively what is
19 page 1 of this document, but it will be a different page
20 number on the pdf, and it says:

21 "This report, the 30th in PERF's Critical Issues in
22 Policing series, represents the culmination of 18 months
23 of research, fieldwork, and national discussions on
24 police use of force, especially in situations involving
25 persons with mental illness and cases where subjects do

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1 not have firearms."

2 And I think at that time the Americans were quite
3 interested in how people manage a subject when the
4 officers don't have firearms.

5 A. Yes.

6 Q. Because in America obviously they all have firearms --

7 A. Yes.

8 Q. -- whereas that's quite unusual in Scotland.

9 A. Yes.

10 Q. And if we could have a look on page 2, which is the next
11 page in the document, and it says:

12 "In November 2015, Police Scotland hosted
13 a delegation of police chiefs and other high-ranking
14 officials from nearly two dozen American police
15 agencies, for four days of training demonstrations,
16 presentations, and candid discussions. In addition,
17 Police Scotland sent representatives to Washington, DC,
18 where they provided information and perspectives as we
19 developed the framework for our January 29 national
20 conference which is summarised in this report. Whilst
21 the cultures and crime problems of our two countries are
22 different in certain ways, we share many of the same
23 challenges, and we have learned a great deal from each
24 another."

25 So it was a sharing of experiences and ideas --

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1 A. Yes.

2 Q. -- with the Americans. And then there was a recognition
3 of Sir Stephen House, who was then the Chief Constable
4 of Police Scotland, and they've named a number of
5 people, including other forces in the UK who were
6 present, and they mention -- specifically they mention
7 the Assistant Chief Constable Bernard Higgins, and they
8 say at the end of that paragraph:

9 "The dedication and professionalism demonstrated by
10 these individuals and the entire Police Scotland team
11 were exemplary. PERF is especially indebted to
12 Bernie Higgins and to Sergeant Young~..."

13 Is that you?

14 A. Yes.

15 Q. You were a sergeant then, you are an inspector now?

16 A. Yes.

17 Q. "... who led many of the discussions in Scotland and
18 then travelled to the United States to share his
19 knowledge and experience with American colleagues."

20 Were you also in America at one point?

21 A. Yes.

22 Q. So it was you and Assistant Chief Constable Higgins?

23 A. On that occasion, yes.

24 Q. Could we move on, please, to what is page 5 of this
25 document. And it says -- keep going:

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1 "A focus on mental illness and non-gun incidents."

2 And you will see the items in bold there:

3 "We have focused especially on two types of police
4 encounters:

5 "1. With subjects who have a mental illness,
6 a developmental disability, a condition such as autism,
7 a drug addiction, or another condition that can cause
8 them to behave erratically or threateningly; and

9 "2. With subjects who either are unarmed, or are
10 armed with a knife, a baseball bat, rocks, or other
11 weapons, but not a firearm."

12 So that was the focus of their interest for the
13 purposes of --

14 A. Yes.

15 Q. -- this report. (Pause).

16 Sorry, I should have used Post-its for this
17 exercise.

18 I'd like to move on, further on to the -- and I'd
19 like to move on to a section that's called, "Lessons
20 learned from Police Scotland", and it's on page 88. So
21 it's quite far on in terms of the document. Keep going.
22 It's at page 88. Keep going, please. And there's a big
23 heading at the top that says, "Lessons learned from
24 Police Scotland". There we are. It describes how:

25 "PERF has enjoyed a strong relationship with [the]

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1 police ... in the [UK] for many years."

2 And it says in the next paragraph:

3 "In recent years, PERF has developed a particularly
4 close bond with Police Scotland. Police Scotland is a
5 unique agency. It was established in April 2013~..."

6 And it talks about the different legacy forces
7 coming together.

8 It says in the final paragraph there:

9 "In 2014, as PERF began focusing on police
10 use-of-force issues in the United States, Police
11 Scotland provided an important international
12 perspective. That year [so that would be 2014] members
13 of the PERF Board of Directors and PERF Executive
14 Director ... visited Scotland as part of an executive
15 development programme to strengthen the leadership
16 qualities of senior government officials."

17 Were you involved at that stage in 2014?

18 A. No.

19 Q. No.

20 Can we move on to, next, page 90. Keep going,
21 please. So this is page 90, thank you. And if we look
22 at the:

23 "Police Scotland at PERF's re-engineering meeting".

24 And it says:

25 "On May 7, 2015 ..."

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1 So that was a matter of days after Mr Bayoh died:

2 "... PERF convened a meeting in Washington, DC, of
3 approximately 300 police chiefs and other law
4 enforcement executives, federal government officials,
5 academic experts, and others to share their views on new
6 approaches to police use-of-force training. Because
7 police in the UK have achieved great success in reducing
8 the use of deadly force, especially in situations
9 involving persons with mental illness wielding a knife
10 or other non-firearm weapon, PERF invited two UK police
11 officials - Chief Inspector Robert Pell of the Greater
12 Manchester Police and Assistant Chief Constable Bernard
13 Higgins of Police Scotland - to participate in the
14 conference."

15 Do you remember in 2015, in around the May, if there
16 had been great success achieved by Police Scotland in
17 reducing use of deadly force?

18 A. Sorry, could you repeat that, sorry?

19 Q. It says that at this time, in May 2015:

20 "... police in the UK have achieved great success in
21 reducing the use of deadly force, especially in
22 situations involving persons with mental illness
23 wielding a knife or other non-firearm weapon~..."

24 Do you remember anything about that at the time?

25 A. No.

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1 Q. No?

2 A. No.

3 Q. From your own awareness of the use of deadly force, were
4 you aware of successes or achievements being reached
5 in May 2015 overall?

6 A. No. I mean the use of deadly force in my view is when
7 you refer to the police use of firearms, and that's
8 obviously not my -- so I don't know where this comes
9 from.

10 Q. Ah-ha, all right. It's because it also mentions "other
11 non-firearm weapon". I wondered if you had any
12 recollection of some --

13 A. No, I wasn't involved at this time, no.

14 Q. No. Right.

15 Then as we move down that page, we can see there is
16 a reference at the end of that next paragraph -- that
17 paragraph that begins:

18 "Both officials described the training, tactics, and
19 less-lethal equipment that members of their agencies use
20 when handling critical incidents that involve combative
21 individuals armed with knives, baseball bats, or other
22 non-firearm weapons."

23 And it mentions statistics there. The final
24 sentence also makes reference to Assistant Chief
25 Constable Higgins describing:

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1 "... the National Decision Model, and how their
2 officers use the model every day in a wide range of
3 incidents to assess threats and risks, consider options,
4 and develop action plans."

5 I'm quite interested in this because this is
6 a discussion in May 2015, days after Mr Bayoh's death,
7 where Assistant Chief Constable Higgins is talking about
8 the National Decision-Making Model, and the use that
9 officers in Scotland are making of that model every day,
10 and obviously we can see the manual, 2013. That's the
11 one that's in place at this time in 2015. And there is
12 reference to the National Decision-Making Model in it.

13 A. Yes.

14 Q. But there has been some question, certainly you've
15 raised, about to what extent that was being trained.

16 So we've got the manual. We've got these comments
17 being made by Assistant Chief Constable Higgins. And
18 when I took evidence from some of the officers last
19 year, and asked them to explain what they were doing as
20 they approached the incident and when they arrived, they
21 spoke about the national -- using the National
22 Decision-Making Model. So we had evidence from
23 PC Walker and PC Tomlinson specifically referring to the
24 National Decision-Making Model, and PC Paton later on
25 talking about risk assessments and suchlike. And

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1 I'm trying to understand this apparent question mark
2 over to what extent the National Decision-Making Model
3 was being trained and was being referred to in the
4 manual when officers have told us they were using it and
5 ACC Higgins is talking about it. Can you help us
6 understand that?

7 A. I mean, all I can suggest, because -- is that, going
8 back to potentially this is instructors, you know,
9 speaking about the National Decision-Making Model, as it
10 was then, through the training events. Certainly in my
11 experience I never experienced instructors discussing at
12 length or talking students through the National
13 Decision-Making Model in respect of a conventional use
14 of force incident.

15 I'm not saying it wasn't out there, because
16 obviously it was and officers may have had access to it,
17 may have had training from other aspects. But certainly
18 from my experience it was not -- it was not -- I didn't
19 see it mentioned, or trained, delivered during OST.

20 Q. You were obviously in a national role in May 2015. Did
21 you have any input into what ACC Higgins would say at
22 that meeting on 7 May?

23 A. No.

24 Q. Or help him prepare --

25 A. I wasn't aware of this.

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1 Q. You weren't aware of that?

2 A. No.

3 Q. So did your involvement with PERF come later?

4 A. Yes.

5 Q. Right. In terms of the programme, they describe this
6 from page 92 in this document. If we can move down the
7 page, please, you'll see that there's -- keep going,
8 please, it's not this page or the next -- it's the next,
9 sorry. And we'll see -- yes, here we are. So if we
10 stop there. They talk about a four-day programme where
11 they came over to Scotland, the Americans came over to
12 Scotland, and they describe it on this page, which is
13 93:

14 "Day 1: Welcome and orientation."

15 A. Yes.

16 Q. You were there for this part of it?

17 A. Yes.

18 Q. And then:

19 "Day 2: The National Decision Model, use of force
20 and tactical communications."

21 A. Yes.

22 Q. When was this delegation in Scotland?

23 A. I don't remember the exact --

24 Q. Was it November 2015, or~...?

25 A. It may have been, may have been.

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1 Q. And certainly for Day 2 the focus seems to have been:
2 "... tactics and communications for handling
3 subjects who are unarmed or have weapons such as a knife
4 or baseball bat. The sessions included classroom
5 discussions and observation of scenario-based training
6 exercises."

7 A. Yes.

8 Q. So at this stage they're talking about scenario-based
9 training exercises. I understood at this time it was
10 the 2013 manual that was in force for officers, either
11 probationers or refreshers?

12 A. Yes.

13 Q. This appears to suggest there was scenario-based
14 training at that time.

15 A. Then that's not accurate. There was no scenario-based
16 training at that time. We -- we provided, I suppose,
17 some scenarios of incidents showing the gold standard of
18 how it should be dealt with. But -- so the
19 scenario-based training exercises, I know exactly what
20 ones you're referring to, because we delivered, I think,
21 three scenarios in the drill area, the parade square, at
22 Tulliallan, and I made it explicitly clear that this is
23 not how we train at the moment; this is how we are
24 progressing towards how we're going to train, and I made
25 it explicitly clear as well that some of the stuff we

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1 were going to be talking about isn't trained on
2 a day-to-day basis at the present in Police Scotland.
3 This is the gold standard of how to -- of how to deal
4 with this type of incident without a firearms response.

5 Q. I've read through this and I don't see any reference to
6 them qualifying the demonstrations in that way, but
7 you're clear you gave -- you gave clear notice that this
8 was not the way officers were actually trained?

9 A. Yes, it was explicitly clear that that is not the way --
10 at the present that's the way officers are trained. We
11 provided mock scenarios to them, and "scenario-based
12 training exercises" isn't accurate, because it was mock
13 scenarios we provided to them, and there's a distinct
14 difference.

15 Q. Right. They then mention, "Minimum force to achieve
16 a lawful purpose", and they went back to Sir Robert Peel
17 expressing the view that:

18 "Police use physical force to the extent necessary
19 to secure observance of the law and to restore order
20 only when the exercise of persuasion, advice and warning
21 is found to be insufficient."

22 And again, the emphasis there appears to be on the
23 communication element and I think that's where you
24 wanted to go back to --

25 A. Yes.

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1 Q. -- rather than straight to use of force.

2 A. Yes.

3 Q. And they also talk about PLANE, which we've discussed.
4 And I think on page 95, which is not the next page, it's
5 the page after. Again, you're specifically mentioned,
6 "Officer safety training". Sorry, we've gone past it,
7 I think. There it is. Just go down slightly. It's
8 just under ... that's it. That's perfect. Don't move!

9 "Sergeant James Young, a 20-year police veteran, is
10 the National Lead Coordinator for Officer Safety
11 Training for Police Scotland. He described in detail
12 for the US delegation how Police Scotland delivers
13 officer safety training. He emphasised that all
14 operational skills training it provided within the
15 framework of the National Decision Model; training on
16 the NDM and on officer safety are integrated."

17 A. Yes.

18 Q. Do you think perhaps they misunderstood that this was
19 actually the future training -- the future of training,
20 and the gold standard?

21 A. Yes, that's -- because that's where we wanted to be
22 within the next six or eight months was that NDM
23 embedded training.

24 Q. And then the next page, page 96, says:

25 "All new officers in the Police Scotland College

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1 receive 40 hours of officer safety training."

2 Would that be probationers?

3 A. Yes.

4 Q. And was that correct at the time?

5 A. No, because it was 32 at that time.

6 Q. Was it increased to 40?

7 A. It was increased to 40, yes.

8 Q. Was that after the 2016 manual and the review?

9 A. I believe so, I think so.

10 Q. So that's another misapprehension, really?

11 A. Yes.

12 Q. But:

13 "... once a year, all officers must complete

14 eight hours of retraining on officer safety."

15 We talked about that earlier today.

16 A. Yes.

17 Q. I think in terms of contact time you thought that was

18 closer to six and a half?

19 A. Yes, it's not eight hours' contact time, it's a full

20 day.

21 Q. Right. And then there's a section on tactical

22 communications, and the -- as we go through that you can

23 see, "Ethical appeal", "Reasonable appeal and

24 explanation", "Personal appeal and explanation",

25 "Practical appeal and explanation", and "Action".

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1 Are these a reflection of the five positive steps?

2 So they were in the 2013 manual --

3 A. Yes.

4 Q. -- and they remained in the 2016 manual?

5 A. No. I think I took that out for the 2016 manual.

6 Q. So this element of PERF support was from the 2013
7 manual?

8 A. I mean, I can't see where they've taken it from.

9 I mean, I delivered a presentation to them where I did
10 talk about the five-step process. So --

11 Q. Can we move up the page a little, sorry, back to ethical
12 appeal number 1, and if we can just look above it,
13 I think it refers to you:

14 "Tactical communications.

15 "Sergeant Young described how communication is
16 always considered to be the first option to achieve
17 control of a situation and is used throughout any
18 encounter. He said communication is important not only
19 to de-escalate already tense encounters, but also to
20 prevent situations from escalating in the first place.

21 "In Police Scotland, officers are taught a five-step
22 Positive Style of Tactical Communications.
23 Sergeant Young explained the model in the context of
24 a person with a knife scenario."

25 And then they go on to elaborate on the five

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- 1 positive steps, the five steps.
- 2 Those were from the 2013 manual, weren't they?
- 3 A. The five steps? Yes.
- 4 Q. Yes. And you were describing how communication is
- 5 always considered to be the first option?
- 6 A. Should be, yes.
- 7 Q. So that was from the 2013 manual?
- 8 A. Yes.
- 9 Q. But that wasn't included, you said, in the 2016 manual?
- 10 A. The five-step appeal?
- 11 Q. Mm-hm.
- 12 A. No, it was removed.
- 13 Q. I'm trying to understand if -- if you're teaching them
- 14 about the 2016 gold standard --
- 15 A. Yes.
- 16 Q. -- the new programme, why are you going back to the
- 17 five-step tactical communication?
- 18 A. Because I suppose at that point I obviously hadn't
- 19 decided I was going to remove it, so it was still
- 20 current at the time when I delivered it to the American
- 21 contingent.
- 22 Q. Because the 2013 manual was still current, as far as
- 23 serving officers --
- 24 A. Yes.
- 25 Q. -- and probationers were concerned?

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1 A. Yes, that's correct.

2 Q. So it was still part of their training at that time?

3 A. Yes.

4 MS GRAHAME: I'm conscious of the time and I think I may ask
5 for a brief adjournment for the stenographer.

6 LORD BRACADALE: Yes, we will have a 15-minute adjournment
7 at this stage.

8 (3.02 pm)

9 (A short break)

10 (3.18 pm)

11 LORD BRACADALE: Ms Grahame.

12 MS GRAHAME: Thank you.

13 I think I've maybe been confusing matters, so
14 I apologise.

15 A. No, no, no.

16 Q. But I wonder, it might clear things up if we look at
17 something we looked at earlier today, PS18621, it was
18 the PowerPoint that I referred you to earlier and you
19 said that this was from the renewed 2016 programme, and
20 I also asked you to look at the previous PowerPoint, and
21 that would have been from the 2013 manual.

22 Now, this one, if we look at page 10, it also
23 contains the five-step positive style of tactical
24 communication. So it may be that the actual 2016 manual
25 didn't delete the five-step style?

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1 A. Potentially. I would need to check again.

2 Q. So it's possible it was still -- it was in the 2013
3 manual.

4 A. Yes.

5 Q. But it remained in the 2016 manual?

6 A. It's a possibility. I was getting confused potentially,
7 and I apologise for that.

8 Q. We have copies of things, we can double-check.

9 A. Thank you.

10 Q. Thank you very much.

11 Let's go back to the PERF document, if we can,
12 SBPI00356, and we were on pages 96 and 97, so quite far
13 down. And we were talking about the five-step positive
14 style, so that's pages 96 and 97, and tactical
15 communications were on page 96. Keep going. Yes, keep
16 going, please. There we are. That's the tactical
17 communications section.

18 The next page from this deals with numbers 4 and 5
19 of the positive steps, and then it comes on to a section
20 called "De-escalation", so if we can move down, please.
21 There we are "De-escalation", and it says:

22 "In conjunction with their tactical communications
23 training, Police Scotland officers are trained in other
24 de-escalation tactics."

25 And these are listed as including:

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1 "... identifying danger signs early on~..."

2 Now, that's something that we talked about in the
3 2013 manual:

4 "... (presence of weapons, signs of mental
5 instability ...), approaching the subject calmly, and
6 not mirroring the subject's aggression with aggression
7 of their own.

8 "De-escalation also involves keeping a low
9 voice~..."

10 And I think the 2013 manual talked about intonation?

11 A. Yes.

12 Q. "... and an even tone whenever possible, asking
13 open-ended questions and listening carefully to the
14 answers."

15 So these are all techniques for de-escalation. They
16 were all present in the 2013 manual, subject to the
17 evidence you've given about emphasis.

18 A. Yes.

19 Q. "By asking questions and paying attention to the
20 answers, officers may obtain key information about the
21 subject and the situation that provides a way to resolve
22 the incident. For example, an officer may be able to
23 ascertain whether a person experiencing a mental health
24 crisis has stopped taking medication. Engaging in
25 a conversation also can give officers opportunities to

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1 make a personal connection~... build trust and further
2 support de-escalation."

3 And:

4 "... officers are trained to avoid making threats or
5 sounding defensive or sarcastic."

6 So there are elements within that description of
7 de-escalation which were already present in the 2013
8 manual.

9 A. Elements, yes.

10 Q. And then you talked about tactical positioning as
11 something officers can do, and you mentioned reaction
12 gap, the distance. There's mention below in bold, if we
13 move up the page, of contact and cover. And we can
14 maybe move up the page. Thank you.

15 And, again, there's reference at the end there to
16 CUTT. On this occasion the CUTT has the extra T --

17 A. The T.

18 Q. -- which is the 2016 change that you implemented?

19 A. Yes.

20 Q. Then if we can look at that next page, there are some
21 pictures on that page. And this moves on to seeing the
22 training in action. So it says:

23 "Following the classroom discussion, the US
24 delegation witnessed how the National Decision Model and
25 the concepts of tactical communications, de-escalation

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1 and tactical positioning, as well as batons, chemical
2 spray, and personal protection shields, are applied in
3 real-life settings."

4 And:

5 "Police Scotland trainers~..."

6 That would be you included --

7 A. Yes.

8 Q. "... presented three scenarios, all based on actual
9 incidents that the agency had recently handled."

10 So were these real-life -- obviously they are
11 demonstrations, but they were based on real-life
12 scenarios?

13 A. They were from use of force forms, yes.

14 Q. So they were from forms that Police Scotland had
15 submitted on SCOPE?

16 A. Yes.

17 Q. And that would have been at a time when the 2013 manual
18 was in force?

19 A. Yes.

20 Q. So for those officers that encountered those real-life
21 situations, this would have been -- the training they
22 would have had in dealing with those real-life
23 situations, would have been up to 2013 manual training?

24 A. So as I explained, and I did explain when I introduced
25 each scenario, is that they are based on real-life

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1 situations. That didn't -- and I made it explicitly
2 clear that this is not necessarily how those officers
3 dealt with it. This is how the training will look, and
4 actually these scenarios were incorporated into the 2016
5 programme. So there is a bit of a mishmash, and that's
6 maybe where maybe some of the confusion has arisen
7 whereby some of the language that's getting used in this
8 document is referring to this is the actual training
9 that officers receive at this particular time, and
10 that's not accurate.

11 Q. With these demonstrations, did they demonstrate the same
12 outcome as the Police Scotland officers had achieved?

13 A. Yes.

14 Q. Did they demonstrate handling that matched the sort of
15 training they were getting from the 2013 manual?

16 A. No.

17 Q. So was this 2016 training?

18 A. So this was the training that subsequently came in, in
19 2016. So, as I explained earlier, the gold standard,
20 this is how we will be training. This is the gold
21 standard of how we would want these officers to deal
22 with this type of incident, and this is the training
23 that they will receive when a new programme is
24 implemented in about six or eight months' time.

25 Q. So the Police Scotland real-life officers achieved the

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1 same result as we see demonstrated here, but not in the
2 way that is demonstrated here; is that correct?

3 A. They -- yes, they remained safe, and the subject was
4 arrested. But what we did was we took -- we did a trawl
5 through use of force forms and we looked at incidents
6 where officers had been presented with a knife, where
7 there was a baseball bat, and that those incidents had
8 been successfully concluded.

9 What we were wanting to show is how that should have
10 been done, or the way that we would want that to be done
11 when the new training is introduced --

12 Q. Right.

13 A. -- if that makes sense. So potentially it maybe gives
14 a false representation, and that was never the
15 intention. But that was -- we were -- so we wanted to
16 emphasise -- if you look at the vehicle position, we
17 wanted to emphasis reaction gap, we wanted to emphasise
18 correct tactical approach, we wanted to emphasise
19 contact and cover, tactical positioning, de-escalation,
20 good tactical communications.

21 So when they say in this -- it says that this is how
22 officers are trained, that's not accurate. Because
23 that's not how we trained at that time.

24 Q. So with these scenarios, and I'm going to go into those
25 in a little bit more detail, but with these scenarios,

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1 if officers had been trained according to the 2016
2 manual and they were facing similar scenarios, one of
3 which is a man with a knife and one of which is a man
4 with a baseball bat --

5 A. Yes.

6 Q. -- and they had acted in accordance with their 2016
7 training, this is the outcome that they could have
8 achieved?

9 A. This is the way that we would have wanted -- if those
10 officers had followed their training as we deliver it to
11 them, this is how we would want them to act and respond
12 and act during that incident, yes.

13 Q. But in any event, for the real-life officers who did
14 encounter these incidents prior to this demonstration,
15 they were able to achieve the same outcome --

16 A. Yes.

17 Q. -- perhaps not using the 2016 methods?

18 A. No, but using methods that were available to them at the
19 time.

20 Q. Right.

21 A. So we didn't do any, I suppose, deep dive, like
22 contacting officers and asking exactly how they handled
23 them, because a lot of the time the information we
24 receive on the use of force form is quite sparse. So
25 they don't lay out their exact steps and exactly

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1 everything they did on the use of force forms.

2 Sometimes, I think in this -- or was it the one with the
3 baseball bat -- we only had a paragraph.

4 So -- but in this one the officers spoke to the --
5 you know, they spoke to the subject, and eventually he
6 gave up.

7 The next -- I think in the one with the baseball
8 bat, I think there was a spray deployed by the officers.
9 So the outcome was the same, but we were just trying to
10 demonstrate these are the type of scenarios that we will
11 be introducing into training in 2016 and that's the type
12 of training we would want the officers to follow.

13 Q. So officers trained under the 2013 manual using
14 techniques they'd learned under that manual, could
15 achieve the same successful result with incidents of
16 this sort as could officers trained later under the 2016
17 techniques and manual?

18 A. Yes, because we still talk about contact and cover. We
19 just -- we just renamed it tactical position in 2016.
20 We still talked about reaction gaps, and increasing the
21 reaction gap if there's a weapon or a knife back in
22 2013, 2014, 2015. So the ethos is the same. It's
23 just -- it's how we trained it was different in 2016.

24 Q. And in relation to de-escalation, although it was called
25 tactical communication in 2013 --

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1 A. Yes.

2 Q. -- there was still training about identifying danger
3 signs --

4 A. Yes.

5 Q. -- warning signs, considering impact factors,
6 intonation, the form of questions that were used?

7 A. Yes.

8 Q. So these things were in the 2013 training --

9 A. Yes.

10 Q. -- maybe rebranded, reformulated, emphasised differently
11 in the 2016 training?

12 A. That's correct, yes.

13 Q. Right. I would like to look at these scenarios. So
14 let's move down. The first one is a traffic stop, and
15 I don't want to really spend any time on that. But the
16 second scenario is a man with mental illness wielding
17 a baseball bat, and we see here that:

18 "Officers responded to a man with obvious mental
19 illness wandering the street with a baseball bat. As
20 the subject advanced toward their police car, the
21 officers backed the vehicle up to main a safe distance.
22 Once they exited the vehicle, officers established
23 tactical positioning and communications, maintaining
24 a larger reaction gap and a slightly higher profile with
25 their baton and chemical spray because of the possible

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1 threat ... Officers used communication techniques
2 appropriate for an individual experiencing a mental
3 health crisis~..."

4 And on this occasion they removed their hats to
5 enhance eye contact.

6 We've not heard anything of that so far, is that
7 a recognised training technique?

8 A. Yes.

9 Q. To tell officers to remove their hats?

10 A. Yes.

11 Q. "... and eventually convinced the subject to drop the
12 bat and surrender."

13 So this was an incident, a real-life incident of
14 a person with a mental illness who is wielding
15 a baseball bat when the police arrive?

16 A. Yes.

17 Q. And it's about using these techniques of tactical
18 positioning, communication, maintaining a reaction gap,
19 and trying to appear less threatening by removing their
20 hats?

21 A. Exactly, yes.

22 Q. Right. And these are the types of skills that officers
23 trained under the 2013 manual could use?

24 A. Yes.

25 Q. And, in fact, did, on this occasion?

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1 A. Yes.

2 Q. But this is a demonstration --

3 A. Yes.

4 Q. -- of how it could be done?

5 A. Yes.

6 Q. Could we play that video -- it's a very short video,
7 we'll just play it, and then we can ask you a few more
8 questions about it.

9 (Pause).

10 Well, I think I'm going to give up on that idea
11 because it's not my lucky day with technology. But
12 we'll be able to provide the Chair with the video in due
13 course.

14 And in relation to scenario 3, we also had a video
15 for that. But we'll just go through the details with
16 you at the moment, if you don't mind. Oh, it's here,
17 excellent. Here we are.

18 (Video played)

19 So we'll just play this video, and we'll see the
20 officers conducting ... I think as part of this video
21 we'll also see the delegation sitting in the distance at
22 one point --

23 A. Yes.

24 Q. -- which are the American delegation.

25 (Video played)

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1 So this is the man with the baseball bat --

2 A. Yes.

3 Q. -- suffering from mental illness.

4 And there appear to be two officers approaching at
5 this stage?

6 A. Yes.

7 Q. And this officer in front has his baton at the side?

8 A. Yes, he's in a low profile.

9 Q. Can we pause that there for a moment? We'll come on to
10 the next one later.

11 So we could see the officers there actually doing
12 quite a lot of communicating. Was that using the five
13 steps for positive style: asking what had happened
14 today, mentioning maybe going to the hospital, that type
15 of thing?

16 A. So it wasn't strictly using the five-step, because there
17 was -- I mean, the five-step you're offering or you're
18 giving, I suppose, consequences, and that's the issue
19 with the five-step model, is that it's consequence
20 based: if you continue with your behaviour, this could
21 happen to you. If you don't do what we tell you this is
22 what will happen to you, and it has been kind of --
23 I mean, in some of the articles that I've read because
24 it's consequence-based it's -- you know, psychologists
25 and psychiatrists will tell you that it's not the best

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1 type of model to use. So you'll see that they're using
2 open-ended questions, they're trying to listen, respond
3 to his answers, and get as much information from him.

4 Q. And using a very gentle tone?

5 A. Yes. Yes.

6 Q. So that's the type of skills that could calm a situation
7 down and de-escalate a situation?

8 A. Yes.

9 Q. And they were offering him help, and to take him to
10 hospital. So quite an approachable sort of style. But
11 at the same time did we also see them maintaining quite
12 a significant gap, reaction gap between the man with the
13 baseball bat and the officers; so still protecting
14 themselves with that reaction gap? And did we also see
15 them using the two officers as a technique moving around
16 and while they were doing that we then saw the other
17 vehicle arriving with reinforcements?

18 A. Yes.

19 Q. Right. Thank you. And in real life that situation was
20 de-escalated by other officers?

21 A. It was. As I say, I can't comment on whether it was
22 done exactly like that.

23 Q. No.

24 A. But that was the outcome, that the officers did speak --
25 they did talk the individual down, offered them the help

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1 that they required. He gave up the bat without any
2 further injury.

3 Q. Right. And they then -- did they take him to hospital
4 as far as you know?

5 A. Yes, he went to hospital, yes.

6 Q. Right. Can we look at scenario 3, please, and we'll
7 look at the -- we'll watch the video first and then
8 we'll go back to the actual document.

9 (Video played)

10 Can you pause it for a second, sorry. I should say,
11 this is a domestic incident and it involves a man with
12 a knife.

13 A. Yes.

14 Q. So it's a different scenario. There's a woman who is
15 distressed as part of this, and the officers are dealing
16 with her as well as the man, and there's another man
17 present.

18 A. That's correct.

19 Q. We'll watch this first and then we'll look at the text.

20 A. Okay.

21 Q. Thank you.

22 (Video played)

23 Thank you. So let's go back to the PERF document
24 for a moment, SBPI00356, we were on page 99, and this
25 was the third of the scenarios. Here we are. And

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1 scenario 3 is:

2 "Domestic incident, man with a knife."

3 And it says here:

4 "Officers responded to a domestic [incident] on the
5 street and separated the man and woman. As they began
6 engaging the man, he pulled a knife, at which point the
7 officers tactically repositioned and used their vehicle
8 as cover."

9 We noticed that on the video, didn't we? We saw he
10 pulled out a knife, it had been concealed when they
11 first arrived, and it was a sudden movement and then we
12 saw the officers moving to create distance behind the
13 vehicle, and that was a technique that was taught in
14 2013, wasn't it?

15 A. Yes. So they utilised the CUTT principle there.

16 Q. Yes. And then one officer drew his baton and the other
17 drew his spray at that point, both things that were
18 taught in the 2013 manual?

19 A. Yes.

20 Q. "The contact officer~..."

21 So we covered contact and cover today in relation to
22 that manual:

23 "... maintained communication with the subject, and
24 the officers repositioned as the subject moved."

25 We did see them moving around. They weren't static.

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1 They were maintaining a distance away from the man with
2 the knife?

3 A. That's correct, and that was something we needed -- we
4 wanted to emphasise to the US colleagues because that's
5 something they potentially don't do, they kind of draw
6 a line in the sand and don't move, so it was to show
7 them that you can easily have what we have a rolling
8 containment on.

9 Q. So you can back away?

10 A. Absolutely.

11 Q. You can disengage, you can withdraw?

12 A. Absolutely. Circumstances permitting, yes.

13 Q. If circumstances permit. And you can wait for other
14 officers to arrive and reinforce your position, contain
15 the gentleman?

16 A. Absolutely.

17 Q. Yes, and those were things that were part of the 2013
18 officer training, were they?

19 A. Yes.

20 Q. And then it says:

21 "Backup officers arrived and deployed personal
22 protection shields."

23 Now, we didn't hear anyone talking about shields in
24 2013; were there shields at that time?

25 A. So that was -- there was only shields available to

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1 legacy Strathclyde officers. So the small personal
2 protective shields you will see in the video were only
3 available to Strathclyde. Two were carried in the rear
4 of most vehicles.

5 Q. So to that regard, that would not have been the same in
6 Fife?

7 A. They wouldn't have access to those shields, no.

8 Q. And then:

9 "When the subject moved aggressively towards one of
10 the officers, the officer deployed his chemical spray
11 and then the suspect was apprehended."

12 The spray had an immediate effect on him?

13 A. In this, yes.

14 Q. So in this example it was when the subject moved
15 aggressively towards one of the officers that he
16 actually discharged the spray?

17 A. Yes.

18 Q. And that effectively brought him to the ground?

19 A. Yes.

20 Q. It says here underneath in bold:

21 "Each of the demonstrations lasted several minutes,
22 as the officers began and maintained communications with
23 the subject, used cover and distance, and tactically
24 repositioned themselves as circumstances dictated."

25 All of that could have been done by officers trained

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1 under the 2013 manual?

2 A. Yes.

3 Q. "The actual incidents upon which the scenarios are based
4 took much longer to resolve."

5 We've heard that in terms of communicating with
6 someone either with mental health problems or
7 intoxicated, that there's no time limit on
8 communication, and officers, if circumstances permit,
9 can spend time building a rapport with a subject, even
10 if they are sort of behaving oddly or appear
11 intoxicated; is that correct?

12 A. Absolutely.

13 Q. And that was the training in 2013?

14 A. Yes.

15 Q. Then it says:

16 "Police Scotland officials emphasised that their
17 approach is not to rush or confront a subject (unless
18 the subject poses an imminent threat to someone else),
19 but to slow these types of situations down and
20 de-escalate as much as possible."

21 Now, in relation to that, was that the current
22 training or the 2016 future training?

23 A. I mean, I, myself, have, prior to 2016, spoken about
24 that type of approach. There is no requirement -- if
25 there's not any immediate threat to themselves or

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1 others, then there doesn't have to be an immediate, or
2 there shouldn't be an immediate rush to close that gap
3 on the subject and carry out a physical intervention.

4 Q. And that was open to officers under the 2013 manual?

5 A. Yes.

6 Q. "The more time officers have, the more opportunities
7 they create to gather information, consider possible
8 solutions, develop plans, summon additional resources,
9 and hopefully convince the subject to comply."

10 And that was all possible under 2013 training?

11 A. Yes, I think that last part there is what the authors of
12 this have added because~...

13 Q. Is that from their learning, from --

14 A. I think that's from their learning, yes.

15 Q. Do you disagree with anything that's written there?

16 A. No. No.

17 Q. And then you will see that they continue to talk about
18 different techniques and different learning that you
19 have given them, contact and cover, different
20 approaches, that type of thing. And then they go on to
21 talk about, "Day 3: use of force guidance~...", and then
22 ultimately they speak on 104 of Day 4, observations that
23 they've made. And it says on Day 4, "Communication
24 skills", keep going down. That's Day 3. If we keep
25 going to Day 4. There we are. And we'll see:

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1 "Communications skills: Police Scotland officers are
2 recruited for their communications skills, and those
3 skills are taught, reinforced, and used throughout their
4 careers. Almost every encounter an officer has starts
5 with calm and even communications with the subject, and
6 officers maintain communications throughout."

7 Would you agree with that: that officers are
8 recruited for their communication skills?

9 A. I really can't comment on that. I think that's for
10 recruitment. I mean, I think it was probably -- if you
11 apply to be a police officer, you know, you would like
12 to think that they have pre-existing, you know, good
13 communication skills, and I would imagine that would be
14 something that would be brought out during interview and
15 selection process.

16 Q. Thank you.

17 Can I move away from that, please, and ask you about
18 training on post-incident procedures. Now, we've been
19 talking about officer safety training, but we have heard
20 some evidence earlier this year about post-incident
21 procedures and how there was going to be training for
22 some officers. We've heard evidence that some had been
23 trained, some hadn't. Were you involved in any way with
24 training for post-incident procedures?

25 A. No.

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1 Q. So that was nothing to do with you at all?

2 A. No.

3 Q. Could I ask you to look at a hard copy that's in your
4 blue folder, and it relates to Acting Police Sergeant
5 Maxwell. So I think it is -- I'm sorry, I did have
6 a copy of it somewhere. Here it is, PIRC01201. We
7 looked at this yesterday. And we'll maybe get that --
8 we won't get it on the screen, but that number is just
9 for those behind me.

10 So this was a SCOPE record of training undergone by
11 Scott Maxwell; have you got that?

12 A. Yes, I do.

13 Q. Can you tell me, we have heard -- there's some evidence
14 available to the Chair about something called incident
15 management training, or post-incident training. Can you
16 see any reference on that record of Maxwell having ever
17 undergone that training? I mean, I personally can't see
18 anything, but I'm asking you. You'll know more about
19 these things.

20 A. No, I can't. No.

21 Q. And do you know what that incident management training
22 was? Do you know anything about it?

23 A. No, I don't know what it could be.

24 Q. Right. All right, thank you.

25 Can I ask you if there was any training in 2013 for

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- 1 probationers about the law and the legal requirements
2 regarding seizing a property, entering a property, or
3 searching a property?
- 4 A. As far as -- yes, that would be -- I'm sure that formed
5 part of their probationer training inputs, yes.
- 6 Q. Was there any other training provided to serving
7 officers about these types of things, seizing
8 a property, entering a property, or searching
9 a property?
- 10 A. I mean, I may be -- I would doubt it very much. I mean,
11 that forms part of initial training, and it's trained to
12 officers when they join the police. I wouldn't see
13 any -- unless there's any changes to legislation, then
14 I don't think so. But I can't speak with any certainty.
15 It's not my area.
- 16 Q. In terms of refresher training, was there any guidance
17 or anything like that?
- 18 A. I can't comment. I don't know.
- 19 Q. Do you know if there was any training regarding best
20 practice in relation to obtaining and recording consent,
21 if you're seeking consent from someone to enter their
22 property?
- 23 A. Again, I couldn't comment on that.
- 24 Q. Do you know if there was any training delivered to
25 officers in refresher training or at probationer stage

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- 1 regarding delivery of death messages?
- 2 A. There was in the probationer training programme.
- 3 Q. And can you tell us when that was done -- it wouldn't
- 4 have been part of officer safety training, would it?
- 5 A. No, it wasn't part of officer safety training, no.
- 6 Q. Was that a separate course that would have covered that?
- 7 A. It's part of their initial training.
- 8 Q. Would there have been any refreshers on that?
- 9 A. Not that I'm aware of.
- 10 Q. Was there any training given to probationers or
- 11 refreshers regarding completing operational statements
- 12 and when and why these ought to have been completed?
- 13 A. So there was -- there was statement -- operational
- 14 statements. Again, I couldn't recall if that formed
- 15 part of the initial training or not.
- 16 Q. Nothing for refreshers?
- 17 A. As in general, as in outwith --
- 18 Q. Yes.
- 19 A. I couldn't -- I couldn't comment, sorry.
- 20 Q. What about completing their notebooks, any training for
- 21 probationers or refreshers around that?
- 22 A. Yes, that was trained in the initial training course,
- 23 yes.
- 24 Q. For probationers?
- 25 A. Yes.

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1 Q. Thank you. And would that have been -- when did that
2 come in? It would have been prior to the 2013 manual --

3 A. It wasn't in the -- sorry, none of this is in the OST.

4 Q. Right.

5 A. I'm sorry, I was referring back to my experience as
6 a probationer training sergeant there. None of that was
7 included in OST that you have just referenced there.
8 Sorry, I was answering --

9 Q. No, I'm confusing the situation. But there's initial
10 training for probationers and those topics would have
11 been covered then?

12 A. During the general initial training, yes.

13 Q. During the general training?

14 A. Yes.

15 Q. Thank you. Can I ask you, have you heard the recent
16 announcement by Police Scotland that they are pausing
17 all training, I think it's because of resourcing issues.
18 We may hear more about this in the future. Do you have
19 any views about the idea of pausing all training other
20 than essential training?

21 A. I mean, it's -- that's obviously a strategic decision at
22 executive level. I would imagine there will be reasons
23 for that.

24 Q. Before lunch you mentioned that -- when I was asking you
25 about use of force forms and completing them, that

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1 proffers would like a copy of the manual by their side
2 when they're completing their use of force form, and
3 I think you said:

4 "If I've used force then I'm required to write
5 a statement. I want to make sure it's consistent with
6 the training."

7 And they don't maybe have a copy of the manual. You
8 mentioned that.

9 A. Yes.

10 Q. Why would officers be keen to have a copy of the manual
11 at their side when they're completing a statement or
12 a use of force form?

13 A. It just allows them to use the correct language.
14 I mean, there is nothing in there that is putting words
15 in their mouth, but so they can refer and it can remind
16 them, potentially, of elements such as justification,
17 preclusion, PLANE, and it makes -- enables them to work
18 through their use of force incident in consistent
19 language that's recognised.

20 Q. Thank you. I just want to check one thing. Do you mind
21 giving me a moment?

22 A. No, of course.

23 (Pause).

24 Q. Can I go back to your Inquiry statement, paragraphs 35
25 to 38. This will be your most up-to-date Inquiry

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1 statement which is SBPI00362, I think, yes. It starts
2 at paragraph 35. And -- there we are. This was --
3 I don't need to go through every paragraph, it's 35 to
4 38. You actually explained to the Chair about personal
5 experiences that you have had in regard to ABD.

6 A. Yes.

7 Q. And you have had three experiences in your career. The
8 first of those, I wasn't clear when that was. Do you
9 have any recollection? It says you think it was the
10 late 1990s/early 2000s; is that the best of your
11 recollection?

12 A. Yes, that's the best I can do.

13 Q. And I think you assumed it was a mental health episode
14 at that time?

15 A. Yes.

16 Q. And could you explain to us, you'd obviously been
17 trained at some point. How many years' service did you
18 have at that point?

19 A. By that time, about six or seven.

20 Q. Right. And you recognised it as a mental health
21 episode. You -- when did you think this might be acute
22 behavioural disturbance; was it at the time, or was it
23 subsequent?

24 A. It's on reflection.

25 Q. On reflection?

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- 1 A. Yes.
- 2 Q. Had you -- was it because of training about behaviours
3 that you were able to spot signs and symptoms?
- 4 A. It's just, this is one, and when I was asking during my
5 statement, this is, I suppose, the first one, and it
6 really -- you know, it's one I do really remember. It's
7 quite vivid for me. So -- and, again, on reflection,
8 for me it was absolutely -- she was exhibiting the signs
9 and symptoms I would relate to as excited delirium/acute
10 behavioural disturbance.
- 11 Q. And I think you say in relation to that first experience
12 that you immediately moved to try and restrain her for
13 her own safety -- she was next to a busy road. It took
14 four officers to eventually restrain her, and she was
15 violent, her behaviour was bizarre. And in paragraph 36
16 you say:
- 17 "After I became aware of excited delirium or [ABD],
18 I have often reflected that this could have had
19 a negative outcome as we did everything then, that is
20 contraindicated now."
- 21 So on reflection, maybe moving in immediately you
22 thought wasn't the best option?
- 23 A. Absolutely, yes.
- 24 Q. And is that because of subsequent --
- 25 A. Yes.

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1 Q. -- your subsequent experience of training and handling
2 a situation involving someone with possible ABD --

3 A. Yes.

4 Q. -- or excited delirium?

5 A. Yes, it's the -- obviously the training I've done, the
6 research, or my experience in my area -- you know, in
7 the area of officer safety training that again, when you
8 reflect on that it wasn't handled the way it should have
9 been, and I will openly and happily admit that.

10 Q. And then I think as we move on from paragraph 36, you
11 say -- this is on reflection, you would have approached
12 it completely differently:

13 "I contained where I could, got assistance,
14 contacted an ambulance and only restrained for such time
15 as we had to, to get the subject to hospital."

16 But, looking back now, in light of all the training
17 you have had, how would you handle that situation now?

18 A. I mean, that's a difficult one because of the risk posed
19 by the busy road, and again it goes back to there are
20 times when police officers will have to, to preserve
21 life, you know, or protect life, to immediately
22 intervene, and I don't think we can ever forget that,
23 so -- but, thinking back on that occasion, we could have
24 contained her away from the road as opposed to
25 physically restraining her.

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1 Q. And then you talk about two other, in subsequent
2 incidents, after 2015, 2016, and then one after 2018, so
3 after the incident that we've been looking at here. And
4 you talk in the statement about seeing the person's
5 bizarre behaviour, they were sweating, they were
6 constantly in motion, and you on one occasion said:

7 "I instructed officers to let the individual go."

8 A. Yes.

9 Q. Did they have hands on --

10 A. Yes.

11 Q. -- the subject?

12 A. Yes.

13 Q. And tell us a little bit more about that.

14 A. So I was sergeant at the time and my -- and the officers
15 had attended an incident. I attended as a supervisor
16 and when I got there for me it was immediately apparent
17 they were displaying the signs and symptoms of some sort
18 of delirium, you know, potential ABD. And it was safe
19 to do so, so I instructed officers to follow the
20 principles of contain rather than restrain, because
21 I was aware of the risks associated with that, and
22 we were able to contain this young man.

23 The problem we had was that we contacted
24 an ambulance as per the training, as per our procedures,
25 you know, we -- but unfortunately they were told it

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1 wasn't deemed to be a medical emergency by -- by the
2 Scottish Ambulance Service. So we have to then make
3 a decision that to prevent further harm, then we were
4 going to have to take that individual to hospital, and
5 the only way we can take to hospital was to restrain and
6 take them to hospital.

7 But that is -- that is still following the training,
8 because you only restrain for the minimum amount of time
9 it takes for you to seek medical attention.

10 Q. Right. And you say you instantly or immediately
11 recognised the signs and symptoms?

12 A. They were obvious, yes, for me.

13 Q. And that was after 2015/2016. Was that at the time when
14 the 2013 manual was in force? Or was it after your
15 review and the new manual?

16 A. No, it was -- I think it -- I think it was -- I think it
17 was after the 2016 manual came into force.

18 Q. And did that make any difference to your ability to
19 recognise signs and symptoms?

20 A. I had obviously been involved in the ABD training for
21 a while before that, so I was very familiar with the
22 signs and symptoms and the management.

23 Q. In your experience, having that experience of training,
24 did that make you more able to identify signs and
25 symptoms?

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1 A. Yes.

2 Q. Yes. Were those signs and symptoms more at the
3 forefront of your mind?

4 A. I don't know. They were just glaringly obvious to me
5 when -- when I -- when I observed the -- the young man,
6 yes.

7 Q. Then you talk about a post-2018 situation, the third
8 incident you've come across in your career. And, again,
9 can you tell us just a little about that? I think we
10 see that referred to in paragraph 38.

11 A. Yes, so that was the respond -- I was -- I was
12 an inspector at this point and I was doing a campaign
13 against violence day, and an incident -- a call came out
14 for a -- it's come out there's a naked male at a block
15 of flats. When we got there he was actually wearing his
16 boxer shorts, but you could see his clothes were lying
17 nearby. He was in a kind of bin area and, I mean, again
18 for me the signs and symptoms he was exhibiting was
19 glaringly obvious. Again, he was sweating profusely to
20 the touch, we tried to keep putting him back. We were
21 wanting to contain him in that area where he still had
22 a freedom of movement but it was a safe area. But when
23 we touched him, I mean, he was hyperthermic, sweating,
24 incoherent. And he appeared scared, as opposed to it,
25 but at times that panic he was exhibiting would come

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1 across as aggression, and again we just did our best to
2 contain him in that bin area.

3 And on this occasion, I think we contained him maybe
4 15, 20, probably more than that, and then he --
5 he appeared to start to -- his signs and symptoms were
6 becoming less, and we were able to get him -- again,
7 I think that was another incident where the ambulance
8 didn't see it as a medical emergency. But I was
9 satisfied that his -- his condition had, I suppose,
10 lessened to an extent, and he was starting to become
11 a bit more coherent. So we made the assessment that he
12 was able to be conveyed safely to hospital. We detained
13 him under the Mental Health Scotland Act, and detained
14 him at the hospital, where he was detained, I believe.

15 Q. And you say in paragraph 30, there was no immediate
16 requirement to restrain him, and you instructed officers
17 to step back and contain him. And is that something
18 that could have been done in terms of the training from
19 the 2013 manual, or was it only --

20 A. I -- no, I don't think -- there was nothing in the 2013
21 manual about the safe management of that.

22 Q. Right.

23 A. That didn't come in until the ABD standalone training
24 course and the 2016 manual.

25 Q. Okay. Could you just give me one --

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1 A. Of course.

2 Q. -- moment, please?

3 (Pause).

4 Q. One final question if I may, inspector.

5 A. Of course.

6 Q. For those who are in an acting up role, so for example
7 acting sergeant, not a fully promoted person, we've
8 heard some evidence they may have training, they may
9 not. They may just have -- their skills may be
10 recognised and they may be put into that acting up role.
11 Do you have any comments about a situation where
12 officers are acting up but they haven't had all the
13 training that someone fully promoted in that role would
14 have?

15 A. Again, my personal view is that if you're taking on the
16 responsibilities of a supervisor you should have the
17 equivalent level of training as a sub -- as
18 a substantive supervisor.

19 MS GRAHAME: Right. Thank you very much. I have no further
20 questions, thank you.

21 LORD BRACADALE: Thank you.

22 Are there any Rule 9 applications? Mr Adams.

23 Inspector Young, would you mind withdrawing to the
24 witness room for a moment while I hear a submission?

25 INSPECTOR YOUNG: Of course not, sir.

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1 (The witness withdrew)

2 LORD BRACADALE: Mr Adams, if you come to the table, please.

3 Yes.

4 Rule 9 application by MR ADAMS

5 MR ADAMS: Thank you, my Lord.

6 It's briefly from the ruling and application that
7 was made at part 1. It's just to sort of clarify,
8 I think, a point that Inspector Young just finished on
9 a moment ago.

10 At paragraph 72 of his statement he provides
11 an account or a description of what he calls "incident
12 training", and it's just to clarify, because he has
13 already been referred to Acting Sergeant Maxwell's SCOPE
14 record, that that form of training that he is describing
15 at paragraph 72 is not something that Acting Sergeant
16 Maxwell had received by the date of the incident at the
17 heart of this case.

18 LORD BRACADALE: Has he not dealt with that in the -- under
19 reference to the SCOPE record there's no sign of it.

20 And he has just said that ...

21 MR ADAMS: It wasn't necessarily entirely clear, my Lord.

22 But if my Lord is satisfied that that point has been
23 addressed.

24 LORD BRACADALE: Well, that was my understanding, I think,
25 of the position. So it's probably not necessary to

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1 pursue it.

2 MR ADAMS: I'm obliged, my Lord.

3 LORD BRACADALE: Thank you.

4 Yes, if you go back to your seat and we can have the
5 witness back, please. (Pause).

6 (The witness returned)

7 LORD BRACADALE: Inspector Young, that completes your
8 evidence, so thank you very much for coming back to the
9 Inquiry and giving further evidence. You've given a lot
10 of time to the Inquiry and I'm very grateful for that.
11 When we rise, you will be free to go.

12 INSPECTOR YOUNG: Thank you, sir.

13 LORD BRACADALE: Okay, we'll adjourn now and sit again on
14 Wednesday of next week; is that correct? Yes, Wednesday
15 of next week is the next hearing day.

16 (4.16 pm)

17 (The hearing adjourned until 10.00 am on
18 Wednesday, 29 November 2023)

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