

Transcript of the Sheku Bayoh Inquiry

Wednesday, 2 October 2024.

(10.00 am)

LORD BRACADALE: Good morning, Mr Graves. Thank you for returning to give further evidence to the Inquiry. May I remind you that you're still subject to the affirmation that you gave on the first occasion.

A. Yes, I do understand.

LORD BRACADALE: Ms Grahame.

MARTIN GRAVES (recalled)

Examination-in-chief by MS GRAHAME

MS GRAHAME: Good morning, Mr Graves.

A. Good morning.

Q. You have helped us before and you came to the Inquiry on Friday, 25 and Monday, 28 November 2022?

A. Yes, that's correct.

Q. And at that earlier hearing, I asked you quite a number of questions about your career and we discussed your CV and that evidence remains available to the Chair to consider. But just as a very minor recap, if I may, for those listening in the room and elsewhere, you told us in November 2022 that you were formerly with the Metropolitan Police Service from 1982 until your retirement in September 2012?

A. That's correct.

Q. And you had acted during that time as an inspector, but

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1 your rank for the last 15 years of your service was as a
2 sergeant?

3 A. That's correct, yes.

4 Q. And you explained to us during that evidence that you
5 had original been asked to write a report for the
6 Crown Office?

7 A. That's correct, yes.

8 Q. And that was in connection with the events at
9 Hayfield Road in 2015?

10 A. Yes.

11 Q. And I won't put these on the screen, but you provided
12 the inquiry with a statement at that time, it was taken
13 over a couple of days, and was signed on 16 November
14 2022?

15 A. That's correct, yes.

16 Q. And we discussed that in some detail at the previous
17 hearing. And we also looked at that time at your
18 original letter of instruction that the crown had sent
19 you and your report on the use of force by the police in
20 relation to the restraint of Mr Bayoh in 2015?

21 A. Yes, that's correct.

22 Q. And that report was dated 13 April 2018?

23 A. Yes, that would be right.

24 Q. And for anyone who wishes to refresh their memory in
25 relation to your evidence at that hearing, that remains

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- 1 available on the YouTube channel and via our website.
- 2 A. That's correct, yes.
- 3 Q. But you have agreed today to return to assist us, but
4 the focus today relates to police training and, in
5 particular, officer safety training?
- 6 A. Yes.
- 7 Q. And we're looking at training today, not primarily the
8 events at Hayfield Road, you've already told us your
9 position on that.
- 10 A. Yes.
- 11 Q. Just briefly to look at your experience as a trainer,
12 you did discuss this at the previous hearing, you talked
13 about delivering training on behalf of the College of
14 Policing --
- 15 A. Yes.
- 16 Q. -- based in England? You have delivered training
17 externally to police forces and police services, to
18 immigration and border force officers?
- 19 A. Yes.
- 20 Q. You became an associate lecturer with the College of
21 Policing when you retired from the Met in 2012?
- 22 A. That's correct.
- 23 Q. You've assisted with developing training packages and
24 training processes around personal safety, both in the
25 UK and also abroad, with police services such as

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- 1 Sierra Leone, Saudi Arabia and Ghana?
- 2 A. That's correct, yes, some of those on behalf of the
3 College of Policing.
- 4 Q. And you built on your experience and the work you did
5 with the Met in your role there as head of training and
6 so as the years beyond your retirement, you continued to
7 build with that with the College of Policing?
- 8 A. That's correct, yes.
- 9 Q. And I think at the time you were giving evidence you
10 said you were now effectively an employee of College of
11 Policing; does that remain the position today?
- 12 A. Not any further, no, I sort of removed myself from the
13 College of Policing list about a year and a half ago.
- 14 Q. All right. And you have given evidence on a number of
15 occasions in relation, obviously, to the public inquiry,
16 but also in relation to other cases?
- 17 A. Yes, many court cases, inquests and various tribunals
18 and misconduct hearings.
- 19 Q. Thank you. You also told us at a national level you had
20 been appointed secretary to the Association of Chief
21 Police Officers Practitioners Advisory Group on Personal
22 Safety in April 2000 and that was part of the
23 Self-defense, Arrest and Restraint Subcommittee under
24 the Firearms and Conflict Management?
- 25 A. That's correct. I was a secretary from 2000 until my

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- 1 retirement in 2012.
- 2 Q. And that role included the management of the National
3 Personal Safety Manual, which you fully reviewed and
4 continual updated with the latest version which was
5 launched in February 2012?
- 6 A. That was the last one I had involvement in, yes.
- 7 Q. And if we hear you refer to the NPS Manual or the NPSM,
8 that is the manual that you're referring to; is that
9 right?
- 10 A. Yes.
- 11 Q. An up-to-date version of that?
- 12 A. Yes.
- 13 Q. And my understanding from your statement is -- and your
14 recent report is that that manual which is for forces in
15 England --
- 16 A. England, Wales and Northern Ireland, yes.
- 17 Q. -- is over four and a half thousand pages long?
- 18 A. Yes.
- 19 Q. It's a substantial document?
- 20 A. Yes.
- 21 Q. And the closest equivalent in Police Scotland would be
22 the OST Manual or the Officer Safety Training Manual?
- 23 A. That's correct, yes.
- 24 Q. And your report primarily has focused very much,
25 initially at least, on the OST which was in forced at

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1 the time in 2015, which was the 2013 OST Manual?

2 A. That's correct, yes.

3 Q. And that is dated September 2013?

4 A. Yes.

5 Q. And I think you explained in your previous evidence that
6 the NPS Manual, the National Personal Safety Manual
7 through College of Policing, covers everything; personal
8 safety skills, including skills for firearms officers,
9 mounted officers and all sorts of techniques that we
10 will be discussing today?

11 A. Yes, it has over 15 sections reverting to virtually the
12 use of personal safety skills across the broad scope of
13 policing.

14 Q. Thank you. And as part of the task which you have
15 carried out for the Inquiry, you have compared
16 Police Scotland's training in 2015 with College of
17 Policing training that was available?

18 A. That's correct, yes, at the time and also up to date
19 now.

20 Q. Thank you. Could we look at your letter of instruction
21 from the Inquiry, 29 September 2023, which is WIT 00065
22 and we see here this is a letter -- you see the date
23 29 September 2023 and it asks you for an expert report
24 policing training and if we go down that page on page 1,
25 the Inquiry wrote this letter giving you, again, some

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1 background and context, of which you would have been
2 aware anyway from your previous involvement and
3 explained -- if we can move on to the next page, we see
4 a section that says "Instructions". Here we are:

5 "The Inquiry's terms of reference require it to
6 establish any defects in training which contributed to
7 the death and to make recommendations covering
8 improvements to training which might realistically
9 prevent other deaths in similar circumstances."

10 So it was explained to you what the terms of
11 reference were?

12 A. Yes, I understood those, yes.

13 Q. And then we said:

14 "As such, the Chair to the Inquiry will require to
15 determine whether the officers' training was defective
16 and, if so, whether those defects contributed to
17 Mr Bayoh's death. In the event that he answers both
18 questions in the affirmative, he will require to make
19 recommendations in relation to training aimed at
20 preventing deaths in similar circumstances in the
21 future."

22 A. Yes.

23 Q. And so it was explained to you that the focus was to be
24 on highlighting defects --

25 A. Yes.

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- 1 Q. -- or failings of some description that may have
2 contributed to the death of Mr Bayoh, and that it was
3 explained to you that the Chair may require to make
4 recommendations in the future?
- 5 A. Yes, I understood that, yes.
- 6 Q. Thank you. And if we can just very briefly look at the
7 end of the report, we should see -- sorry, I'll come
8 back to that in a moment.
- 9 In addition to the letter of instruction, you were
10 also sent a number of documents?
- 11 A. Yes, a large number of documents, yes.
- 12 Q. And as well as looking at those documents, which were
13 provided by the Inquiry, you also provided documents
14 which you had access to, largely from College of
15 Policing?
- 16 A. Yes, as reference documents for comparison, yes.
- 17 Q. And you provided those subsequently as an appendix to
18 your later report?
- 19 A. That's correct, yes.
- 20 Q. And can we -- we'll leave that letter of instruction now
21 and I would like to look at your actual report. This is
22 SBPI 00667. You'll see that's dated, your name is at
23 the top, the date is 19 August this year?
- 24 A. That's correct, yes.
- 25 Q. And if we can move down the page, please, it says,

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1 "Expert review, policing training in relation to
2 personal safety Police Scotland" and it's a report from
3 Mr Martin Graves and this is your report?

4 A. It is, yes.

5 Q. And as part of your work, did you consider the documents
6 we had sent?

7 A. I did, yes.

8 Q. And the documents which you provided to us?

9 A. I did, yes.

10 Q. And your letter of instruction?

11 A. Yes.

12 Q. And did you do your best to be accurate and truthful in
13 every part of your report?

14 A. I have, yes, to assist the Chair, yes.

15 Q. Thank you. If we can move down to page -- we've seen
16 page 1. Before we go to the body of the report, you'll
17 see the contents coming up there, can we look at page
18 30, which is at the end, you've signed that although our
19 version is redacted?

20 A. Yes.

21 Q. And if we can look at -- if we can just move up the page
22 slightly, here we are, there's a statement of truth at
23 section 8?

24 A. Yes, that's correct, yes.

25 Q. "I confirm that I have made clear which facts and

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1 matters referred to in this report are within my own
2 knowledge and which are not. Those that are within my
3 own knowledge I confirm to be true. The opinions I have
4 expressed represent my true and complete professional
5 opinions on the matter to which they refer. This
6 report, consisting of 29 pages each signed by me, is
7 true to the best of my knowledge and belief and I make
8 it knowing that if it is tendered in evidence, I shall
9 be likely to prosecution if I have willfully stated in
10 it anything which I know to be false or do not believe
11 to be true."

12 A. That's correct, yes. That's a standard declaration,
13 yes.

14 Q. You endeavored not to?

15 A. Oh, yes, definitely.

16 Q. Thank you. And as we go through your evidence today,
17 Mr Graves, if there's anything you see that you would
18 wish to change or amend, please let us know so that
19 the Chair can be --

20 A. I will, yes.

21 Q. -- alert to that.

22 I would like to go back to the body of the report
23 please and we'll see the contents on page 2. There we
24 are. You've detailed there the instructions, the
25 documents you reviewed, the comments, observations and

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1 opinions, specific questions posed, and a summary of
2 conclusions and thereafter your appendices showing your
3 literature and such like?

4 A. Yes, that's correct.

5 Q. And if we can move on to the next page, please. And
6 here we have -- you have summarised your instructions
7 here?

8 A. Yes.

9 Q. Which we looked at briefly. Could we look at (b)?
10 You've identified specific instructions to review the
11 documentation and arrive at conclusion and,
12 specifically, you have focused on defects and
13 inaccuracies in the training and supporting
14 documentation and "I have broken my review down into the
15 following areas."

16 And you have got seven areas here and that includes
17 the OST training programme that was in existence at the
18 relevant time?

19 A. Yes, that's correct.

20 Q. May 2015, defects in that training, and that covers all
21 sorts of defects in content, delivery, policy,
22 supervision and such like?

23 A. Yes, because it's not just about what actually is in the
24 manual, it's about how it's delivered and the supporting
25 processes around that.

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1 Q. Thank you. Any inconsistencies or differences between
2 the training provided in Scotland and the rest of the
3 United Kingdom?

4 A. Yes, that was the comparison with the NPCC Manual.

5 Q. And that's based on your own personal professional
6 experience, teaching experience, in England, Wales and
7 Northern Ireland?

8 A. It is, yes.

9 Q. The OST training programme currently being delivered by
10 Police Scotland?

11 A. Yes.

12 Q. So you've also looked at the position and when it says
13 "currently being delivered", I would like to point out
14 that's from 2022?

15 A. Yes, the documents that were produced, they were the
16 latest documents produced.

17 Q. Right. And we have heard from other witnesses that
18 Police Scotland continue to develop their training and
19 improve their training and that continues to evolve on a
20 regular basis?

21 A. Yes.

22 Q. But the documents you had were from 2020?

23 A. That's correct, yes.

24 Q. Next, any defects in that training by way of content,
25 delivery, policy, supervision or monitoring. So again,

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- 1 you have looked at a wider picture, not simply what's
2 written down in a manual?
- 3 A. Yes.
- 4 Q. And any inconsistencies or differences between the
5 training provided in Scotland, that's '19 and 2022, and
6 the rest of the UK?
- 7 A. Yes.
- 8 Q. And then, how any such defects or inconsistencies might
9 have affected the performance of a hypothetical
10 reasonable officer?
- 11 A. Yes.
- 12 Q. Thank you. We looked at that "hypothetical reasonable
13 officer" I think in your last evidence?
- 14 A. Yes.
- 15 Q. Where we talked about, and we'll come back to this at a
16 later stage, but where an officer who is acting within
17 his legal requirements, his ethical requirements and
18 doing things as he's been trained to do?
- 19 A. Yes, as expected from that officer, based on the
20 training and the requirements.
- 21 Q. And I think in your last evidence we made it clear
22 that -- you made it clear that there may not be just one
23 option for a hypothetical reasonable officer?
- 24 A. No.
- 25 Q. There may be a range of reasonable options for that

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- 1 officer to adopt?
- 2 A. Yes.
- 3 Q. And you have maintained that in your mind throughout
4 preparing your report?
- 5 A. Yes, it's about, you know, if the officer is provided
6 with the variety of options available to them, it's for
7 them to decide and choose the option that best fits the
8 situation that they're facing.
- 9 Q. So two officers could do different things, but they
10 could both be reasonable in the circumstances?
- 11 A. Yes.
- 12 Q. Thank you. And then if we could turn to page 4, please,
13 and look at section 3 and I would like to spend some
14 time looking at section 3 and this is where you give
15 your views and it says at 3(a):
- 16 "Any OST officer safety training programme must
17 contain the following elements for it to be fit for
18 purpose."
- 19 A. Yes.
- 20 Q. And can you explain to those listening, what does it
21 mean for something to be fit for purpose?
- 22 A. There were a number -- as I said earlier, there were a
23 number of requirements for any training programme to not
24 just be delivered, but to be capable of equipping the
25 individual to face the difficulties that they may face.

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1 So it's not just about having a list of contents, it's
2 about how that content is delivered, how that content is
3 measured against the individual, how does the individual
4 show their competency and the fact that they've actually
5 achieved the required standard expected of them, and
6 also that there's then a process in place, not only to
7 monitor the individuals, but also to monitor, develop
8 and refresh the persons responsible for the delivery of
9 that training. So it's a holistic approach to the
10 training content and, as you touched on regarding
11 Police Scotland now, that continual review and continual
12 updating of the programme and changing it for -- as
13 things, requirements, come in, such as legal
14 requirements, tactical requirements or medical
15 information is improved so that that can adapt and it
16 can grow and change rather than just being a
17 one-size-fits-all type of solution.

18 Q. And is there a difference between best practice when it
19 comes to training or something being fit for purpose?

20 A. There will always be a requirement and a proviso on any
21 programme with regards to other constraints upon the
22 individual or the organisation. They could be time
23 constraints, they could be financial constraints, but
24 for a fit for purpose programme, that doesn't really
25 change. The fact of the content and the processes must

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1 be in place and if they're not in place, that programme
2 is unlikely to meet the needs of the -- either the
3 organisation or the individuals it's designed to assist.

4 Q. Thank you. Let's look at these seven points, because I
5 intend to ask you questions about going through each of
6 these. The first is "an agreed and documented content",
7 what does that mean?

8 A. Yes. I mean basically most manuals these days,
9 certainly the UK-based manual, is considered a menu of
10 options, so it has a number of different types of
11 techniques and information, some of it is quite
12 stringent and required things like communication skills,
13 conflict management, use of force. Obviously, they're
14 all standard components of a documented content.
15 However, when we come to physical skills, these can vary
16 in relation to the type of equipment that a particular
17 service or force have chosen. Their policing
18 requirements may be slightly different to other forces.
19 If a force is particularly rural, they may have slightly
20 different requirements than a force that is
21 predominantly an urban-based force, so the selection of
22 the content and the techniques that those officers
23 receive is a matter for that force to decide from that
24 menu of options.

25 But in principle, they will always have a section on

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1 unarmed defensive tactics, they will always have a
2 section on baton use, handcuff, irritant or incapacitant
3 sprays, restraints and any other equipment, like
4 fastraps, and things like that that they may have their
5 officers carry.

6 Q. Thank you. Number 2 is a methodology for delivery with
7 set competencies to measure against?

8 A. So as I say, how do you check that the individual has
9 achieved or has taken on board the information and can
10 demonstrate the techniques that you are asking them to
11 take on board, so a set of competencies around the
12 physical skills definitely would -- is a must and also a
13 manner or a methodology of being able to test that the
14 knowledge that they have been given around conflict
15 management et cetera has gone in.

16 That could be something as simple as a written test
17 or a knowledge check, but some competencies can only be
18 checked by actually physically seeing an individual
19 demonstrate those, especially when we look at
20 behavioural requirements, such as conflict management,
21 that can really only be shown in a scenario-based
22 environment.

23 Q. 3, a recognised level of trainer competence to deliver
24 the programme?

25 A. As I say, the trainer is an important part of the

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1 process and an important part of the holistic approach.
2 They should be trained to a recognised level and that's
3 not just teaching qualifications, but that's also skill
4 levels. They should be regularly updated and there
5 should be a process in place for them to be refreshed
6 and competency checked themselves so that what they're
7 delivering -- we can confirm that what they're
8 delivering is the required standard.

9 Q. And then 4, a process of check testing and developing
10 the trainers?

11 A. Yes. As I have just said, some process in place where
12 they're either annually or biannually brought in or
13 visited, monitored, assessed, et cetera and given fresh
14 information in or any changes to the programme that have
15 taken place.

16 Q. So 3 is about making sure they're at a basic level of
17 competence, a standard level of competence?

18 A. Yes, so that would be a creation of a trainers' course
19 that fits, equips them to go out and be able to deliver
20 that programme.

21 Q. And the check testing and developing allows them to
22 progress --

23 A. Yes.

24 Q. -- as time moves on?

25 A. Yes, and it also produces, for want of a better

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1 terminology, an MOT process for their skill level to
2 make sure that they're of the required standard going
3 forward.

4 Q. A means of ensuring that they maintain those
5 standards --

6 A. That's correct, yes.

7 Q. -- long-term?

8 5, a method of monitoring delivery?

9 A. Yes, so that's either having somebody at a local who is
10 responsible for monitoring and checking local delivery
11 for officers or a process whereby a central unit may go
12 out and monitor the delivery of the training at various
13 locations. Most services or forces use what we call a
14 "cascade system", whereby there's a central unit.
15 Certainly within the NPS and a lot of other large forces
16 there is a central team that have part of their
17 responsibility is to go out and visit those venues, make
18 sure that the venues are suitable, make sure that the
19 trainers are delivering the contents, the programme and
20 that they're delivering it in the relevant fashion and
21 with the correct supporting information.

22 Q. So delivering at a local level, that's dealing with
23 officers face-to-face in the local areas, is it?

24 A. Yes, that's sort of usually local officers who have
25 become trainers, training staff from the area where

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- 1 they're based.
- 2 Q. And monitoring that to ensure again that standards are
3 maintained?
- 4 A. Yes, yes, so that may be the fact that there's, you
5 know, a small team at one particular area, one person,
6 maybe a supervisor, is allocated that task to look after
7 them or it may be the case that some somebody from the
8 central, as I have said, comes out and monitors the
9 whole group at the local level.
- 10 Q. And that's monitoring both in terms of the content is
11 being appropriately shared, but also the demonstrations
12 and skills are being --
- 13 A. Yes, is the programme being delivered as it's expected,
14 is it being delivered to the correct level, are they
15 using the correct methodology to deliver that and are
16 they basically performing to the level that's required.
- 17 Q. 6, systems to review and develop the programme with
18 access to independent sources of information and
19 expertise?
- 20 A. Yes, this is the only way that you can really develop,
21 certainly in officer safety programme, is by using
22 intelligence-led information that is accessed within the
23 organisation, so that includes things like complaints,
24 injuries, assault figures, use of force figures. So
25 that's where an officer uses force and they record that

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1 use of force on a particular system or form, that should
2 be reviewed to see what officers are actually using and
3 what they're -- what they may be using or not using is
4 becoming ineffective. Also then using externally
5 sources, such as other organisations, other forces,
6 liaising with external expertise, so that's medical. So
7 you may want to review medically something that you're
8 considering including or adding to your programme.
9 Legal services in relation to findings from situations
10 like this, coroner's inquiries and things like that. So
11 it's having access to all of that information which will
12 much better allow you to develop and change and modify
13 the programme going forward.

14 Q. Thank you. And then finally number 7, someone
15 responsible for oversight both day-to-day and
16 strategically?

17 A. Yes, as I sort of touched on, somebody within the
18 organisation, either at a central level or someone
19 within the training world, possibly the training -- the
20 central training school, who has direct responsibility
21 for this OST delivery, but on top of that also somebody
22 within the senior management, the strategic management
23 of the service who is the champion or the person who
24 that individual can go to to say, you know, we have a
25 problem or this needs to be looked at or this needs to

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1 be pushed forward. Without that strategic lead,
2 obviously, officer safety programmes can drop-down the
3 importance ladder unfortunately with other requirements
4 within the police service.

5 So it's important to not only have somebody looking
6 at it at sort of grassroots, but also somebody at a
7 strategic level who has that direct access to the senior
8 management of the service.

9 Q. It is sounds like a training programme such as you've
10 described which perhaps fits all these will criteria
11 would be evolving on a regular basis?

12 A. Yes, I would expect sort of ongoing, certainly on at
13 least an annual basis, some form of review being taken
14 place, depending on the methodology of development for
15 the officers. So if say, for example, it was a
16 biannual, so they were doing it twice a year, each of
17 those packages can be looked at and changed as required
18 going forward.

19 If it's an annual, then you have got a little bit
20 more time to utilise more information on that one
21 session, as I say, depending on how the refresher
22 programme is delivered within that organisation.

23 Q. Thank you very much.

24 Now, in pages 4 to 11 of your report, you cover each
25 of these points and what I plan to do is go through a

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1 number of the paragraphs where you deal with them in
2 turn. But can I ask you first of all, you've identified
3 these seven criteria, how did -- how did you learn about
4 this criteria yourself? Is this part of your
5 professional work as a trainer?

6 A. Yes, certainly -- I mean all of those seven requirements
7 were in force within the NPS when I was there and are
8 still in force now. I'm aware of those seven elements
9 being in position for the majority of the forces up and
10 down the country when I was responsible for monitoring
11 and overseeing training.

12 Q. And you were head of training at the Met?

13 A. I was, yes.

14 Q. And left in 2012?

15 A. Yes, I was head of training until 2010 and then my role
16 evolved and I became the subject matter expert in
17 relation to the programme and the policy and equipment
18 and the training was separated out and went to another
19 supervisor.

20 Q. All right, thank you. But those criteria were known to
21 you as early as 2012?

22 A. Yes, from 2000 there was a programme in place, but I
23 changed and developed the programme quite extensively
24 over the first sort of three or four years of my time
25 within department.

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1 Q. Thank you very much. Let's deal with the first one
2 then:

3 "An agreed and documented content."

4 So let's look at that. Let's turn to section 3(b)
5 of your report. So you'll see that this is on page 4
6 and we'll see at the top of the screen:

7 "The only apparent agreed programme in place in
8 2015..."

9 And this is for Police Scotland?

10 A. Yes.

11 Q. "... was that of the student officer package being
12 delivered centrally. Although this was seen as the main
13 package, the Inquiry has heard evidence from
14 Inspector Young and others that this was not the case
15 and some legacy programme content was still being
16 delivered across the force area."

17 And you refer there to the national OST Review and
18 Evaluation April 2015, called the 2015 OST Review
19 Report. Now, we will come on to that report. We've
20 heard evidence that it was Inspector Young who began to
21 do a review of training with Police Scotland in December
22 of 2014?

23 A. Yes, that's correct.

24 Q. We've heard that Police Scotland came into existence on
25 1 April 2013 and Inspector Young was involved in

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1 training and from December 2014 started the process of a
2 review and that's what you've called it, the 2015 OST
3 Review Report?

4 A. That's one of the documents, yes.

5 Q. But looking at the issue of an agreed and documented
6 content, you say here:

7 "[Your] understanding is that the only apparent
8 agreed programme in place in 2015 was the student
9 officer package being delivered centrally."

10 Now, could I ask you, we've heard reference in
11 evidence to something we've been calling the
12 2013 Manual?

13 A. Yes.

14 Q. Can we look at PS10938, please. And you see there it
15 says "created September 2013" towards the bottom left
16 and the yellow band on the right-hand side does make it
17 clear it's a student manual?

18 A. That's correct, yes.

19 Q. And we've heard this was provided to all probationers
20 from that date and also to all instructors, training
21 instructors --

22 A. Yes.

23 Q. -- from that date? And we've heard evidence from
24 Inspector Young that the refresher training ought to
25 have been on the basis of this document --

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- 1 A. Yes.
- 2 Q. -- for those officers who weren't probationers, weren't
3 trainers, but who were attending refresher training?
- 4 A. Yes, and as I've said, it's a manual designed for new
5 officers and one thing it doesn't really address is the
6 fact that new officers requirements are slightly
7 different from serving officers requirements. You're
8 teaching a skill, a new skill, in the first instance,
9 you're replenishing or refreshing the skill for an
10 officer that already knows how to do it, so it's a bit
11 like a driving check test. So you know, if you drive,
12 you can pick up bad habits, therefore, the check testing
13 of that driver is requirements, but OST package should
14 be very similar. We should have an initial probationary
15 or a student officer programme and then based on that,
16 quite rightly, as Inspector Young has stated, based on
17 that should be a refresher programme, but it shouldn't
18 be identical to the student officer programme, because
19 they have different needs.
- 20 Q. And we've heard evidence that probationers, new recruits
21 will attend Tulliallan and be trained for a number of
22 weeks, but refresher training, at least in 2015 and up
23 to that period, was a day?
- 24 A. Yes, one day.
- 25 Q. And as I say, we've heard from Inspector Young that a

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1 copy of this manual would have been provided to all
2 probationer officers on the commencement of training at
3 Tulliallan?

4 A. Yes.

5 Q. And all OST instructors from 1 September 2013?

6 A. Yes, so any officer trained at the school from 2013
7 onwards should have had access to this or anybody that
8 had been refreshed should have had the content from
9 this manual.

10 Q. And certainly Inspector Young's evidence was to the
11 effect that all training and recertification training
12 ought to have been done under the manual?

13 A. Yes.

14 Q. This would have been the core document for training from
15 1 September 2013?

16 A. It should have been, yes, it's the only one that has
17 been produced.

18 Q. Right. But as you note in paragraph (b) in your report,
19 evidence has been given by Inspector Young that some
20 legacy programme content was still being delivered
21 across the force area, and when he referred to legacy
22 programme content, he was talking about what we have
23 come to know as legacy forces, which existed before
24 Police Scotland came into being?

25 A. Yes, that's correct.

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- 1 Q. That would have been Fife Police, Lothian and Borders
2 Police?
- 3 A. Strathclyde, yes.
- 4 Q. Different areas, they were known as legacy forces?
- 5 A. Yes.
- 6 Q. And they had their own views on training?
- 7 A. And different equipment. So as I have stated before,
8 they were all carrying different types of equipment,
9 they were all running slightly different programs, some
10 of them had different content or additional content that
11 the other legacy forces did not, and that was evident
12 from the 2015 review that those practices had continued,
13 even though there was now, allegedly, a central
14 reference document, ie this manual.
- 15 Q. And the Chair has Inspector Young's evidence on that,
16 but it would appear that in terms of the content and the
17 materials used by legacy forces that would have
18 differed, depending on which force you were looking at?
- 19 A. Yes.
- 20 Q. But then from 1 April 2013 Police Scotland came into
21 being?
- 22 A. Yes.
- 23 Q. But some of that content, some of those materials,
24 continued to be in use after 1 April 2013?
- 25 A. It certainly appears to have been, yes, based on

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1 Inspector Young's testimony and my review of the
2 documentation.

3 Q. Thank you. Let's look down to module 1, please, so this
4 document I think we only see a page at a time, but it's
5 about 196 pages in length?

6 A. Yes.

7 Q. If you stop there, please. And we can see here that the
8 manual is broken up into things called modules?

9 A. Yes

10 Q. And there are 14 of them, I think. Module 1, which we
11 see on the screen is officer safety training, and you'll
12 see 14 sections, 1 to 14, within that module?

13 A. Yes.

14 Q. And they each deal with different topics?

15 A. Yes.

16 Q. All under the heading of officer safety training?

17 A. Yes.

18 Q. And then there are other modules, module 2 is empty-hand
19 techniques?

20 A. Yes, it goes on to the physical techniques and the
21 physical skills after that first section.

22 Q. Module 3 is the rigid handcuffs and it goes on from
23 there. But let's stick with the first section, the
24 first module, if we may, and we've looked at module 1
25 with a number of witnesses in the Inquiry and I think

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1 the first aspect that you mention this is in back to
2 your report 3(e)., if we can go back to page 4 of your
3 report for the moment.

4 So that's SBPI 00667, and page 4, and it's paragraph
5 (e). So this is section 3(e). Here we are:

6 "The first and major point to raise with the 2013
7 OST Manual..."

8 That's the manual we have just been looking at on
9 the screen?

10 A. That's correct, yes.

11 Q. "... is in relation to the layout and emphasis in module
12 1. Firstly, the model that everything should hang from
13 or support, the National Decision Model... "

14 We've also heard that called the National
15 Decision-Making Model?

16 A. Yes.

17 Q. NDM:

18 "... is at the end of the module. It does not
19 appear until page 18 of the module."

20 A. That's correct.

21 Q. "The layout of information in this section does not flow
22 in a logical manner. Below I have set out a number of
23 issues I have with this section."

24 And I think you list -- you have nine bulletpoints
25 issues that you raised in relation to module 1.

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- 1 A. Yes.
- 2 Q. And I would like to go through these with you and I
3 think you name issues with about seven of the different
4 aspects?
- 5 A. Yes.
- 6 Q. So let's start at section 1, so bulletpoint 1, module 1,
7 section 1 at page 2:
- 8 "Learning outcome bulletpoint 2, this is misleading
9 as a risk assessment is carried out before force might
10 be used. This could lead an officer to believe that
11 force is applied prior to consideration as to its
12 proportionately or suitability in the circumstances."
- 13 Now, I would like to look at module 1, section 1, at
14 page 2.
- 15 A. Yes
- 16 Q. So that we can actually see what you're referring to
17 here. Perhaps you have a copy of your report in front
18 of you.
- 19 A. Yes, I've got my report.
- 20 Q. So you can keep that in front of you. Unfortunately, we
21 can't see everything on the screen at one time.
- 22 A. Not a problem. I have got my report with the
23 bulletpoints.
- 24 Q. Excellent. So if we could look, please, at the
25 2013 Manual again, please, and that's POS10938. So if

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1 we can look at module 1, section 1, page 2. This is
2 module 1 "officer safety Training" appearing on the
3 screen and we're going to look at page 2 and you'll see
4 each of these pages have different numbers on the bottom
5 of the -- there we are. You see the page number on the
6 bottom left-hand side?

7 A. Yes, you just need to go up a little bit. It's the
8 second bulletpoint I think.

9 Q. So let's look at the bulletpoint there. It says
10 "Learning Outcomes", so what we have on the screen is
11 the 2013 Manual module 1 and you have your report in
12 front of you --

13 A. Yes

14 Q. -- in a hard copy? And you've highlighted an issue with
15 learning outcomes, bulletpoint 2, which says:

16 "Explain the levels of force that may be used when
17 carrying out a threat assessment."

18 And tell us what your concerns were here?

19 A. Well, as a learning outcome this is what should be
20 achieved by the officer or by the student from the
21 training. The wording of that indicates to me as a
22 reader that a level of force is inevitable and that, but
23 a threat assessment is a process that's carried out
24 before a decision to use force is actually taken.

25 So going back to my opening paragraph on that, the

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1 fact that the model, the NDM, is at the end of a section
2 doesn't lead an officer to a rationale process of being
3 able to assess a situation and arrive at a balanced
4 decision on a tactical option that is going to work to
5 resolve the problem. It starts and this leads an
6 officer, I think, to actually think force is inevitable
7 and force is -- we are only going to talk about
8 situations where force is used, where actually, when
9 we're talking about conflict management, we're talking
10 about trying to deal with situations without reverting
11 to use force and using other options to resolve the
12 problem.

13 So using words like "a level of force" to me I think
14 is misleading and it's an unachievable and actually
15 incorrect learning outcome to have at the beginning of
16 training for a student officer.

17 Q. Let's look at page 18, which is where you've highlighted
18 the NDM appears?

19 A. Yes.

20 Q. So this is right at the end of the module 1. That's
21 page 10. So this is at the very end of module 1?

22 A. Yes.

23 Q. National Decision-Making Model, and we've heard evidence
24 about this, this is the process where you're gathering
25 information and assessing the threat and risk and

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- 1 developing a working strategy, consider powers and
2 policy, identify options and contingencies, and those
3 options may or may not include the use of force?
- 4 A. Yes.
- 5 Q. They could include options which involve no force
6 whatsoever?
- 7 A. That's correct.
- 8 Q. And take action and review what happened and as
9 additional or new information comes to your attention,
10 you can repeat the cycle?
- 11 A. Yes, you can jump from any of the boxes back to the
12 beginning when further information or intelligence
13 becomes evident. It's not something that you go all the
14 way around and back to the beginning.
- 15 Q. It's not necessary if using the National Decision-Making
16 Model to use force?
- 17 A. No.
- 18 Q. Or to even aim to use force in any way?
- 19 A. No, not at all. You know, the decision, the tactical
20 option may be to stand back and observe, it may be to
21 withdraw, but that's based on the information that
22 you've gathered and the assessment that you've carried
23 out and you've considered what you can legally and
24 ethically do before you actually take the action.
- 25 Q. But when we go back to page 2 of module 1 and the

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1 learning outcomes, which is what we were on a moment
2 ago, so this is really the -- page 1 is effectively just
3 the covering sheet. So it's the first page that a
4 student would look at in module 1, the learning
5 outcomes, bulletpoint 2 is about explaining the levels
6 of force that may be used when carrying out a threat
7 assessment?

8 A. Yes.

9 Q. And so there appears to be a prominence, if I can put it
10 that way, given to the use of force?

11 A. There certainly seems to be with that learning outcome,
12 yes.

13 Q. And your concerns with that were what?

14 A. Just the fact that as a second bulletpoint, I would have
15 said the first learning outcomes from this section
16 should be to be able to understand the sources of
17 information and intelligence that can be used for
18 officers, then how to conduct a risk assessment or a
19 threat assessment, then use of force powers, and
20 considerations. So following the model as it is, just
21 going around the process and giving the officers the
22 information and the learning outcomes to understand each
23 section of the model.

24 Q. And thinking about the impact on someone who's being
25 trained, a probationer or someone else, an officer, you

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1 have described that and the word you use is "misleading"
2 and is that the impact you fear could --

3 A. Certainly for a new officer. Probably not so much in an
4 officer who has already received the training, but
5 certainly from a new officer, I think that leads an
6 individual that there is a requirement for a level of
7 force within this process.

8 Q. Then Can we move to page 3, please, of module 1. Thank
9 you. And without going to your report, if we can
10 just -- you can see what you said. It starts with human
11 rights and use of force:

12 "Under the NDM these are considerations in the third
13 phase after gathering information and assessing the
14 situation."

15 A. Yes.

16 Q. Again, can you explain what your concerns were with page
17 3 of module 1?

18 A. You're firing the legality as the first element to the
19 student, which it isn't, it's the third consideration
20 after you've gathered the information and you have made
21 that assessment of the risk. Because if that's not
22 conducted, this information is front-loaded and is not
23 really a requirement at that early stage. It's a
24 requirement that you have to bring in into your
25 consideration, your decision-making, once you have

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1 assessed the situation. So it just really -- I think it
2 just front-loads or it appears to front-load the
3 technical information far too early within the training,
4 because you want the officers, the students, to
5 understand the process and what's expected of them
6 before you give them the sort of the extra knowledge
7 base.

8 Q. This, the focus on this is about the legal requirements
9 when you use force?

10 A. Yes.

11 Q. Let's look again at page 18, which is the National
12 Decision-Making Model, and so the National
13 Decision-Making Model starts with gathering information?

14 A. Yes.

15 Q. And then assessing the threat and risk and developing
16 what's called "a working strategy"?

17 A. Yes.

18 Q. And then considering powers and policy and is that --
19 when you talk about the third phase, is that the third
20 phase?

21 A. That is the third phase.

22 Q. Considering your legal powers?

23 A. Yes, so it's a legal powers and also in relation to
24 policy you would also look at that point is the ethical
25 side of it. Obviously, the code of ethics is in the

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1 centre and it's an underpinning process for the
2 decision-making of officers. So human rights obviously
3 is part of codes of ethics, but it's really put across
4 as part of the considerations, the ethical and legal
5 considerations, under powers and policy.

6 Q. So although the law is a starting point for lawyers?

7 A. Yes.

8 Q. For an officer, the starting point with the NDM should
9 be gathering information?

10 A. Yes.

11 Q. And assessing threat and risk?

12 A. Well, they're faced with the situation before they have
13 to consider anything else, so it's dealing with the
14 situation and then the consideration for the legal and
15 ethical requirements based on what they're faced with.

16 Q. The first thing in their mind shouldn't be what's the
17 law about excessive force or use of force and how do I
18 justify use of force?

19 A. It certainly shouldn't be the first thing in their mind,
20 no.

21 Q. The first thing in their mind, if they're using the NDM,
22 should be gathering information?

23 A. Yes, and assessing the risk to them and others.

24 Q. Thank you. Can we then turn on to page 6, please. Now,
25 this is section 4 of module 1, and you'll see again,

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1 without putting your report on the screen, if we can
2 talk through that. So we're looking at page 6. It's
3 the next one, that's lovely thank you. There we are.
4 There you are.

5 So this is page 6 of module 1, section 4 "Tactical
6 Communication" and I think in your report you say:

7 "This is a tactical option and therefore part of the
8 fifth phase of take action and review."

9 A. Yes.

10 Q. "But is shown before assessing risk, the second phase."

11 A. Yes.

12 Q. And I would like to a look at this again. Can you help
13 us understand. Let us look, first of all, at the NDM
14 model, which is page -- I have completely forgotten?

15 A. 18.

16 Q. 18. There we are and we're looking now -- we'll look in
17 a moment at page 6, which is tactical communication and
18 you'll see that's part of the fifth phase. Can you
19 explain what do you mean by that?

20 A. Whether to take action, it may be considered as part of
21 the working strategy, but the actual application of the
22 option that's chosen to resolve the problem is taken in
23 that fifth phase of take action and review. So that
24 would be when you would use the tactical communication
25 and then based on the responses from the individual that

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1 you're dealing with, you then modify -- you may have to
2 modify that decision or that tactical option.

3 Q. Developing a working strategy may be thinking about the
4 options that are open to you?

5 A. Yes, you would look at the option, the different options
6 that are open to you and you would make a decision.

7 Q. But the actual implementation of those options or one of
8 those options would be at the take action and review
9 stage?

10 A. Yes, some of it would be at the identify options and
11 contingencies, because that's where you would be looking
12 at the choice of what's available to you, what might
13 work, what might not work and then you've actually got
14 to apply that tactical option in the last phase, in the
15 fifth phase.

16 Q. And what's the difference between developing a working
17 strategy and identifying options?

18 A. Developing a working strategy it's a sort of a compass
19 all for planners, because this is not just a dynamic
20 model, it's a model in relation to decision-making in
21 general across the police service, so it's more designed
22 for where you've got the luxury of time and ability to
23 sort of sit down and look at the problem in a longer
24 period of time. It doesn't really come in on a dynamic
25 situation, because it's not something that's going to be

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- 1 available to you in that circumstances.
- 2 Q. On this model, the second phase is the assessing threat
3 and risk and developing the working strategy, and the
4 fifth phase is the take action and review?
- 5 A. Yes.
- 6 Q. And when we were talking about tactical communication,
7 which if we go back to page 6, and we were looking at
8 that, and this is model section 4, tactical
9 communication, and it talks about components of
10 communication and taking in elements classified as
11 impact factors, warning signs, danger signs, your report
12 says it's -- tactical communication is actually part of
13 the fifth phase?
- 14 A. Fourth or fifth, yes. It would be considered in the
15 fourth and implemented in the fifth, yes.
- 16 Q. But is shown in module 1 before assessing risk, which in
17 the NDM is the second phase?
- 18 A. Yes.
- 19 Q. So is it really out of order?
- 20 A. It is. I mean in reality, this would be after you had
21 covered the process of conflict management. This would
22 be one of the tactical options that would be available
23 to you, and you would come back, you would have a
24 stand-alone input on this after officers had got the
25 grasp of how the NDM is applied and how it works,

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1 because, like everything else, like using bits of
2 equipment, withdrawing, standing off, tactical
3 communication, moving in and restraining, they're all
4 the tactical options that are available and that would
5 basically be the remainder of the training that the
6 officers would receive once they have got their head
7 around how to apply the NDM.

8 Q. And again, what impact can that have on someone who is
9 being trained?

10 A. Again, I think it confuses them and it doesn't give them
11 a natural process or application of the requirement of
12 conflict management and of decision-making, because that
13 should be the cornerstone really of all of the training
14 and everything else should hang off of that so they have
15 got that method, methodology, and that model to hang the
16 training from.

17 Q. Let's look at page 5, section 3 of module 1, and this
18 relates to -- specifically to use of force,
19 justification, preclusion, we've talked with a number of
20 witnesses about the legal requirements effectively about
21 this and then it specifies, section 20, the duties on
22 constables and lawful measures and such like. In your
23 report you say:

24 "There's no mention of any force used needing to be
25 justifiable in the circumstances as the officer believed

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1 them to be, not just appropriate to the resistance
2 exhibited. This is mentioned under preclusion, but only
3 in relation to consideration of a tactical option that
4 has been ruled out by the officer."

5 Can you explain what you mean by that, please?

6 A. Yes, the definition of "preclusion" here really just
7 is --

8 Q. Move up the page slightly.

9 A. -- is looking at the requirement for an officer to be
10 able to explain why they haven't done something. So
11 again, why did you preclude this? However,
12 circumstances that the officers find themselves in an
13 integral part of justifying any use of force, because if
14 the circumstances as they believe them to be were found
15 to be incorrect, that in itself should not negate the
16 fact that the actions taken were unlawful or excessive.

17 So the circumstances that the officers find
18 themselves in or believe them to be at the time is an
19 integral part of both EHR, you know human rights
20 requirements and also general use of force requirements,
21 but this doesn't really mention the fact of reasonable
22 in the circumstances or reasonable and necessary and
23 proportionate as per human rights.

24 Q. You have said in your report:

25 "The circumstances of a situation can have a massive

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1 bearing on decision-making and what force an officer
2 might apply based on those circumstances."

3 And I'm reading from your report:

4 "An example might be where an officer believes,
5 based on the information they have at that time, that a
6 person may be armed, they use substantial force to
7 subdue the person, but find they are not armed."

8 A. Yes, so there the circumstances as they believed them to
9 be would be a relevant part of the consideration as to
10 whether the actions that they took and the force that
11 they used in those circumstances were excessive or
12 reasonable.

13 Q. Okay. And then we can move on to section 5 at page 9
14 and this is under "Threat Assessment". So again, we're
15 still in module 1, section 5, page 9, and there's a
16 section headed "Threat Assessment" and there's a
17 definition of conflict and you'll see that on the
18 right-hand side of the screen. And your report talks
19 about this area and says:

20 "A conflict can be described -- "

21 You're reading out the definition:

22 "A conflict can be described as a trial of strength
23 between opposed parties or principles or be at odds
24 with."

25 And you say in your report:

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1 "I would question the use of this definition, as in
2 my opinion it points officers to accept that conflict is
3 likely to become a physical act or battle. I accept
4 that conflict is inevitable, but most situations when
5 dealt with well end in no physical force being used."

6 A. That's correct, yes.

7 Q. Again, can you expand on this here? So we see the
8 definition of conflict is described as a trial of
9 strength?

10 A. Yes, as I say, anything when you're going to go to
11 strength or anything, reverting to a physical act or a
12 physical attribute, my personal opinion is that pushes
13 an officer into the fact that conflict is
14 confrontational is going to lead to a physical -- a
15 physical intervention or a physical requirement, whereby
16 conflict in its normal -- normal explanation or normal
17 description is basically a disagreement or a difference
18 in opinion or views or approach to a situation, which is
19 a much broader and I think a better explanation as to
20 what conflict actually is.

21 Q. Conflict does not necessarily have to be a physical
22 matter?

23 A. No, conflict doesn't have to be confrontational or lead
24 to a physical requirement of intervention or use of
25 force.

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1 Q. It doesn't necessarily require use of force and in the
2 same way as the NDM we have been looking at, the first
3 stage should be gathering information?

4 A. Yes.

5 Q. And assessing?

6 A. Yes.

7 Q. And use of force may be an option, but it should not be
8 at the forefront of your mind?

9 A. It should be a consideration when we get to 3 and 4 on
10 the model is, you know, what does the law say I can do,
11 what options do I have open to me, but you shouldn't be
12 going into that with a preloaded cognitive process of
13 this is going to be -- this is going to be a physical
14 interaction.

15 Q. That shouldn't be the way that training is presented to
16 new recruits, probationers or officers doing refreshing?

17 A. Yes, I think that assessment of threat, that early
18 confrontation or that early conflict definition is
19 leading officers away from the fact that conflict is
20 inevitable. We have conflict in every form of, you
21 know, our daily lives. It's how you manage that
22 conflict which is the important thing, not the fact of,
23 you know, how strong you are, what physical requirements
24 you have to be able to resolve that conflict.

25 Q. And use of force shouldn't be an automatic thing, so any

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1 training that perhaps suggests that would be misleading
2 to probationers or officers?

3 A. Certainly to a student officer, I would think, yes, who
4 have never been in that or possibly not been in those
5 types of situations previously.

6 Q. And let's look then at page 9 and this is "threat
7 assessment". Sorry, I have got the wrong page number
8 here. Page 15. Page 15 is module 1, section 9
9 "Reasonable Officer Response Options, Levels 1 to 5".
10 We have heard evidence about this throughout
11 the Inquiry?

12 A. Yes.

13 Q. What you said in your report is:

14 "There is no correlation between profiled offender
15 behaviour and what the reasonable officer response might
16 be at each level. It does not indicate that the five
17 levels of reasonable officer response options start
18 before subject behaviour. Therefore, there is a
19 reaction by the subject to each level applied. How does
20 or should an officer quantify these levels? The way
21 they are presented they are just a list with little or
22 no practical application or reference. An example of
23 guidance might be if you do X and the subject responds
24 with Y, what might you do? You now consider."

25 Now, we have heard evidence in the Inquiry about the

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1 profiled offender behaviour?

2 A. Yes.

3 Q. And we have heard that there are six options escalating
4 up a ladder I think. In fact I think your evidence was
5 it was a sort of ladder. The reasonable officer
6 response options are only five?

7 A. Yes.

8 Q. And that there was not a simple line that you could go
9 across from one to the other?

10 A. That's correct.

11 Q. And I think the point you're making in your report is
12 there's no correlation between the profiled offender
13 behaviour and what the reasonable officer response might
14 be; is that correct?

15 A. That's correct, yes. It doesn't really give an example
16 or a methodology again for students to understand how
17 they correlate with each other. If I was to do it in
18 simple terminology, if I have a person in front of me, I
19 turn up in uniform so the first level that actually has
20 an impact on the situation and on the management of that
21 possible conflict is the level 1 is me turning up in
22 uniform with my equipment, how I present myself
23 nonverbally to that individual. Based on my presence,
24 the person may respond or do something. So they respond
25 to my presence.

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1 If I then use a simple command saying something like
2 "come here, stand still, show me your hands" and they
3 don't comply, that's then a response to my actions. So
4 it's letting officers understand that each reasonable
5 response is triggered or should be triggered by the
6 actions or the demeanour of the subject and not
7 something that should just be chosen to deal with what's
8 in front of them. It's a reactive process.

9 Q. If we move up the page we can see level 2 "Tactical
10 Communication", where you are talking about
11 communicating in some way verbally with --

12 A. Yes, and that goes back to the section we just looked
13 at, so I would expect that now to be explained what
14 tactical communication is, what options are open
15 tactically and then you would look at the appeal
16 processes and different ways that you can try and
17 negotiate and get that individual to comply.

18 Q. And again, thinking about the impact on an officer, if
19 we go back to page 14 actually, we'll see that the
20 profile offender behaviour is explained on that page,
21 which we've talked about. The six levels are there and
22 we've looked at that with a number of witnesses and then
23 if we go on back to 15, we see the reasonable officer
24 response so they're on pages 14 and 15 for an officer.

25 A. Yes.

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1 Q. But what are your concerns about the impact of the way
2 this is presented to an officer when they're being
3 trained?

4 A. I think this should really be sitting within the threat
5 assessment process so we've covered -- this is basically
6 what you've got to hang your assessment of the risk or
7 the threat on is what is happening, what is the person
8 doing, how are they behaving, how are they presenting
9 themselves, before you then move on to making the
10 decision of what to do. The section in total, as I said
11 at the beginning of that paragraph, is disjointed, it
12 doesn't follow that nice easy process, is this is what
13 you're presented with, what do you think about it, what
14 do you have to consider, what options are open to you,
15 right what are you going to do about it. And it's
16 trying to give them that simple modular approach to
17 making decisions and assessing situations and keeping
18 themselves safe, their colleagues and members of the
19 public without sort of jumping from bit to bit.

20 I think if I was to overview it, I would say it's a
21 section that's been there for some time, the NDM has
22 come along and basically the NDM has been stuck at the
23 end of the section, because that's the simple place to
24 put it, rather than actually incorporating it into the
25 process and showing that that's what everything else

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1 should be hanging off, rather than just, here's a model,
2 because there's two or three other models before that
3 model in this module.

4 Q. And in fact you mention that at page 16. There is the
5 paradigm of conflict and continuum, the confrontational
6 continuum, and the conflict resolution model on page 17,
7 but we see here these are different models that are also
8 remaining within module 1 --

9 A. Yes.

10 Q. -- of the manual?

11 And you talk about:

12 "The conflict management model can lead to a rigid
13 approach to the use of force."

14 And I'm interested in your views on the fact that a
15 number of different models of conflict resolution still
16 remain within module 1, the NDM model is at the end,
17 what impact would that have on an officer?

18 A. I think if you bring the model up a little bit more so
19 everybody can see it.

20 Q. Yes, go up the page, please. This is a confrontational
21 continuum.

22 A. Yes, again, talking about confrontation, rather than
23 conflict, so we're automatically leading officers into
24 the probability that this is a confrontation, not a
25 conflict situation that can be managed. But it's in

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1 itself throwing that I think at a new officer and
2 getting them to try and understand what it is and what
3 they are expected to do is quite difficult. I think a
4 number of people would look at that and go I'm not quite
5 sure what you're trying to tell me or what you're
6 expecting me to do based on that. And then going on to
7 the conflict resolution, which is on the next page, this
8 is a model that we -- was -- within the rest of the UK
9 was kicked into touch in about 2002. It is in a very
10 old model, but it doesn't really guide officers into any
11 particular course of action, what it does is just
12 highlights the correlation between the three things that
13 will go to make that decision possible. So the offender
14 behaviour is important, the impact factors are
15 important, what are they doing, what's happening, which
16 will guide my reasonable officer response and the way
17 that is sold is the little quadrant that's in the middle
18 is where you should be aiming to go, but there's no real
19 definition on that model to tell you what's in there
20 based on -- it just says:

21 "You consider these three factors, these three
22 areas, to arrive at a reasonable solution."

23 So again, as I said, that was sort of removed from
24 the other manuals across the UK sometime ago and was
25 replaced with the conflict management model, which was

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1 the predecessor to the NDM before the NDM was produced
2 in 2012 and I have produced a copy of that for the Chair
3 for their understanding.

4 Q. Thank you. So the confrontational continuum which
5 remained within the 2013 Manual was very complex and
6 perhaps --

7 A. Certainly for a student officer I think it's quite a
8 difficult way to or a conflicted methodology of trying
9 to get what is basically a simple ladder effect of you
10 do this, they do that; in response to that, you can do
11 this; in response to that, they might do this.

12 Q. And then the conflict resolution model, which remained
13 in the 2013 Manual which had been removed from other
14 manuals in other parts of the UK was a bit simplistic
15 perhaps?

16 A. Yes, and I think it was purely used as a visual key for
17 staff to understand that these three elements all have a
18 bearing on your decision-making and that you're trying
19 to get that sweet spot in the middle of the three
20 circles for your decision.

21 Q. But the NDM model that we've looked at on page 18
22 explains the process that someone should be following?

23 A. Yes, and, as I say, as of the dates of this 2002, we had
24 already moved over to the conflict management model,
25 which was the predecessor. Visually, if you look at it,

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1 it's a simplified wording version of the NDM, but it was
2 the process was there in relation to how people think
3 and how officers should approach situations.

4 Q. In other parts of the UK, where they using the NDM from
5 2013 in 2015?

6 A. Yes, it was produced in 2012 in the rewrite of the
7 manual that I did before I retired and it was instigated
8 or implemented across the UK forces 2012, 2013.

9 Q. And had other methods such as the conflict resolution
10 model been removed?

11 A. Certainly removed from the NPCC Manual, yes.

12 Q. And why were they removed?

13 A. Just the fact they were found not to be of any
14 assistance and didn't really guide officers in the way
15 that we wanted them to be understanding the application.

16 Q. Was there concern about officers finding it confusing
17 with the different models?

18 A. Certainly possibly. I mean the paradigm has never
19 formed part of UK -- across the rest of the UK for my
20 involvement in officer safety. Going back to the
21 nineties, it's something I have never seen other than in
22 Scotland, so it's not a model that's used elsewhere, to
23 the best of my knowledge.

24 Q. That's the paradigms of conflict section 10 of module 1?

25 A. Yes.

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- 1 Q. That's at the top of page 16, so it's only been
2 presented that way in Scotland?
- 3 A. I have only ever seen it in Scottish-related
4 publications, yes.
- 5 Q. All right. Thank you. And let's just deal with the
6 last couple of points you make on module 1. Section 10,
7 page 18 we have dealt with the NDM and page 19, which we
8 haven't looked at, stage 2 of the NDM. So stage 1 is
9 the gathering intelligence. Stage 2, "Assess threat and
10 risk and develop a working strategy."
- 11 A. If I could just make a comment on the gathering
12 information though, please.
- 13 Q. Yes, let's go back a page. That's page 18. This is the
14 NDM?
- 15 A. Again, this doesn't really push officers into all of the
16 areas that they might be able to gather that
17 information, that intelligence from. It doesn't have an
18 emphasis on using their senses, what they can see, what
19 they can hear, et cetera, which is a major part of
20 gathering information, but also looking at the
21 intelligence side of things, you know. What are they
22 getting told from the area control room? What do they
23 know about the area they're going to? What do they know
24 about the individual that they might be going to deal
25 with? What are the similar situations? They're all

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1 important elements of information that guide the
2 officer's assessment of the risk, so it's not -- there's
3 not a lot of information in there I think in relation to
4 really pushing that importance of that intelligence and
5 information gathering as the key, because the more you
6 know, the better prepared you can be and really pushing
7 those sources forward.

8 Q. For a trainee, a probationer, an officer looking at this
9 page there's not considerable detail in this page
10 regarding gathering information? No reference to the
11 ACR?

12 A. No.

13 Q. No, reference to considering their own experience or the
14 experience of other officers?

15 A. Which is a very important part of the consideration
16 process.

17 Q. So that is just not present?

18 A. Not that I can see from there. It may have formed part
19 of the actual supporting information, but I couldn't
20 find it in any of the lesson plans.

21 Q. Thank you. Let's look at stage 2 then and this is
22 "Assess threat and risk and develop a working strategy,"
23 so this page covers stage 2 and stage 2 ends on the
24 left-hand column just before stage 3, if we can just go
25 down to see the bottom. There we are. So stage 2 is on

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1 the left-hand side here, and it talks about minimising
2 the risk to the victim?

3 A. Yes.

4 Q. "... minimising the risk to the public in the immediate
5 area, maximising the safety of unarmed policing staff
6 and specialist officers, minimising the risk to the
7 subject and allowing for detention or arrest of the
8 subject and recovery and preservation of evidence."

9 In your report, you say "there is little information
10 on how to actually do this here"?

11 A. Yes.

12 Q. And that's the assessing threat risk and developing a
13 working strategy. Can you talk us through your concerns
14 here?

15 A. Further in the section there's input in relation to
16 levels of risk, impact factors, different types of
17 profile behaviour, warning signs, things like that.
18 This is where that should be, because that's what we're
19 using to conduct the risk assessment or the threat
20 assessment. So we should notify at this section, this
21 is why we do it, which is what they have done; this is
22 how we do it. You're going to assess the individual,
23 you're going to looked at the area around you, you're
24 going to look at the location, you're going to look at
25 any objects; person, object, place. You're going to

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1 look at the impact factors of the individual; are they
2 bigger than me, are they smaller than me, are there more
3 than them than us? Things like that. All of these
4 impact factors are what you use to conduct that
5 assessment and, at that point there, that's not really
6 evident. It just tells you the why, which I don't
7 disagree with, but it doesn't give you any information
8 as to the how.

9 Q. Let's look at pages 9 and 10 of module 1 and I think
10 this is -- so these are previous pages 9 and 10?

11 A. Yes.

12 Q. And your view is really some of the information, at
13 least on pages 9 and 10 of module 1, would be relevant
14 in stage 2?

15 A. Yes. So there's your threat assessment.

16 Q. Mm-hmm. "Confrontational considerations". It then goes
17 down "preparation for policing" and then gives you
18 colour coding system, and "threat assessment, conflict",
19 we looked at that a moment ago, and then general, and
20 then if we look on to page 10 --

21 A. There is your person, objects, place and your risk
22 categories. That information really should be where we
23 have just been, because that's the how.

24 Q. Right. And so just to conclude this part of your report
25 on module 1, is it fair to say that you have concerns

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- 1 about the order of all of these sections in module 1?
- 2 A. Yes, I think the way module 1 is structured, any normal
3 programme would start at to the core of policing, which
4 is conflict management. Certainly within the rest of
5 the UK, the occupational standard is called "Manage
6 Conflict", because that's what we do on a daily basis.
7 So it should start with that and then from that you then
8 go into each of the elements of the National Decision
9 Model and look at the hows in each of those boxes, so
10 how do we gather information, where do we gather
11 information from, how do we assess risk, what levels of
12 risk do we accept or not, what powers and policies do I
13 need to consider? So that's your human -- HR and your
14 use of force powers, what tactical options are available
15 to me, what happens if I apply this tactical option,
16 will it work, won't it work and having that contingency,
17 that plan B ready in case it doesn't work.
- 18 Q. Not the primary focus on using force and justifying that
19 use of force, but leaving force until effectively the
20 end of that section?
- 21 A. It's one of the considerations that you need to have,
22 but as everything else needs to be in place before you
23 consider the probability or possibility of using
24 physical force, yes.
- 25 Q. So not just the order of pages or that it's actually

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1 more fundamental?

2 A. I think it's certainly a matter of the formatting and
3 the way the information is delivered or appears to be
4 delivered, it's very disjointed, but also the actual --
5 I think the ethos and the underpinning message that's
6 coming from this leads me to believe, as an outside
7 reader, that the decision to use force has already been
8 made, it's how then you looked at the justification of
9 that use of force.

10 Q. Thank you. If you could just give me a moment.

11 I'm going to move on to another section now, if I
12 may?

13 COURT: In that case, I think we'll stop for the coffee
14 break. 20 minutes.

15 (11.29 am)

16 (A short break)

17 (11.57 am)

18 LORD BRACADALE: Ms Grahame.

19 MS GRAHAME: Thank you. We were looking at criteria
20 number 1 in section 3 and agreed and documented content
21 and we've just finished looking at the 2013 Manual,
22 module 1.

23 A. Yes.

24 Q. And I would like to move on and look at the instructor's
25 training manual and this is from 2012 and maybe we could

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1 this on the screen, PS12330. Now, you deal with this on
2 page 6 of your report, which you have in front of you,
3 paragraphs (g) and (h) and I would like to take you
4 through this.

5 So we'll see the yellow band on the right-hand side.
6 This is Named Officer Safety Training Instructor Manual.
7 So my understanding from previous evidence is that this
8 was available to instructors in the period up to the new
9 manual coming -- being created in September 2013, but
10 the copies of this remained -- this was the only
11 instructor manual?

12 A. Yes.

13 Q. And you'll see at the bottom left-hand side of the
14 screen this was created October 2012, so it was actually
15 created prior to the student manual we have looked at,
16 which was the 2013 Manual and prior to the creation of
17 Police Scotland?

18 A. Yes.

19 Q. This manual existed at a time when the legacy forces
20 were still in place?

21 A. That's correct, it was produced by the Central College
22 in Tulliallan.

23 Q. Thank you. Let's look first of all at one of the issues
24 that gives rise to in this manual. You give an example
25 from page 254 of the manual, there's 266 pages here,

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1 254, and you note this at paragraph (h), of your report.

2 You say:

3 "This document has a comment at the top of the page
4 254 stating [and this is in italics] refer to your own
5 force policy."

6 So you'll see under "General Guidelines":

7 "This section offers guidelines on documenting use
8 of force, but students should be advised to refer to
9 their own force policy."

10 A. Yes.

11 Q. And what's your concern about this manual, if this sort
12 of information was being shared with students?

13 A. Again, it normally facilitated that they were going to
14 get different or contradictory training when they
15 returned to force. So if this was a new student, they
16 were going to be trained centrally at the college, then
17 go out to their individual legacy forces and then once
18 there, they were going to probably receive additional
19 training in relation to use of force and possibly
20 different equipment, different tactics or different
21 techniques that may be differ or contradict what had
22 been given at the central college.

23 Q. If an instructor was using this manual as a guide to the
24 information to share, and given the concerns of
25 Inspector Young, which we touched on before the break

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1 about different legacy forces and different instructors
2 having different materials, different information, would
3 this cause concern to you in relation to what was being
4 taught to officers?

5 A. It certainly gives the opportunity and probability,
6 I would suggest, that other techniques or differing
7 approaches to the techniques that had been taught within
8 the college were most likely to be implemented once they
9 did their first refreshers or maybe even before that.

10 I mean go back a long time, certainly within the UK,
11 there was a similar system where some forces sent their
12 student officers centrally to the predecessor of the
13 College of Policing, the National Police Training as it
14 was then, NPC, and then they would go back to force,
15 force would then normally train them in whatever
16 specific bit of equipment they had and give them
17 additional training virtually on their return to force
18 before they went out, so it was an old practice that
19 used to happen across the UK prior, I would say, to
20 2012, because the NPC virtually ceased to be in
21 existence from around about 2004.

22 Q. And was it a concern to you that this document appears
23 to have been in existence at that time and maybe
24 available for use in light of the fact that since
25 1 April 2013 there were no longer any legacy forces?

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1 A. No, I think the -- one of the things that I have noticed
2 is that the 2013 Student Manual does reflect a lot of
3 the content that is in this manual, so it's quite
4 evident that there has been quite a lot of lift across
5 to the new student or then the new student manual, but,
6 as I say, once -- I would have expected in 2013, with
7 the creation of the Police Service of Scotland, that
8 the -- there would have been an amalgamation or a
9 redaction of old training materials.

10 Q. But certainly in relation to this particular page, 254,
11 that reference has not been redacted or removed?

12 A. Certainly not in 2012, but, as I say, that predates the
13 formation of Police Scotland so ...

14 Q. Can we look -- I won't ask for it to be put on the
15 screen but if you look at paragraph (g) on page 6, you
16 mention the manual and you say in most aspects it
17 mirrors what can be found in the 2013 Manual?

18 A. Yes, it would appear that the 2013 was virtually a
19 direct lift.

20 Q. So you say:

21 "It has little or no difference or additions to
22 enhance trainers knowledge or aid in delivery or
23 understanding."

24 And I'm interested in that comment that you would --
25 would you have expected differences or additions for

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- 1 trainers?
- 2 A. I would have expected the trainers to have additional
3 supporting information to help them get certain points
4 across around use of force, powers, medical
5 implications, et cetera, as well as training tips and
6 competencies in relation to the physical skills.
7 Unfortunately, this particular document that was
8 produced to me was extremely redacted, so it was very
9 difficult to establish whether some of that information
10 was actually incorporated into the manual.
- 11 Q. Right. And you have specified, however, at paragraph
12 (g) that there were some trainer-related comments that
13 you could find in the instructor's manual and you have
14 identified four areas where you could identify --
- 15 A. Yes.
- 16 Q. -- additional trainer assistance?
- 17 A. Yes.
- 18 Q. Yes. Apart from that, were you able to find any others?
- 19 A. Not that I could see through the redacted copy, no.
- 20 Q. Right, thank you. Can we move on to your paragraph in
21 your report (j) and (k), so at the bottom of page six
22 you'll see (j), (j) and (k) relate to batons. We won't
23 move this on the screen at the moment and what we'll do
24 is go back to the 2013 Manual, please. And I would like
25 to look at module 8, which is pages 185 and 186. So

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- 1 we're leaving the instructor training manual for the
2 moment?
- 3 A. Yes.
- 4 Q. And we're now going back to what was the student
5 training manual, which was the 2013 Manual and if we can
6 look at module 8, pages 185. Maybe that's not correct.
7 It says -- let's look at page 185. It may be that is --
8 I think there is a difference between --
- 9 A. It will be before.
- 10 Q. The page numbers you have given and the page numbers
11 that are on the PDF that are on the screen, so I think
12 we need to go back to the previous module perhaps.
13 We're certainly looking for the batons. What I might do
14 rather than looking for that --
- 15 A. I think that's from the 2012 Manual that reference that
16 I have given there, because I was still discussing
17 the --
- 18 Q. I think what I'll do is come back to that once I have
19 had a chance to look at it over lunch and we'll come
20 back to the issue of batons and I'll move on to lesson
21 plans. And you make a number of comments in your report
22 about lesson plans and these were -- we've heard
23 evidence that these were in addition to the OST Manual
24 and information and the materials contained in that.
- 25 And if we -- we heard from Inspector Young on

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1 Day 71, 23 November last year, about lesson plans, and
2 he said:

3 "Lesson plans are documents that outline the format
4 of a lesson of a course and how it should be delivered,
5 timings, content, et cetera."

6 And he said they were in relation to probationer
7 training at Tulliallan. So they're supplementary to the
8 OST Manual 2013 and he said that there were no lesson
9 plans for refresher courses, apart from, he thought, one
10 of the legacy forces, Strathclyde, had in the past used
11 lesson plans?

12 A. Yes.

13 Q. So the lesson plans you were provided with were
14 primarily for probationers?

15 A. Yes.

16 Q. And they supplemented the OST Manual?

17 A. Yes.

18 Q. You have highlighted a number of lesson plans. Can we
19 look at paragraph (f) first of all in your report?

20 A. Yes.

21 Q. And that's on page 5. You talk about two. Let's look
22 at the first one, PS11464, so these are two examples
23 that you give in the first bulletpoint there at the
24 bottom of page 5. So this is the first one and we'll
25 see it's set out as a table, officer safety training;

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1 lesson title, holds and restraints; trainer, personal
2 safety trainers, and the students were student officers?

3 A. Yes.

4 Q. That's probationers:

5 "The aim of the lesson is to provide officers with
6 the knowledge, protocols, understanding, skills,
7 attitudes and behaviours in the personal safety manual
8 with regards to holds and restraints."

9 And then the table details intended learning
10 outcomes and what the student should be able to do by
11 the end of the lesson?

12 A. That's correct, yes.

13 Q. And in this particular example, they're expected to
14 understand and demonstrate a number of different aspects
15 of the course?

16 A. Yes.

17 Q. And number 5 is to apply the techniques with reference
18 to the NDM, including the use of force?

19 A. Yes.

20 Q. And then at the bottom it says "Assumed knowledge, no
21 previous knowledge required" and "students experience"
22 and then if we carry on, we'll just quickly look through
23 this, there's a column for timings?

24 A. Yes.

25 Q. Which is not completed. The content is detailed,

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1 outcomes are detailed, method and resources, learner
2 activity and assessment.

3 So can you explain to people looking at this on the
4 screen what would be expected with a lesson plan and
5 what use would be made of a lesson plan?

6 A. As Inspector Young has referred to, it's the how to do
7 it part for the trainers. It gives them guidance in
8 relation to what needs to be delivered, where they can
9 gain access to reference resources et cetera for that
10 particular lesson, what they should be teaching, but
11 also how they should be teaching it. So specifics
12 around the techniques, safety concerns, any underpinning
13 questions that need to be asked to make sure that the
14 knowledge or the skill has been acquired.

15 The big thing I find with all of these is they're
16 all specifically generic. The big thing, one of the
17 things there is the trainers must be in possession of
18 PPE, PSP Manual, but it doesn't give any references to
19 what or where in the manual the particular skill that
20 they're teaching can be referred to. So they can't go
21 and reference that particular skill set from the manual
22 or prepare themselves to deliver that lesson.

23 The other big thing that's missing from all of these
24 lesson plans is what the actual trainer should be doing.
25 So you have a learner activity, but nowhere on there is

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1 there actually a trainer activity, so showing what the
2 trainer should be doing and how they should be doing it.
3 With a generic lesson plan like this, it's very much
4 open to interpretation and each individual trainer that
5 came in would probably have their own way of getting
6 that particular message across, so the delivery would
7 differ from trainer to trainer and, therefore, different
8 students may well get slightly different versions of the
9 hold or the information, supporting information that
10 should go with it.

11 Q. And so even though there's a particular lesson plan, the
12 one we're looking at now, it may not provide
13 standardisation, consistency, in relation to what is
14 actually being taught?

15 A. Yes, lesson plans of this nature wouldn't provide that
16 accuracy of delivery or that, you know, overview to make
17 sure that the delivery was the same every single
18 session.

19 Q. And for those officers doing refresher training where
20 we've heard from Inspector Young that there are no
21 lesson plans, is that also a concern, the lack --

22 A. Very much so. I would either expect central lesson
23 plans to be produced and given out to the instructors
24 and the trainers when they do their course or when
25 they're given the packages or I would expect the actual

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1 trainer to have produced their own lesson plan as to how
2 they intend to achieve the learning outcomes that are
3 set out by the centre.

4 So the first page is great, first couple of pages
5 has got all the information on there, but it's really
6 the lesson plan is about how do I achieve that. As a
7 trainer, how am I going to achieve that? And if anybody
8 questions how I have done it, where can I reference the
9 resources and the information that I have used to assist
10 me in delivering that lesson?

11 Q. And for the supervisor or the central department, they
12 would need a lesson plan to work out what was being
13 done?

14 A. Certainly central it's easier for them, because they're
15 delivering at the same venue all the time, same lessons.
16 Obviously out on the ground on the actual differing
17 areas, that may differ and there would be different
18 trainers coming in to deliver those lessons, so
19 standardisation would be very difficult to achieve.

20 Q. Thank you. And in terms of improving lesson plans, you
21 have highlighted that there's no reference here to the
22 specific part of the manual that's being taught?

23 A. Yes, that's correct, You know, there's no way of quality
24 assuring that that particular lesson is referring to the
25 correct resource material or that the trainer has

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- 1 actually referred to that or referenced it.
- 2 Q. And when you looked at the lesson plans which were
3 provided to you from the Inquiry, were you satisfied
4 that the lesson plans for probationers covered all of
5 the essentials from the OST Manual?
- 6 A. It covered the essentials. They were will there, but as
7 I said as to how they were delivered, they give no
8 direction or information as to how that lesson would
9 be -- would be presented to the students.
- 10 Q. Thank you. And then if we can look at another example
11 that you refer to, it's PS 11463 and this is a ground
12 defence lesson plan, and you'll see it there on the
13 screen and, again, the first page is similar. "Ground
14 defence" is the lesson title to be delivered by personal
15 safety trainers to student officers:
- 16 "Provide officers with the knowledge, protocols,
17 understanding, skills, attitudes and behaviours in the
18 PSM with regard to the following techniques."
- 19 It sounds like that's quite a -- the aim of the
20 lesson is a sort of standard phrase?
- 21 A. A generic aim is quite common on the lesson plan, but
22 it's the actual learning outcomes that are what
23 stipulates what the student will learn.
- 24 Q. And those intended learning outcomes are stipulated on
25 page 1 and if we move up the page, we see what was

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1 expected and what probationers were designed to apply
2 and indeed, again, at 6, we see a reference to the
3 National Decision Model, including the use of force?

4 A. Yes.

5 Q. Again, there's a reference to the use of force being
6 involved there?

7 A. The one thing that's not on there is there's no
8 reference to the medical implications of the technique,
9 either on behalf of the officer falling or them applying
10 techniques to a subject from the ground.

11 Q. Hypothetically, if a trainer was looking at this lesson
12 plan, this generic lesson plan, and they wished to
13 follow what is recommended here, they wouldn't
14 necessarily be adding in reference to medical
15 implications?

16 A. They wouldn't be -- they were being led to believe that
17 that's a requirement on this particular lesson. There
18 should always be a golden -- we used to call them
19 "golden threads". There should always be a thread of
20 three things through all officer safety lesson plans,
21 one being a reference to use of force, one being a
22 reference to NDM, and the other one being a reference to
23 the medical implications of the application of that
24 particular technique.

25 Q. And, in fact, on the second bulletpoint on page 6 of

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1 your report, you specifically say that no learning
2 outcome listed covers medical implications and you
3 express a view:

4 "This should be an integral part of all lesson plans
5 where force may be used."

6 And would that really include any lesson plan then
7 if you're considering the National Decision-Making
8 Model?

9 A. Any lesson plan that's indicative of a physical skill
10 where force is being applied, so restraints, handcuffs,
11 batons empty-hand defensive tactics, spray, anything
12 like that should always have those three golden threads,
13 as we used to call them, those three learning outcomes
14 on every lesson plan.

15 Q. That's the National Decision-Making Model, medical
16 outcomes and what was the third?

17 A. Use of force, reference and how it fits within a use of
18 force.

19 Q. And of the lesson plans that you looked at, obviously we
20 can see the NDM is there, we can see a reference to the
21 use of force?

22 A. Yes.

23 Q. Were you able to find any that included medical
24 implications?

25 A. Apart from the last one that we looked at all, of the

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1 other ones seem to be lacking that particular learning
2 outcome.

3 Q. Right, thank you. I would like to move away from the
4 lesson plans now, please, and turn to the use of force
5 standard operating procedure and this is something else
6 that you were provided with and you looked at for the
7 purposes of your report. Let's have PS 10933 on the
8 screen and for your reference, Mr Graves, on page 7 of
9 your report, the paragraph is (1)?

10 A. Yes.

11 Q. And this is where you deal with the use of force SOP and
12 we see here it's on the screen. We have looked at this
13 with a number of witnesses in the Inquiry. "Use of
14 force standard operating procedure", this was published
15 on 26 August 2013 and this is the SOP that we understand
16 was in place in 2015.

17 So let's look at paragraph (1), you have said not in
18 the SOP, just in terms of your report, and you have said
19 that the SOP contains information from 2013 Manual and
20 other training documents, but the SOP is 84 pages long
21 and it contains elements that you think or would suggest
22 are stand-alone items or sit outside the direct
23 application of force by officers, such as PPE,
24 equipment, and training?

25 A. Hm-hmm.

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1 Q. And you have said:

2 "An SOP would normally give policy and strategic
3 overview and point staff to their training or where
4 reference to any specific information or activity is
5 needed."

6 And you then list four areas of issues that you wish
7 to draw to the Chair's attention?

8 A. That's correct, yes.

9 Q. And I would like to go through these in force -- in
10 turn. So the first is section 6, page 14. So the
11 contents are split into sections and we're looking first
12 of all at Section 6 and it's page 14 and it mentions use
13 of force reporting. Section 6 "Reporting accidents and
14 injuries and use of force."

15 A. Yes.

16 Q. And you have said in your report:

17 "The definition does not include the use of
18 handcuffs or restraint only strikes with a baton or
19 incapacitant use."

20 A. Yes.

21 Q. "The 2015 OST Review Report..."

22 This is the report that was done by Inspector Young?

23 A. That's correct, yes.

24 Q. "... mentions disparity and confusion around what should
25 be included and when forms should be completed. The

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1 guidance in this document is misleading and would not
2 cover many recognised uses of force that should be
3 recorded."

4 And you specify empty-hand strikes, takedowns
5 handcuffs and fastraps. And then you mention a form and
6 I'll come on to the form in a moment, but are these
7 concerns that you have in relation to the use of force
8 SOP?

9 A. If we were to take that paragraph 6.2 by its literal
10 definition, it would mean that an awful lot of use of
11 force conducted by officers would go unreported and
12 there would be no audit trail of those particular
13 techniques or that force being used.

14 Q. 6.2 says:

15 "Use of force is defined as use of the baton to
16 strike an individual or individuals or the operational
17 discharge of CS incapacitant spray."

18 A. Yes.

19 Q. There's only two things mentioned there, the baton and
20 the spray, and only a CS spray and we have heard other
21 evidence that the use of force by a police officer could
22 be from a very gentle taking someone's wrist to applying
23 handcuffs to a full restraint?

24 A. Yes.

25 Q. What do you think about the definition that's given in

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1 6.2?

2 A. It's -- it's woefully inadequate. The definition of use
3 of force is exactly that, it's any force applied to an
4 individual, so any physical contact from an officer with
5 a subject may need to be recorded and majority of forces
6 or majority organisations will record everything from,
7 as you say, other than possibly what we would class as
8 an escort hold or a come-along hold. Anything above
9 that where a restraint or any application of force by an
10 officer is required would need to be recorded and
11 documented.

12 Q. Right. And then in the first bulletpoint in your report
13 you mention it may be helpful to get a copy of the form
14 064. Do we see at 6.5 here at the bottom of the screen
15 there is a form mentioned?

16 "Form 064001 has been created to record these
17 instances and will be available on the forms section of
18 the intranet under 'Guidance'. Forms must be submitted
19 as soon as reasonably practical after the incident, but
20 no later than the end of the discharging officer's tour
21 of duty. If the officer is unavailable, then a
22 supervisor must arrange its completion."

23 Now, I wonder if you could look for me, please, as
24 PS11087 and I understand this may be the form. Well,
25 this seems to be about CS, Pava spray or discharge

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1 report?

2 A. Yes.

3 Q. I had another reference which may or may not be on the
4 playlist, PIRC 04585, so this form appears to cover CS
5 and Pava spray?

6 A. Yes, which would indicate half of that definition.

7 Q. Part of the definition. There is a specific form for
8 that.

9 A. Yes.

10 Q. And we have heard evidence about that.

11 A. That would coincide with every other force up and down
12 the country. That's a specific issue. If it's
13 discharged, that would be recorded separately.

14 Q. We have heard evidence that that may be a legal
15 requirement, because the discharge of spray is treated
16 as a firearm?

17 A. Yes.

18 Q. Yes. Do we have PIRC 04585? We may have to wait for
19 that. Let's see if we can get that. If there's going
20 to be a slight delay, we can move on to the next
21 bulletpoint and come back to that other form.

22 Well, what we'll do is we'll move on to the second
23 bulletpoint you mentioned, so going back to the use of
24 force SOP for the moment, we can get a hard copy of the
25 form --

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1 A. Yes.

2 Q. -- over lunch. Section 7, page 14 of the use of force
3 SOP and that is PS10933. There we are. So we're going
4 to page 14, section 7. There we are. "Dynamic risk
5 assessment". And you say -- we'll see first of all 7.2:

6 "The eight guidelines for conducting dynamic risk
7 assessments are..."

8 And then they're listed, and I think we can see
9 duty --

10 "Remember your duty to protect or preserve human
11 life. That includes your own.

12 "Be aware of your physical limits.

13 "Tell someone what you are doing or going to do and
14 try to get support before you do it.

15 "Heed information and advice. It will help you make
16 a judgment."

17 And then if we can move down the page, we see the
18 remaining five.

19 "Apply correct procedures in every situation.

20 "6. Record your decision-making process either at
21 the scene or soon afterwards in an official notebook or
22 other recognised journal

23 "7. Your supervisors and managers are there to help
24 you.

25 "8. Making a proper judgment in good faith will not

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1 be criticised."

2 So those -- if we go to the top of that, just on to
3 the previous page, so we see there the eight guidelines
4 for conducting dynamic risk assessments. And I think in
5 bulletpoint 2 in your report, Mr Graves, you say you're
6 unable to find reference to these eight guidelines in
7 relation to dynamic risk assessment?

8 A. Not within the 2013 Manual or any of the other training
9 materials. So whilst I don't disagree with the
10 statements, they don't seem to form part of the training
11 given to officers, so where the relevance would be from
12 those eight points referring to how to conduct a dynamic
13 risk assessment.

14 Q. These eight guidelines, presumably designed to help
15 officers, are within the use of force SOP, but you could
16 not find them anywhere in the OST Manual 2013?

17 A. They don't seem to form part of the training in relation
18 to dynamic risk assessment, no.

19 Q. And what impact could that have on a probationers who
20 was being trained about dynamic risk assessments and
21 what to do?

22 A. Well, when you consider part 3 of the NDM to consider
23 powers and policies, this would relate to policies. So
24 first of all, as I said, it's a massive document with a
25 lot of information, a lot of it stuff that really that

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1 officer doesn't really need to be aware of and now you
2 have additional information that isn't in there or
3 hasn't formed part of their direct training, as far as
4 I can establish from the training materials produced.

5 Q. And would it help officers who are expected to carry out
6 dynamic risk assessments, would it help them to know
7 about these eight guidelines?

8 A. I would say suggest so, yes. It certainly gives them,
9 you know, a grounding in the rationale of senior
10 management in relation to what's expected.

11 Q. All right. Thank you. Let's look at the third
12 bulletpoint, pages 31 to 66 of the use of force SOP.
13 Now, I'm not going to take you through every single one
14 of them, but if we start at page 231, and we see,
15 C Division, appendix A. So 31 to 66 are effectively
16 pages that cover the appendices?

17 A. Yes.

18 Q. Pages -- appendices A to H, and as we can see from
19 appendix A, which is on the screen, this relates to
20 C Division, so each appendix relates to a different
21 division?

22 A. That's correct, yes.

23 Q. And if we look at as an example handcuffs. So this
24 relates to appendix A, C Division and their advice on
25 handcuffs:

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1 "The former Central Scotland Police issue TCH and
2 Hiatt rigid handcuffs."

3 A. Yes.

4 Q. They appear to have rigid handcuffs in C Division and
5 they then give some information about rigid handcuffs
6 and how they're used. But then if we look at appendix
7 B, which is the next one, and this should be V Division.

8 Sorry I don't have the number in front of me. It's
9 just the next -- next one down. There we are appendix
10 B, V Division and what they say in relation to handcuffs
11 is:

12 "V Division, the former Dumfries and Galloway
13 Police, issue quick cuffs."

14 They seem to have completely separate equipment from
15 the earlier division, C Division?

16 A. That was sort of across the various appendices there
17 were various in equipment and also approaches, so rather
18 than being a standard operating procedure that should
19 pull everything together for the service, it was obvious
20 through this that there were still differences between
21 the old legacy forces or now the new divisions as were
22 and that that hadn't been addressed between the
23 formation in April of Police Scotland and this standing
24 operating procedure being published in September of that
25 year.

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- 1 Q. This is -- I'm picking out one example.
- 2 A. Yes, there are a number of examples across all the
3 divisions.
- 4 Q. And again, were you concerned about that lack of
5 consistency?
- 6 A. I was surprised that having been amalgamated into one
7 force area that these differences and variations in
8 equipment and approach hadn't been flagged at strategic
9 level and that they hadn't been addressed and a decision
10 made by the senior management in relation to equipment
11 and procedures for the force as a whole.
- 12 Q. And what impact could that potentially have in relation
13 to the training that was provided to probationers who
14 may have been going to all different areas?
- 15 A. Yes. Again, as I said, I think it refers back to that
16 comment at the top of the 2012 Manual is the fact that
17 they were going to possibly get a particular set of
18 instructions within the college and then would need
19 additional or variation of training when they approached
20 or ended up on their particular area.
- 21 Q. And what potential problems could that give rise to for
22 those probationers?
- 23 A. A difference of approaches, difference in suitability of
24 equipment, certainly with regards to CS and PAVA, mixing
25 those two particular substances on some occasions,

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1 understanding the rationale of the use of both of those
2 and also the limitations of both bits of equipment. So,
3 yes, a number of issues that could have caused problems,
4 not least, you know, possibly cross border. I'm sure
5 there's lots of opportunity and lots of occasions where
6 officers from one division may stray across and assist
7 officers from another division, so then again you have
8 got officers turning up with different approaches,
9 different equipment and different ways of dealing with
10 things.

11 Q. We've heard about something called "mutual aid", is that
12 the type of thing that officers could be moved around?

13 A. This could be on day-to-day. Mutual aid, obviously,
14 yes, you could have somebody from Edinburgh going over
15 to Glasgow to cover a football match or a demonstration,
16 but this could be something as little as somebody
17 shouting for urgent assistance and it being just across
18 the divisional divide and one division's officers may
19 well go across and assist with a call on another
20 division.

21 Q. Thank you. And then looking at your final bulletpoint
22 on paragraph (1), pages 83 to 84 show information on
23 target areas?

24 A. This was a list from what we were talking about earlier
25 that you were trying to look for, lifted into this

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1 document.

2 Q. Thank you. I think this is appendix N for November. So
3 it's pages 83 to 64. Here we are. Appendix N, "Target
4 areas". So again on the screen we're still on the use
5 of force SOP?

6 A. Yes.

7 Q. And you've said in your report they only mentioned two
8 options, primary and secondary. We see at the top of
9 the screen it's talking about:

10 "The use of the baton is closely related to the
11 officer's ability to identify a target of choice with
12 reference to the possible injury potential to any
13 subject's body. A system of identifying injury
14 potential to various parts of the body has been
15 developed and has been divided into two sections:
16 primary areas, minimum level of injury potential;
17 secondary areas, moderate to highest level of injury
18 potential."

19 And let's move on to the next page, page 84, and we
20 see an image of front and rear of "Escalation of trauma
21 chart" and it's divided into front and back and green
22 and red colours. We see the -- if we move up the page,
23 we can see -- keep them going, please -- green areas are
24 the primary target areas and red areas are the secondary
25 target areas.

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1 Now, if we go back briefly to page 83, you see
2 primary target areas, I think the word used was
3 "minimal".

4 A. Yes.

5 Q. But let me just check that. If we can keep going,
6 please, to the top. Minimum, sorry, minimum level of
7 injury potential. And secondary was moderate to
8 highest?

9 A. Yes.

10 Q. Let's look at the colour -- the colour images again,
11 please. And you have said here so the green is the
12 minimum and the red is the moderate to highest?

13 A. Yes.

14 Q. And you say here in your report:

15 "There's only two options, primary and secondary.
16 If force was applied to some primary target areas [so
17 the red] more serious injuries could occur... "

18 Sorry, primary was minimum, green. Sorry, that was
19 my mistake and it was going so well.

20 A. So if you go to the page before that, which actually
21 lists some of the target areas under primary. So these
22 can be described as areas where the force used is not
23 intended to likely to cause a serious injury. However,
24 if you look at the target areas, collarbone, shoulder,
25 forum, thigh, knee joint, shoulder blade, I would

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1 suggest that a baton strike to any of those areas has a
2 great potential to cause a break or a fracture,
3 therefore I would suggest that would be a serious injury
4 rather than a primary target with minimum injury
5 potential. And also with secondary targets there's no
6 discussion within this particular advice or guidance in
7 relation to possible fatalities or causing death by the
8 strike to that particular part of the body.

9 Q. It talks about:

10 "These can be described, these secondary targets, as
11 areas of the body where there is a greater likelihood a
12 lasting trauma or danger to life."

13 A. Yes, this was something that was changed certainly from
14 the medical review that took place within the UK by the
15 Medical Advisory Panel. They looked at the colour chart
16 being used by some forces and basically changed it to a
17 three-tier system whereby there was, green amber and red
18 and a lot of the joint areas, knees, elbows, shoulder
19 blades et cetera, were all changed to yellow as a result
20 of their medical advice and to assist officers in
21 gauging the injury potential of strikes to those
22 particular parts of the body.

23 Q. And so looking at the information that's contained
24 within this use of force SOP, which only gives two
25 areas, two colours, primary and secondary targets, what

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- 1 were your concerns?
- 2 A. I think the number of the primary targets shouldn't be
3 identified as "primary targets", they have a greater
4 injury potential if struck, and also the secondary
5 targets, the red areas as they would call them,
6 secondary targets, there are far more I think than are
7 actually shown. I think it should be a wider broach of
8 target areas for that. So basically the colour coding
9 is very generic and doesn't cover all of the injury
10 potentials, possibilities from strikes to those parts of
11 the body.
- 12 Q. And in terms of the information as it appears in this
13 SOP, what concerns do you have about how that's being
14 communicated to probationers or officers who are perhaps
15 checking the SOP who are maybe doing refresher training?
- 16 A. Again, the contradiction between this and really
17 understanding what a standard operating procedure is it
18 shouldn't go into the training and this SOP very much
19 does. It lifts an awful lot of the supposed training
20 from the manual, whereby as a strategic document, it
21 doesn't need to do any of that. It should just tell the
22 officer what is expected of them and then refer them to
23 the relevant resource or training programme that will
24 give them the information to be able to apply what the
25 senior management require from that operating procedure.

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- 1 Q. Training should be in the manual?
- 2 A. Yes.
- 3 Q. And policy and requirements of the officers should be in
4 the SOP?
- 5 A. That's correct, yes.
- 6 Q. And what appears to be from your concerns, as I
7 understand them, is that training has been incorporated
8 into this SOP?
- 9 A. An awful lot has been lifted from training documents and
10 training materials into what is a standard operating
11 procedure, yes.
- 12 Q. And so in terms of delivering that training to
13 probationers and providing those explanations, are you
14 able to help us in how that information would be shared
15 with probationers, for example?
- 16 A. They may be informed to read the standing operating
17 procedure or be made aware of the standing operating
18 procedure and then they may well be required to do their
19 own learning and read through it. I doubt very much
20 that this is used as a training document, because it
21 doesn't -- it's not referenced in any of the materials
22 that I have seen and it's not something that would
23 normally happen. You wouldn't normally include standing
24 operating procedure. You would mention it, possibly
25 through the training, to explain that there is one and

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- 1 that officers need to make themselves aware of the
2 content of that operating procedure.
- 3 Q. But in terms of efficiency and providing consistent and
4 thorough training, would you have any views on whether
5 it's better to have that in the manual?
- 6 A. I think it should all be -- you mean the SOP in the
7 manual?
- 8 Q. No, no, the training elements that appear in this SOP
9 should they be in the manual?
- 10 A. There should be a distinct separation between the two.
11 Standing operating procedure is exactly that, what is
12 expected of you, what are you expected to do, and then
13 the what you should do should be elsewhere, it should be
14 within your training and your reference documents that
15 you have been given as part of that.
- 16 Q. Okay. And then there's one other aspect that you
17 mention in your report and that's if we look at the
18 images again, we can see that there appear to be numbers
19 on each image identifying different body parts and, as
20 you point out in your report, the body diagram shows
21 numbers but they're not explained or listed in the
22 document?
- 23 A. Yes, I can't see any reference, certainly not in that
24 document, and there doesn't seem to be a numbered system
25 within the training manuals in relation to what they

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1 are. I would surmise there's a list of the body parts
2 that they have put above listed and numbered somewhere,
3 but I couldn't find it within the training materials,
4 but that is, as I say, because it's obviously been a
5 straight lift from the training manual, they haven't
6 lifted all the information as it's been presented in
7 that manual.

8 Q. But in any event, you couldn't find it in the training
9 materials or in the SOP?

10 A. No.

11 Q. Right, thank you. Can I move on now and leave the SOP
12 to one side and move on to SPELS training. Now, I think
13 you deal with this on page 7 of your report and I would
14 like us to have on the screen PS 12313. So we see this
15 SPELS is Scottish Police Emergency Life Support?

16 A. Yes, a first aid training package.

17 Q. First aid training --

18 A. Yes.

19 Q. -- for officers? And we understand from this document
20 that it's 22 pages long and it is dated 25 February
21 2014, so it's the year before the incident we're dealing
22 with. And I think you highlight in paragraph (m) of
23 your report:

24 "The SPELS notes, I have information on positional
25 asphyxia at pages 14 and 15."

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1 A. Yes.

2 Q. And if we could maybe turn to pages 14 and 15, please.

3 And if we can move down the page, and we see the topic

4 "positional asphyxia" at the bottom of the page?

5 A. Yes.

6 Q. "A potential problem that can occur in detainees is
7 positional asphyxia. The death of persons in custody
8 have been attributed to this condition. In otherwise
9 healthy individuals it can occur where an individual is
10 held down or placed in a prone (face down) position.
11 Although instances are comparatively rare, risks may be
12 increased where the detainee is obese, drugged or
13 intoxicated."

14 And then it moves on to the next page:

15 "Most recent medical opinion suggests that it is
16 restraint and the exertion against such restraint that
17 may result in death, rather than the casualty's
18 position. Some doctors put forward the view that the
19 condition may exist exclusively in intoxicated and obese
20 persons, particularly those persons with a 'beer belly'.
21 The term 'restraint associated death', RAD, may give a
22 more accurate description of this condition."

23 A. Yes.

24 Q. So in terms of positional asphyxia we can see at the
25 bottom of page 14 and the top of page 15 there are a

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1 couple of short paragraphs in relation to that and this
2 would be part of the SPELS training --

3 A. Yes.

4 Q. -- the officers would get. Now, I have seen your report
5 you have said "this information is both inaccurate and
6 misleading".

7 A. Yes, if we go to the previous page, please. Just that
8 one there. Yes, reading that through indicates that it
9 will only occur or is more likely to occur with somebody
10 in a prone or facedown position, that is inaccurate,
11 positional asphyxia by its very terminology indicates
12 that due to the position that a person is held in and is
13 unable to escape, asphyxia can occur. So that can be
14 sitting, it can even happen when standing up or pushed
15 against a wall or pushed against a vehicle. It doesn't
16 have to be in a prone position. So that is misleading
17 to say the fact that it only or may only occur in a
18 subject that is face down or in the prone position. To
19 say that the incidents are comparatively rare, I again
20 would say that it's more common than possibly people
21 imagine and to say that it's a rare risk I think is
22 something that all officers need to be aware of and it's
23 also something that is given great emphasis throughout
24 the training certainly from an officer safety
25 perspective but maybe not so much here within a first

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1 aid position. The fact that the risk is increased
2 through obesity, drugged or being intoxicated is correct
3 but that is not the major impacting factor. The major
4 impacting factor is actually probably partially
5 addressed in the next paragraph at the top of page 15 in
6 the fact that it's about the level of oxygen required
7 against the level of oxygen being able to be taken in by
8 the individual. So exertion is a key factor, so when we
9 talk about restraint death, it's about the length of
10 restraint, the length of exertion and the level of
11 exertion the person has given. So in all, I think it
12 sort of doesn't fully highlight the risks and fully
13 highlight the dangers and all of the impact factors in
14 relation to positional asphyxia and to some degree
15 doesn't fully mirror the information held within the
16 OST Manual, which is a little bit more in-depth. I
17 appreciate it's a different area of training but I would
18 have expected that the two would have mirrored each
19 other and would have been reflective of the other
20 packages and the other programs being delivered to those
21 officers.

22 Q. So we've heard evidence that positional asphyxia can
23 cause the death of someone being detained.

24 A. Yes.

25 Q. So the consequences are as serious as they can get.

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- 1 A. Yes.
- 2 Q. And you have identified here that there is an
3 inconsistency between the OST training in the manual and
4 the SPELS training.
- 5 A. That's correct.
- 6 Q. And then you also highlight that regardless of the
7 source of training here it does not match what was then
8 being given in the NPCC Officer Safety Manual.
- 9 A. Certainly not within the rest of the UK, the manual had
10 been greatly increased and the risk factors had been far
11 more prevalent within the manual certainly across the
12 rest of the UK.
- 13 Q. And at this time?
- 14 A. At this time, yes.
- 15 Q. Can we look at that manual just very briefly, it's
16 PS00073 and we're going to look at module 4 on page 9.
17 So that's PS00073, module 4, this is the Association of
18 Chief Police Officers, medical implications, and if we
19 look at page 9.
- 20 A. Just need to go back one.
- 21 Q. Go back one?
- 22 A. Yes.
- 23 Q. You'll see that this is talking about positional
24 asphyxia, breathing in the problem of restraint, and
25 there are two pages here that we see.

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- 1 A. Yes.
- 2 Q. Covering breathing and the problem with restraint and
3 it's talking about the role of the lungs getting oxygen
4 into the body.
- 5 A. Yes.
- 6 Q. And also getting rid of carbon dioxide. It talks about
7 restraint. And it says:
- 8 "Positional asphyxia. In simple terms an individual
9 can stop breathing because of the position they have
10 been held in and it's likely to occur when a subject is
11 in a position that interferes with inhalation and/or
12 exhalation and cannot escape from that position."
- 13 A. And that was the agreed definition given to us by the
14 Medical Advisory Board, which as I said, had been in
15 place from around about 2007.
- 16 Q. So for people being -- officers being trained under this
17 guidance, they won't immediately be taken to the idea
18 that the person would suffer potentially from positional
19 asphyxia if they're prone?
- 20 A. No, it was very much taking them away from that. In the
21 next page following that --
- 22 Q. Let's look at the next page.
- 23 A. -- there is a full guidance on avoiding positional
24 asphyxia it covers all the various areas and positions,
25 et cetera and the risk factors.

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1 Q. And we see "When is it likely to occur?" There's some
2 guidance given there, guidance given about how rapidly
3 it can occur, risk factors are given, there's a number
4 of bulletpoints at the bottom left of this screen that
5 include the body position, airway constriction, alcohol
6 or drug intoxication, inability to escape, the subject
7 is prone is a risk factor, obesity and it talks about
8 beer bellies there.

9 A. Hm-hmm.

10 Q. "Restraints, stress and exhaustion"

11 If we can move up the page, please.

12 "Exhaustion following strenuous muscular activity
13 such as fighting or running away."

14 And then two further, "injury or medical
15 conditions".

16 A. Yes, which again going back to the SPELS, I would
17 suggest something like medical conditions would be an
18 ideal opportunity to introduce things that might impair
19 a person's ability, so COPD, asthma, things like that.

20 Q. So let's go back for the moment just to look at the
21 SPELS training, PS12313, and I think we were on pages 14
22 and 15, at the bottom of that page, and the top of 15,
23 and we see there that a potential problem is that
24 detainees -- for detainees is positional asphyxia

25 "The death of persons have been attributed... "

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1 And there's mention there of the prone position and
2 although it's rare where the detainee is obese, drugged
3 or intoxicated, the risk may be increased?

4 A. So it's covering some of the points but not all of the
5 relevant points that they should be made aware of.

6 Q. And then the final paragraph which we see on 15:

7 "Most recent medical opinion suggests restraint and
8 exertion may result in death."

9 A. Yes.

10 Q. So there's some reference to that there but as you've
11 noted, no real reference to medical conditions or
12 anything of that sort.

13 A. Yes.

14 Q. Thank you. Right, I would like to go back to -- do you
15 remember when we spoke about section 3 in your report?

16 A. Yes.

17 Q. I said there are seven criteria and I'm going to take
18 each in turn and the first criteria was the content and
19 we have gone through the different materials that were
20 available to train probationers at that time and to
21 refreshers. Can we now move on to the second criteria,
22 which is "A methodology for delivery with set
23 competencies to measure against."

24 And what I intend to do is to go through that aspect
25 with you, but I wonder given the time if that might be

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1 an appropriate ...

2 LORD BRACADALE: Very well, we'll stop for lunch then and
3 sit at 2 o'clock.

4 (12.56 pm)

5 (Luncheon adjournment)

6 (2.03 pm)

7 LORD BRACADALE: Ms Grahame.

8 MS GRAHAME: Thank you. Before lunch there were a couple of
9 little technological glitches and I would like to go
10 back just to clarify both of those, without labouring
11 them. The first was when we were talking about page 6
12 of your report and under reference to paragraphs (j) and
13 then (k) which is at the top of page 7 and we were
14 looking for section 8 on batons and I think we had
15 inadvertently put the wrong manual on the screen and so
16 the actual manual that we were wanting to look at was
17 the instructor manual --

18 A. Yes.

19 Q. -- from 2012, PS 12330. That was the manual that's 266
20 pages long, and we were hoping to look at pages 184 and
21 185, which are actually 182, 183 of the PDF?

22 A. PDF, yes.

23 Q. Let's just put that on the screen just in case anyone is
24 looking at this later. So this is the module 8,
25 straight baton, and this is the module within the

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1 instructor manual --

2 A. That's correct, yes.

3 Q. -- that you were referring to? And if we can look at --

4 we see the pages down at the bottom, if we can look at

5 page 184 and 185 that are referred to in your report, we

6 see "physical force and escalation of trauma chart", and

7 keep going, please. This is about at the use of force

8 and potential trauma and then we come to the area --

9 target areas, red areas, green and primary and secondary

10 targets?

11 A. Yes.

12 Q. And so that was the actual --

13 A. That's correct, yes.

14 Q. We had the wrong manual on the screen, and I won't go

15 into that. I think you have made your position clear on

16 that.

17 Then the second element that we want to clarify was

18 when you were talking about at the use of force SOP,

19 which is PS 10933, section 6, 6.2. This was under

20 reference to page 7 of your report, Mr Graves, which --

21 paragraph (1)?

22 A. Yes.

23 Q. "L" for Lima. And we looked at -- if we look at section

24 6.2, just to refresh everyone's mind, this was about the

25 definition of use of force and I said -- you made

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1 comments about some of the things that weren't in that
2 definition.

3 A. Yes.

4 Q. And then we said we would look at form 064001, which was
5 referred to in 6.5 we see at the bottom of the screen
6 and, again, just to clarify, if we could look at
7 PIRC 04585. Now, you had pointed out in the definition
8 section at 6.2 of the SOP, things like empty hand,
9 restraint, takedown, handcuffs and fastraps weren't
10 mentioned at all?

11 A. Yes.

12 Q. But I think we see in this form, it's a Pava spray
13 discharge report, the previous one we looked at was also
14 about Pava spray and discharge?

15 A. Yes.

16 Q. And if we can move down the screen, keep going, there's
17 a section which talks about the circumstances and
18 provides some prompts, if I can put it that way,
19 questions, which will assist perhaps an officer who's
20 declaring use of force in relation to the spray?

21 A. Yes, only in relation to the spray so far, unless it's
22 further down the form.

23 Q. And then if we could look further down, there is also
24 additional OST tactics and equipment used during
25 incident, and there there is a section that talks about

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1 empty hands, handcuffs, fastraps and other items there?

2 A. Yes, that form seems particularly focused on the use of
3 an irritant or incapacitant spray, whereby "a general
4 use of force" would start with the empty hands, et
5 cetera and PAVA or CS discharge would be one of the
6 tactical options, rather than being specifically around
7 PAVA.

8 Q. Absolutely. Thank you. And then I think just before we
9 broke for lunch, we agreed we would move on to criteria
10 2. We had looked at section 3 of your report and the
11 seven criteria for training which was fit for purpose
12 and we were about to move on to criteria 2, which is
13 "Methodology for delivery with set competencies to
14 measure against". And I think first of all in
15 section 3(c) of your report, so if we can look at page 4
16 of your report -- I won't have this on the screen, but
17 if you could look at it, please. Page 4 section 3(c),
18 you say:

19 "Neither the 2015 lesson plans reviewed... "

20 And we have referred to them earlier today?

21 A. Yes.

22 Q. "... nor the 2013 Officer Safety Training Student Manual
23 [which we've also referred to and looked at] contain any
24 actual competencies for physical skills."

25 Could you tell us what a competency is?

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1 A. A competency is something that the student has to
2 achieve or show the trainer in relation to the
3 particular skill. So if we allay it to say a driving
4 lesson or a driving test, reverse parking, parallel
5 parking, navigating a roundabout, a student would have
6 to show that to be able to be shown as competent in that
7 particular skill.

8 Officer safety skills are no different. There
9 should be a set of criteria that an individual has to
10 show or demonstrate to show that they are competent in
11 using that particular piece of equipment. An example of
12 that may be the application of handcuffs, so certain
13 competencies in relation to handcuff application or
14 certain methodologies in the way that handcuffs are
15 applied should be evidenced by the student. These
16 should be listed somewhere, either in the manual for the
17 reference for the students to show what they need to
18 achieve and what they should be trying to achieve or for
19 the trainer in relation to what they should be looking
20 for and need to tick off to be able to sign that
21 individual off as competent in that particular skill.

22 Q. And so the competent application of handcuffs would
23 hopefully avoid risk to the subject or to the officer?

24 A. Yes, for example, if they placed them on in the wrong
25 position on the wrist, if they put them on too tight, if

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1 they failed to get the subject in the correct position,
2 finishing position, they could all be set competencies
3 that if a student didn't do that, basically, then they
4 wouldn't be shown as competent and they would have to
5 show it again or do it again.

6 Q. Or perhaps have further training?

7 A. Yes.

8 Q. Right. Thank you. So what would you have expected to
9 see? Having identified that there weren't any
10 competencies for physical skills, what would you have
11 expected to see either in the manual or the lesson plan
12 or anything of that sort?

13 A. A short list of bulletpoints showing what is expected of
14 the student. Without that, then that is very much left
15 down to the subjective approach of the trainer as to
16 whether they believe that individual is competent or
17 not, so it's very much based upon their own views,
18 rather than a set of criteria that can be used across to
19 standardise, again standardise that approach to whether
20 an individual is competent or not.

21 Q. Thank you, and then paragraph (d) on page 4:

22 "I have been unable to find any form of documented
23 knowledge check to show that a student had absorbed and
24 understood what they were taught."

25 And I'm interested in this comment, what's a

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1 "documented knowledge check"?

2 A. So again, if we're talking about physical skills and we
3 are talking about competencies, the other side of
4 officer training is obviously the knowledge base around
5 use of force, human rights, et cetera and that needs to
6 be shown that an individual officer has taken that on
7 board and can basically use that knowledge when they're
8 applying them.

9 If they haven't got that knowledge and we have no
10 way of basically saying that a particular officer has
11 achieved or has taken that knowledge on board, the
12 normal process for this would be some form of check
13 test, knowledge check test, you know, questionnaire,
14 something that would allow the officer to show by
15 answering questions or providing oral evidence that (a)
16 they know what the point is and (b) what the application
17 is.

18 Q. And is this to ensure for the person being trained
19 they're not simply sitting in the room thinking about
20 what's for tea?

21 A. Yes.

22 Q. That they're actually comprehending what's being said,
23 that they're able to recollect what was said and put
24 that into practice?

25 A. Yes. I mean, for example, we've talked about positional

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1 asphyxia, a question may be formulated around list four
2 risk factors for positional asphyxia and we would expect
3 out of that list of sort of eight or nine risk factors
4 that an officer would be able to tell me four of those
5 risk factors from the lessons that they have been given.

6 As I said, across the documentation that I have gone
7 over, I haven't been able to find any documented version
8 of how that is done and if it was done, in what format.

9 Q. No apparent way to assess to what extent the person
10 being trained is engaging with the lesson and taking it
11 in?

12 A. Yes, other than the possibility of the trainer doing
13 live questions during the -- during the session to the
14 audience, but only, obviously, if certain individuals
15 can answer those, not everybody in the room would then
16 be able to show that they have got that knowledge.

17 Q. And then leaving aside competencies for the moment and
18 thinking about methodology for delivery, which is also
19 part of this criteria, can I ask you a couple of things
20 that we've heard evidence about in the Inquiry. One
21 relates to scenario-based training and we've heard some
22 mention of that as a method of delivery of training,
23 there's online training, there's perhaps PowerPoint
24 presentations, a lecture, a demonstration, but one of
25 them is scenario based. Now, you mention this at

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1 paragraph (x) in your report?

2 A. Hm-hmm.

3 Q. If we could have a quick look at that, page 10?

4 A. Yes.

5 Q. Again, I don't need this on the screen, and you talk
6 here about scenario-based training and say:

7 "This has long been an established and successful
8 method of testing and cementing skills in OST. I have
9 not found any actual evidence on this method being used
10 as at the relevant time. The 2015 OST Review mentions
11 most refresher courses only techniques on a cooperative
12 person. To increase realism but to maintain safety, a
13 degree of resistance is required from a subject to
14 trigger an officer's response to apply a technique and
15 this is also tested where trainers conduct stress
16 testing during realistic training scenarios. Both these
17 methods were and are used across the UK during OST
18 sessions."

19 A. Yes.

20 Q. I'm interested if you could help the Chair understand a
21 little more about these scenario-based training and the
22 benefits of that?

23 A. Yes, they're designed to implement the behavioural
24 changes in an officer or a pair of officers when dealing
25 with set situations. Very easy to sort of teach

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1 somebody a new skill. When you ask them to then apply
2 that skill in an operational context, lots of things can
3 go awry and go wrong. So the idea of simulated
4 scenarios or testing them under a degree of pressure to
5 get their heart rate increased, to get them to be able
6 to respond correctly during times of stress and of
7 conflict is a valid tool to be able to test that
8 behavioural side.

9 It also tests things like their communication
10 skills, their ability to manage conflict and use the
11 correct type of tactics and terminology and it's then a
12 good tool afterwards for them to be able to explain and
13 brief the trainers in relation to their decision-making
14 process. So there's an awful lot that come out of a
15 scenario-based event, not least of all that pressure
16 testing of their skill and ability to talk to people
17 ability to use de-escalation tools to resolve a
18 situation.

19 Q. And what benefits would you envisage for an officer or a
20 probationers who is being trained in a scenario-based
21 training session? What are the benefits when they come
22 to doing operational duties?

23 A. Well, we call it to some degree "stress inoculation".
24 If the first time an officer is asked or required to do
25 something that is outside of their normal frame of

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1 reference, for example, this may be the first time they
2 have ever had anybody shout at them, confront them,
3 offer them signs of physical resistance, if that's the
4 first time in a live scenario, we can't always guarantee
5 how that officer is going to respond. By using
6 realistic scenario training, you can inoculate the
7 person against that.

8 It's a very similar reason as to why we expose
9 officers initially to the effects of an incapacitant
10 spray or an irritant spray so they understand if it
11 happens in a live scenario, what it is, they won't panic
12 to the extent that they may panic and they're able to
13 self-administrator aftercare. So it's about preparing
14 them the best we can, within safety parameters, for the
15 job that they're going to be expected to do and using
16 that scenario to give them opportunities to practise
17 those skills in a safe environment, but with as much
18 realism and realistic resistance as possible.

19 Q. And is that realism an important aspect of
20 scenario-based training?

21 A. Very much so, very much so, yes. It's about giving them
22 the best opportunity possible, maybe for the first time
23 ever in their lives, to witness and actually see not
24 just what that situation may be like, but what their
25 natural response might be to that type of stimulus.

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1 Q. And then would that training then allow them to reflect
2 on their reactions and discuss that in a supported
3 environment?

4 A. Yes, as I say, you know, that's the -- the latter part
5 of any scenario. You would stop the scenario and you
6 would debrief it and you would talk about what they did,
7 why they did it. They would have to explain their
8 rationale, their thought processes. We would discuss
9 what tactical options they had chosen, possibly discuss
10 alternative tactical options they may have been able to
11 use or consider and then they go away much better
12 prepared for should they meet a similar scenario out in
13 the real world out there in practice, then they have got
14 something in their back pocket to rely upon and refer to
15 in relation to how possibly to deal with that.

16 Q. And is that why you call it a "stress inoculation"?

17 A. Yes, yes.

18 Q. That physically practising a scenario will reduce the
19 stress levels the more often it's done?

20 A. Yes, it's one of the tools we can use to try and make
21 them better prepared for those higher stress situations,
22 yes.

23 Q. And is that akin to just building up their levels of
24 experience?

25 A. Yes, if you think of somebody who has just passed their

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1 driving test, the first time they go on the motorway and
2 they're driving at speed, it can be quite a daunting
3 task so it's a similar thing. It's giving them
4 opportunity to experience that in a realistic form, but
5 still safely where they're not going to cause danger to
6 themselves and others in that type of situation.

7 Q. Thank you. And then the other aspect of delivery

8 I would like to ask you about you covered in paragraph
9 (w) of your report, which is at the bottom of page 9 and
10 you talk here about the frequency of refresher training
11 and we have heard different evidence about frequency,
12 the benefits and disadvantages of the current system and
13 what that could look like. But what you say here is,
14 you couldn't see any documentation that was available,
15 and you -- it highlighted work in England and Wales
16 regarding this and links to health and safety
17 legislation regarding annual refresher training and what
18 was recommended, and I think you point out in paragraph
19 (w):

20 "The standard across the UK has been 12 hours for
21 many years."

22 A. Yes.

23 Q. "Some forces exceed this, however some fell short, only
24 delivering eight hours. ACPO produced best practice
25 guidance in 2009."

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- 1 A. Yes.
- 2 Q. And tell us who ACPO are?
- 3 A. It's the Association of Chief Police Officers, now the
4 National Police Chiefs' Council.
- 5 Q. Thank you:
- 6 "...which reinforced the annual requirement. At the
7 time of this incident... "
- 8 That's in 2015, is it?
- 9 A. Yes.
- 10 Q. "... the 12 hour refresher was widely accepted across
11 England and Wales."
- 12 A. Yes.
- 13 Q. And from your knowledge of what was being delivered in
14 Scotland in 2015 or in the period up to 2015, how many
15 hours were the officers in Scotland?
- 16 A. From what I've reviewed and my knowledge of the
17 situation at the time, it was annually one session of
18 eight hours, but that eight hours again isn't stipulated
19 as contact time. It just says an eight-hour session so
20 in normal circumstances if you then build in refreshment
21 breaks et cetera, that contact time could be as little
22 as five or six hours.
- 23 Q. Thank you. Let's move on to criteria 3 and this is a
24 recognised level of trainer competence to deliver the
25 programme and also, 4, a process of check testing and

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1 developing with trainers. So these criteria relate very
2 much to the trainers, rather than those being trained?

3 A. That's correct, yes.

4 Q. And I think if we could look at page -- we'll look at
5 paragraph (n) for November, which I think is page 7.

6 Yes, it's at the bottom of page 7, and you say:

7 "In 2015 all OST trainers had to undergo an initial
8 trainer's course. It would appear that some of these
9 trainers were brought over from their legacy forces
10 where they had been delivering different programmes with
11 different equipment."

12 You touched on that earlier?

13 A. Yes.

14 Q. "I have been unable to find evidence or a document that
15 shows that these trainers were standardised or any form
16 of programme was put in place to refresh or update them.
17 Any new trainers would have been trained centrally so
18 should have been subject to that programme."

19 Now, I would like to ask you about some evidence
20 we've heard from Inspector Young. Now, Inspector Young
21 has given us evidence on two separate occasions?

22 A. Yes.

23 Q. But he did talk about his review, which we've mentioned
24 earlier, the OST Review, and he said that was mainly
25 about standardisation of processes and procedures, so he

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1 had recognised the need for that?

2 A. Yes.

3 Q. And I think that commenced in December 2014. He said in
4 evidence on Day 23 of the Inquiry:

5 "The training model depended on the legacy force
6 area. If you were in the old Strathclyde area, then
7 that training was delivered by full-time OST team
8 managed and by a sergeant."

9 A. Yes.

10 Q. "If you were in any other forces or legacy forces or
11 divisions, then the OST was delivered by part-time
12 divisional officers who came in and delivered OST as and
13 when required and each division had its own I suppose
14 governance procedures in place."

15 So it would appear that from the legacy forces there
16 was not standardisation --

17 A. No.

18 Q. -- in terms of even the staff, the OST trainers being
19 full-time or part-time?

20 A. Yes.

21 Q. He said that when he carried out his review -- he said:

22 "I suppose the officer safety training
23 representative from each of the legacy force areas..."

24 He contacted personally. He conducted a number of
25 focus groups and he spoke to instructors. He spoke to

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1 students and officers and what he discovered was that
2 the core source reference document, that's at the
3 2013 Manual, subsequently or at the same time he
4 discovered there were a number of other source documents
5 being used. There were some legacy force documents
6 being used, there was outdated older versions of the
7 manual:

8 "We had legacy force documents and we had
9 instructors who didn't use the manual at all."

10 So it was disparate as he put it and he said:

11 "One of the challenges we faced, we had instructors
12 of all ages and experience. We had instructors who had
13 been trained back in the nineties. I have absolutely no
14 idea what training material they ever got or what
15 training course they received. When I started, they
16 were just instructors. We had instructors who attended
17 an instructors course after Tulliallan. That way we
18 knew roughly what they had been taught. So there may
19 have been reference material they used from legacy
20 forces that I couldn't track down. When I questioned
21 them why are you teaching that particular technique,
22 it's not in the manual, I have never seen it before, a
23 regular response was, 'well, so and so taught me this
24 back in the day and I still use it, I still like it.'
25 So it really was very, very disparate."

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1 And there were 200 OST instructors and he wasn't
2 able to speak to them all.

3 So in light of that, against that background --

4 A. Yes.

5 Q. -- if that evidence is correct, does that cause you to
6 have concerns about the OST trainers who were training
7 officers either as probationers or refreshers in that
8 period up to 2015?

9 A. Yes. Obviously, I haven't had the opportunity to speak
10 to any local forces, it has purely been through the
11 documents, but would have grave concerns over finding
12 that evidence or being alluding to that process taking
13 place within a force area equivalent of Police Scotland
14 and the fact that, you know, you could have --
15 technically have 200 different versions of a particular
16 programme being delivered at any one time.

17 Q. Thank you. And then in relation to competencies, he
18 said on Day 71, so this was in November of last year he
19 came back to the Inquiry -- he said:

20 "There were no set assessment criteria for students.
21 There was no method in place to assess the competency of
22 trainers. There was no quality assurance processes in
23 place."

24 And I asked him specifically about P Division, which
25 covered the area of Kirkcaldy, and he said, yes, but it

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1 was replicated throughout the country to be honest he
2 said.

3 So it would appear that your suspicions -- if
4 Inspector Young is correct in that, then it would appear
5 your suspicions are correct there wasn't --

6 A. Yes, I think his testimony completely supported my
7 findings from the documentation.

8 Q. Thank you. Can we move on to criteria 5. This is a
9 method of monitoring delivery and I think you deal with
10 this on page 8 of your report.

11 A. Yes.

12 Q. At paragraph (o), O for Oscar. And here you say:

13 "From the formation of Police Scotland there was no
14 agreed monitoring of OST training delivery at a local
15 level. It appears that the central delivery team took
16 care of new officers, but did not have direct control of
17 local delivery. Without this oversight, trainers would
18 be able to modify techniques or provide an accurate or
19 dated information during their sessions."

20 And I think to some extent you perhaps touched on
21 this earlier, but could you explain your concerns about
22 monitoring?

23 A. Yes. Again, the main function of monitoring is the
24 standardisation of the message or the programme, but
25 also purely as a safety point of view in relation to the

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1 delivery of the training, we're talking about physical
2 skills, so making sure that those physical skills are
3 being delivered safely and also that safety is then
4 being reflected on to the public by officers not being
5 taught to do things in an incorrect methodology that
6 might injury individuals or members of the public when
7 they applied. So without that process in place, we have
8 got not checks and balances to ensure that that
9 standardisation is taking place. You could have
10 completely difference things happening, you know,
11 nextdoor to each other or literally the opposite sides
12 of the country.

13 The process I would have expected to have in place,
14 and I say it's fortified by Inspector Young when he said
15 there wasn't anything in place, would at least had at a
16 local level an individual officer, maybe a sergeant,
17 responsible for that local delivery and then he would
18 feed back into the centre in relation to any issues or
19 he would be able to disseminate or cascade any updates
20 from the centre. At the least I would expect that. If
21 not, as I say, in relation to a lot of other forces that
22 have central units or groups that deliver and monitor,
23 they would go out to any cascade trainers at least
24 annually to see them in the workplace or those trainers
25 would be brought back in to attend the refresher session

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1 whereby they would be tested and checked to make sure
2 that they were delivering things in the correct manner.

3 Q. Thank you. Now, in your report you go on to mention a
4 number of issues regarding best practice and we'll come
5 on to that in a moment. There was one other aspect of
6 evidence that we've heard from Inspector Young that I
7 would like to ask you about and this related to method
8 of training, delivery or monitoring delivery, and he
9 said that there were -- trainers would use a mix of two
10 different types of training, EDIP?

11 A. Yes.

12 Q. And Problem, Solution and Teach. So they were two
13 separate methods he described. And I think he said:

14 "EDIP is explain, demonstrate, imitate and practice
15 and Problem, Solution, Teach is just a different
16 teaching method. So an EDIP instructor would explain
17 what the technique entails and that instructor would
18 then demonstrate that technique to the students, they
19 would then imitate that and go away and practice that.

20 "The Problem, Solution, Teach [he said] whereas that
21 one is just a different teaching method where as opposed
22 to explaining first, you would demonstrate what the
23 problem is that you're trying to overcome, you would
24 then give them a solution and that would be the
25 technique and then they would go and practice."

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1 And he said:

2 "There was a mix of that in P Division because EDIP
3 was the teaching method employed by Lothian and Borders
4 Police and Problem, Solution, Teach was the teaching
5 method employed by the Scottish Police College."

6 So he seemed to be describing different approaches
7 being taken to the training?

8 A. Yes.

9 Q. "Prior to Police Scotland, if you did your OST
10 instructor's course delivered by the senior instructors
11 from Lothian and Borders, they would teach you EDIP, but
12 if you did your instructors course at the Scottish
13 Police College, you would have been instructed to
14 deliver problem solution."

15 And I asked him if that was maybe slightly
16 confusing, the different approaches, and he said, yes,
17 he thought that could give rise to confusion.

18 A. Yes.

19 Q. Do you have any comments to make on that evidence?

20 A. Both of those methodologies are sound. My surprise is
21 that in a -- with the opportunity of Police Scotland in
22 2013 that a decision wasn't made in relation to how the
23 force wanted to move forward, because I would expect
24 that one teaching method to be used across all of the
25 training programmes and packages. Having different

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1 methodologies to deliver, you know, as you say, even in
2 the same division, you could have an officer attending
3 with one particular trainer being taught how to do it
4 one way and then attending the next session with a
5 different trainer and being shown it completely
6 differently. Still the same subject matter, but being
7 put across in a completely different way, which as
8 Inspector Young would say can confuse and I'm sure would
9 confuse a lot of students.

10 Q. Thank you. Turning to section 6, criteria 6, I should
11 say, this is:

12 "Systems to review and develop the programme with
13 access to independent sources of information and
14 expertise."

15 A. Yes.

16 Q. And I think at this section you do talk about the
17 reviews which had been carried out by Police Scotland.
18 And we've already mentioned the one done by
19 Inspector Young --

20 A. Yes.

21 Q. -- which started in December 2014. And you also mention
22 in paragraphs (s) to (v), which is page 9 of your
23 report, and in particular paragraph (t) for tango
24 Scotland had two such reviews conducted and you mention
25 one in 2010 by ACPOS, in 2010, and then you mention one

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1 in 2015, which was the review done by Inspector Young.

2 So one was prior to Police Scotland coming in and
3 being created in April 2013 and one was shortly after in
4 2015. And you say:

5 "This later report was published [that's the 2015
6 one] just prior to the relevant event so it provides a
7 good overview of the state of the OST delivery at that
8 time."

9 A. Yes.

10 Q. Now, would it be your view then, Mr Graves, that when
11 the Chair comes to look at issues with training that a
12 good comparison would be the review carried out by
13 Inspector Young?

14 A. I think it would, yes, but I think it's important to
15 recognise that the 2010 review highlights a great deal
16 of similar issues and makes very, very similar
17 recommendations as that made by Inspector Young. That
18 would have been known to the senior management at the
19 time prior to the formation of Police Scotland.

20 My surprise is that that review was not incorporated
21 into a workstream when Police Scotland was formed.

22 I would have expected and I think that, you know, it
23 would have been a sensible process to say, we have
24 identified these problems across the legacy forces, we
25 need to ensure that those problems aren't brought across

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1 to the new organisation, how do we go about doing that?
2 And that doesn't seem to have been picked up. It seems
3 to have just dropped off the radar and it's then taken
4 another two years after the formation of Police Scotland
5 for the same or very similar recommendations to be made
6 by Inspector Young.

7 Q. And Inspector Young told us he had 28 recommendations
8 when he did this review, but many of these were similar
9 to the 2010 review?

10 A. Yes, he actually stipulates that in his report that he
11 used -- he references the 2010 report and the fact that
12 the similarities in the recommendations. So even he was
13 trying to highlight, we knew about this five years ago,
14 but what went on? Nothing. What happened?

15 Q. Even though perhaps his review wasn't published until
16 2015, the previous review would have allowed changes and
17 recommendations to be implemented --

18 A. Yes.

19 Q. -- within that period? Can we look at paragraph (aa),
20 So we move now onto page 10 of your report?

21 A. Yes.

22 Q. And here you talk about the 2015 OST Review Report,
23 that's Inspector Young's report:

24 "it provides information on the delivery of OST
25 prior to the formation of the PS from the above report,

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1 as well as identified the need for a fresh review
2 18 months after the formation of Police Scotland."

3 And you mention Inspector Young's evidence here?

4 A. Yes.

5 Q. "According to the evidence of Inspector Young, it
6 appears that OST did not have a coordinating workstream
7 within Police Scotland until November 2014."

8 A. Yes.

9 Q. "Unlike firearms and public order training, which did
10 have workstreams."

11 And I think the 2014 work was done by
12 Inspector Young. I'll be corrected if I'm wrong, but I
13 think he gave evidence that he felt he wanted to do that
14 work, but it wasn't necessarily part of his job
15 description?

16 A. Yes.

17 Q. "Even though legacy forces had many variations in
18 equipment, programmes, techniques and methods of
19 delivery, these processes were allowed to continue."

20 So there wasn't a -- they weren't prevented from
21 just carrying on as they had before, is that what you're
22 saying?

23 A. Yes, that's what I found from the lack of workstream
24 from the 2010 report.

25 Q. "It is surprising that such an important training

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1 programme such as OST was not a prioritised workstream
2 during the formation of Police Scotland from the
3 original forces."

4 Excuse me.

5 "I would have expected the setting up of a central
6 unit to oversee the transition, amalgamating, monitoring
7 and quality assurance of the OST content, delivery and
8 trainer development, especially with the knowledge and
9 recommendations of the 2010 review."

10 A. Yes.

11 Q. And I would you to explain to the Chair what you would
12 have expected after the 2010 review to allow that
13 workstream to be created and developed?

14 A. I think with it highlighted and the recommendations in
15 place, considering a workstream had been put in place
16 for other major training programmes, such as firearms
17 and public order, unfortunately, officer safety is
18 sometimes seen as the poor relation, but I think that
19 was an ideal opportunity which has been missed by a new
20 organisation starting -- to some degree starting from
21 scratch to be able to really push the good practice,
22 best practice forward, because the 2010 report even has
23 a comparison in it in relation to what was happening
24 across the rest of the UK.

25 In fact I remember that particular report, I

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1 remember speaking to the author of that report when I
2 was still serving and giving basically information and
3 evidence in relation to how other forces across the
4 country were working and pointed him in the direction of
5 good examples across the rest of the UK to say, speak to
6 this person, they'll explain how they deliver and what
7 processes they have got in place. So I actually
8 remember this report being done. From memory, I think
9 it was the lead gentlemen from Strathclyde at the time
10 who was the author.

11 So having all that information and that best
12 practice available, I find it to some degree a little
13 bit staggering that hasn't been picked up by an
14 organisation fresh off the mark and being able to, you
15 know, put it in place at the very outset of the
16 formulation. It seems to have been an afterthought and
17 it's only been pushed to some degree by an officer
18 within the ranks recognising the issues and, you know,
19 shouting loud enough for somebody to take notice and
20 pick up -- pick up on what he's concerned about.

21 Q. Thank you. And I think you explained earlier today that
22 in 2010 you were still employed in the Met?

23 A. Yes.

24 Q. You were heavily involved in training. I think you had
25 said perhaps you were head of training or were just

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- 1 finishing up that year in that role?
- 2 A. At the point -- I finished in 2010, but I was still
3 considered -- I was the subject matter expert, so I
4 dictated the programme, so I created the training. I
5 just didn't have any hands on delivery requirements for
6 my new role, because I was doing more of the monitoring,
7 looking at use of force reports and guiding the
8 programme.
- 9 Q. More strategic?
- 10 A. Yes.
- 11 Q. Rather than hands on?
- 12 A. Yes.
- 13 Q. And it would appear from your own experience that when
14 the 2010 review was being carried out that contact was
15 being made with people like yourself in the Met to find
16 out what other training was being done by forces
17 elsewhere?
- 18 A. The approach was direct to me as the secretary at the
19 time of the ACPO Committee and they requested contacts
20 within the UK for -- they could speak to, so I gave them
21 contacts at different forces, different sizes, different
22 make ups et cetera so they could have a comparison of --
23 I think at the time it was four or five forces I put
24 them in contact with, including I had provided
25 information from the Met, for them to do a comparison

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1 between then the legacy forces within the ACPOS region
2 and the ACPO region.

3 Q. Thank you. And then paragraph (bb) at the bottom of
4 page 10, you say:

5 "The report has sections on all the relevant
6 Police Scotland divisions. The following statement in
7 relation to the OST programme appears in all these
8 reviews. It follows the current PSA Tulliallan
9 programme for annual recertification. However, there
10 are numerous mentions of additional techniques being
11 taught, additional equipment being used and legacy force
12 variations apparent. An example of this mentions
13 pain-compliance techniques being taught by one division
14 but not the others. It also mentions that these did not
15 form part of the PSA programme."

16 Can you elaborate on what you mean there?

17 A. Yes, the opening statement in the report says that
18 everybody was following the same programme that -- but
19 with the investigation that the author undertook, it was
20 obvious that that wasn't the case. So there were
21 differences in -- not just in relation to the
22 programmes, but equipment, but also the fact that
23 techniques were being taught, although not dangerous and
24 recognised elsewhere, but they were not -- did not form
25 part of the original student/officer input and were not

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1 in the 2013 -- back then the manual at the time being
2 produced and being used by Tulliallan, at the college.

3 Q. Thank you. Now you have mentioned once or twice "best
4 practice" and I said we would come on to that. If we
5 could look at paragraph (q), so go back --

6 A. Yes.

7 Q. -- to page 8 of your report. You say:

8 "Best practice is to use an intelligence-led process
9 to look at the relevance, effectiveness and impact of
10 any OST programme. A programme should reduce the risk
11 of injuries to staff and the public by being medically,
12 legally and operationally defensible."

13 Can you just expand on that sentence, please?

14 A. Yes. So there was three areas or the review processes
15 for any techniques or any proposed changes to an OST
16 programme. Access to medical review is imperative, so
17 if you -- somebody was to come forward with a, you know,
18 I saw this or I have been trained in this by, you know,
19 been on a course and this looks really good, I think we
20 should put it in the manual, the simple methodology
21 would just be, yes, great put it in. But obviously is
22 it medically safe to do so, are there considerations
23 medically that we need to think about? Legally, where
24 does it sit? Does it sit within our current powers of
25 using force, but, more specifically, how would it impact

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1 on human rights in relation to our application of force.
2 And then operationally when we look at that, is it going
3 to work, is it going to help, is it going to be
4 something -- have we already got something that allows
5 us to achieve the same goal, so are we just adding to
6 the requirements of officers to learn something new, or
7 have we already got something. So those sort of three
8 basic criteria should always be considered when looking
9 at changes.

10 When I talk about the evidence or the using
11 intelligence led, which big posh terminology, what we're
12 talking about is using sources of information that will
13 allow us to make decisions. So the sort of things we're
14 looking at there is, are we hurting more people, are we
15 getting more injuries from a particular technique that
16 officers are using? Are we getting more complaints from
17 members of the public who are being say, for example,
18 handcuffed? So complaints are an important source of
19 information. Injuries to officers, are officers getting
20 injured more and if they are getting injured, how are
21 they getting injured? Can we put something in place
22 that will try and reduce those injuries to those
23 officers?

24 So using all of these evidential sources of
25 information, help us to tailor, take things out, put

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1 things in, modify things, consider new pieces of
2 equipment. So if you think about the development of
3 officer safety over sort of the last 20 years, things
4 like incapacitant sprays coming in, tasers coming in,
5 spit hoods, leg restraints or fastrops, as they're
6 called here, all of those things have been developments
7 and have been brought in as a result of things happening
8 and the way that officers are dealing with people having
9 to change.

10 The other big thing that needs to be incorporated or
11 should be incorporated is findings from inquiries like
12 this, inquest, coroners' recommendations, where
13 information is coming in that helps us to understand
14 better why things have happened and why things might
15 have gone wrong and therefore how can we alter that,
16 what are the recommendations as to how to change or
17 modify what we're doing or how we're doing it to better
18 reduce that risk of it occurring again? So all of those
19 things should be incorporated in the review process and
20 ensure best practice in how we develop our packages.

21 The simple answer is if it doesn't -- it shouldn't stand
22 still, it should be a developing programme, it should be
23 a growing item, a growing -- an entity that grows on its
24 own and changes, but without access to all of this
25 information in these sources, we should -- we can't do

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- 1 that.
- 2 Q. It's really not as simple as identifying best or good
3 practice from another force and tagging it on at the end
4 of a chapter?
- 5 A. No, it must be, you know, suitable and incorporated into
6 what you're doing if you find that it's going to benefit
7 across those three criteria, it's going to benefit your
8 officers and the people that you serve.
- 9 Q. Thank you. And you mention a number of things, focus
10 groups, staff questionnaires and such like to provide
11 you with that intelligence?
- 12 A. Yes.
- 13 Q. And you say then reading on:
14 "In 2015, although these sources were available, no
15 one specifically tasked to carry out this work or
16 interrogate the various systems. This information would
17 not be collated or be of any strategic use."
- 18 A. Yes, that's correct, yes.
- 19 Q. Without having someone in position to really interrogate
20 the sources and the intelligence and the data, they
21 weren't be able to glean useful information from that?
- 22 A. That's correct, yes.
- 23 Q. Useful information in the sense of OST training and what
24 was required?
- 25 A. Yes, I mean all of those things would probably be in

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1 place, but, again, it's (a) getting access to them and
2 (b), as I say, having somebody central and say right, I
3 have got all of these, crunch the numbers, what have we
4 got, what are the findings from this information?

5 Q. And then you go on to say:

6 "Using outside sources can also benefit when looking
7 at what and how OST is being taught."

8 And you give three bulletpoints here:

9 "This should include access to medical advice and
10 the various specialties concerned. This is likely to
11 include trauma, respiratory, orthopedic and pathology.

12 "2. Reference to legal advice where necessary, in
13 relation to court judgments, coroners' recommendations,
14 inquiry findings, civil litigation, et cetera.

15 "3. Three access to peer groups, other forces,
16 national committees, outside training organisations
17 offering alternative programmes."

18 A. Yes.

19 Q. So a combination of looking beyond the borders and
20 actually looking at other areas and that could be other
21 forces or it could be somebody else?

22 A. Yes, any organisation that uses similar techniques or
23 faces similar situations. Certainly when I was in post,
24 we had close links with the -- with the health service
25 in relation to secure health facilities, the Prison

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1 Service, Border Force and Immigration, but also looking
2 at outside organisations, looking at other countries,
3 looking at places like America. You know, what were
4 they doing? America has been one of the -- at the
5 forefront of development in relation to acute
6 behavioural disorder, excited delirium and a lot of what
7 they have researched they have done there has come
8 across to the UK.

9 Q. And certainly you were talking about the 2010 review and
10 they were -- the author was clearly looking at other
11 forces around the country?

12 A. Yes.

13 Q. And then you say -- you point out:

14 "At the relevant time in 2015, there appears to have
15 been no medical review of the OST programme. No formal
16 agreement was in place until 2017 when Dr Stevenson was
17 engaged to review the Police Scotland OST programme."

18 And was that something else that caused you concern?

19 A. Yes, I was surprised that there wasn't access to some
20 form of medical review. There was likely to be a
21 legal -- access to legal through the service's own legal
22 department, but I couldn't find any evidence in relation
23 to medical review.

24 Q. We have heard evidence from Inspector Young on Day 71,
25 November last year, and he talked about Dr Stevenson,

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1 who we have also heard evidence from. He is a
2 consultant in accident and emergency medicine at
3 Glasgow Royal Infirmary.

4 And Inspector Young said he was asked to sit on a
5 group looking at the management of person under the
6 influence of new psychoactive substances in a custody
7 environment from an officer's safety use of force
8 perspective, and Dr Stevenson was in that group and
9 that's how they had initially met?

10 A. Yes.

11 Q. "I became aware of his work about acute behavioural
12 disturbance, which Inspector Young was extremely
13 interested in."

14 And they made contact and Inspector Young attended a
15 number of presentations delivered by Dr Stevenson,
16 seminars, and he then visited the College of Policing,
17 because they were putting together a national acute
18 behavioural disturbance training package?

19 A. Yes.

20 Q. And I think you know something of that. We'll come on
21 to that later today.

22 On the back of that work, the inspector developed
23 the training package and had Dr Stevenson, he said,
24 clinically assure, make sure it was accurate, raised it
25 with the senior management that he was concerned about

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1 the provenance of the previous manual, the 2013 Manual,
2 and the provenance of the medical information that was
3 being shared via that manual to probationers and those
4 doing refresher courses.

5 He said he was concerned about the accuracy of the
6 medical information contained within that manual and
7 whether it had ever be clinically assured and he was
8 told, no, they didn't think it had been clinically
9 assured. And he said -- Inspector Young said:

10 "For me a priority was to ensure that any medical
11 information we were providing in our manual was
12 clinically assured, accurate, current, and that's when I
13 proposed the creation of a clinical governance group,
14 primarily to clinically assure what we were delivering
15 within OST training."

16 A. Yes.

17 Q. That appears to have been part of Inspector Young's role
18 which he took on himself as part of this 2015 review,
19 but certainly in light of his evidence there hadn't been
20 any medical assurance provided regarding the
21 2013 Manual?

22 A. No, like I say, in the rest of the UK, we had access to
23 a group that was set up and funded by the Home Office
24 who were an independent Medical Advisory Panel and they
25 reviewed all of the manual contents and even came along

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1 and were given demonstrations of all the various
2 techniques, et cetera and made a raft of recommendations
3 which went into the new medical implications section,
4 which, as I say, was updated and published in 2012. So
5 we were slightly ahead of the curve and going back to
6 ABD, we were doing work on acute behavioural disorder
7 going back to 2007, 2008, and I have produced some
8 evidence on that as well as exhibits in relation to what
9 we were doing as far as back as then in relation to
10 developing -- training and developing knowledge and
11 understanding of excited delirium/acute behavioural
12 disorder.

13 Q. And I think you have also provided to the Inquiry a
14 video about people with mental health difficulties and
15 how they can be dealt with by the police?

16 A. That's correct. And that came at the back of a --
17 talking about the review process, there was a review
18 into how officers dealt with mental health in the
19 community and recommendations from that was a
20 recommendation in relation to the changing of the
21 training and increasing the awareness of officers around
22 that particular subject matter. So a video, a
23 production company were instructed by the Met to help
24 produce a training video for all our staff back in 2009
25 and that came off the back of -- one of the things that

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1 LORD BRACADALE: Ms Grahame.

2 MS GRAHAME: Thank you. We were just about to turn to the
3 final criteria that you had identified in section 3 of
4 your report, which was someone responsible for
5 oversight, both day-to-day and strategically. And this
6 was the final criteria for an OST programme to contain
7 these elements that it would be fit for purpose if it
8 contained them and this was criteria 7 that you raised.

9 A. Yes.

10 Q. And if we could look perhaps at -- I'm on the wrong
11 page -- page 9 of your report?

12 A. Yes.

13 Q. And it is paragraph (r)?

14 A. Yes.

15 Q. Romeo. And maybe we could this on the screen, which is
16 SBPI 0667 and I'm just going to read out a section of
17 this. So it's page 9 and the letter we're looking for
18 on page 9 is (r). There it is. And so criteria 7,
19 someone responsible for oversight day-to-day and
20 strategically and at (r) here you say:

21 "From the formation of Police Scotland..."

22 That would be 1 April 2013?

23 A. Yes.

24 Q. "...it would appear that no specific champion or one
25 person within the senior management had direct

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- 1 responsibility for OST."
- 2 And you have taken account of the role of
- 3 Inspector Young, but that's not that you're --
- 4 A. Not at that specific level, no.
- 5 Q. There was a management committee who appear to have
- 6 responsibility for training in general, of which OST
- 7 appears to have sat under. Although there was the
- 8 central team at the training school, that's Tulliallan,
- 9 they do not appear to have had the mandate to monitor
- 10 and control OST delivery at a local level?
- 11 A. Yes, I think that's supported by Inspector Young's
- 12 testimony.
- 13 Q. And that's what you were talking about earlier where
- 14 although there was some consistency achieved at
- 15 Tulliallan, that when officers went to different areas
- 16 of Scotland, they were perhaps dealing with different
- 17 types of equipment, different methods and had to get
- 18 additional training?
- 19 A. Yes.
- 20 Q. And then you said:
- 21 "The lack of strategic leadership, coupled with no
- 22 person or group with overall control of OST, would have
- 23 greatly reduced the effectiveness and accountability of
- 24 any OST programme."
- 25 A. Yes.

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1 Q. And when you say "greatly reducing the effectiveness and
2 accountability", what do you mean by that?

3 A. Well, certainly from an accountability point of view
4 it's unable to be able to quantify or actually prove
5 evidence-wise that what was being delivered and how it
6 was being delivered was consistent across the force
7 area. It's obvious that, you know, with all the
8 different evidence that's been presented to the Inquiry
9 and the documents presented that this was not the case
10 and, therefore, you know, Police Scotland were asked
11 that specific question, what did you deliver? How do
12 you deliver it? They might have on paper what they
13 believed should be being delivered, but there was no way
14 of evidencing the fact that that was being delivered or
15 the methodology of which -- how it was being delivered
16 in the force area.

17 Q. Thank you. And then can we look at page 11 of your
18 report, please.

19 A. Just on that point as well --

20 Q. Sorry.

21 A. Just to make sure that I say when I mean about
22 strategic, a strategic lead, that's somebody who sits
23 within the senior management level within the force. So
24 if I give the example of the Met where I was, the
25 officer in charge or had directly responsibility for

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1 officer safety across the whole of the Met was at
2 commander level. So that's an equivalent to what we
3 would call an ACPO level so it's above a chief
4 superintendent and it's within somewhere like
5 Police Scotland or a county force you would be looking
6 at somebody with assistant constable, deputy assistant
7 constable level so up to that senior strategic level of
8 the force. Somebody would have that -- champion that
9 direct responsibility for that. They may have other
10 ones like public order as well, but they would have
11 officer safety as one of their umbrellas under their
12 management.

13 Q. Someone like an assistant chief constable?

14 A. Yes, somebody who can directly influence and can
15 directly feed into the chief constable.

16 Q. At that highest level really?

17 A. At that strategic level, yes.

18 Q. Thank you. Now, I would like to move on to your
19 section -- the section of your report that highlights
20 problems with OST delivery in 2015 and essentially
21 I think you have given a summary of different issues
22 which have -- you have become aware of as part of your
23 consideration of the papers and page 11 contains these.
24 If we look at paragraph (cc) which is Charlie Charlie,
25 and there are nine bulletpoints listed on page 11 and I

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1 would just briefly like to go through them to make sure
2 we have covered absolutely everything that you summarise
3 here. You say:

4 "The following points are raised within these
5 divisional reports which support my findings and
6 highlight the problems with OST delivery at that time."

7 And that was in the period leading up to May 2015?

8 A. That's correct, yes.

9 Q. "All assessments were left to the discretion of the
10 local divisions. Some did not have a coordinator or OST
11 lead in place. Without set assessment criteria, the
12 quality of physical skills and knowledge is impossible
13 to predict and quantify. It is left to the trainer on
14 the day and their subjective opinion as to competency."

15 A. That's correct.

16 Q. And is there anything else that you would like to add?
17 We have discussed this today, anything else that we have
18 not covered?

19 A. No, I just think that highlights across the board and
20 it's been supported by testimony from Inspector Young
21 and certainly from the documents reviewed.

22 Q. Okay.

23 "There was a lack of any OST coordinator lead in
24 some divisions. Without a central coordinating person
25 or body, consistency of delivery or content cannot be

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1 guaranteed and this is mirrored with the lack of central
2 oversight at Police Scotland."

3 A. Yes.

4 Q. And you have talked to us about the central oversight or
5 the strategic level, what did you envisage in relation
6 to role of OST coordinator or lead?

7 A. Obviously the strategic lead would need somebody to be
8 able to action work that needs to be done, so I would
9 have expected somebody at, say, an inspector level,
10 possibly a chief inspector or even down to a sergeant to
11 be able to give that overview and take control of not
12 only the student officer delivery, but also the
13 refresher and delivery elsewhere across the force area.

14 Q. Could that have been someone akin to Inspector Young?

15 A. Yes.

16 Q. Okay. And then you say:

17 "There was no agreed teaching methodology being used
18 across all the divisions. Explain, Demonstrate, Imitate
19 and Practice EDIP..."

20 I think there is a typo there?

21 A. Yes.

22 Q. "... and Problem, Solution, Teach appear to have been
23 the main one used. These differences in approach can
24 confuse learners and increase ambiguities in message and
25 skills acquisition."

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1 A. Correct, yes.

2 Q. And we have mentioned that already today?

3 A. Yes.

4 Q. The next one is:

5 "No mention of trainer development or
6 recertification, a major requirement for any OST
7 programme delivery."

8 A. Yes.

9 Q. Pages 18, 20 and 21 of your report mentioned the large
10 benchmarking process and a number of English forces
11 being contacted for comparison:

12 "The best practice established from this part of the
13 review can be found on pages 20 and 21. This supports a
14 number of the recommendations this report makes."

15 Now, tell us what this -- what you're referring to
16 here?

17 A. So this is the discussion we were having about the
18 benchmarking against other forces, so looking at other
19 forces across the UK. That comparison was included in
20 the report and recommendations were formulated based on
21 that benchmarking exercise, so it wasn't just about, as
22 you said earlier, just bringing it across, because other
23 people were doing it. It had actually been structured
24 and recommended on how it would be implemented across a
25 force area.

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1 Q. Thank you.

2 "Page 19 highlights the variation in content and
3 delivery between divisions and that users found the
4 training too complicated to learn in the time provided,
5 irrelevant and boring. This is evidence of no oversight
6 or review process or ongoing development for the
7 programme or trainers. Without regular review and
8 development, OST sessions can become stale and not
9 reflect the current trends and risks officers face."

10 And I don't think I have discussed with you the
11 issue of trainees or probationers or officers who find
12 the training to be boring and perhaps not engaging them.
13 And was this something that you also took into account?

14 A. Yes, you know, it's something that we have seen across
15 in other areas in other organisations. That constant
16 review and changing support resources et cetera is an
17 important part of the programme to keep it fresh and to
18 show that it's reflecting the current trends and the
19 current requirements, not only of the officers, but of
20 the public as well. So without that development it will
21 become stale, it will become very repetitive and
22 officers will switch off and not pay the attention they
23 need to to those particular inputs.

24 Q. And if officers have that reaction to training and
25 switch off, as you say, what impact does that have on

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- 1 their retention in terms of retaining the skills and
2 knowledge that has been provided to them?
- 3 A. Yes, it's a well-known fact that if you don't practice a
4 skill, it degrades and it becomes less effective. So if
5 they're not using it generally on a day-to-day basis,
6 without that continual refreshing period, they're going
7 to lose the ability or possibly forget how to use it or,
8 even worse still, they're going to apply it incorrectly
9 and possibly cause danger or injury to the person that
10 they're applying it to.
- 11 Q. We've heard a phrase from other witnesses about "memory
12 fade" or something about fading?
- 13 A. Yes.
- 14 Q. Is that something you recognise?
- 15 A. Yes. Again, as I say, it's a skill. It's well
16 documented within the sort of learning and development
17 world. That's why, certainly for first aid training,
18 there's now a legal requirement from a health and safety
19 to refresh that knowledge and those skills on a regular
20 basis. Officer safety was no different. It was -- it
21 was, you know, it was written into the requirement that
22 if you don't refresh and practice those skills, you're
23 going to lose them.
- 24 Q. And then if we can move the page up, please. We're
25 looking at page 20. It mentions disparities and

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1 confusion in the use of force reporting process,
2 including what should be recorded and where, how to
3 report incidents.

4 "A robust data-gathering process is invaluable in
5 monitoring and developing OST. Specific guidance should
6 be used as to what constitutes the use of force and how,
7 where to record these facts."

8 And you make reference to another section in your
9 report regarding the use of force SOP?

10 A. Yes.

11 Q. Was this what you were talking about earlier about
12 apparent disparities between the use of force SOP and
13 information that was contained within the --

14 A. Yes, that's information from the 2015 where officers
15 were actually, you know, mentioning the fact that they
16 were unsure, they didn't know the process, they didn't
17 know what to record or what not to record. And I think
18 based on the SOP, the SOP didn't give sufficient
19 guidance and the form that we produced or we've seen
20 doesn't fully cover all of the areas that it should.
21 It's very much centred on the use of irritant sprays,
22 rather than a general use of force.

23 Q. So you looked at complaints or issues being raised by
24 officers in their evidence about uncertainties that they
25 had at the time and you've identified that there may --

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1 have been insufficient detail provided?

2 A. Yes.

3 Q. -- in the SOP?

4 A. And without that information you can't tailor what your
5 package is and how to develop the package. One of the
6 big things that we found when it was implemented across
7 the rest of the UK and a lot of forces were then finding
8 that there were techniques that they were teaching that
9 were -- hadn't ever be used over maybe an 18-month
10 period, but officers were still being refreshed on them
11 and trained in them, but they weren't being used. So it
12 just allows you to tailor the package or the programme
13 to best meet the needs of the officers and if it's
14 something that they're not using, then why spend the
15 time? Why not replace it with something else or just
16 take it out and spend more time on the things that they
17 are using on a regular basis?

18 Q. With that data, robust data, you can more appropriately
19 direct your resources, which may be limited, and the
20 time you have, which may be limited, to things that are
21 of practical use --

22 A. Yes.

23 Q. -- and being used on a regular basis?

24 The next bulletpoint is 8, pages 21 to 123:
25 "Provide a summary of findings showing this to be a

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1 well-evidenced and balanced review and would appear to
2 mirror most of the issues I have identified from my
3 review of the various documents."

4 Is that the 2015 review by Inspector Young?

5 A. It is, yes, Inspector Young, yes. I think he did a very
6 good job in reviewing the standard of the training at
7 that time.

8 Q. Thank you. So insofar as we've heard evidence from
9 Inspector Young about the review and his
10 recommendations, would you say you're largely in support
11 of his --

12 A. Very much so, yes.

13 Q. -- position? Thank you.

14 And then the final bulletpoint in this chapter:

15 "Page 24 onwards contains the proposed
16 recommendations from this report. I agree with most of
17 the recommendations in this report."

18 That's Inspector Young's report?

19 A. Yes.

20 Q. "I would however like to add additional comment on a
21 couple of.

22 "6. Any review should be subject to more stringent
23 review. The author mentions having no data on assaults
24 or complaints. These are important sources to assist in
25 the tailoring of the OST programme."

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1 And can you explain why that is?

2 A. Well, certainly for complaints, if we have -- if we
3 say -- say we see an increase in complaints of subjects
4 being handcuffed and being injured during handcuffing,
5 then it would stipulate to the organisation that
6 possibly more time needs to be spent on handcuff
7 refresher training. So again, the package can be
8 tailored and specialised to meet that complaint need.

9 If officers are being assaulted and being assaulted
10 in a particular way, say for example they're being
11 bitten, what could we possibly put in place to prevent
12 officers being bitten in the way of either a technique
13 or additional information around that type of assault?

14 Q. We've heard previous evidence from Dame Elish Angiolini
15 in relation to two reports that she's prepared that are
16 before the Chair for consideration and she expressed the
17 view that although people sometimes think data is not
18 the most exciting part of her report, that it can be
19 very useful to highlight "hotspots", as she described
20 them, or essentially areas where problems are taking
21 place. They can then identify what those problems are,
22 what the cause of that is and perhaps adapt maybe
23 training, maybe equipment, maybe something else to adapt
24 and resolve that problem so there are not as many
25 injuries or in her case deaths?

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1 A. Yes.

2 Q. Would you agree with that?

3 A. I would. I mean data in itself is a very good tool, but
4 when you look at the data across the board and reflect
5 into other parts of the training, it will support and
6 evidence decisions that you wish to make in relation to
7 where the programme goes.

8 Q. Thank you. And then you talk about important sources to
9 assist in the tailoring of the OST programme. Number 9:

10 "There should be a specific programme for refresher
11 training. Whilst this should mirror the initial
12 syllabus, it must have the ability to develop and update
13 officers as they progress in service."

14 Talk to us about that?

15 A. So as I said earlier, the basic programme, the initial
16 training that officers get, is about teaching them a set
17 of skills. What we then need to take into consideration
18 is that operational officers are using some of those
19 skills, like handcuffing, on a regular basis. So it's
20 about giving them a process or a programme that is
21 tailored to their needs, rather than the needs of a new
22 officer who's never had these skills before. So whilst
23 the core principles or the core elements of the
24 programme need to be included, handcuffing, empty hands,
25 conflict management, et cetera, use of force, how that's

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1 delivered and how that's put across or the emphasis
2 that's placed on that should be slightly different or
3 normally it's different for serving officers who are
4 already experienced in applying those skills than it
5 should be for an initial student officer.

6 Q. That could be more of a bespoke training programme for
7 officers who already have experience in the field?

8 A. Yes. So as I've said before, the scenario-based
9 training element of the training is a great tool to
10 identify any -- I wouldn't say bad habits, but identify
11 any trends that are sneaking into operational policing.
12 It allows you to address them and get people back to
13 where they possibly need to be and it also identifies
14 other areas that may need further input such as
15 handcuffing et cetera at the next set of refresher. So
16 it allows you to develop a programme over a period of
17 months or years to best suit the needs of what you're
18 seeing coming through the door.

19 Q. And would that type of a more specific or bespoke
20 programme also assist with dealing with perhaps lack of
21 engagement or people feeling it was boring or --

22 A. Yes, I think that's -- because you're changing the
23 programme on a regular basis, it doesn't mean changing
24 the content, but the methodology of delivery, how you're
25 putting that across, what you're concentrating on or

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1 focusing on helps and when you can evidence that with
2 the data, you can turn around to the staff and say
3 "we're doing this because". You know, you might think
4 you can handcuff, but we've seen an increase of 32 per
5 cent in handcuff complaints. We're injuring people
6 putting handcuffs on so we're going to look at
7 handcuffs. So you can actually evidence using the data
8 why you're spending time on particular subject matters.

9 Q. And those being trained can then see the practical
10 application and the reasons for the benefits of that
11 training?

12 A. Yes.

13 Q. And then you say 20 and 21:

14 "This is one of the most important points raised by
15 the author. Good practice comes from the top, so such a
16 central unit would lead by example and provide a point
17 of focus for all OST matters. Having local SPOCs,
18 specific points of contact, also enhances communication
19 and dissemination of information."

20 Can you explain to the Chair what you were talking
21 about here?

22 A. So a lot of other forces, including my old force in the
23 Met, we had a central team that were responsible, very
24 similar to the college at Tulliallan. We were
25 responsible for probationary student officer training.

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1 However, we were also responsible for the training of
2 trainers and the monitoring and development of those
3 trainers. So my team used to go out and monitor
4 training at the local level and at the time, before the
5 changes in training within the Met, we had over 500
6 cascade trainings within the Met who were delivering.
7 So we were monitoring and managing a group of 500
8 officers.

9 That allowed us to have a central overview of what
10 was happening across the whole of the force area. We
11 could pass that information up the chain, but also on
12 each of those areas, where the training was being
13 delivered, there was one identified lead trainer who had
14 direct contact with us. So if they had a problem
15 locally or something was happening or they were getting
16 feedback from the officers who they were training around
17 a particular problem or a particular issue, that could
18 be fed straight back into the central team, central team
19 could look at methodology to deal with it or resolve it
20 and we could either then pass that out straightaway or
21 roll it into the next set of refresher training.

22 As I said, officers back then were doing two
23 six-hour sessions, so we had the opportunity to get to
24 any officer within six months with a result or a
25 response to what those particular problems were. So it

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1 was a cascade down and a cascade up and a brief up model
2 that worked quite well.

3 Q. And that was in a situation where they had access to
4 you?

5 A. Yes.

6 Q. And you were the head of training and then moved on to
7 strategy?

8 A. So my team that I had at the time they had geographical
9 responsibility for an area so they had looked after. So
10 there was that close connection between the trainers on
11 area, the trainers that was at centre, so they knew who
12 they could get in contact with and they then came up
13 through me and went to where it needed to go to.

14 Q. Right, thank you. And you say here that good practice
15 comes from the top.

16 A. Yes.

17 Q. And would you agree with Inspector Young that's very
18 significant?

19 A. I think, yes. He was in a position at the level he was
20 at to be able to influence what was happening at
21 Tulliallan and lead that side of the training. However,
22 he was neither mandated or had the influence to be able
23 to do a lot of the other things he could have done or
24 needed to be done in relation to officer safety.

25 Q. Thank you. Let's move on, please.

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1 You were asked a question by the Inquiry to look at
2 all the papers and express a view on whether the
3 programme of training in 2015 was fit for purpose.

4 I would like to move on to that, please. You deal with
5 this in paragraph (dd), delta delta, bottom of page 11,
6 and you say:

7 "Taking all of this into consideration, I must
8 consider was the programme in 2015 fit for purpose and
9 the simple answer I would say is, no. Based on what has
10 been produced and some of the testimony provided to the
11 Inquiry by officers involved in the delivery and review
12 of OST at the time... "

13 And that would include Inspector Young,
14 Inspector Bradley was later?

15 A. Yes.

16 Q. But a number of officers have given Inquiry statements
17 and you saw those as well:

18 "... I would suggest the content was recognised,
19 although somewhat outdated, lacked clarity, and in some
20 places was actually inaccurate."

21 And does that really sum up your overall views on
22 the training that was available?

23 A. At the relevant time, yes.

24 Q. And then (ee):

25 "However, with the lack of oversight and control of

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1 delivery, it is impossible to confirm whether officers
2 were receiving what was expected or considered at the
3 time to be the latest advice, guidance or if it was
4 indeed fit for purpose. The answer must therefore be
5 that Police Scotland are unable to show that it was
6 based on the evidence reviewed."

7 So there's not just the issue of the materials
8 themselves, the content of the manual, the lesson plans,
9 the instruction manual, the SOP, you've detailed all of
10 those issues today, but it's not simply that there were
11 issues with the content. I think what you're saying at
12 (ee), echo echo, is that it was impossible to confirm
13 what the officers were actually receiving?

14 A. Yes, for the simple reason the processes were not in
15 place. Without those processes, you cannot evidence or
16 answer that specific question.

17 Q. And I think we've heard evidence from Inspector Young
18 and even if we assumed for the moment that the materials
19 in 2013 Manual and other materials that we've looked at
20 were of very good quality and there were none of these
21 issues that you've talked about today, so even if we
22 assume they're of a good standard, the difficulty would
23 be in establishing who was taught what?

24 A. Yes.

25 Q. Now, Inspector Young did give evidence to the Inquiry

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1 and he said the manual, the 2013 Manual at least was
2 provided to all probationer officers at the commencement
3 of their training at Tulliallan and all OST instructors
4 from 1 September 2013. And as we went through that, he
5 identified PC Ashley Tomlinson as one of those,
6 PC James McDonagh, PC Kayleigh Good, and he also
7 identified PC Alan Smith as a trainer --

8 A. Trainer.

9 Q. -- who would have had access to the 2013 Manual. He
10 also said that all the training and recertification
11 training for officers who had had a number of years
12 service would have been under the manual or should have
13 been under the manual?

14 A. "Should" would be the word I would use.

15 Q. Should have been?

16 A. But there's no way to prove that.

17 Q. But no way to prove that and that included PC Paton,
18 PC Walker, acting Sergeant Maxwell, PC Short and
19 PC Gibson and at that time, they were getting annual
20 refresher training of one day a year. Right.

21 And with Inspector Young we did look at statements
22 that were given by a number of trainers who had looked
23 at -- provided and delivered training to them so the
24 Chair has that evidence in front of him. But against
25 that background, you have concerns about what was

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1 actually delivered?

2 A. Yes, I think with, you know, taking all of the
3 documentation into consideration, both of the reports,
4 the 2012 Manual for the trainers, the 2013 Manual for
5 the students, the standard operating procedures, across
6 the board there are a number of ambiguities, a number of
7 missing information in relation to how things will be
8 done, how things should be done and I think all of that
9 combined, specifically with Inspector Young's findings
10 from his 2015 report, just point to the fact that at
11 that time, I think, if you asked the question you would
12 get an answer, but if I asked, well, prove it, it was
13 impossible to prove at that time.

14 Q. And can we then move on, please, to (ff), foxtrot
15 foxtrot:

16 "Whether access to this updated information would
17 have changed the officers' approach to this situation is
18 difficult to say."

19 So you were asked by the Inquiry what difference
20 would this have made?

21 A. Yes.

22 Q. And you say:

23 "It's difficult to say. With the additional
24 information on acute behavioural disturbance and a
25 clearer picture of options to deal with such subjects

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1 and the possible impact of their actions, the officers
2 could then have considered a softer approach using
3 de-escalation techniques. By keeping their distance,
4 the requirement for physical interaction or restraint is
5 reduced until such time as it might be deemed necessary
6 by the actions of the subject or an increased risk or
7 danger to the public or officers. They could have
8 waited for other units to arrive to assist in limiting
9 Mr Bayoh's movement. Contain rather than restrain."

10 So you have highlighted that -- I think today you
11 have gone through the manual module 1, officer safety
12 training, and identified that training available. There
13 was training, for example, on tactical communications,
14 but with better training, the officers may have been
15 better equipped to take alternative approaches?

16 A. That would be my findings from the review. I think
17 there was more information. There were other -- other
18 versions, certainly in relation to de-escalation and I
19 think we'll come across that tomorrow with one of the
20 specific questions that was posed by the Chair, but
21 it's -- with the increased information in relation to
22 ABD, the risk factors, possibly identifying the
23 possibility that Mr Bayoh was suffering from ABD or some
24 form of crisis, I think that would have probably
25 triggered officers into considering their approach.

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1 Q. Thank you. And then (gg), golf golf:

2 "I have been asked what the impact of this would
3 have been on a hypothetical reasonable officer. In my
4 opinion it wouldn't have prevented the officer from
5 carrying out their duties. It may however not have
6 provided them with all the best tools or information
7 available to do their job. The analogy I might use
8 would be that of someone driving a really old car. Does
9 it get them to work or the shops? Yes would it pass an
10 MOT? Possibility not."

11 Could you expand on that analogy?

12 A. I think the training that was being delivered was, as I
13 have said previously, I think it was dated and in some
14 areas misleading. I think with the most up-to-date
15 training and the processes in place, the officers would
16 have been slightly better equipped to deal with it. My
17 analogy is in relation to officers who, you know,
18 haven't received any training, they can still probably
19 do what they need to do, but whether that would be being
20 done up-to-date with the latest -- the latest
21 applications or whether that would be totally suitable
22 for training as it is now or as it should have been,
23 I don't think that would be the case. I think they were
24 somewhat restricted in relation to that particular area
25 of their development.

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1 Q. Thank you. I would like to move on now to page 12,
2 we're sticking with page 12, but further down the page
3 at section 4 of your report, and this moves away from
4 the seven criteria --

5 A. Yes.

6 Q. -- for good training, and moves into some specific
7 points that have been raised with you by the Inquiry
8 team. And you are asked -- you were asked some specific
9 questions, which you have actually detailed at paragraph
10 (b) on the screen. If we can move up please, so that we
11 can also see (g) and (h). It might be that we can't see
12 it all on the one page.

13 Let's start with identifying the first question so
14 it's (a). You were asked:

15 "Who was in charge in relation to a response team
16 attending a knife incident?"

17 Now, this is where the Inquiry team have asked you:

18 "Can you identify for us what training is available
19 in relation to this question?"

20 And they've identified a number of these?

21 A. Yes.

22 Q. "(b) Officers' communications with ACR, including the
23 requirement for feedback when attending a grade one
24 knife call.

25 "(c) Carrying out a dynamic risk assessment.

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1 "(d) Identification of subjects who are intoxicated
2 or experiencing mental health crisis or suffering from
3 ABD or ED and actions then to be taken.

4 "(e) Tactical options for approaching an individual
5 reported to be onto public road carrying a knife."

6 And there are four of these and we discussed these
7 previously in your earlier evidence --

8 A. Yes.

9 Q. -- Mr Graves, rendezvous point, observe weight feedback,
10 deescalation and verbal dominance coined as a "hard
11 stop".

12 "(f) The principles of preclusion, justification
13 and necessity in relation to use of force"

14 (g), if we can move up the page, please, is:

15 "Training on profiled-offender behaviour and
16 reasonable officer response.

17 "(h) Restraint insofar as it relates to the
18 application of weight and/or pressure applied to the
19 subject; the number of officers involved; the length of
20 the restraint; the use of a safety officer to monitor
21 the breathing of the subject; any risk to life caused by
22 restraint."

23 So there are a number of different areas.

24 A. Yes.

25 Q. Seven specific areas that you have been asked to look

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1 through and identify what training was available and
2 you've touched onto number of these in order to give
3 examples of your concerns, which we've gone through
4 today. You were also asked when you were dealing with
5 each of these (a) to (h) issues in training, if you
6 could identify some separate areas?

7 A. Yes.

8 Q. And let's just look at the areas you were asked to cover
9 in each response. We see them here at (c):

10 "The answers will be provided under the following
11 headings and numbers."

12 So you give us nine headings, paragraphs, chapters
13 where you will deal with each of these in relation to
14 each question.

15 A. Yes. Hopefully, to just make it easier to reference the
16 answer to each of the questions, yes.

17 Q. Thank you so much. And let's just go through these
18 briefly now so we know with we're going number.

19 "1. What training was delivered by Police Scotland
20 in 2015?"

21 So for example on the question (a), who was in
22 charge in relation to a response team attending a knife
23 incident, you would start your response by identifying
24 training that was delivered by Police Scotland in 2015.
25 Will that largely be from the 2013 Manual?

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- 1 A. It would be, yes.
- 2 Q. "2. Was that training fit for purpose? If not, what
3 was the likely impact of any defects, inaccuracies or
4 inadequacies identified?
- 5 "3. What training was delivered by the College of
6 Policing in 2015?"
- 7 And so that's used as a comparator.
- 8 A. That's correct, yes.
- 9 Q. I think would it be fair to say that we don't want to
10 suggest that College of Policing is perfect in any way
11 or the gold standard, but it is a comparator from a
12 nearby jurisdiction?
- 13 A. Yes, it's dealing with similar issues, similar
14 situations and how the two training packages correlate.
- 15 Q. So it's a mechanism and a comparator?
- 16 A. Yes.
- 17 Q. Rather than holding it up as a council of profession?
- 18 A. Definitely not, no.
- 19 Q. No, thank you.
- 20 "4. How did the College of Policing training differ
21 from that delivered by Police Scotland?"
- 22 So you then identified distinctions and
23 differences --
- 24 A. Yes.
- 25 Q. -- that may be of significance?

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1 "5. If the hypothetical reasonable officer had
2 received the training delivered by the College of
3 Policing in 2015 ... "

4 So this is a hypothetical reasonable police officer
5 in Police Scotland?

6 A. Yes.

7 Q. And if they had received the training in the College of
8 Policing manual, how would their actions potentially
9 have differed from those of officers who may have
10 received the Police Scotland training in 2015?

11 A. Yes.

12 Q. Again, looking at the difference in the training and
13 what impact that may have had on officers.

14 "6. What training is currently delivered by
15 Police Scotland?"

16 So then you move away from 2015 and you move to the
17 current position which we described earlier today as the
18 2022 materials?

19 A. Yes, a couple of years behind, yes.

20 Q. And always remembering and understanding that
21 Police Scotland's training continuously evolves and
22 develops and is improved?

23 A. Yes, definitely.

24 Q. "7. Is that training fit for purpose, and if not, how
25 might the training be improved?

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1 "8. If the hypothetical reasonable officer in
2 Police Scotland had received the training currently
3 delivered by Police Scotland, how would their actions
4 potentially have differed from those of officers who may
5 have received the Police Scotland training in 2015?"

6 So again, looking at a comparison between then and
7 now?

8 A. Yes.

9 Q. So 8 is a sort of then and now comparison in
10 Police Scotland, and then:

11 "9. What training is currently delivered by the
12 College of Policing?"

13 So again providing that comparison with College of
14 Policing as it now or 2022?

15 A. Hm-hmm.

16 Q. And you've covered all of those topics as you went
17 through the different questions that were asked by the
18 Inquiry?

19 A. That's correct, yes.

20 Q. Thank you. Now, there were seven topics, (a) to (h),
21 seven questions that the Inquiry specifically asked you
22 and I think from reading your report, there were three
23 where we can see there was no guidance or training found
24 in the materials by you?

25 A. That's correct, yes.

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1 Q. I would like to start with those three topics where
2 there simply was no guidance and no training or another
3 expression that you use within your report is "there was
4 nothing of note." So there may have been none or there
5 may have been nothing of note?

6 A. Certainly from the documents, I haven't been able to
7 find anything within the documents I've reviewed.

8 Q. Right. And largely this is what would have been
9 delivered under the 2013 Manual.

10 So the three areas are question (a) who was in
11 charge in relation to a response team attending a knife
12 incident; (b) officers -- if we just go back to the
13 initial (a) to (h), that's probably easier at this
14 moment in time. Right up at the top, thank you. Yes.

15 So it's (a), (b) and (e). So (a) -- they're all on
16 this one page -- who was in charge; (b) officers'
17 communications with ACR, including the requirement for
18 feedback when attending a grade one knife call; and (e),
19 tactical options for approaching an individual reported
20 to be on a public road carrying a knife.

21 And of those four tactical options under the letter
22 (e) for echo, three of them you were unable to find any
23 training on?

24 A. Correct.

25 Q. And that was rendezvous point, number one; observe

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1 weight feedback, number 2; and verbal dominance,
2 number 4. So the only one you could find some training
3 was deescalation?

4 A. Deescalation, yes.

5 Q. I'll go through each of these in turn if I may,
6 Mr Graves. (a) first of all, who was in charge in
7 relation to a response team attending a knife incident?
8 Now, you deal with this question on questions 13 and 14
9 of your report which you have in front of you?

10 A. Yes.

11 Q. And we can move on to 13, and you point out that there
12 was nothing of note in the manual or the other 2015
13 training materials that you looked at that related to
14 the hierarchy of command in such incidents, but you do
15 point out that it may be that other training programmes,
16 not specifically connected to OST, such as training for
17 ACR staff, might have held some information on this?

18 A. That's correct, yes.

19 Q. Do you think that this would be a useful topic, who's in
20 charge, to have in an OST training programme?

21 A. It would certainly be worthy of mention, I think, within
22 the assessment of risk within -- under the NDM. So
23 again looking at how, when we look at back-up, when we
24 look at support as a tactical option, how you might call
25 that, what might be the considerations of getting

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1 certain officers to come and assist you or specific
2 trained officers or equipment that you might need, how
3 that would work, who needs to authorise it, can you call
4 it in, et cetera.

5 Q. And could this be part of the stress inoculation of
6 devising scenarios where people were trained in relation
7 to what to do in situations --

8 A. It could internal part of the debrief in relation to,
9 you know, let's say, for example, the scenario was being
10 confronted by an individual with a knife, what are the
11 options and if one of the options was to withdraw, did
12 you then consider transmitting that back to ACR, et
13 cetera. So there's different ways you could address it.
14 I think it would certainly form part of the initial
15 discussion around assessing risk and understanding
16 different tactical options that might be available or
17 might not be available because of certain restrictions.

18 Q. Thank you. We've heard evidence from Inspector Young,
19 as you know, which in his statement he's also given some
20 information to the Chair as well as his oral evidence,
21 and I'm not going to put it up on the screen, but
22 SBPI 00362 paragraph 72 he said:

23 "I have been asked whether there was training for
24 officers on who would be in charge in relation to a
25 response team attending a knife incident. There is no

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1 training on this so far as I am aware."

2 So certainly although there may be other training
3 materials, Inspector Young doesn't appear --

4 A. Yes.

5 Q. -- to have been aware of any of that. And we've
6 obviously heard a lot of evidence from the people who
7 were in Hayfield Road on 3 May 2015, but before I refer
8 you to their evidence, do you have a concern about the
9 fact that this is not trained as part of the OST?

10 A. It's -- it's not really something that would form a
11 direct part of it. Things like dealing with incidences
12 is part of the tactical options, as I have said, would
13 be if you're dealing with, say, a situation where the
14 person may be in possession of a knife, again, then you
15 would look at the training around -- for edge weapons
16 and part of that would be the different tactical options
17 that would be available. One of those may well be, as
18 we have said, stand off, but there's nothing in the
19 actual training manual that directs an officer or would
20 direct an officer to that particular path.

21 Certainly within other training packages within the
22 UK, that would be a valid and very valid tactical option
23 and is raised throughout the training and forms part of
24 that support mechanism for officers possibly dealing
25 with edge weapon incidents. Very similar to a firearms

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1 incident, you wouldn't just send an unarmed officer into
2 a firearms incident. You're more likely to have them
3 stand back, report, et cetera.

4 Q. And it's obviously a matter for the Chair, the evidence
5 that we've heard, but if I could summarise some of the
6 evidence that we've heard, we've heard that
7 Inspector Stewart who was in the ACR was initially
8 absent from post but on return thought the divisional
9 officers were in charge, that would be the PIO Inspector
10 Kay and perhaps Sergeant Maxwell; Sergeant Dalgliesh
11 thought Inspector Kay and Sergeant Maxwell had command;
12 Sergeant Bisset, the supervisor, was away from post; the
13 Controller, PC Masterton, was under the mistaken
14 impression that Inspector Stewart and Sergeant Dalgliesh
15 had oversight but they were absent from post; DI Robson,
16 the Duty SIO for Fife Police, described going to assist
17 colleagues but not as a supervisory officer, he thought
18 the most senior officer was Inspector Kay once he
19 arrived; Inspector Kay didn't arrive until after the
20 restraint had been concluded and thought ACR were in
21 command; Sergeant Maxwell who was in charge of
22 accounting Sergeant Maxwell in charge of Team 4 Response
23 Team but he thought Inspector Kay took charge when he
24 arrived; Maxwell thought officers were autonomous and
25 wholly responsible unless he thought it necessary to

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1 intervene so until he arrived, the officers themselves
2 were in charge, he didn't arrive until the restraint had
3 been achieved; and PC Walker thought Maxwell was in
4 charge; and PC Paton wanted to take control himself of
5 the situation on his arrival.

6 So there seemed to have been a number of different
7 beliefs and views about who was in charge and -- that
8 will be a matter for the Chair to make sense of all of
9 that evidence but do you have any concerns that in the
10 absence of specific training about who was in charge in
11 relation to a response team attending a knife incident
12 that this could generate confusion amongst the people
13 who are actually involved?

14 A. Very much so. Certainly in answer to I think the next
15 question in relation to the ACR, there's -- there should
16 be a natural handover of control of that incident from
17 ACR to the first officers arriving on scene but then the
18 overview and supervision of that incident being down to
19 the supervisors in charge of those officers, they may
20 not be it's on scene but an old terminology that used to
21 be used because I have got a listening watch, I am
22 listening to what's going on and I will interject if I
23 need to as a supervisor to ensure safety or to ensure or
24 to make sure that certain things have been done so the
25 role of the supervisor can't just be pushed to one side

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1 if you're not on scene. You should have that overview
2 if you're listening and you're aware of the situation to
3 have that overview in relation to they're your officers
4 going to deal with the situation, is everything in place
5 that they might need or and have they considered
6 everything, that needs to be thought about in relation
7 to this particular incident. So there is a natural
8 requirement for supervisory officers to have that degree
9 of understanding and control over such incidents but
10 there should also be a distinct emarcation between ACR
11 and the officers arriving on scene and saying "We've now
12 got this, we're on scene, we're dealing with this", so
13 they then become in charge of that situation until such
14 time as a supervisor, inspector or sergeant arrives on
15 the scene.

16 Q. Rather than thinking about what the situation may be, if
17 we focus purely on the training which is provided to
18 probationers or officers of different levels of
19 experience and years of service, in the absence of any
20 specific training in OST either in the manual or any
21 other of materials, can you see that that may be a
22 concern that officers who are being sent to respond to a
23 knife incident do not appear to have been given any
24 training in 2015 to allow them to answer the question,
25 who is in charge?

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- 1 A. Yes, I do.
- 2 Q. And what are your concerns about that?
- 3 A. Specifically that, the fact that nobody there is going
4 to take charge of that situation and have an overview or
5 an oversight in relation to what is occurring and what
6 may need to be done and what resources may need to be
7 sent or required to deal with that situation. So
8 somebody somewhere needs to step up and take that
9 control. Based on what I've reviewed it's likely to be
10 whoever shouts the loudest and makes that jump to make
11 that decision rather than a designated individual or a
12 designated pathway of who should be in charge at that
13 particular time, and how and when that might get handed
14 over.
- 15 Q. And so training could perhaps plug that gap or resolve
16 the confusion and clearly identify or provide training
17 to officers to put them in a better position to clearly
18 identify who is in charge and who they should be taking
19 instructions from?
- 20 A. Yes. Certainly when you start looking at major
21 incidents and critical incidents that structure is in
22 place, however, that doesn't form part of OST, and from
23 what I've seen there's no specific training being shown
24 to us in relation to giving guidance along that command
25 pathway, shall we say.

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1 Q. Thank you. And what were College of Policing in England
2 and Wales and Northern Ireland doing?

3 A. At that time, very similar, there was nothing specific
4 within the OST Manual or training programme that would
5 dictate that. As I said, there was some guidance in the
6 approach to incidences with edge weapons, with knives,
7 looking at the probability or the possibility of
8 standing off, observe, observant and report, things like
9 that, so they were shown us tactical options
10 specifically for an edge weapon but nothing specifically
11 within the OST. It was mentioned in other training
12 programmes around critical incidents and things like
13 that, as I have mentioned, but nothing specific within
14 the OST from the College of Policing.

15 Q. Thank you. And you've talked if we could look at
16 paragraph 5, please, this was the question regarding the
17 hypothetical reasonable officer, and if the hypothetical
18 reasonable officer had delivered -- received the
19 training from College of Policing, would that have made
20 a difference effectively, but I think from what you've
21 said perhaps -- you say here:

22 "I believe a reasonable officer would have
23 recognised that this incident had potential to be a
24 major incident and that specialist resources may be
25 required. I believe the ACR would have confirmed the

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1 attendance of the local supervisor to confirm primacy
2 and tactical command at the scene. Until that time at
3 the ACR inspector would have maintained control of the
4 incident."

5 So is it your view that the hypothetical reasonable
6 officer would have recognised or believed the ACR
7 Inspector would have maintained control of the incident?

8 A. I think based certainly on that level of training, yes,
9 they would have expected that individual or that -- the
10 ACR to have control until such time as they arrived on
11 scene.

12 Q. Although the College of Policing training in 2015
13 perhaps was not as expansive as you say it is now, you
14 still consider that it would have better equipped the
15 hypothetical reasonable officer?

16 A. Yes, and certainly having witnessed similar calls like
17 this being dealt with over those years, yes, then
18 I would have expected that to be a natural progression
19 where the control room holds control until such time as
20 somebody takes that control on the ground and that's
21 either normally the officers arriving on the scene or
22 the supervisor arriving after the officers.

23 Q. Thank you.

24 MS GRAHAME: Well, I'm conscious of the time and I wonder if
25 that might be an appropriate?

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1 COURT: We'll stop now, we'll continue with your evidence
2 tomorrow morning at 10 o'clock, Martin Graves. I will
3 adjourn.

4 (The hearing was adjourned to 10.00 am on Thursday, 3
5 October 2024)

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