

IN THE ST PANCRAS CORONERS COURT

INQUEST INTO THE DEATH OF:

DEAN JOSEPH

NATIONAL POLICE CHIEFS' COUNCIL and METROPOLITAN POLICE SERVICE RESPONSE TO THE PREVENTION OF FURTHER DEATHS REPORT 12.08.15

Introduction

On 8 September 2014, an inquest was commenced into the death of Dean Christian Joseph, who was shot by Metropolitan Police Service (MPS) armed officers and died on 5 September 2014. This response is made pursuant to r29 Coroners (Investigations) Regulations 2013 following the Prevention of Future Deaths Report of Coroner Hassell dated 12 August 2015 (PFD).

This is a joint response from the MPS and the National Police Chief's Council (NPCC) which aims to set out details of action which has or will be taken in relation to each of concerns raised in the PFD, or an explanation for why no action is proposed.

Jury Findings

On 12 August 2014, the jury found the following:

- *Dean Joseph was shot by an armed police officer in response to Dean Joseph moving a knife towards a hostage's throat. It was a lawful killing.*
- *Communication and consideration regarding whether the firearms operation was covert or overt was inadequate. An armed challenge was not given. These possibly had an effect on the outcome of the incident.*
- *There was no guidance from trained police negotiators, either on site or via telecommunications, when there was sufficient time to do so. This possibly affected the outcome of the incident.*

Coroner's Concerns

Coroner Hassell detailed the following concerns in the PFD:

1. *Different officers had a different understanding of whether the armed containment was overt or covert.*
2. *As you will see from the narrative, the jury noted that there was no guidance from trained hostage negotiators en route, for the local officer who was on scene. He was attempting to negotiate, though he was untrained as a hostage negotiator. Such guidance might or might not have led to the issuing of an armed challenge.*
3. *The hostage negotiator co-ordinator felt that it would be useful for the officer in her role to ask when first contacted, "Where does the incident commander want me to*

meet them?" This is a point which could be included in training. The fact of not asking that question did not appear to have a material impact in this case, but it might in another.

4. My recollection from the evidence I heard, is that the Armed Policing Policy only describes the maximum range of a TASER, not the effective range. The inclusion of the latter might be helpful.
5. The post incident management:
 - allowed police officers writing their detailed accounts to confer about matters other than simply timings, and
 - arranged for the display of the control log for them, which included matters outside the personal knowledge of some of the officers

It may seem that this is not a matter for a prevention of future deaths report. However, it will always be the case that we, as a society, try to learn lessons from deaths such as Mr Joseph's, and the learning of any lessons is hampered if the post incident procedure is sub optimal.

In this case, it was clear to me that the version of events given by police officers was doubted to a degree that would not otherwise have been the case, because of the post incident procedure.

- *That means that public confidence in the police is eroded, when there be no substantive reason for this.*
- *It also caused me to exclude some officers from court when other officers were giving evidence which, all other things being equal, I would much have preferred not to do, because it is generally less helpful in ensuring the most meaningful exploration of events.*

NPCC & MPS Response

1. The College of Policing Armed Policing Authorised Professional Practice (APP) recognises a distinction that can be made between types of armed containment:

Containment is an option when the subject is believed to be in a particular location. The objective of this is to isolate the subject or place limits on their permitted movement. The containment can be either static or, in some circumstances, may move with the subject. It may also allow time for more detailed planning of a police response.

In certain situations containment may require two groups of officers. These are usually referred to as:

- *outer cordon*
- *inner cordon.*

Depending on the topography of the scene, it may be possible to use unarmed officers on the outer cordon.

In containing a subject, armed officers should take into account 'arcs of fire' in the event of them having to discharge a firearm, and have defined areas of responsibility. This is important for the safety of everyone. Officers should also consider the area

behind a given subject or object and the implications should any shots be discharged, including the potential for shots to ricochet.

Containment may be overt or covert and may be used at any stage during the deployment of AFOs [Authorised Firearms Officers]¹.

The MPS considers that its curriculum² is in line with this APP guidance. Officers are trained that armed containments can be either “overt” or “covert” (now termed “discreet”) with respect to the subject(s) of the containment. Overt containment facilitates deployment that is not concealed while covert containment is used for unseen deployment. In considering the option or combination of options to take, commanders, tactical advisors and armed officers should consider whether an overt or covert/discreet approach (or combination of both) would be most appropriate and what resources are available within the time available.

During armed operations, MPS armed officers (in particular Tactical Firearm Commanders (TFCs)) do continually assess the nature of any containment. This is particularly so in respect of the positioning of armed officers, to ensure that officers are placed at strategic locations outside the premises so they are in the best position to deal with any immediate threat posed (both to any innocent parties inside, and also to the armed subject themselves). TFCs will use the National Decision Making (NDM) model in assessing every part of the armed operation, which includes the overt or covert/discreet containment of the premises.

The MPS, however, will in future make clear in training to both firearms officers and commanders what is meant by overt and covert/discreet containment according to the APP. The MPS will ensure that TFCs are aware of the need to communicate to containment officers what type of containment is being carried out.

The NPCC will also work with the College of Policing to consider whether the APP and/or the National Police Firearms Training Curriculum needs to be more explicit in this area.

2. The APP recognises the utility in the consideration and use of specifically trained negotiators in armed operations:

*Negotiation- Officers are encouraged to try to reduce the threat level or neutralise it through early negotiation. While negotiating skills are included in all AFO initial training, ongoing negotiations should be undertaken by a trained negotiator. This is an officer trained to negotiate with subjects to resolve an operation peacefully, and to gather information which may assist as part of the intelligence-gathering process. **When necessary negotiators should be deployed as soon as practicable³.***

¹ APP Armed Deployment: 2.1.4.5

² SC&O19 Armed Response Firearms Course: Basic Principles of Tactics

³ APP Armed Deployment: 2.4.6.1

*The use of less lethal options, including police dogs and **negotiators**, should be considered, wherever possible, in order to enable the police officers at the scene to deal with any emerging situation⁴.*

Communication issues- Where there are known environmental and behavioural influencers involved in a situation, the following may assist in improving communication with the subject:

- *prior intelligence gathering*
- *early use of interpreters for language or communication difficulties*
- **early use of trained negotiators, either directly or to advise others.**

Defusing the situation- The following actions can help create opportunities for the subject and officers to have more time and space to defuse the situation:

- *use of effective cover by police officers*
- *evacuation of immediate area*
- *being prepared to back off (if safe)*
- *giving available space and time to the subject when considering containment*
- **early negotiation or negotiation advice⁵.**

In addition, the former National Policing Improvement Agency (NPIA) provided guidance giving general direction to commanders of all types of incidents⁶. The guidance reiterates the point that negotiation is one of a number of tactical options available to “incident commanders”, who are required to exercise professional judgment and discretion in responding to incidents that can be imprecise and dynamic in their nature.

The NPIA guidance suggests that once negotiators have been fully briefed regarding the situation and behavioural factors in an incident, it will then be possible for them to provide a more considered and mature assessment of the incident, which should be reviewed as more information becomes available.

MPS policy directly reflects the APP (and essence of the NPIA guidance) on this matter and states:

*Command support is a useful element of the command structure. Depending on the complexity of the operation, and the availability of support staff, all firearms **commanders must consider the availability and necessity for;***

- *Intelligence liaison;*
- *Tactical Advisor;*
- **Hostage and Crisis Negotiator;**
- *Logistics Support;*
- *Post Incident Manager(s);*
- *Media Support⁷*

*The use of less lethal options, including police dogs and **negotiators**, should be considered, wherever possible, in order to enable the police officers at the scene to deal with any emerging situation⁸.*

⁴ APP Armed Deployment: 4.1

⁵ APP Armed Deployment: 4.2.1

⁶ The Use of Negotiators by Incident Commanders 2011

⁷ Police Use of Firearms and Less Lethal Weapons v11.0 July 2014: 6.94

Where there are known environmental and behavioural influencers involved in a situation, the following may assist in improving communication with the subject:

- Prior intelligence gathering;
- Early use of interpreters for language or communication difficulties;
- **Early use of trained negotiators, either directly or to advise others**⁹.

The following actions can help create opportunities for the subject and officers to have more time and space to defuse the situation:

- Use of effective cover by police officers;
- Evacuation of immediate area;
- Being prepared to back off (if safe);
- Giving available space and time to the subject when considering containment;
- **Early negotiation or negotiation advice**¹⁰.

The MPS will in future, however, highlight in training to TFCs and incident commanders the need to consider the use and briefing of trained police negotiators and negotiator co-ordinators at an early stage in incidents.

The incident commander is responsible for requesting and authorising the deployment of trained negotiators. They must also decide whether or not to deploy untrained responders. The negotiator coordinator will give advice and guidance to the incident commander. This could include briefing a first responder, or even a third party intermediary, as a holding position. The Negotiator Coordinator will always brief negotiators prior to their deployment.

On arrival at a scene a negotiator must ensure that their engagement/participation has been authorised and this would normally necessitate an up to date briefing at the scene (be that from the incident commander or negotiator coordinator), unless delay would involve immediate threat to life or urgent risk of harm.

3. Armed officers are trained that a designated rendezvous point (RVP) plays a major role in an incident and is designed to be a safe meeting location away from the incident scene where multi-agency resources are coordinated and marshalled prior to their attendance at the incident. The purpose of an RVP is to ensure that incident scene access is effectively managed and that all incident responders are able to attend the scene of the incident in a coordinated and effective manner. Incident commanders are accordingly trained to give careful consideration to the location of an RVP.

Due to the dynamic nature of armed incidents, however, an RVP may cease to remain safe or fit for purpose. Consequently an alternative RVP may be designated or a forward reception point may be appointed.

⁸ Police Use of Firearms and Less Lethal Weapons v11.0 July 2014: 7.81

⁹ Police Use of Firearms and Less Lethal Weapons v11.0 July 2014: 7.90

¹⁰ Police Use of Firearms and Less Lethal Weapons v11.0 July 2014: 7.92

The MPS will highlight to TFCs and incident commanders in training the need to consider communicating the final desired meeting point to persons arriving at an incident (including negotiator coordinators) if a forward reception point has been designated alongside an RVP.

4. In respect of the conducted energy device (Taser), the APP currently states that:

The maximum range of the device is determined by the length of the wires that carry the current and attach the barbs to the weapon (currently this is 21 feet or 6.4 metres). The effective range at which it is likely that the two barbs will attach themselves to the subject may be a lesser distance¹¹.

The MPS and NPCC consider this guidance is clear and adequate. The maximum distance is dictated by the length of the Taser cables (21 feet), so this is the maximum distance at which the weapon has the potential to be effective.

However, is it not possible to prescriptively specify what is the 'effective' range of a Taser in all circumstances. As articulated in the above guidance, the effective range of the Taser is not precise and is contingent on a number of factors, such as the physique and clothing worn by a suspect, the distance at which the weapon is discharged and the weather conditions. This list of factors is not exhaustive and each potential use of this weapon must be assessed by an officer dependant on the prevailing conditions in line with training and the National Decision Making model.

5. The APP provides detailed guidance in relation to the post incident procedure to be followed in cases of death following police contact. The guidance has been developed over several years and draws upon legal advice and learning from previous incidents.

Conferring

The APP has been subject to legal challenge on this matter in *R (Saunders) v Independent Police Complaints Commission (2008)* and more recently in the Court of Appeal in an application for judicial review brought by [REDACTED] and [REDACTED]. The basis of the application to the Court of Appeal was that the APP was insufficient to prevent officers from conferring when providing their accounts. The Court of Appeal concluded that the APP was sufficient in this regard and was not unlawful; however, improvements to the guidance were recommended in order to strengthen it and provide greater clarity. As a result of the Court of Appeal's findings, the guidance has been updated.

In relation to conferring, the APP has been clear for many years that:

¹¹ APP Conducted Energy Devices: 1.2

As a matter of general practice, officers should not confer with others before making their accounts (whether initial or subsequent accounts). There may, however, be a need speak to one another following the discharge of a police firearm in order to resolve an ongoing operational or safety matter. The important issue is to individually record what their honestly held belief of the situation was at the time force was used. There should, therefore, be no need for an officer to confer with others about what was in their mind at the time force was used. If, however, in a particular case a need to confer on other issues does arise, then, in order to ensure transparency and maintain public confidence, where some discussion has taken place, officers must document the fact that this has taken place, highlighting:

- *time, date and place where conferring took place*
- *the issues discussed*
- *with whom*
- *the reasons for such discussion¹²*

The underlined words were added on 12 September 2014, however the basic aim of the guidance has remained the same: officers are explicitly discouraged from conferring, particularly in relation to their own honestly held belief which led them to a decision to use force. Other conferring can be necessary however, for example to impart situational or safety critical information. The APP makes it clear that to ensure transparency, a record of any conferring must be kept.

It is accepted by the NPCC that when applying national guidance across all police forces and agencies, there is some risk that the guidance will be subject to local interpretation. However, the NPCC has already taken steps to strengthen the guidance (for example, in relation to when separation of officers is necessary to prevent conferring) and to improve clarity on its application. Individual forces are responding positively with training and amendments to local procedure.

The MPS adopts the APP guidance in its post incident procedure, but welcomes NPCC measures to improve the clarity of the APP on this matter.

Developing best practice has already lead the MPS to always invite the IPCC and DPS (Directorate of Professional Standards) to be present throughout the time when officers give their initial and detailed (Stage 3 & 4) accounts to promote transparency.

Reference Materials

The APP recognises that officers may use reference material when writing their post incident accounts. When reference materials are used, the APP suggests that:

¹² APP Post Deployment:8.1

*The appointed officer must fully record their observations and actions. The following support may be appropriate... ensuring that any reference material used by the officers is secured and handed to investigators against a receipt/exhibit number...*¹³

The MPS recognises the importance of a distinction between reference materials that refresh the memory of matters that were within an officer's own knowledge at the time of an incident, and materials that relate to matters outside of this knowledge.

The MPS accepts that ideally, officers should not be exposed to the latter and in the interests of developing best practice, we are currently in a dialogue with the NPCC regarding this matter. The NPCC is also considering the APP guidance on this issue, particularly in relation to body worn video (BWV) material.

Further development of best practice has already lead the MPS to direct the post incident manager (PIM) to consult with the DPS and the IPCC to decide on what reference materials are proposed to be used by officers when giving their accounts. The PIM is also trained to record his or her decision and reasoning to further promote transparency.



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.....Signed

...11th November 2015.....Dated

Commander David Musker

Metropolitan Police Service



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.....Signed

...11th November 2015...Dated

Deputy Chief Constable Simon Chesterman QPM

National Police Chiefs' Council

¹³ APP Post Deployment: 8.2