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Police Investigations &
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PIRC Investigation Findings

Firearms Operations
Edinburgh
22 July 2017

Report: Firearms Incidents, Edinburgh, 22 July 2017

In the early hours of 22 July 2017 a number of incidents took place in rapid succession which resulted in Police Scotland deploying Authorised Firearms Officers (AFOs). These incidents concluded with the detention and search of five people under the Firearms Act 1968.

Police Scotland referred the last of these incidents to the PIRC under the provisions of the Police Public Order and Criminal Justice (Scotland) Act 2006, as amended and Regulation 3 of the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013.

The PIRC decided to investigate all the linked incidents.

Summary

About 0006 hours on 22 July 2017, Police Scotland received a 999 telephone call at its Bilston Service Centre from a male who identified himself as 'Adam'. He said that five black males were outside his flat in Edinburgh armed with guns, tasers and knives.

At the same time Police Scotland received a telephone call from a witness in the same block of flats who reported that she could hear a male screaming and someone being assaulted in the main corridor of the flats.

When Police Scotland called the witness back 2 minutes later she said that all was now quiet.

A Police Sergeant at the Bilston Area Control Room (ACR) called 'Adam' back at 0009 hours, at which time 'Adam' said that he was now following the people responsible for the incident at his flat. He told police that those responsible were in a car in the Seafield Road area of Edinburgh and were in possession of a firearm. During the telephone call, a siren could be heard in the background and 'Adam' said that he was travelling behind a police vehicle. Despite 'Adam' telling the Police Sergeant that he was following people whom he alleged had firearms, the Sergeant did not instruct him to stop his pursuit.

At 0009 hours an Inspector, who was then in charge of the Bilston ACR, instructed four Armed Response Vehicles (ARVs), containing nine Authorised Firearms Officers (AFOs) to rendezvous near to the initial incident scene at the flat to carry out armed enquiries if necessary. He did not authorise the officers to arm themselves at that time.

About 0015 hours, two unarmed police officers were in a marked police vehicle in another area of Edinburgh when they were overtaken at speed by a silver coloured car which was being pursued by two other cars, a Volkswagen and an Audi. The officers activated the blue lights and siren of their police vehicle and the Volkswagen and Audi cars stopped. The silver car failed to stop and was lost from sight.

The officers spoke with the driver of the Volkswagen who said that the occupants of the silver car had threatened him with a firearm. The officers did not obtain the details of the occupants of these cars but describe them as being of 'Asian appearance'.

The officers then unsuccessfully attempted to locate the silver car whilst being followed in convoy by the Volkswagen and Audi vehicles and their occupants.

The officers stopped their vehicle and spoke to the driver of the Volkswagen again and a passenger from the Audi. The passenger from Audi told them that he resided at the block of flats where the initial incident had taken place and said that a man had come to his door armed

with a gun and a taser, before making off in a silver car. He provided a registration number for that vehicle. Despite the fact that the officers had heard the broadcast about the earlier incident, they did not obtain any details of the occupants of the Volkswagen or the Audi cars, who they allowed to leave the scene.

At 0015 hours, two unarmed officers were instructed to carry out enquiries at the flats where the disturbance had taken place. They spoke to residents there and although no one claimed to have seen anything, several reported having heard the disturbance and shouting, with one resident stating that she believed it came from a specific flat.

These officers then spoke to the occupier of that flat but he refused to provide a statement to the officers.

Later enquiries by Police Scotland identified that the mobile telephone used by the man 'Adam' to call the police belonged to the occupant of the flat. He subsequently told officers that he had given his telephone to one of his associates, whom he refused to identify.

At 0017 hours, the ACR Inspector assumed the role of Initial Tactical Firearms Commander (ITFC) and instructed AFOs to deploy to the Seafield Road area of Edinburgh to locate and stop the silver car which had been pursued by the Volkswagen and Audi.

At 0022 hours, he declared a firearms incident and authorised the AFOs to arm themselves.

About 0030 hours, the Inspector instructed four AFOs to go to Guthrie Street, Edinburgh, after Police Scotland received a telephone call from a man who alleged that three black men and two white men had tried to rob him. This call was later shown to be fictitious, but nevertheless caused the Inspector to direct armed officers to attend this call, as he believed it was linked to the call from 'Adam'.

About 0034 hours, the Inspector briefed the AFOs by radio regarding the initial incident and instructed them to conduct 'armed tactics' to trace the persons responsible.

These tactics are designed to mitigate any threats posed by armed subjects and effectively meant that the armed officers should conduct a street search for the vehicle, stop it or conduct an armed pedestrian stop.

About 0039 hours, three young men were walking through the Retail Park car park, at Seafield Road, Edinburgh, when they saw an unoccupied silver Ford Fiesta in the car park there with its doors open, keys in the ignition and lights on. They then saw a silver Vauxhall Corsa, containing a number of white males drive into the car park and stop beside the Ford Fiesta. The witnesses did not see anyone either getting out of Ford Fiesta or getting into the Vauxhall Corsa.

The three young men thought that the actions of the people in the Vauxhall Corsa were suspicious and telephoned Police Scotland to report the incident. Shortly after this, three ARVs carrying AFOs arrived at the car park and the three young men state that the AFOs presented and pointed assault rifles at them, shouted at them not to move, and then told them to turnaround and face a wall with their arms out. The AFOs deny that they pointed their firearms at the witnesses.

At 0049 hours, the Operational Firearms Commander (OFC), informed the ACR Inspector by radio that the three young men had stated that the occupants of the Ford Fiesta had left the scene in the Vauxhall Corsa, which had a defective rear registration plate light. There was no evidence to support the OFC's statement that the occupants of the Ford Fiesta had transferred

into the Vauxhall Corsa as the witnesses had told the officers that that they did not see anyone either leaving the Ford Fiesta or getting into the Vauxhall Corsa.

At 0051 hours, the ACR broadcast a lookout message for a silver Vauxhall Corsa which had a rear light out. Two Roads Policing Unit officers informed ACR staff that they had seen a silver Vauxhall Corsa at 0034 hours with a rear light out, parked in the Seafield area of Edinburgh. AFOs and police dog units were then deployed to this location where an officer confirmed that the bonnet of a Vauxhall Corsa parked there was warm, indicating recent usage. The colour of this vehicle was grey and it had a green bonnet. A PNC check of the vehicle showed that the registered keeper of the grey/ green Corsa lived in a nearby flat.

At 0102 hours, the ACR Inspector authorised AFOs to go to the owner's flat and undertake an armed operation to 'contain and call out' the man who owned the grey/green Vauxhall Corsa.

Witnesses who reside at the block of flats state that they were confronted in the stairwell by AFOs who pointed firearms in their direction.

The owner of the grey/ green Corsa, states that he was woken by knocking on his flat door. He states that when he opened it several AFOs pointed guns at him, told him to face the wall and told him to come out of his flat with his hands in full view. He says that he was then handcuffed and detained in his pyjamas, before being searched. He further states that his flat and vehicle were then searched without his permission. The AFOs state that the man gave his permission for the searches and they deny that they pointed guns at him or his neighbours. On completion of the searches, when it became evident that the man was not connected to the earlier incidents, he was released from police custody.

About 0124 hours, the ACR Inspector instructed the AFOs and dog handlers to attend a call regarding a vehicle on fire near to Poplar Lane, Edinburgh, as he considered there could be a link to the firearms incident. Unarmed officers arrived there before the AFOs, where they found a bin on fire, which they extinguished.

About 0126 hours, Police Scotland was contacted via the '999' system by 'Adam' who told them that the people responsible for the initial disturbance at the block of flats were now in an Audi vehicle at a petrol station in the Restalrig area of Edinburgh. He said that there were two black males and a white male in the car. The ACR Inspector instructed the ARVs to stop this vehicle.

At 0135 hours officers saw an Audi containing two black men and a white man stationary at traffic lights on Duke Street at Constitution Street, Edinburgh, with a Peugeot car containing two black women stopped behind the Audi. These traffic lights are approximately one mile from the petrol station in Restalrig.

As an unarmed officer was taking up cordon duties there, she was approached by two men who she described as being of 'Asian' appearance. One of these men identified himself as being the person (Adam) who had telephoned the police in relation to the Audi. He told the officer that the two female occupants of the Peugeot were involved with the occupants of the Audi. This information was passed to the AFOs by radio. The officer made no attempt to obtain the details of the Asian men.

The AFOs blocked in the Audi and Peugeot vehicles with the ARVs and then pointed guns at the occupants of both cars. The occupants describe the officers pointing machine guns at them whilst shouting to them to get out their vehicles with their hands up. One witness describes how she saw the gun's red dot on her chest. All five occupants were taken from the vehicles at gunpoint and detained under Section 47 of the Firearms Act 1968 for the purposes of a search.

The AFOs said that they believed that the occupants of these vehicles were involved in the original incident at the block of flats where it had been reported that a firearm had been seen.

The occupants of the cars were taken to St Leonard's Police Office in Edinburgh where the men were later charged with a contravention of Section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening and abusive behaviour) in respect of the original incident. Although no witnesses identified them as being present at that location, CCTV was recovered, which showed two of the men near the block of flats. There was no other evidence to support charges against the men.

Despite there being no evidence to connect the two women to any offence, they were kept in police custody for almost 24 hours, during which time they were strip searched. They were later released without charge.

At 0207 hours, a Strategic Firearms Commander (SFC) was contacted by the ACR Inspector and he retrospectively ratified the use of firearms for all of the incidents. He later stated that he was not fully informed of all of the circumstances.

On 23 July 2017, Police Scotland referred only the last incident at Duke Street to the Police Investigations and Review Commissioner (PIRC) in terms of the Police, Public Order and Criminal Justice (Scotland) Act 2006, as amended and the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013. In terms of these provisions, the Chief Constable is required to refer all circumstances in which a police officer has presented a conventional firearm at someone.

As part of their enquiries, PIRC investigators visited the scenes and obtained witness statements from police officers, police staff and civilian witnesses. They also examined: Command and Control (STORM) logs, telephone and Airwave recordings, Police Scotland Standard Operating Procedures, AFO Training Records, Firearms Action Plans, Duty Officer's Logs and the Standard Prosecution Report.

Findings of the PIRC investigation:

- In the early hours of 22 July 2017 a number of incidents took place in rapid succession, over an hour and a half, which resulted in Police Scotland deploying Authorised Firearms Officers (AFOs) to various locations in Edinburgh.
- The initial activity commenced at 0006 hours when a male who identified himself as 'Adam' telephoned Police Scotland and stated that five black men were outside his flat in Edinburgh in possession of guns, tasers and knives.
- Police Scotland failed to identify 'Adam' despite there being a number of opportunities to do so. He appears to be the main, if not the sole source of information which generated much of this activity.
- At 0009 hours an Inspector, who was then in charge of the Bilston ACR, instructed four Armed Response Vehicles (ARVs), containing nine Authorised Firearms Officers (AFOs) to rendezvous near to the flat. He did not authorise the officers to arm themselves at that time.
- Within minutes of his first call 'Adam' reported to a Sergeant in the Area Control Room (ACR) that he was pursuing a silver car containing the armed males. On safety grounds, the Sergeant should have, but did not, advise 'Adam' to immediately cease his pursuit of the vehicle and armed males.

- About 0015 hours, officers on patrol in Edinburgh stopped two cars that had been pursuing the occupants of a silver car at speed. One of the occupants of the two cars told the officers that they were pursuing someone who had come to the door of his flat and threatened him with firearms. He described the silver car as a Ford Focus and provided its registration number. Rather than instructing the occupants of the two cars to stop their pursuit, the officers tried to find the silver car whilst being followed in convoy by the two cars. This potentially put them all at risk if the silver vehicle had been traced.
- The police officers did not endeavour to obtain the personal details of the occupants of the two cars and subsequently allowed them to drive off without this information being obtained. Given the overall lack of clarity of the events at that time, such information would have been invaluable in informing subsequent policing decisions.
- At 0017 hours the ACR Inspector determined that he had reason to suppose that officers may have to protect themselves or others from persons in a vehicle who had immediate access to firearms and as such he was satisfied that the criteria for the deployment of firearms had been met. He therefore provided his authority to the AFOs to arm themselves. It appears his decision was based on uncorroborated information received from an unidentified male and is questionable.
- Having checked the information provided about the silver car the ACR Sergeant informed officers by radio at 0026 hours that the vehicle sought was a silver Ford Fiesta.
- At 0034 hours, the ACR Inspector authorised armed officers to search for the Ford Fiesta and use armed tactics to stop the car and its occupants.
- At 0043 hours, after witnesses reported suspicious activity around an apparently abandoned Ford Fiesta in the Retail Park car park, Seafield Road, Edinburgh, the ACR Inspector directed ARVs and AFOs to deploy there. The witnesses, who had remained at the car park, describe that the AFOs presented and pointed assault rifles at them, shouted at them not to move, and then told them to turn around and face a wall with their arms out. The AFOs deny that they pointed their firearms at the witnesses. Given later events, when the AFOs were also alleged to have pointed firearms at other members of the public, the balance of probabilities suggests that the witnesses did have firearms pointed at them and that such action was unwarranted.
- At 0049 hours, the Operational Firearms Commander, who had attended at the Retail Park Car park provided a radio message to the ACR that the men from the Ford Fiesta had switched to a silver Vauxhall Corsa and that one of the Corsa's rear lights was defective. There was no evidence to support this account by the Operational Firearms Commander, as witnesses had only reported seeing a silver Vauxhall Corsa containing white men acting suspiciously near to the Ford Fiesta and specifically had said that they had not seen anyone getting out of the Ford Fiesta or into the Corsa.
- At 0051 hours, Roads Policing officers reported to the ACR that they had seen a silver Vauxhall Corsa at 0034 hours in the Seafield area of Edinburgh which had a rear tail light out. This caused the ACR Inspector to instruct the ARVs and AFOs to attend there where they found a grey Vauxhall Corsa with a green bonnet, which was still warm. It appears that the officers did not identify that the vehicle was not silver in colour but was in fact grey with a green bonnet. Had they done so, it is to be expected that they would not have gone to the home address of the registered keeper of that vehicle and detained him at gunpoint. However, the ACR Inspector did authorise the AFOs to go to his home and undertake an armed detention of the occupant and a search of his flat and vehicle.

- AFOs challenged two residents in the stairwell of the block of flats, telling them to put their hands in the air. The two residents are unclear if they had firearms pointed directly at them but were of the opinion that firearms were pointed in their general direction.
- AFOs then roused the owner of the grey/green Vauxhall Corsa, who answered the door dressed in his pyjamas. He describes being called out of his flat at gunpoint and then detained and searched. The AFOs deny that they pointed guns at him or his neighbours. The balance of probabilities however suggests that the AFOs did point their firearms at the man and his neighbours.
- AFOs then searched the man's flat and vehicle, which they claim was carried out with his permission. The man maintains that he did not provide any permission. On completion of the searches, when it became evident that the man was not connected to the earlier incidents, he was released from police custody.
- There appears to be no legitimate basis for Police Scotland to suspect that the man had any involvement in the incidents for which firearms had been authorised or for him to have been detained. Nor does it appear that the AFO's had any lawful authority to search his home or vehicle.
- At 0126 hours, 'Adam' provided information to Police Scotland that three of those who had allegedly threatened him with firearms earlier, were at a garage in the Restalrig area of Edinburgh in a black Audi car. He provided a registration number for this vehicle.
- On the basis of this information, the ACR Inspector informed the AFOs that the persons sought had changed to an Audi car. He passed a different registration number to the one that 'Adam' had supplied to the armed officers and authorised an enforced armed stop of the car.
- At 0135 hours, ARV officers saw a black Audi car, stationary at traffic lights in Duke Street, Edinburgh. It contained two black men and a white man and there was a Peugeot car containing two black women stationary behind the Audi. The AFOs blocked both of these cars in using the ARVs.
- An officer who was on duty there, was at that time approached by two men, whom she described as Asian in appearance. One of them told her that it was him that had phoned the police about the Audi and added that the women in the Peugeot car were with the occupants of the Audi car. She passed this information to the ACR but did not obtain details from these men, one of whom was highly probably 'Adam'.
- Several AFOs pointed their firearms at the occupants of both vehicles, before they were handcuffed and detained.
- There was no evidence at that time to connect any of these persons to any of the previous incidents other than questionable telephone calls and information principally provided by an unidentified male, whom the police missed several opportunities to identify.
- The two women were taken to St Leonards Police Office where they were subjected to strip searches. They were kept in police custody for almost 24 hours and released without charge. There was no evidence to connect them to any of the incidents and their continued detention and search, on the strength of the information provided by one unidentified male, appears to be unwarranted.

- Police officers charged the three men with a contravention of section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening and abusive behaviour) in respect of the original incident at the block of flats. This was on the strength of the information supplied by the unidentified man and CCTV footage that was later recovered which showed two of the men near to the block of flats. Other than the information supplied by the unidentified man, there was no evidence that linked the third man to any of the incidents. The Crown Office and Procurator Fiscal Service (COPFS) instructed that all three men be released from custody and no criminal proceedings have been raised against them.
- The Chief Superintendent, Strategic Firearms Commander (SFC), who retrospectively authorised the deployment of armed resources for all of the incidents at 0207 hours, after he had been briefed by the ACR Inspector, retrospectively later stated when interviewed by PIRC investigators that he had not been fully informed of all the circumstances. He recognised that 'not taking any action' would have been a viable option when he retrospectively authorised the deployment of armed resources.
- It appears that the ACR Inspector committed to a course of action without seeking additional information or intelligence to revise, review or amend his decisions in line with the (police) National Decision Model (NDM), or pause to reflect on the subsequent events as they unfolded. The NDM is suitable for all decisions and should be used by everyone in policing. It can be applied to and should be used during spontaneous firearms incidents. At no time did the ACR Inspector seek the advice of a Tactical Firearms Advisor (TFA) to explore what other options were available to him. Had he done so, it is likely that he would have been advised that his authorisation of armed officers was not appropriate in the circumstances.
- The Police Scotland referral to the Police Investigations and Review Commissioner (PIRC) in terms of the Police Public Order and Criminal Justice (Scotland) Act 2006 as amended and the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013 only referred to the AFOs' presentation of firearms at Duke Street, Edinburgh. From witness accounts, the referral should also have included notification of the AFOs' presentation of firearms at the other earlier related incidents.

Recommendations to Police Scotland:

The Commissioner recommends that Police Scotland:

- Apologises to those named in the full report for the actions of its officers and provide them with a clear rationale for these apologies.
- Examines and investigates the individual actions of the officers named in the full PIRC report.
- Ensures that all officers in charge of or who form part of any firearms operations apply the National Decision Model's principles.
- Ensures that all 'firearms incidents' (where a person serving with the police has used a firearm) is identified and declared, to allow the Chief Constable to comply with his duties in terms of the Police Public Order and Criminal Justice (Scotland) Act 2006, as

amended and Regulation 3 of the Police Investigations and Review Commissioner (Investigations Procedure, Serious Incidents and Specified Weapons) Regulations 2013

- That the system to ensure that ITFC's/TFC's are timeously sighted on all available information which may impact on decisions made is adhered to.
- Reports to the Commissioner within 3 months of the date of issue of this report, on action taken to implement the above recommendations.