

independent and effective investigations and reviews

pirc

Police Investigations &
Review Commissioner

4 APRIL 2019

PIRC Investigation Findings

Discharge of PAVA Irritant Spray
Milngavie
17 August 2018

BACKGROUND

On the evening of Friday 17 August 2018, in Milngavie town centre, an officer of Police Scotland discharged PAVA irritant spray at two men, aged 26 and 32, while trying to arrest them. Shortly before this one of the men had tried to get into a public house, while brandishing a machete type weapon. Both men were refused entry and the police called to the scene.

The officers were aware that one of the men had previously stood trial on a charge of deliberately striking and injuring a police officer with a car.

When the police arrived, the men attempted to drive off in a car. In an attempt to stop the car, an officer struck the car with his baton then used PAVA spray on the passenger when he got out of the car and ran off. The officer also discharged his PAVA spray at the driver as he was manoeuvring the car, however he managed to drive off and both men evaded arrest at that time.

Following the incident, the two men were later arrested and have been convicted of a number of offences.

REFERRAL TO THE PIRC

Police Scotland referred the incident to the PIRC on 24 August 2018 in terms of the Police, Public Order and Criminal Justice (Scotland) Act 2006 as amended, and the Police Investigations and Review Commissioner (Investigations, Serious Incidents and Specified Weapons) Regulations 2013. Under the Act, all incidents of Police Scotland's use of firearms, including the discharge of PAVA, must be referred to the PIRC for independent assessment.

PIRC INVESTIGATION

The PIRC investigated the incident. During the course of the investigation, investigators visited the incident scene, obtained copies of existing statements from police officers and other civilian witnesses and interviewed the police officers involved. They also obtained and examined CCTV footage, Police Scotland documentation, computer records, telephone and radio communications.

PIRC FINDINGS

Following investigation the Commissioner found that:

- Prior to the arrival of the police, the 26-year old male had been seen in possession of a machete type weapon and was acting in a violent and threatening manner.
- The officer's knowledge of previous alleged conduct by one of the men influenced their decision on the tactics they considered were appropriate.
- Both males posed a threat to both the police and public and in order to attempt to effect their control and arrest, the officer discharged PAVA spray at them.
- The use of PAVA spray in the circumstances was proportionate and justified.