

independent and effective investigations and reviews



Police Investigations &
Review Commissioner

23 APRIL, 2019

PIRC Investigation Findings

Discharge of PAVA Spray and Taser Deployment
Bannockburn
16 September 2018

BACKGROUND

About 1830 hours on Sunday 16 September 2018, in Quakerfield, Bannockburn, officers of Police Scotland discharged PAVA incapacitant spray and a Conducted Energy Device (CED) Taser at a 28-year-old man .

At 1748 hours, Police Scotland received a number of 999 calls about a report of an assault carried out by two men, who had left the scene in a black car. A short time later, an officer spotted a car matching the same description and informed the Area Control Room (ACR) resulting in several officers and an Armed Response Vehicle (ARV) containing two Authorised Firearms Officers (AFOs) being sent to the call. The officer followed the car to a pub in Bannockburn.

The 28-year-old man, who was known to police, left the car and entered the pub. A number of officers followed him into the premises, while others remained outside watching the entrances.

One of the officers then took hold of the man and escorted him out of pub. The man then began to struggle with a number of the officers and managed to break free and ran off along the street.

The man was chased by police officers including authorised firearms officers (AFOs) into a nearby car park where he was surrounded. The man was told to put his hands on his head but refused and became increasingly agitated and aggressive

When the man moved towards one of the AFOs, they discharged PAVA Spray at the man's face. This had no effect on him and he then again ran off back towards the pub. Before the man reached the pub, he stopped and bent down towards the ground. As he continued to act aggressively towards the officers, PAVA Spray was again discharged at the man's face.

The man was then seen rubbing his eyes before a Specially Trained Officer (STO) fired a Taser at him, disabling him and causing him to fall to the ground.

The man was arrested, charged with a number of offences and later convicted.

REFERRAL TO THE PIRC

Under 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, all incidents of Police Scotland's use of firearms, including the discharge of PAVA spray and use of Taser, must be referred to the Police Investigations and Review Commissioner (PIRC) for independent assessment. In this regard, on 21 September 2018 Police Scotland referred the incident involving the male to the PIRC.

PIRC INVESTIGATION

The PIRC investigation examined the discharge of PAVA spray and the use of Taser and whether these actions were a proportionate response to the circumstances presented.

PIRC investigators obtained witness statements from police officers, civilian witnesses and they also examined Command and Control (STORM) logs, telephone and Airwave recordings, briefing papers and Police Scotland Standard Operating Procedures. They also seized footage of the incident.

PIRC FINDINGS

Following investigation the Commissioner found that:

- The man was wanted by the police for an alleged assault on two people earlier that day.
- Six police officers attended at a pub in Bannockburn to arrest the man. One officer took hold of him there and he was escorted to the door of the pub where he struggled with the officers, breaking free and running off. There is no evidence that the officers had informed the man that he was under arrest.
- Five police officers, along with two Authorised Firearms Officers (AFOs), then chased the man along the street.
- During the course of the chase, the man adopted an aggressive and threatening demeanour towards the police officers and on a number of occasions challenged them to fight.
- The officers chased the man into a car park, where he continued to aggressively challenge the officers and refused their request to get down on the ground. When the man moved towards an AFO, the officer discharged PAVA spray, which struck the man on the face. Despite this, the man managed to jump over a wall and run back towards the pub.
- He was again pursued by the officers. Before reaching the pub, the man stopped and bent down towards his foot. The officers instructed him to stop what he was doing and get down on the ground, however the man stood up, shouted and again challenged the officers to fight. One of the officers then discharged PAVA spray, which again struck the man on the face.
- In the circumstances, the discharge of PAVA spray was necessary, proportionate and justified as a means to try to secure the arrest of the man, without injury to himself or the officers involved.
- Civilian witnesses describe the man at that point as appearing disorientated, rubbing his eyes and walking backwards away from police officers.
- Mobile telephone footage taken by a member of the public standing across the road shows the man rubbing his eyes (from the effect of PAVA spray) whilst walking backwards with his hands outstretched and palms facing the officers in front of him.
- A civilian witness is then seen to approach the man, who bends forward and leans his head into the witnesses abdomen.
- One of the officers who had pursued the man having drawn her Taser and warned him that she had a Taser, then approached the man, touched him on the shoulder which caused him to jerk his right arm up and backwards. The officer then discharged her Taser at the man and he was arrested.
- When the Taser was discharged, the man did not appear to be posing an imminent threat to any of the officers and in the circumstances, the use of the Taser was not reasonable, proportionate or necessary.

- Additionally, one officer was standing immediately behind the man and was also at risk of being struck by the Taser barbs.

RECOMMENDATIONS

The Commissioner recommends that Police Scotland:

- Ensures that the officers involved in this incident are reminded of arrest procedures and of the need to inform persons when they have been placed under arrest.
- Ensures that the officer concerned in the Taser discharge undertakes refresher training and reassessment in the use of Taser
- Reports to the Commissioner within 3 months of the date of issue of this report on action taken to implement the above recommendations.