

TRANSCRIPT OF "FILE ON 4" – "POLICE RESTRAINT"

CURRENT AFFAIRS GROUP

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THE ATTACHED TRANSCRIPT WAS TYPED FROM A RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY IN SOME CASES OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS COMPLETE ACCURACY.

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STICKLER: It's one of the most controversial issues when people die following violent struggles with the police.

SHARMAINE: It was very difficult for me to hear that my brother has been hurt, with bruises to his body consistent with striking of a baton, and the bruising has gone so far down into the muscle, that is with some force.

STICKLER: Official figures say the numbers of such cases are small – but are they being underreported? Tonight an investigation by File on 4 and the Bureau of Investigative Journalism poses serious questions over the way those figures are compiled, prompting calls for an inquiry from a senior politician.

VAZ: This is a highly sensitive area - one of those parts of public policy that needs to be looked at very carefully. What we will need to do is have a proper thorough inquiry into this matter.

STICKLER: And we explore a controversial new syndrome with its roots in the United States. A condition being increasingly used in coroner's courts here to explain why people die after police restraint. So just what is Excited Delirium?

SIGNATURE TUNE

ACTUALITY IN POLICE CAR

HANNAH: ... disturbance call. Violent disturbance. Twenty five hundred, two fifteen.

ACTUALITY OF SIRENS

STICKLER: Another violent disturbance on the streets of Miami, Florida. Sergeant Daniel Hannah of the Miami Dade Police Department has been a patrol officer for eighteen years. This is all part and parcel of the day's work.

HANNAH: When you hear the sense of urgency in an officer's voice, when they arrive on a scene and it's a chaotic scene, then you know you're concerned not only for the public safety but also the officer's safety. I mean, truth is officers at every call they go to, an officer can be hurt or shot.

STICKLER: You've got to be on your guard all the time?

HANNAH: You've got to be on your guard at all times.

STICKLER: By the time we arrived at the scene, the situation had calmed down. Sergeant Hannah took me on a tour of the district – the local crime hotspots.

HANNAH: We are coming up to a house now on the right hand side, this house

STICKLER: The pink one?

HANNAH: Yeah, the pink one where the gentleman just came out. Officers have done numerous investigations there and every time they hit it with a warrant, it's only a matter of time or months before they start up again and start dealing drugs again.

STICKLER: We can see the sort of wire mesh, quite high wire mesh there and it's absolutely tatty in the yard.

HANNAH: And they are known to be armed. Frequently the residents that reside in there are known to be armed. One night there was a barrage of gunfire right over there from where you see that stop sign, and I literally saw people just running amok, running everywhere, and a car came speeding down the street. Took the car down and we had an individual who was shot two times.

STICKLER: For the last twenty years Miami has been at the forefront of a cocaine epidemic, with the drug flooding in from Central and South America, and with it a corresponding upsurge in drug related violent crime. But this is not the only problem confronting officers like Sergeant Hannah. Increasingly, he says, the police are coming across a potentially fatal condition known as Excited Delirium - a bizarre sounding syndrome which we are told sends people mad, giving them superhuman strength until they collapse and die.

HANNAH: The one that I remembered was actually an in custody death, where the person again exhibited erratic behaviour. He fought with the officers, and during the course of that the officers had to use force, including a taser. He was actually tased as well.

STICKLER: Was it quite a violent struggle?

HANNAH: Oh absolutely. There was at least five or six officers that had to restrain him at least, and he was tased, but I know he gave these officers a run for their money.

STICKLER: So that was put down as Excited Delirium due to cocaine intoxication, was it?

HANNAH: He seemed to meet the criteria of that. It would have been one of those cases. They didn't determine any wrong doing on the officers' parts. The officers were exonerated from doing anything, you know, outside of procedure or unlawful.

STICKLER: And it's not the only case.

ACTUALITY IN PATHOLOGY LAB, SOUNDS OF SAWING

STICKLER: A line of corpses lie on metal tables at the Miami Dade County Medical Examiners Department. A technician stands on a ladder, taking photographs of the body of one – a teenage girl. There were four homicides in the night, all shootings. This is where the pathologists carry out forensic examinations in an attempt to determine the cause of death. The pathologists here have declared thirty-eight people dead, citing Excited Delirium, and they are working with scientists to gain more insight into what they believe is an emerging fatal condition.

MASH: ... you can see in here we have this part of our brain bank collection. These are actual post mortem brain specimens from individuals that have suffered from neurodegenerative diseases ...

STICKLER: Professor Deborah Mash is a chemical neurologist at Miami University, in the vanguard of current research. She's analysed the brain tissue of one hundred and twenty suspected victims of Excited Delirium, publishing papers detailing her results.

MASH: There's the stigmata, if you will, of Excited Delirium, and it's always the same. I've been studying this for over twenty years and it's the same condition. These are people who become very agitated, they are usually incoherent, they exhibit increased stamina, superhuman strength, often they're sweating profusely, they're hot, they may be disrobing, they may have an attraction to glass and the breaking of glass. These are very frightening people when they are in the state of Excited Delirium, and the police are called to the scene to contain it. They try to reason with the individual – that doesn't work. And so what are the next steps? They have to get that individual into restraint, and one minute they are agitated, active fighting with you, struggling, and the next minute they are dead.

STICKLER: Virtually all the cases are where there has been police restraint?

MASH: That's one of the big questions, you know, and the issue here again is proximity, is not causality. You know, just because you die in police custody doesn't mean that what the police were doing at the time that you died led to your death. This is a brain base disorder. That's why the police are called to the scene to begin with.

STICKLER: Professor Mash believes that in rare cases, chronic cocaine users have a genetic predisposition that makes them susceptible to Excited Delirium, leading to multi-organ failure and cardiac arrest. However, she admits that her research is in the early stages and is highly controversial. Excited Delirium is not yet recognised as a diagnosis by the World Health Organisation or any international authority. However, her science is already being used by pathologists to identify Excited Delirium as a cause of death and it's being used in courts of law. Julie Ebenstein is a lawyer for the American Civil Liberties Union of Florida, one of the oldest civil rights groups in the United States.

EBENSTIEN: From where I'm sitting, it doesn't make sense to use a nonmedical diagnosis - diagnosis might be the wrong word - to explain away certain behaviour, and it certainly doesn't make sense to use this term - which is not a medical term - as a cause of death.

STICKLER: So what are your concerns about what is happening, because it is being cited in court, isn't it?

EBENSTIEN: Yeah, well, I'm concerned about a number of things. I'm concerned about using this label to, well let me just give an example. If a subject is behaving a certain way, maybe due to drug or alcohol use, whatever it is, and the police response is to act aggressively towards them, we can't just say, well, but their symptoms were Excited Delirium and they died of Excited Delirium. Surely there is an intervening use of choke holds, prone holds, tasers, any number of responses on the part of the police that need to be taken into account.

STICKLER: Proponents of Excited Delirium point to the prolific use of cocaine for the increase in the cases in Miami and Florida. Others argue that it's simply being used to excuse excessive police force.

[SEGUE]

ACTUALITY WITH VIDEO OF POLICE RESTRAINT

MAN IN VIDEO: Arrgghhh, arrrgghhhh

GARCIA ROBERTS: Puts his knee on the back of the guy's neck – they are going to hog tie him.

STICKLER: They are now lifting him up in that hog-tied position and just dumping him on the ground.

MAN IN VIDEO: Mom, the cops are killing me.

GARCIA ROBERTS: Mom, the cops are killing me.

STICKLER: Gus Garcia Roberts is a journalist with the Miami New Times. He's been investigating cases of Excited Delirium. He takes me through one caught on camera in another part of Florida – a video shown in court, given to him by the mother of the victim.

MAN IN VIDEO: Arrghh, argggh ...

GARCIA ROBERTS: There are about five cops and they don't know it, but he is in his death throes.

POLICEMAN IN VIDEO: Get him back up on his back ...

GARCIA ROBERTS: Then all of a sudden they are trying to bring him back.

POLICEMAN IN VIDEO: One, two, three, four, five – breathe twice. One, two, three, four, five – breathe.

STICKLER: The victim died. The court hearing is still going on. In the majority of the thirty-five cases that Gus Garcia Roberts has looked at, the victims died after struggling with the police. Restraint included the use of tasers and pepper spray with victims bound hand and foot, head-locked and cuffed. All were unarmed.

GARCIA ROBERTS: In Miami Dade I think we have more than three dozen of these cases, of Excited Delirium cases, and all over Florida you'll see them. But when I call other cities, it's hit or miss. I called the medical examiner for Boston and I asked how many cases of Excited Delirium do you have, and the medical examiner said, what's that? And I said, I explained what it was and she said, that sounds made up, we don't have any of those. I called major counties – Los Angeles County – and you just see either much less numbers or none at all, whereas in some counties like Miami Dade, which I think might be leading the pack in the United States - you have dozens.

STICKLER: Despite the controversy, in Miami, Excited Delirium is now well accepted by medical examiners, established as a syndrome, used at inquest. And now it's crossed the Atlantic, appearing in British coroners' courts too.

ACTUALITY IN BURNLEY

STICKLER: This is the unremarkable town of Brierfield in Lancashire. It was here that twenty-eight year old Nadeem Khan had popped out to get a pint of milk for his partner. But something went terribly wrong. He ended up smashing car windows and it all ended in a violent struggle with the police. Sharmaine Smith, Nadeem's younger sister, admits that her brother had been taking cocaine and that he was acting strangely, but her understanding is that he was in distress.

SHARMAINE: There were reports that he was wandering around, banging on doors, asking for help, jumping in front of cars asking for help. He had blood dripping over his clothes, he had cuts on his hands, he had cuts on his head. I think when somebody has been taking drugs, then they can become erratic, but if someone's shouting for help and they're covered in blood you don't then manhandle them and sit them on the floor face down.

STICKLER: Nadeem Khan died in police custody. It was fourteen hours before the family were informed.

SHARMAINE: My mum was in Preston Royal Hospital, she was undergoing cancer treatment. I had to wake her up at her hospital bed at seven o'clock in the morning to inform her that her son had died. At the end of day he'd always be there for me and now I feel I've got no one looking out for me.

STICKLER: It was a further three years before the inquest was held and it was only then that Sharmaine found out more about what happened to her brother. CCTV footage showed how five officers wrestled Nadeem to the ground. He was held on the floor. The detail of how he was restrained, obstructed from view by a parked vehicle. From there he was bundled in the back of a van and taken to Burnley police station. He was restrained again and it was there that he collapsed and died. The CCTV camera in the cell was not working. The pathologist's report catalogued his injuries.

SHARMAINE: It's very difficult for me to hear that my brother has been hurt over a hundred times, he has that many cuts, bruises, lacerations to his body. I've read in the report that there are bruises to his body consistent with striking of a baton and the bruising has gone so far down into the muscle. Nobody wants to read that - that is with some force.

STICKLER: But according to the initial pathologist's report, the violent struggle and restraint was not the cause of death.

VINE: As soon as the first postmortem report came out a few months after his death, it was stated that it was Excited Delirium. And although it was discussed at the inquest, it was never really in dispute during the inquest proceedings.

STICKLER: Gemma Vine of Farley's solicitors, based in Burnley, represented the family. They called in a second pathologist to test the medical evidence, to ensure that the issue of restraint was not ignored.

VINE: He tried to get across in his evidence that he felt it was an important factor that needed to go in the cause of death when the jury came to their conclusions. I have never come across Excited Delirium until this time. This is the first case we have come across it. If it is a condition that people are starting to recognise now, the forces need to be aware of the symptoms people display so they can obviously treat them as a medical emergency and to ensure that there are no more deaths as a result of it.

SHARMAINE: I understand that he needed to be restrained, but not in the way that I saw on the CCTV. There's numerous times where they had banged his head against the police van. To me that's not the way to get somebody to cooperate with you, that's just going to agitate someone even further. I don't think it was Excited Delirium, something else happened and contributed to his death and that's why I'm doing this now.

STICKLER: The inquest jury concluded that Nadeem Khan died following an episode of cocaine-induced Excited Delirium. The Independent Police Complaints Commission, the IPCC – the official police watchdog - found that the arrest of Nadeem Khan was lawful and justified and the restraint techniques used were in line with policy and procedure. However, it did identify the need for officers to be trained in the identification of the rare condition of Excited Delirium. Lancashire Police say that all the issues raised by the IPCC have been acted upon, including training around Excited Delirium and how to get violent detainees into the back of a vehicle. In a statement, they say:

READER IN STUDIO: The restraint techniques used were appropriate and in line with national force policy and training, and both the Crown Prosecution Service and the IPCC recommended no action be taken against any of the officers involved.

STICKLER: Excited Delirium appears to be gaining traction in our coroners' courts. Our investigation has identified seventeen cases where it has been cited in inquests, despite concerns at the most senior levels. Dr Richard Shepherd is one of the UK's leading pathologists - a member of the Independent Advisory Panel on Deaths in Custody. It recently reviewed the scientific evidence on Excited Delirium.

SHEPHERD: We know there are a group of people who exhibit this very bizarre behaviour. We know that these people exist, whether they strictly fall into this group called Excited Delirium or not, I think will become clearer as more research is done. There are many syndromes in medicine that are very clearly defined. We need this one to be more clearly defined before we can simply say, 'Oh, they were suffering from Excited Delirium, which is why they died.' And there may be some truth in some cases where that occurs, but it may also be that it's being used to fog an issue rather than clarify it.

STICKLER: If there's this much uncertainty about it, how come it is being used in inquests?

SHEPHERD: I'm clear in my own mind that there is no strict definition. It's a term that should be used with great care, it shouldn't be taken as a done deal, because I don't think it is yet established that closely, and it should never explain a death simply by the use of those two words. In terms of using it in court, it needs to be used with great care and not as a dustbin.

STICKLER: Others go further.

ACTUALITY IN OFFICE, SOUND OF FOOTSTEPS

COLES: These are our offices. We've got a staff of nine, three case-workers and we are dealing with about 350 cases in any given year ...

STICKLER: Deborah Coles is the Chief Executive of Inquest, a small charity that takes up cases of deaths in custody. She is extremely concerned that Excited Delirium is being used to divert attention from the real issue.

COLES: I think Excited Delirium has been used as a spurious medical theory in a sense to try and explain away the deaths rather than considering the important learning that should follow deaths where people have died as a result of the restraint used against them, and it's too easy for the police to excuse away these deaths as if they were the fault of the individual concerned rather than looking at the systemic issues it raises about the police use of force and problems with training generally.

STICKLER: The police do have a difficult job, they are faced with volatile and violent people sometimes and they do have to restrain them.

COLES: Absolutely, I mean I fully recognise that the police have a challenging job. However, the police must be accountable, they must be properly trained and they must recognise that the use of force must be proportionate, but also that if people are ill, then they need to go to hospital, and that is the safer place rather than being taken into police custody.

STICKLER: Because Excited Delirium is being referenced in inquests, it's also being used by official bodies like the Independent Police Complaints Commission. Critics argue that this in itself gives credibility to the assumption that it is a bona fide diagnosis. Mike Franklin is one of ten Commissioners at the IPCC.

FRANKLIN: We are not doctors. What we do is we look at all the evidence in a situation and we ask medical experts to give us an opinion. And, of course, bear in mind that there are disagreements among medical professionals about this, it's not for me to make a medical diagnosis.

STICKLER: But you have called for training in it – somewhat curious considering that we don't know whether it's a condition that actually exists or not.

FRANKLIN: If it is believed that Excited Delirium exists, then officers should be aware of the suggested signs or signals. If somebody is in custody and displaying unusual behaviour, we would expect police officers to consider what might be the cause of that behaviour rather than just jump on them and restrain them.

STICKLER: While the jury is out on whether Excited Delirium exists, the common theme in all these police custody deaths is restraint. The Metropolitan Police is leading the way on educating officers in how best to tackle vulnerable people.

ACTUALITY OF TRAINING SESSION

INSTRUCTOR: Get down on the floor! Get down, get down now!

MAN: Okay, so if you come in and take the other arm, that's it, if you go across the legs

STICKLER: A class of forty-one new special constables in training at Hendon, North London.

INSTRUCTOR: Be aware of the dangers – and they are what?

WOMAN: Asphyxiation.

INSTRUCTOR: Asphyxiation. So we've got to be aware of that. So as soon as we can

POUNTAIN: Our officers are trained two or three times a year in relation to arrest and restraint, and that is from conflict type training right the way through to the actual restraint of violent personnel. The Met's own learning stemmed from 1999, following on from investigation and inquest into the death of Roger Sylvester.

STICKLER: Commander Simon Pountain is lead on arrest and restraint for the Association of Chief Police Officers, ACPO. The man he referred to - Roger Sylvester - died after being restrained by eight police officers in hospital. He was detained after he was found naked and behaving strangely outside his home in Tottenham, North London. An inquest ruled in 2003 that he was unlawfully killed, but this was quashed a year later by a High Court judge. No officers were charged. But following this, the Metropolitan police introduced a new training initiative on restraint which in turn led to national guidance issued by ACPO.

POUNTAIN: What we do, from the ACPO perspective, good practice and learning is passed to all the forces. Because each of the forces is led independently by a chief constable, they have the autonomy to take their training in the direction that they see fit.

STICKLER: Do you have any means of checking that all forty-three forces are following the ACPO guidance on restraint training?

POUNTAIN: The way that ACPO is set up, it is not set up in a way that has that mandate to check that within the police forces. Forces take the curriculum and look at it themselves and adapt what is relevant to their force. But within that, it is really unlikely that that particular part, this bit around restraint will not be taken up, because of how it's been seen in the past. And certainly as you have seen in that Met, that is certainly something that we do down here.

STICKLER: The consequences of officers getting it wrong are tragic. The official figures show restraint-related deaths are rare. However, our investigation has raised serious doubts about the information released into the public domain.

ACTUALITY OF DOORBELL RINGING AND DOG BARKING

SKEWS: Shhhhh, come on! Hi Max, how are you?

BOSWORTH: I'm fine, thank you [kiss].

STICKLER: Rebekah Skews – a paramedic with the ambulance service - keeps in regular contact with her former father in law, Max Bosworth. Their priority is her teenage son – his grandson, Saxon. Three and a half years ago, his father died. In the early hours of a Sunday morning, Simon Bosworth – Rebekah's ex-partner, a property valuer in Peterborough - called the police.

SKEWS: Simon did suffer from epilepsy, and prior to having a fit he would sometimes hallucinate, which is quite common with epileptics. And this particular night, he thought he saw somebody in his house, in his garden and called the police that he was concerned that there was somebody, an intruder. The police arrived and I believe there was four of them, and I think obviously at this point he was quite scared. They ended up in the garden with Simon and he was acting strangely, so the police decided to restrain him, apparently for his own safety. And there was four police officers, one on each back of each thigh, I believe, and two on his chest/arms area with his head to the side, and they restrained him until eventually they realised that he wasn't moving and that they called the ambulance.

BOSWORTH: He wasn't aggressive, we know that, but he was obviously acting in a way that he was either having a fit or he was under terrible stress, therefore surely with their experience of other cases and with people they deal with day to day they must have realised that it wasn't purely him kicking off as they called it, but it was a health problem. And therefore, why did they take this physical action? That's the point.

STICKLER: The family waited one and a half years for the inquest. Simon was an epileptic, but they were also aware that traces of cocaine had been found at autopsy. It was a traumatic time, trying to navigate the intricacies of the coroner's court process. They relied on the Independent Police Complaints Commission for advice.

SKEWS: We were all concerned about whether we needed representation. When we looked into it, it was going to cost quite a substantial amount of money to employ a lawyer from London who would be prepared to take on the case. And, as the IPCC had said it wasn't necessary, it seemed like a lot of money and so we didn't have legal counsel at the inquest.

BOSWORTH: I mean, we would have mortgaged our house or done anything to, you know, do that if we felt that it had been necessary. And of course the IPCC said, well, you can but it's not really necessary

SKEWS: It's not really worth it

BOSWORTH: ... and therefore we didn't. And this plays on my mind and I keep going through this, is that if we had, would it have changed the verdict?

STICKLER: Michael Franklin of the IPCC concedes that the family should have been advised differently.

FRANKLIN: I would always be concerned that a family have advice and support. And it would be unusual for a family to be told that they didn't need support from another organisation.

STICKLER: Well they say, based on what they were told by the IPCC, they didn't seek independent representation and they very much regret that.

FRANKLIN: Well I'm very sorry to hear that and, as I say, in my experience, in every case I would ensure, I would seek to ensure that families are aware of what their options are in terms of getting support and advice.

STICKLER: The inquest returned a narrative verdict. The cause of death was inconclusive: restraint with struggling in association with cocaine use and epilepsy. Cambridgeshire Police told us in a statement:

READER IN STUDIO: The IPCC undertook a thorough and independent inquiry into the circumstances of Mr Bosworth's death, which exonerated officers from any misconduct proceedings or criminal allegations. It was stated that a sergeant could have taken more control and he has received words of advice as a result.

BOSWORTH: It's terribly difficult and I've tried to protect my wife, but it's been horrendous, to be honest. I've got no confidence in the police whatsoever, and it's still causing my wife and myself a lot of grief. We tended to expect the IPCC's report to give us some peace of mind, but that wasn't the case really.

SKEWS: No. No, it wasn't. I think the same as Max, you know, feeling that we don't have the same confidence in the police is an understatement, and I do think that Saxon is really going to struggle with ever being able to trust that the police will do the right thing, because the right thing wasn't done here and it resulted in him losing his father.

STICKLER: But there is another issue with this case. It highlights major concerns about the way the Independent Police Complaints Commission reports on the issue of restraint-related deaths. Between 1998 and 2009, according to the IPCC, there were only sixteen cases of restraint-related deaths in custody. However, no one has been able to scrutinise the data - the names of the individuals have never been published. Until now. After months of protracted argument and Freedom of Information requests, the IPCC finally

STICKLER cont: released the names of eighty-six people who died in circumstances where restraint was used, but not necessarily a direct cause of death. It's from this that a final list of sixteen is derived. We have cross-referenced them with other cases in the public domain. Despite the fact that the IPCC conducted its own investigation into Simon Bosworth's death and cited prone restraint and struggling as part of the cause of death, his name is not included in any of these figures.

SKEWS: If Simon's case, which is quite obviously a case that involves death in custody under restraint by the police, and that's not involved, basically the figures mean nothing. The figures that they are making available to the public aren't true figures and to actually omit a case like Simon's, which obviously clearly involved restraint, they are skewing the results.

STICKLER: We asked the IPCC why Simon Bosworth's name had not been included on the lists. Tom Bucke is the Commission's head of analytical services.

BUCKE: We recognise his restraint, we recognise it was a serious case and therefore that's why we did an investigation into it. It's simply that when we reported on the overall figures, one of the subcategories is deaths in custody and Simon didn't appear in there but appeared in the overall figures for that year.

STICKLER: So is there another list of restraint-related deaths following contact with the police then?

BUCKE: There is. They fall into another area. So I think the important thing is that we have been talking about a study which is specifically about deaths in police custody. We also got the wider category of deaths following police contact.

STICKLER: Can you tell me how many restraint-related deaths there have been following contact with the police, because that's what everyone is interested in. If someone comes into contact with the police and they are restrained - whether they are arrested or not - and they die, it is as a result of the restraint that they die. Can you give me a definitive figure on that?

BUCKE: If you are asking me specifically about whether the cause of death was restraint, we would have to look into those cases in a bit more detail and look at those and compare, add those which were viewed as being cause of death restraint to the ones that we reported on in our deaths in custody study.

STICKLER: Well, people would expect for you to have a figure at your fingertips of the number of people who die because of restraint, whether they are arrested or not.

BUCKE: Yeah, it's a really important area and we are considering for the next financial year doing a work, a piece of work, a piece of analysis which looks across at restraint both within police custody but also outside police custody as well.

STICKLER: Shouldn't it have been done already? As you say, it's a matter of huge public concern.

BUCKE: We've been looking at a series of areas. We thought deaths in police custody were a key area to do, but this is something that we are seriously considering doing in the next financial year.

STICKLER: Basically there are two lists – the widely quoted list of sixteen deaths in custody only records the cases where the person has been arrested or detained under the Mental Health Act. So, if you simply come into contact with the police – aren't arrested or detained, but they restrain you and you die – you won't be included in those figures. And there are other cases which raise serious questions over the information published by the IPCC. There are seemingly glaring omissions. Their definitive list of sixteen deaths in police custody does not include well publicised cases like that of Roger Sylvester – the case that led the Metropolitan Police to review restraint training. Deborah Coles, Chief Executive of Inquest.

COLES: Roger Sylvester's death was an extremely high profile inquest. Others on this list were cases that Inquest have worked on and yet they don't seem

COLES cont: to recognise these as restraint-related deaths. And I find that absolutely astonishing, because I know these cases, we've worked on these cases and restraint was absolutely fundamental.

STICKLER: So what does this suggest to you about this report?

COLES: I would question the IPCC as to how these figures were collated and what care has gone into ensuring that they're properly representative of the cases and the investigations that - some of which - they have been directly involved in.

STICKLER: We asked Tom Bucke about the case of Roger Sylvester and the others we have identified.

BUCKE: When we look at the case of Roger Sylvester, restraint was a key factor, key issue in the case, which is a restraint-related case. However, we are led by the evidence, and the medical evidence was disputed by a pathologist at the inquest and the final inquest verdict was an open verdict on Roger Sylvester's death, so under cause of death we have to reflect the open verdict and the dispute between the pathologists about that.

STICKLER: This case led to the Metropolitan Police reviewing its training on restraint and yet you haven't included it as a restraint-related death?

BUCKE: The IPCC recognises the seriousness of that case and the important learning that the police service had from that case. What we are saying is that when you come down to saying whether the cause of death for Roger Sylvester was restraint, we are led by the evidence. You come down to the names on this list. Those are ones where the medical evidence and the inquest verdict point to restraint being the cause of death – and that was not the case with Roger Sylvester. And the reason why we have such a tight definition for our different categories is to allow us to look at trends over time. If we had very loose categories and included lots of things in there which may or may not fit in there or may fit in other categories, then we would lose the ability to be able to say whether deaths are going up or down, and it's obviously very important for everybody concerned to know whether deaths in custody are going up or not.

STICKLER: But even using their own tightly-drawn definition, we've identified cases that are missing. Giles Freeman, a schizophrenic from Slough. The inquest jury handed down a narrative verdict. He died of:

READER IN STUDIO: Cardio-respiratory arrest as a result of restraint and excessive activity whilst suffering a psychotic episode.

STICKLER: Andrew Jordan was detained by police officers under the Mental Health Act. The inquest jury found that:

READER IN STUDIO: Mr Jordan died in part because asphyxia caused by prolonged restraint was not subsequently treated.

STICKLER: They do not appear on the IPCC list of restraint-related deaths. The IPCC figures showing the relatively low level of deaths in custody have been used to inform the debate over the use of restraint by the police. Our investigation has raised serious questions about the definitions being used which exclude cases that are clearly relevant. We took our findings to Keith Vaz, MP who, as Chairman of the Home Affairs Select Committee, has a longstanding and keen interest in the issue of deaths in custody.

VAZ: It is a matter of concern. This is a highly sensitive area which deals with one of those parts of public policy that needs to be looked at very carefully. It is important that the IPCC should be very accurate in the information that is provided. It is the organisation that the police and the public turn to in order to get a definitive account of what happened in respect of some of the most serious cases that there are, and I'm very disappointed that the list that they have provided has not been full and complete, and I hope very much they'll look at their systems to ensure that they are improved.

STICKLER: What action – if any - can be taken to ensure that the public gets the information it deserves, if not demands?

VAZ: The information has to be forthcoming and I will certainly write to them and ask that it is forthcoming. But at the end of the day I think that what we will need to do is to have a proper thorough inquiry into this matter and see how

VAZ cont: we can make recommendations as to how this organisation should be able to carry out its work with efficiency and diligence.

SIGNATURE TUNE