

Transcript of the Sheku Bayoh Inquiry

Tuesday, 21 June 2022

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(10.01 am)

Statement by LORD BRACADALE

LORD BRACADALE: Good morning. Today the Inquiry will hear the evidence of Alan Paton. Before that happens, I wish to make a short statement in relation to his evidence.

Ordinarily witnesses give evidence to the Inquiry in public, either sitting in the hearing room or remotely by live television link. Their evidence is live-streamed on the Inquiry's YouTube channel and the transcript of the evidence is published on the website.

With the exception of Alan Paton, each of the officers who attended at Hayfield Road on 3 May 2015 has given evidence in person in an open hearing in the hearing room.

In the case of Mr Paton, at an earlier stage I ordered that his evidence should be taken using special measures, namely that his evidence should be recorded in a closed hearing, that he should be accompanied by an appropriate adult and that the recording should subsequently be played in public.

The closed hearing took place in the hearing room on Monday 13 June 2022. The hearing was attended by the Chair, the Assessors, Counsel to the Inquiry and such Inquiry staff as were necessary to conduct the

Transcript of the Sheku Bayoh Inquiry

1 recording. Mr Paton's wife and his legal
2 representatives were also in attendance. The recording
3 of his evidence will be played today.

4 I permitted the taking of the evidence of Mr Paton
5 in this way because I was satisfied, on the basis of
6 medical reports, that Mr Paton suffers from mental
7 illness. I received a report and a supplementary report
8 prepared by a consultant forensic psychiatrist. Having
9 considered these, I was satisfied, first, that if
10 I required Mr Paton to give evidence in person or by
11 a live television link, there was a real risk that he
12 would be unable to give evidence at all, leading to the
13 result that the Inquiry and the members of the families
14 of Sheku Bayoh would be deprived altogether of hearing
15 his important evidence.

16 Second, I was satisfied that requiring Mr Paton to
17 give evidence in person, or by live television link
18 would be likely to cause harm by having an additional
19 adverse effect on his mental health.

20 I concluded, therefore, that the surest and safest
21 way to obtain his evidence for the Inquiry and to avoid
22 causing further harm to his mental health, was to record
23 his evidence in the manner that I have described. In
24 coming to this conclusion, I was very much aware that
25 the families of Sheku Bayoh have been waiting for over

Transcript of the Sheku Bayoh Inquiry

1 seven years for the opportunity to see and hear for
2 themselves what this important witness has to say.

3 While I recognise that the pre-recorded evidence
4 falls short of what they would have wished, the risk
5 that they might not have heard his evidence at all has
6 been avoided, and they and the public will at least hear
7 the recorded evidence of Mr Paton today.

8 When the recording is being played, listeners will
9 notice that at certain parts, the audio has been edited
10 out. This occurs in that part of his evidence in which
11 he is being examined about complaints against him made
12 by members of the public. The editing has been carried
13 out where he has either named certain persons whom it is
14 not appropriate or necessary to identify, or has given
15 evidence that might lead to the identification of such
16 persons. I am satisfied that the parts that have been
17 edited out are not necessary for the Inquiry to fulfil
18 its Terms of Reference.

19 After the recording has been played, I shall invite
20 oral applications under Rule 9. In the event that
21 I grant any such applications, I shall constitute
22 a further closed hearing. Any further permitted
23 examination will be conducted by Counsel to the Inquiry
24 and the recording will be played in public later.

25 We're now in a position to begin the playing of the

Transcript of the Sheku Bayoh Inquiry

1 recorded evidence.

2 (Pre-recorded evidence of ALAN PATON)

3 LORD BRACADALE: Good morning, Mr Paton.

4 A. Morning.

5 LORD BRACADALE: You're going to be asked questions by
6 Ms Grahame, who you have met already. If you want
7 a break at any time, just let me know and I'll happily
8 give you a break.

9 Can you now say the words of the affirmation after
10 me.

11 MR ALAN PATON (affirmed)

12 LORD BRACADALE: Ms Grahame.

13 Questions from MS GRAHAME

14 MS GRAHAME: Thank you.

15 Good morning again, Mr Paton.

16 A. Morning.

17 Q. You're Alan Paton. What age are you?

18 A. 48.

19 Q. And in 2015, you had 14 years' police service?

20 A. Yes.

21 Q. And you were a police constable?

22 A. Yes.

23 Q. And we have all your contact details, so I'm not going
24 to ask you so say what those are. And is it correct to
25 say that you're now retired from the police service?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Could I ask you, first of all, to look at a statement
3 you gave to PIRC, PIRC 262. It's up on the screen now
4 you will see and it's got your name and then if we
5 scroll down the page slightly, you will see it was given
6 on 4 May 2015 at 11.15 in the morning and that was to
7 Investigating Officer Alex McGuire in the presence of
8 Ricky Casey. Do you see that?

9 A. Yes.

10 Q. Now, you should also have a copy of that in front of you
11 in the black folder.

12 Now, can I just confirm something about the date.
13 It says on this typed version that the date and time you
14 gave it was 4 May 2015, but my understanding is that all
15 of the police officers gave statements on 4 June 2015.
16 Do you remember if you gave your statement to PIRC on
17 the same day as all the other officers?

18 A. It certainly wasn't 4 May.

19 Q. Right. Well, so if it we have heard that everyone else
20 gave their statements on 4 June, is that more likely to
21 be correct?

22 A. There or thereabouts, aye.

23 Q. Thank you. And am I right in saying that you were --
24 that was maybe read over to you, or you read over this
25 statement before you confirmed you were happy with it?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Do you remember which it was? No. Do you remember if
3 you signed it?

4 A. I think so.

5 Q. And is it fair to say that you were doing your best
6 on -- when you gave this statement to PIRC -- to be
7 giving them the true and accurate record of the events
8 of 3 May 2015?

9 A. Yes.

10 Q. Thank you. We have heard other officers say that the
11 events of 3 May were much fresher in their minds when
12 they gave statements to PIRC. Is that the same position
13 for you?

14 A. Yes.

15 Q. Thank you. So if there's any difference between what
16 you're able to tell us today and what you told PIRC when
17 you spoke to them to give this statement, could you help
18 the Chair -- should he prefer this statement, if there's
19 any difference?

20 A. More than likely.

21 Q. More than likely, okay. Well, I do intend to go through
22 this with you, so if there's any difference you don't
23 agree with, you can let us know.

24 Then were you also asked to look at a map, COPFS 98,
25 and mark-up sort of who was involved and you should have

Transcript of the Sheku Bayoh Inquiry

1 a copy of that in your black folder as well. Is that
2 the map that you gave to PIRC?

3 A. Yes.

4 Q. Thank you. And then more recently were you sent a lot
5 of questions by the Inquiry team and you responded to
6 those questions and I'm going to call this your Inquiry
7 statement, it's a document that was prepared by you in
8 conjunction with your lawyers and where you answer all
9 the questions that the Inquiry team sent you. Do you
10 see that there?

11 A. Yes.

12 Q. Do you recognise that as your statement?

13 A. Yes.

14 Q. Thanks. And can we look at the last final paragraph,
15 please. Not at the end of the document. That's it,
16 thank you. Do you see it starts -- it's a short page,
17 just before the appendix, I think you have that, and the
18 second paragraph says:

19 "I believe the facts stated in this witness
20 statement are true. I understand that this statement
21 may form part of the evidence before the Inquiry and be
22 published on the Inquiry's website."

23 And you understand that. And then my copy says it
24 was signed by you on 5 May this year. I don't know if
25 your copy has the actual signature on it. I don't have

Transcript of the Sheku Bayoh Inquiry

1 any copy. Do you remember if you signed this statement?

2 A. I believe so.

3 Q. Yes. But regardless of whether it is signed or not, are
4 you happy that this statement is true and you know that
5 it might form part of the evidence that the Chair
6 considers?

7 A. Yes.

8 Q. And it might be published on the website?

9 A. Yes.

10 Q. Thank you. Now, on 11 May, Brian McConnachie QC, your
11 lawyer, your QC, made a statement on your behalf and in
12 that he said you were hoping that with your assistance
13 and cooperation that the Chair will discover the truth
14 about what happened and does that remain the position
15 today?

16 A. Yes.

17 Q. Thank you. Then he also said in his opening statement
18 that the events have had a significant impact on you and
19 your family and he told us that you have PTSD and I just
20 wanted to say thank you for attending today, but if
21 you -- as the Chair said to you at the outset, if you
22 feel you need a break, please let me know and I can help
23 ask the Chair for a break.

24 So you've got your hard copies of everything in
25 front of you. If you want to refer to that at any time,

Transcript of the Sheku Bayoh Inquiry

1 just let me know, and if I don't have the right bit on
2 the screen if you tell me what page it is then I can ask
3 for that to be put on the screen so we can see it.

4 A. Okay.

5 Q. And in addition you will also see a spreadsheet just to
6 your left and I know that you have watched other
7 evidence that we have taken in the Inquiry, so you
8 should be reasonably familiar with what it shows, but
9 you will see on the left-hand side it has got timings in
10 the 24-hour clock and then to the left of centre you've
11 got transcripts of Airwaves transmissions that were made
12 by officers and just to the right of centre, we've got
13 a little short description of what is said to be on the
14 CCTV.

15 Now, if you have watched evidence you will have seen
16 some of that on the TV channel as we have gone through
17 it and I will refer you to that, Mr Paton, but also you
18 can look through that at any time if you wish. Are you
19 happy with that?

20 A. Yes.

21 Q. Thank you. I'm going to take my lead today from some of
22 the comments that your QC gave in his opening statement.
23 He said there were about five areas where you had
24 involvement on the day, so I'm going to take my lead
25 from him and ask you about those five areas and the

Transcript of the Sheku Bayoh Inquiry

1 first thing I want to talk to you about today is the
2 initial contact that you had, so let's start by looking
3 at your original statement, the one you gave to PIRC,
4 and if we could look at page 2 of that statement and I'm
5 going to look at paragraph 2. I'm just going to ask you
6 a quick question about this page. You say you have
7 previously submitted a statement to John Sallens from
8 Professor Watson. We have heard that Peter Watson is
9 a solicitor who represents SPF, and he is in a company
10 called PBW Law and you said:

11 "I do not have a hard copy ... but I do have an
12 electronic copy which I have agreed to submit
13 electronically by email to Investigator McGuire. I have
14 signed the documentary production backing sheet."

15 You will see that we don't have a copy of that in
16 the folder, we don't have a copy in the Inquiry. Would
17 you be willing to give us a copy of that statement?

18 A. I don't have a copy of the statement.

19 Q. Oh, you don't?

20 A. No.

21 Q. Who has it?

22 A. I don't know who does have it.

23 Q. Oh, right, okay. Well, that's maybe something we can
24 explore with your solicitors. Thank you.

25 Let's look at page 4 then, paragraph 1. You say

Transcript of the Sheku Bayoh Inquiry

1 here:

2 "I think it took me about a minute to two minutes to
3 arrive at Hayfield Road. When I arrived I came up
4 Hendry Road and turned right at Gallaghers public house
5 into Hayfield Road."

6 And:

7 "Upon entering Hayfield Road I was the first police
8 vehicle on the scene."

9 Do you see that at the top of the page? And it is
10 on the screen as well.

11 A. Yes.

12 Q. So you travelled to Hayfield Road and you are the first
13 vehicle on the scene, police vehicle. I'm going to ask
14 you to look at the evidence video timeline and you will
15 see just for your own use if you look at page 3 of the
16 spreadsheet -- now, I'm going to be asking Ms Wildgoose
17 to play some of this footage and I know you will have
18 seen this already, but do you see on page 3 of the
19 spreadsheet, first of all, the left-hand column, the
20 timings, 7.20.13. And there's a reference to ACR, area
21 control room Inspector Stewart, and then a transmission
22 that he made:

23 "Inspector Stewart area control room to the set
24 attending. I am monitoring this obviously from an ARV
25 perspective. If you get sightings of the male you need

Transcript of the Sheku Bayoh Inquiry

1 to make an initial assessment yourself and feed back
2 through straight away and I will listen out on
3 the channel."

4 And then you will see on the right-hand side of that
5 column it says:

6 "Large marked police van arrives from south on
7 Hendry Road and turns right at the roundabout into
8 Hayfield Road."

9 Have you got that page?

10 A. Yeah.

11 Q. And below that column again on the CCTV column:

12 "Dark coloured car enters roundabout from
13 Hendry Road. Turns right, continues south on
14 Hendry Road. Police van stops on Hayfield Road within
15 field of vision of CCTV."

16 So I'm going to ask Ms Wildgoose to play about
17 30 seconds of the footage on the screen. You will see
18 the time -- real time clock at the top left says 7.20.11
19 and then at the bottom there's CCTV footage and I will
20 ask her to play until 7.20.42.

21 (Video played)

22 That's fine, thank you very much. So we have heard
23 that the real time clock that's shown is to 1 second
24 accuracy, and I would like to go through and it might be
25 useful to use page 3 of the spreadsheet as we do that.

Transcript of the Sheku Bayoh Inquiry

1 I would like to explore with you what was happening at
2 that point, as we have watched. So if we look at
3 7.20.13, first of all. Did you hear the transmission
4 from area control room Inspector Stewart on your radio
5 that day?

6 A. I can't recall.

7 Q. Looking at it now, what's your understanding of that
8 message?

9 A. It's a message that's been passed by him with the best
10 intentions but it's completely unclear what he is
11 saying.

12 Q. Right. In what way is it unclear?

13 A. "Monitoring it from an ARV perspective" disnae really
14 give much away. We were needing to know then was an ARV
15 coming or was it no?

16 Q. Right. So what type of information would you have liked
17 to be clear and to provide that clarity?

18 A. Was an ARV coming or is it not. If it is, where's it
19 coming from, ETA. Likewise with a dog, same
20 information.

21 Q. So just a clearer estimate of the time it would take
22 perhaps to arrive?

23 A. Yes.

24 Q. And what was your understanding of the words "Initial
25 assessment"?

Transcript of the Sheku Bayoh Inquiry

1 A. I didn't hear the words "Initial assessment". I didn't
2 hear -- I can't recall any of that. I think I was
3 actually, if not getting out of the van already out of
4 the van by the time the message ended.

5 Q. And we have heard that people can hear messages from
6 their radio.

7 A. Yes.

8 Q. Is that not something that you were able to hear that
9 day?

10 A. Not when you're in the heat of the situation.

11 Q. And is that an explanation why you didn't hear that
12 message?

13 A. Yeah.

14 Q. Thank you. Looking at it now, we have heard some
15 evidence about an initial assessment being a risk
16 assessment and feedback being a call to ACR to give them
17 information about what was happening at the scene; is
18 that your understanding, that an initial assessment is
19 a risk assessment effectively?

20 A. Yeah.

21 Q. And feedback would be to put a message, a transmission
22 onto your radio?

23 A. Yes.

24 Q. With information about what was happening?

25 A. Mm-hm.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we have also heard some evidence that that really is
2 just reinforcing to officers what they know anyway, that
3 they should do a risk assessment, they should feed back;
4 do you agree with that?

5 A. Yes.

6 Q. We have heard -- you have just looked at the CCTV, we
7 have heard from PC Walker that that was your Transit van
8 arriving at Hayfield Road. Did you also recognise that
9 van?

10 A. Yes.

11 Q. And we have heard from PC Walker that he stopped the
12 van -- he was driving, but he stopped the van at the bus
13 stop and that's where the van is shown on the CCTV.
14 Do you agree with that?

15 A. Yes.

16 Q. Thank you. And I wonder if we could look at some images
17 please, still images, and I will use these as I go
18 through the events, so we've got image 4 and we've got
19 image 5. Image 5 might be quite useful at this stage
20 and we see on this image -- these are images prepared by
21 a company called Advanced Laser Imaging, or ALI, you
22 will see the Transit van on the right-hand side is at
23 the bus stop area and that's what PC Walker said was
24 your van. Do you see that one?

25 A. Mm-hm.

Transcript of the Sheku Bayoh Inquiry

1 Q. And the bus stop is just slightly to the right of the
2 image that we see here and you can see the yellow
3 markings on the road.

4 When you arrived in the van with PC Walker, can you
5 demonstrate from this image where Mr Bayoh was when you
6 first saw him? Now, you will probably have seen on some
7 of the previous footage, Mr Paton, that you can touch
8 the screen and a red circle will appear and so if you
9 are able to touch the screen and put a red circle, that
10 would be very helpful, and if this image doesn't show
11 the area, we can find another image?

12 A. It doesn't show the area.

13 Q. Right, let's find another image. Let's use image 8,
14 please. So there's no cars or vehicles, police vehicles
15 on this image and it's a bird's eye view, but image 8
16 shows the full bus stop area and the shelter, the bus
17 shelter, and to the left of this is the roundabout with
18 Hendry Road. Would you be able to use this image to
19 show where Mr Bayoh was when you first saw him?

20 A. Very roughly, because the van's not there to gauge
21 distance, but very roughly I'll put there.

22 Q. So you have pointed and created a red circle on the
23 actual roadway near to the far right of the bus stop as
24 we look at it on this image?

25 A. Aye.

Transcript of the Sheku Bayoh Inquiry

1 Q. So was Mr Bayoh on the roadway at that time?

2 A. I believe so.

3 Q. And what direction was he facing?

4 A. Facing towards Gallaghers roundabout.

5 Q. We have heard that the roundabout on the left-hand side,
6 there's a pub nearby called Gallaghers pub. Is that
7 what you're referring to?

8 A. (Nods).

9 Q. And how was he -- what was he doing when you first saw
10 him?

11 A. Briskly walking.

12 Q. When you say "briskly", what do you mean?

13 A. Briskly.

14 Q. Right. And that was in the direction of the roundabout?

15 A. No, I wouldnae say it was in the direction of the
16 roundabout, I would say it was in the direction of
17 Hendry Road.

18 Q. Oh, right.

19 A. I would say if it was direction of the -- the roundabout
20 it would be slightly further down.

21 Q. You might have seen people drawing lines. Let's --
22 I will ask if we can get the line function and I will
23 get you to draw a line which will provide an arrow
24 showing the correct direction and I think you have --
25 you have to move the line away from the red circle for

Transcript of the Sheku Bayoh Inquiry

- 1 it to work properly. That's it. So -- thank you.
- 2 So number 2 is the direction in which Mr Bayoh was
- 3 driving.
- 4 A. Walking.
- 5 Q. Sorry, walking. And as the Transit van approached,
- 6 where was he when the Transit van arrived at the bus
- 7 stop and stopped?
- 8 A. 6 feet in front of the Transit van.
- 9 Q. Can you point with a circle onto the image?
- 10 (Pause).
- 11 Thank you. Then if we can go back to image 4, just
- 12 so I can be clear, this is the one that shows the
- 13 Transit van in position, or let's look at 5, please. So
- 14 that's the Transit van in position. Which -- in
- 15 relation to that van, in that position, where was
- 16 Mr Bayoh when the Transit van stopped?
- 17 A. A lot further to the right-hand side, off the screen.
- 18 Q. Off the screen. How far were you from Mr Bayoh when the
- 19 Transit van stopped in the bus stop?
- 20 A. 25 feet.
- 21 Q. Okay. When you first saw him, what was the first thing
- 22 that went through your mind?
- 23 A. "That's our man".
- 24 Q. Right. And what made you think that?
- 25 A. The description of what he was wearing, just still at

Transcript of the Sheku Bayoh Inquiry

1 the relatively same locus as described by numerous
2 witnesses, black.

3 Q. And what was he wearing?

4 A. T-shirt and jeans.

5 Q. What colour was the T-shirt?

6 A. White or grey.

7 Q. Did you consider anything at that time about terrorism?

8 A. Yes.

9 Q. What?

10 A. As with every knife call, not just this one, as with
11 every knife call I consider terrorism until I get
12 further information to rule it in or rule it out.

13 Q. Right. And why do you do that with every knife call?

14 A. Because throughout the station at every turn there's
15 terror -- posters highlighting the terrorist level and
16 we had also -- I don't know if you've got that there,
17 that there was a memo came out by Ruairaidh Nicolson that
18 was highlighting the terrorist level, what we were to do
19 about it and making reference to Lee Rigby.

20 Q. And you may have seen me -- or that being referred to in
21 a previous hearing?

22 A. Yes.

23 Q. And what was the terrorist level at that time,
24 in May 2015, as far as you remember?

25 A. Severe.

Transcript of the Sheku Bayoh Inquiry

1 Q. Would you have had the same concerns about terrorism if
2 Mr Bayoh had been white?

3 A. Of course I would. Terrorists are not just white -- are
4 not just black, should I say.

5 Q. Was it of concern to you at that time, on 3 May 2015,
6 that all units had been sent to attend Hayfield Road?

7 A. Was it of concern?

8 Q. Yes.

9 A. No, that's what I had come to expect.

10 Q. Right. Was that a normal response for all knife
11 incidents?

12 A. Not just all knife incidents, all incidents
13 of threatening sort of behaviour or calls that could
14 quite easily get out of hand, or whatever, certainly if
15 a weapon -- not just a knife, if a weapon's mentioned
16 then it's a case of "all units, if you can do, drop
17 everything and go."

18 Q. Was it of concern to you that -- you have obviously got
19 the terrorist, the threat level in your mind --

20 A. Yeah.

21 Q. -- was it of concern that you didn't understand there to
22 be any support from an ARV on its way, or a dog unit?

23 A. First things first, we needed to protect the public.

24 This was a large guy using -- not just carrying, but
25 using a knife on innocent members of the public and

Transcript of the Sheku Bayoh Inquiry

1 their property arguably, cars. This needed drawn to
2 a conclusion as soon as possible, without the attendance
3 of an ARV or a dog, but more so an ARV, then somebody
4 had to deal with it. If it hadn't been dealt with it
5 could have gone completely pear-shaped.

6 Q. What do you mean by completely pear-shaped.?

7 A. Well, I'm sure we will go on to where we were walking,
8 but it's my firm belief that had I not intervened and
9 taken that sort of early intervention, he was walking
10 back to where the knife was and who knows what could
11 have happened if he had picked it up and started using
12 it then.

13 Q. So you could --

14 A. Let's face it, he was on a mission on to try -- his sole
15 purpose in going on the streets with a knife was to try
16 and find Saeed Zahid, probably with the intention of
17 killing him.

18 Q. Okay. Can I ask you to focus on what was in your mind
19 on 3 May. Am I right in thinking you didn't know
20 anything about Zahid Saeed when you got out of the van
21 on 3 May 2015?

22 A. Correct. I know that now though.

23 Q. You know it now because I think you have watched the
24 evidence, but on the day itself, you didn't know
25 anything about Zahid Saeed?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. And could you see Mr Bayoh with a knife when you got out
3 of the van?
- 4 A. No.
- 5 Q. So what, on 3 May 2015, if anything, did you know about
6 the knife?
- 7 A. Just the descriptions.
- 8 Q. And when you say the descriptions, what do you mean by
9 that?
- 10 A. I'm sure the radio transmissions made mention of a big
11 knife or words to that effect.
- 12 Q. So you had information from the Airwaves transmissions
13 but since then you have obviously listened to the
14 evidence of this Inquiry?
- 15 A. Correct.
- 16 Q. Right. Fair to say you have a lot more information now
17 than you maybe did on 3 May?
- 18 A. So so.
- 19 Q. Okay. So when you said a moment ago he was walking back
20 to where the knife was, is that your impression from
21 having listened to the evidence?
- 22 A. No.
- 23 Q. So what -- why did you say he was walking back to where
24 the knife was?
- 25 A. Because I knew where the knife was recovered and I knew

Transcript of the Sheku Bayoh Inquiry

1 the direction he was walking and the close proximity.

2 It was only 20 feet.

3 Q. But on 3 May, when the van arrives, and you get out of
4 the Transit van, you didn't know a knife was recovered?

5 A. No, not at that stage, no.

6 Q. Right. I would quite like, if we can, to focus on what
7 you knew at the time that you got out of the van, rather
8 than think about things that you learned later. So your
9 immediate impressions and your state of knowledge at
10 that time, all right?

11 We can come back to the other things later perhaps.

12 A. Yeah.

13 Q. So on 3 May 2015 you get out of the van, you have
14 described seeing Mr Bayoh and where he was, and you have
15 told us you had heard Airwaves transmissions about
16 a man, you think this is -- the man you see on
17 Hayfield Road is the man that you have been hearing the
18 Airwaves transmissions about?

19 A. (Nods).

20 Q. So can I ask you, first of all, was there a reason on
21 that day why you didn't sit in the van and observe
22 Mr Bayoh rather than getting out straight away?

23 A. Because we didn't know if he had a knife or if he didn't
24 have a knife and it needed to be drawn to some sort of
25 controlled -- some sort of conclusion ASAP.

Transcript of the Sheku Bayoh Inquiry

1 Q. What was Mr Bayoh doing that -- what, if anything, was
2 he doing that would have caused you concern in relation
3 to the knife?

4 A. He could have taken the knife out of a waistband,
5 a sock, anywhere.

6 Q. So --

7 A. People could have been walking the streets -- I didnae
8 know who was behind me on the wee path, cars were going
9 past, people could have come out of a house. As I say,
10 it was just too big a risk to sit back and contain.
11 Perhaps that's what you would get away with at other
12 incidents, which I have done in my previous service, but
13 this situation was so pressing to get control, protect
14 the public, protect other officers, protect Bayoh, that
15 I felt it was the right decision to do, and I still do
16 100% feel it was the right decision to do.

17 Q. We have heard some evidence about Hayfield Road, the
18 sort of area it is. Did you know Hayfield Road that
19 day?

20 A. Yes. I grew up just across the road from it.

21 Q. Right. And we have heard that there's hospitals in the
22 area.

23 A. Yes.

24 Q. And houses and churches, is that right?

25 A. Mm-hm.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. What was it -- you said it was so pressing: what was it
2 about that situation that made it pressing?
- 3 A. The fact that -- it had been corroborated that he had
4 been using the knife.
- 5 Q. And when you say "corroborated", what do you mean?
- 6 A. More than one person speaking to the same, giving
7 an element of credibility to what they're saying.
- 8 Q. So we have heard some evidence already that there were
9 multiple calls coming in. Is that what you mean: there
10 was more than one call --
- 11 A. Yeah.
- 12 Q. -- coming in from different sources?
- 13 A. Yes.
- 14 Q. And we have heard some evidence from officers saying
15 that's what allowed them to rule out the idea it was
16 a hoax call; was that the same for you?
- 17 A. To be honest, I didnae really think it was a hoax call,
18 but you're right, more than one person phoning in tends
19 to rule out that it was a hoax call.
- 20 Q. And you have talked about your desire to protect the
21 public. Tell us a little bit about that.
- 22 A. In terms of what?
- 23 Q. What were you concerned about in terms of the public?
- 24 A. That he stabbed one of them.
- 25 Q. We have also heard that there weren't really any members

Transcript of the Sheku Bayoh Inquiry

1 of the public around, so what was your concern at that
2 stage that he might stab someone?

3 A. Well, you've got houses all along one side. There might
4 not have been any members of the public at that moment
5 in time, but it only takes 10 seconds and then you've
6 got a family of five walking out the front door.

7 There's also the path between Hayfield Road and
8 Hendry Road, shrubs and such-like. Who knows, there
9 could have been somebody walking past that. The locus
10 was unprotected for cars going past. He could have, as
11 has been suggested, perhaps tried a car door, stabbed
12 somebody in a car, stabbed somebody through a window of
13 a car.

14 Q. Okay. And then you have also mentioned protection to
15 officers, so what were your concerns about officer
16 safety?

17 A. Well, a knife is always dangerous, ey, especially when
18 it's somebody that's high on Flakka that's got
19 possession of the knife. If he's prepared to use it on
20 other members of the public and their cars, then he
21 would be prepared to use it on police officers. I was
22 also aware that there was a female officer going to
23 locus. I know two ultimately went but first I knew
24 there was a female officer going, Nicole Short. There
25 was a strong rumour going about in Kirkcaldy Police

Transcript of the Sheku Bayoh Inquiry

1 Station that a female officer was going to get injured
2 by a lone wolf.

3 Q. So you were aware that Nicole Short was going, female
4 officer, and you have said -- again, focusing on
5 3 May -- you were aware of a strong rumour that a female
6 officer was going to be injured by a lone wolf?

7 A. Yes.

8 Q. What do you mean by that? Where had you heard this
9 rumour?

10 A. It was common knowledge about Kirkcaldy Police Station.

11 Q. Right.

12 A. I raised it -- being the senior sort of member on the
13 team, I raised it with Inspector Stephen Kay at muster,
14 asking if he could get in touch with intelligence
15 department and also perhaps Special Branch to find out
16 if there was anything in it and nothing came back.
17 I raised it only days before this.

18 Q. Right. So this was a Sunday. Would it have been the
19 week prior that you raised this with Inspector Kay?

20 A. I believe so.

21 Q. And we have heard about a muster in the morning from
22 Acting Police Sergeant Maxwell, that there was a sort of
23 gathering of the officers in the response team.

24 A. Yes.

25 Q. So is this something that they would have known about?

Transcript of the Sheku Bayoh Inquiry

- 1 Did you raise it in front of other officers in the team?
- 2 A. Yes.
- 3 Q. You didn't raise it with Sergeant Maxwell?
- 4 A. If he was covering on that day, bearing in mind he was
- 5 just an acting sergeant, but the sergeant, if it that
- 6 was him, would have been present as well, aye.
- 7 Q. But it was raised by you with Inspector Kay anyway?
- 8 A. Yes, yes.
- 9 Q. We have heard he was the sort of senior officer in
- 10 Kirkcaldy --
- 11 A. Yes.
- 12 Q. -- is that correct?
- 13 A. Yes.
- 14 Q. And you asked him to get in touch with the intelligence
- 15 department. Who are they? Are they in Kirkcaldy or
- 16 based somewhere else?
- 17 A. Based up at headquarters in Glenrothes as far as I was
- 18 aware, but with everything being centralised with
- 19 Police Scotland, who knows where they're based.
- 20 Q. We have heard that at that time, headquarters were in
- 21 Glenrothes for Fife Police, is that correct?
- 22 A. Yes, I think so.
- 23 Q. And then Special Branch, they're more national rather
- 24 than Fife-based presumably, are they?
- 25 A. Aye, they deal with mostly sensitive stuff and political

Transcript of the Sheku Bayoh Inquiry

- 1 stuff and those things.
- 2 Q. How long after you heard this rumour did you speak to
- 3 Inspector Kay at a muster?
- 4 A. Not long. I couldnae give you a day, but it's not long,
- 5 eh.
- 6 Q. Was it the same day or a few days or -- can you give us
- 7 any indication?
- 8 A. No, I couldnae.
- 9 Q. No. Who told you about this rumour?
- 10 A. It was just common knowledge.
- 11 Q. Was it. So other officers knew about it in Kirkcaldy
- 12 Police Office?
- 13 A. Yeah, I think it was -- I think it sort of came at the
- 14 same time that we were told to travel to and from work
- 15 in plain clothes. Obviously I could be wrong there,
- 16 that could just be in relation to the severe terrorist
- 17 threat level, but it kind of came at about the same sort
- 18 of time as the terrorist level was getting really pushed
- 19 to be aware.
- 20 Q. Do you remember when that happened?
- 21 A. No, I didnae -- no.
- 22 Q. We might have heard evidence that an officer checked
- 23 later and couldn't find anything to do with a threat
- 24 against a female --
- 25 A. That's convenient, eh.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. You think that's just convenient?
- 2 A. Yes.
- 3 Q. What do you mean by that?
- 4 A. I don't know.
- 5 Q. Okay. Right, so you also said earlier when you were
6 talking about Mr Bayoh in Hayfield Road "Someone high on
7 Flakka". What does that mean?
- 8 A. What?
- 9 Q. You used the words "high on Flakka", "Someone high on
10 Flakka could go for a knife, take it out of their
11 waistband or such-like."
- 12 A. Well, you have only got to Google.
- 13 Q. Do you know what Flakka is?
- 14 A. Yes.
- 15 Q. What is it?
- 16 A. It's a synthetic drug that sends folk not quite right.
- 17 Q. And at the time when you saw Mr Bayoh in
18 Hayfield Road --
- 19 A. Aye.
- 20 Q. -- were you aware that he was high on Flakka, or is this
21 information that's come to --
- 22 A. I wisnae aware that he was high on Flakka but I was
23 aware he was high on something.
- 24 Q. Right. How were you aware he was high on something?
- 25 A. Because his eyes were bulging out of his head.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So his eyes were bulging out of his head. And anything
2 else you noticed about his eyes or any other things you
3 noticed?
- 4 A. Well, quite often on a lot of these synthetic drugs you
5 don't feel temperature, not how you should, and it was
6 pissing down with rain and blowing a gale, and he's
7 wearing a wee T-shirt.
- 8 Q. So the fact he's in a short sleeve T-shirt was an
9 indicator to you as well as his eyes?
- 10 A. It could be, aye.
- 11 Q. You have described or told us about arriving in the van;
12 when did you first notice his eyes?
- 13 A. When I first saw him.
- 14 Q. When you first saw him. As soon as you saw that and saw
15 his eyes bulging out of his head, what did you think
16 about the situation?
- 17 A. I still thought this situation needs to be taken control
18 of, firmly taken control of as soon as possible and the
19 fact that he didn't have the knife in his hands, I could
20 see his hands, I thought "I've got to take my
21 opportunity, grasp this opportunity and confront him and
22 try and engage in conversation with him".
- 23 Q. Right. You say you could see his hands. What could you
24 see -- tell us -- describe what you could see of his
25 hands? How was he holding his hands?

Transcript of the Sheku Bayoh Inquiry

1 A. Palms of his hands like that (indicates).

2 Q. Could you hold that up because the Chair -- there's
3 a screen in front of you, right. So you're holding out
4 your hands palm-out, so at that time you could see he
5 wasn't holding a knife?

6 A. Yes.

7 Q. And you have said that you would engage in conversation
8 with him; what does that mean?

9 A. Give him a firm command. I mean it wasn't a situation
10 for asking him what he had for his tea last night. It
11 was a situation for taking control and I gave him a firm
12 command to stop, pointing at the ground and saying words
13 to the effect of "Get down to the ground".

14 Q. And so you have pointed to the ground. Tell me what you
15 were doing with your hands. You have said you pointed
16 to the ground, left hand --

17 A. "Get down on the ground", spray in my right-hand.

18 Q. So you had your --

19 A. My spray canister there to there (indicating).

20 Q. Right. So your spray was on your left hand of your
21 chest?

22 A. I wore a different vest to the majority of the guys.
23 I didnae wear a utility belt, so my spray was here, my
24 cuffs were -- I think my cuffs were there. My baton was
25 there.

Transcript of the Sheku Bayoh Inquiry

1 Q. So you're saying your baton and you're pointing to your
2 left side?

3 A. I think so, aye.

4 Q. And your cuffs were to your right-hand side?

5 A. Right side, aye. I can't remember exactly where they
6 were, but my spray was here (indicating).

7 Q. So we have heard one or two people mention you had
8 a special vest that you wore, so you didn't wear
9 a utility belt at all?

10 A. No.

11 Q. And what was it about your vest that made it unique or
12 different to others? We have heard about yellow hi-vis
13 vests over body armour; what was it about your vest that
14 made it look different?

15 A. It was kind of like a string vest. I got mine way
16 before everybody else got the over-vests. It was
17 basically I had back surgery and it was to dispel the
18 forces caused on your hips whilst wearing a utility
19 belt.

20 Q. Right. So did your vest -- your vest I think you have
21 said allowed you to keep your equipment but in different
22 positions from other officers?

23 A. Yes. It was still a police issue vest.

24 Q. And you had your spray in your right hand, you have
25 said.

Transcript of the Sheku Bayoh Inquiry

1 A. Mm-hm.

2 Q. When did you take your spray out so that you had it in
3 your right hand?

4 A. Once I was out the van.

5 Q. And when in relation to the commands did you have your
6 spray in your hand? Was it before or after?

7 A. I couldnae be certain.

8 Q. Okay. So you have told us you wanted to give firm
9 commands. Can you tell us what the commands were? Do
10 you remember what you said, what the first thing you
11 said was?

12 A. "Stop, get down on the ground".

13 Q. What was the reaction to that from Mr Bayoh?

14 A. Zero.

15 Q. No change in behaviour at all?

16 A. Just kept walking towards me.

17 Q. Did he look at you?

18 A. Yes.

19 Q. Did he say anything at all?

20 A. Not a thing.

21 Q. When he looked at you did you get -- what could you see?

22 A. Again, his bulging eyes and sort of staring through me,
23 if you like. I mean, he's fully aware of a police van
24 coming round the corner at speed, stopping in front of
25 him, two police officers getting out, you know, giving

Transcript of the Sheku Bayoh Inquiry

1 him instructions and he's still continuing to ignore
2 everything.

3 Q. What made you realise he was fully aware of the van and
4 the two police officers?

5 A. Well, you would have to be blind not to.

6 Q. Right, okay. And after he looked at you, what did he
7 do?

8 A. He just continued to walk towards me.

9 Q. So was he already walking towards you --

10 A. Yeah.

11 Q. -- when you got out of the van?

12 A. Yeah.

13 Q. So he didn't actually move or divert away from you or
14 anything like that?

15 A. No.

16 Q. And after you gave the command, he looked at you and he
17 carried on walking?

18 A. Mm-hm.

19 Q. What did you do?

20 A. Put my -- emphasised my spray with a straight arm that,
21 you know, there was no question at all that he saw it --
22 he didn't see it. Maybe before my spray could have
23 maybe been in a lower hold, but directly towards him,
24 pointing down on the ground and I says "Get yourself
25 down on the fucking ground", and he just kept walking

Transcript of the Sheku Bayoh Inquiry

1 towards me, same time as I'm walking back.

2 Q. So he is walking towards you, same direction that he was

3 walking in before?

4 A. Yeah.

5 Q. No deviation from that?

6 A. No.

7 Q. And any other reaction from him?

8 A. No. No reaction whatsoever.

9 Q. What did you do?

10 A. I sprayed him.

11 Q. How far were you away from him at that time?

12 A. 12 feet.

13 Q. Was this CS spray or PAVA spray?

14 A. CS.

15 Q. What happened after you discharged your spray?

16 A. Some of it hit him, but some of it -- the majority of it

17 just got caught by the wind, about turned and just --

18 when CS gets distinguished -- extinguished I should say,

19 it goes out and it's kind of -- it's liquid form,

20 isn't it, but it's like that silly string that you get

21 and so it went out, hit him and then curled back round

22 in the wind and came back and hit me.

23 Q. Can you look again at this image on the screen, 5, and

24 tell us where were you when you discharged your spray?

25 A. About there (indicating).

Transcript of the Sheku Bayoh Inquiry

- 1 Q. That's number 1. And where was Mr Bayoh?
- 2 (Pause).
- 3 And after you discharged the spray and it hit you,
- 4 what reaction did you have to that?
- 5 A. I tried to keep my eyes open as long as I could, but --
- 6 Q. How long was that?
- 7 A. Realistically it's probably 5 seconds or something like
- 8 that. I couldnae keep my eyes open any longer than
- 9 that, so I just went to the back corner of the van and
- 10 curled up.
- 11 Q. So point to where on image 5 -- point to where you went
- 12 to and curled up. So that's the rear of -- if we
- 13 remove 4, please, Ms Wildgoose, and we will see image 3.
- 14 That looks like you have put red circle 3 at the rear
- 15 passenger side of that Transit van, is that right?
- 16 A. Rear back corner, aye.
- 17 Q. Rear back corner. Which direction were you facing?
- 18 A. My head was towards sort of where the wee number plate
- 19 on it is.
- 20 Q. So facing the rear of the Transit van?
- 21 A. Mm-hm.
- 22 Q. And what position were you in at that time?
- 23 A. Like that (indicating).
- 24 Q. And you told us that some of your spray hit Mr Bayoh.
- 25 A. (Nods).

Transcript of the Sheku Bayoh Inquiry

1 Q. What reaction, if any, did it have on him?

2 A. He just wiped off, wiped it off his face like it was
3 water and smiled.

4 Q. And can you show us how he wiped it off his face?

5 A. (indicating).

6 Q. Now, during that time, before the spray has affected
7 your eyes, can you tell us where was PC Walker?

8 A. At the front of the van.

9 Q. We have heard he was driving and got out the driver's
10 seat and you -- do you recollect him being at the front
11 of the van?

12 A. (Nods).

13 Q. Did he move from there prior to you discharging your
14 spray?

15 A. Probably -- aye, probably he came a bit further round
16 the front of the van towards the passenger side.

17 Q. Front passenger side?

18 A. Yes.

19 Q. And -- well, I shouldn't say that. You had been at the
20 front passenger side; was he at the front passenger
21 side, or was he further along the van by the time you
22 discharged your spray?

23 A. I think he was at the front passenger side.

24 Q. Right. What direction was he facing?

25 A. Towards, er -- towards Bayoh.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. What did PC Walker do?
- 2 A. He sprayed his PAVA spray.
- 3 Q. Was that before or after you?
- 4 A. After.
- 5 Q. So after you have discharged your spray and your eyes
6 are still open for about five seconds, could you see
7 what PC Walker did at that point?
- 8 A. Say it again, sorry?
- 9 Q. So you have told us how you discharged your spray and
10 your eyes were open for about five seconds, you
11 thought --
- 12 A. Yeah.
- 13 Q. -- and during that period of time, was that when you saw
14 PC Walker discharge his spray?
- 15 A. I cannae be sure. Around about that time, but I can't
16 be sure.
- 17 Q. What reaction did Mr Bayoh have?
- 18 A. What, to getting hit by PAVA?
- 19 Q. Uh-huh.
- 20 A. Nothing.
- 21 Q. Did it hit him?
- 22 A. Yep.
- 23 Q. Where did it hit him?
- 24 A. In his face.
- 25 Q. Had he turned round towards PC Walker by this time?

Transcript of the Sheku Bayoh Inquiry

1 A. Possibly.

2 Q. Do you have a clear recollection of that?

3 A. (Shakes head).

4 Q. So did you hear anything from PC Walker?

5 A. No, I don't think so.

6 Q. Did you hear anything from Mr Bayoh?

7 A. I never heard anything from Mr Bayoh throughout the

8 entire incident.

9 Q. Right. How long did you remain at the rear of the

10 Transit van?

11 A. It felt to me like maybe 15/20 seconds.

12 Q. Okay. What was going through your mind at that time?

13 A. I thought I was -- I thought I was going to die at that

14 stage. I had visions of the Lee Rigby incident, just

15 blood everywhere. I thought -- I was -- I was curled up

16 waiting for something to come down on the back of my

17 neck, or something to get stabbed in my neck.

18 I thought -- I genuinely thought I was a goner, ey.

19 Q. From that position could you see where Mr Bayoh was?

20 A. No.

21 Q. Could you see where PC Walker was?

22 A. No.

23 Q. So you remain in that position for perhaps 15 seconds.

24 What's the first thing then that you notice that

25 changes? You have talked about being in that position

Transcript of the Sheku Bayoh Inquiry

- 1 at the rear of the Transit van; what happened after
2 that?
- 3 A. I heard Nicole screaming.
- 4 Q. Could you tell where her screaming came from?
- 5 A. Behind me, ish.
- 6 Q. Did you have any impression at the time where behind
7 you, how far away she was?
- 8 A. No. I was disorientated, completely and utterly
9 disorientated with the CS spray.
- 10 Q. What -- when you say you heard her screaming, what was
11 it you heard her scream?
- 12 A. Just screams, just a scream.
- 13 Q. What did you do?
- 14 A. The effects of CS spray were -- well, I certainly
15 thought at the time were starting to wear off, but just
16 turned around and saw her on the ground, trying to
17 get -- she was trying to get up onto her feet but her
18 feet were -- her legs were like rubber, she just kept
19 falling back down. So I went across and picked her up
20 by the lapels of her stab vest and just told her to go
21 back and -- go back to the van, sit in the van.
- 22 Q. So when you turned round, can you -- using image 5 --
23 give an indication of where she was when you saw her on
24 the ground?
- 25 A. Very, very loosely (indicating).

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Thank you.
- 2 A. About there.
- 3 Q. How far away was she from you?
- 4 A. 15, 20 feet.
- 5 Q. Okay. And you have said her legs were like jelly.
- 6 A. Yes.
- 7 Q. Describe -- what position was she in when you saw her?
- 8 A. I cannae be certain.
- 9 Q. And you have said she was trying to get up, is that
10 right?
- 11 A. Yes.
- 12 Q. How was she trying to get up?
- 13 A. Well, I'm going to -- I'm not wanting to guess but --
- 14 Q. No, no.
- 15 A. -- but to get up I would suggest you are sort of on your
16 knees before you went on to your feet and it was sort of
17 at the stage of going from being on her knees to going
18 on her feet that her legs were giving away.
- 19 Q. And is that how you saw her when you first turned round?
- 20 A. Yes.
- 21 Q. She was trying to get up from that position?
- 22 A. Yes.
- 23 Q. And you have described pulling her up; tell us how you
24 did that?
- 25 A. Just grabbed her lapels there, her vest and lifted her

Transcript of the Sheku Bayoh Inquiry

1 up.

2 Q. Was that at the front of PC Short?

3 A. Yes.

4 Q. And you have said you told her to go to the van?

5 A. Mm-hm.

6 Q. Was that the Transit van that was behind you?

7 A. Yeah.

8 Q. How long did that take you, would you say?

9 A. 15 seconds most.

10 Q. Once you had dealt with PC Short, what could you see?

11 A. I could see something going on which we now know is

12 a sort of restraint stage.

13 Q. Where was that happening?

14 A. Um ...

15 Q. We will get another picture on the screen.

16 A. About there (indicating), roughly there.

17 Q. I could show you image 8 even. That might ... there we

18 go. So that's a bird's eye view of a wider area of

19 Hayfield Road. Can you point out where --

20 A. I think about here somewhere (indicating). Oh, no.

21 Maybe about there somewhere.

22 Q. All right, thank you. Right. So you see that happening

23 further down Hayfield Road, closer to the roundabout

24 than you were?

25 A. Yeah.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can you tell me where was PC Walker?

2 A. I don't know. I didnae know who was all involved in
3 that stramash, I don't know.

4 Q. And is that the word that you would use to describe what
5 was happening during the restraint, a stramash?

6 A. Yes.

7 Q. We may have heard evidence about PC Walker being at the
8 van at one point. Do you have any recollection of
9 PC Walker being at the Transit van with you?

10 A. That's what I mentioned there, no recollection
11 whatsoever, but disorientated through the contamination
12 of CS and PAVA.

13 Q. Okay, thank you. So thinking about the stramash, what
14 was your first reaction when you saw that further down
15 Hayfield Road?

16 A. To go and assist.

17 Q. And how did you do that?

18 A. I just went across to it.

19 Q. And what was the first thing that you saw when you went
20 across?

21 A. I can't remember.

22 Q. What was the first thing you did when you went across?

23 A. Tried to -- knelt down I believed on the left-hand side
24 of Bayoh. Having watched the Inquiry, it might have
25 been the right-hand side, but I certainly felt it was

Transcript of the Sheku Bayoh Inquiry

- 1 the left-hand side and tried to get control of one of
2 his arms.
- 3 Q. Right. How was Mr Bayoh lying at the time when you went
4 over?
- 5 A. My perception was that he was on his back at all times.
6 Bearing in mind that I'm disorientated and eyes are
7 streaming, not thinking straight.
- 8 Q. So you could be wrong about that?
- 9 A. Certainly. I think I am wrong.
- 10 Q. Having watched all the other evidence?
- 11 A. Yes.
- 12 Q. But when you say you went over to help, so you have gone
13 down -- what did you actually do in relation to
14 Mr Bayoh, regardless of which side you were on?
- 15 A. Tried to get hold of his right arm to get control for
16 somebody to put a cuff on.
- 17 Q. Right. So it was control of his right arm. Are you
18 sure about the right arm?
- 19 A. Left arm.
- 20 Q. His left arm. So his left arm and where was his left
21 arm in relation to you? Was it to your left, or was it
22 to your right, or ...?
- 23 A. Down towards -- down towards my left knee.
- 24 Q. Beside your left knee?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. And --
- 2 A. But it was obviously dynamic so it was getting moved all
3 over the place.
- 4 Q. Is it fair to say that you were towards Mr Bayoh's head
5 area?
- 6 A. Yes.
- 7 Q. Rather than his leg area?
- 8 A. Definitely, yes.
- 9 Q. So looking at that image there, were you closer to the
10 hedge on the south of Hayfield Road or further away, in
11 terms of your position? Were you to the south or to the
12 north?
- 13 A. To the south.
- 14 Q. To the south?
- 15 A. Aye.
- 16 Q. And you're -- now, what is it you did in relation to his
17 left arm to try and get control at that stage?
- 18 A. There was a baton lying nearby, it wasnae my baton.
19 I can't remember if I extended it or if it was extended,
20 but I put the baton across his left bicep thinking if
21 I can get control of his upper arm then he cannae use
22 his lower arm to get hold of any knife and it might also
23 make it easier for handcuffs to be put on.
- 24 Q. So at that time you still didn't know where the knife
25 was?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. And you have said a baton nearby; do you remember
3 anything about the baton?
- 4 A. Yeah. My baton was kind of smooth rubber. This one had
5 lines on it, sort of like veins, if you like, grooves.
- 6 Q. Grooves. We have actually got two demonstration batons
7 and they are different and I wonder if you would look at
8 both of them for me and tell me if you see the sort of
9 model that you picked up.
- 10 A. I don't think it was either of these. I've never seen
11 a baton with a tip on it like that before, but it was
12 ribbed like that, ey, whereas my one is smooth like
13 that.
- 14 Q. Could you hold those up so the Chair can see. So
15 there's one in your left hand which is smooth --
- 16 A. That's the smooth one (indicating).
- 17 Q. And that's what your baton is like?
- 18 A. That's my baton, but I gave that to Craig.
- 19 Q. And then the other one is more -- it's got ridges or
20 ribs or something?
- 21 A. Ribbed, aye.
- 22 Q. Yes, ribbed. So it was more like that but not exactly
23 the same?
- 24 A. I don't think so. I've never seen a baton with this big
25 blob on the top of it before, ey.

Transcript of the Sheku Bayoh Inquiry

1 Q. So where was your baton? You said you had given it to
2 Craig, is that PC Walker?

3 A. Yeah.

4 Q. When had you given that to Craig?

5 A. I would have to -- I would have to refer to my
6 statement, but I believe it was around about the time
7 when I picked up Nicole.

8 Q. Was it before you picked up Nicole, or after?

9 A. I don't know.

10 Q. So where were you when you gave your baton to PC Walker?

11 A. I will have to refer to my statement.

12 Q. Right. That's your original PIRC statement, 262, and --

13 A. "Around the same time that I was lifting or holding
14 Nicole up I remember Craig shouting at me 'I have not
15 got my baton' or 'give me your baton' ..."

16 Q. Can I ask you before you read that to tell us what page
17 you're on, please?

18 A. Page 5.

19 Q. Page 5. You see the big paragraph that's sort of in the
20 middle of the screen at the moment, a couple beneath
21 that, or three or four beneath that, so you say:

22 "Around the same time that I was lifting or holding
23 Nicole up ..."

24 Yes? Do you want to read that out, "I remember
25 Craig shouting at me ..."?

Transcript of the Sheku Bayoh Inquiry

1 A. "Around the same time I was lifting or holding Nicole up
2 I remember Craig shouting at me 'I've not got my baton'
3 or 'give me your baton'. I removed my baton from my
4 vest I think I'm not sure and I threw it at him or in
5 his direction. I cannot remember whether I had extended
6 the baton or not."

7 Q. Thank you. And where were you and PC Walker when that
8 was going on?

9 A. At the point that Nicole was getting picked up at.

10 Q. So in the road in Hayfield Road?

11 A. Yes.

12 Q. Thank you. And is that why you provided him with your
13 baton? Do you remember why he said "I have not got my
14 baton"?

15 A. His clip or something was broken.

16 Q. Is that something you knew at the time or something that
17 you have heard evidence about?

18 A. No, I had heard him talking about it beforehand, ey, but
19 on a Sunday -- in fact, Saturday or Sunday, the clothing
20 store wouldnae be open so you wouldnae get a new clip,
21 ey.

22 Q. Right. So when you say you had heard him talking about
23 it before, was that prior to 3 May?

24 A. Yeah.

25 Q. Right. You have been describing using the baton over --

Transcript of the Sheku Bayoh Inquiry

1 you said you didn't remember if it was extended, but you
2 put it across Mr Bayoh's left bicep.

3 A. By that time it was extended.

4 Q. Yes. So by that time it had been extended --

5 A. Yeah.

6 Q. -- either by you or someone else and you put it over
7 Mr Bayoh's left bicep?

8 A. Yes.

9 Q. And was this a recognised technique to control someone's
10 upper arm?

11 A. There are all sorts of techniques that batons can be
12 used for. A lot of them kind of are used for levers
13 and, you know, things like that. Whether it's an actual
14 recognised technique, you would have to get an officer
15 safety expert to speak to that, ey, but bottom line is,
16 when the shit hits the fan, you use anything that's
17 available to you.

18 MS GRAHAME: Right.

19 I'm conscious of the time.

20 LORD BRACADALE: Would that be a convenient (inaudible) --

21 MS GRAHAME: It may be, yes.

22 LORD BRACADALE: We will take a break for 20 minutes.

23 MS GRAHAME: Thank you.

24 (End of first session of pre-recorded evidence)

25 LORD BRACADALE: That's the end of the first tape, is that

Transcript of the Sheku Bayoh Inquiry

1 right? We will take a break now for 15 minutes here in
2 order to try and make progress through the tapes.

3 (11.21 am)

4 (Short Break)

5 (11.39 am)

6 LORD BRACADALE: Right, Ms Wildgoose, when you're ready.

7 (Pre-recorded evidence of ALAN PATON continued)

8 LORD BRACADALE: Yes, Ms Grahame.

9 MS GRAHAME: Thank you.

10 Mr Paton, we have found a third baton I would like
11 you to have a look at. Could we maybe have all three in
12 front of you. Now, it may be that this is the baton
13 more like the one you used, I don't know. Can you pick
14 up the third one, the one I didn't show you before the
15 break. There's the two ribbed ones -- yes. Does it
16 look --

17 A. I don't know. One of -- it could be either one, ey, I'm
18 not sure which one it was.

19 Q. Could be either.

20 A. That's just basically just got a blunt end on it, ey.

21 I don't know.

22 Q. Mm, yes.

23 A. I don't know.

24 Q. And you said it was extended. Can you extend it and
25 maybe try and show us what it was you were doing with

Transcript of the Sheku Bayoh Inquiry

1 the baton, try and --

2 A. Just like that (indicating).

3 Q. Right. So you have extended that baton. Is that the

4 smooth one?

5 A. Mm-hm.

6 Q. That's like your baton and you're holding it -- can you

7 hold it up so the Chair and the Assessors can see it.

8 And you said that you put it across his left bicep?

9 A. (Nods).

10 Q. So is that how you were holding it when you put it

11 across his left bicep?

12 A. Yes.

13 Q. Was it on the inside of his arm or was it on the outside

14 of his arm?

15 A. I don't know. Probably both.

16 Q. Both?

17 A. Because his arm was moving about, so probably both.

18 Q. Oh, I see. So you're moving from the elbow, moving your

19 fist sort of backwards and forwards there?

20 A. Mm-hm.

21 Q. So is that how he was moving his left arm?

22 A. From what I recall, aye.

23 Q. Yes. And so did you have the baton held as you just

24 demonstrated above the elbow area?

25 A. Across there (indicating). My theory was that if you've

Transcript of the Sheku Bayoh Inquiry

1 got control from this point then this -- the bottom half
2 of your arm isnae going anywhere, it's not going to be
3 able to get a knife, it's not going to be able to punch
4 out any further because you've got it pinned on the
5 ground and it allows the other cops to get a secondary
6 bracelet on.

7 Q. So the other officers can put a handcuff on his wrist
8 because that's -- that's free.

9 A. Yeah. What I said at one point is was I says "Link the
10 cuffs". Is as it turned out they disnae link the cuffs
11 but quite often for a guy that's muscle-bound, which
12 Bayoh wasnae far short of, you can put a set of cuffs on
13 one hand, a set of cuffs on the other hand and then link
14 the two so you're actually wearing two sets of cuffs.

15 Q. And why is that appropriate for someone who is
16 muscle-bound?

17 A. Because it's so that they can -- it's mostly to the back
18 to be honest, ey, just so that they're -- if you're
19 muscle-bound it's difficult to get your arms close
20 enough, ey.

21 Q. Can that also be the case if you're handcuffed to the
22 front if you're muscle-bound?

23 A. But in situations like that the cuffs just go on any way
24 you can get the cuffs on. Yes, ideally they would be
25 stacked or to the rear, palm to palm or -- in fluid

Transcript of the Sheku Bayoh Inquiry

1 situations like that where somebody's aggressively
2 fighting out and resisting, the cuffs go on any shape or
3 form that you can get them on.

4 Q. So get them on any way you can, front or back?

5 A. Yes.

6 Q. But with people who are muscle-bound, some -- does it
7 make it easier to link the cuffs sometimes?

8 A. It can be, or if you're able to -- if you're only able
9 to get control of one arm to get one cuff on and then
10 divert your attention to the other one, and then it's
11 just a case of linking the two.

12 Q. And does that make it easier to connect the cuffs?

13 A. It can do, aye.

14 Q. And if someone's connected or with linked cuffs to the
15 front, does it give more space for their chest or their
16 muscles?

17 A. Yeah.

18 Q. But that wasn't done on this occasion?

19 A. No.

20 Q. So it was one set of handcuffs?

21 A. As far as I'm aware, one set, yes.

22 Q. And you have talked about him aggressively fighting and
23 resisting. Can you describe to us how he was moving
24 when he was on the ground?

25 A. Just wriggling all over the place and his arms were sort

Transcript of the Sheku Bayoh Inquiry

1 of flailing and his legs were flailing and -- that's the
2 best I can describe.

3 Q. How hard was he resisting?

4 A. He was resisting -- considering the size of the guys
5 that were trying to stop him resisting, he was resisting
6 a fair bit.

7 Q. Who were the guys that were trying to stop him
8 resisting?

9 A. Craig, Ashley, myself. I think the rest of them sort of
10 came and offered their bit after that.

11 Q. So initially you, PC Walker and PC Tomlinson?

12 A. Mm-hm.

13 Q. And we have heard that you and PC Walker are 6 foot 4?

14 A. Yeah.

15 Q. And we have heard that PC Walker was 25 stone at the
16 time and you were 17?

17 A. About that, yeah.

18 Q. And tell me, when this was going on, where was
19 PC Walker?

20 A. My recollection, as I say, I put myself on the opposite
21 body -- opposite side of Bayoh as shown in the
22 photographs. I put myself on his left-hand side where
23 the photographs put me being on his right-hand side, so
24 from where I was, Craig was on the opposite side of the
25 body, therefore on the right-hand side and he was

Transcript of the Sheku Bayoh Inquiry

- 1 slightly to my left-hand side. The reason I know that
2 is because I was wiping my eyes on his T-shirt to try
3 and get rid of -- to try and get some sight back.
- 4 Q. I will go through that again, if that's okay, so
5 I completely understand what you're saying. So from
6 your position you have told us that you were to the top
7 half of Mr Bayoh?
- 8 A. (Nods).
- 9 Q. And you're using the baton?
- 10 A. (Nods).
- 11 Q. In relation to his arm?
- 12 A. (Nods).
- 13 Q. So from your position, where was PC Walker?
- 14 A. Across the body from me and slightly to my left-hand
15 side.
- 16 Q. So across the body, slightly to your left. And you have
17 said that you were wiping your eyes. Were your eyes
18 still bothering you?
- 19 A. Yes, I couldnae see, yes.
- 20 Q. So your eyes are still bothering you and you're wiping
21 your eyes on his T-shirt, did you say?
- 22 A. Yes.
- 23 Q. What part of PC Walker's T-shirt?
- 24 A. His sort of shoulder, back of his arm.
- 25 Q. So you're gesturing there to your left side. Was it

Transcript of the Sheku Bayoh Inquiry

1 PC Walker's left side or his left arm that you were
2 using?

3 A. I believe so.

4 Q. Did that help with your eyes?

5 A. Not really. The only thing that really helps with
6 CS spray is if you force your eyes open into the wind,
7 but I obviously didn't have that opportunity.

8 Q. Right. So PC Walker's on the other side of Mr Bayoh to
9 you. What was he doing when you were using the baton on
10 Mr Bayoh's arm?

11 A. I cannae recall.

12 Q. Do you remember what position was PC Walker in?

13 A. He was on his side but I can't be specific about what
14 position he was in.

15 Q. When you say he was on his side, do you mean PC Walker?

16 A. Yes.

17 Q. Which side was he on?

18 A. You see, I'm wary about saying and committing to what
19 side any -- what was actually going on here because
20 I know that my recollection is possibly wrong, ey.
21 I believe that he was on his -- Craig was on his
22 left-hand side.

23 Q. Don't you worry about being wrong because the Chair --
24 you have said that to the Chair now, he can take that
25 into account, so you think PC Walker was on his

Transcript of the Sheku Bayoh Inquiry

1 left-hand side?

2 A. (Nods).

3 Q. And where in relation to Mr Bayoh was PC Walker? You

4 have said he was lying on his left; where was he in

5 relation to Mr Bayoh?

6 A. I couldnae say for certain.

7 Q. Right. Do you remember where his legs were, PC Walker's

8 legs?

9 A. Kind of out to the -- out to the side.

10 Q. Right.

11 A. Down -- what would be down Bayoh's right-hand side.

12 Q. Okay. And was he lying on Mr Bayoh?

13 A. No.

14 Q. Where was he lying?

15 A. He was lying alongside him.

16 Q. And how was he positioned then in relation to Mr Bayoh?

17 You have said he wasn't lying on him, but how was he

18 positioned? I'm interested in whether PC Walker, during

19 the restraint, was using some of --

20 A. I know what you're getting at, you're getting to see if

21 he was lying across his chest and that, but he wasnae.

22 Q. Right. Was he using any of his weight on Mr Bayoh?

23 A. Probably a certain degree, yes.

24 Q. Can you give us any assistance by helping -- tell us

25 what -- when you say "a certain degree", what do you

Transcript of the Sheku Bayoh Inquiry

1 mean?

2 A. No.

3 Q. No. Can you tell us what weight, if any, you were using

4 to try and restrain Mr Bayoh?

5 A. I was putting pretty much my full weight on his bicep.

6 Q. Right. And describe to us what PC Tomlinson was doing?

7 A. Don't know.

8 Q. Where was he?

9 A. I couldn't be certain. I think he was to my left-hand

10 side.

11 Q. Right. Doing what?

12 A. I cannae -- I don't know.

13 Q. Do you have any recollection now of what position he was

14 in?

15 A. No.

16 Q. No. What sort of force were the other two officers

17 using, if you remember? Let's start with PC Walker in

18 trying --

19 A. I was completely disorientated and out of it. I don't

20 know if you have had CS spray or that sprayed --

21 Q. No.

22 A. -- but it just completely wipes you out of the game, ey.

23 You cannae hear, you cannae see, you have just

24 absolutely no sense of your bearings or anything like

25 that, ey. There's panic going through you because it's

Transcript of the Sheku Bayoh Inquiry

1 hurting and the more you touch your eyes, the more it
2 hurts, but your body's telling you to try and get it out
3 of your eyes, you know, so it's just a complete -- it's
4 horrible, isn't it. My recollection at that point is
5 very, very mixed and very, very vague.

6 Q. Can I ask one other question about this point in the
7 restraint. You have talked about using PC Walker's
8 T-shirt to wipe your eyes and you have said the left.
9 You have also talked about your recollection being that
10 he was on his left side. Can you explain to me what
11 part of his T-shirt you were using?

12 A. The back, ey, the back of his sleeve. It would be
13 a T-shirt he was wearing, ey, so the back of his sleeve.

14 Q. Did you lean over?

15 A. I just kind of went like that (indicating).

16 Q. So you lent over Mr Bayoh to get to PC Walker's back of
17 his sleeve?

18 A. Aye.

19 Q. Thank you. And then you mentioned some others arriving.
20 Do you remember who the other officers were?

21 A. I don't remember them arriving. I remember others being
22 there. What stage they came, I don't know.

23 Q. Who were the others that you remember?

24 A. Danny Gibson was there, James McDonough was there,
25 Kayleigh Good was there, Scott Maxwell was there,

Transcript of the Sheku Bayoh Inquiry

- 1 Derek Connell I have seen there and Sammy Davidson.
- 2 Q. Do you remember PC Smith?
- 3 A. Aye, oh, aye, Alan Smith was there, aye.
- 4 Q. Alan Smith. When they were there -- let's start with
- 5 PC Smith. Do you remember what he did?
- 6 A. Not really. I didnae really have any knowledge of what
- 7 he was doing or sort of any interaction with him until
- 8 it came to trying to save Bayoh's life and doing the
- 9 CPR.
- 10 Q. I will come on to that. What about PC Gibson?
- 11 A. No. I know now from obviously watching the Inquiry but
- 12 at the time I wasn't aware what Danny was doing.
- 13 Q. PC McDonough?
- 14 A. No.
- 15 Q. What about PC Good?
- 16 A. No.
- 17 Q. Acting Police Sergeant Maxwell?
- 18 A. Acting Police Sergeant Maxwell was kind of over my
- 19 right-hand shoulder from what I recall, and he was just
- 20 really passing back messages on the Airwave.
- 21 Q. Could you hear those messages?
- 22 A. I could, aye, aye.
- 23 Q. And then you mentioned DS Davidson, Samantha Davidson.
- 24 A. Mm-hm.
- 25 Q. What was she doing when you saw her?

Transcript of the Sheku Bayoh Inquiry

1 A. I don't know. I just became aware that she was kind of
2 floating about for -- at various parts. I think one
3 part she was kind of near Scott Maxwell but then the
4 next part she was in the middle of the road. I didnae
5 know what she was doing, ey.

6 Q. And you mentioned DC Connell?

7 A. Yes.

8 Q. What was DC Connell doing?

9 A. Well, we now know what he was doing, but he was kind of
10 across at the grassy area.

11 Q. What's your recollection on the day of what his
12 involvement was? Did you have a recollection?

13 A. I believed he was looking for a knife.

14 Q. Right. We have heard that at one point PC Tomlinson
15 made a -- pressed his emergency button. Were you aware
16 of that?

17 A. No.

18 Q. You didn't hear anything like that on the radio?

19 A. No.

20 Q. And we are also aware -- we have heard evidence from
21 PC Smith that at one point he made a transmission saying
22 "One officer's been punched to the back of the head, no
23 obvious serious injuries. Male secure on ground". Do
24 you remember that transmission?

25 A. I think I have a vague recollection of that.

Transcript of the Sheku Bayoh Inquiry

1 Q. What were you doing at that time?

2 A. I don't know.

3 Q. So tell us about the handcuffs. You have mentioned what

4 you were trying to achieve with your --

5 A. I didnae touch any handcuffs.

6 Q. No. Not your -- So you didn't touch your handcuffs at

7 all?

8 A. No.

9 Q. Were you aware whether the handcuffs were applied to

10 Mr Bayoh?

11 A. I knew they were applied to him. At what stage I became

12 aware, I don't know.

13 Q. Do you know whose handcuffs were used?

14 A. No.

15 Q. Do you know who managed to secure them?

16 A. No.

17 Q. And do you have any recollection of when you first

18 realised they were on?

19 A. No, because even when I was doing chest compressions and

20 as I now know, the handcuffs were on, I was oblivious to

21 the fact that the handcuffs were on because I had no

22 reason to -- they werenae impeding the CPR in any shape

23 or form, so they were kind of negligible and it is good

24 practice to have handcuffs on obviously for whether

25 they're feigning it or come back round or whatever.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we have also heard some evidence about leg
2 restraints, or Fast Straps being applied. Do you have
3 any recollection of them being applied?

4 A. No. I was at the opposite end.

5 Q. So do you remember who applied them?

6 A. No.

7 Q. Or how they were applied?

8 A. (Shakes head).

9 Q. Or even where they were applied?

10 A. (Shakes head).

11 Q. And you mentioned a moment ago about feigning. What's
12 your concern as a police officer about someone feigning,
13 or pretending or faking something?

14 A. Just if -- force you into a false sense of security
15 thinking that they are unconscious, everybody will back
16 off and then they will spring up. And whilst there's
17 a knife unaccounted for, you cannae take that chance, so
18 the best thing for him is to be in handcuffs, ey.

19 Q. Is that something that you have experienced prior
20 to May 2015?

21 A. Feigning?

22 Q. Pretending?

23 A. Yes.

24 Q. And was that something on the day that you were
25 concerned about, or is it just something you have heard

Transcript of the Sheku Bayoh Inquiry

- 1 about since we have been starting our evidence?
- 2 A. [Pause]. No, it was a concern on the day, ey.
- 3 Q. When did that become a concern on the day?
- 4 A. I don't know. I like to have people in handcuffs as
- 5 long as they need to be in the handcuffs, ey.
- 6 Q. And how long do you think people need to be in
- 7 handcuffs?
- 8 A. Well, I certainly think that he needed to be in
- 9 handcuffs until -- until pretty much the end of CPR, ey.
- 10 I don't think the -- I don't think the handcuffs --
- 11 the -- I watched a doctor's witness -- a doctor's
- 12 evidence the other day there and she kind of implied
- 13 that if you're in handcuffs it's making the chest area
- 14 a smaller target for doing CPR. That's nonsense, ey.
- 15 If you're in handcuffs palm to palm it's actually
- 16 forcing a bigger area there. There was no -- him being
- 17 handcuffed during CPR -- and I done the compressions --
- 18 caused no problem whatsoever to it. I was perfectly
- 19 happy that it was effective.
- 20 Q. Right. So why did you think the handcuffs should be on
- 21 until the end of CPR?
- 22 A. Because they werenae impacting on the CPR.
- 23 Q. So did you consider taking them off at any time?
- 24 A. No, I didnae. But I didnae put them on, you know.
- 25 Q. Right. And we have heard that there's sort of generic

Transcript of the Sheku Bayoh Inquiry

- 1 keys that can be used.
- 2 A. Yes.
- 3 Q. So you did have a key?
- 4 A. I did have a key.
- 5 Q. But you didn't consider at any point taking them off?
- 6 A. No.
- 7 Q. So, just to go back slightly. We have gone on to CPR but
- 8 I'm interested in you have talked about using your baton
- 9 and you have talked about the other officers being
- 10 involved, did you have an impression at the time of how
- 11 long the restraint was going on for?
- 12 A. Everything seems faster in a dynamic situation, it seems
- 13 longer, should I say, in a dynamic situation. The
- 14 restraint didnae go on for particularly long.
- 15 Q. Okay. When did you first notice that Mr Bayoh had
- 16 stopped moving?
- 17 A. I cannae remember.
- 18 Q. Do you remember what you were doing yourself when he
- 19 stopped moving?
- 20 A. No, I didnae know.
- 21 Q. Do you have any recollection of what other people were
- 22 doing when they first realised that Mr Bayoh had stopped
- 23 moving?
- 24 A. No.
- 25 Q. We have heard some evidence that when he was turned on

Transcript of the Sheku Bayoh Inquiry

1 to his left-hand side, certain officers realised he had
2 stopped moving at that point. Do you have any comment
3 about that?

4 A. I don't recall him being on his left-hand side.

5 Q. Right.

6 A. Whether again because I was disorientated and that, my
7 position is -- it's most likely wrong -- my position is
8 that he was on his back at all times I was dealing with
9 him.

10 Q. So am I right in saying you remember him moving when you
11 were using the baton on his arm?

12 A. Yes.

13 Q. But you don't remember when he stopped moving?

14 A. No.

15 Q. Okay. So let's have a quick look at the spreadsheet
16 because I want to ask you about a particular period.
17 The Chair has heard evidence about from 7.25.17 and this
18 is I think on page 7 of the spreadsheet, so if you go to
19 page 7 and you will see an entry there at 7.25.17, it's
20 an Airwaves transmission from PC Alan Smith, it's about
21 halfway down the page and he says:

22 "This male now certainly appears to be unconscious,
23 breathing, not responsive, get an ambulance for him."

24 So we have heard that by the time of this Airwaves
25 transmission that PC Smith was aware that Mr Bayoh was

Transcript of the Sheku Bayoh Inquiry

1 unconscious but he was breathing at that time. And then
2 if we look at 7.29.30, so this is at the top of page 11,
3 and you will see at the top again there's an Airwaves
4 transmission, 7.29.30, just the second -- third one
5 down, Acting Police Sergeant Scott Maxwell says:

6 "Control, can you get a move on with the ambulance.
7 This accused is now not breathing. CPR is commencing."

8 Do you see that one?

9 A. Yes.

10 Q. I'm interested in this period of time between Mr Bayoh
11 being noticed to be unconscious but [sic] not breathing,
12 at 7.25.17, and then 7.29.30 not being -- not breathing
13 and CPR commencing. So that's a period of just over
14 4 minutes, and it would be very helpful if you could say
15 what was happening during this time.

16 A. I cannae recall.

17 Q. You don't remember?

18 A. No.

19 Q. Do you remember the message from PC Smith coming over
20 the Airwaves transmission that Mr Bayoh was unconscious
21 but breathing?

22 A. I believe so, aye.

23 Q. Where were you when you heard that message?

24 A. Still in the vicinity of where Bayoh was lying.

25 Q. So still in the vicinity; where in the vicinity?

Transcript of the Sheku Bayoh Inquiry

1 A. Don't know.

2 Q. Do you remember who else was around at that time?

3 A. I didnae really move from the head end, but apparently

4 I stood up at some point but I can't recall that.

5 Q. Right. Do you remember PC Smith being near you at some

6 point?

7 A. Yeah.

8 Q. What was he doing?

9 A. Alan was pretty much taking control of the situation.

10 Q. How was he taking control?

11 A. Well, obviously you're sort of aware that he's an OST

12 trainer and he's got a background in military, etc.

13 He's the most methodical cop I think I have worked with.

14 He was -- if he says something's needing done, there

15 will be a good reason for it getting done.

16 Q. So you have talked about you're at the head end,

17 PC Smith is in the vicinity of you at that stage. What

18 was he doing when he was at the head end?

19 A. When who was at the head end?

20 Q. PC Smith.

21 A. Well, I -- I don't know if I'm jumping ahead of myself,

22 but I took a valve, a face valve out, and I was trying

23 to get the face valve into Bayoh's mouth, but his teeth

24 were gritted shut, so I tried my best by putting my

25 fingers in, pulling it open. That probably accounts for

Transcript of the Sheku Bayoh Inquiry

1 quite a lot of the scratches and what have you around
2 about the boy's gums and I couldnae get it to go in.
3 Done the best we could. Alan tried to get a couple of
4 breaths in, but the -- it was just leaking round the
5 sides and then he was getting contaminated, so he
6 decided just to go to compressions without rescue
7 breaths.

8 Q. Okay. Right, let's think about that for a moment. This
9 is at the point you're going to be giving CPR.

10 A. (Nods).

11 Q. And there's a -- we have heard about a valve that's
12 used; was that your valve?

13 A. Yes.

14 Q. And did you have that in your uniform?

15 A. Yes.

16 Q. And was it at that point that PC Smith came to the head
17 area?

18 A. Yes.

19 Q. Had he been at the head area prior to that point?

20 A. I don't think so. I think he was more down the sort of
21 waist area.

22 Q. Right. And we may have heard some evidence that he was
23 at the legs at one stage?

24 A. Well, aye.

25 Q. And tell us about the difficulties with the use of the

Transcript of the Sheku Bayoh Inquiry

- 1 valve. You have talked about Mr Bayoh's jaw being
2 gritted shut, I think you said. Tell us about that.
- 3 A. Teeth were gritted shut. I couldnae get the valve to go
4 in.
- 5 Q. And did you try to get the valve in?
- 6 A. Yes.
- 7 Q. And you mentioned Mr Bayoh's face or his mouth. How did
8 you try to get the valve in?
- 9 A. Just by putting your fingers in and trying to pull down
10 [Indicating] his jaw, or pull -- just to separate his
11 two teeth.
- 12 Q. Right. When you put your fingers in, were you trying to
13 get them between his teeth or just at the lip area?
- 14 A. No, I tried to get between his teeth. You've obviously
15 got to be cautious with that because they could bite
16 your fingers off, ey, but it was a -- a panic situation,
17 to do what's required and kind of hope for the best.
- 18 Q. We have heard from PC Smith that at the -- the point CPR
19 started, Mr Bayoh wasn't breathing, but did it remain
20 a concern for you that he could bite your fingers?
- 21 A. Conscious of it, yes.
- 22 Q. And how long did you try to get between his teeth?
- 23 A. 10, 15 seconds.
- 24 Q. Have you been taught how to do that --
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- as part of first aid training?

2 A. Yes.

3 Q. And you have explained you weren't able to do that?

4 A. No.

5 Q. You think it may have caused some issues on Mr Bayoh

6 around his mouth?

7 A. It could have done.

8 Q. Could have done. So once you stopped making that

9 attempt, what did PC Smith do?

10 A. Just discarded the bag and the valve.

11 Q. Right. Had he tried to use the valve?

12 A. Yes.

13 Q. So how had you been able to use the valve before it was

14 discarded?

15 A. Just by putting it on -- in the lips but not beyond the

16 teeth.

17 Q. Right.

18 A. But you will no get a proper seal around the valve doing

19 that.

20 Q. And is that what actually happened, you couldn't get

21 a proper seal?

22 A. Aye, aye.

23 Q. And in not getting a proper seal, what were you -- you

24 were trying to describe what happened?

25 A. You're trying to get breaths in, but the breaths are

Transcript of the Sheku Bayoh Inquiry

- 1 just coming out the side.
- 2 Q. Leaking out the side of the mouth. And was there mucus?
- 3 A. Yes.
- 4 Q. And so after PC Smith discarded that, what happened
- 5 then?
- 6 A. The decision was made just to go -- the decision was
- 7 made by Alan Smith just to go to compressions.
- 8 Craig Walker identified that he would be doing the
- 9 compressions. Just before that actually, just before
- 10 that when the breaths -- when we were trying to get the
- 11 valve in, I had put my hand under Bayoh's head and just
- 12 run my hand round his head to see if there was any
- 13 swelling or bleeding or anything like that and there
- 14 wasn't, and then, as I say, the breaths werenae
- 15 successful, they were going to breaths -- they were
- 16 going to compressions only and Craig took over doing the
- 17 compressions.
- 18 Q. Why were you looking for swelling or bleeding on his
- 19 head, Mr Bayoh's head?
- 20 A. I believe at that point Ashley had said that he had
- 21 struck him with a baton.
- 22 Q. So PC Tomlinson made you aware he had struck him to
- 23 the head?
- 24 A. Yes.
- 25 Q. And you couldn't find anything --

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. -- in relation to bleeding or swelling?
- 3 A. No. Sure there was a wee nick above his ear, but
- 4 neither here nor there, sort of thing.
- 5 Q. And you're pointing to your right -- just above your
- 6 right ear?
- 7 A. It could be left or right.
- 8 Q. Okay. Where was PC Walker when he started the
- 9 compressions?
- 10 A. On the hospital side of the body.
- 11 Q. And we have heard that if we were looking at those
- 12 images again -- do you remember image 5 -- the
- 13 roundabout was on the left and the hospital is on the
- 14 right, we have heard.
- 15 A. So it would be on the right -- the right-hand side of
- 16 the pictures.
- 17 Q. The right-hand side. Okay. And what position was he in
- 18 when he started the compressions: PC Walker?
- 19 A. On his knees.
- 20 Q. On his knees. And where was PC Smith at that point?
- 21 A. I think he was standing up and I think he went and got
- 22 water from Kevin Nelson.
- 23 Q. Okay. Do you remember that, or was that something you
- 24 have heard?
- 25 A. I remember seeing him standing -- getting water from

Transcript of the Sheku Bayoh Inquiry

- 1 a neighbour.
- 2 Q. Right. You wouldn't at that time have known it was
3 Kevin Nelson?
- 4 A. No.
- 5 Q. Okay. So just before we leave this, can I go back
6 again, you have talked about the CPR and what was going
7 on at that stage. That happened after Mr Bayoh stopped
8 breathing, but in the period between Mr Bayoh stopping
9 moving and PC Smith noting that he was unconscious, but
10 before he noticed that he wasn't breathing, during that
11 period, do you remember what was happening during that
12 point?
- 13 A. No.
- 14 Q. No. How long did the CPR go on?
- 15 A. Four or five minutes, maybe. Craig took a shot, then
16 I took a shot.
- 17 Q. We have heard that it tends to be pairs: two people
18 will --
- 19 A. It can be as many people -- the more the better, because
20 it is tiring.
- 21 Q. Okay. At some point when Mr Bayoh was on the ground we
22 have -- you will know, we have heard evidence that you
23 may have patted or tapped or slapped Mr Bayoh's face.
24 Do you want to say anything about that?
- 25 A. Aye. What I will say about that is it's not as it was

Transcript of the Sheku Bayoh Inquiry

1 first portrayed by yourself it was a slap. It was two
2 parts, like that (indicating), nothing more than that,
3 so the whole -- maybe I put it down in my statement as
4 a slap, it was no slap, ey.

5 Q. Okay. And you have demonstrated what it was you were
6 doing?

7 A. Aye. It was done with the best intention to get
8 a reaction from him.

9 Q. And was there any reaction?

10 A. No.

11 Q. And we have also heard that PC Smith used his
12 knuckles --

13 A. I cannae remember him doing that, but that's another
14 recognised technique.

15 Q. And the technique you used, is that a recognised
16 technique?

17 A. I don't believe so, but you only have to watch any
18 medical programme on the telly and they use it.

19 Q. Do you remember -- you have tapped your right cheek; do
20 you remember which of Mr Bayoh's cheeks you tapped?

21 A. Left cheek, I think.

22 Q. His left cheek?

23 A. Yes.

24 Q. And which of your hands did you use?

25 A. My right-hand.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Your right hand. Do you remember one or more people
2 checking Mr Bayoh's pulse?
- 3 A. No.
- 4 Q. Did you remain at the sort of top end of Mr Bayoh during
5 the whole time CPR was performed?
- 6 A. No.
- 7 Q. What did you do?
- 8 A. I went round onto the right-hand side to do
9 compressions.
- 10 Q. Right. So you moved in order to pair up with --
- 11 A. Craig Walker.
- 12 Q. -- Craig Walker who was doing compressions. And did
13 that continue until the ambulance arrived?
- 14 A. Yes.
- 15 Q. Once the ambulance arrived, what did you do?
- 16 A. I gave them a brief handover as to what had happened.
17 I can't remember what I said to them, and then left it
18 in their capable hands and I went back to the police
19 van.
- 20 Q. When you gave the ambulance personnel the handover, what
21 were you trying to do? What is a handover?
- 22 A. You're telling them what's -- the history, if you like,
23 what you have noticed in the way, injuries or response
24 or anything like that, what's been done, have you got an
25 identity for the person, a knife's not been recovered,

Transcript of the Sheku Bayoh Inquiry

1 things like that. But didnae ask me to be specific
2 about how I worded it, but it would be information like
3 that.

4 Q. And why are you giving the ambulance personnel
5 a handover?

6 A. Because the -- Bayoh would then be getting placed into
7 their care and then they would do a handover at the
8 hospital end.

9 Q. Right. Can I ask you about your PIRC statement. You
10 have talked about the first statement you gave to PIRC
11 and you have made a couple of references to it, but
12 I would like to go through that with you in a little bit
13 more detail, so we make sure we haven't missed anything,
14 and if we could look at, first of all, I think page 4
15 from paragraph 2, so this is the part of your statement
16 where -- I took you to this at the beginning, Mr Paton,
17 where you talk about arriving and being the first police
18 vehicle at the scene. Do you see that in the second
19 paragraph?

20 Then it says:

21 "I could clearly see a large black male in the
22 street in front of me. He was wearing a light-coloured
23 T-shirt. I remember the T-shirt being tight-fitting
24 around his shoulders and biceps. He was standing in the
25 road which takes you to Victoria Hospital. He was near

Transcript of the Sheku Bayoh Inquiry

1 to the bus stop and the path which leads to
2 Hendry Road."

3 And I think that's what you have told us already
4 today. Then you say:

5 "He was facing me. He was walking towards me with
6 his arms at his sides with his palms facing forwards.
7 There was no knife in his hands. I did not see any
8 knife about his body at that point."

9 And I think you have told us today in fact you
10 didn't ever see a knife on Mr Bayoh, is that correct?

11 A. Yes.

12 Q. And then can we go further up, please:

13 "Craig stopped the vehicle on the road at an angle.
14 Probably just before the vehicle stopped I was getting
15 out of the vehicle. Craig parked the nose of the
16 vehicle towards the kerbside. His door would have been
17 closer to the man."

18 So just to look at that paragraph briefly. You
19 said:

20 "Probably just before the vehicle stopped I was
21 getting out of the vehicle".

22 A. Yes.

23 Q. So you didn't actually wait until the Transit van had
24 stopped in the bus stop before you were getting out?

25 A. Splitting hairs there, ey.

Transcript of the Sheku Bayoh Inquiry

1 Q. That was what you said to PIRC originally. Do you think
2 that's right or do you want -- is your recollection
3 different?

4 A. No, it would have either stopped or it was immediately
5 about to stop.

6 Q. Right. So it would have slowed down almost to a stop,
7 if it wasn't at a stop. Right.

8 Then you say:

9 "Craig parked the nose of the vehicle towards the
10 kerbside. His door would have been closer to the man."

11 I think you have given us an indication on the 3D
12 image where Mr Bayoh was at that time. Are you still
13 happy with that now that you see it?

14 A. Aye.

15 Q. "Straight away I remembered that there had been a rumour
16 going about Kirkcaldy Police Station that somebody
17 intended to cause harm to a female cop. Numerous
18 officers had asked managers to confirm if there was any
19 known truth in the rumour but this had never been
20 confirmed to my knowledge. The rumour still remains
21 strong and it is believed by the officers that this had
22 contributed to all officers in Kirkcaldy being
23 double-crewed whilst on patrol. For a number of months
24 checks have also been getting carried out by officers at
25 a number of identified locations in Kirkcaldy due to

Transcript of the Sheku Bayoh Inquiry

1 increased terrorist risk. It also ran through my mind
2 that this man could be part of a terrorist plot."

3 And is that really what you have told us already
4 today?

5 A. Yes.

6 Q. Now, earlier you mentioned harm by a lone wolf, so
7 a threat to a female officer by a lone wolf. There's no
8 mention of that here, but is that your recollection now,
9 today, that it was by a lone wolf?

10 A. Yes.

11 Q. And you mention there numerous officers had asked
12 managers to confirm if there was any known truth in the
13 rumour. Do you remember who any of those officers were?

14 A. No.

15 Q. All right, thank you. But it ran through your mind that
16 this could be part of a terrorist plot. Was that
17 something that ran through your mind with all knife
18 incidents?

19 A. Yes.

20 Q. Whether the person was black or white?

21 A. It made no difference whatsoever.

22 Q. Then looking at:

23 "I was straight out of the passenger side door of
24 the van and I immediately took my CS spray out of my
25 vest. I continued to think that he may still have been

Transcript of the Sheku Bayoh Inquiry

1 in possession of a knife and I wasn't taking any risks.
2 As I have already said, I was still conscious of the
3 fact that just because I could see his palms, he might
4 still have the knife in his waistband or secreted
5 somewhere else about his person. With my spray in my
6 right-hand and pointing in the direction of the man,
7 I shouted loudly and very clearly 'get down on the
8 ground'. The guy was walking towards me and completely
9 ignored me. He kept walking towards me with his palms
10 out and I remember thinking how crazy he looked and as
11 if he was on a mission. I was in genuine fear for my
12 life and at this point I pressed my red emergency button
13 and shouted loudly and clearly 'get down on the fucking
14 ground'. My shouting and my pointing of my spray had
15 absolutely no bearing on him and he kept walking towards
16 me, ignoring me as if he was in a one-track mind. I was
17 terrified and thought I was going to get attacked by
18 him."

19 Now, I would like to ask you some questions about
20 that paragraph. You have told us today about your spray
21 and shouting the commands. Now, earlier today you
22 talked about communication and I'm interested -- you
23 also say in your Inquiry statement you had been trained
24 in de-escalation procedures and I'm quite interested in
25 finding out -- there's no mention there of communication

Transcript of the Sheku Bayoh Inquiry

- 1 in the sense of a conversation, or --
- 2 A. It wasn't the time for a conversation.
- 3 Q. Right. So you felt there wasn't time for that?
- 4 A. It wasn't the time or the situation for a conversation.
- 5 Q. Oh, sorry, it wasn't the time, right.
- 6 A. Yes.
- 7 Q. And that's because of the circumstances you have told us
- 8 about earlier?
- 9 A. Yes.
- 10 Q. So you didn't think there was time to ask him any
- 11 questions like "Are you okay?" or anything like that?
- 12 A. It's not the situation for asking questions like that.
- 13 The man was out of control. The man was drugged up.
- 14 The man had a big knife. He was using it, he was
- 15 attacking cars. I needed firm control from the word go
- 16 and then once he is in cuffs, then ask him if he is
- 17 wanting a cup of tea or that, but not at that stage.
- 18 Q. All right. So what sort of situation would you be
- 19 expecting that would allow you to carry out that type of
- 20 communication with someone in advance? What would the
- 21 circumstances be that would allow you to engage in that
- 22 way with someone?
- 23 A. I think you've got a copy of a PDR in fairly similar
- 24 sort of circumstances.
- 25 Q. We do, and I will come on to that later actually, or

Transcript of the Sheku Bayoh Inquiry

1 your QC will do that.

2 A. Right. And that was a situation -- knife, mental health
3 issue, negotiation, taking control of the situation,
4 engaging in further conversation and coming to
5 a resolution, so that's the sort of situation that it
6 could be used in. Even calls like domestics and things
7 like that, separating partners and speaking to one,
8 speaking to another, coming to a resolution, but this
9 incident in Hayfield Road was completely non-textbook.
10 It's a situation that you do not train for. It's
11 a situation that there was not enough resources and it
12 was only able to be dealt with by a clear, concise
13 command.

14 If he chose to ignore that command -- or those
15 commands, then so be it.

16 Q. Right. Let me go through some of that with you. So you
17 have said it's non-textbook, you're not trained for
18 this. What was different about this situation that
19 meant you had not ever been trained to handle that?

20 A. CS and PAVA not working, completely -- complete
21 disengaging with you. At that time, two of you dealing
22 with it as well. It's certainly not a scenario that
23 I have been involved in during officer safety training
24 in my 14 years.

25 Q. Okay. So you have not had officer safety training about

Transcript of the Sheku Bayoh Inquiry

1 a situation where CS doesn't work on the person?

2 A. I don't believe so.

3 Q. And you weren't aware that CS spray sometimes doesn't

4 work on a person?

5 A. Yeah, I was aware it sometimes doesn't work, but you

6 just have to put your faith in it, but I thought between

7 CS and PAVA that there was a good chance that at least

8 one of them would have worked, ey.

9 Q. And did you know that PC Walker had PAVA?

10 A. Yes. It has a red top on it whereas mine has a grey top

11 on it.

12 Q. And you had CS spray?

13 A. Yes.

14 Q. But neither worked?

15 A. No.

16 Q. That was a surprise to you?

17 A. Yes.

18 Q. And then complete disengagement, are you talking about

19 not getting a reaction from Mr Bayoh?

20 A. Yeah.

21 Q. Is that a situation you had ever been trained in?

22 A. Yeah, you do get training to that effect, aye, that they

23 just continue walking towards you, or what have you.

24 That's where you're doing things like discharging your

25 CS, or -- CS is the weapon of choice as far as I'm

Transcript of the Sheku Bayoh Inquiry

- 1 concerned, ey.
- 2 Q. Right. We heard evidence from PC Walker that it was his
3 go-to.
- 4 A. Same idea.
- 5 Q. Same for you?
- 6 A. Yes.
- 7 Q. And is that something that you would sort of immediately
8 reach for?
- 9 A. I would reach for it before my baton, put it that way.
- 10 Q. Right. And how much importance do you place on
11 communication as a skill, as a tactic to de-escalate
12 a situation?
- 13 A. Well, I did try and communicate, but you've got to have
14 it from the other side. If he is not engaging back with
15 you, if he is not even telling to you "Fuck off" or, you
16 ken, "It wasn't me boss", or you ken, "I'm just on my
17 way home" or -- but to just say absolutely nothing at
18 all, I'm trying to engage with him, he's not engaging
19 with me. There's only so much you can do.
- 20 Q. And your attempts at communicating with him were the
21 commands that you talked about earlier?
- 22 A. Yes.
- 23 Q. And there was no response from Mr Bayoh --
- 24 A. No.
- 25 Q. -- in relation to those. And that was either verbal or

Transcript of the Sheku Bayoh Inquiry

1 in his reaction -- the way he reacted?

2 A. Or pointing to the ground. There's -- the police van's
3 got flashing lights, there's other cars coming with
4 flashing lights and sirens, more police officers, he
5 knew or he should have known a situation was going on,
6 ey, and if he -- more than likely it was because of his
7 conduct for stabbing cars beforehand. He knew
8 the police were wanting to speak to him for something,
9 ey, but he chose to continue walking and not just to
10 avoid my commands, and avoid Nicole's commands and avoid
11 Ashley's commands. I can only describe him as being
12 a zombie on that morning.

13 Q. So there were a lot of cues, visually, what he could
14 see, but also things that he would or should have been
15 able to hear?

16 Did you have concerns at that point that he simply
17 wasn't hearing, or that he had difficulties with
18 communicating? He may have had difficulties speaking
19 English? Did you consider any of that as a possibility?

20 A. Somebody that does nae speak a language, the first words
21 that they learn are swear words. If somebody's pointing
22 to the ground saying "Get down on the fucking ground",
23 you know that that's what they're trying to tell you.

24 Q. You have mentioned the word "zombie" there; can you
25 explain what you mean when you use that word?

Transcript of the Sheku Bayoh Inquiry

1 A. Just on a one-track mind, just staring through people,
2 goggle-eyed, oblivious to everything else that's going
3 on around about him, consistent with being on Flakka.

4 Q. Is that a word that you would use for white people as
5 well as black?

6 A. Why would I not?

7 Q. Did you consider that this could be a mental health
8 situation, a -- he was having a mental health crisis?

9 A. Yes, definitely.

10 Q. And if -- when did that thought go through your mind?

11 A. The thought went through my mind at the same time that
12 I thought it could be a terrorism attack. As soon as
13 I'm going towards that call, it's quarter of a mile away
14 from Whytemans Brae Hospital, could be somebody escaped
15 from there. Yeah, I totally considered it to be
16 a medical matter, but that doesn't change things for
17 whether somebody's on a medical matter or not, that
18 doesn't change things when somebody is using a big knife
19 to stab it at cars, kick cars, things like this. You
20 have still got to deal with it promptly, with clear and
21 concise comments.

22 Q. So knowing that he had, or he was suspected of having
23 used a knife prior to your arrival, knowing that, was
24 that the priority, or was that the main factor for you
25 when you were deciding what tactic or what option to

Transcript of the Sheku Bayoh Inquiry

- 1 adopt?
- 2 A. My main priority was to intervene before he ended up
3 stabbing a member of the public.
- 4 Q. Right. And that was your priority regardless of the
5 fact he didn't have a knife on him when you arrived?
- 6 A. No, because he could have had a knife, quite easily
7 could have had a knife, or could have gone to where he
8 had planted the knife and then caused damage.
- 9 Q. Okay. So on the way you considered it was perhaps
10 a mental health issue. When you arrived you have talked
11 about his eyes and thinking he was high on Flakka or on
12 a substance, under the influence, if we like. At any
13 point did you consider stepping back and transmitting to
14 ACR or to the other officers and asking for an ambulance
15 or medical support?
- 16 A. If somebody's walking towards you, they're walking
17 faster than what you are walking backwards. I did try
18 and maintain a gap. If I had walked any further back
19 I would have been in the bushes.
- 20 Q. Okay. So did you consider calling for an ambulance or
21 stepping back and keeping out of his way?
- 22 A. No, it happened too fast.
- 23 Q. Too fast. You said that -- we have talked about the
24 training. You didn't feel you had adequate training to
25 deal with this situation. You also said not resource --

Transcript of the Sheku Bayoh Inquiry

- 1 you didn't have the resources.
- 2 A. Yes.
- 3 Q. What resources do you think would have helped with this
4 situation?
- 5 A. An ARV.
- 6 Q. And --
- 7 A. If not in Kirkcaldy, at least at Glenrothes.
- 8 Q. Right. If you had had confirmation that an ARV was on
9 its way from Glenrothes, what other options would that
10 have given you?
- 11 A. To stand back, to muster somewhere and for them to go
12 in. What would have also been of benefit and we
13 wouldn't have been here today, and wouldnae be
14 £9.5 million down, would be if officers had body-worn
15 cameras and if there was cameras in the vans.
- 16 Q. So that, you think, would have assisted with the
17 situation, if there had been body-worn cameras?
- 18 A. Well, there was cameras in the vans but for whatever
19 reason they were taken out.
- 20 Q. Right. You say for whatever reason, do you have any
21 idea?
- 22 A. No.
- 23 Q. Was this before 3 May 2015?
- 24 A. Yeah.
- 25 Q. And you have mentioned the ARV. We have heard that at

Transcript of the Sheku Bayoh Inquiry

1 that time ARV officers had tasers as well, but that's
2 not something officers have now -- not something
3 a constable or a response team had?

4 A. It's my -- I'm led to believe that there are certain
5 officers carry tasers now. Whether they're on duty --
6 I don't know what ratio they are to being on duty, but
7 there might have been a taser officer on, there might
8 not have been.

9 Q. But in 2015 you didn't have a taser?

10 A. I didn't have one personally, no.

11 Q. And PC Walker didn't have a taser?

12 A. No.

13 Q. And you have talked about an ARV from Glenrothes. How
14 quickly could an ARV come from Glenrothes?

15 A. 10 minutes -- 10 minutes.

16 Q. So if you had only had to wait 10 minutes for an ARV and
17 that was an option available to you, is that something
18 that you would have elected to do?

19 A. Yes.

20 Q. And if you had been waiting for an ARV, you talked about
21 muster, what would you have done, where would you have
22 waited?

23 A. Gallaghers car park or something like that.

24 Q. So a distance removed from Mr Bayoh, and during that
25 time what would you have been doing while you waited for

Transcript of the Sheku Bayoh Inquiry

1 the ARV?

2 A. Well, if he stayed in the same position, same location,
3 then I could keep eyes on him. If he walked off, a bit
4 more difficult trying to do a containment with eight
5 cops in a housing estate. It would be fluid. My worry
6 there would be that he went back -- which I firmly
7 believe he was intending doing -- that he went back and
8 picked up the knife again and caused chaos.

9 Q. So what would the potential risk to the public have been
10 if you had waited 10 minutes for an ARV?

11 A. It could have been death.

12 Q. And is that a risk at that time you were prepared -- you
13 would have been prepared to take if you were waiting for
14 an ARV, in the situation that presented itself?

15 A. It would have to be closely monitored. It would have to
16 be very, very closely monitored.

17 Q. Is that something you would have been willing to do?

18 A. Yes.

19 Q. And when you say "closely monitored", how would that
20 demonstrate itself? How would you closely monitor
21 something?

22 A. Well, as I say, if you parked up in Gallaghers car park
23 and just took up a point viewing along Hayfield Road,
24 you could establish whether he went up into the
25 industrial estate or down into Poplar Crescent or

Transcript of the Sheku Bayoh Inquiry

1 anything like that.

2 Q. So you could have kept your eyes on him?

3 A. Trust me, I have been involved in numerous containment
4 situations in housing estates and it's not easy, ey, you
5 ken. You need double the amount of police that are on
6 a shift to do a proper textbook containment.

7 Q. So you need double the amount of officers on a shift; is
8 that the response unit?

9 A. Aye.

10 Q. That's what you mean with when you say a shift.

11 We have heard that there's Hendry Road and there's
12 a nearby industrial estate and different places around,
13 is that right?

14 A. (Nods).

15 Q. So if you had been parked and observing, what sort of
16 feedback could you given to the ACR if you had done
17 that?

18 A. Example being "The male's on -- at Hayfield Road at its
19 junction with Poplar Crescent, he is waving a sword
20 about in the air. There doesn't appear to be any
21 members of the public close by." Something like that.

22 Q. So that's information you could have shared with ACR?

23 A. Yeah.

24 Q. And we have also heard that the other officers who are
25 en route can hear transmissions on their radios?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Yes. You have talked at the end of the paragraph we
3 were just looking at that -- you talk there of him
4 having a one-track mind. What did you mean by that?

5 A. Just fixated on what he was wanting to do.

6 Q. Right. And you also -- just slightly above that you
7 talk about pressing your red emergency button.

8 A. Yes.

9 Q. And let me just take you to that in the spreadsheet. So
10 if you turn to page 3 of the spreadsheet, towards the
11 bottom, and we will still have the statement on the
12 screen, but see at the bottom of page 3, at 7.20.39, or
13 just -- sorry, 7.20.42, it says there:
14 "PC Alan Paton's emergency status is turned on."
15 Is that when you pressed your emergency button?

16 A. If that's what it says, that's what it says.

17 Q. And is that what you are referring to on the paragraph
18 on the screen, that you were in genuine fear for your
19 life and you pressed your red emergency button --

20 A. Yes.

21 Q. -- and shouted loudly?

22 A. I genuinely thought -- I genuinely thought I was going
23 to die, ey. It goes in slow motion. I had -- when
24 I was curled up, I had visions of -- your sides are
25 exposed, the back of your neck's exposed. I expected

Transcript of the Sheku Bayoh Inquiry

1 a meat cleaver or a knife in the side of the neck and
2 then you start to have the thoughts "Am I going to get
3 home from my shift tonight? Am I going to see my wife
4 again? Am I going to see my kids again?" and that's
5 what still causes me problems, ey, that's the main part
6 of my PTSD is that I just cannae get that out of my
7 mind.

8 Q. You were thinking the worst?

9 A. I was thinking the worst.

10 Q. Can I ask you something about the order of events. You
11 will see in this paragraph you talk about shouting "Get
12 down on the ground", and then "Get down on the fucking
13 ground", and you have told us about that today, but in
14 the line above your second command there you say:

15 "I was in genuine fear for my life and at this point
16 I pressed my red emergency button and shouted loudly and
17 clearly 'get down on the fucking ground'."

18 And then in the paragraph under that you then talk
19 about spraying the CS spray and I'm just wondering if
20 you could help the Chair understand: was it after your
21 first command and before your second command and before
22 you discharged your spray that you pressed your red
23 emergency button?

24 A. I don't know.

25 Q. You don't remember now?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. All right. The Chair may have heard some evidence from
3 PC Walker that he thought you had pressed your button
4 after the spray was discharged but I just wondered if
5 you had any recollection?
- 6 A. No.
- 7 Q. What do you think --
- 8 A. I think I pressed the red -- I think I pressed the red
9 button because I was -- I think it probably would have
10 been after the spray because I pressed the red button to
11 open up the Airwave channel, ey, because I was
12 contaminated and struggling to see, or to put out any
13 clear messages, so I think that was where I pressed the
14 red button.
- 15 Q. So after you had used the spray and become contaminated?
- 16 A. Yes, I think so.
- 17 Q. And does that make more sense to you now to think that's
18 when you would have pressed your button?
- 19 A. Aye. I don't think I have actually used the red button
20 before now, ey, so it was something pretty serious
21 and -- that I pressed the red button.
- 22 Q. So it was when you became infected with the CS spray, or
23 contaminated with it?
- 24 A. Aye.
- 25 Q. That's the point at which you have used your button,

Transcript of the Sheku Bayoh Inquiry

1 that's when you are incapacitated?

2 A. Just to open up the Airwave.

3 Q. And we have heard then that turns it into a sort of
4 transmitter?

5 A. Yes.

6 Q. So do you think maybe the order of your PIRC statement,
7 the way it has been noted down, the order, is maybe
8 slightly incorrect?

9 A. Yes.

10 MS GRAHAME: Thank you.

11 Bearing in mind the time --

12 LORD BRACADALE: Would that be a good time to stop for
13 lunch?

14 MS GRAHAME: Yes.

15 LORD BRACADALE: We will stop and have lunch at 2 o'clock
16 and sit again.

17 (End of second session of pre-recorded evidence)

18 (Pre-recorded evidence of ALAN PATON continued)

19 (Pause).

20 LORD BRACADALE: Yes, Ms Grahame.

21 MS GRAHAME: Mr Paton, what I'm planning to do this
22 afternoon is just go through your statement that you
23 gave to PIRC, just as we have been doing before lunch,
24 and we will take you right through that and then I will
25 come on later to some issues about race which I need to

Transcript of the Sheku Bayoh Inquiry

1 ask you questions about and that will be me, okay?

2 So if we go back to page 4 of the statement we will
3 be able to see that on the screen and I think we were
4 just about to move on to the final paragraph there and
5 you will see it says:

6 "When he was about 10 feet away from me I sprayed my
7 CS spray towards the boy's face. Some of the spray hit
8 him in the face but the wind on that day was blowing on
9 that day from the direction of the hospital to us. Most
10 of my spray was blowing back to hit my face. So
11 I thought there was not much point to carry on
12 discharging my CS."

13 Now, I think you told us earlier when you were
14 standing on Hayfield Road you pointed out on the image
15 where you were standing and where Mr Bayoh was standing
16 and I think from that image Mr Bayoh was closer to the
17 hospital area than you.

18 A. Yes.

19 Q. So if the wind was blowing from the hospital direction,
20 was it blowing in your face?

21 A. Yes.

22 Q. Right. So most of the spray blew back and hit you in
23 the face.

24 A. (Nods).

25 Q. You told us that earlier.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And then if we move on to page 5:

3 "At that point Craig [PC Walker] had come out of the
4 van and had come round to the front of the van. He
5 would be pretty much side on with the boy on the boy's
6 left side. Craig also had his spray out. I remember
7 seeing it was PAVA, it had the red top on it, and Craig
8 also discharged it towards the boy's face. Some of it
9 hit the boy but some of it blew into my face.

10 I remember Craig shouting something like 'It's no
11 fucking working' or 'It's having nae effect'. The boy
12 continued to walk towards me with his palms open facing
13 me, he was smiling at Craig and wiped the CS spray off
14 his face."

15 First of all, can I ask you about your use of the
16 word "Boy" there, or "The boy's face". Is that a word
17 that you use for white people as well as black people,
18 people being men, or is it just specifically in relation
19 to Mr Bayoh, the word "Boy"?

20 A. Do I use it for black or white?

21 Q. Yes, does it make any difference to you if it's a white
22 person that you're referring to or a black person?

23 A. No.

24 Q. So you also in your (video interrupted) sprays and you
25 say that Craig, PC Walker, had discharged his spray, he

Transcript of the Sheku Bayoh Inquiry

1 had PAVA:

2 "Some of it hit the boy but some of it blew into my
3 face."

4 So not only did you have CS spray in your face, did
5 you also have PAVA spray in your face?

6 A. Yes.

7 Q. Do you remember that now, seeing that paragraph, that
8 you also had PAVA?

9 A. Mm-hm.

10 Q. And where were you when the PAVA spray hit you?

11 A. Side of the van.

12 Q. The same passenger side area of Hayfield Road, thanks.

13 You then say:

14 "As far as I'm aware we were still the only police
15 vehicle there at that point. At no point hear the boy
16 say a single thing."

17 So at no point did you hear Mr Bayoh speak?

18 A. (Shakes head).

19 Q. And then looking at the next paragraph:

20 "With the effect of PAVA and CS on me I could not
21 keep my eyes clear and I was very vulnerable. I went to
22 the back of the police van. I basically curled up,
23 braced myself. I was probably rubbing my eyes. I was
24 expecting to feel pain of some sort. It felt like slow
25 motion. But I felt that I would get plunged (stabbed),

Transcript of the Sheku Bayoh Inquiry

1 or struck to the head. That's what was going through my
2 head. I kept thinking about the Lee Rigby boy, the
3 soldier who was killed. That's what was in my head.
4 I must have been at the back of the van for seconds.
5 I did not actually get touched at all by the guy.
6 I could not see at this point. I was not aware of
7 anyone else's arrival. I heard Nicole screaming behind
8 me. She was between the van and Hendry Road. I [was]
9 not aware of any of the police vehicles arriving. My
10 eyes were still streaming at that point. I tried to
11 open my eyes. I could see Nicole trying to get up to
12 her feet. Every time she tried to get up she fell down.
13 I went over and lifted her up. She was hysterical. She
14 was standing up but I was holding her lapels. When she
15 was able to stand on her own I told her to go and sit in
16 my van. I think she made her own way over there."

17 And that's what you have been telling us today.

18 Then:

19 "I passed the message over the Airwave that
20 an officer had been injured and that more units were
21 required."

22 Can I ask you about that message that you passed
23 over the Airwave. Now, we see at 7.21.02 -- so if you
24 look at page 4, please, you will see that there was an
25 Airwave at 7.21.02, it says "PC Alan Paton", and it

Transcript of the Sheku Bayoh Inquiry

1 says:

2 "Officer's injured PC Short male."

3 And was that you that said that?

4 A. I think so.

5 Q. You think so. So if you look at the bottom of page 3,
6 so this is just before that message, you will see that
7 "PC Alan Paton's emergency status is turned on". So
8 your status is turned on at 7.20.42. There's that
9 Airwaves transmission at 7.21.02. Did you make any
10 other transmissions after that? Because you mention on
11 this statement you passed a message that an officer had
12 been injured and that more units were required. So
13 I can see the officer injured bit; I don't see anything
14 about more units being required?

15 A. Again, the confusion with being incapacitated, you maybe
16 have nae got your finger fully on the button and so it
17 would not transmit. It could also -- your mind can tell
18 you you're saying something, but in reality you have not
19 said something, so again, it's just all coming down to
20 the confusion.

21 Q. So it's possible that the "Officer injured PC Short
22 male" is the only part of that transmission that
23 actually recorded or transmitted?

24 A. I don't understand the "male". "Male" to me doesnae
25 really mean anything. I think I have been trying to

Transcript of the Sheku Bayoh Inquiry

1 transmit a further sentence, perhaps beginning with the
2 word "Male", but then my finger has come off the button
3 and so it has not transferred the rest of it.

4 Q. So it could have cut that off short?

5 A. Yeah.

6 Q. Thank you. You then say on the statement:

7 "At this point I could not see where the guy was or
8 what units had attended. I was completely
9 disorientated."

10 And is really that what you have been telling us
11 earlier today, you were completely disorientated, and
12 then:

13 "As I started to keep my [something] open a bit more
14 I became aware of Craig and other officers struggling on
15 the ground with the guy on the opposite carriageway."

16 So is there a word missing from that? Should it be
17 "eyes open"?

18 A. Where is this?

19 Q. It's at the bottom of the screen:

20 "As I started to keep my [something] open a bit more
21 I became aware of Craig and other officers struggling on
22 the ground with the guy on the opposite carriageway."

23 A. It must be eyes.

24 Q. It was your eyes:

25 "... the carriageway in Gallagher's direction. I was

Transcript of the Sheku Bayoh Inquiry

1 still struggling and I made my way over to Craig and the
2 other officers on the ground."

3 And again, that's what you have been telling us
4 today.

5 Let's go down the page, please:

6 "Around the same time that I was lifting or holding
7 Nicole up I remember Craig shouting at me 'I've no got
8 my baton' or 'gimme your baton'. I removed my baton
9 from my vest and I think, I'm not sure, that I threw it
10 at him or in his direction. I cannot remember whether
11 [it] had extended the baton or not."

12 So can I ask you, you told us earlier about giving
13 PC Walker your baton. You said your baton was on your
14 left side, is that right?

15 A. Yes.

16 Q. And you say you either threw it at him or in his
17 direction and we may have heard from PC Walker that you
18 pulled -- drew your baton and handed it to him. Would
19 you disagree with that?

20 A. No. I gave him it, but whether it be a throw, whether
21 it be handing -- he got it somehow.

22 Q. Right. And that was when you were lifting or holding
23 Nicole up, you have told us, by the lapels?

24 A. (Nods).

25 Q. And that was when you were in Hayfield Road?

Transcript of the Sheku Bayoh Inquiry

1 A. (Nods).

2 Q. Thank you. And you say there:

3 "I cannot remember whether I had extended the baton
4 or not."

5 You said earlier -- you mentioned the baton being
6 extended when you were using it in the restraint. Do
7 you remember now whether you had extended the baton when
8 you handed it to --

9 A. No.

10 Q. No:

11 "I genuinely don't know how many police officers
12 were there. I remember Craig at the top end of the
13 boy's body.

14 "The boy was face up. He was always lying on his
15 back face up. Craig was lying on his left-hand side
16 facing the boy's feet. Craig was lying across the chest
17 of the boy."

18 Do you remember that now, seeing that written there,
19 "Craig was lying across the chest of the boy"?

20 A. I don't remember it now. If it that's what it says in
21 that statement, which was obviously closer to the time,
22 then that's what I must have said.

23 Q. And that would have been the truth -- that would have
24 been your accurate -- more accurate --

25 (Pre-recorded evidence paused)

Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: Right, we will stop there and sit again at
2 2 o'clock.

3 (1.01 pm)

4 (The luncheon adjournment)

5

6 (2.01 pm)

7 LORD BRACADALE: Ms Wildgoose, when you're ready.

8 (Pre-recorded evidence of ALAN PATON continued)

9 MS GRAHAME: -- the truth, that would have been your more
10 accurate recollection then?

11 A. Yes.

12 Q. Thank you. Can we move on to the next page, please:

13 "I was starting to get my bearings again and
14 I remember wiping my face or eyes on Craig's T-shirt."

15 That's what you told us earlier:

16 "I had got down on the ground to help restrain the
17 boy as he was still struggling. The officers were
18 struggling to keep him on the ground. There were no
19 punches from what I could see."

20 So at that time when you get down on the ground
21 Mr Bayoh was still struggling and the officers are
22 struggling to keep him on the ground. And then:

23 "Ashley and ..."

24 That's Ashley Tomlinson:

25 "... and Alan Smith, incidentally he was at the

Transcript of the Sheku Bayoh Inquiry

1 muster, I forgot to mention him; I think it was
2 Alan Smith, I was still a bit disorientated, they were
3 at the guy's feet/legs end of his body. The guy was
4 still struggling at this point."

5 So it would appear that when you gave this statement
6 you remembered that Tomlinson and Smith were at
7 Mr Bayoh's feet or legs at that end of the body. Would
8 that be correct?

9 A. Waist to legs.

10 Q. Waist. So thinking back now, you think it was more at
11 the waist end but when you gave this statement to PIRC
12 is it correct to say that you thought he was at his
13 feet, Mr Bayoh's feet or legs end of the body?

14 A. I don't know.

15 Q. You're not clear now in your recollection?

16 A. Not sure, aye.

17 Q. And then it says:

18 "Ashley, Alan and Craig are big guys and they were
19 struggling to control him. I remember hearing the guys
20 talking about trying to get control enough to try and
21 get handcuffs onto him. I remember saying 'link the
22 handcuffs' or something like that. I'm still struggling
23 at this point. My eyes were still streaming and my nose
24 was running."

25 When you refer to still struggling at this point,

Transcript of the Sheku Bayoh Inquiry

1 are you referring to the way you are feeling because of
2 the spray or the --

3 A. Yes.

4 Q. Yes, thank you.

5 "I remember that Craig was still at the top end
6 (chest) of the guy. I saw Craig get lifted by the guy.
7 He was lifting Craig with his body weight. Craig is
8 about 25 stones. I cannot emphasise the strength of
9 this guy. Alan is an ex-marine. Ashley is a big guy as
10 well. I'm thinking to myself if he gets back onto his
11 feet then we've got real problems as well."

12 Do you remember that now that you see it?

13 A. Yes.

14 Q. And what were you thinking at this time, what was going
15 through your mind?

16 A. That this boy's on something like Flakka.

17 Q. Why do you say that?

18 A. Because it gives -- I have looked at it on YouTube
19 before this.

20 Q. Before May 2015?

21 A. Aye, and I just -- it does give you super power
22 strength.

23 Q. Right. And you say "he", Mr Bayoh, "Was lifting Craig
24 with his body weight". What did that mean? Where it
25 says Mr Bayoh was lifting Craig with his body weight?

Transcript of the Sheku Bayoh Inquiry

1 A. Basically being able to sort of sit up, get his body --
2 Bayoh's body off the ground and in turn, lift Craig off
3 the ground.

4 Q. Right. And you mention Alan Smith and you mention
5 Ashley Tomlinson and their size as well. Was he also
6 trying to lift them?

7 A. Yes.

8 Q. Off the ground?

9 A. Yes.

10 Q. Mr Bayoh?

11 A. Everybody was struggling to restrain him. It was four
12 people involved and they were struggling to restrain
13 him. This is a boy -- this is a boy, let's face it, he
14 had muscles, ey, he took steroids, his shoulders were
15 huge, his arms were huge, his chest was huge. He's
16 obviously good at bench pressing. He was -- the four
17 guys that were trying to restrain him were struggling to
18 control him.

19 Q. And you're including yourself in that?

20 A. Aye.

21 Q. And at this point was this when you were using your
22 baton, or the baton, I should say, not your baton?

23 A. Roundabout that time, aye.

24 Q. "I heard the guys at the legs of the guy talking about
25 leg restraints. I did not see them apply leg

Transcript of the Sheku Bayoh Inquiry

1 restraints. At this point I was at the left shoulder of
2 the body facing towards Craig's back. I was trying to
3 hold the left area of his body. It was a muscular
4 bicep. He was still definitely struggling at this point
5 with me and the other officers."

6 Can you explain what you meant when you say you were
7 at the left shoulder of the body facing towards Craig's
8 back? What was happening then?

9 A. I've explained that already --

10 Q. All right, okay.

11 A. -- haven't I? That's just in relation to my
12 positioning, whether it be right or wrong, Craig being
13 opposite me and Craig's back was what I was wiping ...

14 Q. You mentioned earlier it was his left arm at the back of
15 his arm. Is that what you're referring to?

16 A. Aye.

17 Q. Thank you:

18 "Then I saw a baton ASP. It had been extended."

19 What's a baton ASP?

20 A. One of them, an ASP.

21 Q. Oh right, ASP:

22 "It had been extended. It was not my baton. My
23 baton has a smooth handle, this had ribs down it."

24 In fact, that's what you told us earlier and then if
25 we can come up the page, please:

Transcript of the Sheku Bayoh Inquiry

1 "The baton was lying on the ground at the back of
2 Craig's legs. I picked up the baton and put it across
3 the boy's bicep. I had the baton across the boy's
4 bicep. I was holding both ends of the baton and I was
5 in a push up position with my whole body weight with the
6 pressure on the baton over the boy's bicep but he was
7 still struggling."

8 So can I just say, you -- stop there and say "The
9 baton was lying on the ground at the back of Craig's
10 legs" and you picked it up. How did you pick it up from
11 that position at the back of Craig's legs?

12 A. That's what I said, I said that Craig was lying on his
13 left-hand side at the sort of upper torso of Bayoh.
14 Craig's back was to me, Craig's back was towards Bayoh's
15 face, so his back of his legs would be joined onto
16 his --

17 Q. Did you lean over to pick that up off the ground?

18 A. Aye.

19 Q. Thank you. And then it says:

20 "I know that this is not a trained method of
21 restraint but in the circumstances I was trying to bring
22 him under control to assist with keeping in control and
23 for handcuffs to be put on him."

24 And is that what you said earlier?

25 A. Yes, you will do anything that's required in a situation

Transcript of the Sheku Bayoh Inquiry

1 like that.

2 Q. "At this point I then became aware of Danny Gibson,
3 DC Derek Connell, DS Samantha Davidson and Scott Maxwell
4 being on the scene and other police vehicles being there
5 as well. I have no idea from what direction they came
6 from, or who had arrived in that vehicle. I think it
7 was about 30 seconds to a minute that I was personally
8 struggling with the guy on the ground. I don't remember
9 seeing any other officer discharge CS or PAVA at the
10 man, although I do believe that Ashley did from
11 a conversation after the event. At no point did
12 I strike him with a baton. I never saw anyone strike
13 the guy with a baton."

14 Would you agree with all of that?

15 A. Yeah.

16 Q. Thank you. Then we move on to the next page:

17 "I do not remember seeing any officer place the guy
18 in leg restraints. I am fairly certain that I saw the
19 leg restraints being taken off the guy.

20 "I do not remember seeing any of the officers place
21 him in handcuffs. I don't remember seeing him in
22 handcuffs.

23 "It was whilst ..."

24 And just before we move on, "I do not remember
25 seeing any officer place the guy in leg restraints", you

Transcript of the Sheku Bayoh Inquiry

1 have told us that already today and then you mention not
2 remembering seeing him in handcuffs and do you remember
3 seeing him in handcuffs at any point, or do you not?

4 A. No.

5 Q. No:

6 "It was whilst I was still holding his bicep with
7 the baton I noticed there was no resistance with regard
8 him trying to lift up his arm. I am only really
9 conscious of his arm. I could not really see the rest
10 of the torso because of Craig's back. The guy did not
11 speak or scream throughout the incident."

12 So do you remember saying this to PIRC at the time?

13 A. Mm-hm.

14 Q. And so it says:

15 "Whilst I was still holding his bicep with the baton
16 I noticed there was no resistance with regard him trying
17 to lift up his arm."

18 So was this the moment -- was this the point at
19 which you noticed no resistance coming from Mr Bayoh?

20 A. Mm-hm.

21 Q. Do you remember now whether he was moving in other parts
22 of his body at that time?

23 A. No.

24 Q. Do you remember what the other officers were doing at
25 this moment in time?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. "Alan said at this point ..."
- 3 Is that PC Smith, Alan?
- 4 A. Yes.
- 5 Q. "... he must have stood up at the head end and said 'is
6 he still breathing?'. He was standing at the guy's
7 left-hand side of the head end. He was just in front of
8 me. Alan then said 'aye he is'. I looked at the guy
9 and in my opinion he was still breathing. I said 'aye
10 he is still breathing'. I could see movement in his
11 skin. I just thought that he was still conscious.
12 I did not get down and check for breaths. Craig was
13 still lying on top of the guy at this point. I was
14 still on the ground with the guy."
- 15 So let me just ask you about that paragraph. You
16 have noticed with the bicep and the baton that there's
17 no resistance, and at that point, Alan asks the question
18 "Is he still breathing?" so was that the stage that it
19 would appear to others he had stopped moving?
- 20 A. Possibly.
- 21 Q. He was -- and Alan Smith says "He is still breathing":
22 "I could see movement in his skin."
23 What does that mean?
- 24 A. Chest rises.
- 25 Q. Right. So you could see that he was still breathing --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- because of the physical movement?

3 A. (Nods).

4 Q. And you thought he was --:

5 "I just thought he was still conscious."

6 What made you say conscious? You say you thought he

7 was still conscious.

8 A. That's maybe a -- that's likely a mistake, ey.

9 Q. Right. What did you actually mean to say?

10 A. He was still breathing.

11 Q. He was still breathing but not conscious?

12 A. Aye.

13 Q. Right:

14 "Craig was still lying on top of the guy at this

15 point. I was still on the ground with the guy."

16 Would that be your recollection at the time?

17 A. Yes.

18 Q. "Alan is an officer safety trainer and qualified in

19 first aid. He did my last refresher course as well. He

20 is very methodical as well. I remember thinking if

21 that's good enough for Alan then that's good enough for

22 me."

23 And what did you mean by that?

24 A. He's just one of the most competent cops I have worked

25 with, ey. He's so methodical and does everything by the

Transcript of the Sheku Bayoh Inquiry

1 book. If it's good enough for him, it's good enough for
2 me.

3 Q. Okay:

4 "I remember something along the lines where Alan
5 said 'I don't think he is breathing' or something to
6 that effect."

7 I looked at that Airwaves transmission from PC Smith
8 earlier with you where he said he was no longer
9 breathing. Would that have been around the time that
10 you remember PC Smith saying what you said there?

11 A. Probably about that, aye.

12 Q. "At that point everybody backed off him and he continued
13 to lie on the ground. He wasn't moving."

14 So after PC Smith has said "I don't think he is
15 breathing", you say there "Everyone backed off him";
16 what do you mean by that?

17 A. Just maybe some people -- I believe I was one of them,
18 although I can't remember it, stood up, people took
19 a step back, even though they were kneeling down, just
20 backed off, just gave him that bit of space.

21 Q. Gave him space. And he was definitely not moving at
22 that stage?

23 A. No.

24 Q. And you were looked at a map -- I won't go to the map.
25 You say:

Transcript of the Sheku Bayoh Inquiry

1 "I can't remember who or at what point an ambulance
2 was called. Alan said 'We're going to start CPR'.
3 I was quite happy that he was taking the lead role as he
4 is the expert in this."

5 We have heard that he is trained in first aid and
6 that type of thing and then it says:

7 "Craig identified that he was going to be doing the
8 chest compressions. Alan identified that he was going
9 to be putting the breaths in."

10 And you have mentioned earlier PC Smith attempting
11 to put in rescue breaths; is that what you mean by that?

12 A. (Nods).

13 Q. "I identified that I was going to hold the mask. I am
14 talking about the mask with the one-way valve thing and
15 I took out the face mask from my vest."

16 Can I ask you just about this paragraph. It appears
17 from what you're describing there that everybody had
18 a role, a role identified. Who was it that was in
19 charge of that -- of things at that time?

20 A. Alan Smith, closely followed by Craig Walker and myself.

21 Q. Right:

22 "I took out the mask from my vest. These are with
23 me at all times whilst I'm on duty. I opened the
24 package and tried to get the valve into the boy's mouth
25 but I was unable to do so because his teeth were

Transcript of the Sheku Bayoh Inquiry

1 clenched shut. I remember slapping the guy on the side
2 of the face twice to attempt to rouse him. This had no
3 reaction at all. I could not get the valve between his
4 teeth as they were clenched shut."

5 So although you say in this statement, or it says in
6 this statement you were slapping the guy on the side of
7 the face twice, that's the demonstration you gave
8 earlier?

9 A. Caused no injury. Caused very little pain. It was just
10 to try and get a pain reaction.

11 Q. And did you get that reaction?

12 A. No.

13 Q. And then if we can move up:

14 "I tried to get my fingers between his teeth to get
15 his mouth open but was unable to do so and also to force
16 his jaw open. Again, this was unsuccessful."

17 You have told us that earlier:

18 "I was aware at that point that an ambulance had
19 been called for because I heard someone say 'where the
20 fuck's the ambulance'. I do not remember who said that.
21 About the same time I remember hearing Ashley say 'I hit
22 the boy off the back of the head with my baton.'"

23 I believe he said this for the benefit of Acting
24 Sergeant Scott Maxwell who was present and was passing
25 back radio transmissions."

Transcript of the Sheku Bayoh Inquiry

1 Do you remember how long Sergeant Maxwell had been
2 present by that time?

3 A. I would be guessing: about a minute maybe.

4 Q. Okay:

5 "At this point I was kneeling at the guy's left-hand
6 side trying to get the mask in. On hearing this I put
7 my left hand behind the guy's head and felt around the
8 guy's head. I did not feel any swelling to the head nor
9 did I see any blood on my hand that felt around his
10 head. There was a small amount of blood above one of
11 his ears. I cannot remember which one. It was from
12 a cut or a graze."

13 I think you mentioned that earlier. And then you
14 say, "I", presumably:

15 "I could not get the valve in because of his teeth.
16 I tried to create a seal around his mouth. Alan tried
17 to get a couple of breaths in but he couldn't. There
18 was no chest rises that I could see."

19 So at this point in time you can no longer see the
20 movement in the chest that you mentioned?

21 A. No. There's no air going in so ...

22 Q. Right:

23 "I tried to raise his neck higher with my left hand
24 and to form a seal around the valve. Alan tried a good
25 few times go get breaths in via the valve. The mask was

Transcript of the Sheku Bayoh Inquiry

1 covered in saliva, CS, etc. Alan said he was getting
2 contaminated and Alan said 'we will just go to
3 compressions'. Craig started compressions and kept
4 going until he was tired. This was for a couple of
5 minutes. I remember Craig saying to Scott Maxwell
6 'that's a couple of ribs away'. It was repeated
7 numerous times where the ambulance had got to but
8 I cannot remember who said that."

9 Can I ask you about this sentence "I remember Craig
10 saying to Scott Maxwell 'that's a couple of ribs away'".
11 What do you mean by that? What's that a reference to?

12 A. Well, they say that if you're doing CPR right that
13 there's a high probability that you will break ribs for
14 doing compressions. I know that from watching the
15 evidence that the rib in question, the nurse's opinion
16 is that that wouldn't be from CPR, but I certainly --
17 from what I heard when Craig was doing it, to me it did
18 sound like a rib had been broken.

19 Q. You actually heard the rib -- or heard what you thought
20 was a rib fracturing?

21 A. Yes.

22 Q. And how long had CPR been going on when you heard that?

23 A. 30 seconds.

24 Q. It then says:

25 "I then took over chest compressions..."

Transcript of the Sheku Bayoh Inquiry

1 That's from PC Walker: "

2 "... and I kept going until the ambulance arrived

3 a couple of minutes later."

4 So really it's PC Walker first of all doing the

5 compressions and then you, and you continued until the

6 ambulance arrived at the scene?

7 A. Yes.

8 Q. "When the ambulance arrived I gave the paramedic

9 technicians an update of what had happened and went back

10 and sat in the van."

11 Is that your van, the Transit?

12 A. Yes.

13 Q. Then:

14 "Craig came back to the van moments later. It was

15 then agreed by everybody that we would muster back at

16 the station."

17 When you say "it was agreed by everybody that we

18 would muster back at the station", what do you mean?

19 How was that agreement reached?

20 A. I don't know. Scott Maxwell speaks of speaking to me at

21 the van. I can't recall that.

22 Q. You don't remember that conversation?

23 A. No.

24 Q. How were you feeling at the time?

25 A. Completely and utterly in shock.

Transcript of the Sheku Bayoh Inquiry

1 Q. And was the spray still having an impact?

2 A. Spray stays with you for your -- your clothes and
3 everything are contaminated. Spray stays with you until
4 you change your clothes for at least half an hour
5 afterwards, ey. I was in complete shock because I had
6 thought -- I thought I was going to be killed, ey.
7 I realised how close I had come to being killed, so aye,
8 I was just in complete and utter panic.

9 Q. Right. So you have no recollection of that conversation
10 with sergeant --

11 A. No, but I have no reason to --

12 Q. To doubt it?

13 A. -- to doubt that it happened.

14 Q. Thank you.

15 "I do not know who went in the ambulance with the
16 guy to the hospital. I do not remember if anyone
17 assisted the ambulance crew. The ambulance stopped
18 between where I was on the ground and my van. I did not
19 see anything after that. Craig and I returned to
20 the police office in the same van we arrived in. Craig
21 was driving. There is CCTV in the van I was in
22 I believe. I'm not sure if it was operational or if it
23 records, what records. It is a hard drive. There's no
24 need to change tapes etc. CCTV does not form any part
25 of the vehicle checks."

Transcript of the Sheku Bayoh Inquiry

1 And then:

2 "I do --"

3 You mentioned sort of cameras and things earlier,
4 you have given us evidence about that:

5 "I do not remember what time I got back to Kirkcaldy
6 Police Office. I went to the writing room initially and
7 then once everybody came back we mustered in the
8 canteen. We were told to go to the canteen but
9 I believe it was Scott Maxwell although I cannot be
10 certain of that. I forgot to mention that as soon as
11 I got back to the office as I went in the back door and
12 spoke to Austin Barrett who is Police Federation
13 representative. Craig asked him to arrange for
14 Federation representation as he believed we would
15 require."

16 So that was a conversation with PC Austin Barrett
17 who is an SPF rep. And then:

18 "It must have been about ten minutes to eight when
19 we got back to the office as I remember Austin saying
20 'I don't start until 8', but he then got involved when
21 he realised what was happening. Everybody who was on
22 shift was in the canteen. Everybody involved in the
23 incident at Hayfield Road. Amanda Givan who is
24 a Federation representative was there. Austin was there
25 for a time. Various people popped in from time to time.

Transcript of the Sheku Bayoh Inquiry

1 There was a Chief Inspector Conrad Trickett there as
2 well. I cannot be certain of timescales throughout the
3 day or what was said or by whom."

4 Did you remember being in the canteen for the whole
5 day?

6 A. Yes.

7 Q. Did you leave the canteen at any time?

8 A. Other than to go to the toilet which is just through one
9 set of doors, no. My thoughts on that are that we were
10 illegally detained, if you like, in the canteen for the
11 day.

12 Q. Illegally?

13 A. Yes.

14 Q. So you felt you were detained in the canteen?

15 A. Yes.

16 Q. And who had told you to stay in the canteen?

17 A. I don't know. I just kind of switched off when I went
18 into the canteen and just enjoyed my own company.

19 I cannae recall virtually anything that was said or done
20 in the canteen.

21 Q. What did you do with your vest?

22 A. When I first went -- when I went into the police station
23 I went upstairs into the writing room which is upstairs,
24 went into the locker room, took my uniform all off
25 because it was contaminated with CS spray, left it on

Transcript of the Sheku Bayoh Inquiry

1 the locker room floor and put on my civilian clothes so
2 whilst I was in the canteen I was in civilian clothes.

3 Q. Right. We have heard that the officers' equipment was
4 recovered later.

5 A. Yes.

6 Q. So did that help and assist you to get over the effects
7 of the CS spray?

8 A. Yes.

9 Q. And you said there that:

10 "Everyone who was involved in the incident was in
11 the canteen. Amanda Givan was there. Austin Barrett
12 was there and various people popped in from time to
13 time."

14 Do you remember now who any of the various people
15 were?

16 A. Stevie Kay popped in. Colin Robson popped in.
17 Nicky Shepherd popped in. What they did or said,
18 I cannae remember, ey, but I knew them from working with
19 them, that they popped in.

20 Q. Do you remember any of the advice they gave you?

21 A. No.

22 Q. Or instructions?

23 A. No.

24 Q. How were you feeling in the canteen?

25 A. Completely and utterly shocked. I was battling with

Transcript of the Sheku Bayoh Inquiry

1 myself because I was already for just wrapping it and
2 going home, and I made that known, because we were just
3 hanging about like headless chickens. The after-care in
4 the canteen can only be described as absolutely
5 atrocious.

6 Q. What would you have liked to have happened that day when
7 you got to the canteen?

8 A. Somebody to give some definitive guidance.

9 Q. What do you mean by definitive guidance? What would you
10 have wanted to know?

11 A. It was getting run by folk that had no clue. You need
12 a senior officer to come in and to give clear guidance
13 on where we were going, ey.

14 Q. The sort of procedures and what should have been
15 happening?

16 A. Procedures -- nobody had experienced anything like that
17 before, very few people will experience anything like
18 that again, but for us to have our liberties taken away
19 from them just because of their incompetencies wasnae
20 right.

21 Q. And if there was a senior officer that you feel should
22 have been responsible for providing that guidance or
23 advice, who do you think that should have been?

24 A. Well, it was PIRC-led, ey.

25 Q. PIRC?

Transcript of the Sheku Bayoh Inquiry

- 1 A. It was PIRC-led, so I would say somebody from PIRC.
- 2 Q. Yes. Rather than one of the senior officers in
3 Kirkcaldy Police Office?
- 4 A. I would say.
- 5 Q. So from the moment that PIRC became involved, you think
6 they should have had someone in charge?
- 7 A. I couldnae give you the name of a single person that was
8 working for PIRC, you know. All they had to do was come
9 in and say -- introduce themselves and say who they were
10 and tell you a few things, your status, what's likely to
11 happen next. It was just a debacle from the time I went
12 back to the police station to the time I left.
- 13 Q. And did anybody, as far as you remember now, did anybody
14 come in and give you those clear instructions that you
15 would have liked?
- 16 A. No, no.
- 17 Q. From any organisation, Police Scotland or PIRC?
- 18 A. (Shakes head).
- 19 Q. No. And we have heard some evidence that other people
20 were coming in and out of the canteen, it wasn't a sort
21 of sterile area in that sense, that from the back door
22 people can access the canteen. Is that correct?
- 23 A. Aye, it's a kind of thoroughfare to the custody area, to
24 the front offices, the reception and that. Folk
25 probably just didn't see the signs. The building's not

Transcript of the Sheku Bayoh Inquiry

1 fit for purpose really.

2 Q. Is it quite old?

3 A. Aye, it's very old and it's been added to over the years
4 and things like that so ...

5 Q. Okay. You say:

6 "The next thing I remember is being told that my
7 uniform clothing was being taken. In the canteen ..."

8 And ultimately your clothing was taken, wasn't it,
9 Mr Paton?

10 A. Aye. I went back upstairs and got it.

11 Q. Did you:

12 "In the canteen we were all talking between
13 ourselves. It was about the incident. I can't really
14 be specific about what we were talking about. I was in
15 shock. I remember talking about Nicole and asking how
16 she was."

17 So was this before Nicole came back from the
18 hospital?

19 A. No, it cannae be because it says that she was brought
20 back by Mark Hays and then I say --

21 Q. Well, just look at that paragraph I just read:

22 "In the canteen we were all talking between
23 ourselves. It was about the incident. I cannot really
24 be specific about what we were talking about. I was in
25 shock. I remember talking about Nicole and asking how

Transcript of the Sheku Bayoh Inquiry

- 1 she was."
- 2 Do you mean asking Nicole how she was or asking
- 3 others how Nicole was?
- 4 A. I think I was just asking others. I mean --
- 5 Q. Because she is the one officer who wasn't back in the
- 6 canteen --
- 7 A. Yes.
- 8 Q. -- at that time. And you say you "can't really be
- 9 specific about what we were talking about". Had anyone
- 10 told you at that time, as far as you remember, not to
- 11 talk about the incident?
- 12 A. No, not that I can remember.
- 13 Q. Okay.
- 14 A. It's not to say they didnae, but not that I can
- 15 remember.
- 16 Q. So during the time you were in the canteen, so the whole
- 17 day really, did any of your colleagues raise the issue
- 18 of the fact that Mr Bayoh was black?
- 19 A. No.
- 20 Q. No? Did anyone raise concerns about the potential for
- 21 there to be allegations of racism levied against the
- 22 officers?
- 23 A. No.
- 24 Q. You don't remember any of that?
- 25 A. No.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Looking then it says:
- 2 "I remember Mark Hays popping into the canteen. He
- 3 had been at the hospital and told me that Nicole was
- 4 okay. Nicole came to the canteen later."
- 5 So we have not heard Mark Hays' name mentioned by
- 6 you before. Was he another officer at Kirkcaldy Police
- 7 Office?
- 8 A. He was a good friend of mine and he -- I cannae -- he
- 9 was based at Glenrothes. What he was doing at Kirkcaldy
- 10 I don't know. He kind of just had a habit of popping up
- 11 here, there and everywhere, for whatever reason.
- 12 Q. Okay.
- 13 A. Aye, he came up, took Nicole to the hospital. He said
- 14 that she was okay.
- 15 Q. Okay. And then:
- 16 "I cannot remember if the Federation gave us any
- 17 advice. I think I was watching the television. I just
- 18 wanted to be left on my own."
- 19 Is that a TV in the canteen area?
- 20 A. Yes.
- 21 Q. Do you remember Amanda Givan giving you any advice in
- 22 the canteen?
- 23 A. Not advice, no.
- 24 Q. Do you remember speaking to her?
- 25 A. Aye.

Transcript of the Sheku Bayoh Inquiry

1 Q. What did she say?

2 A. "What do you want at KFC?"

3 Q. Oh, right, okay. So she was talking about getting you a
4 lunch or something to eat. Did she speak to you at all
5 about your status or statements or any paperwork?

6 A. Not that I can recall, no.

7 Q. And you say:

8 "I sat on the settees on my own watching the TV.
9 I was going over things in my head. I think Craig may
10 have been sitting as well. From what I recall I think
11 the rest of the officers were sitting at a table. It
12 was a bit of strange really. I cannot recall what
13 happened then."

14 We have heard some evidence that pieces of equipment
15 were on a table in the canteen. Do you remember that?

16 A. More than likely there would be.

17 Q. Right. Do you remember that happening, that pieces of
18 equipment were put on a table?

19 A. No, but that was quite common practice.

20 Q. Was it? And then you say:

21 "With regards my baton, I never got my baton back.
22 I seem to recall Derek Connell picking up batons from
23 the scene. I did not use my handcuffs at any point. My
24 CS was still attached to my vest."

25 And that's the CS that you used to spray Mr Bayoh,

Transcript of the Sheku Bayoh Inquiry

1 is that right?

2 A. Yes.

3 Q. "I did not complete any use of force forms or discharge
4 of CS spray forms."

5 Did you know at that time, or did you have a clear
6 understanding of what your obligations were in relation
7 to completion of -- let's start with the CS spray forms,
8 use of spray?

9 A. So so. The procedures changed quite frequently, but
10 either way it didn't really make much difference because
11 there wasn't a computer in the canteen and it's
12 a computer-based form.

13 Q. Did you need access to a computer in order to complete
14 that form?

15 A. You would do, aye.

16 Q. And what about the use of force form?

17 A. It's also on a computer.

18 Q. And did you -- you didn't complete either of those?

19 A. No.

20 Q. Did you understand at that time that one person could
21 complete a form in relation to the entire incident?

22 A. Yes. And I kind of thought that -- well, I wouldn't
23 expect Scott Maxwell to do it, but I would maybe expect
24 either Stevie Kay or maybe even Alan Seath or somebody
25 like that to complete it, ey. I certainly wasn't in

Transcript of the Sheku Bayoh Inquiry

1 a fit state to put my mind to completing any forms.

2 Q. Right. But you thought maybe an Inspector in the office
3 might have been able to do that?

4 A. Aye, but then the problem you've got there is that for
5 them to accurately complete a form, they've got to get
6 a recollection of the events from the cops and we
7 werenae really prepared to give a recollection of events
8 at that stage.

9 Q. So certainly you don't personally feel you were able to
10 give a recollection at that stage?

11 A. No.

12 Q. But it may have been possible for an Inspector to seek
13 out an officer who was able or felt able to give
14 a recollection?

15 A. Yes.

16 Q. But that wasn't you?

17 A. No.

18 Q. And then:

19 "When I arrived at the office I went upstairs and
20 changed out of my uniform as it had been contaminated by
21 CS spray and PAVA spray."

22 And that's what you just told us earlier:

23 "I put my CS spray back into my locker along with my
24 Airwave radio. I put my uniform in locker room 4
25 outside my locker. I cannot recall being instructed not

Transcript of the Sheku Bayoh Inquiry

1 to fill in or out any of the normal forms. I cannot
2 tell you what the usual procedure is. It changes week
3 to week. I would rely on my supervisor to remind me."

4 And you then say:

5 "The Federation rep was in the canteen all day."

6 And you can't recall any advice that she gave and is
7 that -- that remains the position today?

8 A. Yes.

9 Q. And can we just go up slightly. Then:

10 "I remember that Chief Inspector Trickett had been
11 appointed as a sort of welfare, go-between coordinator.
12 I can't recall anything he said. He gave me a card.
13 A Superintendent with a suntan popped in later in the
14 afternoon but I cannot recall what he said. I do
15 remember getting advice from one of them, I don't
16 remember who though, to phone home. I did not phone
17 home. I believe it was Amanda the Fed Rep had
18 advised/encouraged us to do this."

19 Do you remember the name of that Superintendent with
20 the suntan?

21 A. No. He wouldn't have been a Fife cop.

22 Q. Not with a suntan?

23 A. No, I know most of them, so I don't think it was a Fife
24 cop.

25 Q. Okay. It wouldn't have been a Pat Campbell?

Transcript of the Sheku Bayoh Inquiry

- 1 A. That's who I think it could possibly have been but
2 I have not seen a photo of him.
- 3 Q. Okay, thank you. Then you have been shown -- you were
4 shown a notebook but there were no entries in your
5 notebook because you didn't put anything in your
6 notebook.
- 7 A. I didnae have my notebook. My notebook was upstairs
8 when I took my kit off upstairs in the changing room, my
9 notebook was up there and I'm obviously down in the
10 canteen, not allowed to leave, so that's why I didnae
11 touch my notebook.
- 12 Q. So you were in your civilian clothes?
- 13 A. Yes.
- 14 Q. And your notebook is with your uniform?
- 15 A. Yes.
- 16 Q. And you then say:
- 17 "CS spray has never been weighed before issue in
18 legacy Fife area. My CS Spray is current and valid."
- 19 Tell me what you mean by about your CS spray being
20 weighed?
- 21 A. You see I've never done the weighing thing, but I think
22 it's -- you weigh it at the start of your shift and then
23 you weigh it either at the end of your shift or maybe
24 the following shift and if there's a discrepancy in the
25 weight then that would suggest that you have used it

Transcript of the Sheku Bayoh Inquiry

1 during that period, but that was never the process in
2 Fife. The process in Fife was that you just signed it
3 in and signed it out.

4 Q. Right, so that wasn't a procedure that was adopted in
5 Fife?

6 A. No. I think the only reason that -- the only reason
7 that that statement is there is that I'm guessing that
8 the PIRC officers that took my statement were
9 Strathclyde-based and that's maybe the procedure in
10 Strathclyde.

11 Q. So that probably came from a question they prompted?

12 A. Aye.

13 Q. Thank you. Now, can I ask you a question -- you have
14 mentioned status in your answers and I have asked -- you
15 will know I have asked a lot of officers about status as
16 witness or as suspect, and did you have a clear
17 recollection, or do you have a clear recollection now of
18 being given advice about whether you were being treated
19 as a witness or as a suspect?

20 A. No.

21 Q. And do you remember any of the senior officers talking
22 to you about being treated as a witness?

23 A. No.

24 Q. Do you remember being asked to give a statement as
25 a witness?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I was asked to give a statement but I don't know if it
2 was as a witness or as a -- I don't know what the
3 purpose of the statement was. It was two MIT officers.
- 4 Q. All right, well, we have heard that there was a meeting
5 after the events on 3 May, some time between 7 and
6 13 May.
- 7 A. Aye.
- 8 Q. That two officers, DI Stuart Wilson and DCI Hardie --
- 9 A. Aye, that's who it would be.
- 10 Q. -- had met with officers and advised them that their
11 status was that of witness and would they give
12 statements. Do you remember that?
- 13 A. I remember going into the station. I went into the
14 station because Stephen House was -- had called
15 a meeting. Whether that was just an excuse to get
16 everybody to go, I don't know. I remember speaking to
17 Alan Seath who was the station Inspector and he had said
18 that Stuart Houston and the boy Hardie -- what's his
19 first name?
- 20 Q. DCI Hardie, I think from memory, Keith?
- 21 A. Keith, Keith Hardie were in a wee office, but it was
22 nothing more than a tick box exercise, if you like, and
23 thinking about it, it was a tiny wee office, there
24 wasnae nearly enough staff and it was mid-afternoon.
25 You're not going to start taking a statement under these

Transcript of the Sheku Bayoh Inquiry

1 circumstances, so they knew fine well that they wouldnae
2 get a statement out at that time, ey. Also the fact why
3 were MIT wanting statements where it was a PIRC-led
4 inquiry.

5 Q. And do you feel that wasn't explained to you?

6 A. No.

7 Q. And what was your response to the request about asking
8 you for a statement?

9 A. On legal advice not to give a statement at this time.

10 Q. We have heard from other officers that that was the
11 legal advice they had received at the time?

12 A. Yes.

13 Q. And were you consistent with them?

14 A. Yes.

15 Q. I would like to move on now. If I could just have
16 a moment.

17 (Pause).

18 Thank you. I'm going to move on and ask you about
19 race and some of the complaints and give you the chance
20 to say your position on those. So if we could look,
21 first of all, at a complaint in relation to 2009 and it
22 is PS 17860A, and we will get that on the screen, but
23 you will have seen some of these papers already and if
24 we could just scroll down and what I will do is I'm
25 going to summarise the sort of background circumstances,

Transcript of the Sheku Bayoh Inquiry

1 Mr Paton, and then I'm going to ask you to comment on
2 that.

3 So you will see from some of these references on the
4 first page that these are -- this is in relation to
5 a complaint from 2009, and without reading through the
6 document in significant detail, you can take it from me
7 that this 2009 complaint relates to you approaching
8 a woman as she stood in her garden and in the course of
9 speaking to the complainer in her garden, there was
10 an allegation that you made an inappropriate and
11 offensive comment regarding an individual known to her,
12 namely that he would learn his lesson whilst in jail if
13 he became someone's wife. And it was alleged that you
14 commented:

15 "He will maybe learn his lesson and never mind if
16 he's made into someone's wife he'll maybe learn his
17 lesson."

18 And that comment was overheard by the complainer and
19 another witness and that resulted in this formal
20 complaint being made that you see on the screen.

21 And you denied making that statement and then the
22 investigating officer considered the matter, found the
23 complainer to be a very reasonable individual who had
24 been genuinely upset by the comments with no agenda
25 against the police and when you interviewed -- and I'm

Transcript of the Sheku Bayoh Inquiry

1 quoting -- your attitude was "poor" and you were
2 "dismissive of that complaint and somewhat petulant",
3 and the investigating officer stated that the complainer
4 and the other witness:

5 "... have in my opinion provided the more credible
6 narrative of events."

7 And the matter was reported to the chief
8 superintendent who was of the view that there was
9 insufficient evidence to substantiate the allegation,
10 although he was of the opinion that a remark may have
11 been made, and you were given corrective advice.

12 So that's my summary of these papers, without having
13 to go through them in a lot of detail for you. Can
14 you -- would you like to explain the circumstances of
15 this.

16 A. Yes. In relation to the complaints made against me,
17 I continue to deny any wrongdoing. Not only did I deny
18 the spurious complaints, but so did the other officers
19 that were with me on each of the occasions. While
20 I maintain my denial, I can advise however that any
21 corrective advice given was always taken on board.

22 In relation to this specific complaint, no such
23 incivility took place at all. My colleague, who was
24 [redacted] that day also denied any such incivility.
25 The officer dealing with this complaint did not respect

Transcript of the Sheku Bayoh Inquiry

1 officers below him. He was nothing far short of a bully
2 and didn't like the fact that I stood up to him and he
3 was predisposed to disbelieve myself.

4 Q. Are you reading from something there, Mr Paton?

5 A. Yes, yes.

6 Q. And would you mind holding that up so I can have a look
7 at it? It's not your Inquiry statement, is it?

8 A. It's a statement that I believe you've got already.

9 Q. A statement -- is this the supplementary statement that
10 I have been sent today?

11 A. Yes.

12 Q. Does it say at the top "This is a supplementary
13 statement of retired officer Alan Paton"?

14 A. Yes.

15 Q. Right. So just so that the Chair knows -- because I'm
16 not sure he will have a copy of this yet -- this -- it's
17 a two-page document, you have handed it in -- or your
18 lawyers have handed it to us today, and do you wish to
19 rely on this supplementary statement --

20 A. Yes.

21 Q. -- as supplementary to the Inquiry statement that you
22 gave and we referred you to earlier?

23 A. Yes.

24 Q. Thank you. And I will be able to to give a copy of that
25 to the Chair for him to consider, so that's what you

Transcript of the Sheku Bayoh Inquiry

- 1 have been reading from.
- 2 A. Yes.
- 3 Q. And in addition to -- the Chair will be able to read all
- 4 of this document. In addition to what you have written
- 5 here, is there anything else you would like to say about
- 6 this 2009 complaint on top of what you have already read
- 7 out?
- 8 A. No.
- 9 Q. There was mention in my summary of the circumstances
- 10 that there was corrective advice given. Can you tell us
- 11 what the corrective advice was and how it was given?
- 12 A. I can't recall.
- 13 Q. You don't remember. How is corrective advice normally
- 14 given?
- 15 A. I cannae recall.
- 16 Q. All right. Do you remember how long after the complaint
- 17 came in that you were given the corrective advice?
- 18 A. No.
- 19 Q. And you mentioned the investigating officer, or the more
- 20 senior officer. Do you remember who that was?
- 21 A. Yes.
- 22 Q. Do you want to say what the person's name was?
- 23 A. Neil Henderson.
- 24 Q. Was he an inspector or was he more senior than that?
- 25 A. He was an inspector. He was a bully.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Right.
- 2 A. He liked to pick on people with younger service than
3 him.
- 4 Q. Right. And he was trying to bully you?
- 5 A. Yes.
- 6 Q. And you have said that you --
- 7 A. And he didnae like the fact that I stood up for myself
8 against him.
- 9 Q. Right. How did you stand up for yourself?
- 10 A. Basically told him that there was nothing at all in the
11 complaint and that's probably where I come across as
12 a petulant attitude.
- 13 Q. Yes. And you have said that you did take on board any
14 corrective advice --
- 15 A. Yes.
- 16 Q. -- that you received. Would it have been the same
17 officer that gave you the corrective advice, or would
18 that have been a separate officer?
- 19 A. I can't recall. I don't know.
- 20 Q. So you said you took it on board. How did you adapt
21 your behaviour in light of that corrective advice?
- 22 A. I didn't. I just went about my business as I normally
23 do, dealing with thousands of warrants and never getting
24 a complaint, ey.
- 25 Q. Thank you. Then can we move on to a second complaint

Transcript of the Sheku Bayoh Inquiry

1 that I want to ask you about from 2010, the following
2 year. So this is PS 13586A and again, these papers you
3 will have seen and had a chance to look at, but for
4 today's purposes I will summarise this for you and then
5 ask you some questions. So this is a complaint from
6 2010 and you, accompanied by another officer, attended
7 a home address to execute an apprehension warrant. The
8 first complainer was an Asian woman who answered the
9 door. She did not speak fluent English and did not
10 understand what was happening so telephoned the second
11 complainer, an Asian man who was at work. She asked you
12 to speak to the second complainer on the telephone and
13 you refused to do so. The complaint which was classed
14 as an irregularity in procedure was upheld.

15 During the investigative process, "PC Paton stated
16 that he had no reason to speak to the second complainer"
17 and did not believe your actions were inappropriate or
18 unprofessional and the superintendent who dealt with
19 this expressed concern at your poor communication skills
20 and "Your clear lack of understanding of cultural issues
21 in dealing with Muslim women and a basic respect for
22 diversity-related matters", and again, corrective advice
23 was provided.

24 So again, would you like to explain the
25 circumstances of this?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And again, are you referring to your supplementary
3 statement?

4 A. Yes. As with my colleague that day, we were of the
5 belief [redacted] fully understood English and the
6 reason we had attended at the locus. We presented
7 a lawful warrant. Now, there had been previous officers
8 who had attended to execute the warrant without success
9 and none of them had used or had noted the opinion that
10 an interpreter was necessary or required. There is
11 a running log with warrants so that would have been
12 clearly stated on it. I had no idea who was on the
13 telephone and I had no legal requirement to speak to
14 them. Indeed, if I had it may have hampered my actions
15 in executing the warrant. I did, however, reflect on
16 the advice I had been given by my line manager.

17 I would also like to point out that I have arranged
18 interpreters on several occasions during the course of
19 my time as an officer and would have been more than
20 happy to do so on this occasion should I have believed
21 it was required. I fully explained my position to
22 management where they considered my actions were
23 reasonable or not. I did nothing wrong in this case
24 whatsoever.

25 Q. Thank you. Can I just clear -- question you about a few

Transcript of the Sheku Bayoh Inquiry

1 things here. You mentioned your colleague. Who was
2 that?

3 A. I believe it was Danny Gibson.

4 Q. Right. And you say if you had spoken to the person on
5 the phone that may have hampered any action you took,
6 what do you mean?

7 A. Well, you don't know who's on the other end of the
8 phone. Is you speaking to the person on the phone
9 a delaying tactic to allow somebody to nip out the back
10 door for the warrant?

11 Q. I see.

12 A. Is it the subject of the warrant and you're giving them
13 a heads up that there's a warrant and he goes to ground?

14 Q. I see.

15 A. A warrant's for a named person. You only have to give
16 that information to the named person, ey.

17 Q. And that's the proper procedure?

18 A. That's the proper procedure.

19 Q. And then you talk about your line manager; who was your
20 line manager?

21 A. I cannae recall.

22 Q. And you have said there were no -- you took the view no
23 interpreter was necessary or required?

24 A. No. It wouldn't have been any effort whatsoever for me
25 to get an interpreter. It's a case of dialing it up on

Transcript of the Sheku Bayoh Inquiry

1 your handset, handing the phone to her and finding what
2 language she spoke, first of all, handing the phone to
3 her. It would have taken a couple of minutes. I would
4 have done it if it was required, but it was not
5 required.

6 The only reason that this came to complaint -- and
7 I think you will notice that it's not the actual female
8 that's made the complaint, it's the male that made the
9 complaint, ey.

10 Q. That was your understanding of the --

11 A. That was the case. It was the male on the other end of
12 the phone that made the complaint.

13 Q. Right. I was going to ask you how you would go about
14 arranging an interpreter in that situation where you
15 have turned up and someone at the door doesn't appear to
16 speak good English. You have said you would dial your
17 handset; is that like a number on your radio?

18 A. Just on your Airwave terminal, you have got a number to
19 phone. Find out what language it is that they speak,
20 first of all.

21 Q. And how do you find out what language they're speaking?

22 A. You have the -- most people can say what language they
23 speak, even if they didn't understand English, ey, but
24 you also had a laminated card and it had in English
25 "What language do you speak?" and then alongside it was

Transcript of the Sheku Bayoh Inquiry

1 maybe Urdu, or "What language do you speak?" alongside
2 it Polish or -- and you just point to it.

3 Q. Right. And you said you would then be able to get an
4 interpreter?

5 A. Aye.

6 Q. Was it -- how easy was it to get an interpreter in those
7 circumstances?

8 A. For the majority of languages, instant.

9 Q. Right.

10 APPROPRIATE ADULT: I can probably help --

11 MS GRAHAME: No, no, you're not giving evidence under oath,
12 sorry. Thank you for the offer but no, we will just
13 stick with you, Mr Paton, if that's okay. We can find
14 out more information about this in due course.

15 So that's how you would have gone about getting an
16 interpreter but you had concerns about the genuineness
17 of the person saying they couldn't -- or indicating they
18 couldn't speak fluent English. What was causing you to
19 have those concerns?

20 A. Because she was understanding.

21 Q. How did you know that?

22 A. Because she was replying back to things that we were
23 putting -- putting to her.

24 Q. And you also mentioned a reference -- previous
25 references to you had a warrant and there was some other

Transcript of the Sheku Bayoh Inquiry

- 1 reference to no interpreter being required?
- 2 A. Yes.
- 3 Q. Tell us about that?
- 4 A. Well, the warrants used to be owned by normally your van
5 crew, so normally myself. So I've got a lot of
6 experience executing warrants. However, they kind of
7 changed and they would be allocated to a team, and so
8 anybody could actually go in and enforce a warrant and
9 there's a log attached to them. You would just update
10 the log with anything that's pertinent, so "Attended.
11 Attended on set date, spoke to the female within, did
12 not understand English, interpreter required for next
13 attendance", or something like that, and there was
14 nothing like that.
- 15 Q. But that information would normally be available to you
16 if an interpreter was required?
- 17 A. Yes.
- 18 Q. You could check that before you attend?
- 19 A. Yes.
- 20 Q. I'm grateful to my learned junior. She has just checked
21 the paperwork, Mr Paton, and it would appear it wasn't
22 Daniel Gibson that you were with, it was a PC Stevenson?
- 23 A. Grant Stevenson.
- 24 Q. I don't have their first name, no. We don't know the
25 first name.

Transcript of the Sheku Bayoh Inquiry

- 1 A. He is a retired -- he is retired now.
- 2 Q. So it may have been a different officer, not
3 Daniel Gibson?
- 4 A. Aye. It was redacted in the copy that I got so I was
5 just getting to guessing.
- 6 Q. All right, no, that's absolutely fine, thank you.
7 And you were given corrective advice again in
8 relation to this complaint. What advice were you given?
- 9 A. I don't know.
- 10 Q. Do you remember who gave it to you?
- 11 A. No.
- 12 Q. And what did you do -- again, you have said that you
13 responded to any corrective advice. What did you do in
14 relation to that advice? Did you adapt your behaviour
15 in any way?
- 16 A. Not particularly because I was using the interpreter
17 facilities anyhow, so I didn't have to adapt my working
18 practices in any way. A lot -- the vast majority of the
19 warrants that I dealt with in Kirkcaldy were for Polish
20 and Eastern European, so I was using the interpreter
21 services all the time.
- 22 Q. And when you say "All the time", how often were you
23 using those services?
- 24 A. Maybe three times a week, something like that. And they
25 worked well.

Transcript of the Sheku Bayoh Inquiry

1 Q. Oh, good. Can I then move on to another complaint in
2 2011. Now, we've got a number of different documents
3 about this complaint. For today's purposes what I will
4 do again is just summarise the circumstances and then
5 ask you some questions, but if you do want to look at
6 any of the papers, you're very welcome to do so.

7 So 2011, you had a neighbour who made a series of
8 three formal complaints against you and that was noted
9 in your records. The first was to the effect that when
10 off-duty you had approached her and shouted "You're a
11 compulsive liar and attention-seeker, fucking mad", and
12 that complaint was found to be unsubstantiated but
13 resulted in corrective advice.

14 The second complaint was she then alleged you would
15 stare, smile, grin and gesticulate at her in order to
16 intimidate her. The complaint again was found to be
17 unsubstantiated because there was no corroborating
18 evidence, but you were reminded of the expected
19 standards of behaviour for serving police officers and
20 that a failure to maintain those standards could lead to
21 misconduct proceedings.

22 Then the third complaint was made to the effect that
23 you again had approached her and called her an "ugly
24 sumo", and this resulted in you being charged with
25 a contravention of section 29 of the Criminal Justice

Transcript of the Sheku Bayoh Inquiry

1 and Licensing (Scotland) Act 2010 and the case was
2 marked no proceedings on the grounds of triviality and
3 the matter was then considered for misconduct
4 proceedings and the chief inspector who considered these
5 complaints there were clear grounds for a case of
6 misconduct, and PC Paton's actions had:

7 "Brought the force into disrepute. Had he taken
8 cognisance of management advice initially he would not
9 have found himself in this position."

10 And on this occasion a formal warning was given.
11 Again, would you like to explain the background to this.

12 A. Yes. Before I say anything, this complaint was
13 completely and utterly handled wrongly by the police.
14 I'm aware a former neighbour [redacted] her name was
15 made malicious complaints about me. This follows an
16 orchestrated campaign by her against my wife and
17 children. She had significant mental health problems
18 [redacted].

19 I approached the Scottish Police Federation for
20 assistance and advice regarding an interdict and I spoke
21 to senior management about my concerns on several
22 occasions, particularly around protection.

23 Following this and after several requests by myself
24 to make a complaint against her and refused, I made
25 an official complaint to the police about her actions as

Transcript of the Sheku Bayoh Inquiry

1 a member of the public. I was subsequently pressurised
2 by a now retired inspector to withdraw it. There were
3 numerous independent witnesses who could have
4 corroborated my complaints. One was even discouraged
5 from giving evidence by a separate senior officer.

6 I also understood, or understand she has made
7 subsequent malicious complaints of a sensitive nature
8 against other people, including [redacted] and other
9 police officers and all of them were also unfounded.

10 I believe this complaint to have been seriously
11 mishandled by police.

12 Q. You have obviously read again from the supplementary
13 statement which we will provide a copy of to the Chair
14 and the Assessors. Do you wish to provide us with the
15 names of any of these retired inspector, senior officers
16 or anyone else?

17 A. Yes.

18 Q. Do you wish to tell us who the retired inspector was?

19 A. The retired inspector that told me to withdraw the
20 complaint was Stevie Hamilton. The retired -- the
21 retired inspector who I basically voiced my concerns to
22 looking for help was Jim McCluskey, and the senior --
23 she was a sergeant, a sergeant from my team that I made
24 aware of the neighbour's actions was June -- she is now
25 an inspector, maybe even a chief inspector, it

Transcript of the Sheku Bayoh Inquiry

1 was June Peebles.

2 Q. Thank you. And were they based in Fife at that time?

3 A. Yes.

4 Q. But your feeling is that the situation was mishandled by

5 the police?

6 A. 100%.

7 Q. But you were given a formal warning. Can you explain to

8 me what's the difference between corrective advice and

9 a formal warning?

10 A. I don't know.

11 Q. Right. Do you remember being given a formal warning?

12 A. No.

13 Q. And in relation to the comments by the chief inspector

14 that you had brought the force into disrepute and if you

15 had taken cognisance of management advice initially you

16 wouldn't have found yourself in this position, do you

17 have any comment to make about that comment?

18 A. Reverse it. If they had taken cognisance of what I was

19 reporting we wouldnae have found ourselves in this

20 position. They were -- I believe the charge was also

21 stalking which was a very new piece of legislation which

22 the force didnae want to get wrong. It's the usual

23 story that the police want to protect their image above

24 the thoughts of the officers and they will always,

25 always take the side of the civilian complainer.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right. And you have mentioned that you sought advice
2 from the Scottish Police Federation.

3 A. Yes.

4 Q. Can you tell us about that? How did you make contact
5 with them and what advice did you seek?

6 A. I phoned them asking for -- to discuss the possibilities
7 of an interdict [redacted] thankfully she has now moved.
8 My worry is that this getting brought up at the Inquiry
9 and getting made public is going to kick it all back up
10 again, but there's nothing I can do about that.

11 Q. Thank you. Can I ask you now finally about a statement
12 from your grandfather. PIRC 00473 and page 2. Just at
13 the top of page 2 -- actually can we go back to page 1
14 and we'll just see what's said here. So you can see
15 that it's a statement dated 13 January 2016, so it's the
16 year after the events that I have been asking you about,
17 at 11.15, at his home address, taken by Investigating
18 Officer Victoria Karran and it was in the presence of
19 solicitor Aamer Anwar and if we can just go down that
20 page, please, and he has given a statement to PIRC about
21 his grandson, which was yourself, Alan Paton and he
22 talks about meeting you once in the supermarket and then
23 speaking to Aamer Anwar at the end of August 2015 and he
24 said it was a Morrison's supermarket, in the bakery, and
25 he does say there:

Transcript of the Sheku Bayoh Inquiry

1 "I seen him first so I asked him how he was.

2 I can't remember the conversation exactly my memory
3 isn't the best."

4 Can I ask you about your grandfather's memory at
5 this time, so at the time he is giving this statement.
6 Could you tell the Chair what you remember about his
7 memory at this time?

8 A. I think dementia was setting in. Certainly that's what
9 I was getting told by other members of the family, was
10 that he was acting erratically. They were concerned
11 about him going missing and things like that.

12 My gran -- when my gran died, my grandad went
13 downhill quickly and, as I say, I don't know if he was
14 officially diagnosed with dementia but that was
15 certainly the opinion.

16 Q. When did your gran die?

17 A. I don't -- I can't remember.

18 Q. Was it prior to May 2015?

19 A. Yes.

20 Q. Right. How much contact did you have with your
21 grandfather?

22 A. I used to have quite a lot.

23 Q. Around about this time, January 2016?

24 A. Not that much.

25 Q. Can I move on to the next page of this statement and

Transcript of the Sheku Bayoh Inquiry

1 you -- it says:

2 "He [ie you weren't] in uniform. I remember Alan
3 saying to me that he 'was a total racist and hated all
4 blacks'."

5 So he goes straight into this, there's not really
6 much context given here. First of all, do you remember
7 saying that to your grandfather?

8 A. No such conversation took place. At no time have I or
9 indeed would I state that I have a hatred towards
10 anybody. Anybody suggesting I made such a comment has
11 an ulterior motive and the fact that the source is Aamer
12 Anwar kind of suggests that that's the case.

13 Q. Okay. So again, do I see you reading out from your
14 supplementary statement?

15 A. Yes.

16 Q. And you have said that anyone saying this about you has
17 an ulterior motive?

18 A. Yes.

19 Q. Can you explain what the ulterior motive would be that
20 your grandfather would have?

21 A. It's to do with other members of my family and I just
22 want to leave it at that.

23 Q. All right. So there's other family dynamics in the
24 background, issues that are going on?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And would it -- when you say that might be an ulterior
2 motive, was your grandfather on the other -- on the side
3 of the other members of the family?

4 A. Yes.

5 Q. Not on --

6 A. And very much influenced.

7 Q. And very much influenced by other members of the family?

8 A. Yes.

9 Q. And so you deny ever saying that to your grandfather?

10 A. It doesn't even make sense.

11 Q. Right. And then you have also mentioned Mr Aamer Anwar.

12 A. Yes.

13 Q. Obviously he was present when this was given.

14 A. Funny that, ey.

15 Q. And do you have some concerns about that as well?

16 A. Yes.

17 Q. Do you want to explain to the Chair what your concerns
18 are?

19 A. I don't think it needs explaining.

20 Q. Fine, all right. So is there anything else that you
21 feel you would like to say about this statement?

22 A. No.

23 Q. No. So the Chair should have a read of your
24 supplementary statement and consider what you have
25 already said?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Thank you. Now, I know earlier in your evidence you
3 talked about the performance and development review
4 papers and you have touched on some good examples of
5 using interpreters and things like this. My
6 understanding is that that might be touched on later by
7 your own QC.

8 A. Yes.

9 Q. But I would like to ask you some other questions about
10 race, general questions, if you don't mind, before
11 I finish.

12 Can I talk about your perception of events when you
13 arrived at Hayfield Road. We have heard that Mr Bayoh
14 was 5 foot 10 and 12 stone 10. You arrived with
15 PC Walker who is 25 stone. You're 17 stones at the time
16 and you're both 6 foot 4, so Mr Bayoh was shorter and
17 lighter than both of you.

18 A. Yes.

19 Q. He doesn't have a knife visible and you're obviously
20 both there in your full uniform, with your equipment,
21 with a big Transit van, with flashing lights and you are
22 trained, you're experienced officers. Can I ask what
23 were your concerns when you arrived at the time?

24 A. That he did still have a knife and that he was going to
25 go on to use it again, as he had done a few minutes

Transcript of the Sheku Bayoh Inquiry

- 1 beforehand.
- 2 Q. Arriving as you did, how realistic do you feel those
- 3 concerns were at the time?
- 4 A. Very realistic.
- 5 Q. Have you been involved with previous incidents which
- 6 have gone wrong and officers have been injured or
- 7 threatened?
- 8 A. Yes.
- 9 Q. Do you want to tell me about any of those knife
- 10 incidents?
- 11 A. No knife incidents. Dumbbells, bar for dumbbells.
- 12 Q. Right. Have you been involved in any knife incidents
- 13 where things have gone wrong and officers have been
- 14 injured?
- 15 A. More than likely I have. I worked in the two busiest
- 16 towns in Fife, so more than likely I have, but I can't
- 17 recall any.
- 18 Q. Right. And have you -- prior to May 2015, 3 May, had
- 19 you used your CS spray at knife incidents before?
- 20 A. I can't be specific but probably.
- 21 Q. Do you remember any incidents?
- 22 A. No.
- 23 Q. Had you ever used your baton before?
- 24 A. Once in my service and it was ineffective.
- 25 Q. Right. And when was that?

Transcript of the Sheku Bayoh Inquiry

- 1 A. It was a guy that ended up fighting with my colleague.
2 I was quite young in service. He was coked out of his
3 head. I struck him to the legs, didnae bring him to the
4 ground. He actually thanked me the next day for doing
5 it, ey.
- 6 Q. You say young in service. You told us earlier you had
7 14 years' service by May 2015.
- 8 A. Yes.
- 9 Q. How young in service were you?
- 10 A. It was my tutor cop that I was with, so it could have
11 been as early as six months' service.
- 12 Q. So you were a probationer when that happened?
- 13 A. Could have been, yes.
- 14 Q. And apart from when you were a probationer, had you ever
15 used your baton?
- 16 A. That was my baton.
- 17 Q. Yes, had you ever used it apart from when you were
18 a probationer and you have told us -- any other
19 occasions?
- 20 A. No, just to break into things.
- 21 Q. Had you ever used your spray in a knife incident before
22 3 May 2015?
- 23 A. I cannae recall.
- 24 Q. And if Mr Bayoh had been white when you arrived -- when
25 you arrived it was a white man that you saw there with

Transcript of the Sheku Bayoh Inquiry

1 no knife, would you still have considered the need to
2 issue immediate commands and then use your spray?

3 A. 100%.

4 Q. Looking back now you don't think you could have given
5 him more time or spoken to him or ...?

6 A. No, I would have done nothing different.

7 Q. Right. And had you attended incidents prior to
8 3 May 2015 where someone was suffering from a mental
9 health crisis, or under the influence of drink or drugs,
10 had you used your communication skills with that person?

11 A. Every other day of my working life.

12 Q. Right, but not on this occasion?

13 A. It wasnae the time or the place.

14 Q. Right. And the distinction for this event was what?
15 Why is it different on this occasion?

16 A. Because it was corroborated that he was using the knife,
17 he was causing -- he was potentially causing harm to
18 members of the public and their cars, that from my first
19 sightings of him I formed the opinion that he was on
20 drugs, that he had the physical capability to continue
21 causing damage, ey.

22 Q. And that's what was the difference for you?

23 A. That was the difference, aye.

24 Q. Looking back now, what role, if any, do you think his
25 race played in the way you decided how to handle this

Transcript of the Sheku Bayoh Inquiry

- 1 situation?
- 2 A. Nothing whatsoever.
- 3 Q. What difference did his race make, if any, about the
4 choices that you made, tactical choices?
- 5 A. Nothing whatsoever.
- 6 Q. Looking back now, do you think he appeared to you to be
7 a greater potential threat because he was black?
- 8 A. No, because you get muscly, big guys out their face on
9 drugs with knives that are white.
- 10 Q. If he had been white would you have viewed him as
11 someone potentially less violent or less likely to
12 resist?
- 13 A. No.
- 14 Q. Or more compliant?
- 15 A. No.
- 16 Q. If he had been white, would you have been willing to try
17 speaking to him, communicating?
- 18 A. I did try and speak to him.
- 19 Q. Is that the commands that we have talked about earlier?
- 20 A. Yes.
- 21 Q. What I'm thinking is if he had been white, would you
22 have been more inclined to ask him if there was
23 a problem, or how was he, or had he got any sharp
24 implements?
- 25 A. No. I was taking control of the situation.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Right.
- 2 A. I wasnae there to have a conversation with him.
- 3 Q. Can I ask you about training. You will know that I have
4 asked a lot of officers about their training and I have
5 asked them about equality and diversity training that
6 they had had and many have given evidence about getting
7 training at Tulliallan. Is that something that you had?
- 8 A. It's 21 years ago. I believe I had it during my times
9 up at Tulliallan. I also had a diversity training day
10 up at Fife headquarters, probably around about 2014 or
11 something like that, you would have to check my SCoPE
12 records, but yeah, that's the two sort of training
13 packages I have had.
- 14 Q. And the training that you had the year before May 2015,
15 do you remember if you were taught anything about
16 unconscious bias?
- 17 A. What is unconscious bias?
- 18 Q. Were you asked any questions about maybe making
19 assumptions about people because of the colour of their
20 skin? You're not even really aware of that, those
21 assumptions, and you're treating people in a certain way
22 just unconsciously --
- 23 A. No.
- 24 Q. -- were you asked about that?
- 25 A. No, not that I can recall.

Transcript of the Sheku Bayoh Inquiry

1 Q. Do you remember being asked to identify any biases that
2 you yourself had?

3 A. I can't remember anything about it in the training.

4 Q. No. So when you came out of your training course in
5 2014, were there any learning points that you did take
6 on board that you then used and adapted your own
7 day-to-day working practices?

8 A. Yes.

9 Q. What were they?

10 A. No necessarily towards black people, but an example
11 being like towards the travelling fraternity. The
12 travelling fraternity have a general sort of dislike of
13 the police and it was trying to -- you go into a camp,
14 who is best to speak to, you know. There's generally
15 a top man, speak to them. Just things like that that
16 I wasnae aware of before. Actually putting that into
17 practice and again, I think that's in one of my PDRs
18 that yous have got.

19 Q. I'm sure that this can be elaborated on by your own QC.
20 Do you want to tell us about that yourself now?

21 A. It was a road accident involving members of the
22 travelling fraternity and I communicated with -- I think
23 it was a double fatal, and I communicated with the
24 family members and got praise for it.

25 Q. And did you use the training that you had got in 2014 to

Transcript of the Sheku Bayoh Inquiry

1 help you deal with that situation?

2 A. Yes.

3 Q. And then did they teach you about bias at all in 2014

4 and maybe how to guard against that, you know, to avoid

5 treating people and making assumptions which weren't

6 correct?

7 A. I'm sure they did but I cannae really recall any

8 specifics.

9 Q. Okay. Do you make any assumptions, or in 2015 did you

10 make any assumptions --

11 A. No, I treat everybody the same.

12 Q. And in relation to Mr Bayoh, did you make any

13 assumptions about him because he was black?

14 A. No, not at all.

15 Q. Had you ever come across any examples of discriminatory

16 behaviour in Kirkcaldy Police Office --

17 A. No.

18 Q. -- by 2015?

19 A. No.

20 Q. Had you ever heard any racist jokes or comments?

21 A. No.

22 Q. By your colleagues?

23 A. No.

24 Q. So one of the -- we have Inquiry statements that people

25 have provided to the Chair, as you have provided one to

Transcript of the Sheku Bayoh Inquiry

1 the Chair, and one of the chief inspectors has given
2 a statement describing having at some time experienced
3 inappropriate racist jokes. Had you ever heard any such
4 jokes in your career in Kirkcaldy?

5 A. Racist jokes by me?

6 Q. No, no, not by you, no.

7 A. No --

8 Q. Just that he was aware of that in Kirkcaldy in advance
9 of May 2015?

10 A. No, no.

11 Q. You're not aware of that?

12 A. No.

13 Q. If you had come across any behaviour of that type in
14 your working and your dealings with other colleagues in
15 2015, how would you have responded to that?

16 A. I would have said to them.

17 Q. What would you have said?

18 A. It's not appropriate.

19 Q. And had any of the colleagues that were with you on
20 3 May 2015 exhibited any behaviour of that sort to you?

21 A. The incident on 3 May 2015 was not in the slightest bit
22 racist. There was nothing done, nothing said, either at
23 the locus, back at the canteen, in the days that
24 followed, in the weeks that followed, in the months that
25 followed, there was nothing at all racially motivated,

Transcript of the Sheku Bayoh Inquiry

1 or said with racial connotations.

2 Q. So even back in the canteen nothing --

3 A. Nothing at all.

4 Q. -- discussed about race?

5 A. No, nothing at all.

6 Q. In 2015 were you aware of concerns about -- public

7 concerns about the use of force by police officers,

8 particularly against black men?

9 A. No.

10 Q. Were you not aware of anything of that sort from the

11 news or from internet?

12 A. No, I didnae follow the news.

13 Q. Right. Were you aware of any concerns being discussed

14 within Police Scotland at that time?

15 A. No.

16 Q. Were you aware of any high profile cases in other parts

17 of the UK or abroad --

18 A. No.

19 Q. -- regarding restraint of black men?

20 A. No, I don't follow the news.

21 Q. You have not even heard of George Floyd?

22 A. That's America.

23 Q. Yes. Well, were you aware of any --

24 A. I was aware of the George Floyd situation, yes.

25 Q. Aware of George Floyd in America?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Nothing in England?

3 A. No.

4 Q. Nothing in other parts of the UK?

5 A. No.

6 Q. How confident now -- looking back, how confident were
7 you in the training that you had received -- you have
8 made comments earlier today about the training in
9 relation to handling an incident of this sort; how
10 confident were you in the training that you had had in
11 equality and diversity, matters relating to race?

12 A. I think it probably could be improved if I'm being
13 honest, ey. Maybe every two years or something like
14 that would be handy.

15 Q. So maybe more than --

16 A. Done for the right purposes and for the right reasons.
17 I think they probably could do more because -- I mean,
18 I have heard some people that's given evidence saying
19 that their last input was when they were up at
20 Tulliallan. Well, that's not really acceptable in my
21 opinion, and everybody likes a wee day out course, ey.

22 Q. So maybe more regular training?

23 A. But not rammed down your throat, not every year,
24 something like every two years would be more than
25 enough, I think.

Transcript of the Sheku Bayoh Inquiry

1 Q. Because for an officer like yourself and for other
2 officers, you had had 14 years' service and you're
3 saying you had training in Tulliallan and then the year
4 before you had a day?

5 A. Mm-hm. But to be honest, most of your learning is done
6 on the job, ey.

7 Q. Right. And that's where you can experience real life?

8 A. (Nods).

9 Q. Did -- can I ask you about your awareness of the black
10 community in Kirkcaldy round about May 2015. Did you
11 have a strong awareness of the black community?

12 A. I'm aware there were black individuals but there's no
13 such -- there's no really a big black community in
14 Kirkcaldy. Kirkcaldy is a very diverse town now, but
15 black people don't really form that a big part of it.

16 Q. Okay. So had you had much contact with black people as
17 witnesses, as suspects, or as victims of crime?

18 A. I dinnae like the specific questions regarding black
19 people, ey.

20 Q. Oh, right.

21 A. I prefer the specific questions regarding people of --

22 Q. Black and minority ethnic?

23 A. Black and minority ethnic.

24 Q. Yes, all right.

25 A. In which case I did have a lot of dealings with it.

Transcript of the Sheku Bayoh Inquiry

1 I was a community officer on two occasions, both in the
2 Templehall area of Kirkcaldy which has its own
3 anti-social issues, also covers -- and I think
4 Scott Maxwell mentioned to you the main mosque is in
5 Templehall, in the north of Kirkcaldy, so although
6 I wasn't the mosque liaison officer, I attended on most
7 of the occasions that Scott Maxwell or others attended.

8 Also, part of the duties on the van was going around
9 the areas of concern, like mosques, like warehouses full
10 of whisky, so to do with terror stuff and things like
11 that. The concern for obviously the checks on the
12 mosques was that they were getting vandalised and
13 graffitied, etc, on the back of things like the
14 Lee Rigby incident and whilst I was doing them I was
15 speaking with the imams and people.

16 I worked in cash and carries which was predominantly
17 people from the Asian minority. I have worked with
18 Chinese people. I have worked with all sorts, aye, so
19 I have had a lot of contact with non-white people.
20 I have not had a great deal, apart from one officer that
21 I worked with that was black.

22 Q. Who was that one officer?

23 A. Paul Castledine his name was.

24 Q. Where was he based?

25 A. I worked with him when we were at Glenrothes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right. You mentioned you were a community officer on
2 two occasions.

3 A. Yes.

4 Q. When was that in relation to May 2015, was it before?

5 A. Aye, before, a couple of years before.

6 Q. Couple of years before and how long did you do that?

7 A. Three years or so.

8 Q. And in terms of involvement with the --

9 A. And you're doing things like going out to schools where
10 there's black children and things like that, you know
11 so ...

12 Q. So how -- when you were a community officer, how regular
13 was your contact with the BAME community?

14 A. I held monthly meetings, community engagement meetings
15 which anybody was entitled to come along to and we did
16 have some that came along. Also we would get invited to
17 events. One that springs to mind is -- it's in the
18 local park, in the Beveridge Park, it's called the Peace
19 Garden, and it was a coming together of Muslims,
20 Eastern Europeans, Chinese, Indians ... it was a coming
21 together of everybody, and I attended there in the
22 capacity as a police officer, just integrated with them
23 all, so I have done a fair bit. In comparison to
24 response cops, you know, you do do quite a lot as
25 a community officer.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Yes. And are you -- well, having done that role, you
2 must be aware of stereotypes that are sometimes
3 applied --
- 4 A. Aye.
- 5 Q. -- to people in that community. Can you give us some
6 examples of the stereotypes you're aware of?
- 7 A. Well, as I say, there's not a big black community in
8 Kirkcaldy but I could say stereotypes is that just
9 youths in general, you know, youths in a gang, youths
10 are causing trouble, youths are the ones that are
11 causing the damage and things like that which to be
12 honest with you nine times out of ten it's not the
13 youths, ey, or it's one youth that you have just got to
14 kind of work with.
- 15 Q. Mm-hm. Were you aware that sometimes black men may be
16 perceived as more likely to resist, be more violent,
17 have superhuman strength or size?
- 18 A. No, I wasnae, no.
- 19 Q. No? Did you ever have any assumptions along those
20 lines?
- 21 A. (Shakes head).
- 22 Q. Now, in your statement, which we have gone through in
23 detail, you described Mr Bayoh as being a large, black
24 male --
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- although he was lighter than you and PC Walker and
2 smaller. What was it about him that made you describe
3 him as large?

4 A. Because he was large, he was black, and he was a male.

5 Q. When you say he was large, what is it you mean by that?

6 A. His physique, his muscles, his neck muscles, his biceps,
7 his chest.

8 Q. So it was his musculature?

9 A. He was a steroid user, ey, so he was pumped up.

10 Q. Right. Can I ask you one question about -- you have
11 described Mr Bayoh walking towards you with his palms
12 out and you didn't see a knife and you have talked about
13 being in fear of your life -- for your life at that
14 time. Have you ever felt fear for your life on any
15 other knife calls where you see that the suspect didn't
16 have a knife in his hands?

17 A. No.

18 Q. No?

19 A. No.

20 Q. So what made this situation different?

21 A. Just that I was -- I had no control. I had no control
22 at all and I was then -- because I had been
23 incapacitated, because of having no option but to crouch
24 down in a vulnerable position, I just thought "My time's
25 come".

Transcript of the Sheku Bayoh Inquiry

1 Q. So it was at the point you were incapacitated by the
2 spray that you felt that level of fear?

3 A. Yes.

4 Q. Prior to that how were you feeling?

5 A. The adrenaline's going. I wouldnae say I was in fear of
6 my life prior to that. Obviously you've got to have
7 your wits about you because it could go pear-shaped,
8 but, as I say, I felt confident enough to seize the
9 opportunity to try and get control of the situation
10 before it went -- got out of control, before he got to
11 a knife, before he got to another member of the public,
12 before he ran off where we didnae know where he was.

13 If he had had a knife, I wouldn't have been out of
14 the van, ey, but I seized the opportunity.

15 Q. Right, so it was about seizing the opportunity?

16 A. Yes.

17 MS GRAHAME: Could you just give me one moment, please?

18 (Pause).

19 Thank you very much, Mr Paton. That concludes my
20 examination.

21 LORD BRACADALE: Thank you.

22 (Pre-recorded evidence paused)

23 LORD BRACADALE: Right, we'll take a ten-minute break at
24 this point.

25 (3.34 pm)

Transcript of the Sheku Bayoh Inquiry

1 (Short Break)

2 (3.50 pm)

3 LORD BRACADALE: Yes, when you're ready, Ms Wildgoose.

4 (Pre-recorded evidence of ALAN PATON continued)

5 Questions from LORD BRACADALE

6 LORD BRACADALE: Mr Paton, could you help me with one thing.

7 Before you discharged your CS spray, did you consider
8 the direction and the strength of the wind?

9 A. No, but I should have.

10 LORD BRACADALE: Could you expand on that?

11 A. I didn't have many options available to me, left open to
12 me, so I thought I might be able to spray, and when
13 you're spraying you spray in short bursts until you get
14 a feel of where the spray is going to go, so if
15 I sprayed and it ended up down there, I would adjust my
16 aim to the side, but I wasn't able to do that because
17 the wind was so strong, so I basically sprayed it out,
18 some hit his face, it about-turned, came back and hit me
19 in the face.

20 LORD BRACADALE: Thank you.

21 Mr McConnachie, do you have an application?

22 MR MCCONNACHIE: I do.

23 LORD BRACADALE: Yes. I think some of it at least has been
24 flagged up already by Ms Grahame. Are there other
25 issues in addition to that?

Transcript of the Sheku Bayoh Inquiry

1 MR MCCONNACHIE: There are one or two, yes.

2 LORD BRACADALE: Perhaps if you could come up and just
3 briefly outline to me what the areas are and then I can
4 deal with the application.

5 MR MCCONNACHIE: I don't know if it is appropriate for
6 Mr Paton to remain or -- it might be better if he left.

7 LORD BRACADALE: Yes, very well. Mr Paton, I'm going to ask
8 you to leave the room while I hear from Mr McConnachie.

9 (Pause).

10 Yes.

11 Application by MR MCCONNACHIE

12 MR MCCONNACHIE: Sir, one of the issues that I think has
13 occurred in the course of Mr Paton's evidence is the
14 tendency to, as it were, conflate information that he
15 knows now with information that he had back on
16 3 May 2015, and from the point of view of clarification,
17 I was hoping to go over with him the actual state of his
18 knowledge as he was getting to the incident on
19 3 May 2015 from the Airwaves transmissions that are
20 within the content of this document.

21 I also wanted to explore in just perhaps the tiniest
22 amount of detail the position with regards to the
23 transmission from Acting Sergeant Maxwell and where on
24 the video footage that we have the vehicle and more
25 particularly Mr Paton was likely to be if the blue dots

Transcript of the Sheku Bayoh Inquiry

1 are accurate in terms of where he was when that
2 transmission was taking place and why it might be he
3 perhaps did not certainly either not hear at all or
4 wasn't paying attention to it all.

5 I also want to explore with him -- he mentioned one
6 officer, Paul Castledine, who has in fact provided
7 a statement which has been sent to the Inquiry along
8 with another officer, both officers with whom he worked
9 who were non-white officers, and his relationship with
10 them.

11 I also want to briefly discuss one of the
12 complaints, the 2010 warrant complaint, and his
13 relationship with his grandfather and the circumstances
14 surrounding that meeting and perhaps why the idea that
15 he would, as it were, confide in his grandfather to that
16 extent don't really make that much sense.

17 Those are the areas -- oh, one other thing, my Lord.
18 He mentioned in evidence that his CS spray was his, as
19 it were, weapon of choice before his baton. He wasn't
20 asked why that was and I was going to ask him why that
21 was.

22 LORD BRACADALE: Yes, very well. I shall allow you to cover
23 these areas.

24 (Pause).

25 MS GRAHAME: I understand that Mr Paton may have taken the

Transcript of the Sheku Bayoh Inquiry

1 opportunity to use the facilities, so he may just be
2 a moment.

3 LORD BRACADALE: Right.

4 Mr McConnachie, I don't think you mentioned the
5 issue that had been flagged up for you but are you
6 intending to look at some of the positive --

7 MR MCCONNACHIE: I was taking that as read, sir.

8 LORD BRACADALE: Taking that as read, all right. Thank you.
9 If you would like to come to the seat then.

10 (Pause).

11 Now, Mr Paton, Mr McConnachie has some questions for
12 you.

13 MR ALAN PATON (continued)

14 Questions from MR MCCONNACHIE

15 MR MCCONNACHIE: Mr Paton, have you found it difficult to
16 give evidence purely in relation to what your knowledge
17 was as at 3 May 2015, without taking into account
18 a whole raft of information that you have received since
19 that date, including listening to this Inquiry?

20 A. Yes.

21 Q. Can I refer you to the timeline, if you have that,
22 please. This is with a view to trying to identify what
23 information you actually had as you were attending that
24 scene. If you look at page 1, there's a call at
25 7.16.32, or an Airwave transmission at 7.16.32, from

Transcript of the Sheku Bayoh Inquiry

1 control which talks about a "disturbance ongoing, male
2 armed with a knife, African-looking male chasing someone
3 may be carrying a knife ..." and then there's
4 a description given.

5 A. Yes.

6 Q. At that point in time were you in fact, as it were,
7 attending another call supposedly?

8 A. Yes.

9 Q. And when you heard that, what did you do?

10 A. We were about halfway towards the call that we had been
11 sent to, it was an alarm call, it was nothing too
12 pressing. We about-turned the van, done a U-turn and
13 then headed in the direction of this knife call.

14 Q. All right. Now, if we go on to page 2, at 7.17.04,
15 there's another transmission saying:

16 "Yeah" and then something that's not picked up:

17 "That's another grade 1 call coming in for the
18 Victoria Road Kirkcaldy. Male armed with a knife. Male
19 in possession of a large knife. A black male wearing
20 white T-shirt and jacket walking along the street with
21 a large knife in his right-hand, about a 9-inch blade."

22 Is that correct?

23 A. Yes.

24 Q. Now, without going into detail, am I right in thinking
25 that because of your local knowledge, you recognised

Transcript of the Sheku Bayoh Inquiry

1 there was potentially an issue here in the sense of one
2 of the locus -- or one of the loci was not correct?

3 A. Yes, it's a mistake that's quite often made.

4 Q. And we can see -- I don't need to go through it, but we
5 can see in the course of the transmissions that you
6 raised that with control?

7 A. Yeah.

8 Q. And it's you who effectively eventually identifies when
9 Gallaghers pub's mentioned exactly where the locus is?

10 A. Yes.

11 Q. And then if you go on to page 3 for me, please. At
12 7.19.54 we see a transmission from yourself saying
13 "Roger, that's us approaching locus"?

14 A. Yes.

15 Q. And then there's another Airwave transmission from
16 control:

17 "That's another call saying he was seen walking in
18 the direction of the hospital in the middle of the
19 road."

20 A. Yes.

21 Q. So those three, as it were, transmissions, are the
22 information you have at the time about the man in the
23 middle of the road with a knife on one view from the
24 first of these transmissions chasing someone?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. You told Counsel to the Inquiry that you had attended
2 knife incidents before?

3 A. Yes.

4 Q. This one you have assessed and you have given your
5 explanation for it, this one was different?

6 A. Yes.

7 Q. In relation to incidents that you have attended before,
8 have you attended incidents which involved somebody in
9 possession of a knife?

10 A. Yes.

11 Q. And on that occasion, or those occasions, what did you
12 do?

13 A. Talked them down.

14 Q. Was there in particular an incident which is referred to
15 in one of your PDRs where someone was in possession of
16 a knife and was threatening to do harm to themselves?

17 A. That was most often -- that was most often the case of
18 knife calls was people threatening to do harm to
19 themselves and there was one particular occasion that
20 I'm aware of and I think it was at the hospital, a boy
21 was -- had gone up onto the roof of the hospital with
22 a knife and I was at the hospital. Something tells me
23 that there wasn't any senior officers on duty for
24 whatever reason that day, so I sort of took control and
25 command of the incident and ultimately was able to build

Transcript of the Sheku Bayoh Inquiry

- 1 a rapport with him and talk him down from the roof.
- 2 Q. Was that a situation where you considered the
3 communication, perhaps of the kind that Senior Counsel
4 to the Inquiry has suggested to you, was more
5 appropriate than the situation you found yourself in
6 with Mr Bayoh?
- 7 A. Oh, it was 100% more appropriate.
- 8 Q. You mentioned in the course of the questions you were
9 being asked about race and about your involvement with
10 either black officers or indeed people who were
11 committing crime, you mentioned somebody called
12 Paul Castledine?
- 13 A. Yes.
- 14 Q. How did you know him?
- 15 A. I worked in Glenrothes. Paul was on the same shift as
16 me at Glenrothes. I think I probably had about maybe --
17 maybe three years' service or something like that. Paul
18 had God knows how much, he was an experienced -- an
19 experienced officer and I worked primarily on the van
20 with him because we couldnae fit into cars.
- 21 Q. Because he was --
- 22 A. He was quite a big chap as well, aye.
- 23 Q. And am I right in saying he was the Chairman of The
24 Black Police Officers Association?
- 25 A. Yes, he was, aye.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. And are you also aware that he has provided a statement
2 which has been submitted to the Inquiry?
- 3 A. Yes.
- 4 Q. How did you get on with him?
- 5 A. A legend.
- 6 Q. He was?
- 7 A. Yeah.
- 8 Q. Did you also serve with an officer called
9 Alan MacDonald?
- 10 A. Alan MacDonald, yes, I served with him when I first
11 moved to Kirkcaldy. I was on the same team as him
12 there.
- 13 Q. And do you recall what his ethnicity was?
- 14 A. I believe his father was white Scottish and I believe
15 his mother was from Sri Lanka and Alan's actual
16 appearance -- Alan has a sort of Asian appearance.
- 17 Q. And where did you serve with him?
- 18 A. Kirkcaldy.
- 19 Q. And for how long?
- 20 A. Maybe four years.
- 21 Q. And how did you get on with him?
- 22 A. Brilliant, aye. Both inside work and outside work.
- 23 Q. And again, to your knowledge did he submit
24 a statement --
- 25 A. Yeah.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. -- supportive of you to the Inquiry?
- 2 A. Yes.
- 3 Q. You mentioned an incident to Senior Counsel to the
4 Inquiry about a situation, a road traffic accident
5 involving the travelling community.
- 6 A. Yes.
- 7 Q. And can you recall what happened in relation to that?
- 8 A. I -- from what I recall it was a mother and son who had
9 been at an Asdas on the sort of outskirts of Kirkcaldy
10 and had crossed the dual carriageway going back towards
11 their home address, knocked over and killed and they
12 lived -- they lived in the immediate vicinity and the
13 drums started beating very quickly and it just turned
14 into chaos, you know, the families all going to the
15 locus and -- it was just pandemonium, and what I managed
16 to sort of do was arrange for them to all go back to the
17 one address. I wasn't the liaison officer but -- as one
18 hadn't been appointed, but until there was one appointed
19 I was the liaison officer for that.
- 20 Q. You mean the Family Liaison Officer?
- 21 A. Aye, Family Liaison Officer for that. But it was just
22 really taking control and showing a bit of empathy and,
23 you know, just --
- 24 Q. Was it something that required communication skills?
- 25 A. Yeah, it did, aye, definitely.

Transcript of the Sheku Bayoh Inquiry

1 Q. Were you able on that occasion to assist all parties
2 with regards to that?

3 A. Yes.

4 Q. I wonder -- I don't know how easy or how difficult it
5 is -- if we can look at the bit of footage of the
6 vehicle that you were in arriving at the scene and if --
7 what I would want you to do when we look at this is to
8 observe the vehicle and also listen to the transmission
9 from Acting Sergeant Maxwell if you can at the same
10 time. So this is the period just when the vehicle is
11 arriving, so it is on page 3 and probably starting,
12 let's say, around 7.20, or maybe where you are actually
13 would do fine.

14 LORD BRACADALE: (Mic turned off) Sergeant Maxwell, is it
15 not the inspector?

16 MR MCCONNACHIE: Sorry, I beg your pardon, it is
17 Inspector Stewart, yes, you're right.

18 (Video played)

19 Pause there, please. We're in the middle of that
20 transmission I think just at that point, we're at
21 7.20.27 on the clock, and albeit it's a reconstruction
22 at the top left-hand corner of the screen, do we see at
23 that point that it appears, if it that reconstruction is
24 accurate, that both yourself and what would be
25 Constable Walker have exited the vehicle before that

Transcript of the Sheku Bayoh Inquiry

1 transmission is complete?

2 A. Definitely. I think although it's grainy on the main
3 CCTV screen below that you can actually see movement as
4 well.

5 Q. Of you leaving the vehicle?

6 A. Yeah.

7 Q. And you left first?

8 A. Yes.

9 Q. Given the circumstances of you arriving at the scene,
10 what you were -- and presumably you had seen Mr Bayoh by
11 this point?

12 A. Yes.

13 Q. And what you were dealing with, do you think you either
14 have any recollection of hearing that transmission, or
15 can understand perhaps why you didn't hear that
16 transmission?

17 A. I don't have any recollection of that transmission.
18 Whether it was because of the rattles and such-like in
19 the police van, there's a custody cage in the back, it's
20 very loud inside the vans. Whether it's whilst I have
21 been sort of taking my seatbelt off and getting out of
22 the van or whatever, but I didnae have any recollection
23 of that transmission from Inspector Stewart.

24 Q. No. Now, you were asked some questions about -- sorry,
25 just before we go there. You said to the Chair that

Transcript of the Sheku Bayoh Inquiry

1 CS spray would be what you would use rather than your
2 baton.

3 A. Yes.

4 Q. Why would that be?

5 A. CS spray -- the subject could be 12 feet away and it
6 could be effective. A baton is the length of your arm
7 and what's a baton, two and a half feet or something
8 like that, so they've got to get closer to you so
9 there's the greater risk to you. Just -- the one time
10 I used the baton, as I say, I got textbook -- textbook
11 calf strikes and it just didn't have any effect on the
12 guy, ey. I have seen other people, smaller build than
13 myself using a baton as well. I have yet to see
14 somebody drop by getting hit by a baton.

15 Q. You explained to Senior Counsel to the Inquiry the
16 occasion you used the baton and --

17 MS GRAHAME: May I interrupt, I'm very, very sorry to do so.
18 I have just received a message that the stenographer is
19 really in need of a break at the moment and I'm very
20 sorry, I appreciate that you may be nearing the end, but
21 she is finding this difficult because she hasn't had
22 a break.

23 LORD BRACADALE: I can see on the transcript (inaudible)
24 "fill in later". We will take a ten-minute break just
25 now. You will still comfortably finish, will you?

Transcript of the Sheku Bayoh Inquiry

- 1 MR MCCONNACHIE: Oh, yes.
- 2 LORD BRACADALE: Very well.
- 3 (Pause).
- 4 Yes, Mr McConnachie.
- 5 MR MCCONNACHIE: Thank you, sir.
- 6 For the benefit of all concerned I don't have very
- 7 long to go at all. You were asked some questions about
- 8 a complaint and the one I'm interested in is the one in
- 9 2010 which involved I think the attempted execution of
- 10 a warrant.
- 11 A. Yes.
- 12 Q. Do you remember what sort of warrant it was, in the
- 13 sense of was it a search warrant, an arrest warrant?
- 14 A. I think it would be an apprehension warrant.
- 15 Q. An apprehension warrant. And if I understood what you
- 16 said previously, other officers, not you, other officers
- 17 had attempted to execute that warrant prior to you
- 18 attempting to execute it?
- 19 A. Yes.
- 20 Q. And insofar as any instructions were concerned, there
- 21 was nothing relating to those prior attempts which
- 22 alerted you to any suggestion that there was an issue
- 23 with regards to understanding?
- 24 A. That's correct.
- 25 Q. The last thing I wanted to ask you about is the

Transcript of the Sheku Bayoh Inquiry

1 suggestion, or the allegation from your grandfather that
2 you made a particular comment to him.

3 So far as your grandfather is concerned, am I right
4 in thinking he is now deceased?

5 A. Yes.

6 Q. Do you know when that was?

7 A. A year ago? I don't know.

8 Q. At the time he provided a statement he seems to have
9 been aged 88 at that time. Yes. Now, I don't want to
10 delve into family disputes, but is it fair to say that
11 there is something of a schism within the family?

12 A. Yeah.

13 Q. And in particular that that is between yourself and your
14 sister?

15 A. Yes.

16 Q. And your sister's name is Karen Swan?

17 A. That's right.

18 Q. And her husband's name is Barry Swan?

19 A. Yeah.

20 Q. And they, I think, provided statements in relation to
21 various matters?

22 A. Yes, and they --

23 Q. Which you will have seen?

24 A. -- and they orchestrated the BBC media broadcast as
25 well.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. How long has that dispute been ongoing?
- 2 A. 2005.
- 3 Q. So, as we sit here now, some 17 years?
- 4 A. Yes.
- 5 Q. Back in 2015, perhaps 10 years?
- 6 A. Yes.
- 7 Q. And so far as that is concerned, am I right in saying
- 8 that that has pretty much meant there's no relationship
- 9 between yourself and your sister and her husband?
- 10 A. There is no relationship.
- 11 Q. And indeed, there was not in 2015?
- 12 A. No.
- 13 Q. So far as your grandfather is concerned, if one wants to
- 14 split it into two sides, as it were, which side was he
- 15 on?
- 16 A. Karen and Barry's side.
- 17 Q. And from a remark you made to Senior Counsel to the
- 18 Inquiry, did you consider he was influenced by them?
- 19 A. Yes.
- 20 Q. As at August 2015, so I suppose shortly after the
- 21 incident that we're interested in, how often were you
- 22 seeing your grandfather?
- 23 A. Not very often. That was the first time I see him in
- 24 six months maybe.
- 25 Q. On the day that you saw him, do you remember what you

Transcript of the Sheku Bayoh Inquiry

1 were actually doing?

2 A. I was in the bakery department of Morrison's and we kind
3 of struck up a conversation. He was telling me about
4 a -- he was looking for my sort of -- my police thoughts
5 on a dispute he was having with a neighbour across the
6 drive regarding a fence that had been built up the
7 middle of the drive and I was just -- he was asking how
8 the kids are going, kids are and such-like, and I was
9 saying "You will have to come up and see the kids", so
10 that was -- that was kind of how it left -- it left on
11 good terms.

12 Q. When you say you said to him "You will have to come up
13 and see the kids", this is your children you're talking
14 about?

15 A. Yes.

16 Q. And at that time, how long was it since he had seen the
17 children?

18 (Pause).

19 Roughly?

20 A. A couple of years, maybe longer.

21 Q. Right, we are talking years?

22 A. Aye.

23 Q. And your suggestion that you should come up and see the
24 kids, was that some sort of attempt at reconciliation,
25 as it were?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, aye. I had nae fallen out with my grandad about
2 anything so he was more than welcome to come up to the
3 house to see the kids or that.

4 Q. And was there any discussion between you and him about
5 your feelings towards black people or any other ethnic
6 minority?

7 A. No, it's absolute nonsense.

8 MR MCCONNACHIE: Thank you, sir.

9 LORD BRACADALE: Mr Paton, thank you very much for coming to
10 give evidence to the Inquiry. When I rise, you will be
11 free to leave.

12 A. Thanks.

13 (End of pre-recorded evidence)

14 Statement by LORD BRACADALE

15 LORD BRACADALE: Before I hear any applications under
16 Rule 9, I want to pick up on two matters. First, by way
17 of explanation, when Mr Paton was giving evidence about
18 obtaining an interpreter, you heard another voice speak.
19 That was the appropriate adult who was just trying to be
20 helpful, but as Senior Counsel to the Inquiry explained
21 to her, she could not give evidence.

22 The second matter is the reference to certain
23 statements. In the course of his examination of
24 Mr Paton his senior counsel, Mr McConnachie, made
25 reference to statements from two officers. These

Transcript of the Sheku Bayoh Inquiry

1 statements were obtained by the legal representative of
2 Mr Paton and were provided to the Inquiry on the day
3 before Mr Paton's evidence was recorded.

4 As I have said before, the Inquiry is
5 an inquisitorial Inquiry which conducts its own
6 investigations. I have discouraged core participants
7 from providing to the Inquiry statements of potential
8 witnesses. On the other hand, I have encouraged core
9 participants to suggest lines of investigation.
10 I propose to treat these statements as a suggested line
11 of investigation. The statements will not be disclosed
12 at this stage. I shall take advice and consider whether
13 further investigation of this matter by the Inquiry
14 would be likely to assist me in fulfilling the Terms of
15 Reference.

16 Now, are there any Rule 9 applications? Mr Anwar,
17 anybody -- Mr Moir. Nobody else. Right.

18 Mr Anwar, if you would like to come to the table
19 please, and Mr Moir, there's a seat for you as well.

20 (Pause).

21 Yes, Mr Anwar.

22 Application by MR ANWAR

23 MR ANWAR: Obligated, sir.

24 Mr Paton had stated in a statement, PIRC statement
25 I believe, that he stated:

Transcript of the Sheku Bayoh Inquiry

1 "Straight away I remembered that there had been
2 a rumour going about Kirkcaldy Police Station that
3 somebody intended to cause harm to a female cop."

4 And he goes on to say that:

5 "For a number of months checks have also been
6 carried out by officers at a number of identified
7 locations in Kirkcaldy due to the increased terrorist
8 risk. It also ran through my mind that this male could
9 be part of a terrorist plot."

10 We would submit, sir, that evidence suggests that
11 there was no official warning with regards to a female
12 officer and we would also wish explored the identified
13 locations in Kirkcaldy due to increased terrorist risk
14 that Mr Paton speaks of in his statement and whether
15 Hayfield Road was one of these locations.

16 We also would request a question to be asked of him
17 in relation to did he make a link with terrorist plots
18 when dealing with other knife incidents such as the one
19 in PDR 2012? In how many knife crimes did Mr Paton
20 press his emergency button? In how many knife crimes
21 did he restrain those individuals to the ground? In how
22 many of those did he deploy CS or PAVA spray? And how
23 many of those were black, Asian or any other minority
24 ethnic group?

25 Earlier in his evidence, sir, he stated:

Transcript of the Sheku Bayoh Inquiry

1 "Let's face it, he was on a mission to try -- his
2 sole purpose on going on the streets with a knife was to
3 try and find Saeed Zahid, probably with the intention of
4 killing him".

5 It's important to state, sir, that nothing has been
6 established about what was going through Sheku Bayoh's
7 mind that Sunday morning but what we do know from
8 evidence was that he was undergoing some form of
9 a mental health crisis. The family wish put to
10 Alan Paton in the form that there is no evidence
11 establishing that Sheku Bayoh was returning with
12 the sole purpose of going on the streets with a knife to
13 try and find Saeed Zahid probably with the intention of
14 killing him. This witness has been given wide latitude
15 and I understand that's because of the claims, or the
16 evidence that's been provided that he suffers from
17 post-traumatic stress syndrome, however the family do
18 not believe that he should be allowed to state widely
19 speculative statements without it being questioned.

20 In relation to his statement to the Inquiry he
21 states:

22 "From my statement I was convinced he was breathing.
23 I believe I saw the rise and fall of his chest. I also
24 believe this was in keeping with my training."

25 The question we would ask of Mr Paton is how was it

Transcript of the Sheku Bayoh Inquiry

1 possible to see the rise and fall of his chest if he was
2 resisting and if he had stopped resisting? What was
3 done to monitor the breathing? And what was the correct
4 procedure?

5 Moving on to the issue of racist terminology, this
6 witness was asked about the use of the term "Boy", which
7 he has used throughout his statement:

8 "The boy continued to walk towards me with his palms
9 open. Facing me he was smiling at Craig and wiped the
10 CS spray off his face, the boy was face up".

11 And he was also asked later on in the evidence
12 about:

13 "Question: ... how much importance do you place on
14 communication as a skill, as a tactic to de-escalate
15 a situation?

16 "Answer: Well, I did try and communicate, but you've
17 got to have it from the other side. If it he is not
18 engaging back with you, if he is not even telling you to
19 'fuck off' or ... you ken, 'it wasn't me boss'..."

20 Can Mr Paton be asked when you consider the use of
21 "the boy" throughout to describe Mr Bayoh, which he
22 denies has any racist connotation, combined with the
23 words "It wasn't me boss", could he be asked whether he
24 would consider that to be accepted as being racist or
25 offensive.

Transcript of the Sheku Bayoh Inquiry

1 On the issue of the assessments whilst travelling --
2 whilst at the locus, he states that he saw Sheku Bayoh
3 walking towards him with palms facing upwards. In his
4 PIRC statement 00262 at page 4 he states:

5 "With my spray in my right-hand and pointing in the
6 direction of the man I shouted loudly and very clearly
7 'get down on the ground'. The guy was walking towards
8 me and completely ignored me. He kept walking towards
9 me with his palms out and I remember thinking how crazy
10 he looked and if he was on a mission. I was in genuine
11 fear for my life and this point I pressed my red
12 emergency button and shouted loudly, clearly 'get down
13 on the fucking ground'. My shouting and pointing of my
14 spray had absolutely no bearing on him and he kept
15 walking towards me ignoring me as if he was in
16 a one-track mind and I was terrified and thought I was
17 going to get attacked by him."

18 The question we would wish further asked of Mr Paton
19 is why did he assess Mr Bayoh who continued to simply
20 walk as threatening? What exactly was it about this
21 black man who appeared not to be registering any
22 response that terrified Mr Paton so much, on the basis
23 that Mr Paton himself was half a foot taller and some
24 five stones heavier, armed with weapons that he could
25 use, with back-up on its way, and also a partner who was

Transcript of the Sheku Bayoh Inquiry

1 assisting him who was 6 foot 4 and 25 stones,
2 PC Craig Walker.

3 With regards to the action at the locus in relation
4 to CS spray and PAVA spray he states in evidence:

5 "I genuinely thought I was going to die. It goes in
6 slow motion and I had -- when I was curled up I had
7 visions of -- your sides are exposed, the back of your
8 neck's exposed. I expected a meat cleaver or a knife in
9 the side of the neck. And then you start to have the
10 thoughts 'Am I going to get home from my shift tonight?,
11 'Am I going to see my wife again?' 'Am I going to see
12 my kids again?' and that's what still causes me
13 problems, ey, that's the main part of my PTSD that
14 I just cannae get out of my mind. You were thinking the
15 worst. I was thinking the worst."

16 The question that we would ask -- wish asked of
17 Mr Paton is Sheku Bayoh take advantage of the
18 vulnerability of Mr Paton once the spray blew back into
19 his eyes? It is a matter of fact that Sheku Bayoh did
20 not attack Mr Paton. When the CS spray blew back into
21 PC Paton's face, did he feel vulnerable to attack, was
22 he angry, and could he confirm it is simply the case
23 that Mr [Bayoh] carried on walking by him.

24 In relation to the issue of restraint in evidence he
25 stated:

Transcript of the Sheku Bayoh Inquiry

1 "It was whilst I was still holding his bicep with
2 the baton I noticed there was no resistance with regard
3 to him trying to lift up his arm. I am only really
4 conscious of his arm. I could not really see the rest
5 of the torso because of Craig's back. The guy did not
6 speak or scream throughout the incident".

7 "Question: So do you remember saying this to the
8 PIRC at the time?

9 He was asked:

10 "Answer: Mm-hm".

11 And then he goes on in his evidence:

12 "Question: And you have talked about him
13 aggressively fighting and resisting. Can you describe
14 to us how he was moving when he was on the ground?"

15 And he answers:

16 "Answer: Just wriggling all over the place and his
17 arms were sort of ... and his legs were flailing and --
18 that's the best I can describe."

19 He is asked:

20 "Question: How hard was he resisting?

21 "Answer: He was resisting -- considering the size of
22 the guys that were trying to stop him resisting, he was
23 resisting a fair bit."

24 And he is questioned:

25 "Question: Who were the guys that were trying to

Transcript of the Sheku Bayoh Inquiry

1 stop him resisting?"

2 Mr Paton has said in his he was and in his

3 statements that Sheku Bayoh was aggressively fighting,

4 that he was resisting, and the question that the family

5 wish asked of Mr Paton is did he ever think that

6 Sheku Bayoh might have been struggling because he could

7 not breathe? He has already stated that Sheku Bayoh

8 never said a thing throughout the incidents. We know

9 from the evidence of Kayleigh Good, the civilian

10 eye-witness, that she could hear screams that sent

11 chills through her body and that she could hear loud

12 screams of "Get off me". We also heard from a police

13 officer saying that Sheku Bayoh was aggressively

14 groaning. The family would wish questions asked about

15 whether Sheku Bayoh was making screaming noises, moaning

16 noises, groaning noises, that PC Paton -- Mr Paton

17 stated that he was resisting, was he not saying

18 anything, would he accept it was possible that he was --

19 Sheku Bayoh was struggling because he could not breathe?

20 Did he hear him say the words "Get off me" or "I can't

21 breathe", and, sir, whilst I appreciate that you have on

22 a previous occasion talked about the issue of

23 Sheku Bayoh being important and central to this case and

24 talked of the totality of the evidence, we would submit

25 that this is a critical police witness involved in the

Transcript of the Sheku Bayoh Inquiry

1 restraint of Sheku Bayoh and should be asked these
2 questions as he gave such vivid explanations in his
3 statements and in his evidence and various claims that
4 have been made that as far as the family are concerned
5 are attempts to smear, to stereotype and to stigmatise
6 Mr Bayoh.

7 Mr Paton goes on to state that Sheku Bayoh was
8 making no restraint during -- making no noise during the
9 restraint. The question that we would wish explored
10 with Mr Paton was, was that because he was unconscious?

11 If he did not believe he was unconscious then the
12 question that arises is why did he slap him or pat him
13 to the side of his face? Did Mr Paton think that
14 Sheku Bayoh was faking it? The question that we would
15 wish asked of this witness is that when Sheku Bayoh's
16 body is placed in the ambulance, why were the restraints
17 and the handcuffs not removed? What was the correct
18 method of restraint and was he aware of the dangers of
19 methods that he had used including the use of his baton
20 to restrain Sheku Bayoh on the ground?

21 In his Rule 8 statement at paragraph 59 he states:

22 "After giving the attending paramedics an update of
23 the situation, I returned to my van. I have no
24 knowledge of what they did thereafter."

25 The question that we would wish explored from this

Transcript of the Sheku Bayoh Inquiry

1 witness is why did he not tell the paramedics about the
2 use of CS and PAVA spray.

3 Mr Paton throughout his evidence repeatedly
4 mentioned the use of Flakka which he knew from his
5 research on YouTube or Google. If he was so well-versed
6 in the issue of Flakka, why did he not mention it to the
7 paramedics who attended as this would have been
8 a significant concern and significant issue to raise
9 with the paramedics.

10 Did he not think that -- another question that the
11 family wish raised is about the covering of
12 Sheku Bayoh's body before commencing CPR or part of his
13 body after CPR was commenced to try and keep him warm,
14 and if he was not covered, why not.

15 In evidence earlier Mr Paton stated when he was
16 questioned:

17 "Question: Although he was lighter than you and
18 PC Walker and smaller. What was it about him that made
19 you describe him as large.

20 "Answer: Because he was large, he was black, and he
21 was ... male."

22 And he is questioned again:

23 "Question: [When] you say he was large, what do you
24 mean by that?

25 "Answer: His physique, his muscles, his neck muscles,

Transcript of the Sheku Bayoh Inquiry

1 his biceps, his chest.

2 "Question:So it was ...

3 "Answer:He was a steroid user, ey, so he was pumped
4 up."

5 Repeatedly through his evidence Mr Paton has stated
6 about the use of steroids. He has not been asked the
7 question that it was impossible for Mr Paton to say if
8 Sheku Bayoh had ever used steroids and how he would know
9 of this on 3 May 2015. The family would wish this
10 witness questioned on who provided him this piece of
11 information, was it the Scottish Police Federation, was
12 it the PIRC, was it Police Scotland and if so when?

13 The family want these areas examined on the basis of
14 there is a need to explore the racist stereotyping here
15 and the attribution of superhuman strength. Each
16 officer up until now has denied the stereotypes whilst
17 maintaining the use of them and it is essential that the
18 responses of previous witnesses are not used by the
19 Chair to pre-judge police officers that follow but for
20 each officer to be tested and explored on such
21 stereotypes, otherwise how else can the Inquiry
22 investigate if institutional racist culture is at play.

23 The Angiolini review of deaths and serious incidents
24 in police custody in 2007 in brief states:

25 "The stereotyping --"

Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: Mr Anwar, I really have to interrupt you
2 there, I'm sorry. What I'm wanting from you is an
3 indication of a line of questioning that Counsel to the
4 Inquiry should ask at any continued hearing. I don't
5 need justification by way of reference to the Angiolini
6 report. So you can bear that in mind in anything
7 further you have to say.

8 MR ANWAR: I'm obliged, sir. I will move on.

9 In relation to exploring the questions -- the return
10 to the station. As soon as Mr Paton is back at the
11 station he spoke to Austin Barrett who was a Scottish
12 Police Federation representative. Craig Walker had
13 asked him to arrange for a Federation representative as
14 he believed we would -- as he believed that they would
15 require it. The question that we wish explored from
16 Mr Paton is did he or Craig Walker state to
17 Austin Barrett that they had "killed a man" and what was
18 meant by this. Why did they need a Federation
19 representative and what did they think that they could
20 do to help him?

21 He states:

22 "When I arrived at the office I went upstairs and
23 changed out of my uniform as it had been contaminated by
24 CS spray and PAVA spray. I put my CS spray back into my
25 locker along with my Airwave radio. I put my uniform in

Transcript of the Sheku Bayoh Inquiry

1 locker room 4 outside my locker."

2 The question we would wish explored from this
3 witness is: did he not think that these items may be
4 important as evidence that would require to be preserved
5 and examined?

6 Mr Paton spoke in his evidence:

7 "Answer: I remember going into the station. I went
8 into the station because Stephen House was -- had called
9 a meeting. Whether that was just an excuse to get
10 everybody to go, I don't know."

11 We are aware from previous evidence and the family
12 is aware that there was a meeting with Chief Constable
13 Stephen House and they would wish explored from this
14 witness when did that happen and -- when did that happen
15 and what happened at that meeting?

16 Moving on from that, he states:

17 "Answer: I don't remember seeing any other officer
18 discharge CS or PAVA at the man, although I do believe
19 that Ashley did from a conversation after the event."

20 We would wish the question asked, "What else was
21 discussed? When did that conversation take place?"

22 Moving on to the issue of Mr Paton's family, in the
23 PIRC statement 00468, at page 5 of 8, Karen Swan, his
24 sister, said that Alan Paton wished to join the British
25 National Party, a racist Nazi organisation, when he was

Transcript of the Sheku Bayoh Inquiry

1 16 years old. She also spoke of his racist --

2 LORD BRACADALE: Mr Anwar, I have to interrupt you again
3 here. These are matters which will -- if they are to be
4 explored at all, will be explored separately. They may
5 not -- they may be collateral matters, but this witness
6 cannot himself comment on something that his sister is
7 said to have said.

8 MR ANWAR: Well, the basis of that was on -- this witness
9 has been asked about his grandfather, William Paton, and
10 the allegations he has made and his sister Karen Swan,
11 who I understand will be a witness in the future, or
12 suspect will be a witness in the future, also has made
13 a statement to the Inquiry -- has made a statement to
14 the PIRC and it is on that basis that I was wishing that
15 question asked, but I will move on, sir.

16 His counsel, senior counsel -- or Mr Paton spoke of
17 the orchestration of the BBC News. Following the BBC
18 News item, the family would wish asked whether any of
19 the allegations of racism made against him -- whether he
20 was contacted by the professional standards at
21 Police Scotland in relation to that matter.

22 They wish asked of this witness that Mr Paton's wife
23 Pamela in her statement says that he happily bumped into
24 his grandad in Morrison's and had invited him to the
25 house, and the question the family would wish asked, "If

Transcript of the Sheku Bayoh Inquiry

1 he was on such good terms with Mr Paton senior, why
2 would he suddenly make up such an allegation?"

3 Again, sir, you may wish to -- you may wish this to
4 be addressed at a different stage of these proceedings,
5 however the family wish this raised. They state that
6 Karen Swan in her statements to the PIRC stated that
7 there was an Asian family who Mr Paton used to make
8 racist remarks to when he was a young man and he wanted
9 to join the BNP and that his mother --

10 LORD BRACADALE: Mr Anwar, you're just repeating the matter
11 that I suggested you shouldn't explore at this stage.

12 MR ANWAR: I will move on, sir.

13 I will simply close in relation to the matter about
14 hating all blacks and the terms in the racist
15 terminology that's been used. We would submit that it
16 is essential that these matters are explored at length.
17 This isn't the usual required nuanced and layered
18 approach that has been adopted in dealing with all the
19 police officers, but it is direct evidence of overt
20 racism which Mr Paton is -- his grandfather has given
21 evidence and also there are statements taken from his
22 family.

23 I understand that my learned friend may also have
24 questions that crossover and I will wait to see what he
25 says.

Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: Yes, thank you, Mr Anwar.

2 Mr Moir.

3 Application by MR MOIR

4 MR MOIR: Sir, I have two points I would wish the Chair to
5 consider. The first relates to a paragraph in PIRC
6 statement 00396 at page 9 and I think it's the paragraph
7 that starts off "Karen and I discussed these events ..."

8 Now, I draw a distinction here between my friend
9 Mr Anwar's comment about the British National Party and
10 the comments on that and it doesn't relate to that,
11 my Lord. What it relates to are direct comments
12 attributed to Mr Paton by Mr Shaw, his brother-in-law --
13 this is the statement from him -- where he indicates
14 that Mr Paton in the early years had made a number of
15 jovial and humorous jokes. He didn't consider there to
16 be vindictiveness in them himself but the reference to
17 the jokes were, and I quote, "that black bastard" or
18 "the Paki jokes":

19 "I never challenged them because I perceived it as
20 a laugh. I didn't ever feel that he meant the
21 comments."

22 These are jokes, however, that I would submit to the
23 Chair are wholly inappropriate jokes for a police
24 officer to be making, albeit he wasn't no doubt a police
25 officer at that time, but they perhaps give some insight

Transcript of the Sheku Bayoh Inquiry

1 into his mental attitude and they were comments that
2 were made directly to the witness by Mr Paton, so that's
3 the first thing I would wish Counsel to the Inquiry to
4 consider asking and the Chair to consider allowing to be
5 done.

6 The second matter, sir, relates to the transcript
7 from today at page 166, bleeding into 167, where Counsel
8 to the Inquiry asked:

9 "Question: How confident now -- looking back, how
10 confident were you in the training that you had
11 received -- you have made comments earlier today about
12 the training in relation to handling an incident of this
13 sort; how confident were you in the training that you
14 had had in equality and diversity, matters relating to
15 race?"

16 He goes on to say:

17 "Answer: I think it probably could be improved if
18 I'm being honest, ey. Maybe every two years or
19 something like that would be handy."

20 And then the question then is:

21 "Question: So maybe more than --"

22 And:

23 "Answer: Done for the right purposes and for the
24 right reasons. I think they probably could do more
25 because -- I mean, I have heard some people that's given

Transcript of the Sheku Bayoh Inquiry

1 evidence saying that their last input was when they were
2 up at Tulliallan. Well, that's not really acceptable in
3 my opinion, and everybody likes a wee day out course,
4 ey."

5 And then it goes on to say:

6 "Answer: Maybe more regular training but not rammed
7 down your throat, not every year. Something every two
8 years would be enough."

9 I would ask that this whole passage of evidence is
10 explored because the implication that's being made there
11 is that Mr Paton is implying that he may think there may
12 be wrong purposes for equality, diversity and race
13 training and the reference -- so how much more regular
14 training, the reference to "not rammed down your throat"
15 perhaps implies a hostility towards ethnicity, diversity
16 and race training, my Lord, so I would like that further
17 explored and expanded upon if possible, my Lord.

18 LORD BRACADALE: Thank you, Mr Moir.

19 Well, given the time, I will consider these
20 submissions overnight and I will give my decision
21 tomorrow morning.

22 (4.40 pm)

23 (The Inquiry adjourned until 10.00 am on Wednesday,

24 22 June 2022)

25

Transcript of the Sheku Bayoh Inquiry

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

Statement by LORD BRACADALE1
MR ALAN PATON (affirmed)4
 Questions from MS GRAHAME4
 Questions from LORD BRACADALE176
Application by MR MCCONNACHIE177
MR ALAN PATON (continued)179
 Questions from MR MCCONNACHIE179
Statement by LORD BRACADALE193
Application by MR ANWAR194
Application by MR MOIR209