

Transcript of the Sheku Bayoh Inquiry

Thursday, 24 November 2022

(10.03 am)

MR SCOTT MASTERTON (continued)

LORD BRACADALE: Good morning, Mr Masterton.

Ms Grahame.

Questions from MS GRAHAME (continued)

MS GRAHAME: Thank you very much. Good morning,

Mr Masterton.

A. Good morning.

Q. Yesterday we were talking about the pods and the location where you were, and the location of your sergeant, and we were talking about the location of the Overview inspector.

A. Yes.

Q. Can I ask you about some -- obviously, as you know, we have Inquiry statements. You have given us an Inquiry statement and they are evidence available to the Chair, so although we have not heard oral evidence from your sergeant, Steven Bisset, we have an Inquiry statement from him and I would like to ask you something -- some questions about something he says, which you may not be aware of.

Could we have Sergeant Bisset's Inquiry statement up on the screen please and I'm interested in looking at paragraph 18. I will read this out and then I will ask

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1 you some questions, so you won't have seen this before,
2 Mr Masterton.

3 A. No.

4 Q. So:

5 "By 3 May 2015, I had been a Control Room Sergeant
6 for about 12 weeks. I remember that my shift that
7 morning started at [7 in the morning]. I was no sooner
8 on duty when the Duty Officer, who was in the Overview
9 upstairs, phoned downstairs ..."

10 We know that the duty inspector was Inspector
11 Stewart, so he phoned downstairs:

12 "... and said that the night shift had left a mess
13 in the kitchen and he wanted one of the day shift
14 officers to go up and clear it up. The duty officer
15 that day was Inspector Steven Stewart. I couldn't
16 recall that the inspector on duty was Steven Stewart.
17 I know this having assisted operation Tarn in 2020.
18 I know that Inspector Stewart was covering for our own
19 Inspector [redacted] who was off on leave."

20 Then if we could move on to the next page please.
21 So this is a statement by Sergeant Bisset. Then at
22 paragraph 19:

23 "I have been asked to consider Inspector Stewart's
24 Inquiry statement at paragraph 15. Inspector Stewart
25 states that he was not in Overview at the time that the

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1 initial calls came in and he thinks he was down on the
2 Control Room floor amongst the controllers and service
3 centre staff. I thought I received a phone call or
4 someone had a phone call from him about the mess in the
5 kitchen, but that would mean he was in Overview when the
6 call was made. He has maybe phoned me and then come
7 down to the control room or it's possible that he's been
8 down and said to me face-to-face, or somebody else
9 face-to-face, 'Have you seen the mess that our kitchen
10 has been left in?'. I thought it was a phone call from
11 the Inspector but the message could have been delivered
12 in person."

13 And paragraph 20:

14 "It was the start of my shift, at about 07: 00 on
15 a Sunday morning, and at that time there was absolute
16 minimal, if any, incidents on the screen. There were
17 none that were urgent or that needed any real attention.
18 Rather than ask somebody else to go and do it, I said
19 'I'll just go and do it myself'. I then went upstairs
20 to clean the kitchen. I can't remember the specific
21 time I left the Control Room floor."

22 Then he goes on to say, at paragraph 21:

23 "When I returned to the Control Room, I remember
24 someone saying to me that a male had been arrested
25 following calls regarding a male with a knife, and

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1 officers had attended and had arrested him. I was also
2 informed that they had called 2 ambulances because
3 a police officer had been assaulted and the suspect had
4 taken unwell. I can't imagine that I was away from my
5 desk for long, but it seemed to all be about over in
6 that time."

7 Now, yesterday, Mr Masterton, you talked about your
8 location on 3 May and if I remember correctly you said
9 you had your back to the sergeant who was the supervisor
10 in the pod and you talked about your supervisor, your
11 sergeant, and the inspector coming right on to the calls
12 and being aware of the grade 1 calls. Having looked at
13 Sergeant Bisset's statement, were you aware on 3 May at
14 the time that you were dealing with this grade 1 call,
15 or these calls, that he had actually left his station or
16 his position in the pod?

17 A. No.

18 Q. You weren't aware of that? And we will also hear -- and
19 we have a statement from Inspector Stewart and we have
20 heard evidence from Inspector Stewart that he was away
21 from the Overview prior to around 7.18 in the morning.
22 So again, were you aware that he was not in front of his
23 screen in the Overview at the time you were dealing with
24 this grade 1 call?

25 A. No.

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- 1 Q. And I think yesterday, am I right in saying, you
2 couldn't see the Overview from your position?
- 3 A. No, it's in a --
- 4 Q. That's --
- 5 A. -- separate part of the building.
- 6 Q. Yes. So those were -- that was an assumption that you
7 made, that he would be on top of the grade 1 call.
- 8 A. Yes, albeit that for both the sergeant and the
9 inspector, when a sergeant leaves his pod he gets one of
10 the other sergeants to take over for him and monitor his
11 jobs as well, and likewise the sergeant -- the ACR
12 inspector has a deputy, a sergeant, in the room with him
13 as well so when the inspector goes away his deputy will
14 be watching the jobs, so there's a redundancy there, so
15 when either of them go away -- they obviously at times
16 have to go to the bathroom or they have to go for a meal
17 break and when they do that the backup steps in to
18 monitor.
- 19 Q. And is that the normal procedure, or the protocol that's
20 followed?
- 21 A. Yes.
- 22 Q. But again, on 3 May is that an assumption that you're
23 making, that that protocol was followed?
- 24 A. I've never known it not to be followed so ...
- 25 Q. Right. Can we look at paragraphs 42 and 43 of Sergeant

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1 Bisset's statement. Let's start with 42. This is
2 Sergeant Bisset saying:
3 "If you had to leave your desk during your shift
4 i.e. [a] break, HR issue, the Inspector wanted to talk
5 to you about something - you would just say to somebody
6 'I'm away, will you cover for me?'. Unless they had
7 anything significant on, they would do it. If they
8 couldn't then one of the other two would do it. Bearing
9 in mind we work ten-hour shifts, you couldn't sit for
10 ten hours in front of a computer. You had to move
11 about, and you had to go and deal with people and deal
12 with other issues."

13 Then 43:

14 "I can't remember if I communicated that I was
15 leaving my desk on the morning of 3 May 2015. Sergeants
16 were always up and down from their desks, so everyone
17 knows that if you weren't there, there was someone else
18 you could turn to. There could also be situations where
19 I was already dealing with another incident or was on
20 the phone. The controllers would shout over to another
21 Sergeant for assistance. The Sergeants all sat within
22 touching distance of each other and were easily
23 accessible to all controllers."

24 Is that correct, that the sergeants were all within
25 touching distance of each other and were easily

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1 accessible to controllers such as yourself?

2 A. Pretty much, yes.

3 Q. But I think, as you said, you had your back to the
4 sergeants?

5 A. Yes.

6 Q. Yes. And yesterday when we were talking about the
7 set-up, I think you confirmed that you hadn't sought any
8 assistance from the sergeants on that morning?

9 A. Not that I recall, no.

10 Q. Right. Thank you very much.

11 Can I ask you something else about the system that
12 you could see on the computer screen in front of you.
13 Is there -- you told us yesterday about the call cards,
14 the incidents being logged, and you talked about other
15 things that you could access through that system. Was
16 one of those things a map system, or an awareness of the
17 areas that were being focused on?

18 A. There was -- there was some kind of mapping system, yes.

19 Q. And that mapping system, did it allow you to see not
20 just the streets and the locations of the streets, but
21 also the resources and key buildings in the area such as
22 churches or hospitals?

23 A. It was supposed to, but it didn't work like that in
24 reality.

25 Q. Tell us about the reality, please.

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1 A. So I think once a month we were supposed to check it --
2 possibly even once a week we would get officers to call
3 up to test the system, so they would call up, say where
4 they were and we would see if that matched where it was
5 on the map. Never ever did. I mean seriously, never,
6 and I have also had incidents where maybe I haven't been
7 in contact with an officer for a while and I'm starting
8 to possibly get concerned about their safety and I will
9 check up on their location and all too often I would
10 find them in the middle of the Firth of Forth, so it
11 just -- there was none of us relied on that system in
12 any way whatsoever to give us an accurate indication
13 where officers were.

14 Q. Right. What about the buildings themselves? How
15 accurate was it in relation to things like the location
16 of hospitals, or the location of churches?

17 A. I don't remember ever using it for that purpose, so
18 I don't know.

19 Q. Why was the system inaccurate, do you know?

20 A. No.

21 Q. No. But in any event, you didn't rely on it?

22 A. No, and I don't know any of my colleagues who did, no.

23 Q. Right, thank you. I would now like to turn to look at
24 the STORM logs and I have asked if you can have copies
25 of those in front of you. There are two and I have also

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1 asked that copies are available to you and both the
2 Assessors.

3 Now, this is the best quality that we have and they
4 will be shown on the screen, but they are quite faint.
5 Can we look at the first one, PS00231. Do you have that
6 in front of you?

7 A. Yes.

8 Q. Thank you. And we will see that in the table it says
9 3 May -- on the left-hand side, 3 May 2015, 7.14.16. Do
10 you see that?

11 A. Yes.

12 Q. And next to that it says "AD-19 Duplicate Incident" and
13 then there's a number "0743/PS, 999 MOB", mobile
14 presumably. And underneath it says "Priority: 2", "Male
15 with knife" and I would like to ask you about this --
16 this is the first STORM log, so am I right in saying
17 that this is an incident where the call taker has
18 created this document and it starts at 7.14.16?

19 A. Yes.

20 Q. So is this the document that you see on your screen as
21 controller?

22 A. Yes.

23 Q. You seem slightly hesitant.

24 A. It's quite a while ago now.

25 Q. Yes.

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1 A. Yes, I'm fairly sure that's what comes up on my screen,
2 yes.

3 Q. Right, thank you. Now, you will see that this one said
4 "Duplicate incident" and just for the moment can we
5 quickly move to PS00232, so that we can compare the
6 other one that we have, so this is the second one and
7 this says -- same date, 3 May 2015. This is 7.15.42, so
8 it's over a minute later that this is created and it's
9 a different code, it says "AB-28, disturbance" and it is
10 a 999 mobile call also. This one is priority 1 and it
11 says "Male with knife in hand". The address information
12 is Hayfield Road, we can just see that on the screen.

13 A. Yes.

14 Q. Now, this is number 232 and it seems to be a priority 1
15 call. I'm interested if you can explain -- these were
16 at the beginning two separate matters, one started at
17 7.14, one started at 7.15, relating to calls received by
18 call takers. What's the relationship between the two?
19 Why does the earlier one we looked at say duplicate
20 incident? Can you explain that for us?

21 A. When we get multiple jobs reported to us that look as if
22 it is the same incident rather than trying to have two
23 or three or more jobs running, we make one of them
24 a duplicate and, if I recall correctly, after that
25 everything from that job will be shown in the master

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1 job, but either way it's to -- essentially what we don't
2 want is more calls coming in and more call takers
3 creating more different jobs, so we want all the
4 information to be going on one master job so that I can
5 immediately see any new information that's coming in
6 that I might need to pass out to the officers on the
7 ground, so it's to just have one single incident to
8 control rather than multiple incidents.

9 Q. So you don't have two of these on your screen at one
10 time --

11 A. No.

12 Q. -- trying to read between them?

13 A. No.

14 Q. You have one that's given primacy?

15 A. Yes.

16 Q. And we saw that the first one came in at 7.14. This is
17 the 7.15 one. At what point is the 7.14 classed as
18 a duplicate incident? Can you tell?

19 A. I think it's probably a decision by me at the time, so
20 by the looks of it we have had a grade 2 call coming in.
21 I'm probably reading that and on top of that the grade 1
22 call comes in, at which point I will switch to the
23 grade 1 call, see -- have a quick read of it, "Okay
24 I think this is the same job" and make it a master job
25 and link the two.

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1 Q. So it's within your power to link those two jobs?

2 A. Yes.

3 Q. And do you remember how soon -- after you got the
4 grade 1 call, at 7.15.42, how soon after that did you
5 decide to link those two?

6 A. I would imagine very, very quickly, but I can't remember
7 exactly, no.

8 Q. And when you say "Very, very quickly", can you give any
9 indication at all? Do either of the logs help you work
10 that out?

11 A. I'm not sure that they do. I don't know if there's any
12 times on that. I think part of my initial reluctance
13 when I was saying that it looks slightly different is
14 that this is now a paper copy of something that's
15 normally on a computer screen and computer screens are
16 notoriously difficult at producing the same thing when
17 they are printed out, so I would imagine that somewhere
18 in there it's going to tell you a time that the incident
19 was made a duplicate, but ...

20 Q. Let's look at the first one, 231. This is the 7.14 one
21 and you will see it goes on to page 2 and at 7.24.15 the
22 last entry seems to say "Call type changed" from
23 "AB-28TPAD19 at disposal".

24 Is that of significance?

25 A. That could well be when the job was actually made

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1 a duplicate, but unfortunately there was no way to
2 communicate with call takers effectively, other than
3 standing up and shouting across the room, so I'm pretty
4 sure I recall standing up and shouting more or less at
5 the top of my voice because it's a massive hall and
6 they're away at the other end of the hall, shouting
7 "Call takers, these jobs that are coming in, the master
8 incident is this job", and they will start putting
9 the -- any updates onto that job and not that one.

10 They also have a supervisor there and their
11 supervisor is slightly closer, so hopefully the
12 supervisor would hear that as well, but it's
13 basically -- at that time it was: stand up, shout across
14 the hall, "Call takers, the master incident for these
15 knife jobs that are coming in is ..." and give them the
16 number.

17 Q. And the number on the master, was that 0745/PS?

18 A. Yes.

19 Q. But in your mind as controller you very quickly linked
20 these calls?

21 A. Yes.

22 Q. Right. And why were you able to link those calls in
23 your own mind?

24 A. Basically two calls from the same town describing what
25 looked like the same incident, a male armed with

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1 a knife. I think both of them described -- well, one is
2 an African-looking male, one is a black male. It was
3 extremely -- it was already, as I said before, quite
4 a rare and unusual job to get at that time in the
5 morning. The chances of us getting two separate
6 incidents with males armed with knives, being African or
7 black, was unlikely, so it seemed extremely likely that
8 these were both the same jobs.

9 Q. And both in Kirkcaldy?

10 A. Yes.

11 Q. So you were very quickly able to connect those and did
12 you start using the master copy, the 745, the PS00232?

13 A. Yes.

14 Q. Thank you. Can we look then at that master copy, the
15 232, and before I move on can I ask you to explain what
16 an "overview" tag is? Do you remember?

17 A. If I recall, that would mean that it gets flagged up to
18 Overview.

19 Q. Right and how is that done?

20 A. I don't know.

21 Q. Is that something that you would do yourself at the
22 time?

23 A. I think we could, but I think that would be the call
24 taker most likely puts it on. In fact, because it's
25 a grade 1 call, I think it would automatically receive

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1 that tag.

2 Q. Right. I think yesterday you talked about grade 1 calls
3 having a red --

4 A. Yes.

5 Q. -- flashing -- and that came up on the inspector's
6 screen and the sergeant's screen and your screen at the
7 same time, is that correct?

8 A. Yes, yes.

9 Q. So that might not have been the position with the
10 priority~2 call, the grade 2 call?

11 A. No.

12 Q. Which was 231, but this 232, grade 1 call, the 7.15
13 call, that was grade 1 so would have had the red
14 flashing --

15 A. Yes.

16 Q. -- on the screen? Thank you.

17 Can we look through this together. On page 1 you
18 will see it says "Disturbance", "Male with knife in
19 hand". It's priority 1. Then if we go down on to
20 page 2 and at the very top we can see the entry says:

21 "Male in possession of large knife, a black male
22 wearing white T-shirt, no jacket, walking along the
23 street with a large knife in right-hand, about 9-inch
24 blade, walking in the ..."

25 That comes in at 7.15.42 and then it says:

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1 "Direction of the hospital, walking quickly
2 more ..."

3 I think yesterday you explained how the call takers
4 are on the call and typing these entries into the screen
5 as they're on the phone.

6 A. Yes.

7 Q. And so it carries on:

8 "Walking in the direction of the hospital."
9 And then it says:
10 "Incident created from ..."

11 Is that "CRM"? And then there's a number at
12 7.15.42. Why does it say "Incident created"?

13 A. Sorry, I don't know what that is.

14 Q. All right. Then going down to 7.18.18 we can see the
15 reference "SD10 attending."

16 A. Yes.

17 Q. And it says "OVIEW", that looks a little bit like an
18 abbreviated version of Overview, "EO1".

19 A. Yes.

20 Q. We may know from other Inquiry statements that EO1 may
21 have been Michelle Hutchison, you mentioned her
22 yesterday as well. Tell us what "SD10 attending" means?

23 A. That means there's a dog handler been allocated and is
24 going to head towards the job.

25 Q. So this is at 7.18. Is that what's -- one of the things

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1 you mentioned yesterday about going on behind the
2 scenes --

3 A. Yes.

4 Q. -- that's being done in the ACR room --

5 A. Yes.

6 Q. -- and would that indicate if Overview E01 is Michelle
7 Hutchison, that she has been looking into allocating
8 a dog handler?

9 A. Yes.

10 Q. Now, I think yesterday -- do you still have the
11 spreadsheet in front of you?

12 A. Yes.

13 Q. We looked at page 2 at 7.17.23 and we talked about the
14 transmission from Scott Maxwell that he wanted all units
15 to attend and he requested an ARV and a dog as well. So
16 that's at 7.17.23 on the Airwaves transmission and then
17 it would appear that, if we look back at the call card,
18 we can see at 7.18.18 that SD10, a dog unit, is
19 attending.

20 A. Yes.

21 Q. So would it be fair to say that after the Scott Maxwell
22 Airwaves transmission, E01, or Michelle Hutchison, has
23 made arrangements for a dog unit to attend?

24 A. Yes.

25 Q. And is that the sort of thing that's going on behind the

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1 scenes, in the ACR, while you've got these calls on the
2 screen and you're also listening to the Airwaves
3 transmissions?

4 A. Yes. I mean it's a big team effort by Overview, the
5 sergeants, the operators, and the officers on the
6 ground, so everybody is doing whatever they can to help,
7 so in a situation like this, East Overview will know
8 that I will be getting overloaded with information at
9 this point so they will be doing things like contacting
10 dog handlers, possibly looking even to see if there's
11 other resources like traffic cars or anything like that
12 that might be able to assist. If it gets to the point
13 of contacting an ambulance, possibly doing that as well.

14 Q. So it looks like Michelle was assisting --

15 A. Yes.

16 Q. -- in relation to this call as well?

17 A. Yes.

18 Q. So you weren't completely on your own --

19 A. No.

20 Q. -- with this? And then as we move down to 7.19 we see
21 that there was a call from Alan Pearson and the call
22 taker has noted this as saying:

23 "Also saw male large 6 [feet] tall ..."

24 I can't read the next part. It looks like a code:

25 "... large knife, wearing white T-shirt walking in

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1 direction of hospital, male in middle of the ..."

2 And then the next line says "Road", 7.19.30 and it

3 goes on to say:

4 "SD18 attending from Edinburgh."

5 And that's 7.21.25 and it says "SUPV", maybe

6 supervisor, "AO3", so again did you explain what SD18

7 means, attending from Edinburgh?

8 A. That's another dog handler who has been allocated the

9 job and is obviously located in Edinburgh and attending

10 from Edinburgh.

11 Q. Right and do you know who SUPV EO3 is, or was?

12 A. I don't, no.

13 Q. No. But that would be someone else other than Michelle

14 Hutchison if she was Overview EO1?

15 A. Yes, and I guess in light of what you were saying

16 earlier, that the inspector wasn't there at that time,

17 I would have to say that that was probably the Overview

18 sergeant.

19 Q. Right. We may hear that the Overview sergeant -- I will

20 be corrected if I'm wrong -- was Sergeant Dalgleish, so

21 you think that could have been someone there?

22 A. Yes.

23 Q. Thank you. And then it says at 7.22.15:

24 "Male down on ground, one officer possibly injured."

25 Then at 7.24, if we go down the page slightly:

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1 "From PI Stewart FOV - monitoring incident, aware
2 that male detained and secured and that officers
3 reported to have been assaulted by being punched to rear
4 of head, no weapons used."

5 And then can we just go down that page for
6 completeness. 7.26.18 we see:

7 "Ambulance contacted requiring two ambulances for
8 officer and accused."

9 And then at 7.26.37 on the same page:

10 "SAS contacted and 2 ambulances attending."

11 Now, we have heard that SAS is the Scottish
12 Ambulance Service?

13 A. Yes.

14 Q. So these two entries here related to ambulance being
15 called, or ambulances -- two ambulances being called and
16 can you explain in relation to the ambulances what's
17 going on behind the scenes in the ACR room, if you know
18 that an officer has been injured?

19 A. Sorry, in relation to them contacting the ambulance for
20 the --

21 Q. Yes, who contacts the ambulance?

22 A. East Overview has contacted the ambulance there, but it
23 wouldn't necessarily always be them, but they have done
24 it on this occasion. If we cast our minds right back,
25 if you were lucky you had what you called a spare on

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1 your desk, a spare operator who would cover us for
2 breaks, etc, and so if you had a spare operator they
3 would do things like this. I'm guessing we didn't have
4 a spare operator that day.

5 The ACR sergeants might do it. Occasionally I might
6 do it myself, but that would be very rare because that
7 would seriously take me away from the incident, so if --
8 on this occasion East Overview have felt quite happy to
9 do it, so they have done it.

10 Q. And how is it that East Overview will get in touch with
11 the Ambulance Service?

12 A. We have a sort of desktop panel with buttons that you
13 press which gives you a direct link I think to the 999
14 line to the ambulance, so you just press that and the
15 Ambulance Service will answer it and they will ask all
16 the questions that they need to know answers to, in the
17 same way that we receive a call, they will ask their
18 questions, prioritise that and if they've got a unit,
19 dispatch an ambulance.

20 Q. And in relation to the information that ACR are able to
21 provide to the Ambulance Service, what are you dependent
22 on?

23 A. The radio traffic from the local officers and any
24 information that's on the log.

25 Q. All right. Thank you.

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1 And at the same time we have talked yesterday about
2 Sergeant Maxwell's request for an ARV and we can come
3 back to look at the transcript on page 2 -- sorry, the
4 combined audio and video timeline, page 2. If we look at
5 the bottom you will remember that yesterday, having
6 asked for an ARV and a dog unit, Sergeant Maxwell, at
7 7.19.12, asked for an update on both of those things.
8 Do you remember we looked at that yesterday?

9 A. Yes.

10 Q. And I think at 7.19.17 you came on to the Airwaves and
11 said:

12 "I believe a dog unit is en route."

13 So by then, from the information on the call card,
14 you would be aware that SD10 was attending and SD18 were
15 attending. Let me just check the times on the STORM
16 cards. SD10, you were aware that was attending at
17 7.18.18. You weren't aware that SD18 was attending from
18 Edinburgh until 7.21.25. So by the time you made this
19 Airwaves transmission, at 7.19, you were at least aware
20 that the first dog unit, SD10, was attending.

21 A. Yes.

22 Q. And we see at 7.19.23, "Con 2", who we heard evidence
23 was Michelle Hutchison, says:

24 "411 be aware organising an ARV as well, stand by."

25 And I wonder if you can help us, how is it that an

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1 ARV is organised? So we have Michelle Hutchison saying
2 at 7.19.23 "Be aware organising a ARV as well", so
3 that's in response to Maxwell's request for an update.
4 What's going on in the ACR behind the scenes at this
5 time in relation to an ARV?

6 A. I don't know too much about that because it's not my
7 responsibility at all to do that, but my understanding
8 is that the ACR inspector would be looking at the job,
9 assessing it on whatever criteria he assesses it on,
10 deciding whether or not an ARV would go. He then
11 contacts the ARV -- I don't know whether he does that by
12 phone or on a separate talk group -- and I'm not 100%
13 certain again, but I think they have something called
14 a firearms tactical advisor that they possibly consult
15 as well, so there's basically some kind of assessment
16 going on by the ACR inspector in liaison with somebody
17 from firearms as to whether this merits a firearms unit
18 to go to the job. I think that's the gist of it.

19 Q. But that is not part of your role?

20 A. No.

21 Q. -- at all?

22 A. No.

23 Q. And the person with the authority to deal with that, or
24 the responsibility to deal with that, would be the
25 Overview inspector?

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1 A. Yes.

2 Q. So in terms of Michelle Hutchison's role, we may hear
3 that she is a civilian --

4 A. Yes.

5 Q. -- she wouldn't have the authority to deploy an ARV?

6 A. No.

7 Q. So if she is transmitting that she has -- "Be aware
8 organising an ARV", she doesn't actually say she is
9 organising an ARV or any of that, but are you aware of
10 whether she would have the authority to contact an ARV,
11 or be involved in that in any way?

12 A. No. I mean I can't remember precisely her job title,
13 but I think it's like --

14 Q. Communications?

15 A. Yes, something like communications.

16 Q. We heard that it might be called communications officer?

17 A. Communications assistant or officer. She basically
18 works on the instructions of the inspector there so the
19 inspector is going to be overloaded with information at
20 this point as well and all the stuff that he has to do,
21 so he doesn't have time to come on the radio and do
22 a lot of radio traffic and that, so he will be saying to
23 Michelle "Do this for me", "Do this for me", so she will
24 do the updating of the job so that he doesn't have to do
25 all the updating of the job while he's looking at what

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1 he needs to look at. So she is effectively running the
2 radio and running the log on his behalf and at his
3 behest.

4 Q. Thank you. Right, can -- we have looked at the STORM
5 logs. You still have those in front of you. We have
6 heard evidence that the first call that came in to
7 the police was made by a Mr Harry Kolberg and that that
8 came in at 7.10.14 and we have seen from the first STORM
9 log that we looked at that the call taker has created
10 this STORM incident card at 7.14.17 and you told us
11 yesterday that they're creating these as they're on the
12 phone to the caller.

13 There seems to be a period of four minutes between
14 the call coming in from Mr Kolberg and the incident
15 being logged in the STORM system at 7.14 and given what
16 you were saying yesterday about the targets and speed
17 and people getting things done quickly and they're
18 typing as they're on the phone, can you explain in any
19 way why it took four minutes?

20 A. No, no. I'm wondering from something that you said
21 earlier ... we spoke about something in a CRM. I'm
22 wondering if they use a different system to record the
23 jobs on the call takers' side and then if it merits it
24 being a police incident it is then created on the STORM
25 system for us as the police dispatchers, but if it isn't

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1 meriting a police response it may just be recorded on
2 that system. That's the only thing I can think of here
3 that -- I can't remember, I never ever worked on the
4 call taker side so I'm not 100% certain how that works,
5 but there is a possibility that they have their own
6 system over there, they are taking the call -- you know,
7 people phone in for lost property, etc, you know, asking
8 "Have you found my dog?", etc, so they may just be
9 recording information there and if it merits it going to
10 a job that needs police response they may transfer it at
11 that point onto this. I'm wondering if that's what's
12 happening and I'm wondering if that's what that CRM
13 reference was earlier.

14 Q. Where do you see the CRM reference? Just so I know
15 exactly. This is maybe something we can look into
16 further?

17 A. We spoke about something -- oh, yes. So on the first
18 job, the 231, PS00231, at 7.14.17 it says:

19 "Incident created from CRM."

20 Q. Ah, so this is 7.14.17, immediately below the entry that
21 says "African-looking male was chasing"?

22 A. Yes.

23 Q. "Comps" as in complainer's car "and he thinks he may be
24 carrying a knife" and then it says "Incident created
25 from CRM by ..."?

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1 A. Yes.

2 Q. So it could be -- you agree the four minutes seems
3 a long time to create that entry --

4 A. Yes.

5 Q. -- from a call that comes in at 7.10?

6 A. Yes.

7 Q. So you think there may have been a further period of
8 time elapsed before it's transferred from CRM to the
9 STORM log?

10 A. It looks like it, yes.

11 Q. Thank you.

12 And once it is on the STORM log would there be any
13 ongoing delay with the CRM or would it all be straight
14 onto the STORM log, as far as you know?

15 A. I don't know.

16 Q. You don't know, all right. And in relation to the
17 second STORM log, PS000232, do we also see -- if we look
18 at page 2, the first entry we looked at this morning,
19 7.15.42, "Male in possession of a large knife, black
20 male wearing white T-shirt", you remember that one we
21 discussed?

22 A. Yes.

23 Q. Below that there's also an entry at 7.15.42 that says:

24 "Incident created from CRM."

25 And there's a number --

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1 A. Yes.

2 Q. -- "By ..." and then redacted. So again it could be
3 that although this was marked a priority~1 call and it
4 was a disturbance for a male with knife in his hand, you
5 think that could also have been created on a different
6 system and then transferred to STORM?

7 A. I think that might be possible, yes.

8 Q. It's possible. Well, we can check -- we can look into
9 that. Thank you, Mr Masterton, that's very helpful.

10 Can I ask you if there -- just as we look at those,
11 we have the AB-28 disturbance which is the priority~1
12 call, that's the second, 232.

13 A. Yes.

14 Q. We have the first, the duplicate incident, it's
15 a priority 2, male with knife. Did the initial grading
16 as priority 2 and the subsequent grading as priority 1
17 have any impact on your decision when it came to
18 despatching units, or the unit as it turned out to be,
19 Tomlinson and Short?

20 A. No, I mean I would say that the first job has been
21 created incorrectly and it should have been a grade 1
22 call. The second one is a grade 1 call. In my mind
23 they're both the same incident, they're both high
24 priority and I will be dispatching units as quickly as
25 I can.

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1 Q. And certainly in relation to the priority~1 call, which
2 was on the screen at 7.15.42, and the details came in~in
3 relation to that, as we looked at the spreadsheet
4 yesterday, the combined audio and video timeline, we
5 know that you go on to the Airwaves at 7.16.22.

6 A. Yes.

7 Q. So that's -- the call comes in at 7.15.42, the entry is
8 there on the STORM, and you're on the transmissions at
9 7.16.22.

10 A. Yes.

11 Q. And you say:

12 "Control 41 Charlie."

13 And then at 32 seconds past you say:

14 "I need you to divert to Hendry Road, a disturbance
15 ongoing, male armed with a knife, African looking male,
16 chasing someone, may be carrying a knife, described as
17 big with muscles, about 6 foot tall, wearing a white
18 T-shirt and dark coloured jeans. There's another job
19 coming in about it, stand by."

20 At the time you're transmitting that over the radio
21 we heard evidence in the first hearing that it was
22 possible that you were reading from the screen, from the
23 STORM card.

24 A. Yes.

25 Q. Is that what you were doing?

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1 A. Yes.

2 Q. Thank you. And as you say, there's another call coming
3 in about it and then going back to the primary STORM
4 card, 232, do we then see at 7.19.30 a call from Alan
5 Pearson?:

6 "Also saw male large, 6 [feet] tall ... large knife,
7 wearing white T-shirt, walking in direction of hospital,
8 male in middle of the ..."

9 And then "road."?

10 A. Yes.

11 Q. And was that the other call that you were aware of
12 coming in?

13 A. No, this is a third call.

14 Q. Yes, it is. Because I wondered what's happening with
15 the first STORM card at the same time. We have still
16 got that running, 7.14, 7.15, 7.17.

17 A. It's basically sitting in the background and I'm running
18 off of this. I will have shouted across to the call
19 takers that this is our master incident. I haven't had
20 time obviously at that point to link them yet, but I'm
21 basically trying to get everything now recorded on this
22 master incident.

23 If the first incident gets updated at all there will
24 with a flash, I think if I recall correctly, to indicate
25 that there is further information on it, so I still will

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1 be trying to look at that and that's part of the
2 problem, you're jumping between the two to see if there
3 is any new information, but I'm trying to get everyone
4 to put everything on this one master incident so it's
5 all in one place and we can see it easier.

6 Q. That makes your job easier?

7 A. Yes.

8 Q. But until that's done you're still trying to keep one
9 eye on the original STORM card?

10 A. Yes.

11 Q. Thank you. So you're aware that a number of calls have
12 come in, they may not all be on the one card, but you're
13 aware that they are being recorded?

14 A. Yes.

15 Q. And let's go back to that first call card, so we had the
16 first entry, 7.14.17:

17 "African looking male ... chasing [complainer's] car
18 and he thinks he may be carrying a knife."

19 So this is the first one, this is Harry Kolberg and
20 there's mention of Templehall Avenue and he "ran down
21 Hendry Road".

22 "Described a big with muscles and about 6 ft.
23 Wearing a white T-shirt and dark coloured jeans."

24 That comes in at 7.15.36. Then:

25 "Further call from the informant stating that the

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1 male is jumping in front of other cars and stopping
2 them."

3 7.17.25 we have heard that Harry Kolberg called
4 a second time to explain that:

5 "I asked about the knife but they didn't know if he
6 had one or not."

7 That's 7.17.50, that's the second call from Harry
8 Kolberg:

9 "Further call from female Linda Limbart advising
10 male is in Hayfield Road near Gallaghers pub."

11 That's at 7.18.35:

12 "Male is black with a very large knife."

13 And then lower down at 7.20:

14 "Further call from anonymous male ... saying black
15 male with a blade [possible] kitchen knife but not
16 brandishing it about - just visible - [and] [anonymous]
17 male then hung up."

18 So you are still keeping an eye on these entries as
19 well?

20 A. I'm trying to, although they're on two separate jobs so
21 you have to open one and effectively shut down the
22 other, so I'm trying my best, yes.

23 Q. Right. We have heard evidence about these calls at the
24 earlier hearing. All of them had been -- apart from the
25 anonymous person, of the people we know the names of,

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1 all of them had been completed by 7.18. Were you aware,
2 by shortly after 7.18, that multiple calls had been made
3 about this incident?

4 A. Yes.

5 Q. Namely six, Harry Kolberg called twice. Were you aware
6 of all of them?

7 A. I was aware there was multiple calls. How many I don't
8 know or who from particularly, but I was aware there was
9 a number of calls, yes.

10 Q. Thank you. Can I ask again about the dog unit. We have
11 seen on the second STORM card that two dog units had
12 been contacted, SD10 were attending, that's 7.18.18,
13 that's on page 2 of 232 and SD18 were attending from
14 Edinburgh and that was noted at 7.21.

15 At that time did you have any information available
16 to you about how long it would take either of those dog
17 units to attend Kirkcaldy?

18 A. I didn't have any direct information, just from
19 experience, I would -- I knew certainly one of them was
20 in Edinburgh, almost definitely both of them were in
21 Edinburgh. They were probably at Fettes at that time in
22 the morning. It was standard procedure right throughout
23 the police that first thing on the early shift on
24 a Sunday morning was when you cleaned vehicles and did
25 other admin kind of stuff because it was the --

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1 basically the quietest time of the week, so there's
2 every chance that those two dog handlers were still at
3 Fettes without their dogs in the van, they were doing
4 maintenance tasks and things like that, so I would be --
5 my belief would be that they were both attending from
6 Fettes in Edinburgh and it would take them some time to
7 get their dogs in the van and en route to that job and
8 to get there.

9 Q. But did you have any information from either of them, or
10 from anyone in ACR about their estimated time of
11 arrival?

12 A. No.

13 Q. Is that information that you can get in your position as
14 controller?

15 A. Not really, no. They will be attending with blue lights
16 and it's going to attend on any problems that occur on
17 the road. You would hope on a Sunday morning it
18 wouldn't be too busy and they could get there as fast as
19 they possibly could but ...

20 Q. Obviously over the Airwaves transmission, we have looked
21 at the spreadsheet, the officers on the ground were
22 advised that a dog unit is en route.

23 A. Yes.

24 Q. Is there any way that information can be provided to the
25 men on the ground about the length of time it's going to

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1 take for a dog unit to come in. Even although you don't
2 have it, is there any other way they can get that
3 information?

4 A. No.

5 Q. No. Can I ask you about your -- we looked at this
6 yesterday -- your decision to deploy a unit. Let's look
7 again at the spreadsheet, the combined audio-video
8 timeline, page 1. That's 7.16.32. You said:

9 "I need you to divert."

10 This is Ashley Tomlinson has said "Go ahead", you
11 have responded and you have said:

12 "I need you to divert to Hendry Road a disturbance
13 ongoing, male armed with a knife."

14 We looked at that a moment ago.

15 A. Yes.

16 Q. And this decision to deploy a unit to attend at
17 Hendry Road, to divert to there.

18 Now, we looked yesterday at 7.17.04 which was a call
19 which appears on page 2 of the spreadsheet, where you
20 say:

21 "Another grade 1 call coming in for the Victoria
22 Road Kirkcaldy male armed with a knife, male in
23 possession of a large knife, a black male wearing
24 a white T-shirt and jacket walking along the street with
25 a large knife, in his right-hand about a 9-inch blade."

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1 Then at 7.17.23 Scott Maxwell comes on and says:

2 "I want all units to attend bearing in mind officer
3 safety. Is there an ARV and a dog as well please?"

4 So that happens between 7.16.32 and 7.17.23. So you
5 make the initial deployment, that's Tomlinson and Short,
6 and then Maxwell asks for all units to attend.

7 A. Yes.

8 Q. Can we turn now, against that background, to look at
9 your second Inquiry statement please. I'm interested in
10 paragraph 16. Now, you have the hard copy and we will
11 also get this up on the screen. You are asked by the
12 Inquiry team:

13 "... in high risk incidents involving a knife
14 [whether] it would be a reasonable option for
15 a controller to direct response officers to go to an
16 incident to observe only and not approach or attempt to
17 detain the person. Yes, possibly. I don't think I've
18 ever done it. I would be prepared to do that if
19 I thought there was something that merited it. I'd be
20 very, very surprised if I ever had to make that decision
21 because almost definitely the local sergeant on the
22 ground, the supervisor in the ACR, and the inspector in
23 the ACR would probably make that decision first. So I'd
24 be surprised if I would ever personally have to do it
25 but if there was something in the job, yes, I'd be more

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1 than happy to say that. The local Sergeant or Inspector
2 are effectively the local commanders on the ground and
3 they would most likely, and also be best placed, to make
4 any decision like this. Overall, it's a team effort
5 between everybody: the response officers attending, the
6 supervising sergeant on the ground and us in the control
7 room. In a sense, whoever might be best placed to make
8 that decision would probably make that decision. In
9 relation to this incident, I don't know the geographical
10 layout of Fife, etc. There might be something the local
11 sergeant might know that means he might come in and tell
12 his troops to stand off and just observe, but that kind
13 of thing is more reserved for firearms calls. So
14 a firearms call, in general, you're still going to have
15 a response unit attend, but it's a standoff call:
16 Attend, observe and report back. I never really heard
17 it, I don't think, ever with a knife call."

18 So I would like to ask you some questions about this
19 paragraph. So you were asked whether -- at the
20 beginning of that paragraph, you were asked whether it
21 would have been possible or a reasonable option for you
22 to direct officers to go to an incident but observe only
23 and not approach or attempt to detain the person and you
24 say "Yes" but you didn't think you had ever done that.
25 You had never had that experience in your I think

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1 18 months you said yesterday that you had been in ACR?

2 A. No.

3 Q. And you say:

4 "I would have been prepared to do it if I thought
5 there was something that merited it."

6 What sort of thing would you have expected to merit
7 that approach?

8 A. I cannot really think of any situation with a knife that
9 it would -- that would merit it. It really is only in
10 a firearms incident that I think that would come into
11 play. Yes, I think it would only really be in
12 a firearms incident where you might have a shooter
13 running about, shooting actively, shooting at people.

14 In a knife incident an officer can get very close
15 and still stay a safe distance away, you know, a couple
16 of metres away or something like that, but in a firearms
17 incident somebody shooting can kill you from a long
18 distance away, so in a firearms incident you are
19 initially still going to be sending unarmed officers, so
20 you want them to obviously use cover, try and find out
21 what's going on and try and pass back relevant
22 information to the firearms officers that are going to
23 be attending, but in a knife incident honestly I can't
24 think of a situation, but if a situation arose and
25 I felt it merited it, I would be happy to say to the

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1 officers "Look, stand off on this just now and let's see
2 what will happen", but, as I say, I cannot see that
3 I would ever have to actually do that because by that
4 stage the local sergeant is almost definitely going to
5 have made that decision themselves.

6 Q. Right. Let me just look at what you have said. As
7 I understand your earlier evidence, firearms matters
8 would be the responsibility of the Overview inspector?

9 A. Yes.

10 Q. In this case Inspector Stewart and he is the one that
11 would have authority -- he is the only one that would
12 have authority to deploy an ARV, an armed response
13 vehicle?

14 A. Yes.

15 Q. And so it wouldn't be within your job description to
16 deal with a firearms incident if it was declared
17 a firearms incident for example?

18 A. No.

19 Q. Had you ever dealt with an incident involving a gun?

20 A. No.

21 Q. Were you aware of the -- if it's a firearms incident
22 there's certain protocols and procedures that have to be
23 carried out in terms of SOPs and that type of thing?

24 A. Vaguely, yes.

25 Q. But that's not part of your role?

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1 A. No.

2 Q. You have just said that in a firearms incident -- you
3 have been talking about guns -- you would still send
4 unarmed officers. Are you aware that the -- if it's
5 armed policing, if the protocol or the SOP that's
6 applying and it's declared a firearms incident,
7 the protocol says you're not supposed to send unarmed
8 officers? Were you aware of that?

9 A. No.

10 Q. No. But again, that wasn't part of your job as
11 a controller, if it's to declare a firearms incident or
12 had --

13 A. I can't declare a firearms incident, no. That would be
14 the inspector. But my understanding and throughout my
15 service I have seen unarmed officers deployed to what
16 ultimately end up firearms incidents, but obviously at
17 the time they're deployed you might not fully know that
18 it's a firearms incident, so ...

19 Q. So for you if it's a knife incident involving an edged
20 weapon, a bladed weapon, or an edged weapon, would you
21 always send unarmed officers?

22 A. Yes.

23 Q. Yes. And then you talk in this paragraph about -- it's:
24 "... almost definitely the local sergeant on the
25 ground, the supervisor in the ACR, and the inspector in

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1 the ACR would probably make that decision first."

2 This is a decision about telling officers to go to
3 the incident but observe only and not approach or
4 attempt to detain the person, so you think that would be
5 the responsibility of the sergeant on the ground?

6 A. Yes.

7 Q. We have heard that's Sergeant Maxwell, Acting Police
8 Sergeant Maxwell?

9 A. Yes.

10 Q. Or the supervisor in the ACR, is that your sergeant,
11 Sergeant Bisset that you were referring to?

12 A. Yes.

13 Q. Or the inspector in the ACR, that's Inspector Stewart on
14 that day?

15 A. Yes.

16 Q. So you would have said that would be for one of them to
17 make that decision about officers being told to attend
18 but observe only, not approach or attempt to detain the
19 person?

20 A. Yes.

21 Q. Thank you. If we can go just up the page slightly. No,
22 sorry, I meant down the page. I'm getting confused
23 there. Thank you.

24 Then this is carrying on~on paragraph 16 and on this
25 page it says:

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1 "Obviously you can get up very close to someone with
2 a knife without necessarily being injured, but someone
3 with a gun can do a lot of damage from far away.
4 I can't recall a knife incident where that kind of
5 stand-off message has been given."

6 So you had never been involved in any knife
7 incidents where that message "Stand off" had been given,
8 or you just had never been involved in any stand-off
9 messages?

10 A. I've never been involved -- well, as a controller I've
11 never been involved in any stand-off messages, but in
12 30 years of police service I cannot ever recall anyone
13 being told for a knife incident to stand off.

14 Q. Right. And in your experience when were those stand-off
15 messages given?

16 A. I would say purely for firearms incidents.

17 Q. And when you're talking about firearms, what do you
18 mean?

19 A. Someone with a gun.

20 Q. Right. And so the instruction to officers to attend an
21 incident, observe, not approach or attempt to detain,
22 that's called, in your experience a "stand-off message"?

23 A. Yes.

24 Q. So if we hear other people talking about a stand-off
25 message, that's the sort of message that they're being

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- 1 given?
- 2 A. Yes.
- 3 Q. Right. Was it open to you to instruct officers to not
4 just stand off, but to attend a rendezvous point to
5 await the arrival of specialist resources, such as the
6 dogs or other specialist resources?
- 7 A. That wouldn't be a decision I would make, no. No.
- 8 Q. Whose decision would that be?
- 9 A. Again, I would say it was the sergeant on the ground,
10 the inspector on the ground, possibly the inspector in
11 the ACR.
- 12 Q. Thank you. Had you had any experience of officers being
13 told to stand off and rendezvous at a separate location?
- 14 A. Never, no.
- 15 Q. Not in your time in ACR?
- 16 A. Not for jobs like this. The only jobs we ever did
17 rendezvous points for was emergency incidents at the
18 airport.
- 19 Q. Right. What sort of emergency incidents at the airport?
- 20 A. If there's an emergency declared at the airport then
21 the police, fire service and ambulance all go to
22 a rendezvous point just immediately beside the airport
23 in case a plane crashes and they're immediately ready to
24 deal with it.
- 25 Q. Had you ever experienced that instruction in relation to

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1 a rendezvous point in regard to a firearms incident with
2 the use of a gun?

3 A. Not in the ACR as a controller in the ACR, no.

4 Q. But in your experience?

5 A. I have heard of -- I have heard radio traffic while
6 I have been an operational uniformed officer discussing
7 that, yes, and asking people to attend an RV point, yes.

8 Q. Thank you. At any time when you were dealing with these
9 calls that we have looked at in relation to the STORM
10 logs, consider making contact with Inspector Stewart to
11 invite him -- to draw these to his attention and invite
12 him to declare a firearms incident?

13 A. No. In my opinion he will be on top of that job and he
14 will be doing all of those things as we speak. I don't
15 need to do that.

16 Q. All right.

17 A. It would probably be considered quite cheeky to be
18 honest.

19 Q. Okay, thank you. Can I ask you to look at paragraph 12
20 of your second Inquiry statement please. This is about
21 the stay safe message. We heard yesterday -- we looked
22 at the message by Inspector Stewart at 7.20.13, that's
23 on page 3 of the spreadsheet. This was the one where
24 Inspector Stewart said:

25 "Inspector Stewart, area control room to the site

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1 attending and monitoring this obviously from an ARV
2 perspective. If you get sightings of the male you need
3 to make an initial assessment yourself and feed back
4 through straight away and I will listen out on
5 the channel."

6 Now, that's been described as a stay safe message.

7 Paragraph 12:

8 "I'm asked whether controllers have a responsibility
9 for issuing a stay safe message during Grade 1 calls.
10 The only person I was ever aware of doing that was the
11 ACR inspector, who would come on relatively frequently
12 during Grade 1 calls to do that. I don't recall ever
13 having been told it would be my responsibility to do
14 that. That's not to say that I didn't ever do it. If
15 I felt something extremely dangerous was going on and
16 no one else has given a stay safe message so far or if
17 I felt that officers were potentially disregarding their
18 own safety. Again, I think it was mainly used in
19 firearms situations. I'm asked about whether there were
20 cards on the desks of staff in the ACR with a stay safe
21 message printed on them. I have no recollection of that
22 during my time working in the ACR."

23 We have heard occasionally evidence that there may
24 have been some sort of card with a stay safe message
25 that could be read out. Did you have access to anything

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1 like that?

2 A. Not that I recall, no.

3 Q. And you have said that occasionally you would give
4 a stay safe message and you describe the circumstances:
5 if you felt something extremely dangerous was going on
6 and no one else has given a stay safe message. How
7 often did you go on and give a stay safe message?

8 A. I think probably by that stage maybe as little as one or
9 two times.

10 Q. And what for you was a stay safe message?

11 A. That officers should consider their safety, they should
12 consider whether they should only sort of stand off,
13 observe, report back, use cover if necessary for their
14 own protection.

15 Q. So they included stand off, observe and what, sorry?

16 A. Use cover if necessary.

17 Q. Use cover. So you didn't give a stay safe message to
18 the officers that day?

19 A. No.

20 Q. And we see Inspector Stewart's message at 7.20.13 says:

21 "If you get sightings of the male you need to make
22 an initial assessment yourself and feed back through
23 straight away."

24 There's no mention in that of "Stand off, observe,
25 use cover." As far as you recall did anybody give

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1 a stay safe message to the officers that day, in the way
2 that you recall what a stay safe message was?

3 A. No, Sergeant Maxwell mentioned something about staying
4 safe and then Inspector Stewart.

5 Q. Right. So if we look at page 2 of the spreadsheet we
6 see that Scott Maxwell makes a transmission at 7.17.23:

7 "Control from 411, I want all units to attend that
8 bearing in mind officer safety. Is there an ARV and
9 a dog as well please?"

10 So there's no mention in that transmission of "stand
11 off", "observe" or "use cover"?

12 A. No.

13 Q. Again, as far as you're aware, apart from Maxwell and
14 Stewart's messages, was anybody else issuing a stay safe
15 message to the officers on the ground?

16 A. No.

17 Q. Thank you. Can we go back to the STORM log please, 232.

18 I think I have asked you this, but I want to just be
19 clear. I think you said to us that you didn't have any
20 contact with the Scottish Ambulance Service when you
21 were controller and these calls were coming in, is that
22 correct?

23 A. I'm fairly certain I didn't, no.

24 Q. You didn't. And is it possible for you to tell from the
25 log what calls were made from Police Scotland to the

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1 Ambulance Service and what information was relayed to
2 the Ambulance Service?

3 A. No. I can only see that the ambulance has been
4 contacted, but not -- not what was said or anything that
5 would be -- there would be a voice recording of that
6 somewhere, I would imagine.

7 Q. Yes, okay. And can I ask you to look at your ... can
8 I ask you to look at your PIRC statement please, it's
9 PIRC 00331. Do we have that? Thank you. This is the
10 statement of 6 July 2015 and if we can look at page 3,
11 so this was your operational statement -- sorry, your
12 PIRC statement on that day and page 3, if we can just
13 move up slightly -- thank you. You can see the part
14 where it is redacted:

15 "I can see from the command & control incident that
16 East Overview 03 at 7.26.18 [redacted] contacted 2
17 ambulance. I can see that at 7.26.37 E02 [redacted]
18 confirms 2 ambulances [are] attending.

19 "I recall a message coming over the radio stating
20 that an officer had been punched to the back of the head
21 with no obvious serious injury and that the male was
22 secure on the ground. I recall receiving a message from
23 a PC or DC Hay to say that he was off from the locus and
24 at hospital with PC Short [and] there was a message for
25 a cancellation of a second ambulance."

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1 So this information was available from the STORM
2 logs but not in relation to what else might have been
3 going on behind the scenes with the Overview --
4 East Overview staff?

5 A. Yes.

6 Q. Thank you. We heard in evidence from a paramedic,
7 Mr David Taylor, in the earlier hearing that he wasn't
8 advised before he arrived at the locus that Mr Bayoh had
9 been struck on the head with a baton, or that he had
10 been sprayed with CS and PAVA spray.

11 Now, there was a message on the spreadsheet from
12 Sergeant Maxwell to that effect and let me just find
13 that, it's the one we looked at yesterday which is on
14 page 8 of the spreadsheet. Sergeant Maxwell at 7.26.52
15 and it says:

16 "Just for the log the initial on attendance this
17 male's attacked PC Short quite violently. As a result
18 he was sprayed with CS and PAVA and batoned. There may
19 be a suggestion that he has been batoned to the head
20 area."

21 And then you come on at 7.27.10 and say "Roger" so
22 you acknowledge that information. How was that
23 information about Mr Bayoh having been -- may have been
24 batoned to the head and having been sprayed with CS and
25 PAVA, how was that relayed to the Scottish

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- 1 Ambulance Service?
- 2 A. I have no idea.
- 3 Q. Right. It's not something you did?
- 4 A. No.
- 5 Q. And whose responsibility would it have been to relay
- 6 that information to the ambulance service? I mean they
- 7 have been called by this time, but they don't actually
- 8 arrive until later, at 7.33.
- 9 A. Well, whoever called the ambulance -- I don't know who
- 10 that was.
- 11 Q. I think we saw from the STORM log there was
- 12 East Overview people involved with that.
- 13 A. Yes, so it looks like somebody in East Overview has
- 14 called the ambulance. The ambulance goes through the
- 15 same kind of procedure that the police go through when
- 16 someone calls. They have a list of questions that they
- 17 ask, so they will have been asked, you know,
- 18 whereabouts, what's involved, etc, and they will have
- 19 passed whatever information was asked by the
- 20 Ambulance Service.
- 21 If they have any information, any additional
- 22 information which they think is relevant it would
- 23 probably be passed on.
- 24 Q. But you weren't involved with that --
- 25 A. No.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- call? Then we know from the STORM logs, 232, that
2 "Ambulance contacted requiring two ambulances for
3 officer and accused."
4 That was at 7.26. We see that on page 2 of the
5 STORM log.
6 A. Yes.
7 Q. Then "SAS contacted and 2 ambulances attending."
8 A. Yes.
9 Q. We also see that those entries at 7.26 have "SUPV EO3"
10 and "EO2" next to them?
11 A. Yes.
12 Q. And it says at 7.27.40:
13 "Male attacked PC Short violently, suspect has been
14 sprayed and batoned."
15 And it says "OP002". Do you know what that is?
16 A. "OP002"?
17 Q. Yes.
18 A. I think that's --
19 Q. That's what it looks like.
20 A. I think that might be me.
21 Q. Is that you? So is that an entry that you have put into
22 the STORM card about "Male attacked PC Short violently,
23 suspect has been sprayed and batoned"?
24 A. Yes, I think --
25 Q. And the timing is 7.27.40.

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- 1 A. Yes, I think that is me, yes.
- 2 Q. So you have typed that entry into the STORM incident
3 log?
- 4 A. Yes.
- 5 Q. So Maxwell's entry "Just for the log", when he mentions
6 the sprays and the baton to the head, that's at 7.26.52
7 and then at 7.27.40 there's an entry in the STORM card:
8 "Male attacked PC Short violently, suspect has been
9 sprayed and batoned."
- 10 And that was you that put that on?
- 11 A. Yes, so I think that will be me receiving that radio
12 message from Scott Maxwell and putting it on the log,
13 yes.
- 14 Q. No mention there of male being batoned to the head?
- 15 A. No.
- 16 Q. And looking at that now -- we have heard from other
17 officers that if you're struck to the head that's
18 a significant potential injury and an ambulance should
19 be called. Do you think that it should have been part
20 of the STORM log that he was batoned, possibly to
21 the head?
- 22 A. It wouldn't have done any harm to have added it on, no.
- 23 Q. But is everyone who is involved at ACR able to listen to
24 both the Airwaves transmissions and see the STORM cards?
- 25 A. Yes.

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1 Q. So if anyone is listening to the transmissions, they
2 will have heard, or could potentially have heard
3 Scott Maxwell's message in full?

4 A. Yes.

5 Q. And they also have the STORM incident card as well?

6 A. Yes.

7 Q. Thank you. Do you have any views on the length of time
8 it took for the ambulance to arrive at Hayfield Road?
9 We heard some evidence at the first hearing about --
10 obviously it's noted that an ambulance is required for
11 PC Short. You will see that on the previous pages of
12 the spreadsheet. I think Scott Maxwell requests an
13 ambulance for PC Short at 7.24.28, which is on page 7 --
14 sorry, it's page 6. 7.23.34 where he says, 7.23.34,
15 page 6:

16 "PC Short's been struck to the head, bit upset, I'm
17 going to need an ambulance here to check her over. No
18 bleeding, no visible injury."

19 And he requests that again at 7.24. The ambulance
20 we have heard didn't actually arrive at Hayfield Road
21 until after 7.33. Do you have any comment about the
22 length of time it took and the number of requests there
23 were for an ambulance? How common was it for it to take
24 that amount of time?

25 A. It's not something -- I don't -- I don't know basically.

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1 I think the Ambulance Service struggle with resources
2 the same as the police struggle with resources. I have
3 no idea where that ambulance was coming from. It could
4 have been coming from St Andrews or far away, I don't
5 know, so --

6 Q. I will be corrected if I'm wrong, I think it was
7 Glenrothes we heard it was coming from?

8 A. Okay. We get given no information about that, that's
9 entirely up to the Ambulance Service, so the ambulance
10 could be coming from some distance away, the same as the
11 dog handlers were coming from Edinburgh, you know.

12 Q. And that's not information you're able to share with the
13 officers on the ground?

14 A. No.

15 Q. But we saw later that you did ultimately get an
16 estimated time of arrival for the ambulance, so how is
17 that updated information obtained? Is that sought by
18 you, or provided by them?

19 A. That will have been sought by us.

20 Q. Sought by you.

21 A. Yes, yes.

22 Q. So if there are requests for updates, or multiple
23 requests for updates, is that something that the ACR can
24 obtain?

25 A. It can do, but it -- the Ambulance Service would get

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1 a bit annoyed at us pestering them for updates all the
2 time, I guess in the same way I get irritated if people
3 are asking me for updates all the time. They're trying
4 to do their job and get a unit there as quickly as
5 possible. I would imagine on this call that that
6 ambulance was probably, or both ambulances would
7 probably have been sent, they would probably be blue
8 lighting it and they would be getting there as quickly
9 as possible. To continue to ask for updates all the
10 time doesn't help the situation, it just clutters up
11 logs, it clutters up radio traffic, etc, etc. They will
12 be trying to get there as quickly as possible in the
13 same way that police officers would try to get to an
14 incident as quickly as possible.

15 Q. Thank you. Can I ask you just a few questions now about
16 the training that you have had, or had in your years of
17 service in the police.

18 Were you given training in relation to diversity,
19 equality, discrimination issues?

20 A. Yes.

21 Q. Were you given -- when did you receive that?

22 A. At some point prior to being in the ACR.

23 Q. Did you receive any additional training in relation to
24 those issues when you went into the ACR?

25 A. No, not that I recall, no.

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1 Q. So what training had you had prior to going into the
2 ACR?

3 A. I can't -- I can't really remember too much, but
4 I remember we went somewhere, it wasn't a police
5 station, I think for a whole day. We were given talks
6 by representatives from ethnic minorities about various
7 different things. I can't really recall where it was --
8 it was some kind of diversity training along those
9 lines, yes.

10 Q. You told us yesterday you had 30 years' service when you
11 retired.

12 A. Yes.

13 Q. Are you able to remember even roughly when that day's
14 training took place?

15 A. I think it would be probably in the mid-2000s, somewhere
16 like that, early 2000s, mid-2000s.

17 Q. So between 2000 and 2005?

18 A. Something like that, yes.

19 Q. Do you remember any other training in relation to
20 diversity, equality...?

21 A. I think -- but I couldn't swear to it, but I think there
22 was computer packages that came out every so often where
23 there would be information given to you on a computer.
24 You would read it and then you would be asked questions
25 about it to sort of confirm that you had understood it.

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- 1 I think -- I can't swear 100%, but I think there
2 was -- diversity packages like that came out at some
3 point as well.
- 4 Q. Were they compulsory or were they voluntary, optional?
- 5 A. They would be compulsory I think, yes.
- 6 Q. Compulsory. Do you remember when those packages came
7 out?
- 8 A. No.
- 9 Q. Do you remember how many you did?
- 10 A. Certainly one, I think.
- 11 Q. Do you remember anything that you learned?
- 12 A. Not really, no.
- 13 Q. When you were in the ACR were you able to use any of the
14 skills that you had learned at any of these courses?
- 15 A. I don't recall particularly using anything from those
16 courses, no.
- 17 Q. Did it make any difference at all to you that day that
18 the man was described as African or black?
- 19 A. Only in that it was a good description to give to the
20 officers to help identify the person.
- 21 Q. And you have said that it was one of the connections,
22 the similarities that allowed you to make 232 the sort
23 of primary --
- 24 A. Yes.
- 25 Q. -- log, rather than running 231 and 232 together?

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1 A. Yes.

2 MS GRAHAME: Thank you very much, Mr Masterton.

3 LORD BRACADALE: Are there any Rule 9 applications?

4 Ms McCall?

5 Mr Masterton, would you withdraw to the witness room
6 while I hear a submission please?

7 (The witness withdrew)

8 Application by MS MCCALL

9 MS MCCALL: Sir, it is a question that was in our written
10 application but it has not been asked -- that's not
11 a criticism may I say. It's in relation to the issue
12 that the Inquiry has already heard some evidence about
13 to do with a hot mic when Constable Paton pressed his
14 emergency button and it's a reference on page 3 of the
15 audio-video timeline and what that shows is that at
16 07.20.35 PC Smith --

17 LORD BRACADALE: Sorry, what was that time?

18 MS MCCALL: 07.20.35 on page 3.

19 LORD BRACADALE: Yes.

20 MS MCCALL: PC Smith asks control, which is this witness,
21 for a description. The controller then begins to give
22 a description, during which Constable Paton presses his
23 emergency button.

24 And the Inquiry has heard that should mean that
25 the channel is open and PC Paton can transmit without

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1 Do you see that?

2 A. Yes.

3 Q. And then at 07.20.39, "Con 1", which we have heard is

4 you, you give a description. Do you see that?

5 A. Yes.

6 Q. And what you will notice just in the left-hand column,

7 just underneath that is at 07.20.42, if you look along

8 that line you will see that Constable Alan Paton's

9 emergency status turned "on", and that's written in red.

10 Do you see that?

11 A. Yes.

12 Q. When the Inquiry has listened to your transmission it

13 appears to continue through Constable Paton pressing his

14 emergency button on his Airwaves terminal. So my

15 question is when you were making that transmission, do

16 you remember if you became aware that Constable Paton

17 had pressed his emergency button?

18 A. If I became aware I would have stopped transmitting, so

19 if I have transmitted over him then I wasn't aware. I'm

20 not sure exactly how the emergency system works, but

21 when he presses his emergency button his radio goes --

22 his transmissions go live.

23 Q. Yes.

24 A. And everybody can hear them, but obviously if you're

25 transmitting at that point you won't hear them until you

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- 1 have stopped transmitting.
- 2 Q. Yes, we have heard some evidence that the only person
- 3 that can override the hot mic, the open mic, is the
- 4 controller, in other words you in that situation. Were
- 5 you aware of that?
- 6 A. No.
- 7 Q. And when you're sitting in the ACR and an officer
- 8 presses their emergency button, how would you become
- 9 aware of that? What would you see or hear?
- 10 A. There's an alarm that goes off.
- 11 Q. And is there any flashing light or anything like that?
- 12 A. I think there is as well. I think there's a flashing
- 13 light on the monitor and an alarm.
- 14 Q. Okay. So bearing in mind what you just said, which is
- 15 that if you had become aware of his emergency button you
- 16 would have stopped transmitting, if the Inquiry
- 17 concludes that you didn't stop transmitting and
- 18 therefore you didn't hear and see the emergency button,
- 19 can you explain why that is, why you missed it?
- 20 A. It would have to be because I wasn't looking at the
- 21 monitor at that time, or I was concentrating on some
- 22 other aspect of the job.
- 23 Q. Right. When you're saying about not looking at the
- 24 monitor and you have mentioned there's a sort of colour
- 25 code on the screen, as it were, flashing when the

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1 emergency button is pressed, is that on the same screen
2 as the STORM log is on that you're -- or the call card
3 that you're reading off?

4 A. Yes.

5 MS MCCALL: Thank you, Sir.

6 Questions from LORD BRACADALE

7 LORD BRACADALE: Thank you. Could I ask you one thing,
8 Mr Masterton. Did it at any stage cross your mind that
9 this incident could have any of the hallmarks of
10 a terrorist incident?

11 A. No.

12 LORD BRACADALE: Thank you. Well, thank you very much,
13 Mr Masterton, for coming to give evidence. I will be
14 adjourning and you can then be free to go.

15 We will take a 20-minute break at this point.

16 (11.40 am)

17 (Short Break)

18 (12.03 pm)

19 MR STEVEN STEWART (continued)

20 LORD BRACADALE: Good afternoon, Mr Stewart. Thank you for
21 coming back to the Inquiry to give further evidence.
22 I understand that you are legally represented today,
23 Ms McMenamin and your solicitor are sitting in the
24 hearing room.

25 Can I remind you that you are still subject to the

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1 affirmation which you gave earlier to tell the truth.

2 Do you understand?

3 A. Yes, sir.

4 LORD BRACADALE: Thank you. Ms Grahame.

5 Questions from MS GRAHAME

6 MS GRAHAME: Thank you.

7 Good morning, Inspector Stewart.

8 A. Morning.

9 Q. Let me just recap on what the Chair has available to
10 him. Could we look at your first Inquiry statement,
11 SBPI00084. You will see that on the screen. This is
12 the statement that was taken on 17 March this year and
13 then we will see on the last page it was dated on the
14 9th -- I must have noted down the wrong date -- 9 May
15 this year and we talked about that when you gave
16 evidence previously on 17 and 19 May this year.

17 A. Yes.

18 Q. So the Chair still has available to him your first
19 statement and we have access to all of your evidence
20 previously, and in addition you have now provided
21 a second Inquiry statement and if we could look at that
22 please on the screen and that's dated 15 November and
23 then if we look at the final page, we see you signed it
24 on 21 November?

25 A. That's correct.

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1 Q. And you said at paragraph 63:

2 "I believe the facts stated in this witness
3 statement are true. I understand that this statement
4 may form part of the evidence before the Inquiry and be
5 published on the Inquiry's website."

6 So again, exactly the same position as your first
7 statement. Now, I understand that you have hard copies
8 of everything in the folder in front of you and please
9 feel free, as you did before, to simply look at those
10 copies if you wish to do so.

11 You will be able to confirm that although we can't
12 see your signature on this second statement, you have
13 actually signed every page on it.

14 A. Yes.

15 Q. Thank you. I recall at the first session that you gave
16 evidence you indicated there wasn't an operational
17 statement, but you did have a PIRC statement, PIRC had
18 come to speak to you in October of 2015?

19 A. Yes.

20 Q. And just for completeness, we will look at that, that's
21 PIRC 00395, and you will see that's the PIRC statement
22 from 9 October 2015 and you will remember giving
23 evidence before that this was the first time that anyone
24 had really spoken to you about the events.

25 A. Yes, that's correct.

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1 Q. Again, the Chair has all of that available to him, so
2 I won't be going back over that.

3 I would like to turn to your Inquiry statement
4 please. And can we look please at paragraph 10 first of
5 all, and I would like to read out the first part of this
6 paragraph and then I will ask you some questions about
7 it:

8 "In any significant incident such as this one, the
9 operational objective is to identify, locate, contain
10 and neutralise the threat, by the safest means possible,
11 with the minimum level of force necessary. You want to
12 do things as safely as possible for all involved. So in
13 any unarmed or armed operation, that would be one of the
14 main objectives and priorities for all officers. So
15 'contain and negotiate' as a tactic is always the safest
16 way to achieve this and the preferred tactical option to
17 use when possible. If you can do that, it's ideal, but
18 you'll appreciate that in some circumstances it may not
19 be appropriate because it doesn't necessarily work out
20 that way on each occasion, because the subject may be
21 non-compliant, unwilling to engage, too aggressive, or
22 too violent. But ultimately, the safe conclusion of
23 a dynamic incident like this one is what all officers
24 are seeking."

25 I would just like to ask you some questions about

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1 that. You say there that:

2 "... 'contain and negotiate' as a tactic is always
3 the safest way to achieve this and the preferred
4 tactical option to use when possible."

5 I wonder if you could explain to the Chair what
6 "contain and negotiate" as a tactic is?

7 A. Well, it's about, I suppose, containing the situation as
8 safely as you possibly can, depending on what the
9 environment is. If it was in a house, it might be a bit
10 easier than in a public wide open space. It is about
11 trying to contain the area around a subject or a person
12 and then initiate sort of communication, try and
13 understand what's happening, try and talk them down, try
14 and de-escalate, try and negotiate, and my previous
15 experience is that sometimes that can go on for
16 a lengthy period, but it is about trying to talk them
17 down from the situation they're in in terms of sort of
18 behaviour or threat.

19 Q. Can I ask you to explain a little about the difficulties
20 that officers might experience if they're in a public
21 place and they're trying to contain a situation? How
22 can that be achieved?

23 A. It is a bit more problematic in a public space, a wide
24 open space, so ideally you're looking to almost use
25 cordons to keep members of the public out, keep them

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1 safe, keep them away and isolate as best as possible you
2 can a subject to ensure that, you know, they can't get
3 near anybody, and then from that point on, you can try
4 and speak to them, try and understand what's going on,
5 so it can still happen in a street, in an area, in
6 a public place, it just has to be more flexible and more
7 sort of dynamic, with officers maybe having to move
8 round, but ideally you're looking to create some kind of
9 sterile environment so you can get the individual on
10 their own to try and reduce risk to anybody else and
11 also speak to the individual to try and sort of
12 understand what's going on and de-escalate probably is
13 how I would describe that.

14 Q. How would unarmed uniformed officers gain access to
15 equipment that would be needed to contain a subject, or
16 the number -- what number of officers would be required
17 to contain a subject, in a public place?

18 A. It depends if it was a wide open football field,
19 you know, you would maybe -- you would need more
20 officers to take up sort of static positions to try and
21 sort of box or contain someone in an area. If it was in
22 a street, you could have officers blocking, you know,
23 different ends of the street, standing in front of sort
24 of houses to prevent anybody from going anywhere and
25 just trying to do that. So it would -- you couldn't

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1 contain -- ideally you're looking for as many officers
2 as you possibly can to contain that wider area and then
3 you maybe have officers who are speaking to an
4 individual who are closer, but at a safe distance.

5 Q. In order to coordinate a number of officers, would there
6 need to be some sort of plan in place for containment to
7 take place?

8 A. Yes, I mean, with a dynamic incident, you know, officers
9 would attend initially and then they might have to sort
10 of move around to understand what was going on to take
11 up positions to maybe block a road or block an exit and
12 then you would have a supervisor attending to have that
13 overview of what was happening, if one or two officers
14 were trying to speak to an individual just to keep that
15 area sterile.

16 Q. Is it possible for two officers to contain a situation
17 on a public street?

18 A. If two officers are all that you have, you would try
19 your best to do that, but in a public street you're
20 really looking for additional officers to attend to take
21 that action, that overall action that keeps the area
22 safe and sterile whilst that contain and negotiation is
23 going on.

24 Q. Is there a minimum number of officers that's required in
25 order to contain?

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1 A. There's no minimum number. I mean, that tactic is
2 really flexible, I have done it myself with a partner in
3 a common stair before, but in a wide open area you're
4 obviously looking for more officers, especially if it's
5 a public place, because you're looking to, where
6 possible, to keep people away from that to allow that
7 safe space to work with the individual.

8 Q. Right. And that would be a tactic designed to protect
9 everyone involved, would it?

10 A. Yes.

11 Q. The subject, the officers, and possible members of the
12 public?

13 A. Yes.

14 Q. And you say that's the preferred tactical option to use
15 when possible?

16 A. Yes.

17 Q. What do you mean by that?

18 A. Just that if you can do that, if the circumstances here
19 allow you to do that, then that's probably the safest
20 way of doing that for everybody involved, but obviously
21 there are circumstances where, you know, you can
22 approach a subject and try that and it doesn't work due
23 to sort of mindset or maybe the levels of violence that
24 they're showing.

25 Q. So it may not work out because the subject may be

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1 non-compliant, unwilling to engage, too aggressive or
2 too violent?

3 A. Yes, or positive mindset, under the influence of drink
4 or drugs, just not willing to engage or listen at all.

5 Q. And so those things can make it more difficult or
6 impossible to carry out this tactic?

7 A. I would say more difficult ... yes, more difficult, but
8 it's something that you would just try and continue to
9 see if there was a positive result from it.

10 Q. Right. "Contain and negotiate", does that tactic
11 envisage the use of force, or is this a tactic that can
12 be used before any force is required or used?

13 A. Yes, I would say that's a tactic that's designed not to
14 use force. You know, you would be looking to contain
15 and negotiate, to have that dialogue to probably --
16 well, not to probably, to de-escalate a situation as
17 opposed to raising it to the next level of force, so
18 I would say that's further down the level of force.

19 Q. Right. And we have had heard some evidence about
20 preclusion principle. Can you explain that?

21 A. My understanding of it is it's basically trying
22 different sort of tactical options at a different
23 level -- at different levels, but obviously starting off
24 on a low-level of force to see if you can resolve
25 a situation safely there and then you may have to

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1 increase the level of police response from contain and
2 negotiate to tactical communication, to -- you may have
3 to use officer safety techniques, public order officers.
4 You would go up that way, but ideally if you could
5 contain and negotiate officers themselves on the ground
6 initially, strike up some kind of rapport and then get
7 trained negotiators in, if it was possible in the time
8 allowed -- it's often difficult with timescales, it
9 takes longer to organise that, but that's what you're
10 trying to do, you're trying to keep the situation safe
11 and keep that dialogue going with a view to having the
12 person sort of give themselves up as safely as possible.

13 Q. How long does it normally take to coordinate or arrange
14 for a negotiator?

15 A. It normally takes a little bit of time. In the control
16 room at the time I would phone a negotiator coordinator
17 who was on call, explain the circumstances, and then
18 that individual would call a team out and they would
19 attend as quickly as they could at the location, so they
20 could be -- one could be on -- one could stay in
21 Stirling, another one could stay in Edinburgh and
22 another one could stay in Perth, and they would all come
23 together, but there's other ways to do that. You know,
24 it might be that the negotiator and coordinator could
25 have one of the cadre -- phone the person, if they knew,

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1 certainly get onto the radio channel to give sort of --
2 to listen to what was going on and to give sort of maybe
3 officers on the ground or supervisors on the ground that
4 advice, possibly, until they got there. I mean, they're
5 the experts in that, but any kind of advice or guidance
6 to build up that information and picture would be
7 useful.

8 Q. How quickly can officers on the ground have access to
9 that advice from a negotiator, if it's organised?

10 A. It would be a phone call to a negotiating coordinator,
11 they would probably pass it on to one of the teams.
12 I mean, ideally they would want to probably come out,
13 they would deploy, that's what they would want to do,
14 and then they would want a briefing on the individual if
15 we had information as to who he or she was, you know,
16 and we would sort of be preparing that in the control
17 room at the time, as much as we knew on the background
18 of the individual, but it would normally -- it would
19 normally take a little bit of time for them to come out,
20 but you could potentially get that support through
21 a mobile phone, or the radio. If they were listening to
22 the same channel at the same time, which is what they
23 would probably do, to understand what's going on as best
24 as they possibly can.

25 Q. So when you say "a little bit of time", are you able to

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1 help the Chair with a better understanding of what
2 a little bit of time is?

3 A. Yes, I mean I would say realistically an hour possibly,
4 unless you had negotiators on duty at the time, so you
5 could have a negotiator on duty in Edinburgh, so there
6 would be people on call for that shift but if they were
7 on duty they might be able to deploy more quickly.

8 Q. Are you aware, on 3 May 2015, whether there were any
9 negotiators on duty that morning?

10 A. There would have been negotiators on duty across the
11 east area. There's a rota with all the on call
12 officers, all the specialist officers who were on duty.

13 Q. So realistically, on 3 May, when we have heard calls
14 were coming in at roughly 7.10 onwards, how far away
15 would the negotiator have been? How long would it have
16 taken them to get involved, if they had been asked to
17 get involved?

18 A. I don't know the answer to that. It wouldn't have been
19 instantaneously and immediately. It would have been --
20 it would -- the phone call could have been made to the
21 negotiating coordinator and then that process would have
22 kicked in. So it's not an instantaneous, immediate
23 call-out or in respect of a sort of fast-moving dynamic
24 incident, but we would try as best as we could to get
25 them out as soon as we could.

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1 Q. So can you give any indication at all about the length
2 of time it would have taken to get a negotiator involved
3 on that Sunday morning?

4 A. No, but I -- I would say 30 minutes to an hour anyway.
5 I would -- realistically I would say an hour.

6 Q. Okay, thank you.

7 Can I ask you to look at paragraph -- sorry, let me
8 look at some STORM cards with you. We have heard
9 evidence previously about these. These are PS00231 and
10 PS00232. Let's start with 1 first of all. We have
11 heard some evidence about this. This is -- we have
12 heard this is what appears on the screen in front of the
13 controllers, it can be on the screen in front of the
14 sergeant and in front of you. You were the inspector in
15 charge on duty on 3 May 2015.

16 We see here that this is from 3 May 2015 and it's
17 timed 7.14.16. It says "AD-19, duplicate incident". It
18 was relating to a call from a 999 mobile about a male
19 with a knife and it said "Priority: 2". We have heard
20 that this was in relation to the first call that was
21 received which came in, we have heard evidence, at
22 7.10.14.

23 There may be evidence before the Chair from a call
24 taker or a service advisor who took a call from
25 a Harry Kolberg at 7.10 and she graded this priority 2

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1 but indicated that she put an "Overview" tag on it for
2 the supervisor, and I wondered if you can help me
3 understand what an Overview tag is?

4 A. Yes. In the STORM command and control system, which
5 this incident is part of, if you put an Overview tag on
6 it, if I was to sit, or anybody was to sit in Overview
7 with the Overview filter open, it would automatically
8 show up on your filter.

9 Q. Can you explain what a filter is?

10 A. Yes, I mean it's just a way of selecting your screen,
11 your views, so you could sit with all the grade 1 and
12 grade 2 filters open and that way you would see all the
13 grade 1 and grade 2 incidents that came into the control
14 room. You could sit with the Overview filter open and
15 that way you would see everything because you can
16 imagine there's lot of STORM incidents across all the
17 different sort of control areas across the east of
18 Scotland at any one time, there will be numerous
19 incidents that are being created that are live, that are
20 ongoing, so it's a way of filtering down the important
21 incidents that you want to see.

22 Q. And how common was it for you in your practice to have
23 that filter on your screen?

24 A. I would sit with the Overview filter on all the time in
25 the grade 1 and grade 2s, because they were the priority

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1 calls that were coming in that I wanted to have that
2 sort of Overview and look at to make sure we were
3 dispatching resources and to look at any sort of risk
4 that I thought that there may be for the different
5 divisions and also whether or not any specialist
6 officers or resources might be required to support
7 divisional policing in respect of the different
8 incidents.

9 Q. So if the call-taker in relation to the first call that
10 was received had put an Overview tag on for the
11 supervisor, did that mean that the grade 2 call was
12 within your filtered calls?

13 A. If they put an Overview tag on it, it would have shown
14 on the Overview filter and been picked up.

15 Q. And you would have seen it and would the sergeant within
16 the pod have seen that as well?

17 A. I don't know if the sergeant on the actual -- so the
18 sergeant next to me in the Overview would likely have
19 seen it if he was sitting on the -- with his filters
20 open. The sergeant on the pod downstairs who was
21 supervising the controller would probably have seen it
22 because he would have been looking at all the incidents
23 for the geographical area, for the Fife area.

24 Q. Just so you know, we have heard from Mr Masterton who
25 was the controller in the Fife -- looking at Kirkcaldy

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- 1 in the Fife pod and his sergeant was Sergeant Bisset.
- 2 We have also heard from Mr Masterton that he thought the
- 3 Overview sergeant was Sergeant Dalglish, is that
- 4 correct?
- 5 A. Yes, that's correct, on both accounts.
- 6 Q. And you were the duty inspector that day?
- 7 A. Yes.
- 8 Q. And so we have heard that grade 1 calls are the most
- 9 serious, immediate threat to life, and grade 2 are
- 10 slightly less serious than that, but still important?
- 11 A. Yes.
- 12 Q. And then we have also heard that for a grade 1 call --
- 13 we know that from this log you will see this is
- 14 a grade 2 call, we have heard, with the Overview tag,
- 15 but if we look then at the next STORM log, which is
- 16 PS00232, this became the main STORM log for these calls
- 17 and it was a grade 1, so this was created at 7.15.42 by
- 18 a different call-taker and it was graded grade 1, "Male
- 19 with knife in hand".
- 20 We have heard that from a grade 1 call is logged
- 21 that it is prioritised and has red -- a red marking that
- 22 comes up on the screen; is that correct?
- 23 A. Yes, probably, it would be. I can't recall it, but yes,
- 24 I imagine it would.
- 25 Q. But if we have heard that evidence --

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1 A. Yes.

2 Q. -- you wouldn't disagree with that. So in any event,
3 for anyone who maybe isn't filtering their calls, or
4 filtering their screen, I should say, for grade 1,
5 grade 2, they will at least see this grade 1 call coming
6 in at 7.15.42 because of, we have heard, the red --
7 light -- red light on the screen?

8 A. Probably, yes.

9 Q. Flashing?

10 A. Yes.

11 Q. I'm having -- I'm struggling to remember exactly the
12 wording that was used, but you will understand what I'm
13 saying.

14 And we heard that the grade 1 calls would flash up
15 on the screen of the sergeant and the inspector. Do you
16 agree with that, yes?

17 A. Yes.

18 Q. Thank you. Can I now -- I will come back to these STORM
19 cards. I believe there are copies of those in front of
20 you at the moment, so you've got the hard copies at all
21 times, but I wonder if I can ask you to look at
22 paragraph 11 of your Inquiry statement and we will put
23 that up on the screen. I will read out a section. It's
24 a long paragraph, it goes on to the second page, but I'm
25 going to read out the first section of it and then again

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1 I will ask you some questions:

2 "In this incident, divisional officers had been
3 dispatched and were attending as quickly as possible,
4 and the information coming in from the members of the
5 public phoning the police was varied and in some cases
6 inconsistent. The control room was ensuring that all
7 available information and updates were being relayed
8 quick time to these officers. Once I entered the
9 Overview, I started reviewing the limited information as
10 best as possible, in order to make an initial threat
11 assessment and working strategy. This was a knife
12 incident but I considered it in line with my NDM
13 firearms training. The information known at that time
14 through the 999 calls gave different street names,
15 different locations ... different accounts of the
16 subject, what he was doing and how he was acting, but
17 the intelligence gaps based on the limited information
18 we had at the time were significant. These needed to be
19 developed as much as possible so that we could
20 understand the situation, who the subject was, what the
21 level of threat was and to whom, who might be at risk,
22 what his identity, capability and intention was.
23 Divisional officers were dispatched, it was a divisional
24 incident with a divisional supervisor attending and
25 issuing instructions. They were attending the place

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1 last seen, to make an initial search for the male,
2 provide an update, make that initial dynamic risk
3 assessment at the scene, and feed back to their
4 supervisors and the control room. It may have been that
5 it was safe to approach and arrest the subject on their
6 arrival depending on whether or not he was compliant; or
7 the circumstances may have been that the risks were too
8 great for them to approach that individual, in which
9 case I would receive the update and be prepared to take
10 command of the incident from a firearms perspective."

11 And you gave evidence to some extent about this at
12 the first hearing. Let's go back to the beginning and
13 just so that everyone understands, you said that
14 divisional officers had been dispatched. Now, we have
15 heard from Mr Masterton that he dispatched officers who
16 were on the ground from Kirkcaldy Police Office and
17 that's what you mean there, isn't it, when you say
18 divisional officers were dispatched?

19 A. Yes, that's correct.

20 Q. And you say:

21 "The information coming in from the members of the
22 public phoning the police was varied and in some cases
23 inconsistent. The control room was ensuring that all
24 available information and updates were being relayed
25 quick time. Once I entered the Overview, I started

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1 reviewing the limited information as best as
2 possible ..."

3 And you say further down that there was -- the 999
4 calls were:

5 "... different street names, different locations ...
6 different accounts of the subject, what he was doing and
7 how he was acting..."

8 But there were gaps. I'm interested in this comment
9 that you make about the information being inconsistent.
10 Some of the evidence we have heard already is that very
11 quickly other officers felt there was actually
12 a consistency and there were similarities and I wonder
13 why you felt there were a lot of inconsistencies?

14 A. Yes. So the inconsistencies -- so there were
15 similarities in relation to the description of the male
16 and when you looked across the different incidents,
17 you know, I formed the view that it was the same male
18 that was being described in all the sort of calls that
19 had been phoned in and it didn't appear that anybody
20 else at that time was being described as being involved.
21 In terms of his appearance, in terms of his clothing, in
22 terms of him having a knife, you know, that was
23 consistent throughout.

24 In terms of the knife, it was described as a big
25 knife. Another witness described it as a smaller knife,

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1 4 or 5 inches, I recall, and then there was also
2 inconsistencies about the street names, where they were.
3 I think it was Victoria Street and then there was
4 Templehall, Hendry Road, Hayfield Road, so a bit --
5 inconsistencies of where that individual was or what the
6 street names were, but from looking at the mapping,
7 we -- you know, all these streets are nearby and I have
8 formed the opinion that he was in and around that area
9 and moving around on foot. You often get sort of
10 information that's not 100% correct when you're -- when
11 witnesses are phoning in 999 calls, but in terms of his
12 actions, which was the important thing for me, some
13 witnesses reported him as walking with a knife in his
14 right-hand, not behaving in an aggressive manner, not
15 appearing angry, other witnesses describe him being in
16 the road, approaching cars and flailing his arms around,
17 so there was an inconsistency in the sort of behaviour
18 and actions that he was taking at that time, so that's
19 probably the real inconsistency for me at that time.

20 Q. The actions were the real inconsistency?

21 A. Yes.

22 Q. If you look through the STORM logs, you can look at both
23 of them, there are references to the knife. If we look
24 at the main STORM log you will see, on page 2 -- so this
25 is PS232, at the top of page 2, there's a reference to:

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1 "Male in possession of a large knife."

2 So this is the call that is recorded at 7.15.42:

3 "Black male wearing white T-shirt, no jacket,
4 walking along the street with a large knife in right
5 hand, about 9-inch blade walking in the direction of the
6 hospital."

7 And as we go further down we can see a call from
8 a man Alan Pearson at 7.19.30, and you will see part of
9 it is redacted:

10 "Call from Alan Pearson [redacted] also saw male
11 large 6-foot tall ... large knife, wearing white T-shirt
12 walking in direction of hospital, male in middle of the
13 road."

14 And if we look at 231 this is the 7.14.17 call on
15 page 1 -- keep going down, please. The first entry you
16 will see says:

17 "African looking male ... chasing [complainers] car
18 and he thinks he may be carrying a knife."

19 And then there's talk of him coming down
20 Templehall Avenue:

21 "... ran down Hendry Road. Described [as] big with
22 muscles ... about 6 feet [and] wearing a white T-shirt
23 and dark coloured jeans."

24 Then further down at 7.17:

25 "Further call from the informant stating that the

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- 1 male is jumping in front of other cars and stopping
2 them. I asked about the knife but they didn't know ..."
- 3 There's no mention there of a smaller knife or
4 a small knife, or an inch of -- 4 and 5 inches blade.
5 Could you be mistaken about that? We have not heard any
6 evidence so far that there was a small knife, or an
7 inch, only 4 and 5?
- 8 A. I -- from that it doesn't appear there, but in my
9 preparation for this I'm sure there was other STORM
10 incidents that said -- maybe not, it could have been
11 a statement that ...
- 12 Q. We will double check that.
- 13 A. Yes, yes.
- 14 Q. And we can draw that to the Chair's attention.
- 15 A. Yes, yes. I think it was maybe a statement.
- 16 Q. But at this time, the information you have available,
17 would that have come from the STORM logs and the
18 Airwaves transmissions?
- 19 A. Yes, the -- yes, the 999 calls, the people who have
20 phoned in and seen the male essentially is the only
21 source of this information.
- 22 Q. So at that time, in relation to these calls, you
23 wouldn't have had any other statements. It may be that
24 you are perhaps confused now --
- 25 A. Yes.

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- 1 Q. -- in sight of other things that you have seen.
- 2 A. Mm-hm.
- 3 Q. And you have mentioned the locations, the different
4 locations. We heard from Mr Masterton that there's
5 a mapping system and I think you have mentioned mapping.
6 Can you explain to the Chair what the mapping system
7 does?
- 8 A. It's a -- I think it's called a GIS mapping system.
9 It's just a -- you can -- it's just like Google Maps,
10 it's like Ordnance Survey maps. You can click on it as
11 part of the STORM package and you can see where the
12 streets are, if there's built-up areas, it gives you an
13 indication of the area, so the controllers used the
14 mapping system, but, you know, if you clicked on an
15 address it would show you where it was and I do know in
16 that -- on that morning in Overview some of the staff
17 had already clicked on and had a look at the mapping
18 and -- to get an understanding of the environment in
19 which -- the immediate sort of environs of where this
20 call was coming in from.
- 21 Q. But it was known to you at that time that they were all
22 in Kirkcaldy?
- 23 A. Yes.
- 24 Q. Right, and we have heard that they were in similar
25 geographical locations, these streets?

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- 1 A. Mm-hm.
- 2 Q. And was that something that you became aware of, either
3 from the other staff in the Overview, or just from your
4 own use of the mapping system?
- 5 A. It was other staff. When I got in I asked for what had
6 been happening and where the male had been as well, so
7 they had obviously been looking at the streets to try
8 and get an understanding of where that individual was as
9 well.
- 10 Q. So when you were given that information from the staff
11 in the Overview, were they already aware that these
12 calls related to the same incident?
- 13 A. Yes.
- 14 Q. In the same area?
- 15 A. Yes.
- 16 Q. Relating to one man described variously as African or
17 black?
- 18 A. Yes.
- 19 Q. So when you were given that information by your staff,
20 were you aware that they had effectively ruled out
21 inconsistencies, this wasn't more than one event going
22 on in Kirkcaldy?
- 23 A. No. I mean we -- the staff and myself, when I got that
24 update and looked at the information that was available,
25 thought it was one incident in Kirkcaldy involving one

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1 male, as far as we could see, from the information that
2 was available.

3 Q. We have certainly heard from Mr Masterton today that he
4 very quickly realised that there was a connection
5 between these calls. He described the connection
6 between the description as African and black, in the
7 same town, at the same time, he said it was a male armed
8 with a knife, he said it was extremely likely it was the
9 same job and it's very rare to have a job at that sort
10 of time on a Sunday morning, that type of grade 1 call.
11 Would you agree with all of that?

12 A. Yes, absolutely.

13 Q. So he said he very quickly made that connection and
14 described how he actually combined -- wanted one master
15 version of the STORM log?

16 A. Yes.

17 Q. And combined and kept an eye on the PS231 until they
18 were both on 232. Was that your understanding?

19 A. Yes, that was the normal working practice, if possible.
20 We would want all the relevant information to go onto
21 the one incident, so it was easier to keep a track of
22 sort of salient points, key bits of information that
23 were coming in that might affect your decision-making.

24 Q. Mr Masterton said that made his job easier?

25 A. Yes.

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1 Q. And presumably your job as well?

2 A. Yes.

3 Q. So how long would it normally take you to see a grade 1
4 call coming in on the screen?

5 A. If I was sitting at my desk I would see it come in and
6 flash. If I wasn't sitting at my desk, you know, I --
7 grade 1s used to come in for all different manner of
8 reasons, but someone in the Overview would have seen it,
9 but if I was at my desk I would have seen it.

10 Q. Thank you. Pretty quickly?

11 A. Yes, yes.

12 Q. And Mr Masterton said that at the time it came up on his
13 screen, because it was grade 1, it would simultaneously
14 have been on Sergeant Bisset's screen and your screen as
15 well, as inspector, is that correct?

16 A. Yes, yes.

17 Q. Can I -- I will come back to that in a moment, but can
18 I ask you to look at paragraph 12 of your Inquiry
19 statement. Although this spans two pages, it's the
20 first page at the bottom of that page that I'm
21 interested in and this is a reference to the dog unit
22 and the time. If I can just see the bottom of that page
23 that would be great. You say:

24 "I read the report ..."

25 Can you see that, about five lines up from the

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1 bottom?

2 A. Yes.

3 Q. "I read the report produced by the independent expert
4 who stated a dog unit could be there in 10 or
5 15 minutes, but I disagree with this view and [I]
6 believe it would have taken longer, and also that they
7 would have been driving at dangerous speeds to get there
8 within that suggested timeframe."

9 I want to ask you about that. You don't agree the
10 dog unit would have been there in 10 to 15 minutes.
11 What information did you have that day about the
12 estimated time of arrival of the dog unit?

13 A. My understanding was the dog unit was coming from
14 Edinburgh, that was my understanding at that time in the
15 Overview, so based on that, you know, Edinburgh is about
16 27 miles away from Kirkcaldy, so 10 to 15 minutes is --
17 I don't think they could have got there in 10 to
18 15 minutes. I think it would have been longer but ...

19 Q. That wasn't your experience at the time?

20 A. No, I think it would have taken them longer to get
21 there, but ...

22 Q. Right. But in terms of securing that information so you
23 knew, was there any way that you could obtain that
24 information or get a more accurate estimate of their
25 time of arrival?

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- 1 A. I suppose if their position was showing up on the
2 mapping system we would be able to see exactly where
3 they were. I can't recall exactly where they were, but
4 I thought they were coming from Edinburgh.
- 5 Q. We may have heard from Mr Masterton that the mapping
6 system wasn't always accurate: sometimes police
7 resources, for example, were shown to be in the Firth of
8 Forth, but quite clearly they weren't.
- 9 A. Yes.
- 10 Q. Did you have that experience with the mapping system?
- 11 A. Yes, it wasn't 100% accurate, but it gave you an
12 indication of where the resource was, or where it had
13 been, but sometimes there was that time lag.
- 14 Q. On that day do you remember looking to see how far, or
15 asking someone to look and see how far away the dog unit
16 was, or units were?
- 17 A. Yes, I mean I asked in the Overview when I got in. It
18 was one of the sort of first things I did and they --
19 the answer I got was the dog unit was coming from
20 Edinburgh to Kirkcaldy.
- 21 Q. Let's look at the log, STORM log, PS00232 and you will
22 see that we have heard that two dog units were
23 dispatched. Page 2, 7.18.18. We have heard that "SD10
24 attending" is a reference to a dog unit; you agree with
25 that?

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1 A. Yes.

2 Q. And then further down there's:

3 "SD18 attending from Edinburgh."

4 At 7.21.25. So does that indicate that they have
5 been dispatched to attend Kirkcaldy?

6 A. Yes.

7 Q. And then we have not heard from this witness yet, but
8 there is an Inquiry statement in front of the Chair that
9 indicates that one of those dog units had indicated he
10 estimated he could get to Kirkcaldy within 10 to
11 15 minutes from dispatch on a Sunday morning at that
12 time because it's very early, but that wasn't
13 information that you had available to you?

14 A. The dog --

15 Q. On that day?

16 A. That the dog would have taken 10 to 15 minutes to get
17 there?

18 Q. 10 to 15 minutes from dispatch?

19 A. No, I mean, if I thought the dog was attending from
20 Edinburgh -- I thought it would have taken longer for
21 a dog unit to get to Kirkcaldy than 10 to 15 minutes.
22 If the dog handler was nearer, then that might be an
23 explanation for it, but from Edinburgh, it would have
24 taken longer than 10 or 15 minutes. It might have been
25 20 minutes.

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1 Q. Right. We have not heard --

2 A. Yes, yes.

3 Q. -- yet from this witness so we can explore that further

4 with him.

5 A. Yes.

6 Q. If you had -- assuming he is correct in his statement,

7 assuming that it would have taken 10 to 15 minutes from

8 dispatch, would that have made any difference to you

9 that day if you had had that information?

10 A. I think the divisional officers who were attending the

11 incident, along with their supervisor, would have still

12 needed to go immediately because the potential for

13 members of the public coming across this male I felt was

14 significant at the time, so a dog unit getting there

15 within 10 or 15 minutes would have been great because it

16 might have provided a tactical option to deal with the

17 male if he had -- if he was non-compliant or he had ran

18 off, or he had gone to ground, but my own view at that

19 time was that divisional officers still had to attend

20 initially to ensure members of the public were placed at

21 as least risk of harm as possible, so I wouldn't --

22 I don't think it would have been reasonable to wait for

23 a dog unit, even if it was 10 or 15 minutes, if there

24 was a male in a public place, in a street, in possession

25 of a knife. The dog unit, when they -- if they deployed

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1 and the male was being contained, or had made off, or
2 needed to track him, would have been a useful tactic,
3 but at that time, divisional officers needed to go and
4 make sure members of the public were protected.

5 Q. If you had known that a dog unit could have been there
6 within 10 to 15 minutes -- you gave evidence at the
7 previous hearing about officers waiting, maybe
8 observing --

9 A. Mm-hm.

10 Q. -- holding back before engaging with the person, I think
11 you talked about giving the subject time and space,
12 would it have been an option for you to instruct those
13 divisional officers to hold back and observe and tell
14 them "A dog can be with you in 10 to 15 minutes"? Would
15 that have been an option?

16 A. At that time in the morning I think it -- the realistic
17 option and the one that I thought was safest was that
18 divisional officers had to attend -- had to attend that
19 incident. You know, part of them attending, they could
20 have sort of tried to contain the area as best as they
21 possibly could until the arrival of a dog, if that -- if
22 it required a dog to deal with the male, if they were
23 unable to engage with him and speak with him and try and
24 de-escalate the situation.

25 Q. Do you see on the spreadsheet in front of you, on

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1 page 2 -- I think we looked at this last time you gave
2 evidence -- Sergeant Maxwell at 7.17.23 made a request
3 for a dog. Do you see that? 7.17.23.

4 A. Yes.

5 Q. He made a request for a dog. He was the sergeant on the
6 ground that day, the divisional sergeant, and he had
7 made that request that a dog be deployed and we have
8 heard -- and we have seen from the STORM logs that we
9 just looked at that two dog units were deployed, at 7.18
10 and 7.21, so shortly after the request from
11 Sergeant Maxwell.

12 If the dog unit was being deployed at that time --
13 I'm not suggesting for a moment that the officers not
14 attend the incident, the divisional officers, the
15 response team, but would it not have been possible to
16 say "I do still want you to be there to have your eyes
17 on the ground", I think was an expression you used
18 before, "But observe what's happening and wait and a dog
19 will be coming soon"?

20 A. Yes, I mean that could have been something that was
21 said.

22 Q. Would that have been a safer option for the officers and
23 the subject?

24 A. I think -- I think attending at the locus, the place
25 last seen where the male was to understand what was

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1 happening, to see what was happening, what the level of
2 threat was and then getting that level of threat
3 information fed back needed to be done first, but yes,
4 observations, cordons, again, is something that -- if it
5 was safe to engage with the male then my view is that
6 opening any kind of dialogue with the male would have
7 been a good thing, but if it was unsafe to go too near
8 then putting in place cordons as best as possible,
9 observing, updating this information that was needed to
10 be fed back and then, yes, a dog would have been a good
11 tactical option to then deal with the male.

12 Q. So going back to that paragraph in your Inquiry
13 statement, you thought contain and negotiate --

14 A. Mm-hm.

15 Q. -- that was a sort of minimum intervention?

16 A. Yes.

17 Q. And then we will look later today at the use of force,
18 but in-between the minimum -- if we bear in mind the
19 minimum intervention that we talked about earlier and
20 the minimum use of force, would a dog fall between that
21 negotiating and use of force by the officers? Would it
22 be seen as a lesser form of intervention by the police?

23 A. I don't know, I mean a dog would be a good tactical
24 option because often if people see a dog they stop. Dog
25 handlers train their dogs to deal with people who are

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1 violent, who are maybe in possession of weapons as well,
2 so yes, certainly it's an increased level of force but
3 it would be a way of resolving a situation where
4 someone -- if someone was in possession of a knife and
5 was brandishing it, that might be a good way to reduce
6 that risk or for someone to throw a knife away if
7 a police dog arrived, or if they had made off a dog
8 could follow and track and recover any weapon as well.

9 Q. So the presence alone of a dog might be sufficient, or
10 if a dog is commanded to get involved, it could perhaps
11 bite a person, or use -- attack their arm or something
12 if they're using a knife.

13 A. Yes.

14 Q. But it wouldn't involve multiple officers getting
15 involved in a restraint?

16 A. No, the dog handler would do that and be supported by
17 the other officers who may then have to restrain the
18 individual, but it probably wouldn't involve multiple
19 officers having to restrain the individual. You may
20 still need several officers initially to take control of
21 the individual, but ...

22 Q. But having a dog at a scene could permit less force to
23 be involved in restraining the person?

24 A. Yes, yes.

25 Q. And we are still to hear from the dog handler, but it

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1 may be that he will suggest that the worst that will
2 happen with a dog on the scene is that they would end up
3 biting someone; do you agree with that?

4 A. Yes.

5 MS GRAHAME: Yes.

6 Would that be possibly --

7 LORD BRACADALE: Time to stop? We will sit again at
8 2 o'clock.

9 MS GRAHAME: Thank you.

10 (12.59 pm)

11 (The luncheon adjournment)

12 (2.03 pm)

13 LORD BRACADALE: Yes, Ms Grahame.

14 MS GRAHAME: Thank you.

15 Would you look, please, at paragraph 14 of your
16 Inquiry statement. There's a lot of different roles and
17 people mentioned in this paragraph and I would like to
18 just clarify who is who, if you don't mind, so we will
19 see this on the screen in a moment, "Working
20 Arrangements in the Overview", and you talk about
21 a communications officer, a RAID or intelligence
22 officer, you talk about different people. Can I --
23 I would like to get a clearer picture from you about the
24 delegation from you. I think you said at your previous
25 evidence that you were the -- well, you were the duty

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1 inspector and you were an ITFC, you are a firearms
2 commander.

3 A. Yes.

4 Q. You had had special training for that.

5 A. Mm-hm.

6 Q. And you were the only person, as I understand it, who
7 had the authority to deploy an armed response vehicle
8 and firearms officers?

9 A. Yes.

10 Q. Is that correct? But there was other support available
11 for you within the ACR, but ultimately no system of
12 delegation for firearms incidents or firearms events?

13 A. Yes.

14 Q. And so can I ask you, the communications officer --
15 I think you said at your previous evidence, was
16 Michelle Hutchison?

17 A. That's correct.

18 Q. We have seen her on the transcript as being referred to
19 as Con 2. So did she have different titles?

20 A. That would have just been what she is probably logged in
21 as, so she is the communications officer, that would
22 have been her -- when she logged in on the system, that
23 would have been what came up, what she was referred to
24 as in the system, but she wouldn't be called that, she
25 was --

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- 1 Q. And she wasn't a police officer, she was a civilian
2 member of staff, is that right?
- 3 A. Yes, yes.
- 4 Q. Can you explain to us what a communications officer
5 does?
- 6 A. Yes, I mean they assist in the Overview part of the
7 team, monitor sort of radio channels, shout up
8 specialist resources, take phone calls, liaise with,
9 like, Transport Scotland, take general calls from inside
10 the organisation, people phoning in asking for
11 information and also outwith as well, so she had that
12 sort of communications role effectively, but she was
13 a good support just in general.
- 14 Q. From what you're describing would it be fair to say that
15 she was providing you with administrative support?
- 16 A. Not just administrative support, but yes, information,
17 if there was an incident, she would provide information,
18 she would be able to check systems as well as anybody
19 else.
- 20 Q. But she wasn't a deputy to you?
- 21 A. No, no, no, no.
- 22 Q. And then you mention a RAID or intelligence officer?
- 23 A. Yes.
- 24 Q. Who was that?
- 25 A. That was a PC, I think it was Jeff Whelan on that day

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1 but that was normally a police constable who was trained
2 up. Normally they were a controller, they had these
3 skills but they specifically looked at sort of
4 developing any intelligence, researching, so on and in
5 a fast-time incident, they would be looking to identify
6 who an individual was, check force systems to see if the
7 person was known to the police or, you know, do address
8 checks, do vehicle checks, so they did that role but
9 they could also use the radio and shout up on the radio
10 and do various things as well.

11 Q. You said they may have been a controller, were they
12 based in one of the pods?

13 A. No, no, we were all upstairs together in one room with
14 an Overview sergeant to my left, the RAID officer
15 opposite me and to my right was the communications
16 officer, so we all sat at a table, a close table.

17 Q. And you were all in the Overview?

18 A. Overview.

19 Q. And the intelligence officer or RAID, what does RAID
20 stand for?

21 A. I think it is research and intelligence desk, I think it
22 was.

23 Q. So we have heard from Mr Masterton this morning that
24 when things are on the STORM log, or calls are made over
25 the Airwaves transmission, there are things going on

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1 behind the scenes as well.

2 A. Yes.

3 Q. One of those things could be contact with the
4 Ambulance Service, or contacting the dogs unit, that
5 type of thing. So is that the sort of work that the
6 intelligence officer would also get involved in?

7 A. Yes, he would, but he would be doing more specific work,
8 trying -- trying to research systems, trying to find out
9 any information that was relevant to the incident as it
10 was because you're looking to build your information and
11 intelligence all the time to assist the officers on the
12 ground and also myself and the control room with as much
13 information as we possibly can.

14 Q. But the most senior officer in the room, if you were out
15 of the room, was Sergeant Dalglish?

16 A. Yes, that's correct.

17 Q. As the Overview sergeant -- I think in paragraph 15 of
18 your statement you say:

19 "In my absence, the team under the direction of the
20 sergeant, would be looking at the information on all the
21 calls that were coming in to the control room, to assess
22 the information and pull out key and significant
23 information."

24 So he is deputising, if you like, for you?

25 A. Yes, he can do everything that I can, other than

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1 authorise a deployment of armed officers.

2 Q. So subject to that, the ARV, he can be involved with
3 other things, so in terms of grade 1 calls, he can deal
4 with everything up to the firearms element?

5 A. Yes.

6 Q. Right. Can I ask you to look at paragraph 17, please,
7 and again you talk about different people who were
8 involved in the incident. This goes over the page as
9 well, but let me just summarise what I'm interested in.
10 There were -- we have heard evidence from a number of
11 different sources that there was a divisional inspector,
12 divisional sergeant, ACR sergeant, East Overview
13 sergeant and the East Overview inspector and I just want
14 to put names to all of those job titles, if I may.

15 We have heard that the divisional inspector on 3 May
16 in relation to this incident was Inspector Kay. Were
17 you aware of that?

18 A. I wasn't aware of his name at the time, but there would
19 have been a divisional inspector on.

20 Q. And you will remember from going through the spreadsheet
21 that we have seen Stephen Kay --

22 A. Yes.

23 Q. -- his name on it.

24 A. I spoke to him as well later on that morning.

25 Q. You did. You will remember I put that audio call to you

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- 1 at your first evidence.
- 2 Divisional sergeant on the ground was Acting Police
- 3 Sergeant Maxwell.
- 4 A. Mm-hm.
- 5 Q. So where it's a divisional person, that's the people on
- 6 the ground in the local area?
- 7 A. Yes.
- 8 Q. You said before you were in Bilston Glen, but in
- 9 relation to this incident they were in Kirkcaldy.
- 10 A. Yes.
- 11 Q. ACR sergeant, that was Bissett in relation to this
- 12 particular matter.
- 13 A. Yep, he would be on the floor supervising his group of
- 14 controllers who were covering the Fife geographical
- 15 area, so he would have oversight from a command and
- 16 control perspective and be supporting them as well.
- 17 Q. We have heard from Mr Masterton there was a Fife pod and
- 18 each individual controller within the pod would have
- 19 a different town or area.
- 20 A. Yes.
- 21 Q. The East Overview sergeant is Dalgleish?
- 22 A. Scott Dalgleish, yes.
- 23 Q. Who is in the room with you, in the Overview room.
- 24 A. Yes.
- 25 Q. The East Overview inspector is another name for

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- 1 yourself?
- 2 A. Yes.
- 3 Q. Duty inspector, ITFC --
- 4 A. Yes.
- 5 Q. So at any given time can I ask you who was in charge, so
- 6 when the calls came in, when officers have been deployed
- 7 by Mr Masterton as the controller, before they arrive at
- 8 the scene, who is in charge of things at that time?
- 9 A. In terms of the ..?
- 10 Q. On the ground, what's happening and --
- 11 A. Yes, so that would be your divisional inspector and your
- 12 divisional sergeant who were responsible for the
- 13 incident that was happening in their geographical area,
- 14 unless it became a firearms incident, in which case
- 15 I would assess it, declare it and I would take command
- 16 of the firearms incident.
- 17 Q. I think you said in your earlier evidence previously
- 18 that if you had declared a firearms incident you would
- 19 effectively take charge --
- 20 A. Yes.
- 21 Q. -- of matters. But on this occasion a firearms incident
- 22 was never declared.
- 23 A. It wasn't within that period of time, no.
- 24 Q. So insofar as who is in charge before the officers
- 25 arrive, that's Inspector Kay?

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- 1 A. As the police incident officer.
- 2 Q. As the police incident officer, and the sergeant on the
3 ground who was Maxwell?
- 4 A. Yes.
- 5 Q. Once the police arrive, so the officers arrive initially
6 but Maxwell and Kay are not present at the scene at that
7 time, who is in charge of the incident at that time?
- 8 A. It doesn't change. It should still be the police
9 inspector for the area and the sergeant who is
10 attending, along with his officers, albeit slightly
11 behind.
- 12 Q. So they don't need to be at the scene, at the incident
13 themselves, but they're still technically in charge or
14 in command?
- 15 A. Yes. I mean for an incident like this you're looking
16 for a supervisor, a sergeant to go there as quickly as
17 possible to supervise officers, provide that overview,
18 provide that support and that initial sort of
19 decision-making on the ground with what he or she wants
20 to do.
- 21 Q. Thank you. Once the sergeant has arrived, so in this
22 case Maxwell, he is still in charge?
- 23 A. Yes.
- 24 Q. And he is actually in charge and on the scene?
- 25 A. Yes.

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1 Q. And once Kay arrives, he is still in charge --

2 A. Mm-hm.

3 Q. -- he is PIO, but he is actually in charge and at the

4 scene?

5 A. Yes.

6 Q. When they're both at the scene does Kay take -- have

7 more authority than Maxwell?

8 A. Yes, I mean he is the divisional inspector so ultimately

9 he has that responsibility, but they will work closely

10 together, but it will be the divisional inspector that

11 should come up with any course of action.

12 Q. Right. If you have CID officers at the scene, does that

13 alter who is in charge?

14 A. I mean it -- it will still be the divisional inspector

15 for that area, but if CID officers were taking -- if

16 they were going to look at the incident from a serious

17 incident, serious crime perspective, if the

18 circumstances in this incident as they changed became

19 more serious, then the CID officers would take sort of

20 charge of that investigative side of things. They would

21 maybe have locus protection, create a log, put scene

22 preservation in place and that would be -- it would

23 probably be your detective constable initially, then

24 detective sergeant, then a detective inspector who would

25 normally be a -- have SIO qualifications, a senior

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1 investigating officer, so they would be -- yes,
2 ultimately the ones who maybe would look at any
3 investigative side of things or if an incident was more
4 serious.

5 Q. At what point -- of what you know of this incident, at
6 what point would things become -- reach that level of
7 seriousness that the CID would take over responsibility?

8 A. I would imagine when the circumstances in relation to
9 the male changed and it became immediate -- obvious that
10 the situation had changed.

11 Q. Would that be when he was noticed to be unconscious or
12 when he was noticed to be not breathing?

13 A. I'm not sure which one, but -- both probably:
14 unconscious and maybe not breathing.

15 Q. Would that be a situation where the level of seriousness
16 became such that --

17 A. Yes, yes.

18 Q. -- it would become something that the CID would maybe be
19 more involved with --

20 A. Yes.

21 Q. -- and take control of?

22 A. Yes.

23 Q. Thank you. Can we look at the circumstances. We have
24 heard evidence that the first call from Harry Kolberg
25 came in at 7.10 in the morning.

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1 A. Yes.

2 Q. We saw earlier the STORM cards, the first STORM card
3 which was 231, you have a copy of that. That incident
4 was created at 7.14.17, and we know that the second one
5 was created at 7.15.

6 While I'm on this, can I ask why, if a call came in
7 at 7.10, there was not a STORM log until 7.14 and 7.15?
8 Now, we heard this morning from Mr Masterton that there
9 was maybe another system being used at the time and he
10 referred to entries on the STORM card that say "Incident
11 created from CRM", and he wondered if there might be
12 a time lag between a call-taker actually being on the
13 call with a member of the public and then putting
14 something on to STORM and he wondered if there was maybe
15 a system called CRM where it would go on to first and
16 then it would become the STORM. Do you know anything
17 about that?

18 A. I have heard of CRM before. I don't -- there's
19 a possibility that that was in existence. You would
20 always -- you were always -- yes, CRM was something that
21 they did actually add details to first possibly and then
22 it was transferred to a STORM log, but I couldn't be
23 100% sure, it wasn't my --

24 Q. We can maybe check up on that.

25 A. I do know that there are delays -- there are delays all

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1 the time build in with that, so if a call comes in at
2 7.10 or whatever, when you actually factor in --
3 you know, as soon as it's answered, then you've got
4 interaction with the call-taker and the member of the
5 public, they're trying to get information, they create
6 an incident, they type the information on, so there's
7 always a delay with STORM in terms of the timings.
8 You're always kind of working with a time lag,
9 effectively.

10 Q. So there will be a time lag between the call coming in
11 at 7.10 and the first incident being created
12 four minutes later?

13 A. Yes, yes.

14 Q. And then you -- we saw on the transcript -- and we have
15 referred to it a number of times -- that you gave the
16 stay safe message at 7.20?

17 A. Yes.

18 Q. And we maybe don't need to look at that. So I'm
19 interested in this period between 7.14, 7.15 when the
20 first call comes in on STORM and you giving the stay
21 safe message.

22 A. Mm-hm.

23 Q. Now, I think if we look at paragraph 18 of your
24 statement you -- and you touched on this in your
25 evidence earlier this year:

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1 "I'm asked about the initial minutes following the
2 first 999 call in relation to this incident, prior to me
3 transmitting on the radio at 07.20.13. I believe that
4 I entered the East Overview at around 07.18 and that
5 I had been in there assessing the incident for just over
6 two minutes, prior to making that transmission."

7 So in the period from 7.14 when the first call goes
8 onto the STORM log, or 7.15 when the main log is
9 created, you're not in the East Overview room at that
10 time?

11 A. Yes.

12 Q. You're out of that room?

13 A. Mm-hm.

14 Q. And you returned to that room, you have said here,
15 around 7.18, so that's a couple of minutes before the
16 stay safe message, is it?

17 A. Yes, I think so.

18 Q. Right. And were you aware at the time that you entered
19 the Overview, if it was 7.18, that there had been six
20 calls to Police Scotland by members of the public at
21 that time?

22 A. No.

23 Q. You weren't?

24 A. No.

25 Q. What were you aware of at the time you entered the room?

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1 A. I was shouted back up -- I'm sure I was tannoyed back up
2 by the Overview just asked to return to the Overview
3 urgently, so I ran up the stairs and that was when
4 I entered the Overview.

5 Q. And was that the first point that you actually became
6 aware that there had been a grade 1 call and that
7 matters had been progressed by the controller?

8 A. Yes.

9 Q. Right. Looking at paragraph 18 again, you say:

10 "When I got into the Overview, the first thing I did
11 was to speak to the sergeant ..."

12 I think you told us that was Dalgleish?

13 A. Yes.

14 Q. "... to ask what was happening and get a briefing on the
15 incident, in terms of everything known at that time.
16 I was made aware of a number of 999 calls that had come
17 in from members of the public regarding a male armed
18 with a knife in a street in Kirkcaldy. One of the first
19 things I did was to speak to the Overview sergeant to
20 confirm that the Divisional Inspector (PIO) [that's Kay]
21 and the local sergeant [that's Maxwell] ..."

22 A. Yes.

23 Q. "... were fully aware of the incident and that local
24 officers had been dispatched and were attending. The
25 sergeant told me 'yes, the PIO's aware, they've got

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1 command of it and the divisional sergeant is attending
2 along with numerous sets'."

3 A. Yes.

4 Q. "After that I said, 'is there a dog being sent?' because
5 these are good tactical options suitable for a situation
6 like this. So there was a dog dispatched at about
7 07.18. I can't remember the exact time ..."

8 But we have actually looked at that on the STORM log
9 and we noted that the first dog unit was dispatched at
10 7.18. So had that happened just prior to you entering
11 the Overview or at that point?

12 A. I honestly can't remember. I just remember that that
13 was the first thing I asked, one of the first things
14 I asked "Is there a dog going? There needs to be a dog
15 going to this", so if --

16 Q. And it was confirmed that by that stage a dog was
17 attending. So if we have seen on the STORM log that
18 SD10 was attending and that was entered into the STORM
19 log at 7.18.18, would it just be shortly after that that
20 you entered the Overview?

21 A. Yes. I think so anyway.

22 Q. It says there in your statement you were told by the
23 Sergeant Dalglish that:

24 "Yes, the PIO's aware, they've got command of it and
25 the divisional sergeant is attending along with numerous

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1 sets."

2 A. Yes.

3 Q. Now, if we look for a moment at the spreadsheet please,
4 we heard evidence that the first call from PIO Kay, the
5 Inspector Kay, was at 7.20.56, so if you look at page 4
6 of the spreadsheet, towards the top of that page you
7 should see the second entry effectively there is:

8 "Police Sergeant Stephen Kay ..."

9 He was the acting inspector at that time, the PIO,
10 7.20.56 from India 4 control:

11 "Control keep off that's somebody activated the
12 emergency button."

13 And that was his first Airwaves transmission.

14 Can you tell us did you confirm in any way that the
15 PIO was aware and had command of it?

16 A. No, I went on the word of my sergeant to say that the
17 divisional inspector is fully aware of it, they've got
18 command of it, divisional sergeant is attending along
19 with most of the shift I think he said, numerous sets,
20 most of the shift, so I -- at that time I didn't speak
21 to Stephen Kay about that.

22 Q. You assumed that what Dalgleish was telling you was
23 correct?

24 A. Yes, yes.

25 Q. And tell us how would Sergeant Dalgleish have known that

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1 the PIO was aware at that time, when you got into the
2 control room, if you take it from me that Kay didn't
3 actually come onto the Airwaves transmission until
4 shortly after your stay safe message?

5 A. I don't know, unless he -- I really don't know the
6 answer to that. Unless he is --

7 Q. Is there a way he can find that out from the STORM log?

8 A. I don't -- I don't know. I don't know if he can -- no,
9 I don't know from the STORM log.

10 Q. Not from the STORM log.

11 A. I don't know.

12 Q. And there has been no Airwaves transmission by Kay prior
13 to that.

14 A. Yes.

15 Q. So perhaps some other method. Can you think of what
16 other method might be available?

17 A. Yes, I suppose the -- what I think is maybe he has --
18 the information has gone out, it's gone out to the --
19 Scott Masterton has put that information out to the
20 local sergeant and inspector. I don't know, that's
21 maybe why he knows that they've got it and they're aware
22 of it and the full set of circumstances in terms of all
23 the information that's going out.

24 Q. We have heard from Mr Masterton that his first
25 involvement was to deploy a unit --

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1 A. Yes.

2 Q. -- which turned out to be PC Tomlinson and PC Short and
3 then there was a request for further assistance and
4 Maxwell requested all units within a minute of that.

5 We didn't hear anything from Mr Masterton to suggest
6 that he had been in touch with the PIO or
7 Sergeant Maxwell other than what we see on the Airwaves.
8 Well, I won't ask you to speculate further.

9 When it says "They've got command of it", can I ask
10 you what you took that to mean?

11 A. Just that they were responding to it and dealing with
12 it. It's a divisional incident. The sergeant was
13 en route and sort of -- you know, going with his
14 officers to the incident. I did speak to Stephen Kay
15 afterwards on a phone call and he -- I do remember him
16 saying that he had given them the stay safe -- the stay
17 safe, so that was after I had spoken with him.

18 Q. That was after your message --

19 A. Yes, yes.

20 Q. -- that is at a later period of time.

21 A. Yes.

22 Q. Would it surprise you to know that, as I understand
23 Inspector Kay's evidence, that he did not have command
24 of the situation; he was waiting for feedback from the
25 officers on the ground at that time?

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1 A. Yes, I mean if you're a divisional inspector and there's
2 a call that comes into your area, you have that command
3 of that incident.

4 Q. Is that automatically that --

5 A. It's the way that -- it's the way that Police Scotland
6 -- yes, it's the way that Police Scotland works. You're
7 in charge, in command of sort of any incident that comes
8 into your area initially and it could range from
9 domestic incidents to missing persons, to pub fights, to
10 road traffic accidents, to incidents like this.

11 Q. So at that moment of time was it fair to say, obviously
12 as far as Sergeant Dalglish was concerned, as far as
13 you were concerned, responsibility for this incident
14 lies with the PIO?

15 A. Yes, and that -- the incident would have been sort of
16 risk assessed by the control room sergeant on the
17 ground. The call would have been passed out. I imagine
18 Stephen Kay would have been listening on his radio, or
19 if he was at a computer he would have seen the call as
20 well. Yes, I mean, I can just speak from recent
21 experience when I was a divisional inspector, after
22 I left the control room I would be listening on the
23 radio on my talk group, on my channel, so I would know
24 what would be coming through to me, to my area, or
25 I would see it on the computer. Yes.

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1 Q. Thank you. And just to tie in with one other comment
2 that you have made at paragraph 54 of your Inquiry
3 statement, it's just beyond halfway down that paragraph,
4 so that's 54, and it is just beyond halfway down -- keep
5 going, that's it coming up, and you say almost in the
6 middle of the screen now:

7 "It is the Divisional Inspector (PIO) who has
8 responsibility for an incident in their division area
9 until it becomes too dangerous or a firearms deployment
10 is required to deal with the level of threat."

11 So that seems to tie in with what you have just
12 said.

13 A. Yes.

14 Q. It's the PIO's responsibility --

15 A. Yes.

16 Q. -- for that incident in their area, unless -- or it
17 becomes too dangerous or a firearms deployment is
18 required.

19 A. Yes.

20 Q. And at that point I think you have said a number of
21 times now if there was a firearms incident declared,
22 responsibility and control and command would move to
23 you.

24 A. Yes, because I'm trained to deploy firearms officers and
25 have an understanding of their sort of tactics that they

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1 use, so --

2 Q. And it's you that has the authority to deal with that
3 then?

4 A. Yes. So the divisional inspector and sergeant sit on
5 one side together, I sit sort of separately from them in
6 terms of command structure, but if it was a declared
7 firearms incident then I would take charge of that.
8 Yes.

9 Q. Thank you. Can I ask you about paragraphs 19 and 20 of
10 your Inquiry statement. Let's start with 19, first of
11 all. That's fine. So you're talking about calls coming
12 in from members of the public. Divisional officers were
13 dispatched:

14 "... it was a knife call, and I determined the first
15 thing for me was to make an operational risk assessment,
16 which I did."

17 And I think at your previous evidence you talked
18 about the National Decision-Making Model.

19 A. Yes.

20 Q. And the process of carrying out a risk assessment, so
21 was that really -- after you had been briefed by
22 Dalgleish is that the first thing you're doing?

23 A. Yes, I mean the first thing on that morning -- I suppose
24 I thought: so they're going to a knife call; what is the
25 risk around that in terms of them continuing to go,

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1 because they're already going, you know, what are they
2 going with in terms of safety measures, control
3 measures? Is it safe for them to continue to go or do
4 they not go? And the kind of thing that I was thinking
5 about then was: it's a grade 1 call, it's a knife call,
6 they know all the information that we've got has been
7 passed out to them, they have done officer safety
8 training. You practice scenarios in relation to going
9 to knife calls, they have their PPE and they're going in
10 vehicles, they're going with a supervisor as well and,
11 you know, the information at that time was that there
12 was a male with a knife but nobody -- there was no
13 report of anybody being stabbed or harmed or injured by
14 the male, so -- and they were going in marked vehicles
15 as well, which provided a protective element as well, so
16 based on that information, you know, that was me making
17 that initial operational risk assessment. If it's
18 a knife call, you know, I'm not going to say "Stop
19 going, divisional inspector, sergeant, officers, stop
20 going", because I considered that they had enough sort
21 of built in safety to go to that, which is sometimes
22 different from a firearms incident where someone can
23 shoot you from a distance away, as opposed to being able
24 to keep that sort of safe gap from someone who is in
25 possession of a knife.

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1 Q. So you were -- in carrying out your risk assessment you
2 were taking into account all of those factors?

3 A. Yes.

4 Q. And also what it wasn't: there wasn't a gun,
5 a firearm --

6 A. Yes.

7 Q. -- said to be present, so different considerations may
8 have applied at that time.

9 A. Yes.

10 Q. And then look at paragraph 20. You say at the beginning
11 you are thinking to yourself:

12 "Is it safe for them (unarmed divisional officers)
13 to continue?"

14 And you talk there about what you said: they had
15 their PPE, they have had officer safety training. As
16 part of that training they practice specific scenarios
17 regarding knives. We have heard about the CUT tactical
18 option and you talk about different approaches that they
19 can take.

20 You have talked about having police vehicles giving
21 them a protective cover, and the ability to get in and
22 out quickly, the ability to stop or drive past the male
23 if he is seen, the ability to:

24 "... contain an area as best they could, visually
25 and physically, but from the safety of their vehicles,

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1 if the risk dictated this course of action was
2 necessary."

3 If I can pause there for a moment and ask what you
4 mean by saying:

5 "... contain an area as best they could visually and
6 physically, but from the safety of their vehicles ..."

7 A. Yes, so if they attended and the feedback that they gave
8 was such that the male was waving the knife about at
9 them, behaving aggressively towards them, then they
10 could stay in their vehicles and pull back and take up
11 sort of positions to report back any sort of updates on
12 what an individual was doing, what the level of threat
13 was, where he was but -- yes.

14 Q. So you envisaged the vehicle itself as being part of the
15 resources they had available to deal with the situation?

16 A. Yes. I mean I think you asked me the last time whether
17 it was appropriate for someone to drive a vehicle at
18 someone and I'm not saying that at all, but it provides
19 that element of protection, being able to drive up
20 a street, drive past an individual, stop and then look
21 back. If the individual was so violent that they
22 couldn't approach him then they could have their
23 vehicles, radio up from inside their vehicles as to what
24 they were actually seeing. So it's another sort of
25 almost like control measure, safety measure that they

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1 have in going to a call like that, that you're just
2 thinking: So they're going in vehicles, they've got
3 their training, they're going with their supervisor,
4 yes, they can continue to go to an incident like that.

5 Q. Then carrying on in paragraph 20. You mention the
6 divisional sergeant was attending, you can see that just
7 slightly below centre on the screen:

8 "I wanted to make sure that the sergeant was going,
9 and I was aware he was issuing instructions to officers,
10 reinforcing officer safety and requesting support from
11 specialists such as a dog and ARV units, as well as
12 coordinating that initial attendance. As I understand
13 it, they'd been given that safety message by the
14 sergeant who requested all officers to attend, so I'm
15 thinking he's switched onto safety measures and control
16 measures."

17 I'm interested in how significant it was to you in
18 your risk assessment that the sergeant,
19 Sergeant Maxwell, had requested all units, an ARV and
20 a dog unit?

21 A. I mean, he has obviously gone to the incident thinking
22 about safety, doesn't know what's on the ground ahead of
23 him, so he's probably thinking, you know: What other
24 specialists will I need? A dog unit and an ARV. So
25 he's thinking along these lines, which is good. I don't

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1 know if that was the point possibly when they got in
2 touch with me to tell me to come back up from the
3 communications floor, if ARVs were getting asked for,
4 I'm not sure if that was, but --

5 Q. We can look at the spreadsheet again, if that would
6 help. So Sergeant Maxwell, at 7.17.23, on page 2 -- so
7 this is before you come into the overview room, so
8 page 2 of the spreadsheet, 7.17.23, he makes a request
9 for all units, an ARV and a dog.

10 A. Yes.

11 Q. So he has made that specific request, he is the
12 divisional sergeant on the ground and he has made that
13 request and I'm interested in how significant you
14 thought that was to your risk assessment.

15 A. Yes, I mean I never heard that. I mean, the risk
16 assessment that I make is based on the National Decision
17 Model and the firearms training that I undertook, so
18 just because he is requesting an ARV doesn't necessarily
19 mean that the threat is there. He is obviously
20 thinking: male armed with a knife, I want everybody
21 there, all the resources there, which is fine, but
22 I have to go through a structured risk assessment, which
23 I did, to determine whether or not I thought the level
24 of threat and risk merited the deployment of an armed
25 response vehicle at that time, and again, I work through

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1 my model, which is an assessment model. It also covers
2 proportionality as well, so you're taking into
3 consideration a lot of different things, including,
4 you know -- you need to know what's actually happening
5 on the ground. We were doing as much as we possibly
6 could in the control room to build up that intelligence,
7 information picture, to understand the location, the
8 subject, the risk to any persons in the area, what the
9 threat was and to who, and you're working through your
10 threat and risk assessment what an individual's identity
11 is, his capability and intention, so you're going
12 through all these things and then you come up with your
13 conclusion. There was not a lot of information that was
14 known other than the stuff that was coming through the
15 999 calls, so a lot of this was unknown. We knew
16 nothing about who the individual was, why he was there,
17 in what circumstances, whether it was a road rage
18 incident, whether it was a neighbour's dispute, whether
19 it was a fight, whether it was a feud, whether he was
20 there to steal -- a car jack, whether or not he was
21 having a mental health crisis, he was vulnerable, he was
22 ill, under the influence of alcohol or drugs. You're
23 thinking all these things but you don't know because you
24 just don't have that information available at the time,
25 so a threat to the members of the public, you know, it's

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1 actually unknown what the threat is, but the concern is
2 there's a high possibility that he might come into
3 contact with members of the public because people have
4 already phoned in and he is in that area, so ...

5 Q. What we do know is that as acting police sergeant on the
6 ground that day, Sergeant Maxwell was the sergeant to
7 Response Team 4.

8 A. Yes.

9 Q. And he was familiar with the members of that response
10 team.

11 A. Mm-hm.

12 Q. So he had information from his own work about the
13 individuals who were attending the scene that you
14 wouldn't have had.

15 A. No.

16 Q. But he would have known, for example, that PC Tomlinson,
17 who was supposed to be responding, was a probationer.
18 He would have known about Nicole Short, about her
19 physical characteristics, that she was very new in the
20 job as a response team member, I think it was a matter
21 of weeks, and we have heard, for example, that -- and
22 there's evidence before the Chair that she was low in
23 confidence at that time and quite fearful.

24 So Sergeant Maxwell being on the ground and being in
25 charge of that Response Team 4 had a lot of additional

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1 information in his possession that you would not have
2 had, and so I'm quite interested in what difference, if
3 you had heard Sergeant Maxwell's transmission requesting
4 an ARV, a dog unit and all units, if you had heard that
5 and you had been in the room at that time, knowing that
6 he was a sergeant on the ground and in charge of that
7 team, what difference would that knowledge to you have
8 made in regard to your risk assessment? Would you have
9 given his views priority, or some further consideration
10 because he knew his team?

11 A. Yes, I mean I obviously didn't know his team at all.
12 You know, for me I'm basing the deployment of --
13 I understand what you're saying, but I'm basing my
14 deployment on the -- or my risk assessment on whether or
15 not I think the threat is there that needs to be
16 contained by armed officers, which is a big -- quite
17 a significant sort of leap up in terms of response, and
18 sometimes it's the appropriate response, absolutely, but
19 I think in attending the scene, understanding what is
20 actually happening, being able to actually investigate
21 the threat is important because that is the latest
22 up-to-date information that then feeds into my
23 decision-making as to whether to deploy an armed
24 response vehicle to that.

25 You know, officers attending the scene can often

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1 deal with a situation. It may not be as bad as
2 initially reported, it may be worse, but you need to go
3 to understand. I will not deploy an armed response
4 vehicle on a knee-jerk reaction. It has to be in line
5 with my training and considering all the risk factors.
6 So I understand what you're saying about the shift maybe
7 being young in service and things like that ...

8 Q. What information would you have needed to actually
9 deploy an ARV that day?

10 A. I was looking for an up-to-date assessment as to what
11 the male was actually doing because, you know,
12 a divisional -- it was a divisional incident. The
13 officers attend knife and weapons calls throughout
14 Police Scotland on a daily basis and the majority of
15 them do not have any kind of firearms response. What
16 you're looking at is the threat and risk assessment,
17 you're looking at understanding what's going on and if
18 the threat is to such a high level that unarmed officers
19 can't deal with that individual, then that is when an
20 armed response vehicle would be deployed, so attending
21 at the scene and finding someone with their head in
22 their hands, or sitting down, you know, you can resolve
23 an incident quickly.

24 My training was -- you know, they hammered it into
25 me at training that, you know, you make your decisions

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1 based on the most recent and up-to-date information that
2 you have in front of you, so they were almost there as
3 well and, you know, I was going to get an update quite
4 quickly as to just how significant and serious this
5 situation was.

6 Q. So not deploying an ARV until you have that feedback
7 from the scene?

8 A. I felt that feedback from the scene was really important
9 and essential to my decision-making to deploy an armed
10 response vehicle.

11 Q. At any time did you consider deploying the ARV when the
12 request was made, if you had heard Maxwell's request,
13 but cancelling it, standing it down once you got that
14 feedback from the scene?

15 A. I mean the time that I was in there I was doing my
16 assessment, so, you know, it took me the two minutes or
17 however long I was in there to understand what was going
18 on, try and ensure that the relevant checks were being
19 done, work through my threat and risk assessment and
20 understand what was happening on the ground as best as
21 possible and we had limited information in relation to
22 that, so for me to deploy armed officers, I'm really
23 looking for the up-to-date information. I'm looking to
24 have some kind of plan as well, some kind of tactical
25 plan as to what's happening and I felt I didn't have

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1 enough information, there was too many unknowns and
2 I wasn't sure of the risk as well, just in terms of what
3 the male -- the risks the male was posing because,
4 you know, he is seen walking down the street in
5 possession of a knife, you know, not acting angrily or
6 aggressively, flailing his arms around, no persons
7 injured as well, or attacked by the male with the knife,
8 so proportionality comes into it for me as well in terms
9 of, you know, what is this individual actually doing,
10 you know, I -- that's part of the consideration I have
11 as well.

12 Q. Well, there was some information on the STORM log about
13 him chasing a complainer's car with the knife, jumping
14 in front of other cars and stopping them with the large
15 knife, so there was some information about that
16 activity, that behaviour, that interaction with people,
17 but yes, no information that he had attacked anyone.

18 A. No.

19 Q. If you had been in the Overview room earlier, at 7.14
20 when the STORM log is created, or 7.15, would it have
21 made a difference, would it have given you -- it would
22 have given you more time.

23 A. Yes.

24 Q. Would it have made a difference to your assessment that
25 day?

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1 A. I have thought about this and I have thought about it
2 quite a lot, so again, I would have asked officers to
3 go, divisional officers, unarmed officers to attend at
4 the locus initially to -- and provide feedback as to
5 what was happening on the ground and then I would
6 have -- whilst that was happening -- you know, the dog
7 handler would be away, the firearms vehicle was in
8 Edinburgh, so, you know, you want to get your specialist
9 resources as near as possible to an incident that's
10 ongoing, if they're required, but again, if they're
11 required is the key thing because until you actually
12 know what's facing you, you don't know the level of
13 threat, so police officers going, investigating this
14 call, these calls, actually seeing what's in front of
15 them and providing that update is what you need and
16 again, if someone has a knife in a public place like
17 this, you want police officers there as soon as you
18 possibly can to keep people safe.

19 So for me, you know, it's what I have been trained
20 to do is to make sure that the public are kept safe.

21 Q. All right, thank you. Can I ask you about -- I think we
22 touched on this at your previous evidence -- where you
23 were when you weren't in the Overview room.

24 A. Yes.

25 Q. And I think your PIRC statement from October 2015 said

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1 you were occupied elsewhere in the building:

2 "... but I don't recall for what purpose. I may
3 have been talking to one of the control room sergeants
4 but I can't be sure."

5 And then I think in evidence you said that you
6 couldn't remember exactly and then I think if we turn to
7 paragraph 30 of your second Inquiry statement, you will
8 see that you say you were:

9 "... an ACR inspector with responsibilities for ...
10 wider control room functions including staff ... there's
11 about 50 people on duty in the service [area] and the
12 area control that were on the shift that I have
13 responsibility for. I can't recall specifically why
14 I was down there. Likely I was down there to resolve an
15 issue and check in with staff and supervisors in the
16 service centre."

17 Looking back now, do you remember where you were?

18 A. Yes, I was down in the big communications hall and --
19 yes, I was down there. I used to go down there, I would
20 tell the staff in the Overview I was going down there.
21 I would tell the staff in Overview if I was going to the
22 toilet or I was going to make a cup of coffee normally,
23 so I would have been down there -- or I was down there
24 speaking to staff, trying to sort things out. It was
25 a time in Police Scotland when we had taken on sort

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1 of -- sort of other divisions, legacy divisions into the
2 control room area so often it required Duty Officers
3 like myself to be down there and walking the floor and
4 linking in with staff if there were issues.

5 So I did tend to go down and speak to my supervisors
6 at the start of the shift if it allowed, so I do
7 remember running up from -- the way I ran up the stairs
8 I must have been in the service centre area.

9 Q. Right. Were you aware that at this time
10 Sergeant Bisset, who was the sergeant in the Fife pod,
11 the supervisor of Mr Masterton -- were you aware that he
12 was absent from his station?

13 A. No.

14 Q. Can I ask you about something -- Sergeant Bisset has
15 also given us a statement, you may be aware of it,
16 paragraph 18, and that will be on the screen and I asked
17 Mr Masterton about this earlier this morning. You will
18 see it says on 3 May -- this is from Sergeant Bisset, he
19 was a control room sergeant for about 12 weeks:

20 "I remember that my shift that morning, started at
21 07.00. I was no sooner on duty when the Duty Officer,
22 who was in the Overview upstairs, phoned downstairs and
23 said that the night shift had left a mess in the kitchen
24 and he wanted one of the day shift officers to go up and
25 clear it up. The Duty Officer that day was Inspector

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1 Steven Stewart. I couldn't recall that the Inspector on
2 duty was Steven Stewart. I know this having assisted
3 Operation Tarn in 2020 ... Inspector Stewart was
4 covering for our own inspector [redacted] who was ... on
5 leave."

6 Then if we can move on to paragraph 19 and you will
7 see four lines down:

8 "I thought I received a phone call or someone had
9 a phone call from him about the mess in the kitchen, but
10 that would mean he was in Overview when the call was
11 made. He has maybe phoned me and then came down to the
12 Control Room or it's possible that he's been down and
13 said to me face to face or somebody else face to face,
14 'Have you seen the mess that our kitchen has been left
15 in?'. I thought it was a phone call from the Inspector
16 but the message could have been delivered in person."

17 Does that help you remember the reasons why you were
18 down the stairs?

19 A. No. I wasn't downstairs because there were dishes left,
20 no, no. I was downstairs in the service centre area.
21 I actually can't remember speaking to Stephen about that
22 at all and I wouldn't have imagined the control room
23 sergeant going up to sort the dishes.

24 Q. You wouldn't have expected him to do that personally?

25 A. No, no, no, no.

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1 Q. How long were you out of the room, the overview room?

2 A. I don't know actually, I mean I don't know if I was away
3 from -- I don't know if it was from 7 o'clock or --
4 I don't know exactly.

5 Q. Right. Can we move on to paragraphs 33 to 36. We will
6 start with 33 of your Inquiry statement rather than
7 Sergeant Bisset's. I want to ask you about your stay
8 safe message which you will remember was at 7.20 in the
9 morning. We have looked at that a number of times. If
10 you want to have that in front of you, it's on page 3
11 I think, page 3 of the spreadsheet.

12 If we can look at the very end of paragraph 33
13 please, so that's on the next page of the statement.
14 Thank you. You will see that:

15 "... I wanted to make sure that the officers knew to
16 make that dynamic risk assessment and to feed back
17 straight away: that they need to stop, pause, see what
18 was in front of them and provide that feedback in
19 accordance with their training, because that's what
20 they're trained to do. I expected this to happen."

21 So was it your expectation at that time that the
22 officers who were attending would carry out an
23 assessment and give you feedback?

24 A. Yes, I thought the officers that were going to the scene
25 would attend and then provide that feedback as to what

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1 they were seeing in front of them at the time. For
2 other officers that were attending, for their
3 supervisory officers, and for me in the control room as
4 well, so I could understand what was going on just in
5 relation to specialist resources that might need to be
6 deployed.

7 Q. And then paragraph 34:

8 "As much as possible you want to avoid situations
9 where anybody ..."

10 Sorry:

11 "... where anybody rushes in to deal with an
12 incident."

13 And then further down you talk about the officers
14 being:

15 "Well trained and highly skilled professionals who
16 also have the ability to use their discretion in
17 situations when they consider it appropriate."

18 And was that your expectation at the time?

19 A. Yes. I mean my expectation was that they would stop and
20 feed back exactly what they were seeing, but, you know,
21 individual officers have discretion to deal with
22 a situation as they see fit as well is the other side of
23 things, I'm sure the stay safe actually mentions that,
24 that, you know, you can sort of act -- I can't remember
25 the exact words, but if you think it is realistic,

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1 achievable and appropriate or something like that,
2 you know, but in a situation like this one, I would hope
3 they would have stopped and fed back and wait for other
4 officers to attend.

5 Q. And do we see just above the centre of that paragraph:

6 "But the Stay Safe is a lengthy message about
7 keeping yourself and others safe and it is about see,
8 tell and act."

9 So the act is at the end of that?

10 A. Yes.

11 Q. See, use your eyes effectively; tell, is the tell the
12 feedback that you were looking for?

13 A. Yes, update the control room and your colleagues and
14 update them with what you're actually seeing, does the
15 person have a knife, what is the level of threat, yes.

16 Q. And then paragraph 35, again, still on the stay safe
17 message, do we see three lines down:

18 "The officers that attended that location should
19 know about the Stay Safe. It's a reinforcement from the
20 controller to give them that."

21 Did you expect the controller to have given them
22 a stay safe message by that time?

23 A. So everybody knows about stay safe, it's an integral
24 part of your training when you're attending incidents,
25 so it should be ingrained, and it's every individual

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1 officer's responsibility, I would say, including
2 supervisors, including myself and the control room. We
3 did have these cards, stay safe cards with the wording
4 on the control room pods in front of the controllers
5 and, you know, I would have preferred the control room
6 to be able to give that stay safe message for officers
7 that were en route, just to remind them of what they
8 needed to do. We shouldn't have to, but, you know, it's
9 best practice and I would say that that goes up the line
10 as well. It should be sort of local supervisors,
11 controller, if the controller can't do it because he is
12 too busy or she is too busy then the control room
13 sergeant, or the Overview sergeant, and even myself as
14 well, if the message has not been given, I think it's
15 something that officers need to be reminded of, it's
16 a reinforcement that you need to make that risk
17 assessment, yes, and feed back.

18 Q. Were you aware at 7.20 when you made your message that
19 there had been no message -- stay safe message from the
20 controller?

21 A. No, I wasn't aware of that at the time. I'm sure
22 I asked Scott Dalglish actually if the stay safe
23 message had been given and could he confirm that it had
24 been given and I think he said "I'm not sure", so it was
25 important for me to get on the radio at that last bit

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1 just before they went off to say: you need to make
2 a risk assessment and you need to feed back straight
3 away, just what's in front of you, but I acknowledge it
4 wasn't the full stay safe message, it was what I said at
5 the time for them to make that risk assessment.

6 Q. And then at the end of paragraph 35, which is just at
7 the top of the next page, please, do we see -- or,
8 sorry, I will read it just from the bottom of the
9 previous page:

10 "My clear preference is that officers don't deploy
11 unilaterally or on their own without support."

12 I just want to be clear about what you mean by that
13 because obviously Masterton had deployed two officers,
14 Tomlinson and Short, on their own. Tomlinson had
15 requested assistance and then Maxwell had requested, but
16 what is it you mean by "My clear preference is that
17 officers don't deploy unilaterally or on their own
18 without support"?

19 A. So for a dynamic incident like that, even as well for
20 like a pub fight, you know, I wouldn't want officers to
21 unnecessarily put themselves at risk by rushing in.
22 You know, go, see what's in front of you, feed back,
23 wait for the next set to arrive or even the next set or
24 your supervisor to arrive, so yes, that's what I mean by
25 that: don't deploy on your own; wait until back up

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1 arrives.

2 Q. Right. Thank you. Can I look at paragraph 36, please.

3 You say:

4 "I thought the response officers were near the
5 locus, but not as near as they were. It was only when
6 I saw the video evidence during my attendance at the
7 Inquiry hearing, that I realised that the first set was
8 further on than I was aware. I was told they were
9 getting near to the scene and that's when I gave it."

10 Can I just ask you about this. If we look at the
11 spreadsheet you will see at 7.19.50 which is page 3, top
12 of page 3, 7.19.54, PC Alan Paton's transmission is
13 "Roger, that's us approaching the locus". So you're in
14 the ACR room at this time, the overview room?

15 A. Yes.

16 Q. And Masterton is talking about another call and then
17 7.20.06, Alan Paton:

18 "Yes, yes, that's us on Hayfield Road heading in
19 that direction."

20 And then you come on at 7.20.13 with your message,
21 so I just want to be clear about paragraph 36. Were you
22 aware of these Airwaves transmissions that were being
23 made on the radio --

24 A. No.

25 Q. -- prior -- when you were in the Overview room but prior

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- 1 to your stay safe message?
- 2 A. I had my headset on but it was up and Michelle, the
3 comms officer, I had said to her "Can you tell me where
4 they are, when they're getting near", and I was working
5 through my sort of assessment, trying to understand
6 where this might be going and I had said to her "Tell me
7 when they're getting near the location", so she did and
8 that was when I went on, but I was unaware that they
9 were further on -- yes.
- 10 Q. And at the time -- in the evidence previously we
11 explained that it was during the course of your stay
12 safe message that the first officers arrived?
- 13 A. Yes, yes.
- 14 Q. That was the first time you reallocated that?
- 15 A. Yes, yes.
- 16 Q. You hadn't been aware of that before?
- 17 A. No, no.
- 18 Q. If you had been aware that the officers were approaching
19 the locus, the scene, and had actually arrived on
20 Hayfield Road, what difference would that have made to
21 you? If you had been aware that they were very quickly
22 approaching that and actually on Hayfield Road would
23 that have made any difference to you and your stay safe
24 message at 7.20?
- 25 A. Ideally I would have wanted to give that stay safe

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1 message earlier, before they arrived at the locus or
2 just before they arrived at the locus because I would
3 want them to have in their minds before they were
4 entering that street that "We need to take our time, we
5 need to make a dynamic risk assessment and we need to
6 feed back", yes.

7 Q. So if you had been in the room before 7.18, you would
8 have been in a better position to give that message --

9 A. Yes.

10 Q. -- before the men arrived?

11 A. Yes.

12 Q. At that time did you consider, when you were giving the
13 stay safe message, any instruction to stay back, or wait
14 or observe?

15 A. I didn't realise, and it was only when I have attended
16 the Inquiry, I didn't realise that they were on the male
17 so quickly. I did because their emergency button was
18 pressed, but, you know, my thoughts were that they would
19 probably enter the road and do a search from their
20 vehicle for the male and then when they saw the male, at
21 the first opportunity they would sort of shout back or
22 feed back to their colleagues, to their sergeant and to
23 the control room as well so ...

24 Q. Can I ask you about the feedback.

25 A. Yes.

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1 Q. Before your stay safe message we know that Tomlinson
2 sought assistance, Maxwell requested the all units, the
3 dog and the ARV. After your stay safe message at
4 7.20.13, which we can see on page 3, we then know that
5 PC Paton's emergency button is turned on at 7.20.42,
6 that at 7.21.02 on the next page of the spreadsheet
7 there's a transmission from Paton, "Officer injured",
8 and at 7.21.19, Tomlinson's emergency button is on,
9 status is on. Do you see those things?

10 A. Yes.

11 Q. So although in terms of feedback you have not had
12 a conversation, or you have not had a briefing from
13 someone at the scene, you have received information in
14 the ACR.

15 A. Yes.

16 Q. Would that constitute feedback, the fact that two
17 emergency buttons have been pressed and someone is
18 saying "Officer injured"? Does that constitute
19 feedback?

20 A. It's different from the feedback I was -- yes, it is
21 feedback, but it's different from the feedback I was
22 looking for. The feedback I was probably looking for to
23 begin with was, you know, "That's us entered, we can see
24 the male, he is standing 20 metres away from us, it
25 looks as if it's the same male, he is in possession of

Transcript of the Sheku Bayoh Inquiry

1 a knife, he is waving it about at us" or he is not. So
2 that was the kind of feedback I was looking for. This
3 obviously is feedback from the emergency button going
4 on, it gives me an indication of what's happening at the
5 locus, so from that I assumed that they had come across
6 him quickly, they had maybe got out of their vehicles
7 and dealt with him on their own. Yes, so that was
8 feedback from what was happening live time.

9 Q. But your expectation in calling for feedback in your
10 stay safe message was more about from observations of
11 what was happening?

12 A. Yes.

13 Q. That's what you were looking for?

14 A. Yes, before they engaged with him, or they thought it
15 was safe to engage with him and they would feed that
16 back.

17 Q. When you realised that there was emergency status had
18 been turned on for two officers and an officer was
19 injured, at that time did you consider deploying an ARV?

20 A. No. There's no -- at that time, additional sets were
21 attending. I mean, the ARV was in Edinburgh, so the ARV
22 is not going to get there quickly at all. No other
23 resources are going to get there quickly, other than
24 additional members of that team that are attending to
25 provide that support.

Transcript of the Sheku Bayoh Inquiry

1 Q. So at that time, by the time the buttons have been
2 pressed and the officer is injured, is it too late then
3 to --

4 A. Yes, yes.

5 Q. -- realistically consider an ARV.

6 A. Yes.

7 Q. And at that time did you consider declaring a firearms
8 incident, or is that --

9 A. No, not at that time, they're already there, they're
10 already dealing with the male. I mean I have pressed
11 the emergency button myself as well when I have arrested
12 people before and sometimes if you're rolling about the
13 ground with someone, or they're resisting or something
14 happens, then you would maybe do it, so, you know, that
15 was the kind of thing I thought was maybe happening.

16 Q. Can I go back again to the suggestion we discussed
17 earlier about a rendezvous point.

18 A. Yes.

19 Q. At that time did you consider telling officers to
20 withdraw?

21 A. No. I think what's happened has already happened.
22 I think additional officers have to go, so a rendezvous
23 point for me is a -- more of a slow time sort of
24 decision. After that it would be like a pause point:
25 stop, pause, see what's happening in front of you and

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1 then you've got to go to the scene, but I would not --
2 if an emergency button was pressed, you know, my
3 expectation would be the officers would continue to the
4 scene to try and provide support to their colleagues.
5 So I wouldn't say to them "Don't go because an emergency
6 button is pressed", because they have obviously pressed
7 it for a reason.

8 Q. Can I ask you -- I know you have made it clear you don't
9 think the rendezvous point would have been an option in
10 these circumstances.

11 A. Yes.

12 Q. We heard evidence from one of the police officers who
13 was first on the scene, Mr Paton, and he indicated in
14 evidence to the Chair that on arrival, Mr Bayoh was
15 walking briskly, he considered every knife incident to
16 be a potential terrorism incident, he had formed the
17 immediate opinion that Mr Bayoh needed to be brought
18 under control as he did not know if he did have a knife
19 on him. He said it was too big a risk to sit back and
20 contain, his eyes were bulging out of his head,
21 indicative of intoxication, medical illness or mental
22 health crisis and provided visual information to
23 consider a medical response being required.

24 If you had been given that feedback at the time
25 would that have made a difference to you in your risk

Transcript of the Sheku Bayoh Inquiry

- 1 assessment?
- 2 A. Yes.
- 3 Q. What difference would that have made?
- 4 A. I would have -- well, for me it would be about,
- 5 you know, not necessarily approaching the male but we
- 6 have talked about containing and negotiate and give that
- 7 space and time, because if someone's emotionally or
- 8 mentally distressed or under the influence of some kind
- 9 of drugs or substance they may act unpredictably,
- 10 erratically and it is about, you know -- if it's safe to
- 11 do so, give that space and time and try speaking to
- 12 people, that early negotiation, but also the description
- 13 as well, just in terms of the way the male was
- 14 presenting I would be concerned about what he had taken
- 15 or what was going on for him, so medical help or medical
- 16 assistance would be a consideration of mine at that
- 17 time, getting an ambulance.
- 18 Q. In terms of medical assistance or medical help being
- 19 a consideration, what would you have done in the control
- 20 room?
- 21 A. I would have phoned for an ambulance or got someone in
- 22 the control room to phone for an ambulance.
- 23 Q. And you would have done that on the basis of that
- 24 information that I have read out?
- 25 A. Yes. You know, if someone is -- you were quite graphic

Transcript of the Sheku Bayoh Inquiry

1 in what you read out in terms of how someone presented,
2 so you -- we're arriving at that scene later on, we
3 don't know what's actually happened to that male in
4 terms of, you know, is it a physical illness, is it
5 a mental illness, has he taken something, has he been
6 injured himself as a consequence of what's gone on
7 before?

8 Q. And what instructions or commands, if any, would you
9 have given to officers at the scene if that information
10 had been relayed to you?

11 A. I think someone under -- someone as you have described
12 there may -- it may not be easy for them to necessarily
13 comply with instruction or -- yes, you've got to
14 recognise that they might not be compliant, they might
15 not be -- it might be difficult to actually get through
16 to them, or communicate with them, so for me it is that
17 sort of trying to de-escalate, you know, trying to
18 understand what's gone on and trying to say "What's
19 happened?"

20 Q. And insofar as you were concerned in the control room,
21 what information or advice could you share with
22 officers, or would you have shared with officers if you
23 had been given that information? What would you have
24 done, other than calling for an ambulance?

25 A. Just if it's safe to do so, you know, give that space

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1 and time, back off, ease off, you know, try and speak to
2 him, understand what's going on for him, you know,
3 confirm or -- confirm whether or not he's got a weapon
4 or he has not got a weapon, but just try and --
5 you know, you've got to be -- you've got to recognise
6 that someone might not engage with you if they have
7 a positive mindset that's affected by something.

8 Q. Would you have encouraged them to wait and give time and
9 space, as you have said?

10 A. If it was safe to do so, yes. There are circumstances
11 when it's not safe to do so, if someone was still in
12 possession of a weapon and threatening officers with it
13 that it might not be appropriate to do that, but if they
14 weren't that sort of backing off would be my preference.

15 Q. And Mr Paton also made the suggestion that instructions
16 could have been given to pull the van up at a distance
17 away, see what the man was doing, see if there was
18 a weapon, see if there was space and he also talked
19 about the possibility of officers gathering a distance
20 away from the subject in the car park at Gallaghers pub.
21 You may recall there was a pub nearby near the
22 roundabout.

23 A. Yes.

24 Q. Have you any views on that suggestion?

25 A. I do think you've got to approach the male. I think

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1 you've got -- in a circumstance like that you've got to
2 approach someone. It depends how you approach them, but
3 you have to approach them. You have to try and engage
4 with them. You have to try and understand what's going
5 on for them, you have to try and build up that rapport
6 if you can, because all these things are de-escalatory
7 techniques that may get you somewhere, they may not, but
8 you've got to try because someone might give up, they
9 might not give up, but I think for me, engaging with
10 someone in an appropriate manner is the way to sort of
11 progress a situation like that, if it's safe to do so.

12 Q. And does this tie in with what you said earlier about
13 excluding preclusion --

14 A. Yes.

15 Q. -- and the minimum force required?

16 A. Yes.

17 Q. Can I ask you to look at paragraph 42, please, of your
18 Inquiry statement:

19 "The ARV didn't go because I had two minutes to go
20 through everything that was happening, go through my
21 threat and risk assessment to everyone, go through my
22 powers and policies, my options and contingencies, and
23 understand what was going on."

24 I just want to be clear, are you saying there that
25 it didn't go because you didn't have enough time to

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1 think about it?

2 A. No, it didn't go because I had worked through my threat
3 and risk assessment and there were too many unknowns in
4 there for me and in terms of proportionality as well,
5 nobody had been injured by the male, he was behaving
6 erratically, but I wanted that additional information
7 from the scene by the officers who were almost there to
8 update what was actually happening in front of them,
9 what risk was the male posing to members of the public
10 or them because, you know, an ARV would be authorised to
11 attend if the risk was high and they couldn't contain
12 the situation and deal with the male.

13 Q. I'm going to read from part of this paragraph. It's
14 around ten lines down and it begins with the words
15 "I did believe the potential risk to members of the
16 public", do you see that? I will read through this:

17 "I did believe the potential risk to members of the
18 public to be high should they come into contact with the
19 male, and because of this, my position was that
20 divisional officers had to continue to attend at the
21 location. We were getting unarmed officers there to
22 understand what was going on; that then informs the
23 decision-making because it provides us with that
24 additional update. Unarmed officers going there would
25 also provide me with various other options in terms of

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1 taking that disruptive action, mitigating action,
2 keeping the male under observation if it he was located,
3 doing any kind of investigative assessment, building up
4 an understanding of who the person was, containing the
5 area, visibly and physically, allowing for the
6 opportunity to communicate with the male which is key in
7 rapport building and trying to de-escalate a situation.
8 I noticed in the expert report that the suggestion was
9 that divisional officers should not approach the male
10 and make attempts to communicate with him, but
11 I disagree with that view and consider any opportunity
12 to engage and negotiate is very important in an incident
13 like this. Sometimes it may not be possible, and
14 I recognise that as well."

15 So you seem to be setting out here your views on
16 sort of what your plan was going to be once you had got
17 the feedback. We can maybe go back up so we can go
18 through each individual element there. So you're
19 talking about officers on the ground taking disruptive
20 action, mitigating action, keeping the male under
21 observation. Can you explain what you mean -- what you
22 were thinking about disruptive action or mitigating
23 action?

24 A. Yes, I mean disruptive action is -- you know, attending
25 with your blue lights on and your sirens on can often

Transcript of the Sheku Bayoh Inquiry

1 have that effect of someone throwing drugs away, stolen
2 property away, throwing a knife away. Mitigating
3 action, you know, you can go and keep members of the
4 public away, keep members of the public out, you know,
5 put yourself in-between a person and a row of houses, or
6 a shop or something like that, to prevent them from
7 going in, keeping someone under observation, just
8 obviously that's quite --

9 Q. You have described what that is.

10 A. -- quite clear, yes.

11 Q. And an investigative assessment, is that something that
12 the RAID officer would be doing behind the scenes?

13 A. Yes, I mean for me that investigative assessment is if
14 we can't trace him or, you know, it might be that you
15 can stop members of the public or you can ask who this
16 person is, you could knock a door, or, you know, if
17 there were local shops nearby you could try and find out
18 "Do you know -- we're looking for this male, fits this
19 description, have you seen him?" It's about building up
20 that information as to who the individual is.

21 Q. And then we have talked about containing the area and
22 allowing:

23 "... an opportunity to communicate with the man ...
24 key in rapport building and trying to de-escalate..."

25 And I think you have explained your position on

Transcript of the Sheku Bayoh Inquiry

1 that. Then you say you note in the report the
2 suggestion that they should not approach the male and
3 make attempts to communicate with him. Do you see
4 a difference between someone observing and maybe
5 speaking to the person, or just observing?

6 A. Yes, so observing someone from a distance would be --
7 when you showed me the first footage of the van going
8 round the roundabout, or cutting through the roundabout,
9 you know, for me observing someone would be stopping
10 round about that area and seeing somebody in the
11 distance to understand what was going on, what you were
12 seeing and feeding that information back and
13 communicating with him would maybe be getting nearer --
14 well, it would be getting nearer, as near as possible,
15 whilst it would still be safe, and asking -- and just
16 trying to communicate with the individual, just ask him
17 what was happening, who he was and where he was going
18 and did he have a weapon and just trying to open that
19 line of engagement.

20 Q. Thank you. Can we look at paragraph 43 please, line 13
21 on that page. It is quite a long paragraph but it
22 starts:

23 "Any tactical plan ..."

24 So it is three lines up from the bottom of the
25 screen:

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1 "Any tactical plan would have to be flexible but it
2 would be greatly dependent on the information that came
3 back at the time, and the level of threat being faced."

4 So again, it comes back to the information you're
5 provided with from the scene?

6 A. Yes.

7 Q. Was there any part of your role to communicate your
8 plan, or your thoughts about the tactical plan with the
9 officers on the ground?

10 A. Just -- so this was still a divisional incident, managed
11 by divisional supervisors. Dependent on the feedback
12 that came from the officers on the ground, we would then
13 get an update as to just what was actually going on in
14 relation to the seriousness of any threats faced and
15 then it would be from then on -- it might still be
16 a divisional incident with officers on the ground but
17 I would link in with them and, you know, suggest
18 tactical options that were appropriate if they weren't
19 coming up with these, or they weren't quite sure what to
20 do, or if the officers arrived and the threat was deemed
21 to be too significant, the male had a knife and had
22 lunged at them, then, you know, I would take over,
23 declare a firearms incident and for the next 20 minutes
24 or so I would have to try and organise these unarmed
25 officers in a way that would try and protect the public,

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1 protect them, protect the individual until the arrival
2 of specialist officers, or a dog handler; if they
3 couldn't deal with him at that time.

4 But the situation could have changed again within
5 that period of time as well. So it would have to be
6 really, really flexible but I -- in the two minutes that
7 I was thinking about what I was going to do, the various
8 scenarios, if he was going -- seen going towards the
9 hospital, continue to the hospital, or if he was going
10 to go into a house, or if he was going to stop a car and
11 get in a car, or they were going to find him in an open
12 space, you know, I was thinking through all the
13 different sort of scenarios that might come and how
14 I might try and coordinate something if I had to take
15 over. Yes.

16 Q. Okay. Lots of possibilities.

17 A. And getting that information back. That's why getting
18 the information back from the scene was really important
19 to understand just what was happening, what the male was
20 doing, because if he wasn't there, we wouldn't -- well,
21 we would need to sort of plan for searches to try and
22 track him down, maybe knock on doors to see if anybody
23 had seen him, so the information -- there was no CCTV,
24 the information that was coming in from STORM was really
25 limited, the officers were almost at the scene and

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1 I felt that that information back was critical to
2 understanding just what was going on and that would
3 impact on how we dealt with the male there and then, if
4 it was safe to do so, or how we dealt with the male
5 going forward.

6 Q. So the feedback would have been key for you to narrow
7 down all of those options and determine your next step?

8 A. Yes, I mean, I had these plans in place, but,
9 you know -- but again, a key part of my training is that
10 you need the most recent, up-to-date information that's
11 available to you to inform your decision-making to make
12 the best possible plan and decision-making going
13 forward.

14 Q. Okay. So in light of the plan that you had in your head
15 about what your expectations were of how the officers
16 would approach it, you have given your stay safe
17 message, initial assessment and feedback, you have
18 various thoughts going round your head about things that
19 can be done, expectations of what the officers will do.
20 From the spreadsheet we can see that there wasn't anyone
21 giving instructions to the officers to wait, observe,
22 form an impression of the man, or any of that, to build
23 rapport, de-escalate, negotiate, none of that was being
24 shared over the Airwaves with the officers on the
25 ground.

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1 Whose responsibility was it to share that sort of
2 information with the officers, or was it wholly a matter
3 for their discretion?

4 A. No, I mean the divisional supervisor attending should
5 have been organising the officers in a way considering
6 these things.

7 Q. Was that Sergeant Maxwell?

8 A. Yes, it would have been because he was on the ground.
9 So, you know, police officers attend sort of dynamic
10 incidents like these on a regular basis and it's about
11 coordinating your response when you're going there,
12 whether it's a house break-in in progress or a pub fight
13 or something like that. Police officers are used to
14 going to incidents like that and coordinating the
15 activity. First set off at the locus gives the update,
16 you know, pause, feedback. These kind of things happen
17 all the time. These were my considerations should they
18 not be able to deal with that male and, you know,
19 I suppose I was waiting on the feedback coming back to
20 understand what was going on.

21 Q. We have heard some evidence about the approach that was
22 being taught to officers, the sort of ethos in 2015 and
23 I wonder if I can get your comment on this and whether
24 you knew about this. We have heard and we will hear
25 that at the time maybe some officers felt that they

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1 immediately had to gain control and compliance, that
2 that involved maybe what's called a hard stop, strong
3 verbal commands, it was about seizing control and then
4 after they had secured that compliance they went for
5 de-escalation, but they were not defusing a situation at
6 the outset. Was that something -- that ethos or that
7 mindset, was that something you were aware of at the
8 time in 2015?

9 A. No, I used to do my officer safety training on an annual
10 basis and it was very much the sort of de-escalation
11 approach is what I have always been taught. You know,
12 you have to raise the level of force. You're looking to
13 use the minimum level of force possible to achieve your
14 objective safely and sometimes that level of force has
15 to be higher depending on what's happening with the
16 subject, but I think if you go in at a high level you've
17 got -- it's difficult to go -- it's difficult to
18 de-escalate probably. I think you've got to go in at
19 a level where if you need to escalate, you can escalate,
20 but it is more so about that appropriate --

21 Q. So in 2015, in May 2015, were you aware of that sort of
22 mindset being taken by officers?

23 A. No, I mean I imagine individual officers will have their
24 own different view on it, but I wasn't aware of that.

25 MS GRAHAME: Thank you.

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1 Could you give me one moment just to check
2 something.

3 (Pause).

4 Thank you very much, Inspector Stewart.

5 LORD BRACADALE: I'm going to adjourn to consider one or two
6 matters.

7 (The witness withdrew)

8 (3.36 pm)

9 (Short Break)

10 (3.47 pm)

11 LORD BRACADALE: Are there any Rule 9 applications?

12 Ms McCall?

13 Application by MS MCCALL

14 MS MCCALL: It arises, sir, out of a passage of questions
15 that begins on [draft] page 155 of the transcript at
16 line 16, where Senior Counsel to the Inquiry has asked:
17 "From the spreadsheet we can see there wasn't anyone
18 giving instructions to the officers to wait, observe,
19 form an impression of the man or any of that, build
20 rapport, de-escalate, negotiate, none of that was being
21 shared over the Airwaves with the officers on the
22 ground."

23 And then she asked whose responsibility that was and
24 the witness said it was:

25 "... the divisional supervisor attending should have

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1 LORD BRACADALE: Thank you very much. So could we have the
2 witness back in now please.

3 (The witness returned)

4 MR STEVEN STEWART (continued)

5 LORD BRACADALE: Mr Stewart, you're going to be asked some
6 questions by Ms McCall who is the senior counsel for
7 Sergeant Maxwell.

8 Questions from MS MCCALL

9 MS MCCALL: Mr Stewart, I wonder if you could have a look at
10 the spreadsheet that's the audio-video timeline and at
11 page 2 of that, please, and broadly what I want to ask
12 you about is the stay safe messaging and also other
13 instructions to attending officers, so if you will
14 see -- and the Inquiry has already heard evidence about
15 this, but you will see at 07.17.23, Acting
16 Sergeant Maxwell makes a transmission that he wants all
17 units to attend that "Bearing in mind officer safety",
18 and then he asks for an ARV and a dog; do you see that?

19 A. Yes.

20 Q. The Inquiry has already heard all the transmissions on
21 this spreadsheet and Sergeant Maxwell is the only
22 officer to use the phrase "Officer safety", you follow
23 me?

24 A. Yes.

25 Q. Would he expect, given their training, his officers on

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1 the team to understand what that meant even if it was
2 shorthand for "Stay safe"?

3 A. Could you just repeat that?

4 Q. You said -- we've just contextualised a bit -- you said
5 earlier on in your evidence that the stay safe message
6 is ingrained in officers' training?

7 A. Yes.

8 Q. And they should all understand what that means and they
9 should all have it in their minds.

10 A. Yes.

11 Q. And you said that even though you didn't give the full
12 stay safe message when you told officers to attend, make
13 initial assessment and feed back, they should understand
14 what that meant?

15 A. Yes.

16 Q. And what I'm asking is when Scott Maxwell said "Bearing
17 in mind officer safety", albeit that's a shorthand,
18 would you expect his team to understand that was
19 bringing to their mind the stay safe requirements?

20 A. I don't know the answer to that one because I don't know
21 his team, but yes, I mean he is reminding -- he there is
22 reminding officers to be safe, so from that I would
23 think that, you know, they would have to be switching on
24 and thinking to what I need to do to be safe attending
25 a sort of dynamic incident like this.

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1 Q. All right. Can I move on then. You were asked by
2 Senior Counsel to the Inquiry -- she referred you to the
3 spreadsheet and she said:

4 "Question: From the spreadsheet we can see that
5 there wasn't anyone giving instructions to the officers
6 to wait, observe, form an impression of the man, or any
7 of that, to build rapport, de-escalate, negotiate, none
8 of that was being shared over the Airwaves with the
9 officers on the ground."

10 Do you remember being asked about that?

11 A. Yes, yes.

12 Q. And you were asked:

13 "Question: Whose responsibility was it to share that
14 sort of information with the officers, or was it wholly
15 a matter for their discretion?"

16 And your answer was:

17 "Answer: No, I mean the divisional supervisor
18 attending should have been organising the officers in
19 a way considering these things."

20 And you confirmed that was Sergeant Maxwell because
21 he was on the ground. Do you remember saying that?

22 A. Yes, yes.

23 Q. You may not be aware, because I appreciate you weren't
24 in the ACR and you weren't getting a lot of -- you
25 weren't in the ACR the whole time, in the overview room,

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1 you weren't getting a lot of feedback, but you will
2 understand I think that Sergeant Maxwell himself drove
3 from Kirkcaldy to the locus of the incident. You're
4 aware of that?

5 A. Yes.

6 Q. And were you aware that he was the last of the shift to
7 arrive?

8 A. No.

9 Q. So by the time he arrived, Mr Bayoh was already on the
10 ground, being restrained with leg restraints applied.
11 Do you follow me?

12 A. Yes.

13 Q. Can we take it that any supervisor, whether it's you,
14 Inspector Kay, the PIO, or Sergeant Maxwell when he is
15 en route in the car, would be looking for feedback from
16 the first officers on the scene?

17 A. Yes.

18 Q. And can we take it that that sort of feedback would
19 inform the supervising sergeant's instructions, just as
20 it would inform yours?

21 A. Yes.

22 Q. And would you accept from the sequence of events that
23 I have given you that Sergeant Maxwell was in no better
24 position than you were, or Inspector Kay was, to give
25 specific instructions about how to tackle the situation

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1 until they got feedback?

2 A. No. I mean I've done that role as a response sergeant
3 and a response inspector. Part of the sort of stay
4 safe -- you know, the specific responsibilities for
5 a supervisor who is attending -- and it is about that:
6 attending, staying safe, thinking about observations,
7 thinking about cordons, thinking about containment,
8 thinking about sterile areas, thinking about information
9 and intelligence gathering and thinking about any kind
10 of sort of arrest plan.

11 So I personally have done that as a supervisor
12 attending a locus, so, you know, I was busy doing my
13 assessment and the information that I was trying to
14 gather in the control room, but that's never stopped me
15 from -- when I was a response sergeant attending a call
16 like this -- from trying to organise my resources, but
17 I would agree that, you know, other officers could have
18 said that as well, but for me primarily it's the
19 officer -- supervisor on the ground that's directing
20 these officers who should be sort of organising them
21 when they go there.

22 Q. And I think what we saw was that -- and you were told
23 this I think when you returned to your overview room --
24 Sergeant Maxwell was the one who had instructed all
25 units to attend.

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1 A. Yes.

2 Q. He was the one that had asked for an ARV and he was the
3 one that had asked for a dog and told everyone to bear
4 in mind officer safety, is that right?

5 A. Yes.

6 MS MCCALL: Thank you, sir.

7 LORD BRACADALE: Thank you.

8 Mr Stewart, there are matters which my Assessors
9 have raised that I require to look further into which
10 I may wish to explore with you, so I would be grateful
11 if you would come back tomorrow morning for 10 o'clock
12 and we will look at that then. Thank you.

13 So 10 o'clock tomorrow morning.

14 (3.58 pm)

15 (The Inquiry adjourned until 10.00 am on Friday,
16 25 November 2022)

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