

## Transcript of the Sheku Bayoh Inquiry

Tuesday, 7 June 2022

1

2 (10.01 am)

3 LORD BRACADALE: Good morning.

4 Ms Grahame, who is the first witness today?

5 MS GRAHAME: The first witness today is Constable

6 James McDonough.

7 LORD BRACADALE: Good morning, constable.

8 A. Good morning.

9 LORD BRACADALE: You're going to be asked questions by

10 Ms Grahame. Before we do that, would you say the words

11 of the affirmation after me.

12 PC JAMES MCDONOUGH (affirmed)

13 LORD BRACADALE: Ms Grahame.

14 Questions from MS GRAHAME

15 MS GRAHAME: Thank you.

16 Good morning. Are you James McDonough?

17 A. That's correct, yes.

18 Q. And what age are you?

19 A. I'm 29.

20 Q. And how many years' service do you have?

21 A. I've got seven full years' service now.

22 Q. And in 2015?

23 A. Roughly it was about 6 months.

24 Q. Right. Six months since you had left Tulliallan?

25 A. Yes, I think -- yes, that would be correct, yes, end

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1           of November.

2           Q. Were you still a probationer?

3           A. Yes, that's correct.

4           Q. Thank you. And who was your -- we have heard about

5           mentors or supervisors. Who was your supervisor?

6           A. So my tutor constable -- I think -- is that what you're

7           referring to, a tutor constable?

8           Q. Yes, sorry, I couldn't remember the name there.

9           A. No, that's fine. My tutor constable at the time was

10          PC Brian Geddes.

11          Q. Now, we've got all your contact details so we don't need

12          you to say that. Have you got a black folder in front

13          of you?

14          A. I do, yes.

15          Q. Have you seen any of the other hearings so far?

16          A. Yes.

17          Q. So you will know that I want you to be as comfortable as

18          you can be and I want to make sure you've got everything

19          that you might need during the course of this morning,

20          so in that black folder should be hard copies of your

21          PIRC statement and your Inquiry statement. Do you see

22          that?

23          A. Yes, I do, yes.

24          Q. And you must feel free to refer to that at any time if

25          you wish, so when I'm asking for paragraphs of your

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1 Inquiry statement to go on the screen they will come up  
2 on the screen in front of you.

3 A. Yes.

4 Q. But if there's anything around that paragraph you want  
5 to see, you can refer to your hard copies.

6 A. Okay.

7 Q. Great. Can we look, first of all, at PIRC 273, please.

8 A. Yes.

9 Q. And you will see that this is a PIRC statement dated  
10 4 June 2015 and it was taken at 12.20 by Garry Sinclair,  
11 investigator, in the presence of William Davidson,  
12 investigator. Is that right?

13 A. Yes, that's correct, yes.

14 Q. And do you recognise this? It was taken at the Scottish  
15 Police College on that date?

16 A. Yes, I remember it, yes.

17 Q. And were you given a chance to look over it, or was it  
18 read over to you?

19 A. I think I remember it being read back to me.

20 Q. Right. And I know that there's a few things you would  
21 like to comment on as we go through. I will go through  
22 those. I have those points highlighted and I will go  
23 through those when we come to them if you don't mind?

24 A. Perfect, no, that's fair.

25 Q. But subject to those alterations, which we will come to

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1           today, you were doing your best to tell the truth to the  
2           PIRC and as accurate as you could be?

3           A. Absolutely.

4           Q. Thank you. And then can we look at SBPI 63, please, and  
5           this should be your Inquiry statement. Now, it is  
6           headed up "Response to Rule 8 request" and, as you will  
7           have heard me say to other officers, you were sent  
8           a large number of questions by the Inquiry team and you  
9           and your lawyers prepared this statement yourselves and  
10          sent it into the Inquiry team.

11          A. Yes.

12          Q. So although it is headed up "Response to Rule 8  
13          request", I'm just going to call that your Inquiry  
14          statement?

15          A. No problem.

16          Q. Great. Can we look at the final page, please, just  
17          where -- thank you. After paragraph 89 it says:

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

22                 And in light of that, although we don't see it on  
23                 the screen, on your hard copy you've got a signature  
24                 there, your signature?

25          A. Yes.

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- 1 Q. And -- thank you, that's great. My understanding is  
2 that that statement was dated 1 May 2022.
- 3 A. Yes, that probably is about right actually, yes.
- 4 Q. Is that about right?
- 5 A. Yes, it is.
- 6 Q. Thank you. So are you happy that you've got your  
7 statements that you might want to refer to in front of  
8 you?
- 9 A. Yes, I am.
- 10 Q. And then in addition, to your left you will see  
11 a spreadsheet which is a combined video and audio  
12 timeline. You may have seen me refer to this with other  
13 people. You will see on the left there's a column with  
14 timings on it and then just left of centre you will see  
15 transcripts of Airwaves messages?
- 16 A. Yes.
- 17 Q. You can see one at the bottom of page 1 of the  
18 spreadsheet.
- 19 A. Yes.
- 20 Q. And to the right-hand side you will see "Description of  
21 visible events in video"?
- 22 A. Yes.
- 23 Q. And that's a sort of thumbnail of what can be seen in  
24 the CCTV. If you have seen other evidence you might  
25 have seen us play footage, combined footage --

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1 A. Yes.

2 Q. So you are probably reasonably familiar with that but if  
3 you have any questions as we go through this morning,  
4 you can ask.

5 A. No problem, thanks.

6 Q. Thank you. And we can dip into that spreadsheet.

7 So when your lawyer, Ms McCall QC, spoke on your  
8 behalf on 11 May, which was the day of the opening  
9 statements, she said -- and I'm paraphrasing -- that you  
10 want the Chair to get to the truth of what happened and  
11 that's why you're here today, and does that remain the  
12 position?

13 A. Yes, absolutely.

14 Q. Thank you.

15 Let's start by just saying first of all, you weren't  
16 at the scene in Hayfield Road when there was an Airwaves  
17 transmission saying an officer had been injured. At  
18 that time you were on your way to Hayfield Road with  
19 Daniel Gibson?

20 A. That's correct.

21 Q. And can we look, please, at the evidence video timeline  
22 and I will just play a minute of this footage just to  
23 let you see it, starting at 7.21. We're just going to  
24 play a minute of this. Just watch it and look at the  
25 CCTV, if you don't mind.

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1 (Video played)

2 Thank you very much. Could we go back to 7.21.46  
3 and we will just keep that -- or just slightly -- you  
4 see in the footage there a police car at the front  
5 coming up Hendry Road, and as it carries on -- and maybe  
6 we could play a second or two, Ms Wildgoose -- this car  
7 here, thank you, the car that then turns right into  
8 Hayfield Road; do you recognise that?

9 A. Yes, I do, yes.

10 Q. And is that the Vauxhall Astra estate car that you and  
11 Daniel Gibson were in?

12 A. That's correct.

13 Q. And we have heard that that might have been called the  
14 diary car?

15 A. Yes.

16 Q. You recognise that?

17 A. Yes.

18 Q. And who was driving?

19 A. PC Daniel Gibson was driving that.

20 Q. Were you in the front passenger seat?

21 A. That's correct.

22 Q. Thank you. Could we maybe have a look now at your  
23 Inquiry statement, please, and we will look at  
24 paragraph 1 first of all. And here you describe that  
25 you were working the day shift that started at 7.00 in

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- 1           the morning and at 10-past you were in the sergeant's  
2           room. Who was the sergeant?
- 3           A. That morning it was PS Scott Maxwell.
- 4           Q. Thank you. And you heard a call on your Airwave radio  
5           about a large male walking down Templehall Avenue in  
6           possession of a knife, and Scott Maxwell instructed all  
7           units to attend the call and that included yourself and  
8           PC Gibson?
- 9           A. That's correct.
- 10          Q. And were you on what's known as a response team,  
11          response team number 4?
- 12          A. That's correct, yes.
- 13          Q. And so did you make arrangements then to go and attend  
14          in relation to that knife incident?
- 15          A. Yes, I did, yes.
- 16          Q. Thank you. And I think you say:  
17                 "All available units would attend a call of this  
18                 nature due to the potential danger it presented."  
19                 What do you mean by that?
- 20          A. The fact that there's a knife been mentioned, it's  
21          a lethal weapon. The more units you can have going  
22          there, the better, just simply for if there was anyone  
23          to get injured there's more officers there to try and  
24          get a hold of the situation.
- 25          Q. So that was the norm for a knife call in 2015?



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- 1       A. Yes, if the units are available, certainly, yes.
- 2       Q. Yes. And can I ask you a little about previous knife  
3 incidents that you had attended. I appreciate you have  
4 told us you had only been a probationer for six months  
5 at that stage. As part of the work you were doing, had  
6 you attended knife incidents?
- 7       A. Yes, I would have attended knife incidents. I'm  
8 struggling at that time to think of a specific incident  
9 that I have attended. It's one of those ones if -- if  
10 I knew I was going to get asked that question I would  
11 probably take a note of them, but I would say that they  
12 are relatively common to some degree throughout your  
13 working set of shifts.
- 14      Q. What do you mean by "common"?
- 15      A. Well, I would put different types of knife incidents in  
16 the sort of same bracket as a knife incident, so, for  
17 example, a mental health call, someone in possession of  
18 a knife harming themselves, cutting their wrists or  
19 whatever, I would probably put that in the bracket as  
20 a knife incident; a robbery, for example, someone in  
21 possession of a knife to gain property from another  
22 person or -- obviously that's a knife incident; or just  
23 a general disturbance, a fight with people in possession  
24 of weapons or knives or sharp implements. So I would  
25 probably place all of them in that sort of same

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- 1 category.
- 2 Q. How often would you be called out to one of those  
3 incidents?
- 4 A. Putting an exact figure is difficult, however -- so in  
5 a set of shifts, there's six shifts in a set, I would  
6 probably say maybe four or five in that set, set of  
7 shifts that you would maybe attend involving a knife.
- 8 Q. Is a set a week for you?
- 9 A. Yes, yes, essentially.
- 10 Q. Is that what you mean?
- 11 A. Yes.
- 12 Q. So that's like a week you will do six shifts?
- 13 A. Yes.
- 14 Q. And you would maybe attend knife incidents for four out  
15 of the six of them?
- 16 A. Yes.
- 17 Q. And we have heard that one of the other probationers,  
18 a PC Good, was attending with her tutor constable,  
19 Smith, and were you there -- were you not needing  
20 a tutor constable at that stage?
- 21 A. No, so you are -- the first three months of your  
22 probationary period is when you are with your tutor  
23 constable, so I was kind of outwith that period, so  
24 I was working with other members on the shift.
- 25 Q. Right, and just doing the normal work that they would

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- 1 do?
- 2 A. Yes, yes.
- 3 Q. Right. Of any of the incidents that you had attended  
4 prior to 3 May 2015, had any involved a black man with  
5 a knife?
- 6 A. No, I don't believe so, no.
- 7 Q. Had any involved the person being under the influence of  
8 drink or drugs?
- 9 A. Again, it's difficult to think of exact scenarios or  
10 incidents, but yes, I would say that there would have  
11 been probably a fair amount, to be fair.
- 12 Q. What's a fair amount, could you help us?
- 13 A. Again, I would probably -- it's difficult to put an  
14 exact figure on it, but maybe again three or four times  
15 in a -- maybe even more, actually, in a set of shifts.
- 16 Q. Right. And you mentioned mental health calls where  
17 maybe someone is self-harming. How often would that  
18 happen?
- 19 A. I would say they're more common now, but they were still  
20 relatively common back in 2015 as well. Again, putting  
21 an exact figure on it is very difficult, but I would  
22 maybe go -- maybe say maybe once a shift.
- 23 Q. Once a shift?
- 24 A. Yes.
- 25 Q. Right. And so would that be once a shift, some would

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- 1           have knives or sharp implements and some wouldn't?
- 2       A.   Yes.
- 3       Q.   In the six months you had been a probationer attending
- 4           these types of calls, how many had involved you using
- 5           your CS spray?
- 6       A.   I've never used my CS spray and I still haven't to date.
- 7       Q.   Right. How many had involved you using your baton?
- 8       A.   Again, I've never used my baton and still to this day
- 9           I have not used it.
- 10      Q.   How many had involved restraint?
- 11      A.   Restraint -- would you class putting handcuffs on
- 12           someone as restraint, or hands on? Because I --
- 13           certainly I have used my Fast Straps before prior to
- 14           this incident, so yes, again, putting a figure on it is
- 15           difficult, but I have definitely used some form of
- 16           restraint to deal with an incident.
- 17      Q.   We have heard that there's different levels of
- 18           restraint.
- 19      A.   Yes.
- 20      Q.   And it can even be just holding someone by the wrist.
- 21      A.   Yes.
- 22      Q.   Or it could be a much more vigorous restraint.
- 23      A.   Yes.
- 24      Q.   You have said you used leg straps or Fast Straps; could
- 25           you give us some more information about the time you had

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1           used Fast Straps?

2           A. Yes, it didn't involve a knife, however, I still used  
3           them. So it was -- I can't remember the exact date and  
4           time, but essentially we were called to a disturbance  
5           within a flat, somewhere in Fife. As always, it's  
6           always a top floor flat that you're going to, and the  
7           nature of the call, it was like a domestic type call,  
8           I can't remember if it was domestic violence or verbal  
9           abuse, I can't quite remember.

10           There was a couple of us -- a couple of units  
11           attended, maybe three, so you're looking at maybe four,  
12           five, six officers attending, and when we arrived there  
13           was a male on the outside of the front door to the flat  
14           on the landing, banging on the door trying to get in,  
15           shouting verbal abuse, so we took him aside. Other  
16           officers established or tried to establish what the  
17           criminal intent was, or what crimes had been committed.  
18           We gained enough evidence to bring him into custody, so  
19           handcuffs were applied on the gentlemen to the rear and  
20           he -- it was at that point when he realised he was  
21           getting arrested he started kicking off, he started  
22           trying to bite officers, trying to spit on officers and  
23           using his legs to kick, and at that point the most  
24           reasonable thing to do was to place him on the ground,  
25           get the leg restraints on him so that 1, officers were

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1 safe, he was safe and it was -- we were able to safely  
2 take him down the flights of stairs to the van without  
3 him obviously kicking out and people falling down the  
4 stairs and that sort of stuff, so that's one incident  
5 that I remember using them prior to May 2015.

6 Q. So that was on the top landing of a block of flats?

7 A. Yes, it was about three floors up, I think I remember it  
8 being.

9 Q. We have looked previously at a standard operating  
10 procedure, a SOP, that says if you're putting leg  
11 restraints on, the person should be prone?

12 A. Yes.

13 Q. And is that the method that was adopted when you used  
14 them?

15 A. Yes, it was, yes.

16 Q. So the person was prone, the leg restraints went on and  
17 then he was escorted down to the van?

18 A. Yes.

19 Q. And were the handcuffs on first?

20 A. Yes, they were, yes.

21 Q. You have told us quite a lot about some of the cases, or  
22 calls you had attended prior to May 2015; for the ones  
23 that you didn't use your spray or your baton, or  
24 restraint, how did you manage to avoid using those  
25 pieces of equipment or those techniques?

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- 1       A. You're best to use your voice, communication skills.
- 2       You generally find that there's no timescale on how long
- 3       it should take to be able to communicate with someone,
- 4       but even if someone is at least giving you some sort of
- 5       response you can generally keep going down the route of
- 6       communication and eventually they will come down to your
- 7       level in understanding and become compliant,
- 8       essentially, yes.
- 9       Q. So you're saying no timescale?
- 10      A. Yes.
- 11      Q. What do you mean by that?
- 12      A. Just be patient with people. Just trying to -- even if
- 13      you're just getting abuse, to me it's still something,
- 14      so just keep persevering with them and eventually you
- 15      may be able to get them to come into custody without the
- 16      use of having leg restraints and batons, CS sprays, that
- 17      sort of stuff.
- 18      Q. What if you're not getting abuse? What if there's no
- 19      response? What if they don't say anything to you?
- 20      Would you still be patient and attempt to communicate?
- 21      A. Yes, it depends what the threat is at the time
- 22      I suppose, what the circumstances are, the nature of the
- 23      call. Kind of all the circumstances really kind of need
- 24      to be weighed up in that situation.
- 25      Q. What if you're attending a knife call but you don't see

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1 a knife and you don't get a reaction from the person,  
2 they just basically ignore you, would you still attempt  
3 to communicate with them?

4 A. You still -- it depends what the threat posed in front  
5 of you is in that moment in time. Yes, you could do if  
6 you can maintain your distance. However, the fact that  
7 there's no knife visible, for me that's a bigger threat,  
8 the threat goes up at that point. It's one of those  
9 ones in the moment you might revert to using some form  
10 of restraint, or if it's still relatively safe to do so  
11 you can still communicate. You have still got a couple  
12 of options there.

13 Q. Right, thank you. Can I ask you about your journey to  
14 Hayfield Road. As you were leaving Kirkcaldy Police  
15 Office I think you were aware that PC Smith and PC Good  
16 were leaving at around about the same time?

17 A. Yes, I was aware of -- I was aware of officers leaving.  
18 I can't remember if I said it was specifically them  
19 but --

20 Q. Can we have a look at paragraph 3 of your Inquiry  
21 statement. That was the next one I was going to come on  
22 to, but I think we may have heard that they were leaving  
23 at roughly the same time as you and Constable Gibson?

24 A. Yes, I've got no reason to dispute that.

25 Q. Then paragraph 3, you talk here about the equipment that



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1           you were taking with you.

2           A. Yes.

3           Q. So you had your full PPE, baton, spray, leg restraints,  
4           and you say you also had slash-proof gloves.

5           A. Yes.

6           Q. And you say "Personal issue given to me by my tutor  
7           constable". Tell us about that?

8           A. I just remember one day that my tutor constable just  
9           gave me these slash-proof gloves and said "They're quite  
10          handy to have". I don't know where he got them from,  
11          but basically how it was explained to me is if you come  
12          into any contact with any sharp implement, there may be  
13          an occasion, I don't know, that you might have to take  
14          control of a blade, but not from the handle, so taking  
15          control -- or taking possession of the blade on the  
16          bladed side, so these slash-proof gloves are -- the  
17          material, it's like -- I would probably describe it as  
18          being like a wire mesh-type material that's got like --  
19          I think I remember them having some sort of, like,  
20          rubber beads on the palms and I think that was  
21          essentially meant to be sort of -- the material would  
22          prevent any slashes and injuries to your hand if you  
23          came into contact with a sharp implement like scissors  
24          or knives.

25          Q. So another piece of protective equipment for you?

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1 A. Yes.

2 Q. But you say that was personal issue; was that not  
3 standard issue?

4 A. No, it wasn't, no. Like I say, I'm not too sure where  
5 he got them from, but he gave them to me as just,  
6 looking out for me, I suppose.

7 Q. And was that something that gave you an added layer of  
8 confidence as you approached a potential knife incident?

9 A. Yes, absolutely, yes.

10 Q. And you have said that you:

11 "... released the strap on my baton holder for  
12 quicker and easier access if required."

13 Tell us what you were thinking at that time?

14 A. So I think at this point I had already heard the  
15 emergency button being activated and with the mention of  
16 a knife and an officer injured, you can't help but think  
17 that a knife's still present, so at this point I know  
18 it's only a second or two to release that strap on the  
19 baton, but seconds are quite valuable in situations like  
20 that I suppose. I think I have just tried to gain any  
21 sort of advantage whatsoever so that I can get my  
22 equipment at the fastest opportunity.

23 Q. So at that point en route to Hayfield Road there was no  
24 information available to you that would allow you to  
25 exclude the knife as the cause of the injury to the

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1 officer?

2 A. Yes, I had absolutely no information whatsoever what  
3 caused the injury, how she -- how the officer was  
4 injured. So yes, I still had to go on worst case  
5 scenario at that point.

6 Q. Right. And then you say:

7 "I considered maintaining my distance."

8 What do you mean by that?

9 A. Again, at this point I wasn't aware that Mr Bayoh was on  
10 the ground, so I had to take it into consideration that  
11 he was still on his feet, considering his actions, so  
12 maintaining your distance if he is still in possession  
13 of a knife, or if you suspect he is maybe still in  
14 possession of a knife, maintain your distance so that  
15 the gap is big enough so that you can keep yourself  
16 safe, essentially, and not come into contact with any  
17 knife.

18 Q. And then you mention:

19 "... tactical cover options if the subject was  
20 visibly armed with a knife."

21 What are tactical cover options?

22 A. That's your CUT principle, I think it was mentioned  
23 previously, so create distance, utilise cover and  
24 transmit. So creating distance would be kind of what  
25 I touched on there, just maintaining that gap.

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1 Utilising cover could be anything, police car, it could  
2 be a wall, a hedge, literally anything, any obstacle in  
3 the way to sort of maintain -- again, maintain that gap  
4 and transmitting will be transmit what you see on the  
5 radio.

6 Q. Transmit as in send a message or feedback on the  
7 Airwaves -- on the radio?

8 A. That's correct, yes.

9 Q. Thanks. And effectively is this you thinking about your  
10 risk assessment and carrying out risk assessment  
11 en route to Hayfield Road?

12 A. Yes, yes.

13 Q. Thank you. And you have said you were aware an  
14 emergency button had been pressed; can I ask you, as  
15 well as that, were you aware of Hayfield Road?

16 A. Yes, I was, yes.

17 Q. So you had spent some time in Kirkcaldy at that stage?

18 A. Yes.

19 Q. You were familiar with the area?

20 A. Yes.

21 Q. And did it make any difference to your risk assessment  
22 that you knew the area?

23 A. It certainly helps, I would say, just having an  
24 awareness of where it is, having an awareness of the  
25 quickest route to get there, the fact that it's within

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1 a built-up area and that there's various other  
2 hospitals, et cetera, that are in the area, so yes, that  
3 does help to know the area, absolutely.

4 Q. So you were aware that there's the Victoria Hospital in  
5 the area?

6 A. Yes.

7 Q. But also the psychiatric hospital, Whytemans Brae?

8 A. Yes.

9 Q. And did it cross your mind that this might be someone  
10 from Whytemans Brae or the hospital?

11 A. To be honest, I can't remember at that moment in time if  
12 I did consider that, however, certainly if you got to  
13 the position where you were able to control the  
14 individual and be able to have some sort of dialogue  
15 with him, it would probably be at that point that you  
16 would be able to start to think about options like that.

17 Q. So we have heard about the National Decision-Making  
18 Model and how people are trying to get more information,  
19 new information in and then review, go round the cycle  
20 of the decision-making.

21 A. Yes.

22 Q. Is that the sort of thing you were doing?

23 A. Yes, yes.

24 Q. Yes. And at the time you were en route, can you tell us  
25 who was in charge of this incident, who was sort of the

## Transcript of the Sheku Bayoh Inquiry

1           senior officer?

2           A. I would probably just say at that point PS Maxwell.

3           Yes, I would say him at that moment in time, yes.

4           Q. Okay. We have also heard about the area control room  
5           and their involvement. There was some communication  
6           with them prior to your arrival. What was your  
7           understanding of their involvement with this incident at  
8           Hayfield Road when you were en route?

9           A. Well, it's difficult to remember exactly what my  
10          understanding was at that moment in time, but it would  
11          probably just be that they were monitoring the fact that  
12          there's a knife involved and they will obviously see  
13          more calls coming in than what's getting distributed to  
14          us at the time, so they will be monitoring the calls as  
15          well to be able to assess it properly if -- what  
16          resources are needed.

17          Q. Do you remember saying anything to Constable Gibson on  
18          the way?

19          A. The only thing that I remember saying to PC Gibson was  
20          something along the lines of "We may have a problem  
21          here", and that was -- I think that was in sort of  
22          response to seeing the emergency button being activated,  
23          or I think maybe at that point we had heard two or three  
24          calls getting relayed to us about the context of the  
25          call.

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- 1 Q. When you say "calls", what do you mean?
- 2 A. So the controller will be telling us on the radio
- 3 "That's another call" -- I think they were using the
- 4 grade 1/grade 2 calls at that time, so "That's another
- 5 grade 1 call, male walking down Hayfield Road with
- 6 a knife", something like that.
- 7 Q. We have heard that officers on the way couldn't actually
- 8 hear the 999 calls, or the other calls, but they were
- 9 maybe aware of a number of calls coming in on the way?
- 10 A. Yes, yes.
- 11 Q. And you were in the same boat?
- 12 A. Yes.
- 13 Q. And then you knew that an emergency button had been
- 14 activated. Did you know whose it was?
- 15 A. PC Ash Tomlinson, Ashley Tomlinson is the one that
- 16 I remember seeing.
- 17 Q. Thank you. And do you remember who said an officer had
- 18 been injured?
- 19 A. I was of the impression it was PC Craig Walker. I can
- 20 obviously see from the -- sort of the transcripts of the
- 21 radio messages that it was actually PC Alan Paton but
- 22 I think they probably sound quite similar actually in
- 23 that moment of shouting.
- 24 Q. We have heard other evidence from other officers saying
- 25 they thought it was PC Paton, but would you like to hear

## Transcript of the Sheku Bayoh Inquiry

1           that message and see if you can identify him or are you  
2           happy to accept it might be a mistake on your part?

3       A. Yes, I'm happy to accept that, it's just my perception  
4           at the time.

5       Q. No, that's fine, thank you.

6           Can I ask you, as you were approaching  
7           Hayfield Road, in paragraph 8 of your Inquiry statement  
8           you mention that you were anxious and we have heard  
9           evidence from other officers about this and how they  
10          were feeling, and I just wonder if you could maybe  
11          explain to us your state of mind at that time?

12       A. Yes, absolutely. So there's a few -- I think "anxious"  
13          is probably the best way to describe how I was feeling  
14          at that time, and probably the best way I can describe  
15          it is one, I was able to hear that there was one or two  
16          or three calls coming into the police, or making us  
17          aware of what was happening, the fact that a knife was  
18          involved, you're -- you will have heard it before, but  
19          there's always a hope that this could be  
20          a misunderstanding or a hoax, but when you hear three  
21          calls coming in of all apparently credible witnesses,  
22          all mentioning a knife, you can probably start to say --  
23          think at that point that this is actually happening.  
24          The fact that a radio -- sorry, a red button activation  
25          had been made -- I'm also aware now that there was two,



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1 but at the time I was only aware of one, and that  
2 an officer had been injured with no context or anything  
3 whatsoever.

4 But what I would say as well -- so this is kind of  
5 touching on what I said previously about mental health  
6 calls, or an example of a robbery, or a disturbance,  
7 a fight ongoing with knives, you have an idea of all  
8 three of them calls what the intentions are, or the  
9 motive, so the mental health call, the intent is to harm  
10 themselves, but you can't discount that maybe an officer  
11 could get injured, but you've got an idea. The robbery,  
12 again, the intention is to gain property from another  
13 person. Again you can't discount that an officer could  
14 get injured if you come across it, but again you have  
15 an idea what the intent was, and the same for the  
16 disturbance call, a fight ongoing, the intent is to harm  
17 another person who is involved in that disturbance.

18 With this call it was -- there was nothing  
19 immediately jumping out at you of what is the intent  
20 here, and I think that probably adds to the anxiousness.

21 Q. So it was out of the ordinary for you to attend a call  
22 where you couldn't see that intent?

23 A. Yes, yes.

24 Q. Thank you. And you have told us you were a probationer,  
25 you were with PC Gibson. You have had your training,

## Transcript of the Sheku Bayoh Inquiry

1           you've got your equipment: did it make any difference  
2           that you were with PC Gibson and that you knew the area  
3           and that you had your equipment?

4       A. No, it didn't make a difference but I had worked a few  
5       shifts with him before, so you start to get to  
6       understand how other people work, so yes, it didn't make  
7       a difference that I was working with PC Gibson and not  
8       PC Walker, for example.

9       Q. And when you say you had worked a few shifts with  
10       PC Gibson, can you tell us how many or roughly?

11      A. I'm trying to think because -- so there would have been  
12      three months at that point where I was going around the  
13      team. Honestly it's very difficult to say. Maybe if  
14      I had to try and put a figure on it maybe two or three  
15      times a set of shifts. Again, it just depends who is  
16      on duty. He could be on annual leave for a period of  
17      time as well but yes, we certainly had worked a few  
18      shifts together.

19      Q. Okay. And then am I right in saying you're 5 foot  
20      6.5 inches tall?

21      A. Yes.

22      Q. And in May 2015 you were 10 stone 2?

23      A. That's correct.

24      Q. And are you similar today?

25      A. I'm 11 stone now.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Right. You're the first person that has told me his  
2 weight, thank you.

3 So we have also heard other evidence that the fact  
4 that PC Paton and PC Walker were at the scene maybe may  
5 have given some others confidence because they were  
6 experienced officers; is that something that crossed  
7 your mind or not?

8 A. Yes, I think it would, actually, to some degree. You  
9 have also got PC Smith as well, but I would say probably  
10 back then that maybe our team maybe had -- I can't  
11 remember who was on the other teams at Kirkcaldy but  
12 I would say that our team was quite lucky with quite  
13 a lot of experience on it, so yes, it does make  
14 a difference that experienced officers are attending  
15 a call of that nature, yes.

16 Q. And in a team dynamic, would the team look to those  
17 experienced officers to provide guidance or support in  
18 some way?

19 A. Yes. Certainly with me literally just coming out of the  
20 college, I have still got a lot to learn, still finding  
21 my feet at that point, absolutely I will use the  
22 advantages of the experienced officers to get advice,  
23 guidance, how to deal with certain things, yes, so it  
24 does reassure you as well.

25 Q. So you're not seeking that -- you're not tapping into

## Transcript of the Sheku Bayoh Inquiry

1           just the experience of your tutor constable --

2       A. Yes.

3       Q. -- you're tapping into experience of other more senior

4           officers as well?

5       A. Yes.

6       Q. Thank you. We looked at video footage a moment ago of

7           your arrival in your diary car with Constable Gibson.

8           I would like to ask you some questions about what

9           happened when you arrived and it would be maybe helpful

10          if I could show you an image because you have probably

11          seen some 3D images on the screen.

12       A. Yes.

13       Q. And I think if we look at still images 2 and maybe look

14          at image 4 to begin with. We have heard that this is

15          Hayfield Road and on the left-hand side would be the

16          roundabout with Hendry Road?

17       A. Yes.

18       Q. And we saw you coming round that roundabout in the car,

19          and we have also heard evidence that there's a Transit

20          van at the bus stop on Hayfield Road.

21       A. Yes.

22       Q. That was sometimes called the 1-9?

23       A. Yes.

24       Q. Behind that on the same side of the road was the fish

25          van --

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. -- that contained Tomlinson and Good when it arrived.
- 3 The van in the middle of the road facing towards the
- 4 roundabout was driven by Smith with PC Good in the
- 5 passenger seat?
- 6 A. Yes.
- 7 Q. And then we see the car on the left-hand side closest to
- 8 the roundabout; was that the diary car?
- 9 A. Yes, it was, yes.
- 10 Q. So do you think that's a reasonable indication of where
- 11 your car stopped in Hayfield Road?
- 12 A. Yes, I would say so, yes.
- 13 Q. When you got out of the car, what could you see?
- 14 A. So I got -- when I got out of the car I could see,
- 15 I think it was four other officers around Mr Bayoh who
- 16 was on the ground at this point, just on roughly the
- 17 pavement kind of where the dip in the kerb is. That's
- 18 where I remember it roughly to be.
- 19 Q. So have you seen other people using the red circles?
- 20 A. Yes.
- 21 Q. So if you touch the screen, you can create a red circle
- 22 where Mr Bayoh was.
- 23 A. Okay.
- 24 Q. And if you're not comfortable with that position or you
- 25 want to adjust it, you can put your finger on it and

## Transcript of the Sheku Bayoh Inquiry

- 1           move it about, or we can take it away. If that doesn't  
2           work, we can take it away.
- 3           A. Yes, I'm happy with that position.
- 4           Q. Are you happy with that?
- 5           A. Yes.
- 6           Q. So that's on the pavement area near to a hedge at the --  
7           on Hayfield Road.
- 8           A. Yes.
- 9           Q. And that's where you recollect Mr Bayoh being?
- 10          A. Yes.
- 11          Q. And can you tell us was his head closer to the hedge or  
12          further away from the hedge?
- 13          A. His head was certainly pointing towards the hedge, the  
14          distance, I'm not entirely sure between the hedge and  
15          him, I'm not entirely sure of that, but I would say it  
16          was relatively close, maybe a couple of yards.
- 17          Q. And where were his feet?
- 18          A. His feet were facing the road.
- 19          Q. Facing the road. And you have come out of the diary  
20          car. Was PC Gibson also getting out of the diary car  
21          with you?
- 22          A. Yes.
- 23          Q. What did -- you said you saw four officers?
- 24          A. Yes.
- 25          Q. Tell us where you saw them?

## Transcript of the Sheku Bayoh Inquiry

1 A. So I remember seeing -- is it okay just to look at my  
2 PIRC statement first?

3 Q. Yes, please do. If you would like we can look at  
4 PIRC 273.

5 A. Yes.

6 Q. We can have that on the screen, and maybe page 4. If we  
7 look at paragraph 1, so you have -- as we finish page 3  
8 it says:

9 "I looked down Hayfield Road and saw Nicole Short  
10 standing slumped over next to the cell van which was  
11 facing towards Daniel and myself and was about 30 yards  
12 away. Nicole was holding her stomach area and she  
13 looked distressed. I also saw Kayleigh Good walking  
14 towards Nicole from the opposite end where I was. She  
15 was only a few yards from Nicole. Although I wasn't  
16 aware of how bad Nicole's injury was I felt better when  
17 I knew that Kayleigh was going to assist her. I then  
18 focused my view to the other side of the road, about  
19 10 yards where Daniel and myself had stopped.

20 "I observed a black male lying on the ground. He  
21 was wearing a white T-shirt and blue jeans. He was  
22 lying on his stomach face down. I saw that there were  
23 officers dealing with this male. The officers were  
24 Alan Smith, Craig Walker, Alan Paton and  
25 Ashley Tomlinson."

## Transcript of the Sheku Bayoh Inquiry

1                   Do you see that?

2           A.   Yes.

3           Q.   Let's go back to -- we can come back to this statement  
4               in a moment, but let's go back to the 3D image that we  
5               had.  So you were going to tell us -- so we've got  
6               number 1 and the red circle there where Mr Bayoh was.  
7               Tell us -- you're obviously getting out the diary car.

8           A.   Yes.

9           Q.   Tell us where the four officers were.

10          A.   So I remember seeing PC Walker on his own knees, round  
11               about his -- waist of Mr Bayoh, facing Gallaghers, so he  
12               would have been kind of facing towards me and Dan  
13               essentially, me and PC Gibson.

14               I remember seeing PC Paton near to his head, again,  
15               just kneeling down, and I saw, or my recollection is  
16               that PC Alan Smith was at Mr Bayoh's legs and  
17               PC Ashley Tomlinson was kneeling down round about his  
18               head area as well, facing sort of Craig Walker,  
19               PC Walker.

20          Q.   Right.  I'm going to take you through that a bit more  
21               slowly, if that's okay.  So you are looking at  
22               a restraint where Mr Bayoh is on the ground.

23          A.   Yes.

24          Q.   And you said in paragraph 2, on page 4, that he was  
25               lying on his stomach face-down.



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- 1 A. Yes.
- 2 Q. In terms of face-down, what did you mean?
- 3 A. I didn't literally -- I accept that I have probably said  
4 this but I don't literally mean face-down to the  
5 pavement. I remember his face being facing towards  
6 Gallaghers, so his left ear would be sort of touching  
7 the pavement.
- 8 Q. So not nose on the ground?
- 9 A. No, no, that's correct, yes.
- 10 Q. Which might be the impression from "face-down".
- 11 A. Yes.
- 12 Q. We have heard Gallaghers is on the left of image 4.
- 13 A. Yes.
- 14 Q. So his left ear was turned towards Gallaghers, or the  
15 roundabout at that end of Hayfield Road?
- 16 A. Yes, so his face was pointing towards Gallaghers.
- 17 Q. But his stomach was on the ground?
- 18 A. Yes.
- 19 Q. Thank you. And then you have talked about PC Walker.  
20 Now, was he on the opposite side of Mr Bayoh from you,  
21 or the same side of Mr Bayoh?
- 22 A. So he was on the opposite side to me, so if Mr Bayoh was  
23 on his stomach, PC Walker was on his left side, on his  
24 knees, at his waist facing Gallaghers.
- 25 Q. So let's just go through that. So Mr Bayoh's on his

## Transcript of the Sheku Bayoh Inquiry

1           stomach, face-down, facing towards Gallaghers, his head  
2           is closest to the hedge. And could you see the front of  
3           PC Walker or the back of PC Walker?

4           A. The front.

5           Q. The front. So was he on -- as you say, he was on  
6           Mr Bayoh's left?

7           A. Yes.

8           Q. And you described him as being in the waist area of  
9           Mr Bayoh?

10          A. Yes.

11          Q. What I'm going to do is ask you at some point to come  
12          out and demonstrate but I will do it all at once if  
13          that's okay.

14          A. Yes, no problem.

15          Q. So he was in the waist; can you describe to us how he  
16          was positioned?

17          A. He was just on his knees and I'm not entirely sure what  
18          he was doing at that point, I can't say that I stopped  
19          long enough to see, to check what he was doing, but he  
20          was certainly just on his knees, by his side.

21          Q. Could you see what he was doing with his hands or his  
22          arms?

23          A. At that point, no, no. Later on I remember, which we  
24          will obviously come to it --

25          Q. We can come to that.

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- 1 A. -- but at that moment in time I couldn't see.
- 2 Q. Okay. Then PC Paton you said, again, kneeling near his  
3 head, is that near Mr Bayoh's head?
- 4 A. Yes.
- 5 Q. So was he closer to the hedge?
- 6 A. Yes, he was.
- 7 Q. So he would be to PC Walker's left?
- 8 A. That's correct, yes.
- 9 Q. And then you say PC Smith was at Mr Bayoh's legs?
- 10 A. Yes.
- 11 Q. So was he -- as you looked at this, was he on the left  
12 as you looked at what was happening?
- 13 A. So he was -- so PC Smith would have had his back to me,  
14 so he would have been on -- I think I remember him being  
15 on Mr Bayoh's right side.
- 16 Q. Mr Bayoh's right?
- 17 A. Yes.
- 18 Q. In the legs area?
- 19 A. Yes.
- 20 Q. What was he doing?
- 21 A. I remember him just trying to control his legs, they  
22 were kicking out at that point and he was just trying to  
23 control him just to prevent him from getting back onto  
24 his feet.
- 25 Q. Right. And is there anything else you could see

## Transcript of the Sheku Bayoh Inquiry

- 1 PC Smith doing at that moment?
- 2 A. No, not that I can remember.
- 3 Q. Okay. Then you have talked about PC Tomlinson kneeling  
4 in the head area. Can you explain to us where  
5 PC Tomlinson was at that point?
- 6 A. So the head area -- I would probably say it's more at  
7 his shoulder, like in-between sort of the shoulder and  
8 head. So he would have been on the same side as  
9 PC Smith, on the right side of Mr Bayoh, and I remember  
10 him -- or my recollection is that he was trying to  
11 control his right arm.
- 12 Q. Right. So did he have his back to you, PC Tomlinson?
- 13 A. Yes.
- 14 Q. So Smith and Tomlinson were on Mr Bayoh's right?
- 15 A. Yes.
- 16 Q. And Walker was on Mr Bayoh's left, and PC Paton was near  
17 to the head area?
- 18 A. Yes. I would say maybe PC Tomlinson was maybe more kind  
19 of like side on, so that I could see -- I could see what  
20 he was doing. He was kind of -- like half back to me  
21 but half side-on at the same time, kind of like angled.
- 22 Q. Thank you. I wonder if you could come and demonstrate  
23 for us the different positions that you saw people in at  
24 that moment.
- 25 A. Yes, no problem.

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- 1 Q. I will just give you their names and ask you to  
2 demonstrate and I will say it because the audio isn't  
3 good in the middle.
- 4 A. Okay.
- 5 Q. Thanks. So if you just come in. You will see a bit of  
6 sticky tape on the floor and if you stick to that,  
7 roughly that area.
- 8 So first of all, if you can demonstrate Mr Bayoh's  
9 position, please.
- 10 A. Yes, kind of like that. I'm not entirely sure where his  
11 arms were at this point, but it was kind of like that  
12 (indicating).
- 13 Q. So you're lying down on your front, stomach to the front  
14 with your head turned to your right, with your left ear  
15 on the ground?
- 16 A. Yes, that's correct.
- 17 Q. And you're not sure about your arm position?
- 18 A. Yes.
- 19 Q. And then can we see the position, if you could  
20 demonstrate, of PC Walker first of all?
- 21 A. So just almost imagine that I'm still lying there --
- 22 Q. So we imagine that Mr Bayoh is lying where you just  
23 demonstrated and you are now demonstrating what  
24 PC Walker was doing?
- 25 A. He is just on his knees, just exactly like this, by his

## Transcript of the Sheku Bayoh Inquiry

1 waist, just imagine that sticky tape there is sort of in  
2 line with his waist, he is just either side of there.

3 Q. So you're actually on your knees and you're upright?

4 A. Yes.

5 Q. You're not leaning over at all?

6 A. Not at that point, no.

7 Q. And then PC Paton?

8 A. So just to the left of PC Walker, I can't say if he was  
9 on his knees. He probably would have been, been that  
10 low to the ground, but just at his head. I'm not  
11 entirely sure if he was trying to control an arm or  
12 anything at that point, I can't be certain.

13 Q. So again, you are on your knees, upright, slightly at an  
14 angle, that would have been to PC Walker's left?

15 A. Yes.

16 Q. And then PC Smith?

17 A. PC Smith was at the other end, just down at his legs,  
18 just trying to control them, again, just on his knees  
19 just trying to control his legs.

20 Q. Right, and again, you're on your knees, quite upright,  
21 but your arms were out towards the legs of Mr -- or  
22 you're demonstrating PC Smith.

23 A. Yes.

24 Q. And then PC Tomlinson?

25 A. Just to the right of PC Smith, so angled -- that's what

## Transcript of the Sheku Bayoh Inquiry

1 I mean, so I have come in from this direction so I can  
2 kind of see an angle. He is again just on his knees  
3 trying to control the right arm of Mr Bayoh.

4 Q. Right. So again you're on your knees, you're upright;  
5 was PC Tomlinson -- were his arms forward, trying to  
6 control Mr Bayoh's arms?

7 A. Yes, so there was a lot of movement at this point and he  
8 has -- I can see Mr Bayoh trying to lift his arm up and  
9 his kind of position is changing at this point.

10 Q. We can't get the audio of that so I will ask you to come  
11 back to the microphone and you can describe that to us.  
12 Thank you very much.

13 So you were just about to move on to explain to us  
14 the movement that you could see from Mr Bayoh when you  
15 arrived.

16 A. Yes. So I could see that his legs were sort of lashing  
17 out. There was a lot of movement in his legs which  
18 PC Smith was trying to control, and in terms of his  
19 upper body, I just remember it being his right arm that  
20 PC Tomlinson was trying to control. He was using that  
21 to pull himself up, just like palm to the ground and  
22 trying to lift himself, so his body is kind of tilted at  
23 this point.

24 Q. So you're putting your right palm on the desk in front  
25 of you, palm-down?

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1 A. Yes.

2 Q. And you're moving your right shoulder in a sort of  
3 upward direction?

4 A. Yes.

5 Q. And that was going on when you arrived?

6 A. Yes.

7 Q. And -- thank you. So in terms of the movement of the  
8 legs, could you describe that in any more detail?

9 A. It's just sort of in that sort of lifting motion to try  
10 and lift them up or -- he can maybe -- I don't know --  
11 he can maybe feel PC Smith having control of him, he is  
12 maybe trying to escape that sort of grip, but yes, it  
13 was just generally sort of thrashing out, lifting them  
14 up just repeatedly.

15 Q. And were all the officers there at that time trying to  
16 restrain Mr Bayoh --

17 A. Yes.

18 Q. -- to the ground?

19 A. The four that I have described, yes.

20 Q. Yes. And would you be able to describe the force that  
21 they were using in trying to restrain Mr Bayoh?

22 A. Force, certainly it's -- there was no body weight on him  
23 at that point. The force is literally just using their  
24 arms to try and keep his legs down and try to get his  
25 arm to put a handcuff on.



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1 Q. There were no handcuffs on at that stage, were there?

2 A. No, no, I don't believe there was.

3 Q. Or leg restraints?

4 A. No.

5 Q. Now, in your PIRC statement you did mention seeing

6 PC Short and PC Good.

7 A. Yes.

8 Q. Perhaps on the image on the screen you could show us

9 where PC Short was when you arrived?

10 A. Yes. So I think it's the big Transit van. I'm just

11 trying to -- around about --

12 Q. We will take that one away.

13 A. So...

14 Q. Maybe just take that away, Ms Wildgoose, and we can just

15 try and touch the screen where you saw her.

16 A. Let's try that.

17 Q. Sorry, let's try that.

18 A. So, that side of the van.

19 Q. At number 3, at number 3. So that's what we have been

20 calling the Transit van but you may have mentioned that

21 it was the custody van?

22 A. Yes.

23 Q. So she is at the passenger side, the near side to the

24 rear?

25 A. Yes.

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- 1 Q. And where was PC Good?
- 2 A. I think I remember her being at PC Short's right-hand  
3 side just like sort of facing her.
- 4 Q. Were they both in the region of number 3?
- 5 A. Yes, yes.
- 6 Q. Thank you. Right. What did you do -- you have told us  
7 how you came out of the diary car, you saw the scene,  
8 the restraint going on in Hayfield Road.
- 9 A. Yes.
- 10 Q. Tell us what you did.
- 11 A. So I've got out of the car. I can see what I have just  
12 described in front of me and I've went to get my leg  
13 restraints from -- that were carried on my vest, so they  
14 were here (indicating) on like a (inaudible  
15 overspeaking) --
- 16 Q. Your left-hand side?
- 17 A. Yes, so they were there. I think I maybe said in my  
18 statement that I have announced that I'm going to do  
19 that, but -- that may be the case, that's my  
20 recollection anyway, but I have seen the legs need to be  
21 restrained so I have taken my leg restraints out of the  
22 holder.
- 23 Q. Tell us who you're standing near?
- 24 A. I'm standing near PC Smith, I remember being nearby at  
25 that point.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. To his left or right?
- 2 A. So I would have been to his left.
- 3 Q. His left?
- 4 A. Yes.
- 5 Q. And I wonder if you would look at some leg restraints
- 6 for us.
- 7 A. Yes, absolutely.
- 8 Q. We have heard these are called Fast Straps.
- 9 A. Yes. Thank you.
- 10 Q. Do you recognise these?
- 11 A. Yes, they're all the same.
- 12 Q. And did you have two Fast Straps?
- 13 A. Yes, so they come as a pair, in one packet.
- 14 Q. And you had them with you that day on your left-hand
- 15 side of your utility belt?
- 16 A. That's correct.
- 17 Q. And can you just show us how you unraveled them?
- 18 A. Just kind of ... well, they're kind of stored in such
- 19 a way that you can unravel them quickly, so you've got
- 20 the green tips and it's just a case of pulling them on
- 21 put and you can just go like that (indicating) with them
- 22 and they extend to obviously its full length.
- 23 Q. So you have told us you were to the left of PC Smith.
- 24 A. Yes.
- 25 Q. What did you do with Mr Bayoh's legs?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. So I think I have come round to the other side, so that  
2 I'm on the same side as PC Walker.
- 3 Q. Right.
- 4 A. And he is still kicking out at this point, so I'm trying  
5 to make -- put his legs into a position that's safer, so  
6 that it's harder for him to kick out and I think  
7 I remember tilting his ankles slightly -- to a slight  
8 angle so that his toes are kind of pointing towards the  
9 roundabout and that's purely just so that it's more  
10 difficult to get any strength because your muscles  
11 are -- muscles in your legs, they're kind of at an  
12 angle, it's harder to get more strength, it's more  
13 difficult to get the strength to be able to kick out so  
14 that's what I remember doing.
- 15 Q. So his knees weren't facing the ground at that point,  
16 you have tilted them?
- 17 A. Yes. It's just really his ankles that I have kind of  
18 tilted using, like, the natural movements of, like, your  
19 ankle just to tilt them to the side.
- 20 Q. And they're facing towards Gallaghers pub?
- 21 A. Yes, more or less, yes.
- 22 Q. And you're on Walker's side this time?
- 23 A. Yes.
- 24 Q. And what was PC Smith doing?
- 25 A. PC Smith was assisting me with placing the leg

## Transcript of the Sheku Bayoh Inquiry

1           restraints on, but I think he was still -- beforehand  
2           still moving -- he's helping me positioning his legs  
3           essentially to -- so we can get the Fast Straps on  
4           effectively.

5       Q.   And how did you go about trying to get the Fast Straps  
6           on?

7       A.   So I remember putting them under his legs just above the  
8           knee so you put one leg restraint above the knee to  
9           basically control sort of your strongest muscle in the  
10          leg, the sort of thighs, so it went underneath his legs  
11          so that they come up over the top of the legs.

12      Q.   How difficult was that getting it under his legs?

13      A.   That's -- that was quite difficult because there was  
14          still a lot of movement in his legs.  You're trying to  
15          obviously not get your fingers crushed or kind of stuck  
16          in-between the pavement and his legs, so it was quite  
17          difficult to do that, but we got there and I remember  
18          sort of pulling him round or PC Smith pulled the other  
19          end round and I think it was actually PC Smith that  
20          I remember tightening the leg restraints.

21      Q.   Right.  So you got the leg restraint under his -- the  
22          lower part of his thigh above his knee, did you say?

23      A.   Yes, yes, that's correct.

24      Q.   But it was PC Smith that pulled them together?

25      A.   Yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. And when you say "We got there", are you talking about  
2 you and PC Smith?
- 3 A. Yes.
- 4 Q. What did you do then?
- 5 A. I have then moved down to his ankle. I remember  
6 PC Gibson, he was sort of lying across his legs and he  
7 has shuffled down as I've got the leg restraints on and  
8 then we went to his ankles and just done the exact same  
9 procedure, but I think possibly it was -- yes,  
10 I remember it being me that's tightened them round his  
11 ankles at that point.
- 12 Q. I wonder if you could explain: you have talked about  
13 PC Smith and what he was doing and moving the leg straps  
14 under Mr Bayoh's knee -- legs; where was PC Gibson when  
15 you were trying to do that?
- 16 A. So PC Gibson would have been -- he is sort of lying  
17 across his legs, using his sort of torso, so PC Gibson's  
18 legs are out to the side, so they're nowhere near  
19 Mr Bayoh, it is just his torso, and you kind of -- when  
20 you're lying across somebody you almost, like, cuddle  
21 the legs in, and then once that leg restraint has went  
22 on, he has moved down the body to then bring in the  
23 lower part of -- like his shins, that area, to bring  
24 them in closer, the exact same procedure.
- 25 Q. Could you show us the way that PC Gibson was lying when

## Transcript of the Sheku Bayoh Inquiry

1           you were at the legs trying to help with the leg straps?

2       A. Yes, absolutely.

3       Q. Thank you. So if we imagine Mr Bayoh on the ground.

4       A. Yes, just the same sort of format (inaudible

5           overspeaking) --

6       Q. Same position. And show us where PC Gibson was.

7       A. He was feet towards Gallaghers, and he's kind of just

8           leaning over him like that (inaudible overspeaking) his

9           legs.

10      Q. So your hips and your legs are on the ground.

11      A. Yes.

12      Q. Your right shoulder is up, you've got your right palm

13           flat down on the ground.

14      A. Yeah.

15      Q. And so from your earlier description, that's over the

16           legs of Mr Bayoh.

17      A. Yes.

18      Q. PC Walker would be to the left of PC Gibson?

19      A. (Inaudible - too far from microphone).

20      Q. Sorry, PC Walker is on the other side to the right.

21      A. Yes.

22      Q. And PC Smith was in the leg area --

23      A. Yes.

24      Q. -- to the left of Gibson?

25      A. Yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. And PC Tomlinson was to his right?
- 2 A. Yes, so he would be there (indicating).
- 3 Q. Here, to his right on this side and PC Paton would be  
4 behind PC Gibson?
- 5 A. Yes.
- 6 Q. And Walker is behind PC Gibson?
- 7 A. Yes.
- 8 Q. On the other side?
- 9 A. Yes.
- 10 Q. And where were you at this point?
- 11 A. I was on the same side as PC Walker, so just kind of in  
12 front of -- well, I would have been - to get the first  
13 leg restraint on I would have been probably slightly  
14 behind PC Gibson, and then as we have moved down to the  
15 ankle I probably would have been in front of him at that  
16 point.
- 17 Q. Right, again I will get you to repeat that when you are  
18 in front of the microphone but I think we've got your  
19 position now. Thank you. So when you put on the first  
20 leg restraint you said when you were doing your  
21 demonstration, you were slightly behind PC Gibson?
- 22 A. Yes.
- 23 Q. So was PC Gibson further down the legs than you were  
24 when you were trying to put on the first leg restraint?
- 25 A. Yes, because he's got control of the lower part of the



## Transcript of the Sheku Bayoh Inquiry

1           legs and gave us access to the upper leg to be able to  
2           get the feed -- feed the restraint through.

3           Q.   And do you remember how PC Gibson moved down the legs  
4           after you got the first leg restraint on?

5           A.   My recollection was that he has kind of like shuffled  
6           down the legs.

7           Q.   He said there was two possibilities: a sausage roll or  
8           a shuffle.

9           A.   Yes.

10          Q.   Your recollection is it was a shuffle?

11          A.   Yes.

12          Q.   And then how did the second leg restraint, the  
13          Fast Strap get put on?

14          A.   So it was just around the ankles.  It was the same  
15          procedure --

16          Q.   You have told us you moved slightly in front of  
17          PC Gibson?

18          A.   Yes, that's correct.  You generally find it's a wee bit  
19          easier to do the ankles because they're sort of raised  
20          off the ground a wee bit, so it's easier to feed it  
21          through from underneath and I remember it being myself  
22          who has fed it through and tightened the straps.

23          Q.   So it was you that tightened the ankle Fast Straps?

24          A.   Yes.

25          Q.   Were they still pointing towards Gallaghers pub at that

## Transcript of the Sheku Bayoh Inquiry

1 stage?

2 A. Yes, they were.

3 Q. Thank you.

4 Can I ask you to look at your PIRC statement please,  
5 page 4. Let's just look at this in a little bit more  
6 detail, I think there are some alterations you would  
7 like to make on this page.

8 A. Yes.

9 Q. So just to finish where we were before, we moved on --  
10 we can move on:

11 "Alan Smith was on his knees and he was attempting  
12 to control the male's legs as he was struggling and it  
13 looked like the male was attempting to evade detention.

14 "Craig Walker [was] also on his knees and he was  
15 facing towards me. I can't recall exactly what Craig  
16 was doing but he was in the male's waist area.

17 "Alan Paton was also on his knees and was next to  
18 the male's head and he was attempting to control the  
19 male's left arm and the male was struggling violently as  
20 if attempting to escape.

21 "Ashley Tomlinson was also kneeling at the male's  
22 head but with his back to me. He was attempting to  
23 control the male's right arm.

24 "Even although there were four officers dealing with  
25 the male it still looked like they were struggling due

## Transcript of the Sheku Bayoh Inquiry

1 to the male's muscular and aggressive manner so  
2 I decided to go and assist them. I did not speak to  
3 Daniel about my thoughts and I just assume he was  
4 thinking the same as myself as we both got out of our  
5 vehicle at the same time and went to the assistance of  
6 our colleagues."

7 If we can carry on up the page, so you then say:

8 "As I approached the male I did look over towards  
9 Nicole who was with Kayleigh ..."

10 And I will move on from that and read that short:

11 "I immediately went to Alan Smith's assistance and  
12 got hold of the male's left leg. I was on my knees at  
13 this time. I grabbed the male's ankle with both of my  
14 hands. Alan Smith had a hold of the male's other leg.  
15 The male still appeared to have a lot of strength left  
16 in his legs as I was struggling to control him."

17 Can I ask you, you say there that you had got hold  
18 of the male's left leg and Alan Smith had a hold of his  
19 other leg, presumably his right leg; is that what you  
20 have described today?

21 A. Yes, so I think what I'm trying to explain there is we  
22 have both got a leg each and we're trying to bring them  
23 into the middle so that we can make it as tight as  
24 possible for the leg restraints to be effective.

25 Q. And you did say earlier that you had come round, so you

## Transcript of the Sheku Bayoh Inquiry

- 1           got his leg left, Mr Bayoh's left leg --
- 2       A.   Yes.
- 3       Q.   -- and Mr Smith had his right leg.
- 4       A.   Yes.
- 5       Q.   Thank you.   And then:
- 6           "I looked at my colleagues and saw that
- 7           Daniel Gibson was trying to control the male's upper
- 8           body.   He was holding the male's arm.   The male was
- 9           still struggling and even although Daniel and myself
- 10          were assisting we were all having difficulty controlling
- 11          the male."
- 12          Now, is that something you want to comment on?
- 13       A.   Yes, so that's -- it's always been my position that
- 14       PC Gibson assisted with the legs.   I maybe have stated
- 15       it at the time with PIRC, but it's always been my
- 16       position that I remember PC Gibson assisting with the
- 17       legs.   I think it's just an error.
- 18       Q.   So it's an error: it wasn't Daniel Gibson trying to
- 19       control the male's upper body, he was helping with the
- 20       legs?
- 21       A.   Yes, that's correct.
- 22       Q.   So insofar as this differs from your evidence today, the
- 23       Chair should prefer your evidence today and not this?
- 24       A.   Yes, that's correct.
- 25       Q.   Thank you.   Then the final paragraph:

## Transcript of the Sheku Bayoh Inquiry

1            "I saw that handcuffs had been placed on the male's  
2            left wrist however the others were having difficulty  
3            getting the male's right wrist into the handcuffs.  
4            I can't recall if the male was saying or shouting  
5            anything during the struggle. I then said to Alan Smith  
6            that I was going to put leg restraints on the male.  
7            Alan then grabbed hold of the male's leg that I was  
8            holding which allowed me to get my leg restraints from  
9            my vest. I then put them around the male's legs just  
10           above his knees and with Alan's help managed to secure  
11           them around the male's legs. It helped our situation  
12           and the male stopped kicking out as violently as he had  
13           been."

14           Can we just go back and look at that final paragraph  
15           on page 4:

16           "I saw that handcuffs had been placed on the male's  
17           left wrist however the others were having difficulty  
18           getting the male's right wrist into the handcuffs."

19           A. Yes.

20           Q. Is that correct?

21           A. Yes, that's still my recollection to this date, so when  
22           we first got out of the car I didn't see the handcuffs,  
23           but as the point I have approached to take my position  
24           at the legs to prepare the straps, I then remember  
25           seeing a handcuff ring on his left wrist. I didn't

## Transcript of the Sheku Bayoh Inquiry

1           actually see it being applied, I just remember having  
2           a look and could see it.

3           Q.   So at the point you're at the legs dealing with the leg  
4           restraints, or about to deal with leg restraints --

5           A.   Yes.

6           Q.   -- you then notice that one handcuff has been applied?

7           A.   Yes.

8           Q.   Or to one wrist I should say?

9           A.   Yes.

10          Q.   But not to both wrists at that point?

11          A.   No.

12          Q.   And then Alan assists -- that's Alan Smith assists you  
13          with securing the leg that you had had which was I think  
14          the left leg?

15          A.   Yes.

16          Q.   Thank you.  Then can we look just further down onto the  
17          next page:

18                 "I then took the other leg restraints I had.  They  
19                 come in a pair and pulled them around the male's ankle  
20                 area.  This prevented the male kicking out and the  
21                 threat of violence on my colleagues and myself was  
22                 reduced.

23                 "At this point I became aware of a male and female  
24                 CID officer.  I don't know their names.  One of them,  
25                 I can't recall which one, said 'have you recovered

## Transcript of the Sheku Bayoh Inquiry

1 a knife'. I [saw] that the two CID officers had got out  
2 of a silver Corsa motor car which was parked near to the  
3 cell van, where [PCs Short and Good] had been standing."

4 Now again, I think do you want to talk about the  
5 order here of what's happening?

6 A. Yes, absolutely. So once the leg restraints were on we  
7 had placed Mr Bayoh on his left side, so my position  
8 still remained at the legs just sort of -- make sure he  
9 didn't roll over onto his front again, or just having  
10 a hold of his legs so that he was in place. I could  
11 still feel at that point that there was movement in his  
12 legs, the muscles tensing up, like pulling against the  
13 straps. I remember at that point -- I'm not sure who it  
14 was, but somebody has searched him for the knife,  
15 I couldn't tell you who it was, and it was around about  
16 that point that I heard one of the Alans, either  
17 PC Alan Smith or PC Paton, stating that he is motionless  
18 and it was at that point that I felt his legs becoming,  
19 I would say limp.

20 Q. Right, all right. So let's just go back for a moment.  
21 You have put on the ankle straps?

22 A. Yes.

23 Q. And at that point what do you do once you have put on  
24 the ankle straps?

25 A. I have just remained on the same side as PC Walker, so

## Transcript of the Sheku Bayoh Inquiry

1           Mr Bayoh's left side, but at his legs still, around  
2           about the knee area, the thigh area, and he has been  
3           rolled onto his left side so that his chest is facing  
4           Gallaghers.

5           Q. Who rolls him onto his left side?

6           A. I can't remember who exactly it was, but I was one of  
7           them and I can -- I don't want to assume, but I can only  
8           assume that it would have been PC Walker because he was  
9           next to me, so he would have the upper body. It's just  
10          a case of the shoulder and the hip and using it as  
11          a natural rotation to pull him onto his side.

12          Q. What was the position with the handcuffs?

13          A. Honestly, I don't know. I'm not aware of both handcuffs  
14          being on. I can't even remember what position his arms  
15          were in at that point. I think I have just been so  
16          focused on dealing with the legs, with the leg  
17          restraints that I have just not looked, and honestly,  
18          I just cannot remember what the position was with the  
19          handcuffs at that point.

20          Q. When he was rolled onto his left-hand side, where was  
21          PC Smith?

22          A. He was on the opposite side to me, I would say around  
23          about his stomach area.

24          Q. Mr Bayoh's stomach area?

25          A. Yes, yes.



## Transcript of the Sheku Bayoh Inquiry

1 Q. Right. What was PC Smith doing?

2 A. I'm not entirely sure. I can't remember him having  
3 hands on him at that point. I don't know if he was just  
4 monitoring. I'm not entirely sure.

5 Q. Can we look at paragraph 26 of your Inquiry statement,  
6 please, and you were asked about Mr Bayoh's reaction to  
7 the restraint and at what point he stopped breathing and  
8 you say:

9 "Mr Bayoh was actively resisting by kicking out and  
10 pulling against being handcuffed. I cannot recall him  
11 saying anything, however I vaguely remember him  
12 aggressively groaning whilst kicking out and lifting his  
13 body."

14 What did you mean "lifting his body"?

15 A. So with his -- his right arm that I have described  
16 PC Tomlinson trying to restrain, using that as leverage  
17 to try and lift his upper body up.

18 Q. Lift his chest, trying to lift his chest off the ground?

19 A. Yes.

20 Q. And you're gesturing again -- you're putting your right  
21 palm down on the desk and moving your right shoulder in  
22 an upwards direction?

23 A. Yes.

24 Q. "I cannot remember at what point he stopped breathing.  
25 However, I remember while I was monitoring his legs,

## Transcript of the Sheku Bayoh Inquiry

- 1 I could still feel his legs moving although the  
2 Fast Straps were on him. Suddenly his legs stopped  
3 moving. At that point I recall someone saying 'he's  
4 motionless'."
- 5 You have said you were monitoring his legs. At what  
6 stage were you monitoring his legs?
- 7 A. So he had just been rolled onto his side, his left-hand  
8 side, and when I say "monitoring", I just mean making  
9 sure that he hasn't -- he is not going to roll back onto  
10 the other side because his legs were still moving at  
11 that point, just keeping him in place really.
- 12 Q. Making sure he wasn't going to roll back onto his front?
- 13 A. Yes, and just making sure that the leg restraints were  
14 doing what they were -- their purpose, serve their  
15 purpose.
- 16 Q. So the Fast Straps were on him at that point, both sets  
17 of Fast Straps were on him?
- 18 A. Yes.
- 19 Q. And then you say "Suddenly his legs stopped moving".  
20 How long after you applied the ankle straps, so the  
21 second set, did you notice that his legs had stopped  
22 moving?
- 23 A. So he is on his -- been rolled onto his side, so from  
24 there on -- sorry, you're asking from at the moment they  
25 were applied or from the moment he was rolled onto his

## Transcript of the Sheku Bayoh Inquiry

1 side?

2 Q. From the moment they were applied.

3 A. I would probably say a minute to two.

4 Q. Could it have been a shorter period?

5 A. It could have been. I'm not entirely sure. It's not  
6 something that I was thinking about at the time, so it  
7 could have been shorter.

8 Q. We have heard from others that these events took place  
9 over a very short period of time; would you agree with  
10 that impression?

11 A. Yes, absolutely.

12 Q. Right. And someone said "he's motionless"; you don't  
13 remember who that was, do you?

14 A. No. I just have this recollection that it was either  
15 PC Alan Paton or PC Alan Smith. I can't quite --  
16 I can't -- I have thought about it a lot and I can't say  
17 for certain who it was.

18 Q. Okay. You say:

19 "I stood back and I recall PC Smith or Paton  
20 checking Mr Bayoh and saying that he was breathing.  
21 About that time I remember an ambulance was called for."  
22 So we've got an Airwaves transmission about this --

23 A. Yes.

24 Q. -- that he is unconscious at this stage and an ambulance  
25 is called, but you said "I stood back"; what did you do?

## Transcript of the Sheku Bayoh Inquiry

1           A. So at that point he has then been placed on his back so  
2           one of the -- sorry, I have said that PC Alan Paton said  
3           that he was still breathing, so he has been placed on  
4           his back, I have just taken a step back. I was  
5           satisfied that the leg restraints were working at that  
6           moment in time and the fact that someone said that he is  
7           not breathing, I just thought it was relevant just to  
8           take a step back just to allow what needs to take place  
9           to check for breathing and that sort of thing, medical  
10          assistance.

11          Q. So it became a first aid situation at that stage?

12          A. Yes, yes.

13          Q. And he needed to have some air, Mr Bayoh?

14          A. (Nods).

15          Q. And you have mentioned that you were to do traffic  
16          control at some point?

17          A. Yes.

18          Q. So who is there at that point when you have stepped back  
19          or stood back to give air, who was there at the scene?  
20          You have also mentioned other CID officers being  
21          present, can you just --

22          A. Yes, so I remember -- so the original officers that we  
23          have already discussed, they were still there.

24          I remember PS Maxwell was in the area as well and  
25          DS Samantha Davidson and DC Derek Connell.

## Transcript of the Sheku Bayoh Inquiry

1 Q. DC Connell?

2 A. Yes.

3 Q. And are Davidson and Connell the CID officers that you  
4 mentioned?

5 A. Yes.

6 Q. Samantha Davidson is the female officer and Connell is  
7 the male.

8 A. Yes, I think I said that in my PIRC statement.

9 Q. You think you said that in your --

10 A. Unfortunately I didn't know their names but I now know  
11 it's them obviously.

12 Q. You know who they are?

13 A. Yes.

14 Q. And where was Sergeant Maxwell?

15 A. I just remember him standing up, roughly just in front  
16 of the car but standing sort of at the feet of Mr Bayoh.

17 Q. When you say the car, do you mean your diary car?

18 A. Yes, sorry, the car that me and PC Gibson travelled in.

19 Q. He was at the feet area at that point?

20 A. Yes.

21 Q. And where was Samantha Davidson?

22 A. I think ... roughly in the general area of where  
23 PS Maxwell was. It could be that they were discussing  
24 things, I'm not entirely sure, but she was certainly in  
25 that vicinity.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. And we have heard that later PC Smith noticed that he  
2 was no longer breathing.
- 3 A. Mm-hm.
- 4 Q. You weren't with Mr Bayoh at that time?
- 5 A. No, I had actually walked away at that point.
- 6 Q. And what were you doing at that point then?
- 7 A. So it was around about that point where I have kind of  
8 taken the opportunity to look for the knife that was  
9 still unaccounted for and that's -- it's probably just  
10 purely by chance I have taken a look over my right  
11 shoulder, seen on the grass area on the other side of  
12 the road and I can only describe it as -- from where  
13 I was standing, it looked like the inside of a crisp  
14 packet, like, the shiny sort of foil, and then I have  
15 just -- curiosity got the better of me, went and had  
16 a look and found a knife lying on the grass.
- 17 Q. I will come back to your PIRC statement in a moment  
18 because I know you want to change one other thing, but  
19 can we maybe look at some still images first of all.
- 20 A. Yes.
- 21 Q. 8, 9 or 10. Right, let's start with number 8 and I will  
22 ask Ms Wildgoose to put a red circle in the area I'm  
23 interested on the left-hand side.
- 24 A. Yes.
- 25 Q. You will see an item there, it's very small on image 8.

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Then can we look at image 9, please. This is taken from  
3 a different angle, so this is the other side. You will  
4 see on the bottom right-hand side of this image you can  
5 see something small on the grassy area?

6 A. Yes.

7 Q. And then image 10, again, so you will see it is on the  
8 left-hand side. This is the closest to the roundabout.

9 A. Yes.

10 Q. And you will see a small white image there.

11 A. Yes.

12 Q. We don't have the facility to zoom in on that at the  
13 moment, but we have heard evidence that that was  
14 a knife. Is that the area where you located the knife  
15 that you have described?

16 A. Yes, it is.

17 Q. Thank you. Can I go back finally to your PIRC statement  
18 on page 5 and it is -- just before we finish at this  
19 point, it is paragraphs 3 to 6 and I understand that you  
20 would like to comment on the order in which things  
21 happened. If we just deal with this quickly. If we  
22 start with paragraph 3 you say:

23 "At this point I became aware of a male and female  
24 CID officer."

25 We mentioned that a moment ago. You say:

## Transcript of the Sheku Bayoh Inquiry

1            "I had a glance around the male and I couldn't see  
2            any knife. My colleagues were still trying to secure  
3            the handcuffs on the male. I decided to stand up and  
4            have a look for the knife as Alan Smith and myself had  
5            secured the leg restraints."

6            What did you mean when you said that colleagues were  
7            still trying to secure handcuffs on the male?

8            A. I was of the impression at the time that the handcuffs  
9            hadn't been applied. I don't remember. I can't  
10           remember if one handcuff had only been applied or if  
11           both of them were on at that point. Generally if you  
12           have one handcuff ring only applied to one wrist, that's  
13           essentially a weapon at that point, so I would like to  
14           think that the other wrist had been placed in the  
15           handcuffs but honestly I do not know if that was the  
16           case.

17           Q. We have heard that it can take time to double-lock  
18           handcuffs to make sure they don't become smaller --

19           A. Yes.

20           Q. -- and hurt the person's wrist. When you say they were  
21           trying to secure the handcuffs, could they have been on  
22           but needing double-locked or --

23           A. Potentially. There's every chance. Honestly, I cannot  
24           remember what I have meant by that, if it's the other  
25           handcuff ring or double-locking them, I can't quite



## Transcript of the Sheku Bayoh Inquiry

1           remember.

2           Q. You don't remember now?

3           A. No.

4           Q. And then you say:

5                        "I decided to stand up and have a look for the  
6           knife."

7           A. Yes.

8           Q. Which you have just told us:

9                        "Throughout the whole incident the man was lying on  
10           the pavement. I looked over to the grassy area on the  
11           opposite side of the road where the male was and saw  
12           something shiny. I said this to the CID officers and  
13           I walked towards the item. The male CID officer came  
14           with me."

15                       That's you now know to be DC Connell?

16           A. Yes.

17           Q. "When I got to the grass area I saw that there was  
18           a knife lying about 3 yards in. It was a silver one  
19           with a silver steel handle. The blade was about 5 or 6  
20           inches in length. I didn't say anything to the CID  
21           officer, I just turned and went back over to assist my  
22           colleagues. I saw that nothing had changed. He was  
23           still struggling with his upper body and was still  
24           handcuffed on one wrist only. I can't recall if any of  
25           my colleagues were giving instructions to the male.

## Transcript of the Sheku Bayoh Inquiry

1 I decided to stand back as I thought I would get in the  
2 way and hinder my colleagues. Although I have said  
3 I didn't want to hinder my colleagues I did kneel down  
4 at his feet and I still took hold of his legs. However,  
5 due to the leg restraints he was unable to kick out. He  
6 was able to move his legs slightly with the leg  
7 restraints and I could still feel the muscles in his  
8 legs tensing up. I then recall suddenly his legs not  
9 moving and I'm not sure who said it but somebody said he  
10 was motionless."

11 I think having looked at this PIRC statement again,  
12 you have concerns about the order in which this reads.

13 A. Yes.

14 Q. Would you like to clarify for the Chair -- because  
15 obviously the order you have given us of events today  
16 differs from this paragraph.

17 A. Yes. So in this paragraph here that's just been read  
18 out it reads as if Mr Bayoh is still struggling and  
19 I have walked away from the struggle to then look for  
20 the knife and come back to assist the struggle.

21 Q. Yes.

22 A. That's an error, that's simply not what happened.

23 I wouldn't walk away from somebody who is still  
24 struggling, if that makes sense, that's the best way to  
25 describe it, so how I have described the events before

## Transcript of the Sheku Bayoh Inquiry

1           you have read out this paragraph is the actual events  
2           that I remember and what should have been in the PIRC  
3           statement.

4       Q.   So the chronology of events you have given us today in  
5           evidence --

6       A.   Yes.

7       Q.   -- is the correct version --

8       A.   Yes.

9       Q.   -- and that should be preferred?

10      A.   Yes.

11      Q.   So unlike other people who you have heard where I've  
12           said you prefer the PIRC statement, that's not the case  
13           with this paragraph for you?

14      A.   It's just this one paragraph really, yes.

15      MS GRAHAME: All right, thank you.

16                    Would that be an appropriate point?

17      LORD BRACADALE: You mean a point for a break? We will take  
18           a break for 15 to 20 minutes.

19      (11.31 am)

20                                    (Short Break)

21      (11.57 am)

22      LORD BRACADALE: Yes, Ms Grahame.

23      MS GRAHAME: Thank you.

24                    I would like to just -- before I leave your  
25           statement, your PIRC statement, ask you a little bit

## Transcript of the Sheku Bayoh Inquiry

1           about the circumstances that have caused you to make  
2           these alterations, or make these comments, so the PIRC  
3           statement is 4 June and that might be coming up on the  
4           screen, but you've got it in front of you, and you said  
5           that you had -- you thought it had been read over to you  
6           on that date.

7           A. Yes.

8           Q. And then you gave your Inquiry statement on 1 May.

9           A. Yes.

10          Q. Or you agree that it would be there or thereabouts. Can  
11          you -- obviously your senior counsel had a word with me  
12          yesterday, so I knew that you wanted to make these  
13          alterations in advance of today, but could you explain  
14          to the Chair why you didn't make the alterations sooner.

15          A. Yes. I hadn't seen my PIRC statement by this point,  
16          simply due to I didn't want to read it, I didn't want to  
17          go over sort of the memories again, but I am also  
18          dyslexic as well, so there is a tendency for me to get  
19          things in the wrong order, or just make sort of minor  
20          errors that I might pick up on at a later time, so  
21          that's sort of the two main reasons why.

22          Q. Right. So when you gave your Inquiry statement had you  
23          read your PIRC statement by then?

24          A. I don't think I did at that point. I can't remember  
25          reading it at that point, just purely because I was

## Transcript of the Sheku Bayoh Inquiry

1           worried, I suppose, to read it, I didn't want to sort of  
2           relive it again, but I accepted the fact I was going to  
3           have to at some point.

4       Q.   And when was that point?

5       A.   It must -- I think it was probably a few days after,  
6           once I had given the Inquiry statement.

7       Q.   Right. All right, thank you. Can I go back to your  
8           Inquiry statement please, and I would like to look at  
9           paragraph 26 if that's possible. I asked you about this  
10          earlier and if we could look at paragraph 1 of answer 26  
11          you will remember that I read out:

12                 "Mr Bayoh was actively resisting by kicking out and  
13                 pulling against being handcuffed. I cannot recall him  
14                 saying anything, however I vaguely remember him  
15                 aggressively groaning whilst kicking out and lifting his  
16                 body."

17                 And you describe him as "groaning". Can you just  
18                 give us a little more description of the groaning?

19       A.   Yes. I was probably -- I would probably say the best  
20           way to describe it would be if you are lifting something  
21           heavy, like a piece of furniture, or at the gym working  
22           out, and to assist you lifting whatever it is that  
23           you're lifting, you would generally sort of exhale or  
24           give out a little bit of a groan to sort of assist you  
25           with lifting. So that's probably how I would describe

## Transcript of the Sheku Bayoh Inquiry

1           it.

2           Q. Are you able to replicate that today?

3           A. I think it's difficult to because I'm not in the moment.  
4           I feel like I would need to be at the gym, for example,  
5           or lifting something heavy. I don't feel comfortable  
6           about doing that, it just doesn't sit right. I'm not  
7           trying to be awkward, it's just I don't know how I would  
8           do it.

9           Q. Oh, right. And you describe that as "aggressively".

10          What was it about the groaning that was aggressive?

11          A. Sort of the loudness, the tone, just -- yes, just how  
12          loud it actually is. I wouldn't say loud like the whole  
13          street could hear it, but it was enough for me to think  
14          that he is trying to get out of the restraint, out of  
15          the detention.

16          Q. Is it possible that he was actually struggling to  
17          breathe at that stage?

18          A. I don't know. There was nothing verbally coming from  
19          him. I didn't personally see him gasping for air or  
20          making any verbal comments. It was just that groan that  
21          I described.

22          Q. And what would you have expected if someone had been  
23          gasping for air?

24          A. I would probably expect maybe some sort of communication  
25          "I can't breathe", or just something "Get off me",

## Transcript of the Sheku Bayoh Inquiry

1 something like that. That's probably what I would maybe  
2 expect to hear.

3 Q. So in the absence of that you didn't think he was  
4 struggling to breathe?

5 A. No. At that point as well I'm solely focused on his  
6 legs so I feel like I'm not in a position to make that  
7 sort of judgment when I'm at the other side of his body.

8 Q. Do you know if anyone at that time, when he was prone,  
9 if anyone was monitoring his breathing?

10 A. I can't remember. I can't remember at that point. I do  
11 remember at one point Alan -- PC Alan Paton being at his  
12 head but I think that was at the point when he was on  
13 his side.

14 Q. Sorry, say that again, I didn't quite --

15 A. So not at that point when I first turned up in the car,  
16 but more the -- to the point he was on his left-hand  
17 side after the leg restraints had been applied, I was  
18 aware of PC Alan Paton being at his head at that point.

19 Q. And we may have heard that PC Smith was at some point  
20 anyway, once he is on his side, monitoring the  
21 situation. Is that something you were aware of?

22 A. Yes, I was aware of it was either PC Alan Smith or  
23 PC Alan Paton, I couldn't remember which one, but they  
24 were both in that vicinity.

25 Q. Okay. You mentioned about expecting -- or you would

## Transcript of the Sheku Bayoh Inquiry

1 have expected someone to say "I can't breathe" or "Get  
2 off me". Was it your expectation that someone who is  
3 maybe struggling to breathe would be able to say those  
4 things?

5 A. I honestly don't know. I've never been in that position  
6 myself, I suppose. There was never like a pile of  
7 bodies on top of him, so -- I think if I maybe expected  
8 to see several people on top of him I would -- may be  
9 more inclined to think that way.

10 Q. All right, thank you. I would like to move on to some  
11 enhanced Snapchat footage that we have which I hope is  
12 available. You may have seen this with other witnesses,  
13 Constable McDonough, and you will know that this is two  
14 sort of clips, one is just 100% speed. On the left you  
15 will see the Snapchat footage that's been incorporated  
16 into the evidence video timeline and on the right it's  
17 a 400% zoom of that, and then the second time it plays,  
18 it plays at 25% speed.

19 I am going to play the full thing through and then  
20 I'm going to ask you some questions. You will have seen  
21 me ask questions of other officers about who was where  
22 and what was happening at the time and I'm going to do  
23 the same with you. So let's just watch this whole  
24 thing, please.

25 (Video played)



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1 Right, with Ms Wildgoose's assistance we will move  
2 to the 25% speed and if we stop it at the beginning of  
3 that. Thank you. We will just play this for a few  
4 seconds and then I'm going to ask you some questions  
5 about who is where.

6 (Video played)

7 If we stop it there, please. Right, you can see  
8 an officer on the right-hand side -- well, on the 400%  
9 zoom side of the screen you can see an officer standing  
10 up with his back to the camera.

11 A. Yes.

12 Q. And do you know who that was?

13 A. That looks like PC Gibson.

14 Q. PC Gibson?

15 A. Yes.

16 Q. And then to his left we can see an officer with his back  
17 to the camera?

18 A. Yes, so you obviously can't identify who that is there,  
19 but I can tell from the body vest that -- the vest that  
20 he is wearing that was different to all of us, that's  
21 PC Alan Paton.

22 Q. We have heard evidence that PC Paton's vest was slightly  
23 different to others.

24 A. Yes.

25 Q. In what way was it different?

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1           A. It was like it was -- it was like a -- it was almost  
2           like a -- it's really difficult to explain. It was like  
3           it's -- so the vest that myself is wearing, PC Gibson is  
4           wearing, it looks like it is just an all-in-one vest,  
5           whereas I seem to remember his was in panels with  
6           various attachments attaching to the other panels, so on  
7           his you can see sort of little black bits. I think  
8           that's his -- the vest underneath the cover, whereas we  
9           don't have that, we've got -- the yellow is wrapped all  
10          the way round, if that makes sense, so that's how  
11          I determined it is different to everyone else's.

12          Q. So your vest was -- your hi-vis vest was complete and  
13          his was in segments?

14          A. Yes, aye.

15          Q. And then to his left?

16          A. That's PC Alan Smith.

17          Q. And then to PC Smith's left, standing up, facing the  
18          camera, who is that?

19          A. That's me.

20          Q. That's you. We will watch this again for another few  
21          seconds as PC Gibson walks round.

22   (Video played)

23          Thank you. If we pause it there. And we can see  
24          someone on the other side facing the camera; who is  
25          that?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. That would be PC Tomlinson.
- 2 Q. And we can see a leg, or a foot between PC Gibson's  
3 legs --
- 4 A. Yes.
- 5 Q. -- on the ground. And then between the camera and  
6 PC Tomlinson we can see a dark area there. There  
7 appears to be a white band, or a paler-coloured strip.
- 8 A. Yes.
- 9 Q. Do you know what that was?
- 10 A. It's difficult to say from there. However, that could  
11 be sort of the legs of PC Walker.
- 12 Q. The legs of PC Walker. What is it about the strip, the  
13 pale-coloured strip that makes you say that?
- 14 A. I just thought maybe it would be like the waist, like  
15 a waistband of some sort, or a piece of clothing  
16 underneath the vest or -- I don't know, it just seems to  
17 be in that general area.
- 18 Q. So we have heard that -- can we actually see part of  
19 a yellow hi-vis vest and then a dark area --
- 20 A. Yes.
- 21 Q. -- and then the light area?
- 22 A. Yes.
- 23 Q. We may have heard evidence that the body armour, the  
24 black part, can ride up, and your clothing underneath  
25 can poke out --

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. -- above your trousers. Is that your experience?
- 3 A. Yes, that is, yes.
- 4 Q. All right, thank you. And the car behind there, is that  
5 the diary car?
- 6 A. Yes, it is.
- 7 Q. Thank you. So what was happening at this moment?
- 8 A. So at that moment -- I don't know how long me and  
9 PC Gibson were out of the car for by this point, but  
10 I could see -- from where I'm standing I could see that  
11 his legs were struggling at that point so you can  
12 actually see on the footage me taking out the leg  
13 restraints from my vest, so it's at that point that I'm  
14 doing that.
- 15 Q. Let's watch that again. I was hoping you would say  
16 that. Let's watch that again and let's look at you as  
17 we watch this and see what you're doing.
- 18 (Video played)
- 19 Just there, is that you removing something from your  
20 left-hand side?
- 21 A. It is, yes, that's the leg restraints.
- 22 Q. Is that your leg restraints?
- 23 A. Yes.
- 24 Q. And we could maybe look at that again just for a moment,  
25 and that's what you described earlier for us this

## Transcript of the Sheku Bayoh Inquiry

1 morning.

2 A. Yes.

3 (Video played)

4 Q. Let's just watch that again, please. So is that you  
5 taking them out now?

6 A. Yes.

7 Q. And unfurling them or --

8 A. Yes, that's correct.

9 Q. Thank you. That's great. So that was just prior to you  
10 actually getting involved with applying those leg  
11 restraints?

12 A. Yes.

13 Q. Thank you. Then can we look at the evidence video  
14 timeline, please. I would like to look at it from  
15 7.25.34. Now, I'm going to ask you to watch around two  
16 and a half minutes of the footage and if you could focus  
17 on the CCTV and you will see some movement in the area  
18 of the roundabout, so I will play it in full, we will  
19 finish about 7.28, just after 7.28 and then I will come  
20 back and ask you some questions.

21 A. Yes.

22 Q. For your benefit, it starts at page 7 on the spreadsheet  
23 and we're going to start at 7.25.34 and you will see it  
24 says:

25 "The larger marked police van appears to move

## Transcript of the Sheku Bayoh Inquiry

1 forwards further up Hayfield Road and then a small  
2 light-coloured car approaches the roundabout from the  
3 south Hendry Road and slows at the entrance to the  
4 roundabout."

5 Do you have that?

6 A. Yes.

7 Q. And then it says:

8 "A person can be seen walking towards the roundabout  
9 on the path on north Hayfield Road near the grassy  
10 area."

11 A. Yes.

12 Q. And what I'm -- and then you will see at 7.25.51:

13 "A second person walks across to the roundabout from  
14 Hayfield Road and joins the other person near the grass  
15 area."

16 So this is the part of the footage I'm going to play  
17 to you.

18 A. Yes.

19 Q. And I will come back and ask you some questions.

20 A. Perfect.

21 Q. Thanks.

22 (Video played)

23 Thank you. Did you have the chance to see that  
24 CCTV?

25 A. Yes, I did, yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Let's go back -- we might use the spreadsheet actually  
2 to help us with this. Page 7, first of all.

3 A. Yes.

4 Q. And we will go back to 7.25.38 or thereabouts. That  
5 will be fine. Let's just look at this -- a few seconds  
6 of this. So this is from -- this is it. Right, if we  
7 pause it there for the moment. Do we see some movement  
8 heading towards the roundabout on north Hayfield Road  
9 near to the grassy area?

10 A. Yes.

11 Q. Do you know who that is?

12 A. That will be me.

13 Q. That was you?

14 A. Yes.

15 Q. And then can we keep playing, please, Ms Wildgoose.

16 (Video played)

17 Then we see some further movement just behind the  
18 car, the car will move out the way. Pause that there,  
19 please. So we see two people, or movement of two people  
20 there. Who is that?

21 A. I think that's going to be DC Derek Connell. I think it  
22 was him that I made him aware of what I had seen.

23 Q. So which one is you? There is one on the left and one  
24 on the right with a lighter coloured...?

25 A. Yes, I think I'm going to be the one on the right

## Transcript of the Sheku Bayoh Inquiry

1           because of the fluorescent vest, the lighter coloured  
2           one.

3     Q.   You had your hi-vis vest on?

4     A.   Yes, that's correct.

5     Q.   So you're on the right there, and that's you in the area  
6           of the grass area near the roundabout --

7     A.   Yes.

8     Q.   -- with DC Connell?

9     A.   Yes.

10    Q.   And is this at the point at which you see the knife?

11    A.   Yes, that's correct.

12    Q.   And then can we just play that again for a moment or  
13           two.

14                                (Video played)

15           Then the two people appear to be walking back away  
16           from the roundabout, away from the grassy area, and can  
17           you pause that there, please. Where were you going at  
18           that stage?

19    A.   I was just going back to the area where all the other  
20           officers were. For what purpose, I don't know, but it  
21           was around about that time I got asked to go and do  
22           traffic, traffic control.

23    Q.   All right. Can we look at 7.27.18, please. What we  
24           will do -- you will see on page 8 of the spreadsheet,  
25           7.27.18 says:



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1 "A person can be seen walking towards the roundabout  
2 from Hayfield Road and approaching the grassy area to  
3 the north."

4 A. Yes.

5 Q. And then:

6 "The person at the grass area appears to pause near  
7 the north end of the roundabout."

8 Do you see that?

9 A. Yes.

10 Q. So let's just watch a few seconds to see if we can see  
11 that. And we can now see some movement of a person  
12 heading back to the same grassy area.

13 A. Yes.

14 (Video played)

15 Q. And if we pause it there, sorry, we could see at the  
16 very top of the Snapchat -- and we can replay it if you  
17 didn't glimpse it, but there was a person with a blue  
18 jacket on.

19 A. Yes.

20 Q. Maybe we could rewind that ever so slightly.

21 (Video played)

22 Pause it there. So we just can glimpse him through  
23 the venetian blinds at the very top of that Snapchat  
24 element?

25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. And they appear to have a blue jacket on. Was that DC  
2 Connell?

3 A. Yes, it was. You can actually see him before he walks  
4 over there he goes into the boot, so you see the  
5 Snapchat footage there, the top right-hand corner you  
6 see the silver Corsa but in the CCTV you actually see  
7 movement in the boot and you can see in the Snapchat  
8 footage as well that I'm actually looking in that  
9 general direction and if I mind right, he is taking  
10 production bags to where the knife was.

11 Q. Let's rewind that slightly just so we can see that. So  
12 when the Snapchat starts we will maybe try and pause it  
13 at that moment, please.

14 (Video played)

15 I think this is ... right, I think it's further back  
16 than that, maybe to 24 seconds. Right, let's watch it  
17 from there, please, and if you can see him at the boot,  
18 if you could point that out to us.

19 (Video played)

20 A. I think he is at the boot at the moment but you will see  
21 the actual boot closing when he walks away.

22 Q. Can you point to the area that you're looking at,  
23 please, just so everyone can see it.

24 A. Can you draw on this?

25 Q. Yes, you can.

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Just in there (indicating).
- 2 Q. Right, so everyone can focus their attention there so  
3 let's remove that, please, Ms Wildgoose, and people can  
4 focus their attention. So that's the rear of a Corsa?
- 5 A. Yes, that's correct.
- 6 Q. Right. Do you know who had been driving that car?
- 7 A. I'm not entirely sure. I would take a bet that it would  
8 be either DC Connell or DS Samantha Davidson, but I'm  
9 not too sure.
- 10 Q. So it was Davidson or Connell?
- 11 A. Yes.
- 12 Q. Right. So let's just play that for a couple of seconds,  
13 please, and we will see if we can see the person moving  
14 from the boot.
- 15 (Video played)
- 16 Can we pause it there. Do we see somebody now  
17 moving away from that area?
- 18 A. Yes.
- 19 Q. Containing or holding what appears to be something light  
20 coloured?
- 21 A. Yes.
- 22 Q. And you have talked about evidence bags?
- 23 A. Yes, I think that's what that is.
- 24 Q. That's what that is. So that's DC Connell holding an  
25 evidence bag.

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And then just within a few seconds we should see the  
3 Snapchat arriving within -- by 31 seconds past. So we  
4 can play until that, we can watch ...

5 (Video played)

6 So DC Connell appears to be travelling back to the  
7 grassy area and if we pause it there, so we can see on  
8 the CCTV he is in the grass area with the evidence bag  
9 and then just at the very top of the Snapchat footage we  
10 can see him still on the road at this point --

11 A. Yes.

12 Q. -- with a blue jacket on, and he may be carrying the  
13 evidence bag there?

14 A. Yes.

15 Q. And we will just play that, thank you.

16 (Video played)

17 Thank you. And then that's him just out of view of  
18 the person with the camera.

19 A. Yes.

20 Q. Thank you. Then can I ask you to look at 7.27.54, and  
21 you will see that on the spreadsheet, this is on page 9,  
22 7.27.54 to 59 it says:

23 "The person near the grassy area stops approaching  
24 Hayfield Road and pauses. It appears like  
25 a light-coloured object is raised up by their arms."

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And then:

3 "The person near the grassy area returns to where  
4 they were a few moments ago and another person walks  
5 towards them from Hayfield Road area. The second person  
6 stops near the roundabout. A person can be seen walking  
7 away from the group of officers on the pavement on  
8 Hayfield Road and walking further up Hayfield Road away  
9 from the roundabout."

10 So let's just play this footage.

11 (Video played)

12 Can we pause it there for a second. Who is that  
13 person coming to the roundabout?

14 A. I think that's PC Good.

15 Q. PC Good. And DC Connell is still in the area of the  
16 grassy area?

17 A. Yes.

18 Q. And you saw the image of the knife --

19 A. Yes.

20 Q. -- that is a photograph of what was found at that area?

21 A. Yes.

22 Q. And if we could just carry on playing that, please.

23 (Video played)

24 So again, in the Snapchat we could see an image of  
25 DC Connell's bright blue jacket -- it's not on the

## Transcript of the Sheku Bayoh Inquiry

1 screen there, it was just a moment ago.

2 A. Yes.

3 Q. And again, he still seems to be in the grassy area.

4 A. Yes.

5 Q. And if we could maybe rewind that slightly. There,

6 perfect. We see DC Connell, bright blue jacket in the

7 grassy area.

8 A. Yes.

9 Q. And where were you at this point?

10 A. I think I have actually made my way to carry out traffic

11 duties.

12 Q. Where did you do that?

13 A. So just -- so where you can see the officers there in

14 the Snapchat footage, to the right down towards the

15 general direction of the hospital, but I think I was

16 standing at the junction at Poplar Crescent.

17 Poplar Crescent and Hayfield Road, so yes, in that

18 general area.

19 Q. So away from the roundabout --

20 A. Yes.

21 Q. -- near Gallaghers in the opposite direction along

22 Hayfield Road?

23 A. That's correct, yes.

24 Q. Closer to where the hospital is?

25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. I forgot to ask you to identify yourself in  
2 the previous Snapchat. Can we go back to 7.27.18,  
3 please, to the -- I think the Snapchat starts at  
4 31 seconds.

5 (Video played)

6 And if we pause it there. You mentioned earlier  
7 that you were looking over in the direction of  
8 DC Connell?

9 A. Yes.

10 Q. So do you want to touch the screen and point yourself  
11 out?

12 A. Right. So literally where the number 1 is, that's  
13 obviously covering my body, but that's me, yes.

14 Q. That's you. Let's remove it so everyone can see that.  
15 So that's you looking towards DC Connell?

16 A. Yes.

17 Q. Thank you. Would you look, please, for me at a label  
18 which is in a plastic -- the knife. Oh, we don't have  
19 it. I won't need you to identify it at the moment.

20 A. That's fine.

21 Q. Can I now ask you to look at some other photographs,  
22 they are stills that have been taken. PIRC 03374.

23 Now, that is still that's been marked up with people  
24 identified and you will see in the bright blue jacket  
25 near the grass area someone has written "DC Connell"?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And I wonder can you confirm that where we see the  
3 various names, if they are correct? So let's start with  
4 yourself, PC McDonough?
- 5 A. Yes, that's correct.
- 6 Q. That's you looking towards DC Connell?
- 7 A. Yes.
- 8 Q. And then PC Walker to the right, on the road walking  
9 towards the scene?
- 10 A. Yes, that's correct.
- 11 Q. And then PC Gibson kneeling down or crouched down to  
12 your right?
- 13 A. That's correct.
- 14 Q. And then to your left it says PC Tomlinson?
- 15 A. Yes.
- 16 Q. Looking towards the hedge, if you like.
- 17 A. Yes.
- 18 Q. And then opposite PC Tomlinson, PC Good, Kayleigh Good?
- 19 A. Yes, that's correct.
- 20 Q. To the left of PC Tomlinson is PC Paton crouched down  
21 with his right arm leaning -- stretching over?
- 22 A. Yes.
- 23 Q. Opposite him, PC Smith?
- 24 A. Yes, that's correct.
- 25 Q. To PC Smith's right, DS Davidson?



## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And then to the far left, PS -- Police Sergeant Maxwell?
- 3 A. Yes, that's correct.
- 4 Q. And on the right-hand side, blurred in the image it says
- 5 DI Robson.
- 6 A. Yes.
- 7 Q. Are you able to recognise DI Robson?
- 8 A. Well, to be fair I don't think at any point I've
- 9 mentioned him in my statement, I actually can't remember
- 10 him being there but if other people have identified him
- 11 as being there, that's fine, but I can't actually
- 12 remember him being there.
- 13 Q. So you don't know that's DI Robson?
- 14 A. No, no.
- 15 Q. All right. Can we look at the next photo on this just
- 16 down, please, and you see there at the bottom with his
- 17 back to the camera it says PC Walker?
- 18 A. Yes.
- 19 Q. And do we see a sort of band underneath his top or his
- 20 black body armour?
- 21 A. Yes.
- 22 Q. And above his trousers, his dark trousers a sort of
- 23 band, pale-coloured band?
- 24 A. Yes.
- 25 Q. Was that the band, pale band that we saw earlier?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Thank you very much. Right, I would like to turn back  
3 to your Inquiry statement please, paragraph 43. You are  
4 asked about how you were, what you were thinking and  
5 feeling when they were trying to resuscitate Mr Bayoh  
6 and you say:

7 "I was aware that an ambulance had been called for.  
8 As a result of this, I felt anxious and concern for  
9 Mr Bayoh."

10 Can you tell us about that?

11 A. Yes, it's never a nice thing knowing that an ambulance  
12 has been called for someone. You always kind of fear  
13 the worst for someone who is needing an ambulance called  
14 for them. I was also aware that he was unconscious at  
15 one point as well, so automatically you're thinking has  
16 his -- has his condition worsened, so that's kind of the  
17 thoughts that are going through my head at that point.

18 Q. You talked about him being unconscious and the ambulance  
19 being called; where were you at that point?

20 A. I was at the -- that junction I was telling you about,  
21 Poplar Crescent, doing the traffic duties, just  
22 preventing foot traffic and vehicles coming into that --  
23 the general area of where the incident took place.

24 Q. So you were doing your traffic duties at the other end  
25 of Hayfield Road?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. Thank you. Now, before you -- how long were you at the  
3 scene?
- 4 A. Doing traffic duties?
- 5 Q. Mm-hm.
- 6 A. I think I was maybe there for about an hour and a half  
7 because I seem to think that we were waiting on other  
8 officers from outwith the area to come in and take over,  
9 so that in itself takes a wee bit of time. The reason  
10 I say that is I seem to remember it was around about  
11 9 o'clockish I get back to the office.
- 12 Q. So you were ultimately relieved by another officer from  
13 outwith Team 4?
- 14 A. Yes. I didn't know who that -- what their name was or  
15 anything.
- 16 Q. Before you left the scene completely, did anyone -- any  
17 senior officer speak to you?
- 18 A. I remember Inspector Kay being there at some point.
- 19 Q. Could we have a look at paragraph 53, please. So you  
20 were asked by the Inquiry team if you spoke to any  
21 senior officers before leaving the scene and you said:  
22 "Prior to leaving the scene, I don't recall being  
23 instructed to not discuss the incident with other  
24 officers."
- 25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. But you remember speaking to Stephen Kay at some point?

2 A. Yes. I don't remember what the conversation was.

3 I think I have -- I think I remember speaking, or using  
4 the point-to-point system on the radio to get in contact  
5 with PC Gibson to see if he had -- I can't remember if  
6 it was the car or the car keys for the vehicles. I had  
7 a feeling that my jacket was in the car because it was  
8 cold and it was wet that day, so I think possibly  
9 Inspector Kay has maybe asked me if I've got something  
10 warmer to wear and then I have kind of explored that  
11 with PC Gibson, but I can't say for certain what any  
12 conversation was that took place.

13 Q. Did anyone instruct you not to discuss the incident with  
14 other officers?

15 A. Not that I recall, no.

16 Q. Okay. And how did you get back to Kirkcaldy Police  
17 Office?

18 A. So once myself and PC Good were relieved of doing our  
19 points duties, I think it was -- I seem to remember it  
20 was a female officer who took over from me, and she  
21 instructed me that -- she was just the messenger at that  
22 point, she was telling me that I have to take PC Good  
23 back to the station. I think it was just from one of  
24 the vehicles that were left at the scene.

25 Q. Right. And you went to the canteen?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. Can we look at paragraph 57, please. You went straight  
3 to the canteen and other officers were there, you have  
4 explained that to us. The only person that wasn't there  
5 was PC Short. She was still at the hospital?
- 6 A. Yes, that's correct.
- 7 Q. How long did you remain in the canteen that day?
- 8 A. I was one of the last to leave.
- 9 Q. When did you leave?
- 10 A. I've got this recollection in my head that I remember  
11 getting in the house, like my own house about 10 o'clock  
12 at night, so if I'm right in saying that I probably  
13 would have left Kirkcaldy Police Station around about  
14 9.15, 9.30 I think, at night.
- 15 Q. So when I say how long were you in the canteen, were you  
16 there the whole time?
- 17 A. Yes, yes, I was, yes.
- 18 Q. Had you received instructions to remain within the  
19 canteen?
- 20 A. Yes.
- 21 Q. Who from?
- 22 A. I can't remember. So being -- only having six months'  
23 service there's still a lot of senior officers that you  
24 don't see regularly, so putting names to faces and stuff  
25 can be quite difficult when you see that many people

## Transcript of the Sheku Bayoh Inquiry

- 1 coming through the door. I honestly can't remember.
- 2 I'm also aware at some point Chief Inspector Trickett
- 3 was there at some point. I don't know if it was him
- 4 that's maybe said that, I'm not sure.
- 5 Q. Can we look at paragraph 60. You were asked about
- 6 instructions. You say you were instructed to remain in
- 7 the canteen:
- 8 "I think I may have been advised that Federation
- 9 representatives were being contacted on our behalf."
- 10 A. Yes.
- 11 Q. "I can't remember who said this. I discussed the advice
- 12 I received from the Federation below."
- 13 So do you remember if Stephen Kay came into the
- 14 canteen?
- 15 A. I don't remember if he came in, no.
- 16 Q. Do you remember a Pat Campbell?
- 17 A. I don't even know who that is.
- 18 Q. Right. Do you remember a Garry McEwan being there that
- 19 day?
- 20 A. I obviously know who he is but I can't seem to picture
- 21 him being there.
- 22 Q. Do you want to have a look at page 8 of your PIRC
- 23 statement?
- 24 A. Yes, please.
- 25 Q. Paragraph 6 and it starts:

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1            "At no time on Sunday 3 May ... did anyone ask me to  
2            provide an operational statement. A lot of other  
3            officers entered the canteen whilst we were there and  
4            asked us how we were all feeling. One of the officers  
5            I know was [Garry] McEwan the Chief Superintendent but  
6            to be honest I cannot recall everything he said or any  
7            of the other officers said. I think we were all in  
8            shock."

9            Do you remember saying that?

10          A. Yes, yes.

11          Q. So you did know a Garry McEwan, a chief superintendent?

12          A. Yes, if I have said that he was there at the time then  
13            I'm happy to accept that, that that's what I have said  
14            and that's what happened.

15          Q. So in this regard your PIRC statement will be correct?

16          A. Yes.

17          Q. Right. And then could I ask you where you put your  
18            equipment?

19          A. Yes, so it was kind of the thing that you would do when  
20            you're having your meal break in the canteen that you  
21            would just take your vest off, take your belt off and  
22            I would generally wrap my belt around my vest to keep it  
23            all together and just prop it up against a wall. There  
24            was no pegs as such, there was no storeroom, it was just  
25            a case of leaving it in a safe place and -- where you

## Transcript of the Sheku Bayoh Inquiry

1           knew it was and you could keep an eye on it when you're  
2           sitting having your meal.

3           Q. And did other officers do the same?

4           A. I believe so, yes.

5           Q. We have heard that other officers had things lying  
6           around, leaning against walls and things?

7           A. Yes, yes.

8           Q. And we have heard that some items were kept on a table.

9           A. Mm-hm.

10          Q. Do you remember that?

11          A. Yes, I vaguely remember that. I think it was items that  
12          were left at the scene, items being equipment that was  
13          used: batons, leg restraints. I don't know if there was  
14          anything else, probably -- I'm not sure if maybe CS was  
15          involved in that but it was just equipment that  
16          I remember being left on the table.

17          Q. And had been recovered at the scene?

18          A. Yes.

19          Q. Look at paragraph 70 of your Inquiry statement, sorry.  
20          I think you have given some information about this to  
21          the Chair, and you say that your stab-proof vest was  
22          recovered, your fleece, your black police T-shirt and  
23          utility belt and your various pieces of equipment you  
24          have detailed.

25          A. Yes.



## Transcript of the Sheku Bayoh Inquiry

1 Q. And they were recovered from you, you say on your return  
2 to -- the question is what equipment was recovered to  
3 you on return to KPO, but from what you said already you  
4 had that equipment with you for a while in the canteen?

5 A. Yes.

6 Q. When was it recovered from you?

7 A. So when we were told to go and hand over equipment  
8 before we could leave the building, I vaguely remember  
9 being told -- I can't remember by who -- to identify  
10 what is yours on the table, essentially, and take it up  
11 to the room so that it can be forensically seized -- or  
12 not forensically seized but seized.

13 Q. What's the difference?

14 A. Forensically seized it would be for the -- for DNA  
15 purposes, you don't want cross-contamination, so I'm  
16 aware it was just seized as opposed to forensically  
17 seized.

18 Q. So how was your equipment seized from you?

19 A. I remember it was two females and I think they were  
20 wearing gloves, masks and I think a white suit which  
21 would probably suggest a forensic seizure, but I can't  
22 remember if it was to be forensically seized or not or  
23 if that was just standard for them to do that at that  
24 time.

25 Q. Okay. We may hear more about that in due course. Can

## Transcript of the Sheku Bayoh Inquiry

1 I ask you about paragraph 72 and you were asked about  
2 the status of yourself. Now, when I say status I mean  
3 as a witness or as a suspect.

4 A. Yes.

5 Q. And you say you didn't know at the time what your status  
6 was but you do say, I think at 73, you subsequently  
7 received advice from your solicitor, Professor Peter  
8 Watson. Do you see that?

9 A. Yes, I do, yes.

10 Q. So on 3 May, what information were you given about your  
11 status at the time?

12 A. I don't remember being told that day "You are a witness"  
13 or "You are a suspect". I just remember Amanda Givan  
14 kind of explaining to us -- or I don't know if it was to  
15 us or to me because I was a probationer, I had no  
16 experience at all of anything like this, that we  
17 would -- that we can receive -- or that she can get in  
18 contact with a Federation lawyer on our behalf who can  
19 give the relevant advice. That's kind of as brief as  
20 I remember it.

21 Q. And that was Amanda Givan?

22 A. Yes.

23 Q. Who we have heard is an SPF representative?

24 A. That's correct, yes.

25 Q. And the Federation lawyer, do you remember who that was?

## Transcript of the Sheku Bayoh Inquiry

- 1       A. It was Professor Peter Watson.
- 2       Q. So the name you have given there?
- 3       A. Yes.
- 4       Q. And can we look at paragraph 75, please. So you are  
5       asked about advice given. Did you receive advice or  
6       instruction on your return from any senior officers or  
7       anyone from the SPF and you say:
- 8                "I do not remember receiving advice or instruction  
9       from a senior officer at that time.
- 10               "I do not remember being given advice by  
11       Amanda Givan ... other than being told ... to speak to  
12       [a] lawyer."
- 13               Do you remember seeing -- I'm going to read out  
14       a list of names and I'm going to ask you if you remember  
15       seeing them or getting any advice from them:  
16       Conrad Trickett?
- 17       A. I remember that he was in the canteen at one point  
18       giving advice. I honestly could not tell you if he gave  
19       any advice at all.
- 20       Q. Stephen Kay?
- 21       A. I don't actually remember him being there.
- 22       Q. I asked you earlier about Pat Campbell, you said you  
23       didn't know him?
- 24       A. No, I don't have a clue who he is, no.
- 25       Q. Colin Robson?

## Transcript of the Sheku Bayoh Inquiry

- 1       A. I don't remember him being there either.
- 2       Q. Can we look at paragraph 77, please, and I would like to  
3       ask you about paperwork.
- 4       A. Yes.
- 5       Q. You were asked about your obligations in relation to  
6       completing paperwork, including your notebooks, use of  
7       force form, a use of spray form, insofar as it related  
8       to the events at Hayfield Road.
- 9       A. Yes.
- 10      Q. So you say at the time you were using your notebook for  
11      recording statements, details of the public, if you had  
12      cautioned or charged someone, and you understood it was  
13      your responsibility to decide if you wished to put  
14      entries within your notebook or not.
- 15      A. Yes.
- 16      Q. And you say you weren't in a fit state to make an entry  
17      about the incident, other than your interactions with  
18      the three members of the public you referred to  
19      earlier --
- 20      A. Yes.
- 21      Q. -- because of all that had gone on. So you say you  
22      weren't in a fit state; how were you that day?
- 23      A. I would probably describe it as just subdued, quite  
24      depressed to some degree, not quite -- just staring into  
25      space. I remember just sitting on the sofa, just

## Transcript of the Sheku Bayoh Inquiry

1           staring into space. Kind of emotions are kind of all  
2           over the place, bearing in mind I have only got  
3           six months' service at that point, there's a lot going  
4           through my head: is this right for me, is this normal,  
5           does this happen more regularly, so quite upset as well,  
6           upset. It's a lot to take in, sitting in the canteen as  
7           well, not really knowing what's going on and getting  
8           that sense that nobody really knew what was going on and  
9           that's not like a sort of criticism that nobody knew  
10          what was going on because I understand it doesn't happen  
11          that often, but certainly for somebody -- PC Good will  
12          be the same -- someone with such little experience,  
13          you're kind of looking for a wee bit firmer answers  
14          about what's happening.

15        Q. What sort of information would you have liked that day?

16        A. I think probably where we stand, like, how is this  
17          incident being treated. Is it a death in custody where  
18          you're a witness, is it a death in custody that you're  
19          a suspect. I think it's kind of the unknown that you  
20          don't really know what's happening, that kind of has an  
21          emotional effect on you as well because you're thinking  
22          all sorts at that point: am I going to get locked up, am  
23          I going -- are you going to lose your job? You just  
24          didn't know what to think and what to do. So yes, mixed  
25          emotions, just all over the shop, really.

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1 Q. Can I ask you about an operational statement. Do you  
2 remember any conversations, either that day or  
3 subsequently about you providing an operational  
4 statement?

5 A. No, no, I can't say I do, no.

6 Q. Can we look at paragraph 80, please. There may be  
7 a reference here to -- I would like to ask you about:

8 "Some days later I was asked by MIT for an  
9 operational statement but I had received legal advice  
10 not to provide one at that stage."

11 Was the major incident team, two officers spoke to  
12 you, it may have been on about 7 May 2015?

13 A. Yes, that's probably about right, yes.

14 Q. Were you informed that day about your status as  
15 a witness?

16 A. I honestly can't remember. There's a chance that  
17 I maybe would have been, but I can't say for certain if  
18 I had.

19 Q. And you were asked to provide an operational statement  
20 by the MIT and you declined because of the advice that  
21 you had received?

22 A. Yes, that's correct.

23 Q. Who was that advice from?

24 A. That was from Professor Peter Watson and I think  
25 I remember that he was looking for confirmation in

## Transcript of the Sheku Bayoh Inquiry

1 writing, so there is every chance that we got told we  
2 were witnesses, but I want to say that we were maybe  
3 given -- that he was looking for it in writing to be  
4 clarified.

5 Q. So he was wanting that confirmed in writing --

6 A. Yes.

7 Q. -- before he would advise you to give a statement?

8 A. Yes.

9 Q. Can I move on and ask you some questions about race,  
10 please?

11 A. Yes.

12 Q. If you have watched other evidence you will know that  
13 I have asked some other officers these questions as  
14 well.

15 A. Yes, of course.

16 Q. You are obviously telling us today that you had been  
17 six months in the job.

18 A. Yes.

19 Q. So you had been at Tulliallan six months prior doing  
20 your training, your initial training?

21 A. Yes.

22 Q. Do you remember if you had had training on equality and  
23 diversity?

24 A. Yes, so that's always -- or it's on the first week or  
25 two. I can't remember if it is over one week or two

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1 weeks, but yes, it's your first one or two weeks of  
2 being at the college that you get taught that.

3 Q. Do you remember what the course covered?

4 A. It covered a wide variety of things: ethnicity, sort of  
5 disabilities, sex, religions, discrimination, quite  
6 a few things, but I .honestly can't remember everything  
7 that was taught, but it did cover sort of a wide variety  
8 of things.

9 Q. And how did you -- the things you learned on that  
10 training, how did you implement that in your day-to-day  
11 practice?

12 A. Well, before I went to the college I was always brought  
13 up to treat everyone the same anyway, so I feel like  
14 I was implementing that into the college anyway.  
15 Leaving the college, I think the thing that you take  
16 away from the college is never be too scared to ask  
17 questions if you're unsure about certain things,  
18 especially when it comes to like religion or I don't  
19 know, gender equality, that sort of thing, just ask  
20 people if you're unsure, because at the end of the day  
21 for a police officer you need to have a degree of  
22 knowledge to be able to educate other people, whether it  
23 be colleagues or members of the public, so that's --  
24 yes.

25 Q. When you say "educate other people, whether that be



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- 1           colleagues", what do you mean?
- 2           A. Well, you never know when you could ever encounter any  
3           situation where something could be said inappropriately,  
4           whether it be slip of the tongue, in error, or as -- in  
5           a serious way. You need to be prepared for that.
- 6           Q. What would you do if you did encounter, for example,  
7           racism or a racist comment?
- 8           A. I would challenge it. Again, you would probably have  
9           an idea of how -- in what context it was used in, so you  
10          could just be as simple as educating them, making them  
11          aware that you can't use that term or -- at all, or if  
12          it was something quite sinister or serious you've got  
13          line managers, people further up the tree who can take  
14          things further, who can take disciplinary action, so you  
15          have a couple of options.
- 16          Q. You have told us you were a probationer.
- 17          A. Yes.
- 18          Q. And we have heard evidence about the different ranks,  
19          people being more senior. How would you have felt about  
20          challenging someone more senior than you?
- 21          A. I appreciate that some people would probably find that  
22          quite a daunting thing to do, however, if it's something  
23          that needs addressed then I don't think I would have an  
24          issue -- an issue doing that.
- 25          Q. In the six months you spent at Kirkcaldy Police Office

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1 had you come across any examples of that?

2 A. I have obviously thought about this before, before  
3 coming here, and I haven't. I can't say that I have  
4 heard or be able to give you any examples of it.

5 Q. Okay. Were you taught about unconscious bias on the  
6 training course at Tulliallan?

7 A. Again, I have thought about that. I don't know if at  
8 any point -- I would probably be likely to say no, but  
9 I don't know if at another point if unconscious bias has  
10 had another meaning or another term to describe it, but  
11 I don't remember the words "unconscious bias" being  
12 within the learning outcomes of the modules that were  
13 taught. I can't remember ever seeing those words.  
14 I could be wrong, but I don't remember.

15 Q. All right. Are you aware or through your training aware  
16 of any assumptions that you make about people because of  
17 the colour of their skin?

18 A. No.

19 Q. In 2015, in around the May when you were doing your  
20 probation, how many officers at Kirkcaldy were black?

21 A. At Kirkcaldy I don't think at that time ... I don't  
22 think there was any.

23 Q. Were you aware either from your training in Tulliallan  
24 or just your general awareness about public concern  
25 about the use of force by police officers, particularly

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1           against black men?

2           A. No. The only thing that I would be aware of is in the  
3           media mainly in America, so just from watching the news,  
4           things like that. In terms of within Scotland, I wasn't  
5           aware.

6           Q. What about in England?

7           A. I can't think of anything specific, if I have seen  
8           anything in relation to England, no.

9           Q. Do you remember when you were at Tulliallan getting any  
10          training about inquests or situations which had occurred  
11          in England as a learning exercise?

12          A. No. No. Again, if it's something that has been  
13          implemented, I can't remember, but there's nothing  
14          that's jumping out at me or jogging my memory to say  
15          that I had.

16          Q. Do you remember being aware at that time about any high  
17          profile deaths which had occurred as a result of  
18          restraint by police officers?

19          A. Again, no.

20          Q. Were you aware of any public concern or issues being  
21          debated about the use of restraint by police officers?

22          A. No.

23          Q. Okay. Can I ask you at that time in May 2015 what your  
24          awareness of the black community in Kirkcaldy was?

25          A. What do you mean by the black community? Is that like

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- 1 a figure or ..?
- 2 Q. No, not one individual, just black people in Kirkcaldy,  
3 say.
- 4 A. Yes, certainly you're aware from just doing your duties  
5 whether it be -- I don't know, walking down the high  
6 street, for example, driving in the high street, going  
7 to various shops, there's retail parks in Kirkcaldy,  
8 there's hospitals in Kirkcaldy, you do see black people  
9 in Kirkcaldy. If -- I can't obviously say if they live  
10 in Kirkcaldy, but certainly yes, there is black people  
11 in Kirkcaldy, yes.
- 12 Q. And what contact had you had with those people?
- 13 A. I can't ever -- I don't recall ever arresting or dealing  
14 with anyone who was black as a suspect, and there's  
15 nothing jumping out at me that I have dealt with any  
16 victims or witnesses who are black either. There is  
17 a chance that I have, but there's nothing that I can  
18 think of that -- nothing specific, no.
- 19 Q. Had you done any community relation work?
- 20 A. So I've never -- I've never really done any community  
21 roles whilst being at Kirkcaldy. There is also  
22 a community team that is based at every station and if  
23 they have done any community relations it would  
24 generally be them that would be involved in them, but it  
25 would be talks at schools or going to community halls to

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1 discuss matters in the community and they will probably  
2 be best placed to be able to answer that.

3 Q. That's not something you were involved in?

4 A. No, it wasn't, no.

5 Q. Were any of the colleagues you had on the team involved  
6 in that as far as you were aware?

7 A. Not that I'm aware, no.

8 Q. Okay. Were you aware of any negative views being held  
9 by colleagues about black people?

10 A. No, no.

11 Q. Were you aware of stereotypes which existed about black  
12 people generally, or black men specifically in the  
13 context of criminal justice?

14 A. Yes, I'm aware of stereotypes.

15 Q. What sort of stereotypes are you aware of?

16 A. In relation to black people?

17 Q. Black men or black people?

18 A. Black men, so a stereotype that I'm aware of would be  
19 that all black males are superior athletes, or good at  
20 running, or superior at running. Another one that was  
21 mentioned the other day and I was always going to say  
22 it, all young black males are involved in gangs, another  
23 stereotype. So I am aware of them and I think it's  
24 important to be aware of them because again, it's the  
25 whole thing of being able to educate people, being able

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1           to recognise various stereotypes, and I'm aware of  
2           stereotypes in all walks of life, it's not just black  
3           people, so I think it's really important that you need  
4           to be aware of them.

5       Q.   You say it's important to be aware?

6       A.   Yes.

7       Q.   And you mention education. Why do you think it's  
8           important to be aware of these?

9       A.   Just to be able to point out to people that stereotypes  
10          aren't facts, they're offensive as well, and you need to  
11          be able to tell people -- make them aware that they are  
12          offensive for whatever reason, to try and make  
13          a difference really and get people to try and change  
14          their way of thinking.

15      Q.   And how do you personally guard against judging people  
16          because of stereotypes?

17      A.   So guarding against unconscious bias, is that?

18      Q.   Yes.

19      A.   Constantly asking yourself questions, put yourself in  
20          that person's shoes, what would they -- how would they  
21          feel if they knew I was thinking that, or how would --  
22          why am I thinking that, kind of what's the reasons for  
23          thinking that. Educating yourself essentially.

24      Q.   Is this something that you were taught at Tulliallan  
25          during your training?

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1       A. I'm not entirely sure, so I know I have already said  
2       that I can't remember the term "unconscious bias" ever  
3       being -- that term being used at the college, but  
4       there's every chance that it has been taught. I can't  
5       remember, I would like to think that I have implemented  
6       that way of thinking anyway. At the end of the day you  
7       want to treat everyone the same way and with respect, so  
8       I think I have probably done that anyway.

9       Q. Have you had any additional training as part of your job  
10       at Police Scotland in relation to equality and diversity  
11       since May 2015?

12       A. I would like to think I would have remembered if I had.  
13       I can't remember.

14       Q. All right. Have you yourself educated -- have you  
15       educated yourself about any of these matters since 2015?

16       A. What do you mean, sorry? In like --

17       Q. Well, you have talked about you have to educate  
18       yourself. Have you maybe read subjects -- read into the  
19       subject --

20       A. Yes.

21       Q. -- or looked at programmes discussing the subject or  
22       read things on the internet?

23       A. Yes, so what I mean is I'm not an expert at knowing  
24       everything. In the police you do come across people  
25       with all backgrounds and I think it's important to know

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1           where to look for the information, whether it be the  
2           internet, to be able to -- how to ask appropriate  
3           questions, for example, religion, Hinduism,  
4           Christianity, you need to be able to know where to  
5           look -- find the information.

6           Q. And do you know where to look to find the information?

7           A. I would generally probably just use the internet, or ask  
8           senior officers if they had any other options.

9           Q. Is it possible that you made any assumptions on  
10          3 May 2015 that influenced how you acted in relation to  
11          Mr Bayoh?

12          A. No. I can safely say I never.

13          Q. Could you give me one moment, please?

14          A. Yes.

15          MS GRAHAME: Thank you very much. I have no further  
16          questions.

17          LORD BRACADALE: Apart from Ms McCall, are there any Rule 9  
18          applications? Ms Mitchell. Just Ms Mitchell.

19                 Constable, I wonder if you would withdraw to the  
20          witness room while I hear a submission.

21          A. Thank you, sir.

22                 (Pause).

23          LORD BRACADALE: Yes, Ms Mitchell, if you come to the table  
24          please.

25



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1 Application by MS MITCHELL

2 MS MITCHELL: Yes. The first issue I would like to explore  
3 with the witness is whether or not he remembers  
4 Chief Inspector Nicola Shepherd coming into the canteen.  
5 Now, this witness did arrive a little later than others  
6 and it may be that he didn't, but if he does remember  
7 Chief Inspector Nicola Shepherd coming in, whether or  
8 not he remembered her speaking to them and if so, what  
9 did she say.

10 The Inquiry might remember that they have already  
11 heard evidence that Chief Inspector Nicola Shepherd had  
12 a conversation where she said people should give  
13 statements -- I'm paraphrasing -- but also saying that  
14 the family has a right to know what happened, so it's to  
15 find out whether or not this witness recalls that.

16 LORD BRACADALE: I recall the evidence that it was -- was it  
17 accepted that she did say that?

18 MS MITCHELL: Yes, I think it --

19 LORD BRACADALE: So the Inquiry has that evidence. I don't  
20 think it is necessary to hear it from another witness,  
21 particularly one who was much later in arriving.

22 MS MITCHELL: Well, as I say, he may or may not have been in  
23 and I would like to ask that question, but I hear what  
24 the Inquiry says.

25 The next question that I would like to ask, this

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1 witness has already indicated that he has knowledge, or  
2 he has an awareness of stereotyping and of course the  
3 Inquiry has already heard of a number of descriptions  
4 which have been made available and the Inquiry has  
5 already heard them, in fact in relation to a number of  
6 other witnesses Senior Counsel to the Inquiry went  
7 through this list, including: could be part of  
8 a terrorist plot, muscular build, how crazy he looked,  
9 "I've never seen a more frightening crazy man in my life  
10 and I could see he was completely out of control", and  
11 I was wishing to put to the witness whether or not he  
12 recognised these as potential stereotypes of a black  
13 man.

14 LORD BRACADALE: Was there anything else?

15 MS MITCHELL: Those are my questions.

16 Ruling

17 LORD BRACADALE: I think having already had a substantial  
18 amount of evidence in relation to stereotyping and  
19 taking into account what this witness has already said  
20 about stereotyping, I think I have sufficient material  
21 and it wouldn't be necessary to explore this further  
22 with this witness.

23 Thank you, Ms Mitchell. If you would like to return  
24 to your seat, please.

25 (Pause).

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1 Ms McCall, do you have any matters?

2 MS MCCALL: I have two short matters.

3 LORD BRACADALE: Do you want to come to the table and tell  
4 me about them, please.

5 (Pause).

6 Application by MS MCCALL

7 MS MCCALL: The first matter, sir, is in the transcript at  
8 page 12 Senior Counsel to the Inquiry asked Constable  
9 McDonough about whether he had attended any knife  
10 incident where restraint was used and  
11 Constable McDonough asked what was meant by restraint  
12 and there was a discussion about that and then he  
13 provided a non-knife example of using the leg straps.

14 I'm aware he does have an example of a knife  
15 incident involving restraint if that would be of  
16 assistance to the Inquiry. It bears some similarities  
17 of multiple officers, a perpetrator actively resisting  
18 and requiring to be restrained and taken to the ground.  
19 So that was the first matter.

20 The second matter is one of clarification. At  
21 page 89 of the transcript, Constable McDonough was asked  
22 where he was when Mr Bayoh became unconscious and the  
23 ambulance was called. Now, he had already indicated  
24 that at that time he was holding Mr Bayoh in position  
25 and then got up and went and looked for the knife, but

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1 at page 89 he said he was at Poplar Crescent on traffic  
2 point, and I simply wanted to clarify with him whether  
3 that was -- which of those is correct, and the fact that  
4 he let the ambulance through the cordon when he was at  
5 Poplar Crescent which suggests that he's got the  
6 sequence slightly wrong in his latter answer, so those  
7 are the two issues.

8 LORD BRACADALE: Now, it is 1.10. How long do you think  
9 that would take?

10 MS MCCALL: Five minutes or so.

11 LORD BRACADALE: Very well, we will try and do that now  
12 then, if you can rearrange the seats.

13 (Pause).

14 We can have the witness back, please.

15 Constable McDonough, your own counsel, Ms McCall,  
16 has some questions.

17 A. Okay.

18 LORD BRACADALE: Ms McCall.

19 PC JAMES MCDONOUGH (continued)

20 Questions from MS MCCALL

21 MS MCCALL: Constable McDonough, there are just two things  
22 I want to ask you about.

23 The first is that you were asked by Ms Grahame about  
24 whether you had been involved in any knife incidents  
25 that required restraint and I wanted to ask you about

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1           an example of such an incident, if you can recollect  
2           one, because the example you gave was not a knife  
3           incident earlier.

4           A. Yes. So it's quite difficult to think of one but I am  
5           aware that -- it was about a year ago I was involved in  
6           a knife incident. I was involved in the restraint,  
7           probably played a lesser part in the restraint because  
8           I was a CID officer at the time so I didn't have all my  
9           equipment on me at the time. The call to police was  
10          that a male had his arm almost cut off, essentially, and  
11          firearms officers were -- or a taser-trained officer was  
12          dispatched. However, there was a suggestion that the  
13          persons responsible had left the scene.

14          When the officers arrived, including myself, they  
15          found the injured male and identified where it had taken  
16          place and that was at the male's back garden. Locus  
17          protection was put in place. Locus protection is  
18          basically officers standing by a house for -- to make  
19          sure that nothing was being interfered with within the  
20          cordon tape. I was in a nearby neighbour's house  
21          getting a witness statement from them. There was two  
22          officers in locus protection and then a call came over  
23          the radio saying they have been approached by a male who  
24          appeared intoxicated, stating that he was responsible  
25          for causing injury to the male. They requested other

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1 units to attend, I have also made my way out and they've  
2 got a male in handcuffs to the rear. He appeared to be  
3 under the influence of something, of that I do not know,  
4 but whilst talking to him he said "The thing you're  
5 looking for is in my pocket", so I kind of took that to  
6 mean that it was a knife, so another officer who had  
7 already -- had gloves, he searched the male.

8 Once the knife was found, it was at that point he  
9 decided to -- I would just use the term kick-off,  
10 kicking out, he was spitting at officers, the usual  
11 verbal stuff like that and he was trying to bite  
12 officers as well. So at that point he was placed into  
13 the prone position and leg restraints were applied  
14 before being taken into custody.

15 I was involved in the restraint on the ground to be  
16 able to get the leg restraints on him before he was  
17 conveyed into custody.

18 Q. Had you seen him being handcuffed or had that happened  
19 before you arrived?

20 A. That happened before I arrived. I think as soon as --  
21 the impression I'm getting is as soon as he has  
22 approached officers and said "I'm responsible" -- he  
23 gave quite specific information about the attack, which  
24 led the officers to believe there was absolutely no  
25 doubt about it, it was him, so as soon as he approached

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1           them he was cuffed straight away. That's what I'm led  
2           to believe anyway.

3           Q. And once the knife was recovered and he started, as you  
4           put it, kicking off, how many officers did it take to  
5           get him to the ground and restrain him on the ground?

6           A. At least four. At least four.

7           Q. Let me come to a different issue, just to clarify  
8           something. You described when you were being taken  
9           through your PIRC statement and correcting the order of  
10          events of one part that at the point where Mr Bayoh had  
11          been rolled onto his left side and you were monitoring  
12          his legs, and he became motionless, that it was at that  
13          point that you got up and went and looked over on the  
14          grassy area.

15          A. Mm-hm.

16          Q. You were asked at a later stage about where you were  
17          when Mr Bayoh became unconscious and the ambulance was  
18          called, and at that later stage you said you were on  
19          traffic point at Poplar Crescent. Can I just ask you  
20          which of those versions is correct?

21          A. Sorry, that's probably been a mistake, maybe I misheard  
22          it. I believe that I was still with Mr Bayoh at the  
23          time when that request for the ambulance was made.

24          Q. Right. When you were at Poplar Crescent doing the  
25          traffic point, did you put the cordon tape across or

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1           someone else?

2           A. I think I assisted DS Davidson with that. I think she  
3           had the cordon tape and we helped each other because it  
4           was a windy day, so it needed two of us.

5           Q. And at the point when you were putting the cordon tape  
6           across, did you have to let a vehicle in?

7           A. Yes, it was the ambulance.

8           Q. So as you were cordoning off Poplar Crescent, the  
9           ambulance was actually arriving, is that right?

10          A. Yes, that's correct.

11          MS MCCALL: Thank you.

12                         Thank you, sir.

13          LORD BRACADALE: Thank you.

14                         Constable McDonough, thank you very much for coming  
15           to give evidence to the Inquiry. We're about to rise  
16           for lunch and you will be free to go then.

17          A. Thank you, sir.

18          LORD BRACADALE: So we will rise for lunch and sit at 2.15.

19                         (1.15 pm)

20   (The luncheon adjournment)

21                         (2.19 pm)

22          LORD BRACADALE: Now, Ms Grahame, who is the witness today?

23          MS GRAHAME: The witness this afternoon is Sergeant

24                         Scott Maxwell.

25          LORD BRACADALE: Good afternoon, sergeant.



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1 A. Good afternoon, sir.

2 LORD BRACADALE: You're going to be asked questions by  
3 Ms Grahame, who you have met, but before that would you  
4 say the words of the affirmation after me.

5 PS SCOTT MAXWELL (affirmed)

6 LORD BRACADALE: Ms Grahame.

7 Questions from MS GRAHAME

8 MS GRAHAME: Thank you. What's your full name?

9 A. Scott Maxwell.

10 Q. And what age are you?

11 A. 43 years old.

12 Q. And you're a sergeant?

13 A. Yes, that's correct.

14 Q. And how long have you been a sergeant?

15 A. Coming up for four years now.

16 Q. How many years' service do you have?

17 A. Coming up for 14 years.

18 Q. And for a while before you were made a sergeant, were  
19 you an acting sergeant?

20 A. That's correct, yes.

21 Q. How long did that period last?

22 A. Two or three years.

23 Q. So prior to four years ago?

24 A. Yes, yes.

25 Q. When you were fully promoted?

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- 1 A. Yes.
- 2 Q. And we will hear that on 3 May 2015 you were an acting  
3 police sergeant at that time?
- 4 A. That's correct, yes.
- 5 Q. Now, all of your contact details are known to the  
6 Inquiry so I won't be asking you to say those.
- 7 Have you had the chance to watch some of the other  
8 evidence?
- 9 A. Yes, I have seen some of the evidence so I kind of know  
10 what the ...
- 11 Q. So you will know that in front of you there's a black  
12 folder, and there are hard copies of statements in there  
13 for you to refer to at any time, and first of all.  
14 Let's look at PIRC statement 266 and this is a statement  
15 dated 4 June 2015, taken at 12.40. So this is around  
16 one month after the events, by Ross Stewart in the  
17 presence of Stuart Taylor at Tulliallan. Do you  
18 remember giving that statement to PIRC?
- 19 A. Yes, I do.
- 20 Q. And were you doing your best at that time to give a true  
21 and accurate record of what had happened on 3 May?
- 22 A. Yes, yes.
- 23 Q. And as well as that, did you have a satellite image that  
24 you were given -- if you could mark that up -- so that's  
25 COPFS 91. We will let you see that on the screen in

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- 1 a moment. It has some markings on it.
- 2 A. Yes, that's correct.
- 3 Q. And was that marked up by yourself?
- 4 A. Yes. I have signed and dated it, yes, I'm happy with  
5 that.
- 6 Q. Thank you, good. And then can we look at PIRC 267 and  
7 I think this is a self-penned statement which you  
8 provided to PIRC?
- 9 A. Yes, it was more notes that I made soon after -- a few  
10 hours after the incident.
- 11 Q. So a few hours after -- on 3 May 2015?
- 12 A. Yes, that's correct. It wasn't an official statement,  
13 it was more notes for myself.
- 14 Q. Right, and where were you when you prepared those notes?
- 15 A. In my home address.
- 16 Q. And do you remember what time it was?
- 17 A. It must have been early morning on the 4th. I can't  
18 recall exactly.
- 19 Q. So it was during the sort of early hours of the  
20 following day?
- 21 A. Yes, after a few hours' sleep.
- 22 Q. Okay. And again, although you said they're notes, were  
23 they your best recollection of the events on 3 May?
- 24 A. At that time, yes.
- 25 Q. And what did you do with those -- with those notes or

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1 self-statement, as it is called?

2 A. That was kept for my own personal use. I did provide  
3 a copy to Professor Watson, my legal representative,  
4 when they took over my representation, but other than  
5 that, it was for my eyes only.

6 Q. And did you give a copy to PIRC at some point?

7 A. Yes, I did. When I got my statement taken at Tulliallan  
8 I provided them with a hard copy.

9 Q. Thank you. And can we look at your Inquiry statement,  
10 number 44, SBPI 44. It is headed up "Response to Rule 8  
11 request", but you will know I'm calling this your  
12 Inquiry statement.

13 A. Yes.

14 Q. So this was in response to almost 100 questions from the  
15 Inquiry team, which you were then asked to collate  
16 a statement, or responses to those questions, you and  
17 your solicitors, and this is the statement that you sent  
18 in?

19 A. Yes, that's correct.

20 Q. And can we look at the last page of that, please. We  
21 will see a paragraph that says at the end of the  
22 questions:

23 "I believe the facts stated in this witness  
24 statement are true. I understand that this statement  
25 may form part of the evidence before the Inquiry and be

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1 published on the Inquiry's website."

2 And in light of that, you then have signed that. We  
3 don't have a copy of your signature, but your hard copy  
4 should contain your signature?

5 A. Yes, that's correct, that's my signature.

6 Q. And that was signed on 21 April this year.

7 A. Yes.

8 Q. Is that correct?

9 A. Yes.

10 Q. And also when you gave this statement to the Inquiry,  
11 were you doing your best to give a true and accurate  
12 record of the events of 3 May 2015?

13 A. Yes.

14 Q. Thank you. Now, the other thing that you might have in  
15 front of you is a spreadsheet to your left, and if you  
16 have watched any of the other evidence you may have seen  
17 I have been playing some footage of CCTV and Snapchat  
18 and dash cams, and this is a spreadsheet containing  
19 information of what was contained in the footage.

20 A. Yes.

21 Q. You will see on the left there's times, to the left of  
22 centre there's transcripts of Airwaves transmissions and  
23 just to the right of centre there's a sort of thumbnail  
24 sketch of what you see in the CCTV footage.

25 A. Yes, yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. So you can please feel free to refer to any of that  
2 during your evidence.
- 3 A. Thank you.
- 4 Q. Although I will put statement paragraphs up, it will be  
5 maybe one paragraph we see on the screen. If you want  
6 to refer me to something else, please just let me know.  
7 All right?
- 8 Can I ask you first of all how long you had been an  
9 acting police sergeant by 3 May 2015?
- 10 A. For around a year.
- 11 Q. Had you always been based at Kirkcaldy?
- 12 A. I was based at Kirkcaldy, however, part of the role to  
13 get experience is to go and cover at different stations,  
14 should another substantive sergeant be used for  
15 a specialism, I would go and fill in there and run that  
16 response team for that shift.
- 17 Q. And had you done that?
- 18 A. Yes, quite a lot, yes.
- 19 Q. But largely based at Kirkcaldy?
- 20 A. Yes, that's correct.
- 21 Q. And were you in charge of Response Team 4 on 3 May 2015?
- 22 A. Yes.
- 23 Q. And although you have talked about your acting -- your  
24 role as acting police sergeant, who was in charge of  
25 you, or who was your supervisor?

## Transcript of the Sheku Bayoh Inquiry

1           A. Police Inspector Kay, he was the patrol inspector for  
2           certainly my area and other areas around Kirkcaldy at  
3           that time.

4           Q. We may have heard he is based in Dunfermline, or was  
5           based in Dunfermline?

6           A. He can be. I believe he was based at Kirkcaldy that  
7           day.

8           Q. So he was present in Kirkcaldy Police Office that day?

9           A. I believe so.

10          Q. You believe so. Can I ask you about paragraph 11 of  
11          your Inquiry statement, please. You are asked about  
12          risk factors you considered and you say from memory, if  
13          I can see it -- no, I think that's -- I think I have  
14          maybe got the wrong paragraph number there. Can I ask  
15          you about -- it's not that paragraph. Can we move up  
16          please, Ms Wildgoose.

17                 I wanted to ask you about some equipment issues  
18          before we move on, so first of all, you were involved in  
19          the muster in the morning?

20          A. Yes.

21          Q. Tell us what a muster is.

22          A. What happens is I come in prior to the shift starting at  
23          handover from, it would have been the night shift  
24          sergeant. We have what's known as a log of everything  
25          that's happened which contains any custodies we have,

## Transcript of the Sheku Bayoh Inquiry

1           any domestic incidents, various -- it's just broken down  
2           into categories so it's a handover for me. It will tell  
3           me whether we have any actions that we need to continue  
4           from the night shift, if maybe someone has been arrested  
5           it requires interview or further inquiry done.

6           So I get that handover. I then work out who is  
7           working with who in terms of line up and allocate  
8           tasking out to them, and that sets up my muster and then  
9           I go into that muster and I will tell the officers  
10          what's happened last night, if there's any intelligence  
11          briefings we need to know of and task them out.

12         Q. And when you say task them out, does that mean  
13          allocating them tasks for the day?

14         A. Yes, so if we had a suspect we were looking for I might  
15          say to one of the units "Can I please allocate that to  
16          you, your job today will be to try and trace the suspect  
17          and interview and try and bring that to conclusion".

18         Q. So you are in charge but they have some autonomy in  
19          terms of how they carry out these tasks?

20         A. Yes. Effectively I'm in control of the team's business.  
21          Officers -- when I was an officer as well I've got  
22          autonomy, I make the decisions based on the legislation,  
23          law, human rights, et cetera. I carry out my duties due  
24          to that. I am there as sergeant to oversee if they  
25          maybe have a problem and need advice, if they're needing



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1           guidance on something. I'm there to deal with the  
2           bureaucratic admin side of it as well and the calls that  
3           are coming in, risk-assess them, along with the control  
4           room, just to manage the team as a whole, but the  
5           officers -- when they go to an incident, they are wholly  
6           responsible for their actions at that particular time  
7           unless I hear something, or whatever that I wish to come  
8           in and say "Look actually can we do it this way".

9           Q. You can intervene?

10          A. I can intervene, but the trust is there, they're fully  
11          trained, fully up to speed. When they go to an incident  
12          I shouldn't have to worry about what they are doing as  
13          such, they should know what they're doing.

14          Q. Okay. And from memory that day, was everyone present  
15          who was supposed to be present on the team?

16          A. Yes, that I can recall. I had all the staffing that was  
17          allocated to me on that day.

18          Q. And you said everyone was trained. Did they all have  
19          their officer safety equipment with them?

20          A. No one has approached me on that day stating otherwise.

21          Q. We may have heard -- the Chair may have heard some  
22          evidence that one of the officers did not have a baton,  
23          that a clip had been broken the week prior and it hadn't  
24          been ordered -- a replacement hadn't been ordered or  
25          hadn't arrived. So if someone did not have a baton,

## Transcript of the Sheku Bayoh Inquiry

- 1           which is obviously a piece of equipment, is that  
2           something they should draw to your attention?
- 3       A. Yes, it should have been.
- 4       Q. And how do they go about -- how would someone go about  
5           doing that? Would they just speak to you or --
- 6       A. They would approach me, yes, approach me and say -- and  
7           we'd try and source an alternative bit of kit (inaudible  
8           overspeaking) --
- 9       Q. And that's something that you could do?
- 10      A. I could certainly try, yes.
- 11      Q. If they could not source an alternative source of kit or  
12           they couldn't source a baton or a suitable clip, what  
13           should they be doing?
- 14      A. Well, to be honest if I had been told that and I had  
15           awareness of that it might have been that the -- we  
16           would have talked about other strategies in terms of  
17           officer safety, but we had a lot of staff on at that  
18           time and I could have moved that officer on to the diary  
19           car which is more appointment-based and least likely to  
20           get involved in a confrontation. There's no set purpose  
21           as such, there's no set technique, but it's ensuring  
22           that they're safe and if I had been told that,  
23           I potentially would have done that, rather than let them  
24           go out on the street.
- 25      Q. So you have a discretion as part of your role --

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- to allocate --

3 A. Yes.

4 Q. -- officers --

5 A. Yes.

6 Q. -- with one or other of the team?

7 A. Yes.

8 Q. Right. Can I ask you about the Airwaves transmissions.

9 Now, you may have heard some of this, if you have

10 watched any of the evidence, but at one point you made

11 a request for "All units to attend", for an ARV and for

12 a dog unit.

13 A. Yes.

14 Q. Maybe we could just look at the spreadsheet for the

15 moment, it might assist. If you look at page 2, at

16 7.17.23, and I wouldn't plan to play this unless you

17 want to hear it, but this says it is yourself, Acting

18 Police Sergeant Scott Maxwell:

19 "Control from 411, I want all units to attend that

20 bearing in mind officer safety is there an ARV and a dog

21 as well please."

22 A. Yes.

23 Q. And I would like to ask you about that. You have said

24 in your Inquiry statement you thought this was a grade 1

25 call. You classify -- that it was classified as

## Transcript of the Sheku Bayoh Inquiry

- 1 a grade 1, which meant immediate threat to life?
- 2 A. Yes.
- 3 Q. And so what was your understanding of the significance  
4 or the seriousness of that call about the man in --  
5 holding a knife?
- 6 A. The information that came over the radio was that there  
7 was a male in possession of a knife and that he was  
8 running about the street with it and that he had been  
9 chasing somebody. Soon after that I believe there was  
10 a second call come in corroborating that and that  
11 instance for me that is an immediate threat to life.  
12 I can go into it later on, but there's certain  
13 categories of knife incidents that I kind of work  
14 across, but for that being a Sunday morning, it was  
15 quite out of the ordinary, coming in, quite a concerted  
16 message that there's a male in possession of a knife,  
17 chasing somebody. That means immediately someone's life  
18 is in danger, no matter what if it had been fake call  
19 whatever, you receive that information, you don't deal  
20 with that lightly.
- 21 Q. Right. Can I ask you about that. You have talked about  
22 chasing somebody.
- 23 A. Yes.
- 24 Q. So that's an immediate threat to life.
- 25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Could you look at page 1, please, at 7.16.32 we see  
2 Con 1, so we have heard that this is the control room on  
3 the Airwaves transmission:

4 "I need you to divert to Hendry Road, a disturbance  
5 ongoing. Male armed with a knife. African looking male  
6 chasing someone maybe carrying a knife described as big  
7 with muscles."

8 I think I would like to play from this point,  
9 please, so this is the evidence video timeline from  
10 7.16.32. It's just prior to that, you will hear it  
11 coming on, so you can read the transcript and we will  
12 play through to 7.17.10.

13 (Video played)

14 Thank you very much. So you will have heard both of  
15 those messages.

16 A. Mm-hm.

17 Q. Now in the first one -- you have told us just a moment  
18 ago that your understanding was that a male armed with  
19 a knife was chasing somebody?

20 A. Mm-hm.

21 Q. When you listened to the transmission at 7.16.32 on  
22 page 1 of the spreadsheet, we have also heard that this  
23 is someone reading off a screen:

24 "I need you to divert to Hendry Road a disturbance  
25 ongoing. Male armed with a knife, African looking male

## Transcript of the Sheku Bayoh Inquiry

1           chasing ..."

2           And then there's a pause and then it says "someone  
3           may be carrying a knife" and then it says "described as  
4           big with muscles". You're telling us today your  
5           recollection is that someone was chasing somebody with  
6           a knife. Was that your understanding of that message?

7           A. Yes, they were being chased and also there was a male in  
8           possession of a knife, yes.

9           Q. So was it -- but did you understand that message to be  
10          someone was chasing -- a male armed with a knife was  
11          chasing somebody?

12          A. Yes. That was my understanding.

13          Q. That was your understanding at the time.

14          A. Yes.

15          Q. If your understanding at the time had been that he was  
16          just chasing cars or maybe just walking around the  
17          street with a knife, would that have made a difference  
18          to how you graded the call?

19          A. Not really, no.

20          Q. You would still have seen that as immediate threat to  
21          life?

22          A. I would still have seen it as immediate threat to life.

23          Q. So immediate threat to life and you make a request for  
24          all units, the ARV and the dog unit.

25          A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. And in making that request what was your intention, why  
2 did you ask for those things?

3 A. One of the jobs as sergeant as well, I have to plan for  
4 every contingency. My thinking in that is that if I had  
5 an armed response vehicle or a dog unit and it was close  
6 by, that they could maybe potentially come in and deal  
7 with the situation along with us. There's different  
8 tactical options, different ways that could have come to  
9 a conclusion. Also, when we arrived there it may have  
10 been a stand-off situation potentially, may have been  
11 suicidal, might have been a cry for help, so there's  
12 different ways -- when that call came in I didn't  
13 immediately think that's what was going to happen, but  
14 you've got to account for all different possibilities  
15 and having the specialisms of an armed response vehicle  
16 or a dog helps with those tactical responses and also  
17 for officer safety and for keeping the public safe as  
18 well.

19 Q. So how can it help with officer safety?

20 A. Well, again, it depends how it pans out. If a dog is  
21 with you at the scene or locus, the dog may be able to  
22 go and deal with the individual rather than a human  
23 being having to go and deal and see if they can bring  
24 that to a conclusion. It's just different tactics  
25 rather than officers having to go face-to-face with

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1           anybody, and again, these specialist officers are  
2           trained in this and obviously the control room is also  
3           trained in this, firearms commander, et cetera, so if  
4           they were available the potential that they would take  
5           over on scene and they would deploy their tactics. It's  
6           not up to me per se to deploy and use their specialism,  
7           they would then -- I would seek advice from them when  
8           they arrived.

9           Q. So having them on the scene gives you a wider range of  
10          tactical options, including them taking over -- taking  
11          charge --

12         A. That's correct.

13         Q. -- or taking command? And you said if they were close  
14          by so what do you mean by that?

15         A. It (inaudible) centralised and we're kind of depending  
16          on where the shifts were starting, et cetera, it would  
17          depend on the availability of specialist resources, so  
18          one of the reasons that I did shout up is to obviously  
19          find out where and if there was anyone on duty at that  
20          particular time to assist us in that.

21         Q. Can I ask you to look at PIRC 266, which is your PIRC  
22          statement, page 3, paragraph 11, so that's right at the  
23          bottom of the page.

24         A. Mm-hm.

25         Q. And you say -- right, sorry, three up:



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1            "I also remember asking the controller about the  
2            availability of an ARV ... and a dog unit, and that was  
3            basically to assist my officers and through experience  
4            I know that knife incidents may result in a stand-off  
5            situation and/or hostage situation and that ARVs and dog  
6            unit are maybe more appropriate.

7            "The initial response I got back was that it would  
8            be checked. I remember it took me several radio  
9            transmissions to have my request acknowledged.  
10           I remember about 5 minutes later the same male  
11           controller advised me that there was no ARV on duty and  
12           that there was a dog unit on duty and would be attending  
13           this call. This reply came when I was off at locus."

14           And we will leave that there for the moment. So  
15           your understanding was that there was no ARV on duty  
16           that day?

17           A. At that particular time, yes.

18           Q. Right. And -- but there was a dog unit on duty and they  
19           would be attending?

20           A. That was when I was at the actual scene by then, but  
21           there had been no confirmation from any of the  
22           controllers stating that there was one en route.

23           Q. Right. Can I ask you to look at the spreadsheet again  
24           please, so page 2, I referred you to 7.17.23, that was  
25           your initial request for all units, ARV and dog unit and

## Transcript of the Sheku Bayoh Inquiry

- 1           then we see at 7.19.12 you say:
- 2           "Control from 411 is there any update from ARV or  
3           dog units over?"
- 4           So that was you seeking an update from your original  
5           request and then 7.19.17, Con 1:
- 6           "I believe a dog unit is en route."
- 7           Which confirms what you have said and then Con 2:
- 8           "411 be aware organising an ARV as well, stand by."
- 9           So what was your understanding of that phrase "Be  
10          aware organising an ARV as well"?
- 11         A. Yes, that to me confirms that there's no confirmed  
12          resource been allocated to the call. They're trying to  
13          resource one or find one.
- 14         Q. So if there had been one confirmed, what would you have  
15          expected control to say to you?
- 16         A. Just confirming that a certain call sign is available  
17          and they're making their way from X, Y, Z, ETA X amount  
18          of minutes.
- 19         Q. So where with the dog unit they have said "I believe  
20          a dog unit is en route"?
- 21         A. Again, that wasn't confirmed.
- 22         Q. So what did that mean when you say not confirmed?
- 23         A. Well, "I believe a dog unit en route" isn't "a dog unit  
24          is on its way". It's not a confirmation.
- 25         Q. And as a confirmation about a dog unit, what information

## Transcript of the Sheku Bayoh Inquiry

- 1           would you have expected?
- 2           A. Again, I would have expected from control "Sierra Delta  
3           12 is en route, it's currently in Edinburgh, 40-minute  
4           ETA", and then that's a rubber stamp to say there's  
5           definitely resource on the way.
- 6           Q. So the identifying number and then an estimated time of  
7           arrival?
- 8           A. Some form of communication to say that they're en route.
- 9           Q. So this -- in relation to both the dog unit and the ARV  
10          there was no clarity on that --
- 11          A. No.
- 12          Q. -- as far as you were concerned. So in terms of your  
13          approach to this situation and your mindset, what did  
14          you think the situation was with the dog unit, the ARV,  
15          the sort of specialist resources?
- 16          A. I didn't believe they had been allocated so we didn't  
17          have them available.
- 18          Q. Right, so you were approaching this incident --
- 19          A. Without that support.
- 20          Q. Without that support. And had there been that support  
21          available, had you had that clarity in relation to the  
22          allocation and the estimated time, what difference would  
23          that have made to the way you approached this incident?
- 24          A. Well, certainly I -- as I said earlier in terms of  
25          officers having autonomy, we still need to go to the

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1 locus and ascertain what's going on. I have asked for  
2 the dog unit and the ARV as a tactical option as well.  
3 The fact that they were 40 minutes away, if they had  
4 been available, would still negate of them being readily  
5 available. Officers have decided to engage Mr Bayoh at  
6 that time rather than communicate, so for me there's  
7 nothing much else I can do as a supervisor in that  
8 situation: I've got an ARV, dog unit requested, there's  
9 no confirmation, officers en route to scene. The main  
10 thing for me is that I have staffing available, I've  
11 got -- I have requested the resources to assist, and  
12 effectively that's me managing what I can do at that  
13 particular time.

14 Q. So you have effectively reached the limit of your  
15 authority?

16 A. Yes.

17 Q. And when you use the words "readily available", how  
18 close would those specialist resources have to be for  
19 them to be readily available?

20 A. Well, again it depends on the circumstances and the  
21 circumstances in this particular incident have played  
22 out pretty quick, but if the subject had had a knife and  
23 engaging with officers, 40 minutes might be plenty of  
24 time. It really just depends on what we're faced with.

25 Q. When you say "engaging", what do you mean?

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1       A. Well, in terms of if the subject is in control in terms  
2       of they're speaking to officers, maybe they've got  
3       the knife -- if they're suicidal they've got the knife  
4       at their own neck, or they are just standing contained,  
5       but police have got some sort of verbal control,  
6       et cetera, keeping their distance, then a dog unit or an  
7       ARV could potentially make it in time to then affect  
8       their tactical options in dealing with the person.

9       Q. So depending on the circumstances, there could have been  
10      a period --

11     A. Yes.

12     Q. -- where they waited for those specialist resources, but  
13      it would be dependent on the circumstances?

14     A. Absolutely the way in which it plays out. Every  
15      situation is unique.

16     Q. There's something else that you mention in your PIRC  
17      statement I just want to ask you about before we move  
18      on. PIRC 266, page 4, paragraph 1. You mention you  
19      don't remember when the last time your CS spray was  
20      weighed or indeed if it has been weighed at all:

21             "I've never heard of officers having their CS  
22      canisters routinely weighed. I know now that PAVA  
23      canisters are weighed daily by the officers themselves  
24      and record their weights on a pro forma ... retained in  
25      a team folder in the briefing ... basically down to the

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1 individuals' honesty."

2 Could you explain a little bit about this. We have  
3 not heard any evidence so far about weighing.

4 A. Yes, I mean the CS it was more -- you had your CS, you  
5 would sign that and then out to say that you had taken  
6 that out of the controlled police building and then it  
7 is signed back in at the end of the evening. I can't  
8 recall there was any requirement to have that weighed.  
9 PAVA was different where we had to sign it in and out  
10 and clarify the weights in and out as well.

11 Q. Right. And in May 2015, was it your understanding that  
12 there was some sort of weighing process being carried  
13 out?

14 A. Yes. And there were some were still on CS were signing  
15 in and out because it was just being introduced then.

16 Q. Thank you. And did you understand that it would have  
17 been possible for the area control room to take command  
18 of the incident as it panned out in Hayfield Road?

19 A. Yes. I mean certainly -- if it turned in -- or it had  
20 been declared a firearms incident then yes they would  
21 have taken ownership of that. Again, as it panned out  
22 in this particular circumstance, it happened in a matter  
23 of minutes and for any ownership such as my  
24 management -- the management of the overview, it  
25 happened that quick that personally I can't see how we

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1           could have affected much more, other than the officers  
2           being autonomous and dealing with it within their  
3           training.

4       Q.   So prior to the -- I would like to get an understanding  
5           of your ability to control a situation before you have  
6           actually even arrived at the scene?

7       A.   Okay.

8       Q.   What does it mean to be in charge, or in command of  
9           a situation that's ongoing, before you even actually  
10          arrive yourself?

11      A.   Yes, as I said earlier, it's about making sure that you  
12          have the correct amount of staff to go to it.  If it had  
13          been vandalism at a primary school, one unit would  
14          suffice; someone in possession of a knife it's as many  
15          officers as we can get, because it's not just a case of  
16          this particular person may be in one area, they could  
17          have moved so we need area search, containment  
18          potentially, different type of tactics, so I've got to  
19          look at that.  I've got to look at specialist resources,  
20          ensure that the officers stay safe and obviously  
21          risk-assess the area in which it's in as well, so I'm  
22          just keeping a complete overview, I'm looking at other  
23          factors such as -- you know, has someone left the  
24          hospital, especially what the time of day it is as well.  
25          There's numerous factors you need to look into, but

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1           ultimately, until we can get there and actually see  
2           what's going on and I have some feedback or whatever it  
3           might be, it's difficult to get a complete overview.  
4           I mean I could have said to them "No one go near that  
5           area". However, we need to see what's going on at that  
6           particular time.

7           Q. Is it possible for you to say to officers "I want you to  
8           wait, to hold back and observe what's going on"?

9           A. I mean potentially I could have said that, yes.  
10          However, as I said before, officers that were  
11          attending -- heading there are extremely experienced  
12          officers and they know what to do in that set of  
13          circumstances. They know that when they get there if  
14          it's a situation they can't deal with, or they feel that  
15          I need to know about straight away, they would contact  
16          me over the radio or let control know.

17          Q. So it's open for all of those officers to provide, we  
18          have heard it called feedback?

19          A. Well, some sort of feedback, sort of -- what I would  
20          normally do is when I got to a scene I would say "That's  
21          me here, I can see a particular individual, they're in  
22          possession of -- they're not in possession", et cetera.  
23          Some sort of feedback. However, in this case officers  
24          have deemed it suitable enough to go and deal with the  
25          incident and have approached Mr Bayoh by themselves



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1           without providing any feedback to myself or the control  
2           room.

3           Q. We have heard evidence that there wasn't feedback to the  
4           control room but also other officers in the area, such  
5           as yourself --

6           A. Yes.

7           Q. -- can also hear those Airwaves transmissions. We have  
8           also heard that the officers who attended were  
9           up-to-date in their training?

10          A. Mm-hm.

11          Q. So it sounds like you are relying to some extent on  
12          their training and their experience to allow them to act  
13          with autonomy when they arrive at the scene?

14          A. I wouldn't use the word "relying". They're trained  
15          professionals. I supervise a team of trained  
16          professionals. I'm not relying or hoping that they will  
17          deal with it; I know that they will deal with it  
18          professionally.

19          Q. Okay. And you might be two or three minutes behind  
20          those officers?

21          A. Yes.

22          Q. So what are your expectations of the officers when they  
23          first arrive at a scene?

24          A. Well, again, as I have said, the two officers that did  
25          arrive first at the scene were extremely experienced and

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- 1 I had full trust in them.
- 2 Q. We have heard they may have been the most experienced?
- 3 A. Yes, they were, they were. Now, through all that
- 4 experience I was very confident in their assessment of
- 5 what the situation would be and I was confident that
- 6 they would deal with that situation in a professional
- 7 manner and let me know if there's anything in particular
- 8 I need to know about straight away, (a) for other
- 9 officers attending but also for me and to be recorded on
- 10 our call card system which you have seen, which is here.
- 11 Anything that's pertinent should be recorded on this for
- 12 circumstances such as reviews, et cetera, or review of
- 13 training progress.
- 14 Q. Things like the Airwaves transmissions?
- 15 A. Yes, yes. Now, they have decided to engage Mr Bayoh.
- 16 Officers knew -- they shouted out that they were at the
- 17 scene, at the locus, and the way they have dealt with it
- 18 they have -- they thought they could deal with it
- 19 initially and they haven't shouted back up, but
- 20 personally I would have preferred some form of feedback
- 21 to say "We're here, we can see this, we're going to get
- 22 out and engage", and that sets the scene to everybody.
- 23 Q. So we have heard you weren't present at the scene at the
- 24 time they arrived?
- 25 A. No.

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1 Q. And we have heard from the control room that they needed  
2 eyes on the ground --

3 A. Yes.

4 Q. -- to be able to see what was happening. And they  
5 wanted that so they could get more information to  
6 process that through this National Decision-Making  
7 Model.

8 A. That's correct.

9 Q. And is that the sort of thing that you're also doing,  
10 getting more information in --

11 A. Yes.

12 Q. -- to then go round the National Decision-Making Model?

13 A. Yes, that's correct. The more information we have at  
14 our disposal, the more informed decisions we could make.

15 Q. So although you were confident in your officers and  
16 their assessment, you would have liked further  
17 information from them --

18 A. As I said, I would have liked that. It's not necessary  
19 because if you were -- if every officer was to go to  
20 every call and give you feedback you wouldn't get  
21 anything done because there's calls coming in "I'm here,  
22 I'm doing this, I'm doing that", but on this particular  
23 call I might have expected some form of feedback.

24 Q. Because this is a grade 1 call?

25 A. Yes.

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1 Q. And you have called for an ARV and a dog unit and all  
2 units?  
3 A. That's correct.  
4 Q. So it is a high priority call?  
5 A. Yes.  
6 Q. Which you have considered to be an immediate threat to  
7 life?  
8 A. That's correct.  
9 Q. So basically, would you expect as much information to be  
10 shared as possible --  
11 A. Yes, yes.  
12 Q. -- in those circumstances?  
13 A. As much as I can, based on the circumstances that the  
14 officers are met.  
15 Q. And although you have told us earlier that you can issue  
16 instructions prior to your arrival, would you have  
17 considered that appropriate without any feedback from  
18 the officers on the scene?  
19 A. Again, I had worked with the team for a while, I covered  
20 the team so I know how each individual works. If it had  
21 maybe been two probationers new to service that were  
22 teamed together and had gone into a situation like that,  
23 I would have been more vocal, but again, it's down to  
24 experience and trust of the professional officers that  
25 you have at your disposal. When they have gone I felt

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1           confident that I had my best people going to deal with  
2           that and that they would pass back what was pertinent to  
3           me to help -- they obviously knew that the request had  
4           been made for specialist resources and other officers  
5           were en route as well.

6           Q.   So they would know that you expect some feedback if they  
7           can?

8           A.   Yes.

9           Q.   And would they know that ACR expects some feedback?

10          A.   Yes, yes, as I say, it's not necessary, but again, it  
11          would probably be the best practice in terms of making  
12          everyone aware.

13          Q.   Can I ask you, you left Kirkcaldy Police Office to go to  
14          the scene at Hayfield Road?

15          A.   Yes.

16          Q.   And was that two or three minutes behind the others in  
17          your team?

18          A.   Yes, yes.

19          Q.   You mentioned earlier that you have quite a bit of  
20          discretion about who is put with who.

21          A.   Mm-hm.

22          Q.   Can you tell us, when you're pairing up the officers, we  
23          have heard that Walker and Paton went out together, we  
24          have heard that Tomlinson and Short went out together,  
25          Smith went with Good who was a probationer --

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1       A.  Mm-hm.

2       Q.  -- we have heard about Gibson and McDonough -- sorry,  
3       I'm forgetting -- and we have heard about Gibson going  
4       out with McDonough.  Is it you that decides who to pair?

5       A.  Yes, to an extent.  Like so PC Smith and Good, PC Smith  
6       was PC Good's tutor constable, so we try and keep them  
7       together as much as possible.  You try and -- the fact  
8       is you don't make judgments.  They're all professionals,  
9       they all know what they're doing, they're fully trained.  
10      Obviously some are more experienced than others and you  
11      try to marry up the experience, okay.  It might be  
12      a case where you've got two people just out of probation  
13      and you put them on together because they need to get  
14      the experience and they work together to build the  
15      expertise in their job role, so it's -- it is up to me  
16      essentially who goes out unless -- I was an acting  
17      sergeant at the time so I was covering.  Unless I'm left  
18      specific instructions saying "This pairing must work  
19      together, this pairing must work together", but there's  
20      no set formula for pairing officers together, and  
21      ideally you try and keep them together as much as  
22      possible because if they're dealing with a particular  
23      case and one of them goes off sick, the other person has  
24      knowledge of that case if they get hold of the suspect  
25      or have to take other statements, so it's best practice

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1 to offer best customer service that way.

2 Q. So continuity is important?

3 A. Continuity, if possible.

4 Q. From the outside you might think that someone very  
5 experienced should be paired with someone slightly less  
6 experienced to help bring that person on. That's not  
7 what you're saying, you're talking about marrying-up  
8 experience?

9 A. You can do. You can have -- marry-up experience but you  
10 can also have people that are out of their probation --  
11 I found it very useful when I was out of probation I was  
12 put in a car myself and I went out and dealt with  
13 incidents. I learned a lot quicker, I made mistakes,  
14 I did good work, but I learned a lot quicker. You work  
15 with someone a bit younger service than you, you feel  
16 that you are the person in charge and you develop a lot  
17 quicker in your understanding so it's not just about  
18 marrying experience, it's about building officers'  
19 confidence as well.

20 Q. So does that explain why Walker and Paton, the most  
21 experienced officers, were put out together?

22 A. Yes, I mean there were other reasons as well. They had  
23 certain casework they were doing. I tend to put them  
24 out on what's known as the 1-9 van crew. They're in  
25 charge of the warrants and they would go round and get

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1           the warrants as well because they had the custody van.  
2           So there's a lot of operational reasons as well which  
3           I won't go into today unless I have to, but really  
4           there's no specific formula. It's about your priorities  
5           at the time when you turn up.

6           Q. So there's not a simple answer to how --

7           A. No.

8           Q. -- you pair people?

9           A. No -- well, the simple answer for the tutor cop and the  
10          officer is for that reason, but other than that, there's  
11          no set formula.

12          Q. Not for the others?

13          A. No.

14          Q. And can I ask you to look at a message that was -- we  
15          have heard evidence about on page 3 of the spreadsheet,  
16          7.20.13:

17                 "Inspector Stewart area control room to the set  
18          attending. I am monitoring this obviously from an ARV  
19          perspective. If you get sightings of the male you need  
20          to make an initial assessment yourself and feed back  
21          through straight away and I will listen out on  
22          the channel."

23          And looking at that message, what does that say to  
24          you as an officer?

25          A. Well, that's the area control room inspector stating



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1           that he is looking for a bit of feedback, like I was,  
2           but also from an ARV perspective, he is a tactical  
3           firearms commander and from information that he would  
4           potentially get from the scene would determine whether  
5           or not that the ARV was required and it met the criteria  
6           to dispatch it to our area.

7           Q. And again, he is expecting feedback from officers on the  
8           scene?

9           A. Again, if needed.

10          Q. Can I ask you to have a look at paragraph 2 and  
11          paragraph 3 of your Inquiry statement, please. Let's  
12          look at 2 first of all. So here you are asked about the  
13          receipt of the call and the grade 1 call and the  
14          immediate threat to life. We have talked about that  
15          already.

16                 Can I ask you to look at paragraph 3, please, and  
17                 I would just like you to look at paragraph 2 of that  
18                 answer, first of all, and there's a reference to:

19                         "One unit alone would not have been sufficient to  
20                         carry out full street searches and once found to assess,  
21                         control, and contain the subject. I also had in mind  
22                         the 'Contact and Cover' principle."

23                         I would just like to ask you about the "assess,  
24                         control and contain the subject" and then the "contact  
25                         and cover principle". Can you explain to us what you

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1           meant by those phrases?

2           A. Yes, certainly. We obviously had the reports of a male  
3           in possession of a knife in that area, there's a mixture  
4           of main arterial routes to hospitals and housing  
5           estates, et cetera, so there's lots of different places  
6           that a potential suspect could move off into, so again,  
7           one unit alone -- and certainly I would have been  
8           irresponsible sending one unit alone to look for a male  
9           armed with a knife should anything happen and then I'm  
10          having to explain why I only sent one unit. So we're  
11          sending as many people as we can, to carry out a street  
12          search and then as we have talked about before,  
13          potentially to feed back and say where that person is,  
14          would it be possible to control and contain the subject,  
15          and contact and cover in terms of approaching the male  
16          from an officer safety point of view.

17          Q. So can you explain what you mean by contact and cover?

18          A. Contact and cover is effectively an officer safety  
19          technique whereby one officer may talk to the subject  
20          and try and gain their attention, while the other  
21          officer is coming at a different angle should they be  
22          required to restrain or use any other officer safety  
23          techniques, so effectively there's one person focused on  
24          one individual so it leaves that other officer --  
25          because if they both approach at the same side at the

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1 same time then there's the potential both could get  
2 injured or incapacitated, so it's an officer safety  
3 technique.

4 Q. So the officer in front of the subject will communicate  
5 with them or attempt to communicate with them --

6 A. Yes.

7 Q. -- ie speak to them?

8 A. Yes, in other words, there is a precautionary measure  
9 should it go wrong.

10 Q. If something goes wrong they can take a different angle?

11 A. They can take -- yes.

12 Q. And then "assess, control and contain", what does that  
13 mean?

14 A. Again, that would have been if it was in a position to  
15 do such-like, again, if the subject was standing  
16 stationary. It might be a case of we get out, we try  
17 and contact them, speak to them and other officers may  
18 form a form of cordon to try and keep them in that  
19 particular area, so it's not a risk to anyone else.

20 Q. How many officers would you need to contain one subject?

21 A. It depends on the location itself. It really is  
22 dependent on that. Where you are, how many officers  
23 you've got, the scenario I was thinking up in my head at  
24 that time is when you get somebody in a street scenario  
25 where you can have both ends closed. I mean, if they

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- 1           run through the garden, you know, at least you've got  
2           officers in that area who can then double back and come  
3           back and try and sort of trace them again. There's no  
4           easy answer to that one, but there's -- to form some  
5           form of cordon and show police presence.
- 6           Q. What about Hayfield Road, how many officers would you  
7           need to contain a subject in Hayfield Road?
- 8           A. You would need quite a lot, to be honest. To put a full  
9           cordon on, an inside and outer cordon, you're looking at  
10          over 20 officers.
- 11          Q. How many were in Response Team 4?
- 12          A. There was eight, I believe, and then obviously we could  
13          have got officers from other areas should -- if it had  
14          been required.
- 15          Q. That isn't something that you anticipated at that stage?
- 16          A. No. Again, very early stages of that, right in its  
17          infancy. Until you get there and see what's happening,  
18          it's very difficult.
- 19          Q. So again, it's very important to see what's happening on  
20          the ground?
- 21          A. Yes. I mean if every incident you were to ask for 20  
22          officers from another area, I don't think it would be  
23          favourably received.
- 24          Q. You wouldn't be very popular. Can we look at  
25          paragraph 5, please. You will see that's split into

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1 different paragraphs. You are asked about the  
2 perpetrator's race here:

3 "The race ... had no bearing whatsoever on how the  
4 incident was managed. I would have responded to  
5 a credible threat to life call in the same manner, no  
6 matter the description of the perpetrator.

7 "For the avoidance of doubt and because I know the  
8 Inquiry is going to examine this issue, I was aware of  
9 the threat level to national security and police  
10 officers as being severe and that there had been high  
11 profile incidents in relation to terrorism in the  
12 United Kingdom. However, my risk assessment at that  
13 time did not take terrorism into account and only would  
14 have if credible evidence was available."

15 I would like to explore this in more detail with  
16 you. You say that because you know the Inquiry is going  
17 to examine this issue you are mentioning the -- your  
18 awareness of the threat level?

19 A. Yes.

20 Q. So is that only because the Inquiry is going to examine  
21 it, or was this something that you considered on the  
22 day?

23 A. As I said, when the initial call came in, it's my job to  
24 think of every sort of avenue, contingency, what's going  
25 on, and obviously the nature of it with all the

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1           heightened security and terrorism, that did go into my  
2           mind, but, however, at that time there was no credible  
3           evidence to suggest that was the case until I actually  
4           arrived at scene and see what actually happens, mental  
5           health, death by suicide, different -- lots of different  
6           contingencies. If I wasn't doing that, I wouldn't have  
7           been doing my job right.

8           Q. And when you say "credible evidence", "only would have  
9           taken terrorism into account", "only would have if  
10          credible evidence was available", what is it you  
11          envisage by credible evidence?

12          A. Well, if the information that had been received had been  
13          terrorism-related. I mean there have been religious,  
14          you know, remarks or if the witnesses had been phoning  
15          in -- something that would indicate a terrorism threat.

16          Q. Right, and what did your risk assessment take into  
17          account if not race, if not terrorism?

18          A. Sorry, just repeat, my risk assessment --

19          Q. You said:

20                 "My risk assessment at that time did not take  
21                 terrorism into account and only would have if credible  
22                 evidence was available."

23                 So if your risk assessment didn't take race into  
24                 account and if it didn't take terrorism into account,  
25                 what did it take into account?

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1       A. It took into account that there was a male armed with  
2       a knife running through the streets chasing people.  
3       Again, which is not a -- it's a very rare occurrence and  
4       again, that was my main priority, making sure we had  
5       enough staff, specialist resources and trying to find  
6       the person first off, but, as I say, mental health, the  
7       terrorism part, you know, anything could have come into  
8       play there.

9       Q. Can I ask you to look again at your notes, 267, page 4.  
10      It is paragraph -- the paragraphs aren't easy to  
11      decipher.

12     A. Yes (inaudible overspeaking).

13     Q. But paragraph 3, I was going to say. We can go through  
14      from the beginning actually. You talk about the team at  
15      paragraph 2 being in shock and being upset. You see:

16                "On arrival at the canteen ..."

17                So you have mentioned that.

18     A. Okay.

19     Q. It is on the screen and you say you had:

20                "... not seen them so upset and in shock. They were  
21      in fear for their lives and the life of their fellow  
22      colleague PC Short who had been attacked by the male."

23     A. Yes.

24     Q. If we move down a little bit. And you say you were:

25                "... required: To give hugs and reassurance to male

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1           officers who were ... strong-willed and not easily  
2           phased."

3           And if we could move down a bit you say "They may  
4           never have seen their families again". And move down  
5           a little and then:

6           "I strongly believe that the officers involved were  
7           faced with an extremely hostile and dangerous situation  
8           and that the actions described to me were fully  
9           justifiable."

10          So fully justifiable, you understand that officers  
11          who use force have to justify that use of force?

12          A. Yes, there has to be full account of their actions.

13          Q. So the phrase "fully justifiable" is a reference to  
14          that?

15          A. Yes. They have looked at all other options and they  
16          have deemed it proportionate and necessary to use that  
17          force.

18          Q. Right. So you know that to justify the use of force  
19          they have to have used the minimum force necessary?

20          A. Yes.

21          Q. That it has to be proportionate, as you have just said?

22          A. Yes.

23          Q. And reasonable?

24          A. Yes, and necessary, yes.

25          Q. And then it goes on to say:



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1            "A part of me considered this to be  
2            terrorism-related incident based on recent intelligence  
3            and the threat level to serving police officers in  
4            the UK."  
5            A. Yes.  
6            Q. So it seems to indicate that you had considered that it  
7            was terrorism-related based on recent intelligence?  
8            A. Yes, yes. Again, these notes were made very early on in  
9            the morning after it. I don't consider that to be --  
10           I consider my PIRC statement to be more accurate. I did  
11           consider terrorism but I have maybe not said it in such  
12           an articulate way there.  
13           Q. Right. So you did consider terrorism and you say that  
14           was based on recent intelligence and the threat level.  
15           A. Yes.  
16           Q. Do you want to explain what you mean by that?  
17           A. The threat level being severe, basically indicating an  
18           attack on UK territory very likely. We were given  
19           safety briefings and as a supervisor I was made very  
20           clear to make sure my officers were following that for  
21           their own safety and to be aware of that and make sure  
22           they are complying with that, so again, that seed was  
23           planted as such in my head and obviously when that call  
24           came in -- to be honest it could have come in to any  
25           other call as well, of any large disturbance or anything

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1           like that, but it did come into this, to my risk  
2           assessment.

3        Q.    So it came into your mind?

4        A.    Yes.

5        Q.    It came into your risk assessment?

6        A.    Yes, yes.

7        Q.    And it may be suggested that if it's a terrorist  
8           incident that police officers are justified in using  
9           more force; is that something you would agree with?

10       A.    I wouldn't say justified in using more force, just based  
11       on it's terrorism. You still need to go and assess the  
12       situation. I wouldn't say that you have to immediately  
13       go and your threat level is up here (indicating).

14       Q.    So again, it's all about getting information at the  
15       scene?

16       A.    Yes, mm-hm.

17       Q.    And factoring that into your National Decision-Making  
18       Model?

19       A.    Yes, yes.

20       Q.    And for some officers we have heard evidence that they  
21       didn't connect this knife incident with terrorism. Do  
22       you think that that connection there that we see is  
23       because of your senior role as an acting sergeant?

24       A.    Yes, well, at the end of the day some of the officers  
25       were still young in service. The briefs I had got,

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1           et cetera, was to make sure that I look after the  
2           community in which we serve and officers and we do get  
3           messages in relation to that, keeping people safe, in  
4           terms of coming to their work in plain clothes rather  
5           than identifying yourself as a serving officer, so if it  
6           is in front of you a lot more, you will consider it.

7           Q. And that's the position you were in?

8           A. Yes.

9           Q. And then to go back to you when you're travelling  
10          en route, you went yourself?

11          A. Yes.

12          Q. You weren't paired with anybody that day?

13          A. No.

14          Q. And what car were you driving?

15          A. It was a marked Vauxhall Corsa.

16          Q. Do you remember what the colour of it was?

17          A. Just white with the police embossed markings.

18          Q. And as you travelled there, I think in your statement  
19          you said you became aware that Paton's emergency status  
20          had been switched on.

21          A. I now know that was Craig Walker. When the emergency is  
22          notified on your radio, in order to actually look and  
23          see who it is you need to actually take your eyes off  
24          the road and I just heard a male's voice which I thought  
25          to be Alan Paton at the time, but if I really wanted to

## Transcript of the Sheku Bayoh Inquiry

1 check I would have to take my eyes off the road which  
2 would be extremely dangerous so ...

3 Q. You're driving en route to Hayfield Road?

4 A. Yes.

5 Q. Your team have arrived already?

6 A. Yes.

7 Q. And you know that an emergency button has been pressed?

8 A. Yes.

9 Q. And did you know that one or two had happened?

10 A. I just believe it was one. I don't know sometimes on  
11 the radio if you press 2 there's already one activated.

12 Q. We have heard that Paton's button was pressed and  
13 Tomlinson's was pressed?

14 A. I only got the one notification through when I heard  
15 "officer down injured".

16 Q. Right. So let's look at the spreadsheet for a moment  
17 and you see on page 4 of this spreadsheet at 7.21.02, it  
18 says "Officers injured PC Short male". That's page 4 of  
19 the spreadsheet. Have you got that? And we have heard  
20 evidence that that was PC Paton.

21 A. Oh, right, okay. I've got this wrong, I thought it was  
22 PC Walker that made the transmission, but it was  
23 actually PC Paton.

24 Q. Well, let's listen to it --

25 A. Yes, yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Because --

2 A. I can't remember what --

3 Q. So that's 7.21.02 and you can tell us now what you  
4 think.

5 A. Yes.

6 (Video played)

7 Q. Can you just pause it there?

8 A. That's Alan Paton, yes.

9 Q. That's Alan Paton?

10 A. Yes, apologies.

11 Q. No, not at all, not at all. So you will see just  
12 shortly prior to that at the bottom of page 3 you will  
13 see in red it says PC Alan Paton's emergency status is  
14 turned on and that's at 7.20.42. Then the "Officer  
15 injured PC Short male" message on page 4 that we just  
16 listened to and then after that, 7.21.21, you will see  
17 PC Ashley Tomlinson's emergency status is turned to on.

18 Which one were you aware of?

19 A. It was the one by PC Paton, the very first one.

20 Q. The first one. You weren't aware of Tomlinson's being  
21 turned on?

22 A. No.

23 Q. And you were still driving to the scene at that time.  
24 When you realised an emergency button or emergency  
25 status is on, what was going through your mind at that

## Transcript of the Sheku Bayoh Inquiry

1           time?

2           A. It's obviously extreme worry. I knew it was either one  
3           of Alan or Craig who are my most experienced officers  
4           and who wouldn't use an emergency button unless there  
5           was something extremely wrong. I believe I shouted out  
6           where the locus was exactly, so I knew exactly where to  
7           go, and then basically because I was so close to it by  
8           then I just continued making my way to assess the scene  
9           myself rather than clutter the Airwave transmissions in  
10          case there had to be more emergency messages passed.

11          Q. Do you want to look at page 4, at 7.21.13 we see that  
12          your Airwaves transmission at that time says "What's the  
13          locus"?

14          A. Yes.

15          Q. Is that what you're just referring to?

16          A. Yes, yes.

17          Q. So this is after Paton's emergency status is on and the  
18          message "Officers injured PC Short" has been made so  
19          you're checking what the locus is at that time?

20          A. Yes.

21          Q. So you're still on your way there. Then I think  
22          7.21.48, which is on the next page, page 5, you say you  
23          are 30 seconds out, that's until you arrive at the  
24          scene, and then 7.21.55, you will see Stephen Kay:  
25                 "PS Maxwell can you arrive there and give me an

## Transcript of the Sheku Bayoh Inquiry

1 update please."

2 So at this point there's been no updates given and  
3 you have told us the importance to you of getting an  
4 update or feedback. You explained the ACR. Does it now  
5 look like Stephen Kay is actually looking for an update  
6 and he is asking you to give that?

7 A. Again, when you're sitting en route to an incident or in  
8 an office at that instance, you're trying to get as much  
9 information as possible to assist, so yes, it's likely  
10 he is wanting to know exactly what's going on.

11 Q. So why is he asking you specifically:

12 "PS Maxwell can you arrive there and give me an  
13 update please"?

14 A. I think what he means by that is because I have said  
15 "I'm literally at locus", he is wanting me to provide  
16 a supervisor's update to him as soon as I get there.

17 Q. What's a supervisor's update?

18 A. It's just -- I would say it would potentially give  
19 a more strategic situation of what's going on, what we  
20 might need resource-wise, who is injured, you know,  
21 anyone injured, life-threatening, so he can risk-assess  
22 as well.

23 Q. Right. So are you still in charge of things at that  
24 point, not Stephen Kay?

25 A. Again, the in-charge question is I'm in overall charge

## Transcript of the Sheku Bayoh Inquiry

1           of team 4. I'm aware an incident has happened, I'm not  
2           there yet, I don't know exactly what's happened,  
3           Inspector Kay is not entirely sure what's happened, so  
4           technically the charge is still at the locus with  
5           officers.

6           Q. With officers at the scene?

7           A. It's difficult to explain. Until I get there in some  
8           sort of supervisory capacity, I can't affect much.

9           Q. So until you see for yourself what's happening --

10          A. Yes.

11          Q. -- you can't really -- you don't feel in a position to  
12          change what's going on?

13          A. Well, I can't offer anything other than what I'm hearing  
14          as well as everyone else.

15          Q. All right, thank you. And is that the same for  
16          Stephen Kay and the same for the control room?

17          A. Yes.

18          Q. But you understood that from Stephen Kay's perspective  
19          he wanted you to give him an update when you arrived?

20          A. Yes.

21          Q. And then at 7.22.04 do we see just very shortly after  
22          that message from Stephen Kay, that Samantha Davidson  
23          provides an Airwaves transmission:

24                 "We're just approaching and I will give you an  
25          update."



## Transcript of the Sheku Bayoh Inquiry

- 1                   So you then -- did you hear that?
- 2       A. I can't actually recall if I heard that as such, it was  
3       that long ago. I don't know -- if I've not written it  
4       in my statement I can't ...
- 5       Q. It's 9 seconds after your message starts.
- 6       A. Potentially. I was driving in response mode at the time  
7       so ...
- 8       Q. And we have heard other people describe -- your using  
9       the phrase "Response mode", what does that mean for you?
- 10      A. Effectively you've got advanced driver training that you  
11      can drive up to 20 miles an hour over the speed limit to  
12      make progress to get to an emergency scene but within  
13      that training you've got to maintain a good overview in  
14      front of you so you can react to certain situations  
15      a lot more. It's to make sure you are making progress  
16      safely.
- 17      Q. Yes. And so you -- we have heard that DS Davidson and  
18      DI Connell were travelling, or DC Connell, sorry, were  
19      travelling together to Hayfield Road as well as everyone  
20      else?
- 21      A. Yes.
- 22      Q. And they are CID officers, is that right?
- 23      A. Yes. To be honest I wasn't even aware they were on that  
24      day. That was probably my ignorance of not checking  
25      that morning.

## Transcript of the Sheku Bayoh Inquiry

1 Q. No, that's fine. So this was news to you that they  
2 would even be at Hayfield Road?

3 A. Yes, I expected it just to be myself and my team.

4 Q. And then we see at 7.22.24 we see that Craig Walker  
5 gives an Airwaves transmission update:

6 "Male in cuffs still struggling."

7 Right. By this time, sorry, I should have pointed  
8 out at the top of page 5, 7.21.38, PC Smith has said:

9 "Officer has been punched to the back of the head.  
10 No obvious serious injuries. Male secure on the  
11 ground."

12 A. Yes.

13 Q. So he was already on the ground before you even arrived  
14 at the scene.

15 A. That would suggest so, yes.

16 Q. Can I ask you -- before I move on to you actually  
17 arriving at Hayfield Road, can I ask you about something  
18 in your PIRC 267, your notes, and I'm interested in  
19 page 2, paragraph 1. Paragraph 1, at the end of that  
20 paragraph, you say:

21 "I communicated the stay safe message to officers in  
22 attendance. This meant that officers should not engage  
23 unless absolutely necessary."

24 Now, these are obviously your notes but I'm trying  
25 to work out what your "stay safe" message was. Now,

## Transcript of the Sheku Bayoh Inquiry

1           we've got the messages on the spreadsheet and could you  
2           have a look through those first few pages and tell us  
3           which message of yours is it that you mean when you say  
4           you communicated your stay safe message.

5           A. I'm trying to see the exact one ... okay, it's the  
6           transmission at 07.17.23.

7           Q. 07.17.23?

8           A. Yes, I remind officers --

9           Q. So that's page 2 of the spreadsheet you say:

10                    "I want all units to attend that bearing in mind  
11           officer safety. Is there an ARV and a dog as well  
12           please."

13           A. Yes, during those notes that's what -- I believed I had  
14           sent out a more substantial stay safe message rather  
15           than that but that effectively was it. Officers -- more  
16           experienced officers would already know what they were  
17           going to, et cetera, and I have said that --

18           Q. So when you used the words "Bearing in mind officer  
19           safety", is that a sort of trigger --

20           A. Yes, yes.

21           Q. -- for other officers that they understand that officer  
22           safety is to be prioritised?

23           A. Certainly when I was -- well, still involved  
24           operationally, but any call that involves a knife  
25           it's -- you don't really need the stay safe message,

## Transcript of the Sheku Bayoh Inquiry

1           it's almost just me as a supervisor trying to get that  
2           across. I know if I'm going to any call I need to stay  
3           safe, but especially anything to do with a confirmed  
4           knife or a knife -- sometimes the control room send out  
5           a stay safe message as well, just depending on how  
6           things are moving.

7           Q. Okay. So we have still got the PIRC notes on your --  
8           the notes that you prepared, PIRC 267 on the screen.  
9           And you say:

10                 "I communicated the stay safe message to officers in  
11           attendance. This meant that officers should not engage  
12           unless absolutely necessary."

13                 And it is that last part that I'm interested in.

14           A. Yes.

15           Q. You said "Officers should not engage unless absolutely  
16           necessary". What did you mean by that?

17           A. Again, it's probably poorly worded. Part of the stay  
18           safe message is to approach if safe and engage if safe,  
19           that's what I meant to get across there. It's not  
20           saying that I'm telling you not to go anywhere near the  
21           subject. I think that's been -- that's not been put  
22           very well there, but basically it's -- if I go into that  
23           scene, I can look at the subject and go "Right, okay,  
24           I feel safe enough to start some dialogue or approach,  
25           I will do that."

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. So again, is it about the officers -- the individual  
2 officer making an assessment based on what they see at  
3 the scene?
- 4 A. Yes, yes.
- 5 Q. And for that officer to decide whether they feel it's  
6 safe to approach or --
- 7 A. Yes.
- 8 Q. -- or safe to engage?
- 9 A. Yes, yes. I would never say to an officer "Don't go and  
10 speak to them if I'm not there". It's up to them, risk  
11 assessment. When I was responding to calls I would use  
12 my training and risk assessment of a situation to know  
13 whether "Right, I'm not going anywhere near that", or  
14 I will stand off, or try and engage or approach.
- 15 Q. Would you at that time have felt comfortable in saying  
16 to an officer "Wait, observe from a distance" or "Stay  
17 back"?
- 18 A. Again, I could have, again sometimes when you're going  
19 to an incident like that you need to try and keep radio  
20 traffic down to a minimum. I had extremely experienced  
21 officers going to that and they might think I'm being  
22 overprotective by saying stuff like that.
- 23 Q. You don't want to be overprotective?
- 24 A. Well, as such sometimes I've said it myself, when you  
25 hear messages, "I know, I know, I know", but at the same

## Transcript of the Sheku Bayoh Inquiry

1           time it's -- again, I have the experienced officers  
2           there and I had no reason to think that they were going  
3           to do anything outwith their training or anything to put  
4           themselves at any risk.

5           Q.   Okay.  In terms of the words there, in what  
6           circumstances would it be considered absolutely  
7           necessary to approach somebody or engage with somebody?

8           A.   Officers should engage.

9           Q.   They should engage?

10          A.   If there's a possibility to bring the situation to  
11          an end quickly, swiftly.  If you get there and they've  
12          got a knife, or there's a knife next to them and you can  
13          safely say I could get to that knife before them, you  
14          could do that.  Again, I could sit here and talk to you  
15          forever about different scenarios, what ifs, what ifs,  
16          but if there's a member of the public that was in  
17          immediate danger I certainly would go and take action,  
18          but again, that's heavily risk assessed in your own  
19          head.

20          Q.   And can I ask you about communication.  We have heard  
21          a lot about having a discussion with somebody when you  
22          arrive, tactical communications we have heard about.  Is  
23          that the sort of engagement that officers can carry out  
24          or perform?

25          A.   It's one of the tactics, yes, absolutely.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Without actually approaching the person or --
- 2 A. Mm-hm.
- 3 Q. -- touching them or using any sort of force?
- 4 A. Yes.
- 5 Q. And is that something that's encouraged and prioritised?
- 6 A. Absolutely. We work on it in officer safety training.
- 7 The mark of trying to get a resolution to any scenario
- 8 is trying to get engagement with them. Some
- 9 circumstances don't dictate that, more extreme
- 10 circumstances, but if you've got a chance to engage with
- 11 them and speak to them then yes, ideal. You want to
- 12 speak to them, find out what the issue is, if there's
- 13 something we can help with and try and resolve it
- 14 without any further issues.
- 15 Q. Are there time limits on that type of engagement and
- 16 approach?
- 17 A. Well, not really. If the subject is cooperating and,
- 18 you know, is engaging with you, but if you've got
- 19 a subject who is not engaging and walking towards you,
- 20 running towards you, or running away from you, then
- 21 tactical communication's clearly failed.
- 22 Q. Okay. So what would you say when you have used the
- 23 words cooperation or engagement, if the person is
- 24 cooperating with you, what type of thing would you
- 25 expect to see in someone who was cooperating or

## Transcript of the Sheku Bayoh Inquiry

1           engaging?

2           A. Eye contact, answering your questions, potentially  
3           confiding in you, saying "Look, I don't want to speak to  
4           you, can I speak to a female officer", or vice versa.  
5           You know, there's some sort of engagement between the  
6           two, there's give and take, there's something going on  
7           there. It might be as simple as just yes/no answers but  
8           you can build on that.

9           Q. What if there's no eye contact or no verbal engagement;  
10          how long would you try to communicate?

11          A. Again, there's no prescriptive time. Again, if they're  
12          not causing any threat to me or any member of the public  
13          then I would continue, but it will get to some point  
14          however though you might have to take some more,  
15          you know, positive action to come to -- to bring it to  
16          resolution.

17          Q. What would happen to make that time occur where you have  
18          to then take positive action?

19          A. Well, I mean if you have been -- there's a process in  
20          terms of we might have got a negotiator out who is  
21          trained specifically to try and get a reaction, but  
22          again, that's all based on your subject being --  
23          complying. It might be the case that we've got other  
24          measures in place that by then you may have had a dog  
25          unit and an ARV present, so if they were to then become



## Transcript of the Sheku Bayoh Inquiry

1           assaultive or aggressive then you have got that tactical  
2           option. Again, there's no specific -- you just have to  
3           take each scenario uniquely.

4       Q. What if the person's not assaultive or aggressive, but  
5       isn't communicating verbally with you?

6       A. At the end of the day if they're not communicating and  
7       the negotiator is not working you might just have to go  
8       and put hands on. We don't know what's going on with  
9       that person, okay. We've got a duty of care to that  
10      person as well. Usually if they're not communicating  
11      like that there's potentially an underlying issue,  
12      whether it be alcohol, drugs, mental health, something  
13      like that.

14     Q. And is that something officers are trained to be aware  
15     of?

16     A. Yes, and it's something that they build up through their  
17     experience through being on the street as well and  
18     actually going out to calls.

19     Q. So experienced officers may be better able to identify  
20     those things?

21     A. I wouldn't -- that's a loose statement. However, you  
22     get some people that have maybe worked in a mental  
23     health background before, before joining the police, we  
24     can't discount that, but you can usually tell and it's  
25     more apparent as you get more service that you can

## Transcript of the Sheku Bayoh Inquiry

1           recognise that a bit better, but not always.

2           Q. Right, thank you. I would like to talk about your  
3           arrival at Hayfield Road. Can we look at 7.22.25 on the  
4           spreadsheet. So we're back to page 5 and you will see  
5           that the entry next to 7.22.25 says:

6                        "A smaller marked police car arrives at the scene  
7           approaching going north on Hendry Road towards the  
8           roundabout. The vehicle does a hard right just prior to  
9           the roundabout and stops just off the roundabout into  
10          Hayfield Road and just before another marked police  
11          vehicle that arrived earlier."

12                       I'm going to play the footage of this and I'm going  
13          to ask you some questions about it.

14          A. Sure.

15          Q. Thank you. So we will start at 7.22.25 and we will play  
16          to maybe 33, maybe 10 seconds, thanks.

17                                (Video played)

18                       Thank you. Did you see that vehicle arriving from  
19          Hayfield Road and turning right into Hendry Road on the  
20          wrong side of the road?

21          A. Yes.

22          Q. Who was that?

23          A. I can only assume that was myself from my statement.

24          Q. Yes.

25          A. I don't think I have ever ran that fast before though

## Transcript of the Sheku Bayoh Inquiry

1           but that's certainly -- I think that's me.

2           Q. You think that's you, your car?

3           A. Yes.

4           Q. And the person coming out of that car then runs towards  
5           the scene which is playing out slightly up  
6           Hayfield Road.

7           A. Mm-hm.

8           Q. Yes. And if we look onto page 6 of the spreadsheet at  
9           the very top, it says:

10                   "During this time the officer that exited the marked  
11           vehicle arrives at the other group of officers and  
12           appears to move around the group walking first towards  
13           the end of the group nearest the residential properties  
14           and then further round back towards the road."

15                   We may need to go back to 33 to just show that  
16           section. We will just play that.

17   (Video played)

18                   Did you see yourself?

19           A. Yes.

20           Q. Going round and then round to the -- we have heard the  
21           top of Mr Bayoh -- the head of Mr Bayoh was nearer the  
22           hedge; was that what you recollect?

23           A. Yes.

24           Q. And so that was your arrival at the scene and you were  
25           the fifth police car to arrive.

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Okay.
- 2 Q. And do we see on the reconstruction tile at the top, on  
3 the footage, that there is now a car sort of parked just  
4 to the right of the roundabout.
- 5 A. Yes.
- 6 Q. Behind a vehicle we have heard was called the diary car?
- 7 A. Yes.
- 8 Q. And that was your Vauxhall Corsa?
- 9 A. Yes.
- 10 Q. Thank you. Can I ask you to look at some images on a --  
11 3D reconstruction images. You will have seen with other  
12 witnesses that I have asked them to look at this.
- 13 A. Yes.
- 14 Q. And I would like to ask you some questions about what  
15 was happening when you arrived and it may assist if we  
16 look at still images 2, images 6 or 7, so let's look at  
17 6 first of all, please. So you will see that there are  
18 two cars on the left-hand side of this image. One  
19 parked on the markings of the road and near the  
20 roundabout and one parked slightly in Hayfield Road?
- 21 A. Yes.
- 22 Q. Near to the pavement. Now, looking at that car on the  
23 far left, closest to the roundabout, does that seem  
24 a reasonable indication of where you had parked?
- 25 A. Yes, I would say so, yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Yes, okay, thank you. And can you tell us when you got  
2 out of the car where was Mr Bayoh?
- 3 A. Do you want me to put --
- 4 Q. You can touch the screen and a red circle will appear  
5 and if you don't like the position, Ms Wildgoose will  
6 remove it.
- 7 A. He was lying on the pavement there, with his head  
8 nearest the bush, the south side, with his feet towards  
9 the northern end, nearer the road.
- 10 Q. Nearer the road. And which officers could you see when  
11 you got to that point?
- 12 A. It was Alan Smith, Ashley Tomlinson, Craig Walker,  
13 PC Paton and Daniel Gibson.
- 14 Q. So Smith, Tomlinson, Walker --
- 15 A. Smith, Tomlinson, Walker --
- 16 Q. -- Paton and Gibson?
- 17 A. -- Paton and Gibson, and I'm sure McDonough was in and  
18 around.
- 19 Q. McDonough. Tell us what they were all doing. Let's  
20 start with Smith.
- 21 A. I believe when I got there he was to the east side of  
22 Mr Bayoh, he was on his left side.
- 23 Q. So you have arrived from -- we see here the left-hand  
24 side.
- 25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. And we have heard that the pavement side is known as the  
2 south side?

3 A. Yes.

4 Q. And the grassy tree area is known as the north?

5 A. Yes.

6 Q. And so the west would be where the roundabout was?

7 A. Yes.

8 Q. And the east would be further along Hayfield Road where  
9 the hospital was?

10 A. Hospital was, yes.

11 Q. Right. So tell us -- thinking about Smith first of all,  
12 tell us where PC Smith was.

13 A. To the rest of my recollection he was kneeling down on  
14 the east side of Mr Bayoh, on his knees, nearer  
15 the head.

16 Q. Near the head.

17 A. Yes.

18 Q. And where -- what was he doing at that time?

19 A. I can't recall as such. I believe at that time he was  
20 in cuffs that I can recall and they were just making  
21 sure that he was stable and that he was supporting  
22 the head, I believe, to make sure that that wasn't  
23 subject to any banging or anything like that which is  
24 part of the hold process.

25 Q. So you're saying supporting the head and you're moving

## Transcript of the Sheku Bayoh Inquiry

1           your hands in front of you. The Chair might not be able  
2           to see that because of the screen.

3           A. Oh sorry. In a sort of supported manner.

4           Q. You've got your palms out in front of you?

5           A. Yes, just to make sure that during -- if there's any  
6           further struggle he doesn't bang his head.

7           Q. Right. Was there anything under his head at that point?

8           A. No.

9           LORD BRACADALE: Can I just understand that: are you saying  
10          that the officer had his hands under the head of --

11          A. I believe so, I believe so, when he arrived.

12          LORD BRACADALE: Which part of his head?

13          A. Just the back. Well, it was on his side, so it was just  
14          making sure it was safe, not touching the road, sort of  
15          ushering sort of motion.

16          LORD BRACADALE: Thank you.

17          MS GRAHAME: How was Mr Bayoh lying when you arrived at the  
18          scene?

19          A. He was on his left-hand side. I think he had just been  
20          put onto his left-hand side.

21          Q. Right. And which direction was he facing?

22          A. He was facing west, towards Gallaghers pub where  
23          I walked in from.

24          Q. And so you're telling us about PC Smith holding or  
25          ushering under his head?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And by this time you said Mr Bayoh had cuffs on?

3 A. Yes.

4 Q. Where was he cuffed?

5 A. To the front.

6 Q. His arms were to the front?

7 A. Yes.

8 Q. And you have said that PC Smith was kneeling near

9 the head area?

10 A. Mm-hm.

11 Q. Where was PC Tomlinson?

12 A. I think he was to his right-hand side on the east side,

13 so --

14 Q. Is that to PC Smith's right?

15 A. -- it was as if he was north of PC Smith.

16 Q. North of PC Smith.

17 A. Yes.

18 Q. And you have said PC Smith was at Mr Bayoh's head.

19 A. Yes.

20 Q. How is it that PC Tomlinson could be at his right but

21 north of PC Smith?

22 A. Well, if it PC Smith is at his head at the side, then --

23 so if he is here (indicating), PC Tomlinson is to his

24 right.

25 Q. Oh, so PC Tomlinson was to PC Smith's right-hand side?



## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. What area of Mr Bayoh was he --
- 3 A. I think it was like the upper chest, sort of rib --
- 4 waist area.
- 5 Q. Right. What was he doing?
- 6 A. He was down on his knees also. I think he was leaning
- 7 over, just stabilising him, Mr Bayoh.
- 8 Q. How was he stabilising him?
- 9 A. Just with his arms, just bringing them -- keeping them
- 10 in that position.
- 11 Q. On his left-hand side?
- 12 A. Yes.
- 13 Q. Where was PC Walker?
- 14 A. He was standing up at the time.
- 15 Q. Where was he standing?
- 16 A. I can't remember exactly if it was behind PC Tomlinson
- 17 or behind PC Smith.
- 18 Q. Right. Was he doing anything?
- 19 A. No.
- 20 Q. Where was PC Paton?
- 21 A. Again, standing up behind Smith and Tomlinson.
- 22 Q. Up towards the head area?
- 23 A. Yes.
- 24 Q. Doing anything at that stage?
- 25 A. No. Both were clearly under distress from it looked

## Transcript of the Sheku Bayoh Inquiry

1           like PAVA or CS contaminant.

2       Q.   So did they have red eyes?

3       A.   Yes, snotty, red eyes, teary.

4       Q.   PC Gibson, where was he?

5       A.   He was on the legs of Mr Bayoh.

6       Q.   When you say on the legs, what do you mean?

7       A.   In a hold, whereby I believe he had his weight on the

8           legs and he puts his arm underneath just to contain the

9           legs to make sure there's no kicking or further lashing

10          out.

11       Q.   And PC McDonough?

12       A.   I can't recall if he was down near the legs or he was

13          standing up at that time.

14       Q.   When you arrived you have talked about seeing handcuffs;

15          what about Fast Straps?

16       A.   I believe they were also applied.

17       Q.   So they had also been applied. Where to on Mr Bayoh?

18       A.   Down at the sort of ankle area.

19       Q.   Only the ankle area?

20       A.   That's the only one I can specifically recall.

21       Q.   Could you see his knee area?

22       A.   Again, I would have been able to see it. I can't recall

23          whether or not they were on at that time -- I knew there

24          was a strap on, but I don't know if there was two or

25          one, unless it's in my statement but --

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. What was PC McDonough doing?
- 2 A. As I say, I can't recall. Either he was down near the  
3 legs or he was standing just off to the side.
- 4 Q. At any time when you or after you arrived did you see  
5 Mr Bayoh in the prone position?
- 6 A. Not that I can recall, no, there was just on the side to  
7 the best of my recollection I arrived there, he has been  
8 moved up onto the -- he was getting moved onto the side  
9 sort of, like the recovery position.
- 10 Q. How long after you arrived did you become aware that  
11 Mr Bayoh was unconscious?
- 12 A. I would need to refer to my statement, but once I had  
13 ascertained that Mr Bayoh had been controlled and he was  
14 getting suitably looked after by PC Smith, I then went  
15 to see Nicole Short because I was aware she had been  
16 involved in the officer down scenario, so I believe it  
17 was when I came back from that that I had been made  
18 aware that he was unconscious.
- 19 Q. Right. So how long did you stand in the area of  
20 Mr Bayoh before you left to go and see PC Short.
- 21 A. It might have been 30 seconds, I can't really say  
22 specifically. Everything was going so fast. I was  
23 trying to take in everything at once.
- 24 Q. We have heard some people say it went very quickly?
- 25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. And they had difficulty judging the time?
- 2 A. Yes, that's -- the time is something that was out of the  
3 window.
- 4 Q. Right. So you arrived where Mr Bayoh was.
- 5 A. Mm-hm.
- 6 Q. You then went to see PC Short. Why did you not remain  
7 with Mr Bayoh?
- 8 A. I had PC Smith who was an officer safety trainer and  
9 first aid trainer was in control of the situation. He  
10 wasn't unconscious at that time and he was breathing.  
11 I know it sounds silly, but it seemed like a standard  
12 scenario at that time in terms of dealing with a custody  
13 that's kicked off. Conscious, breathing, just waiting  
14 on getting him into the custody van and I was aware  
15 obviously one of my officers had been injured so I had  
16 to then go and check on them to make sure if they were  
17 needing any medical assistance, and also I needed to  
18 know myself what was going on.
- 19 Q. So you have said you knew that Mr Bayoh was conscious --
- 20 A. Yes.
- 21 Q. -- and breathing. How did you know that?
- 22 A. Just by communicating with officers at the scene.
- 23 Q. Who did you communicate with?
- 24 A. I believe I spoke to PC Smith. I also spoke to  
25 Alan Paton as well, just to try and ascertain what had

## Transcript of the Sheku Bayoh Inquiry

1           actually happened. At this time I was still completely  
2           in the dark to what had actually went on there.

3           Q. What were you told by PC Smith, first of all?

4           A. I can't recall what he has actually said to me in  
5           terms -- I think it was just "Is everything okay? Are  
6           we needing any other staff? Is there any other  
7           assistance required?" and then it's that point where  
8           I have spoken to Alan Paton and he has said that the  
9           male had not listened to him and he had continued  
10          walking towards them and Nicole had been assaulted.

11          Q. Right. You have then -- when you were there at that  
12          point, did anyone tell you that Mr Bayoh had been prone  
13          for a period of time?

14          A. No.

15          Q. Did anyone say anything about thinking he was under the  
16          influence of drink or drugs?

17          A. No. That assessment really wasn't -- I didn't really  
18          ask those questions at that time. As I say, I just  
19          stopped, made sure everything was okay there and then  
20          moved off to check on PC Short.

21          Q. Did anyone say there was a question about whether he was  
22          having a mental health crisis?

23          A. Not at that time, no.

24          Q. And is there any reason you didn't think to ask those  
25          questions?

## Transcript of the Sheku Bayoh Inquiry

1       A. Mr Bayoh -- the subject was under control, he was  
2       conscious and breathing, there didn't appear to be any  
3       other questions I had to ask at that time. Again, split  
4       seconds and then went to check on PC Short, trying to  
5       gather a picture of what's happened here.

6       Q. When you saw that PC Paton and PC Walker had been  
7       affected by spray, did you ask any questions about the  
8       circumstances that gave rise to that?

9       A. Well, PC Paton had said that they had said to the male  
10      to stop and he had kept coming at them and they had  
11      sprayed and then PC Short had been assaulted.

12     Q. And did you ask for any more information about the  
13      spraying?

14     A. No, my priority at that time is to -- well, just to  
15      establish they're okay, but my priority at the time was  
16      to get to Nicole. I didn't know at this time whether  
17      she was in a heap, struggling to breathe or whatever.  
18      I had no information on that.

19     Q. Right. Did anyone volunteer at that time that Mr Bayoh  
20      had been batoned to the head?

21     A. Not at that time, no.

22     Q. No. So can I ask you to look at paragraph 11 of your  
23      Inquiry statement, please. So you say:

24                "The risk factor I considered on arrival was whether  
25      my officers had control of the perceived subject and

## Transcript of the Sheku Bayoh Inquiry

1           what risk he was presenting.

2           "Once I assessed whether my officers had control of  
3           the subject, who I now know to be Mr Bayoh, and  
4           determined that they did so, I then assessed whether the  
5           restraint of Mr Bayoh was causing a risk to my officers  
6           or himself.

7           "Once I was satisfied that the restraint was not  
8           posing a risk, the next issue I considered was what  
9           risks there might be to Mr Bayoh and the officers given  
10          that the locus was an active public road."

11         A. Yes.

12         Q. "Another risk factor I considered was the whereabouts of  
13          the knife."

14                 And his "... race played no part in my assessment".

15                 So you assessed whether the officers had control of  
16          Mr Bayoh, you determined they did so and you then  
17          assessed whether the restraint of Mr Bayoh "was causing  
18          a risk to my officers or himself", and you were  
19          satisfied the restraint was not posing a risk, either to  
20          the officers --

21         A. Mm-hm.

22         Q. -- or Mr Bayoh. Did you consider asking more questions  
23          about what had been happening prior to your arrival?

24         A. Again, my priority at that time -- once I had  
25          established that officers were in full control, there

## Transcript of the Sheku Bayoh Inquiry

1           was no injuries there, and from what I looked at at the  
2           time he was in handcuffs, in control and there didn't  
3           appear to be any risk to him at that time. My priority  
4           was to check on PC Short.

5           Q. If you had been given additional information by the  
6           officers at this moment about the use of spray, CS and  
7           PAVA, the baton to the head or body, would that have --  
8           and how he had got onto the ground and the restraint  
9           itself and being prone during part of the restraint,  
10          would that have affected your assessment of the risk to  
11          Mr Bayoh?

12          A. Potentially, yes. If I had known that he had been  
13          struck to the head with a baton, I would be getting an  
14          ambulance straight away.

15          Q. So if you had been provided with that information you  
16          would have -- how would you have sought that ambulance  
17          straight away?

18          A. At the end of the day it's any baton strike to the body  
19          would be significant, but if it's to a head, you know,  
20          with the brain, et cetera, the trauma that could cause,  
21          then unfortunately that's a high priority, we need to  
22          get that seen to.

23          Q. So if you had been given that information, how soon  
24          after you arrived at the scene would it have taken you  
25          to transmit for an ambulance?



## Transcript of the Sheku Bayoh Inquiry

1 A. Pretty much straight away.

2 Q. Straight away. Right, so you have said that in your  
3 state of knowledge at that time your priority was  
4 Nicole Short.

5 A. Yes.

6 Q. Tell us where she was.

7 A. I believe she was standing next to the custody van. She  
8 was sort of bent over, grimacing in pain.

9 Q. Where was she in relation to -- we have heard it called  
10 a Transit van, we have heard it called a custody van.

11 A. Yes, the Transit van. I can't remember exactly her  
12 location, if she was in front or just past it. I could  
13 just see her in the background.

14 Q. She was still out of the van?

15 A. Yes.

16 Q. So you went over to speak to her?

17 A. Yes, that's correct.

18 Q. And what was your assessment of her at the time?

19 A. Well, first off was to get some verbal response and see  
20 if she was okay. She was clearly in shock, shaken and  
21 I did a very quick visual survey to make sure there was  
22 no bleeding, or any other significant injuries, tried to  
23 ask her what happened, whereby she said that she has  
24 been attacked by the male, kicked and punched I believe.  
25 Again, with my assessment not seen anything immediately

## Transcript of the Sheku Bayoh Inquiry

1 wrong. It was just to try and get her -- because it was  
2 raining, to try and get her in the car and just get the  
3 ambulance, which I believe I shouted up for after that.

4 Q. You have said "kicked and punched"; are you sure she  
5 said to you at that time that she had been kicked and  
6 punched?

7 A. I can't recall exactly.

8 LORD BRACADALE: It is clear we're not going to finish this  
9 witness's evidence tonight. If you're now going to  
10 explore his dealings with Nicole Short, that might be  
11 an appropriate point to --

12 MS GRAHAME: I would be obliged. I'm sorry, I'm not going  
13 to finish today.

14 LORD BRACADALE: No, it's just about 4 o'clock.

15 So if you can come back tomorrow to continue with  
16 your evidence please, sergeant.

17 A. Certainly.

18 LORD BRACADALE: So we will rise now until 10 o'clock  
19 tomorrow.

20 (3.58 pm)

21 (The Inquiry adjourned until 10.00 am on Wednesday,

22 8 June 2022)

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Transcript of the Sheku Bayoh Inquiry

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