

Transcript of the Sheku Bayoh Inquiry

Friday, 10 June 2022

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(10.01 am)

LORD BRACADALE: Good morning.

Good morning, Dr Crawford.

We will continue with your evidence now, so

Ms Thomson, when you're ready.

DR RUDY CRAWFORD (continued)

Questions from MS THOMSON (continued)

MS THOMSON: Thank you.

Good morning, Mr Crawford.

A. Good morning.

Q. Yesterday afternoon I think we maybe went a little off topic and it was absolutely my fault, but what I would like to do this morning is get back on point and really focus on the matters that will help the Chair. I would like to look at any evidence that is available to the Chair for his consideration regarding any injuries to Nicole Short's back, and whether that evidence is consistent with the stamps as described and demonstrated by Constables Tomlinson and Walker.

We're going to do that this morning, you and I, by exploring three areas. Firstly, I would like us to look at Nicole Short's medical records and identify any entries that may be consistent with the stamps to her lower back or kidney area, as demonstrated. Then I'm

Transcript of the Sheku Bayoh Inquiry

1 going to invite your comment on the evidence given by
2 Mr Ian Anderson who expressed the view that the injuries
3 that he noted when he examined Nicole Short on
4 21 May 2015 were not consistent with the stamps as
5 demonstrated. And finally, we're going to look at your
6 Inquiry statement briefly and clarify your position for
7 the benefit of the Chair.

8 So we're going to begin by looking at some medical
9 records, Mr Crawford, and I understand that you would
10 ordinarily wear prescription glasses for looking at
11 medical records --

12 A. Correct.

13 Q. -- and you have perhaps left those behind this morning.

14 A. Correct.

15 Q. But you do, by happenstance, have a pair of prescription
16 sunglasses in your brief case.

17 A. Yes, yes, I'm very embarrassed about that.

18 Q. Please don't be, please don't be embarrassed in the
19 slightest. The most important thing is that you are
20 able to read the text in front of you. All of the notes
21 are in hard copy, we may bring some up on the screen,
22 but I'm going to ask you to simply look through notes to
23 identify entries for me, so if you would be more
24 comfortable doing so with your prescription sunglasses
25 on, then please feel free to pop them on.

Transcript of the Sheku Bayoh Inquiry

- 1 A. Thank you.
- 2 Q. So we don't need to bring these up on the screen just
3 now, Ms Wildgoose, but I'm going to ask you firstly,
4 Mr Crawford, to look at the accident and emergency notes
5 from 3 May 2015, and they will have a PIRC reference on
6 them, which is 01158. That might help you to find them
7 in the folder. It may be that Mr Bruce and Ms Pang
8 might be able to assist.
- 9 A. Yes, I have them.
- 10 Q. At the very beginning --
- 11 A. Yes, at the very beginning.
- 12 Q. -- there we are. There are only a few pages of notes
13 and what I will ask you to do -- there are only two
14 pages of handwritten notes completed by Dr Mitchell.
15 Can I ask you please simply to cast your eye over those
16 notes and identify any entries that are consistent with
17 stamps to Nicole Short's lower back or kidney area, as
18 demonstrated. Please take the time that you need to
19 read through the records. Please don't feel intimidated
20 by the silence.
- 21 A. Thank you. Thank you.
- 22 (Pause).
- 23 Q. Having read the notes, Mr Crawford, if you form the view
24 that there are no entries that would be consistent with
25 the stamps we saw demonstrated, please just tell me and

Transcript of the Sheku Bayoh Inquiry

1 we will move on.

2 A. Yes, I am familiar with the notes, but I was just
3 reading them again. There is no reference to any injury
4 or injury mechanism like that in these particular notes.
5 The only thing that I previously noted but which is not
6 directly relevant to stamps so I don't know whether I
7 should actually mention it -- is there's an entry on
8 a blank page here that's not annotated in any way but it
9 says "Query loss of consciousness, punches to back
10 head", and, you know -- which applies or suggests that
11 there was a head injury, but that's not related to
12 stamping.

13 Q. And the Chair heard from Dr Mitchell yesterday as to who
14 may have made that entry and the significance of it so
15 rest assured, that's not a matter that need concern you
16 today.

17 A. Okay, fine.

18 Q. So we can move on then from the notes from the accident
19 and emergency department on 3 May 2015 and we will look
20 now at the report and notes prepared by Dr Norrie, the
21 forensic medical examiner, who examined Nicole Short
22 later that day and again, what I'm going to ask you to
23 do, Mr Crawford, is look through these notes and
24 identify for the Chair any entries that you consider are
25 consistent with stamps to the lower back or kidney area,

Transcript of the Sheku Bayoh Inquiry

1 as demonstrated by the officers, and for present
2 purposes, I don't think we need to concern ourselves
3 with any entries to do with head injuries.

4 A. Sure, okay.

5 Q. Now, these have PIRC references 01310 and 01301. I'm
6 not sure where in your folder they will be.

7 A. Yes, I have them here.

8 Q. You have them?

9 A. Yes. So 01310 --

10 Q. 01310 is the type-written report.

11 A. Oh, right.

12 Q. 01301 are the handwritten notes that preceded it.

13 A. Okay.

14 (Pause).

15 Right, again, there are none.

16 Q. All right. Let's move on then to the records from the
17 accident and emergency department on 4 May 2015. They
18 have PIRC reference 01160. Are you able to find those,
19 Mr Crawford?

20 A. Yes, I've got them.

21 Q. Grand. Again, please take the time that you need.

22 (Pause).

23 You mentioned yesterday afternoon that you recalled
24 somewhere seeing a reference to --

25 A. Yes, it's in these records.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. -- paraspinal tenderness.
- 2 A. That's correct.
- 3 Q. It's here, isn't it?
- 4 A. It is. It was on the attendance at the emergency
5 department on 4 May 2015.
- 6 Q. Let's bring these records up, please, Ms Wildgoose.
7 This is PIRC 01160, and the relevant entry I think,
8 Mr Crawford, is on page 5.
- 9 A. Yes. It is a little bit lower down.
- 10 Q. Bottom right-hand corner.
- 11 A. There it is, that's it.
- 12 Q. There we are.
- 13 A. "Mild right paraspinal tenderness."
- 14 Q. Just to help those who are looking at the screen, that's
15 in the margin on the right-hand side of the page, is
16 that right?
- 17 A. That's correct.
- 18 Q. But if we look slightly to the left, do we also see
19 recorded:
- 20 "No C-spine tenderness FROM ..."
21 Which I think is full range of movement?
- 22 A. Full range of movement, yes.
- 23 Q. "... neck ... no T/L/S spine tenderness..."
- 24 A. Thoracic, lumbar or sacral spine tenderness or bruising.
- 25 Q. Thank you. And then in the margin "mild right

Transcript of the Sheku Bayoh Inquiry

- 1 paraspinal tenderness."
- 2 A. Yes.
- 3 Q. And that's the entry that you recalled ringing a bell
- 4 with you yesterday afternoon?
- 5 A. Yes, and that's the area -- these notes refer to
- 6 specific bony tenderness of the spine and that entry
- 7 refers to the muscles around the spine, in this case on
- 8 the right side, where I was referring to yesterday which
- 9 also coincides with the kidney area, you know, that kind
- 10 of area, and so I formed the view that that was
- 11 supportive evidence of an injury there and that could be
- 12 attributed to a stamp.
- 13 Q. I see. Am I right to understand that the paraspinal
- 14 muscles run from the top to bottom of the spine on both
- 15 sides?
- 16 A. Well, you're -- yes, but these ones actually run from
- 17 the lower thoracic area to the pelvic area, so these are
- 18 lumbar muscles, they're predominantly in the -- either
- 19 side of the lumbar spine, the ones that they're
- 20 referring to there.
- 21 Q. What makes you think that they're references to the
- 22 muscles in the lumbar spine?
- 23 A. Because -- well, it's in the entry where she is
- 24 examining the spine and it is right next to where she
- 25 says that there's no bony tenderness of the thoracic

Transcript of the Sheku Bayoh Inquiry

1 lumbar or sacral spine, and paraspinal muscles in
2 clinical practice, that would normally be referring to
3 that area of the body at the time they're examining
4 them. If it was cervical spine -- because you could say
5 paraspinal in relation to the cervical spine, but most
6 people don't, they would say cervical spine, but that
7 would be in relation to the cervical spine, so that's
8 put in there and that was my interpretation of it.

9 Q. So that's how you have interpreted what's written in
10 those records?

11 A. That's how I have interpreted it. This is the right
12 paravertebral muscles, in other words, the right lumbar
13 back area of the spine.

14 Q. Mr Crawford, I'm going to ask you to consider some
15 evidence that is before the Inquiry in written form from
16 Dr Smeed, and Dr Smeed is the doctor who made these
17 entries. Now you have not seen this before?

18 A. No.

19 Q. But if I can ask you, please, Ms Wildgoose, to bring up
20 on the screen SBPI 00121 and we will just satisfy
21 ourselves that this is in fact Dr Zoe Smeed's statement
22 and it is, and it was given to a member of the Inquiry
23 team on 4 April of this year.

24 Can we scroll down, please, to paragraph 60 and 61
25 and I will read these out, Mr Crawford, to save you

Transcript of the Sheku Bayoh Inquiry

1 having to put your sunglasses on again. 60:
2 "I have been referred to the medical records at
3 page 5: 'no C-spine tenderness FROM neck mild R
4 paraspinal tenderness'. 'FROM' means full range of
5 movement. She's moving her neck normally. She had no
6 tenderness over the bones in her neck, she had some mild
7 tenderness to her right paraspinal muscles at her neck,
8 which are more muscular and she was able to fully move
9 her neck. So you do that if you're worried about
10 looking for a fracture with the neck. I test tenderness
11 by feeling down the spinal bones and checking if it is
12 sore.

13 "I have been referred to the medical records at
14 page 5: 'no TLS spine tenderness/bruising'. This means
15 she has no thoracic, lumbar or sacral spine tenderness
16 or bruising."

17 In light of that evidence, Mr Crawford, and the
18 clarification that the tenderness was mild and was to
19 the right paraspinal muscles at her neck and not in the
20 lumbar spine as you had understood the position to be,
21 do you consider that the entry on page 5 of the records
22 that we looked at a moment ago is consistent with the
23 stamps to the lower back or kidney area as demonstrated
24 by Constable Tomlinson and Constable Walker?

25 A. If that doesn't refer to the area -- to the entry "No

Transcript of the Sheku Bayoh Inquiry

- 1 thoracic, lumbar or sacral spine tenderness or
2 bruising", if it doesn't refer to that, then I would
3 interpret that as being that there was no evidence of
4 injury in that area.
- 5 Q. So no evidence of injury in the thoracic, lumbar or
6 spinal area?
- 7 A. If that entry didn't apply to -- if the marginal note
8 didn't apply to that entry.
- 9 Q. Which it doesn't; the evidence before the Chair by the
10 author of that note is that the marginal note does not
11 apply to "No T/L/S spine tenderness/bruising", but does
12 apply to "No C-spine tenderness FROM neck". That is the
13 entry to which the marginal note refers.
- 14 That being the case, do you consider that the entry
15 is consistent with stamps to the lower back or
16 kidney area as demonstrated by the officers?
- 17 A. Well, if it doesn't refer to that then no, it's not
18 consistent with that.
- 19 Q. Would the tenderness in the right paraspinal muscles be
20 more consistent with Nicole Short having been struck to
21 the back of the head, behind her right ear with such
22 force that her feet left the ground?
- 23 A. Sorry, would you repeat that question, please?
- 24 Q. Of course. I'm wondering whether the tenderness in the
25 right paraspinal muscles of the neck might be more

Transcript of the Sheku Bayoh Inquiry

1 consistent with Nicole Short having been struck to the
2 back of her head, behind her right ear, with such force
3 that her feet left the ground?

4 A. It would be consistent with that, yes. It would be
5 entirely consistent with that.

6 Q. We will move on. Can I ask you to look at another set
7 of records. These are slightly longer. PIRC 01361. We
8 don't need these on the screen, thank you. Let me know
9 when you find these, Mr Crawford.

10 A. Yes, I have them.

11 Q. They're a little bit longer and they encompass records
12 relating to an acute admission on 10 May following
13 a call to NHS 24, CT scans from 11 May and the GP
14 referral from 18 May to the maxillofacial unit where
15 Nicole Short was seen on 8 June, so they are quite long.
16 Please take the time that you need to go through these
17 records and again, I'm going to ask you to identify, for
18 the benefit of the Chair, any entries that you consider
19 are consistent with a stamp or stamps to the lower back
20 or kidney area as described and demonstrated by the
21 officers.

22 A. Well, on page 9, dated 8 June 2015, it says:

23 "Referred by GP."

24 And the presenting complaint is there of "Weakness
25 of the right lower face and reduced sensation right side

Transcript of the Sheku Bayoh Inquiry

1 of face and" -- which is slowly improving, but in the
2 history that's been given to the doctor who has made
3 these notes it says that she was kicked and stamped on
4 the head.

5 Q. Yes. Would you forgive me for interrupting you there,
6 Mr Crawford. I anticipated that you might note that
7 entry and we see it, I think, on at least three
8 occasions within this bundle of notes.

9 A. Yes.

10 Q. And Ms Short was asked about this in her evidence and
11 she gave very clear evidence that she has no
12 recollection of being kicked or stamped on the head,
13 no one told her that she was kicked or stamped on
14 the head, there is no eye-witness evidence whatsoever
15 before the Chair to that effect, and this appears to be
16 a rogue entry. We cannot explain how it came to be in
17 the records. She does not consider that she provided
18 that information to the doctor, she can't explain how it
19 got there, but there is no information or evidence
20 before the Chair to suggest that she was kicked or
21 stamped on the head, so if we could perhaps leave
22 references to kicking or stamping of the head to one
23 side because they appear to be without foundation.

24 A. Mm-hm.

25 (Pause).

Transcript of the Sheku Bayoh Inquiry

1 Right, well, there's no other reference -- sorry,
2 I haven't completed the notes, but in the handwritten
3 notes there, so far there's no specific reference to
4 other injuries related to stamping.

5 Q. Or any injuries to her back, Mr Crawford?

6 A. No, no, no, there's not.

7 Q. Nothing, okay.

8 A. The immediate discharge -- no, again, that's -- there's
9 a principle diagnosis: discharge of concussion/muscular
10 pain, but it is not specified.

11 Sorry, these notes go on -- am I still on the same
12 set?

13 Q. They are quite lengthy but you will see that many pages
14 have been redacted and are blank sheets.

15 A. Yes, indeed.

16 (Pause).

17 Again, the only references so far have been in the
18 history that's given, because on page 18, again, that
19 history is repeated, which is what I would expect. It
20 says that she was stamped on whilst on the ground:

21 "... punched to the back of head, collapsed, stamped
22 on whilst on the ground."

23 Q. That's part of the history --

24 A. That's the history.

25 Q. -- but what we're really looking for, and what I would

Transcript of the Sheku Bayoh Inquiry

1 invite you to focus on, Mr Crawford, are any references
2 to injuries, bruising, tenderness, anything that's
3 consistent with the stamps that you saw demonstrated
4 yesterday.

5 A. The -- I have seen these notes before and I know that
6 there was no specific evidence of physical injuries,
7 you know, to the back of the spine.

8 Q. Very well. If you have seen them before and that's your
9 recollection, are you content that we move on?

10 A. Yes, I'm happy to accept that, yes.

11 Q. I would like to take you now to a report prepared by
12 a professional colleague of yours, Mr Ian Anderson. He
13 examined Nicole Short on 21 May of 2015 and I think in
14 fact you had sight of his report at the time that you
15 prepared your own report.

16 A. I had, yes.

17 Q. And I will ask that we bring this up on the screen
18 please. It is PIRC 1405. If we scroll down we will see
19 that this is indeed the report prepared by Mr Anderson
20 on 21 May and, as I mentioned a moment ago, he examined
21 Nicole Short on that date and gave evidence to that
22 effect yesterday.

23 I would like to take you very briefly, Mr Crawford,
24 to three very short entries, firstly, on page 6, fourth
25 paragraph down on page 6 -- this is page 6 of the

Transcript of the Sheku Bayoh Inquiry

1 report. The PDF might have an additional page in.

2 I think it must be page 7 on the PDF, Ms Wildgoose.

3 There we are. Exactly:

4 "She described ongoing, troublesome symptoms of
5 headache, together with neck discomfort and stiffness.
6 She described discomfort and tenderness over the right
7 side of her torso."

8 So that's the history that she gave to Mr Anderson.

9 Then on page 7, please, or the next page, about five
10 paragraphs down beginning "No residual", there we are:

11 "No residual bruising was noted on either side of
12 her rib cage but localised tenderness was noted over the
13 outer aspect of the right side of her lower rib cage.

14 Aus --

15 A. "Auscultation".

16 Q. Thank you, I was about to ask for your help with that
17 word:

18 "... of her chest using a stethoscope revealed
19 normal breath sounds."

20 And onto the next page, please, for the final
21 entry -- so that was from Mr Anderson's examination, and
22 this section is his opinion and we see at the bottom of
23 the screen there -- just there is perfect, thank you:

24 "She suffered contusions to the right side of her
25 torso, particularly over her lower right rib cage,

Transcript of the Sheku Bayoh Inquiry

1 consistent with having been caused by blunt injury."

2 So you have heard there from Mr Anderson's report
3 the history that he took insofar as it is relevant to
4 issues concerning the back, his findings on examination
5 and his opinion.

6 Now, Mr Anderson gave evidence yesterday,
7 Mr Crawford, and in his evidence he said that he did not
8 consider that his findings on examination on 21 May were
9 consistent with a stamp to the lower back or kidney area
10 as demonstrated by Constable Walker and Constable
11 Tomlinson. Would you wish to disagree with him?

12 A. I would say that tenderness over the right lower
13 rib cage is consistent with having been caused by blunt
14 injury, and I would say that that could be -- in my view
15 it is also consistent with that blunt injury being
16 a stamp or a blow to the right lower chest. There is
17 uncertainty as to exactly -- well, (a) whether this
18 occurred, (b) if it did occur, exactly where, it's not
19 just the back, it's -- there's suggestions that it could
20 be -- you know, it's the back area which includes the
21 right lower chest and that, in my view, could be
22 consistent, or would also be consistent with a stamp to
23 the right lower chest injuring the ribs and this is
24 21 May, which is a couple of weeks after the incident
25 I think, thereabouts, and, you know, so there's

Transcript of the Sheku Bayoh Inquiry

1 definitely -- to me that's evidence of an injury there
2 and that would be consistent with a stamp.

3 Q. Evidence of an injury there consistent with a stamp, but
4 would it be consistent, in your opinion, Mr Crawford,
5 with the stamps demonstrated by Constable Walker and
6 Constable Tomlinson?

7 A. I have reservations about the interpretation of that in
8 terms of the potential severity of injury that actually
9 occurs, because quite clearly the demonstration is
10 impressive of, you know, a potential -- of a severe
11 force and a serious mechanism of injury. However, there
12 are other variables in this situation, you know, not
13 every person who is stamped on sustains serious
14 injuries, even if the stamps occur with apparent force,
15 so I'm not sure how I can answer that question more
16 accurately because I -- there are patients who can have
17 an apparent stamp like that but not sustain a serious
18 injury or a life-threatening injury, and this is
19 a couple of weeks down the line.

20 Q. So should we understand, then, that you disagree with
21 Mr Anderson who had the benefit of examining the patient
22 which is a benefit that you did not have?

23 A. Well, I disagree to the extent that -- I do agree to the
24 extent that she didn't have any signs of a serious
25 injury having been sustained, but I -- my concern is

Transcript of the Sheku Bayoh Inquiry

1 that you could not exclude a stamp injury based on that
2 alone, because there is no other -- you know, there
3 are -- there doesn't appear to be another explanation
4 offered for that injury and -- or other injuries that
5 she may have sustained.

6 Q. Mr Crawford, you will correct me if I'm wrong, but
7 I think yesterday in your evidence you accepted that
8 pain to the right side could have been caused by her
9 lying on her right side curled up on top of her utility
10 belt and CS spray, and could also have been caused by
11 her falling to the ground?

12 A. Well, if I remember correctly, I didn't -- well, if she
13 had fallen on the ground onto her right side it could
14 have caused that. I think when you asked me that
15 question yesterday you specifically referred -- included
16 pain around the hip areas, which you were saying could
17 that be caused by lying, or contact with the spray and
18 the answer to that was yes.

19 However, I do recollect, and I saw it in the notes
20 there, that she actually had removed her spray from her
21 utility belt and, you know, it's not certain whether it
22 was actually in the utility belt at the time she fell.

23 That's for the Chair --

24 Q. Mr Crawford, these are very much matters within the
25 province --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, so --

2 Q. -- the exclusive province -- if I may finish --

3 A. Yes, okay.

4 Q. -- of the Chair and it may be that the evidence that he
5 heard was in fact the casing was still on the belt and
6 the cover -- the spray itself had been --

7 A. Okay, well, sorry, I accept that and I don't want to
8 stray, but when I was considering mechanisms of injury,
9 I'm considering these factors as to how the injury was
10 caused, because if it's there, or if it's not there
11 would affect -- would have an influence on whether or
12 not an injury was sustained by that. That was all,
13 sorry.

14 Q. It's a matter for the Chair to consider --

15 A. Yes, okay, I accept that.

16 Q. -- to consider the cause of various injuries and really
17 my focus this morning is very, very narrow and it is to
18 explore with you whether there are any entries in any of
19 the records that are consistent with the stamps as
20 demonstrated by Constable Tomlinson and Constable
21 Walker, and that's what I'm interested in, because that
22 I think will assist the Chair.

23 So we should understand then that you disagree with
24 Mr Anderson to the extent that you consider that the
25 contusions to the right side of the torso may have been

Transcript of the Sheku Bayoh Inquiry

1 caused, or may be consistent with a stamping injury.

2 A. (nods)

3 Q. And that's not withstanding the fact that the first
4 relevant entry appears to be on 21 May 2015 and that
5 there appear to be no relevant entries, or history
6 whatsoever, prior to that date?

7 A. I feel you're trying to lead me down a path that is very
8 strict and narrow and looking for a yes or a no answer.
9 Medicine is very rarely like that and you can -- and
10 the -- in the presence of a history of being stamped on,
11 that type of injury would be consistent with that.
12 That's all I'm saying. I'm not saying that it did or it
13 did not happen.

14 In the absence of a history, or if the evidence is
15 it did not happen, the -- sorry, I'm getting myself
16 confused. You said in the manner demonstrated. There
17 is sufficient uncertainty in my mind between
18 a demonstration and a real life situation to -- for me
19 to say "Oh, no, it is not consistent with that", because
20 the mechanism is stamping and the -- it would be
21 consistent with a stamp, and with an apparent stamp --
22 or a stamp of apparent severe force, but I absolutely
23 accept that she has not got physical evidence of
24 injuries that -- of a significant or serious injury
25 caused by a stamp but she -- as I said before, she was

Transcript of the Sheku Bayoh Inquiry

1 wearing protective gear and there are other factors that
2 could affect the severity of the injuries that occurred
3 as a result of a mechanism like that.

4 Q. Can I take you to your Inquiry statement, please, in
5 conclusion of your evidence. That's SBPI -- we have it,
6 thank you.

7 So this is a statement you gave to a member of the
8 Inquiry team on 12 May 2022 and can I take you to
9 page 10, paragraph 41.

10 To put this in context you were provided with the
11 description of the stamp by Constable Tomlinson. You
12 weren't provided with the description by
13 Constable Walker, although they were quite similar, and
14 of course you weren't provided with the demonstrations
15 because they hadn't happened yet, but having been
16 provided with the description, you were asked if you
17 would:

18 "... expect the doctors examining Nicole Short to
19 discover any visible injuries on her back or side in A&E
20 on 3 or 4 May ... when she saw the [FME] and when she
21 saw her GP on 5 May ..."

22 If we scroll down to the next paragraph you say:

23 "Clearly PC Short didn't have broken ribs, punctured
24 lungs, internal bleeding and things like that. If it
25 happened she would have had bruising, straining, soft

Transcript of the Sheku Bayoh Inquiry

1 tissue injuries. You may feel it at the time or may not
2 feel it at the time. You might not be aware of the pain
3 or injury but only later all the adrenaline and things
4 wear off. Over a period of time because muscles and
5 tissue suffer microtrauma, they can stiffen up within
6 a day, two days, 24 to 36 hours, that's when you get
7 maximum symptoms as the changes in the tissue cause
8 that. A light injury could take several days to a week
9 or longer to settle. Severely bruised ribs or broken
10 ribs can take 6 weeks or longer to get better. You
11 would get stiffness. It would take several days to
12 resolve it. It depends on your level of fitness and
13 what you're used to having."

14 Can I ask you whether the paragraphs that I have
15 read out to you just now remain your opinion today?

16 A. What I was trying to explain in that was that there is
17 a spectrum, or a range and -- a range of severity and
18 the -- you can go from, you know, a mild injury to
19 a severe injury, but there are shades of grey in-between
20 as well, you know, and it can vary and it can be very
21 difficult to predict just exactly how long symptoms
22 would persist.

23 I also explained during that discussion that,
24 you know, there can be other causes for stiffness and
25 soreness in muscles after extreme physical exertion

Transcript of the Sheku Bayoh Inquiry

1 and -- but in one way we're going from a general to
2 a specific.

3 I do fully accept that in this particular case there
4 was no evidence of significant or severe injury to the
5 body of Ms Short as a result of stamping. My opinion
6 that was formed was based on the reports and the
7 statements that were given to me at the time describing
8 the mechanism of injury and describing, you know, her
9 symptoms and clinical presentation that -- to me at that
10 time in those statements was consistent with a stamping
11 injury.

12 MS THOMSON: Bear with me a moment, please, Mr Crawford.

13 (Pause).

14 I am grateful for your time. I have no further
15 questions for you.

16 A. Okay, thank you.

17 LORD BRACADALE: Are there any Rule 9 applications?

18 Dr Crawford, I wonder if you would retire to the witness
19 room while I hear a submission.

20 MS MCCALL: Sir, I wonder whether I can have a few minutes
21 to consider that?

22 LORD BRACADALE: Yes, very well. Do you want me to adjourn
23 then? I will adjourn for a short time to allow that.

24 (10.37 am)

25 (Short Break)

Transcript of the Sheku Bayoh Inquiry

1 (10.53 am)

2 LORD BRACADALE: Ms McCall, do you have an application?

3 MS MCCALL: No, thank you, sir.

4 LORD BRACADALE: Ms Mitchell, would you come to the table
5 please.

6 (Pause).

7 Yes.

8 Application by MS MITCHELL

9 MS MITCHELL: The issue 1 is in relation to breathing,
10 Nicole Short's breathing. Yesterday there was evidence
11 given by this witness where he said on the information
12 that he was provided with, there were various places
13 where Ms Short did complain of being unable to breathe
14 and he explained that he thought that would be
15 consistent with receiving -- having a blow in that area
16 because she was unable to breathe because of an injury
17 to there, possibly having been winded or an injury
18 causing pain that was restricting breathing.

19 Now, I didn't propose to take him through possible
20 other mechanism for the pain injury at the side because
21 my learned friend has already done that, but I was going
22 to ask him to look at PIRC statement 253 which is the
23 statement of Nicole Short, page 3 thereof, because
24 Nicole Short says in her interaction with Sheku Bayoh,
25 before there's any question of any contact between the

Transcript of the Sheku Bayoh Inquiry

1 two she said:

2 "I was in terror and fear of my life. I just turned
3 away and tried to run. I remember screaming 'no' and
4 crying but no tears were coming out and struggling to
5 breathe."

6 So I would like to take the witness to that part of
7 the statement where he can see that the symptom -- the
8 breathlessness symptom pre-dates any suggestion of
9 a punch or a stamp, and then simply identifying in the
10 emergency -- accident and emergency records, which he
11 records in his own report at page 7 of 26, at
12 subsection 3, that the witness's breathing was 16
13 breaths per minute as being recorded and just to confirm
14 with him that's within the normal range.

15 LORD BRACADALE: That's the only matter?

16 MS MITCHELL: No, no, there's one other matter. The second
17 matter is on the issue of Crown instruction and how the
18 report was obtained, the information given -- I will
19 give it more detail, my Lord, but the information given
20 and the reason for that, my Lord, is the Inquiry will of
21 course understand that part of the Inquiry terms --
22 whilst not specifically relevant to this Inquiry -- this
23 part of the hearing, is to examine the post-incident
24 management process and the investigation up to but not
25 including the making by the Lord Advocate of the

Transcript of the Sheku Bayoh Inquiry

1 prosecutorial decision communicated to the family, and
2 it also says in brackets:

3 "... (and the victim's right to review process that
4 was undertaken by the Crown counsel in 2019 including
5 (1), the effectiveness of procedures for gathering and
6 analysing information et cetera)..."

7 In this particular report what I would like to deal
8 with this witness is some restrictions in the report,
9 for example the methodology, the questions that were
10 asked and the broadness of those questions, the
11 documentation, just to check that he didn't receive any
12 information on audio, such as Airwaves -- he was given
13 some visuals only -- and very importantly, in light of
14 the evidence that he has given about the mechanisms of
15 energy and efficacy and whether or not something was an
16 assault which was severe and most effective, whether or
17 not he was given any information on Mr Sheku Bayoh
18 himself, because it doesn't appear from the
19 documentation that that happened.

20 And then take him to the fact that there doesn't
21 appear to be any discussions, as was explored in
22 evidence, about outdoor shoes or the vest or repeated
23 stamps, or again the height, weight or fitness of
24 Mr Sheku Bayoh, and to ask him about the part of his
25 statement where he says:

Transcript of the Sheku Bayoh Inquiry

1 Good morning. Is it Ms Combe or Ms Combe?

2 A. Combe.

3 Q. Combe, thank you. I will try to get that right

4 throughout. As everyone here knows, I have an issue

5 with names at times.

6 You are a former police inspector?

7 A. I am.

8 Q. And what age are you?

9 A. 52.

10 Q. And you have been retired from the police force as

11 I understand it for about three years, is that right?

12 A. That's correct.

13 Q. But when you were working, you worked mainly in Fife?

14 A. I did.

15 Q. And you had various inspector roles. You were first

16 promoted to inspector in 2010, is that correct?

17 A. Yes.

18 Q. And you were posted to Kirkcaldy Police Office at that

19 time?

20 A. Yes.

21 Q. Good, thank you. Now, all of your contact details are

22 known to the Inquiry, so we won't ask you to say those

23 here. What I want to do, first of all, is to make sure

24 that you've got everything that you might need in front

25 of you, so as we go through your evidence you've got

Transcript of the Sheku Bayoh Inquiry

1 hard copies. So you can see the black folder and what
2 you -- I will take you through what should be in there,
3 so when I'm maybe referring to a paragraph or
4 a particular section, it should come up on the screen in
5 front of you and so we will be able to see maybe
6 a paragraph, but if you want to look around that you've
7 got the hard copy and you please refer to it.

8 A. Thank you.

9 Q. And at any time if you wish to refer me to something you
10 would like to speak to, let me know and I can get that
11 brought up on the screen as well.

12 So the first thing I want to talk about is PIRC 190
13 which I believe is an operational statement dated
14 15 May 2015, and if that can be brought up on the
15 screen. We will see your name and the date it was taken
16 was 15 May 2015 at 9.00 in the morning and it says
17 "Self", so you prepared this yourself?

18 A. I did.

19 Q. And this was after the events of 3 May 2015.

20 A. Yes.

21 Q. And you prepared this in Cowdenbeath. Were you based in
22 Cowdenbeath at the time?

23 A. Yes, that's where I was stationed at the time.

24 Q. Right. And were you doing your best on 15 May to give
25 a true and accurate record of what you had done on

Transcript of the Sheku Bayoh Inquiry

1 3 May?

2 A. Yes.

3 Q. Thank you. Can we look at paragraph 66 of your Inquiry
4 statement -- we will look at the first page first. We
5 will see this is your Inquiry statement. It was taken
6 by a member of the team on 22 March this year?

7 A. Yes.

8 Q. And then if we can look at paragraph 66 you say:

9 "My operational statement ..."

10 Which is the one we were looking at a moment ago of
11 15 May:

12 "... would be the one that's most clear and I stand
13 by that because I gave that shortly after the event."

14 A. That's correct.

15 Q. So this was the first statement prepared by you after
16 the events of 3 May.

17 A. Yes.

18 Q. And then can we look at the end of Inquiry statement,
19 the last paragraphs, paragraph 125, and it says:

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

24 And in light of that you signed the pages of this
25 Inquiry statement?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I did.
- 2 Q. And although on the screen you will see it is redacted,
3 I believe the hard copy you have should have your
4 electronic signature.
- 5 A. Yes, on all pages.
- 6 Q. Thank you. And that was signed by you on 18 May this
7 year.
- 8 A. Yes.
- 9 Q. Thanks. And then can we also confirm that you were
10 doing your best when you gave this statement to the
11 Inquiry to be truthful and accurate in everything you
12 mentioned?
- 13 A. Yes.
- 14 Q. And then can we look at a statement dated 8 March 2018,
15 so this is almost three years after the events, and this
16 is PIRC 191. Again, at the top we should see your name,
17 we can just see your name, Jane, there we are, and then
18 we see it's dated 8 March 2018, 10.10 hours, and it was
19 noted by investigating officer Neil Duncan and the place
20 was at Cupar. Where you based at Cupar by 2018?
- 21 A. I was, yes.
- 22 Q. Thank you. And again, when you gave this statement was
23 this to PIRC, Police Information and Review Commission
24 officers?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And you were doing your best again, three years later,
2 to give a true and accurate record of what you had
3 done --

4 A. Yes.

5 Q. -- on 3 May 2015. Can we look at paragraphs in your
6 Inquiry statement again please, 65 and 66 and 67. Let's
7 start with 65, and you are talking about the different
8 statements that you have given and you say:

9 "The second was taken by PIRC who interviewed me on
10 8 March 2018 ... they came to see me at Cupar ... I told
11 them the truth ..."

12 And then in paragraph 66, which we looked at
13 a moment ago, you say:

14 "My PIRC statement will be less clear, likewise my
15 later statement provided, given the passage of time. In
16 2018 my recollection of that incident will be the same
17 as it is now. By 'clear' I mean my recollection would
18 not be affected by what I have seen in the media,
19 particularly the Panorama programme and media
20 reporting."

21 So it's something that you have kept an eye on in
22 the media, or been aware of?

23 A. Yes.

24 Q. And then paragraph 67:

25 "The content of both statements are exactly the same

Transcript of the Sheku Bayoh Inquiry

1 other than the addition in the PIRC statement regarding
2 the contact with the force medical examiner (FME).
3 I don't see any difference in the content of my first
4 statement and my second statement. The only addendum
5 they have put in there is the contact with the FME, and
6 if I could remember any conversation with Nicole Short.
7 I don't think there's any other difference. If there is
8 a difference I stand by my operational statement because
9 it was produced closer to the time."

10 To help the Chair really it's the operational
11 statement, the first statement, that you think is
12 clearer and the most accurate?

13 A. Yes, definitely.

14 Q. Thank you. So if the Chair thinks there's any
15 difference between later statements, or your Inquiry
16 statement, or even your evidence today, if there's
17 a difference between what you have said and your first
18 statement, he should prefer your first one?

19 A. Yes.

20 Q. Thank you. Lovely. Can I also ask you about
21 paragraph 68 of your Inquiry statement and you say:

22 "'I've also been interviewed numerous times as well
23 by the officers working on behalf of the
24 police officers. A Mr John Sallens and somebody else as
25 well, during COVID, they have also been in contact. So

Transcript of the Sheku Bayoh Inquiry

1 I have given a statement, it's the same statement and
2 I've never changed it."

3 So we have heard the name of John Sallens previously
4 from others; do you know who Mr Sallens is?

5 A. No. I know that he was working obviously on behalf of
6 the solicitors for the police officers but I don't know.

7 Q. Right. And when did you give him a statement or speak
8 to him?

9 A. That was just when COVID began, so probably
10 about March 2020, about that time.

11 Q. So that's roughly when we went into lockdown, around
12 about that time?

13 A. Yes, just at lockdown.

14 Q. Just then. Do you know what happened to that statement?

15 A. No.

16 Q. But that was a later statement than your original
17 operational statement and your PIRC statement?

18 A. Yes.

19 Q. Thank you. What sort of things was he asking you about
20 at that time in 2020?

21 A. Just exactly the same: can I recall what happened on
22 that day, did I have any conversations with the
23 officers, did I have any conversation with Nicole Short
24 and that's what I could remember from him.

25 Q. All right, thank you. Do you still have a copy of that

Transcript of the Sheku Bayoh Inquiry

- 1 statement, or was that only in the hands of Mr Sallens?
- 2 A. Mr Sallens' statement? No, it was dictated and then
3 they took that to be typed up but I've never seen that
4 statement.
- 5 Q. Right, thank you. And you also talk about being
6 interviewed numerous times. Were there other people who
7 interviewed you?
- 8 A. No, I think it was just Mr Sallens. I went into Police
9 Headquarters and then he was in contact via telephone so
10 that's what I mean by numerous times, but it was the
11 same person about the same statement.
- 12 Q. So PIRC interviewed you, the Inquiry team have
13 interviewed you and Mr Sallens has spoken to you as
14 well?
- 15 A. Yes.
- 16 Q. Thank you. And he spoke to you said at Police
17 Headquarters, is that --
- 18 A. Sorry, Glenrothes Police Headquarters, Fife Division
19 Police Headquarters.
- 20 Q. Fife Division Police Headquarters. And again, that's
21 where you were based?
- 22 A. No, I was retired by that time.
- 23 Q. Oh, I see.
- 24 A. There was an arrangement for me to go in.
- 25 Q. Thank you. Are you happy you've got everything that you

Transcript of the Sheku Bayoh Inquiry

- 1 would need in front of you today?
- 2 A. Yes, thank you.
- 3 Q. Good. Can I ask you about paragraphs 37 to 47 in your
4 Inquiry statement, and the Chair can read through all of
5 these paragraphs himself, but you're talking here about
6 police culture and what it was to you and how it has
7 changed over the years, and you talk about it being very
8 different in 1991 to how it is today and I think I'm
9 very interested in your impressions of police culture in
10 2015.
- 11 A. It depends on which you mean by police culture. I mean,
12 I was asked that question, I didn't evoke that, I didn't
13 say I wanted to speak about that, so I was asked about
14 police culture, and for me, it's just the parameters of
15 an organisation, what we work within and what we think
16 is acceptable. We're obviously different from the fire
17 service, the police, education, but it has changed and
18 we are evolving all the time.
- 19 Q. Right. Can we move the screen up then and just have
20 a look. So you have talked about the difference between
21 working in a more urban area like Kirkcaldy where there
22 are more officers and maybe more violence, compared to
23 someone maybe in more of a rural area?
- 24 A. Yes.
- 25 Q. And is that the sort of thing that can make a difference

Transcript of the Sheku Bayoh Inquiry

1 to culture and the way police officers act in a police
2 station?

3 A. No, not necessarily, because every police officer should
4 deal with the situation as they find them on that time.

5 Q. Right. And you have said at paragraph 40:

6 "Compared to somebody up in St Andrews or Cupar
7 where I actually started my service you had to take
8 a different approach because your back up was maybe
9 10/15 miles away."

10 A. Yes.

11 Q. "Whereas in Kirkcaldy, if required and appropriate,
12 officers could take a more robust approach, however
13 officers should always adopt a policing style relevant
14 to the situation."

15 And so is this an issue about the support available
16 and how close --

17 A. Yes.

18 Q. -- or how much time it would take?

19 A. Yes.

20 Q. -- for officers to have back up and support?

21 A. Yes.

22 Q. Less immediate in a rural area; more immediate in an
23 urban area?

24 A. Yes.

25 Q. Is that fair to say?

Transcript of the Sheku Bayoh Inquiry

1 A. That's my experience.

2 Q. But as you say, every policing style or every tactical
3 option adopted by a police officer will depend on the
4 particular circumstances that they're faced with?

5 A. Yes.

6 Q. And then you talk at paragraph 41 about not advocating
7 arresting individuals in a large crowd, and it can
8 escalate a situation. Is that something that you were
9 always conscious of, not to escalate situations or make
10 them worse --

11 A. Yes.

12 Q. -- but is de-escalating situations something that
13 officers consider on a regular basis?

14 A. On a daily basis.

15 Q. What does it mean to you to de-escalate a situation?
16 How would you achieve that?

17 A. Well, obviously the example I was asked and I was given
18 was in a football crowd you wouldn't go in and arrest
19 someone there because you put the officers more at risk
20 and the public, so you would take an appropriate time,
21 whether that was them leaving the stadium, or if you
22 knew their identity you could get them at a later date,
23 and obviously, if that was a domestic situation you
24 would try and separate both parties. So officers have
25 a lot of things in their toolkit they can use to

Transcript of the Sheku Bayoh Inquiry

1 de-escalate, communication being the priority one.

2 Q. So officers can bide their time --

3 A. Yes.

4 Q. -- pick their moment, depending on the circumstances

5 when it is appropriate.

6 A. Yes.

7 Q. And they can communicate. We have heard a lot of

8 evidence from officers talking about your voice is

9 actually a tool in your armoury --

10 A. Yes.

11 Q. -- that you can always be trying to communicate with

12 people and that can be an effective technique for

13 de-escalating a situation?

14 A. Yes.

15 Q. And you would agree with that?

16 A. 100%.

17 Q. Thank you. And then if we move up the screen you talk

18 about -- at paragraph 42, talking about negotiation

19 tactics and "talking people down". Is that what you

20 mean by de-escalating?

21 A. Yes.

22 Q. Right. And you say 43:

23 "I would expect any officer to adopt a tactic

24 correct for the situation they are faced with."

25 But the location can be an important factor in that?

Transcript of the Sheku Bayoh Inquiry

- 1 A. It can be.
- 2 Q. So you have talked about football stadiums, a lot of
3 fans present, you talked about urban areas, rural areas,
4 it can be an important factor?
- 5 A. Yes.
- 6 Q. We have heard evidence from a number of people about the
7 National Decision-Making Model. Is that something you
8 were aware of before you retired?
- 9 A. Yes.
- 10 Q. And we have heard that you are feeding in new
11 information, information about all the circumstances,
12 and that could include things like location and the
13 incident?
- 14 A. Yes.
- 15 Q. And then you're working out your tactical options and
16 the more information, the new information you get in you
17 review -- is that the type of thing that you're doing
18 all the time?
- 19 A. Yes.
- 20 Q. Thank you. And you then, at paragraph 44, talk about:
21 "In an urban area assistance is more readily
22 available."
23 And again, that's about the level of support that
24 may be available to officers at any time?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. And then looking further down, you again
2 repeat it's the situation you're faced with and you have
3 mentioned Alan Smith. We have heard from PC Smith and
4 you were aware of him?

5 A. Yes, he was one of my officers.

6 Q. So you were actually his inspector, were you?

7 A. No, I think I was his sergeant at that time.

8 Q. Right. And we have heard from PC Smith that he was
9 a trainer and first aid trained and the Chair has heard
10 his evidence so ... and then 47 you have also had the
11 benefit of working in London alongside the Met.

12 A. I did, yes.

13 Q. So that's a very built up and urban area; it's quite
14 different again from Kirkcaldy.

15 A. Yes.

16 Q. And you have talked there about:

17 "Officers cannot afford to alienate themselves
18 because potentially they could have their property
19 damaged."

20 Can I just ask you about that paragraph.

21 A. The point I think I was trying to make there is it's
22 a very different policing style, certainly in Fife
23 Division, when I was there, the officers actually live
24 in the community, so they're actually part of the
25 community, so the approach that I have witnessed down in

Transcript of the Sheku Bayoh Inquiry

1 the Metropolitan Police or some of the larger police
2 forces down south was a different style of policing in
3 my opinion.

4 Q. I would imagine -- and you can tell me if I'm wrong
5 about this, that in London you could maybe meet someone
6 one year and not see them again --

7 A. Yes.

8 Q. -- for many years, if at all?

9 A. Yes.

10 Q. But maybe that is less likely to happen in a town like
11 Kirkcaldy?

12 A. Yes.

13 Q. Thank you. And that may also be a factor in how you
14 police the community?

15 A. Yes.

16 Q. And we have heard some evidence about how important it
17 is for the police to have support from the community and
18 engagement with the community --

19 A. Yes.

20 Q. -- in which they are working. Can I ask you about
21 paragraph 48, please. You have been asked a number of
22 questions about race and you have said you have never
23 heard any of the officers subject to this Inquiry saying
24 anything with a racial overtone, and I'm interested in
25 whether you have ever seen or heard anything from any of

Transcript of the Sheku Bayoh Inquiry

1 the officers with a racial undertone?

2 A. No.

3 Q. No. So both overtones and under --

4 A. Yes.

5 Q. -- not just blatant things, but maybe more subtle

6 things?

7 A. No, nothing.

8 Q. You have not seen anything like that?

9 A. No.

10 Q. And do you think that officers would tone things down if

11 they're in the presence of an inspector, that's a senior

12 rank in the police?

13 A. Potentially, but when you're walking about the corridors

14 you can overhear conversations you maybe shouldn't

15 overhear.

16 Q. And partly I would imagine as an inspector your job is

17 to be aware of what's happening with your team?

18 A. Yes.

19 Q. Now, I think you have said you have -- at 49 you have

20 worked in the alcohol and violence reduction unit?

21 A. Yes.

22 Q. And your role was to engage with all communities?

23 A. Yes.

24 Q. And I'm interested in what engagement over the years you

25 had with the black community, if I can phrase it that

Transcript of the Sheku Bayoh Inquiry

1 way?

2 A. There wasn't a large black community in Kirkcaldy, or
3 actually in Fife, but they were part of the larger
4 ethnic minority, so we went to open days, seminars,
5 mosque visits, engagement with youth, having some of the
6 ethnic minority youths come into the police station, so
7 we actually worked quite closely with them.

8 Q. And can you tell me sort of roughly when was it you were
9 working with all these communities?

10 A. That would be 2000 and -- probably 2014 to 2018, about
11 that time.

12 Q. And when you say you were visiting and having open days
13 and attending those --

14 A. Yes.

15 Q. -- how big a part of your role at that time was visiting
16 with communities and attending events?

17 A. It was quite a large part of that role.

18 Q. Would you be able to assist the Chair and say how
19 regular those visits were? Was it weekly, or was it
20 monthly?

21 A. It actually depended on what events they were actually
22 arranging because we were invited along as guests so it
23 was dictated by the communities when the police were
24 actually invited as guests to that, and then obviously
25 if there were any community messages that were needed to

Transcript of the Sheku Bayoh Inquiry

1 be put out, we also did that. Latterly we had a really
2 good system in Fife where we could actually just send
3 an email. I think there was always this mystique that
4 we always had to go on prayer day on a Friday, but we
5 actually engaged with the community and they said that
6 wasn't appropriate, they felt they were businessmen,
7 they went to prayers, they wanted to get away, so it was
8 hindering them, so we actually listened to the community
9 and we were able to put out this messaging service that
10 we used quite regularly in Fife.

11 Q. So that was through better communication?

12 A. Yes, listening to the community.

13 Q. And then adapting your approach to suit the messages
14 that you were getting from the community?

15 A. Yes.

16 Q. And you have talked about a community message on
17 a Friday. Can you just explain what that is?

18 A. Well, for example, if Police Scotland or the wider
19 police community wanted to put a message out for
20 security, that would be a letter or something from the
21 Chief Constable to be delivered, so we would have to do
22 that, but that was only if and when it was required.

23 Q. Was that a personal visit by you with the message?

24 A. No, as I said, they didn't want that personal -- they
25 said "Yes, by all means you can come in, you're

Transcript of the Sheku Bayoh Inquiry

1 welcome", but they were actually quite happy then to get
2 that as a leaflet drop.

3 Q. A leaflet drop or emails you mentioned as well?

4 A. Yes.

5 Q. And you've said you were quite close to the black
6 community, small as it was. Can you tell me about your
7 connection with the black community?

8 A. Well, they obviously had what were called Frae Fife and
9 we actually had some of the members of Frae Fife who
10 would actually come in and assist us with some police
11 inputs.

12 Q. We have heard very limited evidence about Frae Fife. It
13 has been mentioned to the Chair. Could you tell us
14 a bit more about it in your -- the experience you had.

15 A. The experience I had was that they were sort of an
16 interface, if you want to call it that, with the ethnic
17 community, so they had the relationship with the police,
18 if they had any issues they could come to us, kind of
19 ask about things like that.

20 Q. Tell me about the organisation itself. Did it have
21 people in charge, or leaders or --

22 A. From my knowledge -- I'm not an expert on Frae Fife,
23 I think it was like trustees and they had, like,
24 a manager and then they had volunteers who worked with
25 them, but I can't give comment on it because I don't

Transcript of the Sheku Bayoh Inquiry

1 exactly know how they were structured.

2 Q. No, I'm only interested in your impression at the time.

3 But you did have contact with them?

4 A. Yes.

5 Q. Thank you. And were you aware at that time about any

6 concerns that the black community had or Frae Fife had

7 about policing of black people in Kirkcaldy?

8 A. No. The concerns they had were the same as any of the

9 communities in Fife, was the time police took to

10 respond, the lack of communication that we gave them, so

11 that was across all communities in Fife, that wasn't

12 just with our black communities, but they did have

13 concerns but, as I said, there was nothing just

14 specifically to them.

15 Q. Can you remember now what the concerns were about

16 communication with Police Scotland? Was there anything

17 specific that you can remember?

18 A. No, nothing specific.

19 Q. And do you -- you obviously personally had a lot of

20 contact.

21 A. Yes.

22 Q. What about other officers in Kirkcaldy? Did they have

23 contact with the black community, or with Frae Fife?

24 A. It wouldn't be unless it was their specialism, but a lot

25 of the community officers, as part of their role, if the

Transcript of the Sheku Bayoh Inquiry

1 meeting or the event was -- when they were on duty they
2 would go -- and to their credit a lot of officers
3 actually went to these events actually off-duty.

4 Q. And can you explain what is a community officer compared
5 to an ordinary police constable, if I can say,
6 a non-community officer?

7 A. I would explain it as a community officer has
8 responsibility for a certain area, so they could build
9 up that rapport, whether it's business or with schools.
10 Whereas a response officer doesn't have that luxury, if
11 you want to call it that, and they have to respond to
12 all the incidents coming in. Whereas a community
13 officer, usually they can put things in their diary, so
14 they have more time to spend on an incident.

15 Q. And so that's the distinction there: the response
16 officer and the community officer.

17 A. Yes.

18 Q. And is a community officer based in a particular
19 location for longer to allow them to build a rapport?

20 A. Usually.

21 Q. So a response officer may be moved about?

22 A. Yes.

23 Q. Paragraph 50, please. You have talked about:

24 "Following the tragic incident, there were concerns
25 that there could be a negative and adverse reaction from

Transcript of the Sheku Bayoh Inquiry

1 the ethnic minority community in Fife and a breakdown in
2 our engagement with these communities which could
3 manifest in demonstration and protest. However due to
4 the continued position community engagement and
5 dialogue, this was avoided."

6 A. I think that should read "Positive".

7 Q. "Positive community engagement", thank you. So we can
8 amend that. So:

9 "... due to the continued positive community
10 engagement and dialogue, this was avoided. Meetings
11 took place with community leaders where any concerns
12 could be addressed and discussed."

13 I would like to ask you about this paragraph. So
14 what was the continued positive community engagement
15 that you're referring to?

16 A. Well, after the event there was actually a meeting which
17 was chaired and all the community leaders were invited
18 to come to that meeting to see if they had any concerns
19 that they wanted to raise.

20 Q. And do you remember now when that meeting took place?

21 A. No, I couldn't give you a date, but it was quite close
22 after the incident.

23 Q. So some time after 3 May 2015?

24 A. Yes. I would say it would be in May, no later
25 than June, but I couldn't give you a date, sorry.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Where did that meeting take place?
- 2 A. In -- I think it's still called Dunnikier House Hotel in
3 Kirkcaldy.
- 4 Q. Is that in the centre of Kirkcaldy?
- 5 A. On the outskirts.
- 6 Q. On the outskirts. And then who was it that arranged
7 that meeting?
- 8 A. I don't know who arranged it, but it would be somebody
9 from the management team in police -- in Fife Division.
- 10 Q. So it was Police Scotland that arranged it?
- 11 A. Yes.
- 12 Q. And were you present at that meeting?
- 13 A. Yes.
- 14 Q. And you have talked about community leaders being
15 invited. Tell me who was invited?
- 16 A. I couldn't give you a list of who was invited, but it
17 would be the Imam, business owners, anyone who had,
18 I would say, influence in the community, so members of
19 Frae Fife, Fife Equality, they would have representation
20 there as well.
- 21 Q. So someone in Police Scotland -- we may be able to get
22 more information about this --
- 23 A. Possibly.
- 24 Q. -- someone in Police Scotland would have selected a list
25 of people to invite?

Transcript of the Sheku Bayoh Inquiry

1 A. The invite would go out and then they would respond who
2 would come.

3 Q. Was it invitation only, or was it a meeting open to all?

4 A. I can't recall.

5 Q. Were there -- was it advertised in any way more
6 publicly?

7 A. I don't know.

8 Q. And who was responsible, if you know, or if you don't
9 know, tell me, who was responsible for selecting the
10 invitees?

11 A. I don't know.

12 Q. Right. And do you know anything about how they were
13 identified?

14 A. No.

15 Q. Do you remember what concerns, if any, were addressed or
16 discussed at that meeting?

17 A. No.

18 Q. Not now. And it may be the view that the idea of
19 community leaders, as an amorphous body, if you like, is
20 quite an outdated view of how to engage with a community
21 such as the black community, that there are no longer
22 community leaders as such. Do you have any views on
23 that at all?

24 A. No, I think going back to 2015 you've got to use what
25 communication you have and for the police that was our

Transcript of the Sheku Bayoh Inquiry

1 method of communicating with them, but I do recall there
2 were some very young men at that meeting, so they
3 wouldn't be the leaders, so they were obviously there as
4 part of the community because with the age group of
5 them, they couldn't have been the community leaders.

6 Q. So it's not that you excluded all apart from the
7 community leaders?

8 A. No.

9 Q. There were other younger people present as well.

10 A. So I think what I'm trying to get over there, the invite
11 would go to the community leaders and then they would
12 actually publicise this meeting and they would bring
13 along with them who they would bring along.

14 Q. So they would disseminate information more widely --

15 A. Yes, yes.

16 Q. -- amongst the people they knew or the groups they had
17 contact with.

18 Do you remember -- you have said there that concerns
19 could be addressed and discussed. Do you remember if
20 there were -- you know, we hear about action points
21 after meetings where people go and resolve things that
22 have been raised, concerns that have been raised. Do
23 you remember if there were any action points?

24 A. No, not after this length of time, sorry.

25 Q. No. You have -- as part of the -- can we go up

Transcript of the Sheku Bayoh Inquiry

1 slightly. Paragraph 51:

2 "I have been asked if I know why there was not any
3 kind of reaction from the community to the Sheku Bayoh
4 incident as I have described. My own perception is
5 because the local community trusted the police. There
6 wasn't the perception of 'a big cover-up' by the police
7 in Kirkcaldy or Police Scotland."

8 And that was your perception at the time?

9 A. That was my perception, yes.

10 Q. And that was based on the contact you had had with the
11 community --

12 A. And the fact there were no demonstrations or protests,
13 bar one that I'm aware of.

14 Q. What was the one you were aware of?

15 A. When the family had come to Kirkcaldy Police Station,
16 but that, for me, was very peaceful, very dignified,
17 more like a vigil as opposed to a demonstration.

18 Q. Right. And that was organised by the family?

19 A. I believe so.

20 Q. You say more of a vigil?

21 A. Yes. There was no hostility, it wouldn't be
22 a demonstration -- what I would class as
23 a demonstration.

24 Q. So when we're thinking about any reaction from the
25 community, or in particular from the family, it wasn't

Transcript of the Sheku Bayoh Inquiry

1 any sort of noisy --

2 A. No.

3 Q. -- difficult demonstration --

4 A. No.

5 Q. -- that -- was that at Kirkcaldy Police Office?

6 A. Yes.

7 Q. And you have said the local community trusted
8 the police?

9 A. Yes.

10 Q. Was that the local black community?

11 A. All community.

12 Q. All the community?

13 A. Yes.

14 Q. Can we look at paragraph 52, first of all, and 53. 52:

15 "When I was in the job, I was the type of person, if
16 I thought somebody had done something wrong, I would
17 stand up and say it. I was never one of those ones who
18 wouldn't. I said it how it was and wasn't frightened of
19 that. I have challenged senior officers at times. So,
20 if there was something that was wrong, I would say it
21 was wrong. I wasn't frightened of that. I wasn't
22 frightened of my organisation. There was sexism and
23 things like that, but as I say, as far as officers under
24 my command being really racist, no, never saw that.
25 Sexism, homophobia? Yeah, definitely, there was that,

Transcript of the Sheku Bayoh Inquiry

1 there were issues.

2 "53. I have been asked if there was sexism and
3 homophobia, would I be expecting also for there to be
4 racism. I'm not saying I wouldn't expect that. I'm not
5 saying that that didn't exist in Fife Constabulary or
6 Police Scotland officers. I'm not naive enough to say
7 that. Did I witness anybody being treated differently
8 because of race? No. Did I witness somebody different
9 because they were gay or lesbian? Yes, I did witness
10 that. If they were a female, were they treated
11 differently? Yes, I did witness that."

12 Can I ask you a couple more questions about this.

13 A. Yes.

14 Q. So paragraph 52, first of all. You're talking about
15 being willing to stand up and say something and
16 challenge. We have heard evidence about the ranks of
17 officers in the hierarchy and I have asked other
18 officers about did they feel uncomfortable maybe
19 challenging a more senior officer, or a more experienced
20 officer and your -- as I understand your statement,
21 you're saying you weren't shy to do that?

22 A. No.

23 Q. It must have taken quite a lot of courage to do that,
24 however.

25 A. If it was the right thing to do, it was the right thing

Transcript of the Sheku Bayoh Inquiry

1 to do.

2 Q. Right, so you had that courage to speak up?

3 A. Yes.

4 Q. And you have said that you had seen issues of racism and

5 homophobia?

6 A. No, not racism.

7 Q. Oh, sorry, sorry, sexism and homophobia and had you had

8 cause to challenge that type of behaviour?

9 A. Yes. You're going back to when I first joined the job,

10 that's the point I'm making, it's a totally different

11 organisation than it was in 1991.

12 Q. So that's examples from the early 90s?

13 A. Yes.

14 Q. Not from 2015?

15 A. No. Very few now in 2015.

16 Q. Very few?

17 A. Yes, we have open officers or openly gay, that would

18 never have happened in 1991.

19 Q. I see. And we have heard that there were women working

20 in Kirkcaldy Police Office in 2015?

21 A. Yes. A lot now.

22 Q. Even more now maybe?

23 A. Yes.

24 Q. We have heard evidence that there were no black officers

25 in Kirkcaldy in 2015?

Transcript of the Sheku Bayoh Inquiry

1 A. Not in Kirkcaldy.

2 Q. No. Do you remember them anywhere else?

3 A. There was one black officer who worked in the west of
4 Fife but I couldn't give you his date of joining.

5 Q. Right. And when you say the west of Fife what --

6 A. Dunfermline. Dunfermline, Cowdenbeath.

7 Q. Dunfermline, right. Do you remember his name?

8 A. Yes. Do I need to --

9 Q. No, no, you don't need to say it out loud if you don't
10 want to. So there was one in Dunfermline; anywhere else
11 in Fife?

12 A. Yes, we've got a senior ranking officer who started her
13 service in Fife as well who is a black officer.

14 Q. And where was she based?

15 A. She moved about so I don't know where she would be in
16 2015.

17 Q. Right, okay. So these examples that you had come across
18 of sexism and homophobia were in the early 90s?

19 A. Yes.

20 Q. But you have said -- you have used the phrase there --
21 let me just see if I can find it "really racist",
22 I think I saw that somewhere. Second bottom line in 52:
23 "There was sexism and things like that but, as
24 I say, as far as officers under my command being really
25 racist, no, never saw that."

Transcript of the Sheku Bayoh Inquiry

1 So under your command -- you have said you were an
2 inspector from 2010?

3 A. Yes.

4 Q. So is that when you began to command officers at that
5 stage?

6 A. You could say you started that as a sergeant or even
7 a senior officer but if you're talking about middle
8 management that would be 2010.

9 Q. That would be 2010. So we're looking at a period from
10 2010 and you say:

11 "As far as officers under my command being really
12 racist, no, I never saw that."

13 What do you mean --

14 A. I don't know what I mean by "really racist", I don't
15 know if that's a typing error. "Really racist", I don't
16 know.

17 Q. We can check that, because we've got recordings
18 obviously of all these things. So looking at it now, do
19 you understand what you -- if you did say that --

20 A. No.

21 Q. -- do you understand what you meant?

22 A. No, just racist full stop, being racist.

23 Q. And can you remember any examples when you were
24 commanding officers of racism, whether overt or
25 covert --

Transcript of the Sheku Bayoh Inquiry

1 A. No, none.

2 Q. Nothing like that?

3 A. No.

4 Q. But you do say -- you're not suggesting that it didn't
5 exist in Fife Constabulary, you're not naive enough to
6 say that, so you're not suggesting that Kirkcaldy Police
7 Office was a haven of --

8 A. No, utopia, no.

9 Q. Thank you. Can I ask you about paragraph 55, please.

10 You were asked about the media. And you say when it was
11 Fife Constabulary -- so this is before it became
12 Police Scotland?

13 A. Yes.

14 Q. "... the local inspector could be expected to speak to
15 the local reporter, local radio, but then when we went
16 to Police Scotland everything went there you a media
17 department."

18 A. Yes.

19 Q. So the handling or the engagement with the media became
20 centralised?

21 A. Yes.

22 Q. After April 2013?

23 A. Yes.

24 Q. And you say:

25 "If a reporter arrived looking for a comment at an

Transcript of the Sheku Bayoh Inquiry

1 incident, the correct procedure would be to direct them
2 to the media department."

3 And you say:

4 "I'd be really surprised if a reporter would phone
5 the station. They would just be directed to the Police
6 Press Office. They would know that."

7 So is that what the centralised department was
8 called, the police press office?

9 A. Media department, yes.

10 Q. The media department.

11 A. Yes.

12 Q. Now, what about people who had obviously worked for Fife
13 Constabulary prior to it becoming Police Scotland: they
14 had maybe built up good relationships, professional
15 working relationships with members of the press and
16 would that contact continue even after the media
17 department was put in place?

18 A. No, not to my knowledge.

19 Q. Not to your knowledge. So although you have talked
20 about -- you were obviously an inspector prior to 2013
21 when it became Police Scotland?

22 A. Yes.

23 Q. And you had been expected as part of that role to have
24 that engagement with the media. After April 2013 did
25 you continue to have any engagement with the media

Transcript of the Sheku Bayoh Inquiry

1 yourself?

2 A. I did have engagement with the media but it came through
3 our media department, it was arranged and authorised by
4 them.

5 Q. So it was all done through that media department after
6 that?

7 A. Yes.

8 Q. And was that part of the sort of rules that you were
9 supposed to abide by?

10 A. It was just a process. It made it easy for everyone
11 that we knew what the parameters were.

12 Q. And it relieved you of that burden --

13 A. Yes.

14 Q. -- of engaging when you had, no doubt, other duties.

15 Can I ask you to look at paragraph 70, please, and
16 then we move on here to 3 May 2015 and you have been
17 asked if you had a line manager or a senior officer
18 giving you orders on that date and you say:

19 "... I had the authority to deploy my officers where
20 they were required."

21 Now, can I ask you on 3 May where were you based
22 that day?

23 A. Cowdenbeath.

24 Q. And how many officers were under your command or you
25 were in charge of?

Transcript of the Sheku Bayoh Inquiry

- 1 A. On that day or ...
- 2 Q. Well, yes, or just in general if --
- 3 A. My team consisted of two sergeants and 13 officers.
- 4 Q. Right. So the sergeants would be the more senior --
- 5 A. Yes.
- 6 Q. -- members of your team and then the 13 officers -- did
- 7 they form part of a response team and community
- 8 officers?
- 9 A. No, no. They were a partnership, working in partnership
- 10 with other partners, so they didn't fall either in
- 11 community or response.
- 12 Q. Can you tell me a little bit about their role?
- 13 A. Their role was to look at violence reduction, community
- 14 engagement and we also did youth diversion and when
- 15 there was anti-social behaviour we could be deployed for
- 16 a period of time to try and address those issues.
- 17 Q. So that sounds like your team were involved in some big
- 18 issues?
- 19 A. Yes, could be.
- 20 Q. Not individual incidents, just bigger, broader issues
- 21 for Police Scotland?
- 22 A. They could be.
- 23 Q. And can you explain how you became involved with the
- 24 Sheku Bayoh incident?
- 25 A. Well, I think all inspectors on duty should be aware of

Transcript of the Sheku Bayoh Inquiry

1 all incidents that are ongoing so from my
2 recollection -- I wouldn't have been working on the same
3 radio channel, so I have picked it up from the STORM
4 incident.

5 Q. Tell us about that?

6 A. Well, a STORM incident is created when an incident is
7 ongoing and you can look at all the incidents that are
8 happening in the area.

9 Q. And when you were working in May 2015, is that something
10 that you would regularly keep on top of?

11 A. Yes.

12 Q. So you were aware of incidents going on in other police
13 areas?

14 A. Yes.

15 Q. And that's how you became aware of the knife calls --

16 A. Yes.

17 Q. -- regarding Mr Bayoh.

18 And then can we look at paragraph 71, so you
19 specifically say there that you were reading from the
20 STORM call cards. We have heard reference to call
21 cards, so that's sort of a record, if you like?

22 A. Yes, an incident report.

23 Q. An incident report. And you became aware of the calls
24 from members of the public at that time and can we then
25 look at 72 and 73. 73:

Transcript of the Sheku Bayoh Inquiry

1 "I have been asked if it was of my own volition that
2 I went to help, and that nobody called and asked for
3 support. Yes. From recollections, my instructions to
4 my staff would be permission to use blue lights and
5 sirens to get there. It was a serious incident. With
6 blue lights and sirens you could get to Kirkcaldy from
7 Cowdenbeath in under 10 minutes and I arrived around
8 8am."

9 A. Yes.

10 Q. So when you say you arrived -- you say later in
11 paragraph 74 "I arrived in Kirkcaldy". Did you arrive
12 to Kirkcaldy Police Office or Hayfield Road?

13 A. Kirkcaldy Police Office.

14 Q. Thank you. So you were asked if you went of your own
15 volition and can you tell us a little bit more about
16 your decision-making process to go and attend.

17 A. Well, I would stand by that, that that was the right
18 decision to do. It was a priority, it was a serious
19 call where extra resources would have been needed, so
20 that's where I took my resources. On that day I only
21 had four officers on.

22 Q. All right, so that day you had four officers -- did you
23 have two sergeants as well?

24 A. No, just myself.

25 Q. Just yourself and four officers?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Did they all go?

3 A. Yes.

4 Q. So all five of you went?

5 A. Yes.

6 Q. And did you all go to Kirkcaldy Police Office?

7 A. Yes.

8 Q. And you have said it was a serious call, a serious
9 incident; can you tell us what made you view it as
10 a serious incident?

11 A. Well, the nature of the call, that there was a male
12 brandishing a knife at members of the public in a public
13 place.

14 Q. Right. And your recollection is that he was brandishing
15 a knife at members of the public?

16 A. That's my working assumption, yes. That was what was on
17 the call card that I read.

18 Q. When you say -- can you look at paragraph 71. You use
19 that phrase about a working assumption and I wonder if
20 you can explain to the Chair what that means in reality
21 in terms of your day-to-day work?

22 A. Well, I had no reason to doubt what the members of the
23 public were phoning in about.

24 Q. You weren't listening to the calls, were you? You said
25 you got that from the STORM?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No, not at that time, but what I would do, my working
2 practice would be then --
- 3 Q. Sorry, could you stop for a second. Sorry, I missed the
4 first part of that answer.
- 5 A. I can't 100% say that I did on this day, but my working
6 practice would have been if I was going to an incident
7 would be then to put my radio onto the channel where
8 that incident was.
- 9 Q. Right. So it's drawn to your attention --
- 10 A. Yes.
- 11 Q. -- through the STORM call cards?
- 12 A. Yes.
- 13 Q. You could then from your position --
- 14 A. Move onto that channel.
- 15 Q. -- move onto the channel and then listen to what was
16 happening at the time?
- 17 A. Yes.
- 18 Q. And we have heard about Airwaves transmissions and the
19 calls coming in, so you could actually listen in to
20 that?
- 21 A. Yes.
- 22 Q. And take a view then about whether you were going to
23 assist.
- 24 A. Yes.
- 25 Q. So you arrived at Kirkcaldy Police Office at 8.00 am,

Transcript of the Sheku Bayoh Inquiry

1 you said that in paragraph 73, and in paragraph 74 you
2 talk about arriving in Kirkcaldy and speaking to
3 Inspector Stevie Kay in his office:

4 "I would have asked 'where do you want my resources
5 deployed?'. Inspector Kay would have given directions
6 where they were to go. It is my recollection that
7 I would deal with all other incidents requiring an
8 inspector's oversight."

9 So you have turned up with your team at about
10 8 o'clock and spoken to Inspector Kay?

11 A. Yes.

12 Q. We have heard mention of Inspector Kay. Was he the
13 person -- a senior officer at Kirkcaldy Police Office
14 that day?

15 A. Yes, he was the same rank as myself. I don't know
16 whether Inspector Kay would have actually been based at
17 Kirkcaldy Police Station at that time or arrived there
18 because as a police incident officer you could start at
19 other stations so I can't comment where he actually
20 started his duty that day.

21 Q. We have not heard from Inspector Kay yet, but we have
22 heard that he may sometimes have been at Dunfermline but
23 on this particular day he was in Kirkcaldy.

24 A. Right. My recollection was I spoke to him in the
25 inspector's office at Kirkcaldy Police Station.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. In the morning?
- 2 A. In the morning.
- 3 Q. And you asked him -- you say:
- 4 "I would have asked 'where do you want my resources
5 deployed?'.
6 That's a reference to you and your team?
- 7 A. Yes.
- 8 Q. And do you remember now what his response was? What did
9 he ask you and your officers to do?
- 10 A. No, I don't remember from the Inquiry statement, but if
11 I go back to my operational statement I have obviously
12 sent my four officers onto locus protection so that
13 would be what happened.
- 14 Q. Right. Let's look at that for a moment. That's the
15 15 May 2015 statement.
- 16 A. Yes.
- 17 Q. PIRC 190, and page 2 at the top you talk about arriving
18 at Kirkcaldy Police Office, contacting the duty police
19 incident officer, Inspector Kay:
- 20 "... who requested my team carry out locus
21 protection duties. My officers were thereafter duly
22 deployed."
- 23 So you essentially straight away sent your officers
24 who were from your team to Hayfield Road?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. And just briefly for people listening in, do you mind
2 telling us what locus protection duties are?
- 3 A. It would be where the incident has actually occurred, so
4 we would have to secure that area.
- 5 Q. So will they be helping with things like traffic duties
6 and taping off areas and things like that?
- 7 A. Yes, yes, but once the locus -- the location is secured
8 they shouldn't have to do any traffic duties because it
9 should be a sterile area.
- 10 Q. How do you secure an area?
- 11 A. Like just what we just said, with tape or with
12 an officer's presence.
- 13 Q. All right, thank you.
- 14 Then if we could go back to the Inquiry statement
15 please, paragraph 77 to 80, and let's -- you see 77 you
16 later learned that sadly Mr Bayoh had died:
- 17 "Senior officers thereafter started to arrive at
18 Kirkcaldy Police Office. They took control of this
19 incident. My role thereafter was minimal, I was
20 requested to act in a support role for Conrad Trickett."
- 21 And we have heard mention of Conrad Trickett. Was
22 he the post-incident manager?
- 23 A. He was.
- 24 Q. And were you -- in mentioning a support role, we may
25 have heard from someone else that you were the deputy

Transcript of the Sheku Bayoh Inquiry

- 1 post-incident manager?
- 2 A. No, I wasn't the deputy post-incident manager; I was
3 a liaison officer.
- 4 Q. Can you explain the difference, please, between a deputy
5 post-incident manager and a liaison officer.
- 6 A. I've never heard the term deputy post-incident manager,
7 but if you were a deputy manager you would have some
8 degree of taking the notes, of actually -- in carrying
9 out, fulfilling that role of the post-incident manager.
10 My role on that day, and I was very clear about that,
11 was could I act in a support role for Mr Trickett, so
12 basically show him about Kirkcaldy Police Station and
13 getting him anything he needed to fulfil his role.
- 14 Q. So you were showing him about. You were familiar with
15 Kirkcaldy Police Office at that time?
- 16 A. Yes.
- 17 Q. Was he not?
- 18 A. No, he wasn't a Fife officer.
- 19 Q. So you were able to tell him where things were and that
20 type of thing?
- 21 A. Yes.
- 22 Q. So you saw that as a position of support, a liaison
23 officer.
- 24 A. Yes, that was my role.
- 25 Q. So if there's any suggestion anywhere that you had

Transcript of the Sheku Bayoh Inquiry

1 a more formal role as deputy post-incident manager, you
2 would not agree with that?

3 A. No, definitely not.

4 Q. And if somebody had been appointed as a deputy
5 post-incident manager, how do you think -- do you have
6 an understanding of how that would be done?

7 A. No.

8 Q. Were you involved in part of your support role in
9 talking to the police officers who had been at
10 Hayfield Road?

11 A. No.

12 Q. Can we look at the next paragraph. I think you mention
13 Conrad Trickett there:

14 "He came down and asked would I act as his liaison
15 officer."

16 You have explained that, and then you say in
17 paragraph 79:

18 "I have been referred to my statement ..."

19 This is 15 May 2015, so your operational statement:

20 "... at page 2 ..."

21 And it says:

22 "About 1100 [in the morning] same date, I was
23 requested to act in a support role to the post-incident
24 manager ... who had been appointed, Chief Inspector
25 Conrad Trickett'. I have been asked what happened in

Transcript of the Sheku Bayoh Inquiry

1 the 3 hours in-between arriving and this request.

2 I didn't have any direct supervision of the incident so
3 would have been supervising any other calls requiring
4 a police response."

5 I'm interested in maybe getting a little bit more
6 information about what was happening between you
7 arriving at 8 o'clock and you being appointed to this
8 liaison officer role or support role to Conrad Trickett
9 at about 11 o'clock in the morning. Can you help the
10 Chair understand what was going on then?

11 A. I can't obviously say what calls were coming in at that
12 time without looking back on the STORM command and
13 control system, but this incident was obviously the
14 priority, but the very nature of policing there was also
15 other calls that would come in that the police are
16 required to respond to and that would be what I would be
17 diverting my attention to.

18 Q. So that would be calls completely unrelated --

19 A. Yes.

20 Q. -- to the events at Hayfield Road?

21 A. Yes.

22 Q. But you would be holding the fort, if you like, keeping
23 an eye on those --

24 A. Yes.

25 Q. -- while other things are going on?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And did you have any contact with Inspector Kay during
3 those three hours?
- 4 A. I don't know. I may have been in the same room as him
5 because sometimes inspectors would share the phone or
6 share the computer systems, but I can't recall.
- 7 Q. And when did you become aware that Mr Bayoh had passed
8 away?
- 9 A. I can't give you a time for that. It would be after
10 8 o'clock but before 11 o'clock.
- 11 Q. And during that time, do you have any understanding or
12 recollection now about who was in charge of what was
13 happening at Hayfield Road?
- 14 A. My understanding would be Inspector Stephen Kay until
15 the more senior officers arrived.
- 16 Q. And once the officers came back from Hayfield Road --
- 17 A. Yes.
- 18 Q. -- we have heard evidence they came back to the canteen?
- 19 A. They did, yes.
- 20 Q. Did you have an understanding, or even a recollection
21 now as to who was in charge once they got back to
22 Kirkcaldy Police Office?
- 23 A. That would be Inspector Kay.
- 24 Q. So in terms of the involvement of Conrad Trickett, he
25 wasn't in charge at that time?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No, not at that time.
- 2 Q. So his responsibilities began, I think you said, about
3 11.00 in the morning?
- 4 A. Yes.
- 5 Q. Right, thank you. Can I ask you about recovery of some
6 items of clothing, paragraph 81:
- 7 "Later that day, I'm not exactly sure of the time,
8 I was requested if I would corroborate the taking of the
9 female officers' clothing because they had to strip down
10 to their underwear."
- 11 And I would like to ask you about the recovery of
12 clothing, so tell us how you became involved with that
13 aspect of your --
- 14 A. I was approached by one of the senior investigating
15 officers who explained they were struggling to secure
16 the services of another female officer, and they asked
17 would I be willing to stay on duty and assist with that.
- 18 Q. Right, and this was for the female -- recovery of the
19 female officers' clothing?
- 20 A. Yes, yes, primarily. But there were other officers that
21 we took clothing from as well, male officers.
- 22 Q. Do you remember who the senior investigating officer was
23 that asked you to do that?
- 24 A. If I look back in my statement I think it is DCI Stuart
25 Houston, that's in my operational statement, second

Transcript of the Sheku Bayoh Inquiry

1 paragraph -- third paragraph.

2 Q. Third paragraph, about 4 o'clock in the afternoon you
3 were asked to do that?

4 A. Yes.

5 Q. And tell us who DCI Stuart Houston was?

6 A. I believe he was part of the MIT team.

7 Q. All right. We have heard some reference to the MIT team
8 and so he approached you. Who was the other female
9 officer that they had secured?

10 A. I don't know this lady, but from my operational
11 statement it is DC Jennifer McAulay.

12 Q. Thank you. And you agreed to carry out that task --

13 A. Yes.

14 Q. -- and be part of that process. Can I ask you first of
15 all before we move on about paragraph 84 and you talk
16 about -- you are asked about the canteen and you say:
17 "I attended at the canteen within Kirkcaldy Police
18 Office to ensure the welfare of the officers involved.
19 By the time the officers had all returned to the
20 canteen, I remember Amanda Givan ... being present."
21 We have heard that she was from the SPF:
22 "The first time I went down was for a duration of
23 approximately 5 minutes. I can't recall the exact time
24 I went down there. It was probably mid-morning."
25 So you said the first time you went down was for

Transcript of the Sheku Bayoh Inquiry

1 about five minutes. Was there a second time you went
2 down, or more times that I went down?

3 A. No, if you look down then I went back with
4 Conrad Trickett when he did the first -- the start of
5 his post-incident management so that would be after
6 11 o'clock.

7 Q. So is that paragraph --

8 A. 90.

9 Q. -- 90. Let me just see:

10 "I went back to the canteen later with Mr Trickett.
11 It will be in Mr Trickett's statement because he was
12 documenting his actions. He explained his role in my
13 presence because the PIM is usually just for a firearms
14 incident. They actually adapted that to fit this
15 circumstance. So he explained what his role was to the
16 officers. I didn't stay in the canteen with the other
17 officers, I left with Conrad Trickett. Amanda Givan
18 stayed there as the constant person who was with them.
19 That was her role as a Federation rep."

20 So does that mean you were there twice in the
21 canteen?

22 A. Yes.

23 Q. So initially, if we can go back up to the earlier
24 paragraph, 84, you went into the canteen to ensure the
25 welfare of the officers involved and you were there

Transcript of the Sheku Bayoh Inquiry

- 1 about five minutes?
- 2 A. For an estimate, give or take.
- 3 Q. Give or take. And during that time, Amanda Givan was
- 4 there?
- 5 A. Yes.
- 6 Q. What did you do during the time you were first there?
- 7 A. When I first went down as I say it was a welfare visit
- 8 to make sure that officers had refreshments, had coffee
- 9 and tea and just to make sure they were all back.
- 10 Q. So what did you do when you were there, just ask them
- 11 about that or check?
- 12 A. I can't remember exactly what I said, but just to make
- 13 sure are they all back, did they need refreshments but
- 14 I can't recall my exact wording.
- 15 Q. Do you remember any specific conversations with any of
- 16 the officers?
- 17 A. I have explained this several times. There was no
- 18 conversation. The only way I can describe it is -- I'm
- 19 not a doctor, but these officers were in shock. It was
- 20 very silent, there was no conversations ongoing with
- 21 them, they just sat there very silently.
- 22 Q. Okay. Then the second time you went, if we can go back
- 23 to paragraph 90, so you were present with Mr Trickett?
- 24 A. Yes.
- 25 Q. And he was with you at all times then, was he during the

Transcript of the Sheku Bayoh Inquiry

- 1 time --
- 2 A. I stood behind him.
- 3 Q. You stood behind him. And he had a conversation at that
- 4 time with the officers who were in the canteen. Did you
- 5 say anything that time?
- 6 A. Did I say anything?
- 7 Q. Did you say anything?
- 8 A. No.
- 9 Q. No. And those were the only two times you were in the
- 10 canteen?
- 11 A. Yes.
- 12 Q. And do you remember how long you were in the canteen
- 13 with Inspector Trickett, Chief Inspector Trickett?
- 14 A. No, but I wouldn't -- again, it wasn't a prolonged
- 15 period of time. It will be on his notes.
- 16 Q. If we have heard any evidence that Nicole Short had
- 17 a conversation with you at that time about her vest, do
- 18 you have any recollection at all about that
- 19 conversation?
- 20 A. No, none whatsoever.
- 21 Q. Right, thank you. You do know Nicole Short, I think you
- 22 have said in your statement?
- 23 A. I know who she is, yes.
- 24 Q. And she would recognise you, you would recognise her?
- 25 A. Yes, yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can we look at paragraph 94, please, and you were asked
2 about the FME, Dr Norrie, and you have seen -- you say
3 you have seen her:

4 "I think I have observed her at Kirkcaldy Police
5 Station previously but can't recall any dealings with
6 her. I didn't work in the custody suites; it's more the
7 custody sergeants and inspectors who would work more
8 closely with the FME and custody nurses."

9 Now, I think at one point there was a question asked
10 about whether you had been involved with Dr Norrie, or
11 shared information with her and I'm not going to go to
12 that because we heard from Dr Norrie yesterday and she
13 said she had never had any conversations with you at
14 all, that the conversations she had had had been with
15 a nurse who had phoned her to make the arrangements, so
16 you can put to the back of your mind any suggestion now
17 that you had a conversation -- I think you were clear in
18 your recollection you hadn't had a conversation with
19 her.

20 A. No, but PIRC asked what would I have said to Dr Norrie
21 and I had no reason to dispute what they had said,
22 I would say the man had a knife.

23 Q. Yes, but Dr Norrie has confirmed that she did not
24 actually have any direct contact with you on that day.

25 Right, can I ask you about the seizing of the

Transcript of the Sheku Bayoh Inquiry

1 clothing and the equipment. Can we look further down,
2 please, at paragraph -- I think it is 99, seizing
3 clothing and equipment. So you have referred back to
4 your previous statement to PIRC and it said:

5 "From my previous statement ..."

6 That will be your operational statement:

7 "... I recall that at about 1808 hours to 1812 hours
8 that day, Sunday 3rd May 2015, I in the presence of
9 Detective Constable Jennifer McAulay seized the clothing
10 and equipment of Police Constable Nicole Short."

11 And you say:

12 "I didn't take any clothing, it was DC McAulay --"

13 We may hear that her name is now DC Bruce:

14 "... in my presence. I was standing at the door to
15 make sure no one else would come in and walk in while
16 she was in her underwear."

17 So you were there actually to just stop people
18 interrupting?

19 A. And to corroborate the taking of the clothing.

20 Q. And to see that she had collected the right clothing
21 from the right officer?

22 A. Yes.

23 Q. And you say you had never met Jennifer, Jennifer McAulay
24 before:

25 "She was at Tayside [and] worked in Dundee, I think.

Transcript of the Sheku Bayoh Inquiry

1 I don't know where she came from but she wasn't a Fife
2 CID officer."

3 She wasn't someone that you had had any connection
4 with prior to that?

5 A. No.

6 Q. And then further down you say you also provided
7 reassurance -- officers with reassurance that the
8 Federation were there to support them.

9 Can I ask when was it that you were providing that
10 reassurance: was that at the first meeting in the
11 canteen or later when you were there with Trickett?

12 A. I think this was from a PIRC interview was when the
13 seizing of clothing was taking place.

14 Q. All right, so it was reassurance to the officers whose
15 clothing you were seizing?

16 A. Yes.

17 Q. Thank you. Can I ask you to look at the issue about
18 forensic recovery of clothing. Now, there's been some
19 evidence about the difference between seizing items and
20 forensic recovery, and I wonder if you could just help
21 us by explaining what those distinctions are.

22 A. I think the forensic recovery is to make sure there's no
23 cross-contamination between the items that are taken,
24 opposed to just physically seizing the items.

25 Q. Right. And how would officers forensically recover an

Transcript of the Sheku Bayoh Inquiry

1 item?

2 A. Usually we would use a protective white suit.

3 Q. When you were corroborating the recovery of items, were
4 you wearing a protective white suit?

5 A. I can't recall that, but if I go to my operational
6 statement you will actually see that we have actually --
7 each time we have taken them off, we have taken the
8 white suit, so that would infer to me I was wearing
9 a white suit, as was DC McAulay, but I can't recall
10 wearing a white suit.

11 Q. But as part of your normal procedures, forensic recovery
12 would be wearing a white suit --

13 A. Yes.

14 Q. -- and then removing that --

15 A. Yes.

16 Q. -- and then putting that in with --

17 A. The items.

18 Q. -- collecting that all together?

19 A. Yes.

20 Q. So that's available for any future forensic analysis?

21 A. Yes.

22 Q. Thank you. But that's not something that's done if
23 you're just seizing an item from a police officer?

24 A. No.

25 Q. Thank you. And as we have talked about you wearing

Transcript of the Sheku Bayoh Inquiry

1 a white suit, would that have been the same for the
2 other female officer, she would also be wearing a white
3 suit recovering items?

4 A. DC McAulay?

5 Q. Yes, DC McAulay or DC Bruce.

6 A. Yes, I can't recall her actually wearing it, but from my
7 operational statement, yes, we were both wearing white
8 suits that were put in the bags.

9 Q. Thank you. Can I ask you to look at paragraph 103
10 please and you talk about -- this is your Inquiry
11 statement obviously:

12 "It was 7 years ago. I couldn't remember what was
13 said but there certainly would have been no dialogue
14 with them. By this time, I think the females were
15 getting a wee bit more agitated and upset while their
16 clothes were taken."

17 So this is you talking about the process of
18 recovering the items:

19 "Unfortunately I can't remember any conversations
20 I had with Nicole, either PIRC or Mr Sallens asked me if
21 I remember Nicole saying to me that she had been stamped
22 on. I'm not saying she definitely didn't say that, but
23 I can't remember her saying that to me."

24 So this really reflects your recollection now?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And you just don't have any detailed recollection of
2 that?

3 A. No.

4 Q. And that remains the position today, does it?

5 A. It does.

6 Q. Thank you. Then 104:

7 "I have been referred to my statement to PIRC ..."

8 So that's the second statement at page 2 and 3:

9 "I have been asked and I cannot recall if

10 Nicole Short told me if she had been stamped on or
11 kicked. I cannot recall if Nicole Short's equipment,
12 specifically her body armour, had any marks, dirt or
13 footprints on it, or if she pointed these out to me at
14 the time. The clothing was not photographed whilst worn
15 by the officers, nor when removed prior to being bagged
16 as productions. I have been asked if this is still my
17 understanding. To the best of my recollection, yes."

18 So I would like to ask you about this paragraph,
19 please. First of all, the clothing wasn't photographed
20 whilst worn by the officers. When Nicole Short came in
21 to have the recovery of her items, was she wearing all
22 of her uniform, or was she carrying some of it?

23 A. I can't recall.

24 Q. No. And do you remember any photographs being taken --

25 A. No.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- obviously not while the examination --

2 A. No.

3 Q. No, not at all?

4 A. Not in my presence.

5 Q. Not in your presence. Would it be normal for

6 photographs to be taken when items are recovered?

7 A. Not usually if you actually have the physical item. You

8 would usually only photograph them initially if you had

9 to hand the item back or it was a large structure you

10 couldn't physically take possession of.

11 Q. All right, thank you. I would like you to look at

12 a vest and this is an actual vest, it's in a package.

13 I won't be asking you to open that, but can you confirm

14 that this is one of the items that you recovered on

15 3 May 2015?

16 A. Yes, that's my signature on the production label.

17 Q. And what item is that?

18 A. That is Nicole Short's vest.

19 Q. So that's the vest that you recovered from Nicole Short

20 after 6 o'clock in the evening on 3 May 2015?

21 A. Yes.

22 Q. And then we see the photographs on the screen which will

23 just be brought up, that's photographs of the item.

24 Now, can we leave it at that photograph please, the

25 second one on PIRC 01176. Do you see on that photograph

Transcript of the Sheku Bayoh Inquiry

- 1 that there is a dark coloured mark --
- 2 A. Yes.
- 3 Q. -- on the rear of the police vest?
- 4 A. (Nods).
- 5 Q. Was that mark drawn to your attention by Nicole Short
- 6 that day?
- 7 A. Oh, I can't recall that.
- 8 Q. Do you remember seeing that mark?
- 9 A. No.
- 10 Q. Had that mark been drawn to your attention by
- 11 Nicole Short that day what would you have said about it?
- 12 What would you have done about it?
- 13 A. It depends on the significance of the mark. If I wasn't
- 14 aware she had been stamped or kicked, a dirty mark on
- 15 a piece of police clothing might not be significant, so
- 16 it depends on what the significance of that was to me at
- 17 that time.
- 18 Q. So it would have been up to the individual officer to
- 19 draw the significance to your attention if she wanted
- 20 anything done about that?
- 21 A. Yes, or for someone else -- I'm not saying the officer
- 22 had to do that, but if an investigating -- senior
- 23 investigating officer was aware that was pivotal to his
- 24 enquiry, yes, we would be looking for that.
- 25 Q. Thank you. And if an officer drew the attention of an

Transcript of the Sheku Bayoh Inquiry

1 inspector to a mark and said "This is significant for
2 some reason" --

3 A. Yes, yes.

4 Q. -- what would the inspector do about that?

5 A. We would obviously possibly tell the investigating
6 officer to see -- to make sure we didn't lose that
7 evidence, to make sure we took all steps to preserve it.

8 Q. So when you say the investigating officer, would that be
9 the senior investigating officer?

10 A. Yes.

11 Q. The SIO?

12 A. Yes, SIO.

13 Q. So that would be information, if it was shared, and the
14 significance of it shared by an officer to an
15 inspector --

16 A. Yes.

17 Q. -- the inspector could share that with the SIO?

18 A. Yes.

19 Q. And that would then be dealt with as part of the overall
20 investigation?

21 A. Yes.

22 Q. But your recollection is -- you have no recollection of
23 that mark and no recollection of anyone saying to you it
24 was significant?

25 A. Yes, no.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Thank you. So would it be possible that an inspector
2 such as yourself would just say to somebody "Put that
3 somewhere safe"?
- 4 A. If you're asking if I personally -- if I knew the
5 significance of that and said "Just go and put that some
6 place safe", no, I wouldn't have done that.
- 7 Q. No?
- 8 A. No.
- 9 Q. Why wouldn't you have done that?
- 10 A. Because it's a significant piece of evidence.
- 11 Q. And if you had had that drawn to your attention, is it
12 the sort of thing that you might have noted in your
13 operational statement?
- 14 A. Yes, and sought clarity over.
- 15 Q. Thank you. Can I ask you about -- I think it is in your
16 Inquiry statement but we can discuss this. Can I ask
17 you about the micro fleece. We hear that
18 PC Nicole Short was wearing clothing underneath her body
19 armour, or her vest and one of the things was called
20 a micro fleece. Can you -- I think you called it -- it
21 is quite thin material and I'm wondering if you can help
22 us understand what a micro fleece is. Is it a standard
23 piece of clothing that's worn by police officers?
- 24 A. All police officers should wear their standard
25 authorised clothing but some officers, for different

Transcript of the Sheku Bayoh Inquiry

1 reasons, may purchase something themselves that they
2 would wear to potentially keep warmer if they needed to,
3 so I don't know whether you're talking about a police
4 standard issue micro fleece or one that the officer has
5 purchased herself to wear on duty.

6 Q. Is a micro fleece something that police officers are
7 issued with?

8 A. Yes.

9 Q. And is it thin material?

10 A. It is quite thin, yes.

11 Q. Can I ask you about your notebook on 3 May and I think
12 it's paragraph 117 of your Inquiry statement.

13 I appreciate you weren't at Hayfield Road but what was
14 your understanding of your obligations in relation to
15 completion of notebook entries in May 2015?

16 A. I have no reason not to complete my notebook, so my
17 notebook was completed as you would expect it to be
18 completed for the duties I undertook.

19 Q. And you have said that:

20 "If I thought the action I had taken would have been
21 pivotal to any subsequent enquiries I would have taken
22 notes. However, as I have stated, I did not deem any
23 actions I took were part of the evidential chain."

24 A. Yes.

25 Q. And I just wondered if you could explain what your

Transcript of the Sheku Bayoh Inquiry

1 understanding is of that?

2 A. What I mean by that is you're asking me now seven years
3 later for times, specific times, so if I thought those
4 would have been pivotal, for example, when I walked into
5 the canteen, when I walked out of the canteen, I would
6 have put them in my notebook, but the notes in my
7 notebook are what you would you expect regarding the
8 seizing of productions, what I started duty, when
9 I finished duty.

10 Q. And is it fair to say that your operational statement,
11 which you completed, would have been from your
12 recollection and from entries in your notes?

13 A. And from my notebook, yes.

14 Q. And it dealt with what you considered to be your
15 significant involvement --

16 A. Yes.

17 Q. -- with those events. And then finally you are asked to
18 deal with the PC Alan Paton complaint and you have been
19 asked some questions about a complaint that you were
20 involved in. You say:

21 "I think Alan Paton's complaint was about parking."

22 So just to be clear, these paragraphs are about
23 a complaint that had been made about PC Paton and that
24 you had some involvement in and it was limited
25 involvement in and you have made that clear. As we look

Transcript of the Sheku Bayoh Inquiry

1 through these paragraphs -- I think you took a statement
2 so we'll go through those paragraphs --

3 A. I didn't take a statement.

4 Q. Oh, sorry. We will go through the paragraphs. 120
5 next, please:

6 "I was only present, from my [recollection
7 presumably] at one house when the statement of complaint
8 was noted."

9 So you didn't take that statement?

10 A. No.

11 Q. You were present --

12 A. Yes.

13 Q. -- when the statement was taken and that's the extent of
14 your --

15 A. Yes, I can't even give you the year or date or anything
16 like that, as you can see from that, but I was asked
17 about that.

18 Q. Right. And you say at 121:

19 "It's very seldom we would go unaccompanied to note
20 a complaint. [some other inspector] had a statement to
21 note, and I would go as his corroborating officer. Only
22 one inspector would note a statement of complaint."

23 And that was not yourself?

24 A. No.

25 Q. And at 122:

Transcript of the Sheku Bayoh Inquiry

1 "I have been asked if I was involved in the
2 decision-making for this complaint. No, that's the
3 investigating officer's decision and on that occasion it
4 was [a different inspector]. I wouldn't be involved in
5 that. I don't remember the outcome of this complaint."

6 So you had a very limited involvement, if I can say
7 it that way, with this aspect that you have been asked
8 about?

9 A. Yes.

10 Q. And your recollection now is very limited as well?

11 A. I don't even know when that was.

12 MS GRAHAME: Right, all right.

13 Thank you very much. That completes my examination.

14 LORD BRACADALE: Are there any Rule 9 applications?

15 Ms Mitchell.

16 Ms Combe, would you mind going back to the witness
17 room while I hear a submission.

18 (Pause).

19 Yes, Ms Mitchell.

20 Application by MS MITCHELL

21 MS MITCHELL: Yes, sir. There are two issues. The first of
22 those issues follows paragraph 50 where the witness --
23 paragraph 50 of her Inquiry statement where she said:

24 "Following the tragic incident there were concerns
25 that there could be negative and adverse reaction from

Transcript of the Sheku Bayoh Inquiry

1 the ethnic minority community in Fife and the breakdown
2 in our engagement with these communities which could
3 manifest in demonstration and protest."

4 And she notes -- it is her evidence:

5 "However, due to the continued [I think positive]
6 community engagement and dialogue this was avoided.
7 Meetings took place with community leaders where any
8 concerns could be addressed and discussed."

9 The first issue that I want to ask about are
10 questions around the concerns that police had, so the
11 questions that I would like to ask are: how soon after
12 the death of Sheku Bayoh were there concerns that there
13 might be a negative and adverse reaction, whether or not
14 by that she meant demonstration or protest, to ask her
15 whether or not she was one of the people who had those
16 concerns, to find out who else had those concerns and
17 importantly to find out why did they have those
18 concerns, if there was a discussion about that.

19 And finally, would she have expected the concerns,
20 if she was one of these people that held them and other
21 officers did, would she have expected the officers in
22 the canteen to have these same sorts of concerns.

23 The second issue relates to matters of the community
24 and in particular those members of the community being
25 Sheku Bayoh's family and the issue of protest and the

Transcript of the Sheku Bayoh Inquiry

1 following questions would like to be asked in order to
2 assist the Inquiry with a proper understanding of the
3 situation. This Inquiry may come to hear in the future
4 that demonstrations and protests did take place, which
5 of course were peaceful and legal, but there was
6 a breakdown with the Bayoh family and what I would like
7 to ask this witness was whether or not she was aware
8 there was a complete breakdown in relationships between
9 family liaison officers and the Bayoh family in the days
10 following Sheku Bayoh's death. I would like to ask
11 about the meeting with community leaders, in particular
12 whether or not she was aware if the family of
13 Sheku Bayoh was invited because she said that it was not
14 all community leaders and others in the community were
15 present.

16 I would like to ask if she can recall what the
17 purpose of the meeting was and if the meetings were
18 in May, which I think she said she thought it was, given
19 the fact that the police officers hadn't yet given any
20 statements, what information or what discussions could
21 she recall about that and, finally, moving on to the
22 Bayoh family themselves and protest: were you aware of
23 demonstrations and rallies that the Bayoh family
24 participated in, not just in Kirkcaldy but through
25 Scotland, including 7 June where there was a march of

Transcript of the Sheku Bayoh Inquiry

1 1,000 people outside the police station, a minute's
2 silence and literally a banner which said "we want
3 justice and without truth there can be no justice", two
4 major marches, of other protests and September a meeting
5 in the community centre and October another rally in
6 Kirkcaldy, and also whether or not this witness was
7 aware that the Bayoh family campaigned for some
8 five years for the VRR and for the Public Inquiry, and
9 also whether or not this witness was aware of the name
10 Sheku Bayoh being carried at Black Lives Matter
11 demonstrations throughout Scotland. This is
12 particularly because of her part that she says that she
13 was involved in community relations in Kirkcaldy at that
14 time, so it's against that background I would like to
15 ask these questions.

16 (Pause).

17 Ruling

18 LORD BRACADALE: In relation to the first issue, I shall
19 allow you to explore the issues in relation to the
20 concerns.

21 In relation to the second issue, I would draw
22 a distinction between the immediate aftermath of 3 May
23 and the much broader matters that you mention towards
24 the end, so I would draw the line at the 7 June matter,
25 so you can ask about the aftermath of up to -- the

Transcript of the Sheku Bayoh Inquiry

1 subsequent issues I will not allow you to ask at this
2 stage.

3 MS MITCHELL: Can I just clarify in relation to those
4 matters whether or not that would include asking
5 a question of whether or not they were aware of the name
6 Sheku Bayoh being carried at Black Lives Matter
7 demonstrations.

8 LORD BRACADALE: Yes, that's much later.

9 MS MITCHELL: Well, I'm --

10 LORD BRACADALE: Is it?

11 MS MITCHELL: Well, I'm not sure that it would be. I'm just
12 wondering if that was much later. We know the dates of
13 certain marches on 7 June and we also --

14 LORD BRACADALE: That is 7 June 2015, is it?

15 MS MITCHELL: Yes, indeed. And we also know the meeting
16 with the community was in May, so is the Inquiry just
17 suggesting that the questions about the VRR should not
18 be included --

19 LORD BRACADALE: No. I would restrict your questions to
20 matters occurring in May and June 2015.

21 MS MITCHELL: I'm obliged.

22 LORD BRACADALE: And on that basis I shall allow you to ask
23 the questions, so if we can rearrange the seating
24 please.

25 (Pause).

Transcript of the Sheku Bayoh Inquiry

1 Can we bring the witness back, please.

2 Ms Combe, you're going to be asked some questions by
3 Ms Mitchell who is the senior counsel for the Bayoh
4 families.

5 Ms Mitchell.

6 MS JANE COMBE (continued)

7 Questions from MS MITCHELL

8 MS MITCHELL: Thank you.

9 I wonder if we could have on screen the Inquiry
10 statement of Inspector Combe, in particular
11 paragraph 50. Now, you will recall being asked some
12 questions by my learned friend about this already.

13 A. Yes.

14 Q. I would like to ask you some more questions, if I may,
15 about that.

16 As we see there it says:

17 "Following the tragic incident, there were concerns
18 that there could be a negative and adverse reaction from
19 the ethnic minority community in Fife and a breakdown in
20 our engagement with these communities which could
21 manifest in demonstration and process sorry protest and
22 protest."

23 Now, what I would like to ask you, first of all, is
24 how soon after the death of Sheku Bayoh were there
25 concerns that there might be an adverse and negative

Transcript of the Sheku Bayoh Inquiry

1 reaction?

2 A. I couldn't give you a timescale on that. I would say
3 quite quickly after that didn't -- any victim of any
4 crime or any incident, very quickly that would be one of
5 the community impact assessments, so it doesn't have to
6 be race, it could be it was a young person, it could be
7 any number of things that we take into consideration
8 after an incident.

9 Q. Okay. And when -- you have identified that, you have
10 said "Quite quickly", I'm wondering if we could explore.
11 Do you mean on that day would there have been concerns?

12 A. I would think so, as senior management, yes, it would be
13 part of your Community Impact Assessment.

14 Q. And were you one of the people that had those concerns?
15 Did you have a concern given your --

16 A. I wasn't part of the senior management team, but from
17 the work I have done with the communities, yes, that
18 would be a concern.

19 Q. And you would say that not only you would have that
20 concern but you imagine senior management would have
21 that concern?

22 A. I can't talk for senior management, but I would presume
23 so.

24 Q. Why did you have those concerns?

25 A. As I said, after any incident involving the police,

Transcript of the Sheku Bayoh Inquiry

1 whether as I say it's a young person who has died on the
2 road, whether it's an incident like this, you have to
3 look around and see what impact is that going to have on
4 the community.

5 Q. I would like you to look at this particular instance.

6 A. Yes.

7 Q. Why in this particular instance did you have an
8 apprehension that there might be negative and adverse
9 reaction?

10 A. Because of the gentleman's heritage.

11 Q. What do you mean by that?

12 A. He is a black male.

13 Q. And why did that make you think that there would be
14 negative and adverse reaction?

15 A. Well, if I'm being perfectly honest with you, it's after
16 anything -- whether it's worldwide or in the country, if
17 it is to do with an ethnic minority, the media will come
18 on the back of that.

19 Q. And is there a particular resonance with black men in
20 police custody?

21 A. No, no. Not in Fife, no.

22 Q. Well, in general, though, you were talking about --

23 A. In general if you look at the media reporting there's
24 plenty media reporting throughout the years about black
25 people being taken into custody, your stop and search

Transcript of the Sheku Bayoh Inquiry

- 1 down in England.
- 2 Q. Was it one of your concerns that because Mr Bayoh was
3 black there might be an adverse --
- 4 A. Potentially, yes.
- 5 Q. -- reaction.
- 6 A. Yes.
- 7 Q. You say that there were concerns that there could be
8 a negative and adverse reaction. You have indicated
9 that you have that concern. Who else had that concern?
10 I'm just -- reflecting upon --
- 11 A. I couldn't comment on that.
- 12 Q. Well, you say "There were concerns", so I'm looking to
13 help the Inquiry with where those concerns arise. How
14 did you know about those concerns?
- 15 A. Because they were my concerns.
- 16 Q. Okay. And were you the person then that acted to carry
17 out the community engagement and dialogue?
- 18 A. I was present at some of those, yes.
- 19 Q. And when you were present at that, did other people
20 express their concerns about the possibility of
21 a negative and adverse reaction?
- 22 A. Are you talking about other persons as in the police
23 community --
- 24 Q. Yes.
- 25 A. -- or as in the wider community?

Transcript of the Sheku Bayoh Inquiry

- 1 Q. In the police community?
- 2 A. Yes, in the police community, yes.
- 3 Q. And were those discussions had presumably before you
- 4 reached out to ethnic minority communities in Kirkcaldy?
- 5 A. They would have been, yes.
- 6 Q. Do you remember those discussions?
- 7 A. No.
- 8 Q. Do you remember any meetings about them?
- 9 A. No.
- 10 Q. Would you have expected the officers who were in the
- 11 canteen to have the same sorts of concerns?
- 12 A. Not all of them, because some of them were very new into
- 13 the organisation and might not have had that exposure
- 14 previously.
- 15 Q. We have had evidence that some of the officers, for
- 16 example, Walker and Paton, were extremely experienced
- 17 officers. Would you have expected them to have those
- 18 sorts of concerns?
- 19 A. As I have already said, it depends on their exposure to
- 20 these kinds of incidents, where it's involving an ethnic
- 21 minority community. If police officers have never dealt
- 22 with the ethnic minority community they might not have
- 23 those concerns, it might not be first and foremost in
- 24 their mind.
- 25 Q. Well, would you have expected police officers to be

Transcript of the Sheku Bayoh Inquiry

1 aware of the worldwide media about black men dying in
2 police custody?

3 A. It would be an expectation but, as I have said, I can't
4 speak for every police officer that they do keep
5 up-to-date with current affairs.

6 Q. I would like to move on to another issue.

7 A. Thank you.

8 Q. This issue is in order to assist the Inquiry with
9 a proper understanding of the situation just post the
10 death of Sheku Bayoh. You have indicated already at
11 paragraph 50 that "due to the continued positive
12 community engagement and dialogue this was avoided", and
13 by "this" it means demonstration and protest.

14 Now, during the proceeding days after Mr Bayoh's
15 death in police custody, were you aware of large-scale
16 events?

17 A. No.

18 Q. Were you aware of a large-scale event on 7 June?

19 A. And where are you talking about this large-scale event?
20 Is it in Fife or Edinburgh, Glasgow?

21 Q. In Fife.

22 A. In Fife. There was one -- I couldn't give you the date,
23 there was an event in Fife.

24 Q. And if I were to suggest to you that that was a march
25 which stopped outside the police station --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, that's the one I'm referring to.

2 Q. Do you remember anything about that particular event?

3 A. As I have said, I wouldn't class that as a demonstration
4 or a protest, there was no hostilities that I am aware
5 of, it was very dignified by all those involved, but
6 yes, I'm aware that there was an event.

7 Q. Were you aware that there was a minute's silence outside
8 the police station?

9 A. Yes.

10 Q. Can you tell us anything else about that?

11 A. No.

12 Q. No. Now, you say you wouldn't class that as
13 a demonstration or a protest, but of course
14 demonstrations and protests --

15 A. Yes.

16 Q. -- are completely legal?

17 A. Yes.

18 Q. And can be done peacefully?

19 A. Yes.

20 Q. Now, the Inquiry will come to hear that -- there will be
21 evidence that the Bayoh family in fact stood with
22 a banner which said "We want answers" and "Without truth
23 there can be no justice". Do you recall seeing that?

24 A. I don't recall seeing it at Kirkcaldy but I have seen
25 that in the media.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. And were you present at that --
- 2 A. No.
- 3 Q. Okay. Do you have any recollection of any other
- 4 meetings in Kirkcaldy in the days or weeks preceding
- 5 that --
- 6 A. No.
- 7 Q. A rally?
- 8 A. No.
- 9 Q. A meeting at a community hall?
- 10 A. No.
- 11 Q. You have already explained to us that you didn't
- 12 consider these demonstrations or protests because what
- 13 you were thinking of when you meant that was
- 14 something --
- 15 A. I will clarify that for you then. What I mean by is
- 16 a large-scale disturbance -- as I say, yes, I take
- 17 on board what you're saying, they can be classed as
- 18 a protest or demonstration, but there was no
- 19 hostilities, there was no arrests that I am aware of.
- 20 Q. Were you aware that there was a breakdown in relations
- 21 between the police and the family liaison officers and
- 22 the Bayoh family in the days following Sheku Bayoh's
- 23 death?
- 24 A. No.
- 25 Q. Did you have any interaction with the family liaison

Transcript of the Sheku Bayoh Inquiry

- 1 officers at all?
- 2 A. Did I personally?
- 3 Q. Yes.
- 4 A. No.
- 5 Q. You spoke also about the meeting with community leaders.
- 6 A. Yes.
- 7 Q. And it would be fair to say you can't remember a huge
- 8 amount about that, is that correct?
- 9 A. That's right.
- 10 Q. Can you remember what the purpose of that meeting was
- 11 for?
- 12 A. From my recollection it was just to have that engagement
- 13 still with the community, so if there was any underlying
- 14 issues, we could try and address them.
- 15 Q. And what underlying issues might those be?
- 16 A. They could be anything, a lack of communication, a lack
- 17 of information-sharing, feeling that they were being
- 18 persecuted, you know, being targeted by other members of
- 19 the community, but there was none of that from my
- 20 recollection.
- 21 Q. At that particular time, if your understanding is
- 22 correct and the meeting was in May --
- 23 A. I said I couldn't remember, I said it would be May
- 24 or June.
- 25 Q. May or June?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. If it was May or June. What information could you have
3 given at that stage about the circumstances of
4 Sheku Bayoh's death?

5 A. We couldn't have shared anything about the
6 circumstances, but the community impact is to see how
7 the community are feeling about that incident, or any
8 other incidents.

9 Q. Were you aware whether or not the Bayoh family were
10 invited to the meeting of community leaders?

11 A. The Bayoh family have a member of their family who is
12 part of Frae Fife and they were invited.

13 Q. So through Frae Fife?

14 A. Yes, and there was a member of Frae Fife there and
15 a member of their family is a quite influential member
16 of Frae Fife.

17 Q. Do you have any information that anyone else in the
18 family was invited to that meeting?

19 A. I couldn't tell you who the invite list was.

20 Q. Okay. So any invite that was given was given to a body
21 of whom a member is a party of that group, but not the
22 family itself?

23 A. I couldn't tell you.

24 MS MITCHELL: No further questions.

25 LORD BRACADALE: Ms Combe, thank you very much for coming to

Transcript of the Sheku Bayoh Inquiry

1 give evidence to the Inquiry. I'm going to rise now in
2 order that the next witness can be introduced and you
3 will be free to go then.

4 MS MITCHELL: Sorry, my Lord, I did forget to ask a question
5 (mic turned off) the community leaders.

6 LORD BRACADALE: Yes, very well (inaudible overspeaking) --

7 MS MITCHELL: I'm sorry, I'm sorry.

8 A. Not at all.

9 Q. You have indicated to us briefly the make-up of the
10 community leaders and I wonder if I can explore that
11 with you in a little more detail?

12 A. Yes.

13 Q. You described the imam of the mosque?

14 A. Yes.

15 Q. Can you tell us who else you thought was there?

16 A. The leader of the Fife Arabic community, Frae Fife,
17 business leaders, anyone who has actually been
18 interactive with the police from any of the communities
19 is what I would say, is somebody who is influential and
20 we could get a message through.

21 Q. And what people of that group were members of the black
22 community?

23 A. Frae Fife.

24 Q. And is the particular person that you're referring to in
25 relation to Frae Fife, that particular person isn't

Transcript of the Sheku Bayoh Inquiry

1 a member of the Bayoh family that was there that day?

2 A. He wasn't -- yes, it was someone else other than the
3 member of the Bayoh family who I have said is a member
4 of Frae Fife.

5 Q. And do you know who that person was?

6 A. I believe it's -- Naeem is his first name, I don't know
7 his surname.

8 MS MITCHELL: I've no further questions.

9 LORD BRACADALE: Thank you.

10 (12.39 pm)

11 (Short Break)

12 (12.44 pm)

13 LORD BRACADALE: Now, Ms Grahame, who is the next witness?

14 MS GRAHAME: The next witness is Samantha Davidson.

15 LORD BRACADALE: Ms Davidson, are you a Detective Inspector,
16 is that right?

17 A. Temporary Detective Inspector at the moment.

18 LORD BRACADALE: Would you take the oath, please.

19 TEMPORARY DI SAMANTHA DAVIDSON (sworn)

20 LORD BRACADALE: Ms Grahame.

21 Questions from MS GRAHAME

22 MS GRAHAME: Thank you.

23 You are Samantha Davidson?

24 A. Yes.

25 Q. And what age are you?

Transcript of the Sheku Bayoh Inquiry

1 A. 38.

2 Q. And tell us how many years' service you now have?

3 A. 17.

4 Q. And in 2015?

5 A. 10 years' service.

6 Q. And your rank now, you have just told the Chair you're

7 temporary detective inspector?

8 A. Yes, that's correct.

9 Q. And in 2015, were you a DS, a detective sergeant?

10 A. Yes.

11 Q. And we have heard people talk about the CID officers.

12 Is that one -- you're that person?

13 A. Yes.

14 Q. Thank you. And your contact details are all known to us

15 so I'm not going to ask you to say what they are.

16 Have you had the chance to see other aspects of the

17 evidence that we have had in the Inquiry?

18 A. Some, not all.

19 Q. You may have seen me refer officers and witnesses to the

20 black folder in front of you, so have a look in that and

21 that should contain four statements and I'm going to

22 take you through all of them now. So the first one was

23 a self-penned statement dated 4 May 2015. I don't

24 actually know what order they are in in your folder, but

25 it will also come up on the screen as we go through it.

Transcript of the Sheku Bayoh Inquiry

- 1 A. Mm-hm.
- 2 Q. So this is Samantha Davidson and you will see it says
3 4 May 2015, 12.25, done by yourself at Kirkcaldy Police
4 Office.
- 5 A. Yes, that's correct.
- 6 Q. Right. And when you prepared this, this was just the
7 day after the events of 3 May.
- 8 A. Yes.
- 9 Q. Were you doing your best to give -- to give a true and
10 accurate recollection or record of what had happened the
11 day before?
- 12 A. Yes.
- 13 Q. And then can we look at PIRC 184 and we will see that
14 this is a statement by you on 29 May 2015 at 11.10,
15 taken by investigators John McAuley and Kevin Rooney at
16 Kirkcaldy Police Office?
- 17 A. Yes.
- 18 Q. We have heard that these are investigators from PIRC, so
19 they took a statement from you on that date and again,
20 were you doing your best to give a true and accurate
21 record of what had happened?
- 22 A. Yes, I was.
- 23 Q. Thank you. And were you given the chance to change
24 anything?
- 25 A. Just to clarify from my original self-penned statement,

Transcript of the Sheku Bayoh Inquiry

1 yes.

2 Q. So this was about clarifying your original statement.
3 and then look at number 3, PIRC 185, please.

4 This is a statement of 2 June 2015, 17.20, by
5 John Ferguson, investigating officer, again at Kirkcaldy
6 Police Office, and again, on this date were you doing
7 your best to give a true and accurate record of what had
8 happened?

9 A. Yes, that's correct.

10 Q. And again, were you given the chance to clarify or make
11 any changes if you wished?

12 A. Yes.

13 Q. Thank you. And then finally, can we look at the Inquiry
14 statement. We will see that this is your Inquiry
15 statement taken by a member of the team on 9 March 2022,
16 and if we can look at the last page, you will see
17 there's a paragraph there which says at 39:

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 Then we should be able to -- we will have a -- yes.
23 So we see that there was a signature there. It has been
24 redacted on the copy that we see on the screen, but on
25 your hard copy you should see your signature on all the

Transcript of the Sheku Bayoh Inquiry

1 pages?

2 A. Yes, that's correct.

3 Q. And that was dated -- signed by you on 26 April 2022.

4 A. (Nods).

5 Q. So when I go through things, I will ask for particular
6 paragraphs or pages to be brought up on the screen, but
7 at all times you're going to have the full hard copy and
8 if you think there's an area you would like to refer to,
9 please just tell us and we can bring that up on the
10 screen as well.

11 A. Okay, no problem.

12 Q. So feel free to use those hard copies in any way. In
13 addition to the folder with your statements in it, you
14 should see a spreadsheet which has been printed off.
15 It's a combined audio and video timeline.

16 Now, if you have managed to watch any of the
17 evidence, you may have seen me refer people to this,
18 witnesses to this. You will see on the left there's
19 timings given in the 24-hour clock, so, for example, the
20 first one is 7.09 in the morning, 20 seconds to 33
21 seconds. And then to the left of centre of the
22 spreadsheet, you will see a list of Airwave
23 transmissions that are transcribed, and then to the
24 right of centre, you will see a very brief description
25 of events that are said to be happening in the CCTV or

Transcript of the Sheku Bayoh Inquiry

1 in the footage and on the right-hand side, you will see
2 the source of that -- the video extract.

3 A. Okay.

4 Q. Now, you may have seen in the hearings, or you may have
5 seen on the news that we have also got an evidence video
6 timeline which combines all the footage, and that will
7 be on the screen, and I might ask you questions about
8 that.

9 A. Okay.

10 Q. You might have seen witnesses touch the screen and a red
11 circle appears. We might be doing that as part of your
12 evidence as well.

13 A. Okay.

14 Q. But if you're not clear about anything, just tell me and
15 I will explain what we want to do.

16 A. Okay, no problem.

17 Q. Great, thank you very much.

18 So let's start with your Inquiry statement if I may,
19 paragraph 5, and you have said at around 7.15 in the
20 morning you were in the CID office in Kirkcaldy Police
21 Office:

22 "... when I heard a transmission over the radio
23 regarding a black male in possession of a knife in the
24 area of Hendry Road, Kirkcaldy. I understood this was
25 a priority 1 call requiring immediate response.

Transcript of the Sheku Bayoh Inquiry

1 DC Connell and I acknowledged the call, along with
2 uniformed officers. While this was a call for uniformed
3 officers rather than CID, Kirkcaldy Police Office was
4 very short staffed at that time. That, together with
5 the serious nature of the call, made us respond to the
6 call."

7 I would like to ask you some general questions about
8 this. Now, we have heard officers talk about the CID
9 officers. Are you quite a distinct group of officers
10 compared to other uniformed officers in a police
11 station?

12 A. Distinct in that we wear different uniform. A CID
13 officer will routinely wear suits as opposed to the
14 normal standard police uniform and the distinction is
15 what crimes we lead on as opposed to what crimes the
16 uniform lead on. So we would lead on serious,
17 protracted crimes, as opposed to maybe your kind of
18 volume crime that response deal with.

19 Q. So things like murders, or serious assaults, that type
20 of thing?

21 A. Mm-hm.

22 Q. And you would be dressed in suits rather than the
23 standard police uniform?

24 A. Yes, that's correct.

25 Q. So you are quite easily distinguished compared to other

Transcript of the Sheku Bayoh Inquiry

1 officers maybe in a scene: you can be seen because of
2 your normal clothing --

3 A. Yes.

4 Q. -- smart clothing.

5 A. Mm-hm.

6 Q. And do you have a separate office then with CID officers
7 in Kirkcaldy Police Office?

8 A. Yes, at the time -- we don't have a CID office there
9 just now, but at the time we had a separate CID office
10 from uniform.

11 Q. So do you form a unified group --

12 A. Yes.

13 Q. -- distinct from the less serious business that other
14 officers conduct and engage in?

15 A. Yes.

16 Q. And you have mentioned a DC Connell?

17 A. Yes.

18 Q. Who was he?

19 A. He was one of my detectives that was on duty that
20 morning, DC Derek Connell.

21 Q. So DC Derek Connell was one of your constables?

22 A. Yes.

23 Q. And at that time were you a detective sergeant?

24 A. Yes.

25 Q. So you have been promoted on a temporary basis since

Transcript of the Sheku Bayoh Inquiry

- 1 then.
- 2 A. Yes.
- 3 Q. How long had you been a sergeant in May 2015?
- 4 A. I was promoted in June of 2014, so only just shy of
- 5 a year.
- 6 Q. Just shy of a year. And how many officers did you have
- 7 under your command?
- 8 A. In Kirkcaldy I had three or four. In Glenrothes
- 9 I likewise had three or four, so anything up to about
- 10 eight DCs.
- 11 Q. So we have heard about other officers, who are maybe
- 12 senior officers, that their teams were in the one
- 13 office; you actually spanned two offices with your --
- 14 A. Yes, so Fife is separated into central, east and west,
- 15 so I would cover the central area which would encompass
- 16 Kirkcaldy and Glenrothes.
- 17 Q. Right. And you have said that Kirkcaldy Police Office
- 18 was very short staffed at that time. Now, do you mean
- 19 in relation to CID officers or in relation to uniformed
- 20 officers?
- 21 A. Probably across the board.
- 22 Q. Right. And what do you mean it was very short staffed?
- 23 A. In terms of the team numbers, essentially with changes
- 24 to Police Scotland, a lot of changes had occurred, a lot
- 25 of staffing had moved nationally, so yes, we were going

Transcript of the Sheku Bayoh Inquiry

- 1 through a big change at that time.
- 2 Q. And we may hear that it was a time of considerable
3 change in the organisation --
- 4 A. Yes.
- 5 Q. -- so still feeling the effects of the change to
6 Police Scotland from the individual regions or areas?
- 7 A. Yes, that's correct.
- 8 Q. Would that be fair?
- 9 A. Yes.
- 10 Q. And you said that this was a serious call that you heard
11 and so you also acknowledged that call for that reason,
12 and what was it that made you consider it a serious
13 call?
- 14 A. High risk in terms of safety. So, you know, essentially
15 you hear it's an immediate priority 1 call, and any
16 officer, regardless of specialism, rank, can go to an
17 immediate 1 call.
- 18 Q. Right. So when there's calls, for example we have
19 called about all units being called for, there's not
20 a small group of CID officers who ignore all of that?
- 21 A. No.
- 22 Q. You're still part of the response --
- 23 A. Yes.
- 24 Q. And if all units are called for, that would include CID
25 officers as well?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes, it can include, yes, depending on commitments, but
2 it can include us.
- 3 Q. So if you were involved in some serious investigation at
4 that moment, you wouldn't be available, but if you are
5 available, you would be part of the all units call?
- 6 A. Yes, absolutely.
- 7 Q. And you said it was high risk for safety; whose safety?
- 8 A. Officer safety in terms of the dispatching officers, but
9 predominantly it's the safety of the community and the
10 subject male.
- 11 Q. Right, thank you. If Kirkcaldy Police Office had not
12 been very short staffed, would you have responded to
13 this call?
- 14 A. Absolutely.
- 15 Q. So the staffing didn't actually matter --
- 16 A. No.
- 17 Q. -- to your initial decision to respond?
- 18 A. It was a consideration but I would have still -- I'm
19 a police officer and that's my core responsibility,
20 I would have still responded to that call.
- 21 Q. That's still your priority?
- 22 A. Yes.
- 23 Q. And DC Connell, did he go with you?
- 24 A. Yes.
- 25 Q. And had you attended that type of call, a knife call, or

Transcript of the Sheku Bayoh Inquiry

- 1 a knife incident, from Kirkcaldy Police Office before?
- 2 A. Very likely. I would very often back up uniform at
3 immediate calls, or likewise, if we were the closest
4 unit, we would get dispatched to that call ourselves.
- 5 Q. All right. So you have experience -- or had experience
6 in 2015 of responding to knife incidents and knife
7 calls?
- 8 A. I can't think specifically to knife calls, but certainly
9 immediate calls. Whether that involved a knife or not,
10 I'm unsure.
- 11 Q. Can you explain to me the distinction between immediate
12 calls and knife calls?
- 13 A. An immediate call could be a call that's graded grade 1,
14 with immediate threat to, it doesn't mean that there's
15 a knife, it could be a large-scale disturbance, it could
16 be, you know, a domestic incident with a serious nature.
17 It doesn't have to be -- it's just graded that it is
18 life threatening.
- 19 Q. So grade 1, immediate threat to life, but it could be
20 from any means or source --
- 21 A. Circumstance.
- 22 Q. -- or as a result of anything, but if that call came in,
23 you would respond to that?
- 24 A. Yes.
- 25 Q. But it may not be a knife call?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Thank you. Can I ask you to look at paragraph 7,
3 please. You have said that you collected your
4 equipment:

5 "... the yard [by that time] was empty of police
6 vehicles as the uniformed officers had already left
7 shortly before to respond to the incident. DC Connell
8 and I left the carpark area of Kirkcaldy Police Station
9 in a marked CID vehicle. This was a silver Vauxhall
10 Corsa ... DC Connell was driving. Driving time from ...
11 and Hayfield Road is approximately 3 to 5 minutes."

12 So it's a very short journey. DC Connell was
13 driving. Are you and he familiar with Hayfield Road and
14 the area?

15 A. Yes. I had worked in Kirkcaldy my full service for
16 10 years, so I was fully aware of Hayfield Road.

17 Q. So we have heard there's hospitals in the area and
18 churches and it's -- and houses. You were fully aware.

19 So as you are driving to Hayfield Road, were you
20 listening to the radio messages coming over the police
21 radio?

22 A. Yes.

23 Q. Thank you. So -- and is that a way of keeping yourself
24 up-to-date on what's happening at the scene?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Thank you. You have said:
- 2 "We did not have blue lights or sirens in our car.
- 3 We responded as quick as we could."
- 4 So you have said it was a marked police car but --
- 5 does that mean there were no sirens or lights on it?
- 6 A. There's no sirens and lights, but at that time there was
- 7 a Police Scotland emblem kind of taping -- like on the
- 8 bonnet of the vehicle so it was identifiable as a police
- 9 vehicle, but it was not kind of fitted with sirens or
- 10 lights.
- 11 Q. So not the normal sort of equipment that would be fitted
- 12 to that car?
- 13 A. No.
- 14 Q. And:
- 15 "During the journey to Hayfield Road we heard the
- 16 emergency button activation. This indicates that
- 17 an officer requires assistance. We then heard that
- 18 PC Short had been injured. At that time there was no
- 19 exact detail of who was responsible or the extent of her
- 20 injuries."
- 21 So the first thing you heard was an emergency button
- 22 activation, and then that an officer was injured,
- 23 PC Short?
- 24 A. Yes.
- 25 Q. We have heard that when the emergency button is

Transcript of the Sheku Bayoh Inquiry

1 activated, the radio vibrates for the officers who are
2 attending; is that what happened?

3 A. Yes, it vibrates and goes red.

4 Q. And the screen goes red?

5 A. Yes.

6 Q. And so at that stage you didn't know -- you told us you
7 knew about the knife, the calls that had come in, but
8 you didn't know what injuries PC Short had or the extent
9 of those injuries?

10 A. No.

11 Q. So what was going through your head at that time as you
12 responded?

13 A. Essentially when we heard the emergency button being
14 pushed we were only just leaving the back yard of
15 Kirkcaldy Police Station. With the context of the call
16 and information known, I immediately -- my gut reaction
17 was an officer had been stabbed. That was quickly
18 reported back on the radio that it was PC Short and she
19 had been physically injured and I think it was,
20 you know, confirmation that it was not -- she had not
21 been stabbed.

22 So at that stage, you know, when the emergency
23 button goes, obviously fear, adrenaline heightens and
24 you just want to get there to make sure everybody is
25 okay.

Transcript of the Sheku Bayoh Inquiry

1 MS GRAHAME: All right. I'm going to be asking you some
2 questions this afternoon about the events and we will
3 look at the spreadsheet and go through that.
4 Would that be an appropriate time?
5 LORD BRACADALE: Yes, certainly. We will stop for lunch and
6 sit at 2 o'clock.
7 (1.00 pm)
8 (The luncheon adjournment)
9 (2.01 pm)
10 LORD BRACADALE: Right, Ms Grahame.
11 MS GRAHAME: Can we turn to the spreadsheet and page 5.
12 Actually, let's start with page 4. I think just before
13 lunch you mentioned that you had become aware that an
14 emergency button had been pressed and you will see at
15 7.21.19, Ashley Tomlinson's emergency button status was
16 turned on, do you see that?
17 A. Yes.
18 Q. And then you also mentioned hearing that the officer had
19 been injured but didn't have serious injuries?
20 A. I believe so. There was an update prior to my arrival.
21 Q. Absolutely. Let's have a look at page 5 at the very top
22 of page 5, and we have heard that at 7.21.38 PC Smith
23 said:
24 "An officer's been punched to the back of the head.
25 No obvious serious injuries. Male secure on the

Transcript of the Sheku Bayoh Inquiry

1 ground."

2 And is that the reference to the Airwaves
3 transmission that you're thinking?

4 A. Yes, I believe so.

5 Q. Thank you. And then I would like you to look at page 6,
6 please, and I'm going to play -- sorry, I should have
7 actually asked you something else about page 5. Could
8 you just go back a second, sorry about that, and I think
9 in your statement you also mention that you said over
10 the Airwaves that you were going to give an update and
11 do we see that at 7.21.55 Stephen Kay requests:

12 "PS Maxwell can you arrive there and give me an
13 update please."

14 And then very shortly after that at 7.22.04 you say:

15 "We're just approaching, I'll give you an update."

16 A. Yes, that's correct.

17 Q. So you effectively reply to Stephen Kay to say that you
18 will give him the update, and you're on your way at that
19 time?

20 A. Mm-hm.

21 Q. And then can we look again, sorry, page 6 and I'm going
22 to ask to -- I will show you a part of the evidence
23 video timeline, so that's the footage on the screen,
24 just to let you see, you will see the real time clock in
25 the top left-hand corner and then at the bottom there's

Transcript of the Sheku Bayoh Inquiry

1 the CCTV from Gallaghers pub.

2 A. Yes.

3 Q. And you can see the emergency status buttons on the
4 left, if they're lit up -- Paton's and Tomlinson's are
5 lit up at this time, and then in the middle at the top
6 of the screen you will see a reconstruction tile which
7 is a 3D reconstruction bird's eye view of the vehicles
8 and things arriving at the scene, so what I'm going to
9 do is ask that we play from 7.23.10 and if you look at
10 the spreadsheet on page 6 for 7.23.10, you will see that
11 in the description, slightly to the right of halfway on
12 the spreadsheet, you will see:

13 "Two light coloured small vehicles appear
14 approaching the roundabout, one from the south and one
15 from the north, both on Hendry Road. The vehicle
16 approaching from the south turns right at the roundabout
17 into Hayfield Road and then stops just past the exit of
18 the roundabout."

19 And I'm going to play that footage with
20 Ms Wildgoose's assistance, and then I'm going to ask you
21 some questions about it, so let's just watch that for
22 a few seconds, please.

23 (Video played)

24 So did you see that vehicle arriving or do you want
25 to see that footage again?

Transcript of the Sheku Bayoh Inquiry

1 A. I didn't see a vehicle.

2 Q. You didn't see. Right, let's go back to 7.23.10.

3 A. Oh, yeah.

4 Q. Or just slightly beforehand and ... right, and we will
5 play that.

6 (Video played)

7 And we will just pause it there. Sorry, I maybe
8 didn't have it rewind far enough to see it. Did you
9 see the vehicle coming up Hendry Road from the
10 right-hand side of the screen?

11 A. Yes.

12 Q. Turning right into Hayfield Road, round the roundabout
13 and stopping on the left. We can see it behind the tree
14 that is in front of us.

15 A. (Nods).

16 Q. And there was movement of people exiting the vehicle.
17 Did you recognise the car?

18 A. Yes, that's our CID vehicle.

19 Q. Is that the Vauxhall Corsa --

20 A. Yes.

21 Q. -- with the marked police on the front --

22 A. Yes, that's correct.

23 Q. -- that you said earlier. And DC Connell was driving?

24 A. Yes.

25 Q. And you were in the front passenger seat?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And that's you arriving at Hayfield Road. We have heard
3 evidence you're the sixth car arriving at the scene. So
4 that was prior to your arrival we have heard evidence
5 that Walker and Paton arrived in a Transit van?

6 A. Yes.

7 Q. Tomlinson and Short arrived in what was known as the
8 fish van?

9 A. Yes.

10 Q. I don't know if you knew that. Smith and Good arrived
11 in something akin to the Transit van. Gibson and
12 McDonough have arrived in the diary car?

13 A. Yes.

14 Q. And Maxwell had also arrived in a Corsa?

15 A. Yes.

16 Q. So let's -- we have heard part of the Airwaves
17 transmission that you made after your arrival and
18 I would like to listen to that again, so that is 7 --
19 you will see it on the spreadsheet, 7.23.13 on page 6
20 and we have heard snippets of that already and I think
21 we would like to play that in full again, thanks.

22 (Video played)

23 Thanks very much, that's lovely. Were you able to
24 hear that?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. That's your voice?
- 2 A. Yes.
- 3 Q. So how long after you got out of the car did you make
4 that transmission?
- 5 A. I believe immediately. I did have a short conversation
6 with Craig Walker so it could have been after that, but
7 I believe it was immediate because I came out and made
8 observations.
- 9 Q. Right, so looking again, the police vehicle arrives
10 between 7.23.02 and 7.23.10, according to the
11 spreadsheet and then this message is 7.23.13, so within
12 seconds?
- 13 A. Within seconds, yes. So it was immediately when I got
14 out of the car, that would make sense.
- 15 Q. Would that make more sense to you than having stopped
16 for a conversation with someone?
- 17 A. Yes.
- 18 Q. And did you immediately go over to the area of the
19 restraint --
- 20 A. Yes.
- 21 Q. -- in Hayfield Road.
- 22 A. Yes.
- 23 Q. And you have described -- you have made this
24 transmission. Where were you standing when you made
25 that transmission?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Between my vehicle and the restraint, an area around
2 there.
- 3 Q. So you have parked on the north side of Hayfield Road
4 and the restraint we have heard was on the south?
- 5 A. Mm-hm.
- 6 Q. So a reasonably short distance between. And during the
7 time you're making this transmission, are you on the
8 move to get closer to the restraint, or were you
9 standing still?
- 10 A. I would likely be walking towards them, that would make
11 sense but I don't know for sure.
- 12 Q. Okay. You have said there that the male's on the ground
13 when you arrive?
- 14 A. Mm-hm.
- 15 Q. And several officers have "taken a big restraint". What
16 did you mean by that?
- 17 A. In terms of resourcing I think, you know --
- 18 Q. Sorry?
- 19 A. Resourcing.
- 20 Q. Resourcing.
- 21 A. In terms of how many officers were there, it was a big
22 number essentially.
- 23 Q. How many, do you remember?
- 24 A. I believe in my statement -- if I may refer back?
- 25 Q. Yes, please do.

Transcript of the Sheku Bayoh Inquiry

1 A. I knew -- I could name four officers but I believe there
2 were others that I couldn't name but were present so.

3 Q. Right, so more than four officers present?

4 A. Yes.

5 Q. And when you say "They have taken a big restraint", can
6 you help me understand whether you meant the restraint
7 was ongoing, or whether it had stopped?

8 A. No, the restraint was ongoing.

9 Q. And when you say:

10 "We're going to need more control with leg
11 restraints."

12 What did you mean by that?

13 A. I could hear them discussing that and I believe I kind
14 of observed that they were in the process of doing or
15 starting to do that.

16 Q. So what position was Mr Bayoh in?

17 A. He was in the prone position, lying down.

18 Q. And was he struggling at that time?

19 A. I believe -- my recollection at the time, and in my
20 statements I have said that his legs were moving.
21 I couldn't tell you now exactly the movement of, but
22 certainly his legs were moving.

23 Q. So you arrive before they have actually applied the leg
24 restraints, although it is being discussed --

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- and his legs are still moving at that stage?

2 A. Yes.

3 Q. So you were there when the leg restraints were applied?

4 A. No.

5 Q. You had moved away by that stage?

6 A. Yes.

7 Q. All right, thank you.

8 At that time when you first arrived, did you have
9 any concerns at that time as to the manner of restraint
10 or the number of officers that were involved in the
11 restraint?

12 A. I had no concerns. From the short observations that
13 I took at locus at that restraint area, I had no
14 concerns.

15 Q. And if you had had concerns, what would you have done at
16 that time?

17 A. I would have voiced them concerns and interjected.

18 Q. And can you tell me at any stage at that -- sorry, at
19 that stage when you arrived and you saw the restraint
20 and the officers and what was happening, did you
21 consider at that time that it would be important to get
22 the person from the ground upright because they were in
23 the prone position.

24 A. I didn't consider it at that time. If you go by the
25 kind of timing of driving to locus, the calls coming in,

Transcript of the Sheku Bayoh Inquiry

1 I knew that due to radio messages that they had not long
2 come to be in that position in terms of the timeline
3 that I was aware of, so I knew that they were still
4 gaining control, they had still to, you know, assert
5 that control by cuffs, et cetera, and then the movement
6 would happen thereafter. I had no concerns because
7 I didn't believe it was a vast amount of time that he
8 had been in the prone position.

9 Q. So when you arrived, the officers were still trying to
10 gain control?

11 A. Yes.

12 Q. Mr Bayoh was prone but still -- his legs were still
13 moving?

14 A. That's correct.

15 Q. No handcuffs were on and no leg restraints?

16 A. Not that I observed, no.

17 Q. Thank you. So no concerns for you at that particular
18 time --

19 A. No.

20 Q. -- when you arrived. Now, can you help the Chair
21 understand when you arrived -- you told us about
22 Mr Bayoh's position; can you tell us about the officers
23 who were there and the positions they were in and --

24 A. Can I refer to --

25 Q. You might want to have a look at paragraph 8 of your

Transcript of the Sheku Bayoh Inquiry

1 Inquiry statement and we can get that on the screen, and
2 just so -- I will just read part of this out. So you
3 arrive at 7.20, you say:

4 "... [turned] right [into] Hayfield Road from
5 Hendry Road. DC Connell parked the ... vehicle ... on
6 the left-hand side ... I believed that there was
7 a uniformed car on the same side of the road in front of
8 our vehicle."

9 We have heard mention that was the fish van?

10 A. Yes.

11 Q. "Immediately to the right of the CID vehicle was the
12 officers and a man that I did not know but we later
13 identified to be [Mr] Bayoh. The majority of [his] body
14 was on the pavement; head and body and upper legs. He
15 was face down. His lower legs were stretched out into
16 the road and his head was on the pavement and pointing
17 in the direction of the hedge."

18 We have heard that he was -- his head was pointing
19 in the direction of Gallaghers pub, is that a similar
20 description --

21 A. I believe so, yes.

22 Q. -- to what you give there?

23 A. Yes.

24 Q. "His legs were moving at this point but I couldn't tell
25 you exactly what the exact movement was. I don't have

Transcript of the Sheku Bayoh Inquiry

1 any recollection of how the legs were moving for
2 example, whether it was side to side or up and down, but
3 certainly I do recall movement. I also observed four
4 officers in particular at this point, PC Craig Walker,
5 PC Alan Paton, PC Ashley Tomlinson and PC Daniel Gibson.
6 PC Alan Paton being on the deceased's right-hand side.
7 PC Craig Walker being on [his] left-hand side, at his
8 upper shoulder area. PC Walker was on his upper
9 shoulder area. PC Walker was lying on his right-hand
10 side, facing away from Sheku Bayoh. PC Walker was
11 restraining him by leaning his weight on Mr Bayoh's
12 shoulder and the arm. I am clear that PC Walker was not
13 leaning his weight on Mr Bayoh's body at that time."

14 So I would quite like to -- then you go on in
15 paragraph 9 to say you don't recall exactly what
16 PC Paton was doing, Ashley Tomlinson was at his feet and
17 likewise, so was Daniel Gibson:

18 "... what they were effectively doing, I don't know.
19 My concentration was on speaking with Craig Walker.
20 From my statement, I can see that I remembered somebody
21 saying 'leg restraints'. I believed somebody was going
22 to put Leg Fast Straps on Mr Bayoh's legs...I [don't]
23 recall seeing this happen."

24 I would quite like to go through that and ask you
25 some further questions if you don't mind?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes, no problem.
- 2 Q. We have obviously read that description of what
3 PC Walker was doing but I wonder if you could help the
4 Chair understand what you saw when you arrived walking
5 over the road from your vehicle towards the restraint.
6 So you have told us about Mr Bayoh, prone, face towards
7 the hedge, and tell us about where PC Walker was and
8 what he was doing?
- 9 A. So PC Walker was on the left side, so the side furthest
10 away from the Hayfield -- the roundabout --
- 11 Q. The roundabout.
- 12 A. -- at Gallaghers. He was on the left side and he was
13 lying on his side, so PC Walker was lying on his right
14 side.
- 15 Q. On his own side?
- 16 A. Yes, on the ground and in a restraint, holding
17 Mr Bayoh's kind of top of his arm and -- his shoulder
18 and his arm down.
- 19 Q. Can I just be clear, you have said PC Walker was on the
20 left side of Mr Bayoh, Mr Bayoh's prone, but he was
21 lying on his right side.
- 22 A. Mm-hm.
- 23 Q. Was he faced away from --
- 24 A. Yes, he had his back to Mr Bayoh and was facing towards
25 the hospital.

Transcript of the Sheku Bayoh Inquiry

1 Q. All right. So he had his back to Mr Bayoh at that time
2 that you arrived?

3 A. Yes.

4 Q. Sitting on his right side --

5 A. Lying.

6 Q. Lying, sorry, on his right side, facing the direction of
7 Hayfield Road that leads to the hospital,
8 Victoria Hospital?

9 A. Yes.

10 Q. What was he doing?

11 A. He was in a restraint -- he was doing a ground pin at
12 that point.

13 Q. Right. And you have mentioned Mr Bayoh's arm. Tell us
14 what he was doing to Mr Bayoh's arm.

15 A. (Inaudible overspeaking) --

16 Q. You have talked about a ground pin.

17 A. He was holding it down and he was looking away, so
18 Mr Bayoh is behind him and he is pinning the top of his
19 arm and looking in the other direction.

20 Q. Okay. And when you say he was lying, was he lying
21 parallel to Mr Bayoh's body as he was lying on the
22 ground?

23 A. Certainly the top of his body was parallel; I couldn't
24 tell you where his legs were, but certainly the top end
25 of his body.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. But he had pinned Mr Bayoh's left arm?
- 2 A. Yes.
- 3 Q. What about PC Paton, where was he?
- 4 A. He was on the right side but, you know, as said in
- 5 a couple of statements I can't exactly say what he was
- 6 doing in terms of restraint, where his hands were,
- 7 because my focus was -- I asked Craig Walker a couple of
- 8 questions, he answered them and then I left, so in terms
- 9 of what Alan Paton was doing exactly, I don't know, and
- 10 likewise, for Daniel Gibson and Ashley Tomlinson.
- 11 I knew they were at the feet of Mr Bayoh but exactly
- 12 what they were doing, I don't know.
- 13 Q. As you approached the area of the restraint --
- 14 A. Yes.
- 15 Q. -- where were those two officers? Was one on the left
- 16 and one on the right in the (inaudible overspeaking) --
- 17 A. I believe I have said that, yes, that -- I think it's in
- 18 my PIRC statement. I don't know if --
- 19 Q. Okay, let's have a look at your first statement from
- 20 4 May which is PS 000379. That was your first
- 21 self-penned statement and then we also have PIRC 184,
- 22 which is your statement of 29 May.
- 23 A. 185 it's in.
- 24 Q. It's 185, right. Let's have a look at that. So this is
- 25 the statement of 2 June 2015. Is this page 4 --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- by any chance? Let's have a look at page 4 and we
3 will see at paragraph 5, let's start with that, it
4 starts:

5 "I saw 4 officers in particular ..."

6 And we can see that on the screen:

7 "... as I got out of the passenger side of the car.
8 These officers were [Walker, Paton, Tomlinson and
9 Gibson].

10 "PC...Paton was on the deceased's right-hand side
11 'controlling' the deceased but I don't know how.
12 PC...Walker was lying on the deceased's left side, his
13 upper shoulder area, he was lying effectively on his
14 right-hand side facing away from the deceased. I cannot
15 remember if the deceased said anything. I do not
16 remember if his face was on the left or the right. It
17 was not face down."

18 And then you say:

19 "PC Ashley Tomlinson was at the male's feet on the
20 male's left side."

21 So Tomlinson was on Mr Bayoh's left side, is that
22 correct?

23 A. Yes.

24 Q. "PC Daniel Gibson was also at the feet of the deceased
25 right side at the feet."

Transcript of the Sheku Bayoh Inquiry

1 So he was on Mr Bayoh's right-hand side?

2 A. At the bottom of his legs, yes.

3 Q. "I think Ashley Tomlinson was holding his lower legs,
4 but his legs were moving. I cannot recall what
5 PC Gibson was doing. I remember somebody saying 'leg
6 restraints'. I believed somebody was going to put leg
7 restraining straps on his legs. I do not recall seeing
8 them being put on the deceased Bayoh."

9 And you have said earlier you asked a couple of
10 questions of PC Walker when you arrived.

11 A. Yes.

12 Q. What were you asking?

13 A. I asked him where PC Nicole Short was because she wasn't
14 visible to me and I asked him where the vehicle keys
15 were for the Transit van.

16 Q. Right. And what information did you receive about both
17 those things?

18 A. They're both in the van. So Nicole Short was in the van
19 as well as the keys were in the van.

20 Q. Right. And that was PC Walker's van, the Transit van?

21 A. Yes.

22 Q. Thank you. Can I ask you if we could look at
23 paragraph 11 of your Inquiry statement. You see:

24 "I asked Craig what was taking place and where
25 Nicole was, as I was aware she was injured. He said to

Transcript of the Sheku Bayoh Inquiry

1 me 'he is struggling' referring to Mr Bayoh and told me
2 Nicole was in the van. I asked him where the van keys
3 were as I intended to drive the van closer to the
4 officers as I knew this male was being arrested. The
5 officers would require the police van to convey
6 a custody and this was the only van on scene. Craig
7 said that the keys were in the vehicle. So, I made my
8 way towards the van. I was with PC Craig Walker and the
9 other officers for a minute/two minutes at most. I see
10 from my statement that I've checked up on control to
11 give them an update that the male was restrained and
12 officers had control of him."

13 So at this stage the restraint's ongoing?

14 A. Yes.

15 Q. You know they're going to be applying leg restraints.

16 A. Yes.

17 Q. And you take the view you need the custody van because
18 he was going to be taken into custody, "he" being
19 Mr Bayoh?

20 A. Yes.

21 Q. And you then went to get the Transit van that Walker and
22 Paton had arrived in?

23 A. Yes, my focus at that time was Nicole, not the van,
24 but -- that was a secondary.

25 Q. So Nicole Short, the officer who had been injured, was

Transcript of the Sheku Bayoh Inquiry

- 1 the priority at that time?
- 2 A. Yes.
- 3 Q. And when you went over to the van, tell me how she
- 4 appeared to you?
- 5 A. So I approached the van and I climbed in the driver's
- 6 side of the van. She was sitting within the passenger
- 7 area of the front of the Transit van. I think I have
- 8 detailed in my statement she was visibly crying,
- 9 shaking, holding at her head and, you know, looked like
- 10 she was in total shock, essentially.
- 11 Q. We have heard evidence that she was very distressed in
- 12 the van?
- 13 A. Yes.
- 14 Q. And that seems to have been your recollection. And you
- 15 have said she was holding her head. Do you remember
- 16 where on her head she was holding?
- 17 A. She just kept on gripping the back of her head, like
- 18 pulling at her hair and holding the back of her head.
- 19 Q. Right. And did she say anything about her head?
- 20 A. I believe she said to me that she had been struck by him
- 21 and I assumed she meant Mr Bayoh.
- 22 Q. Did she say where she had been struck?
- 23 A. I don't know if I have that recorded. I'm sure she said
- 24 in the head but ...
- 25 Q. If we look at your PIRC statement, page 6, the one we

Transcript of the Sheku Bayoh Inquiry

1 just looked at a moment ago, 185, and I'm thinking
2 paragraph 6 on this page, it starts:
3 "When I first saw her she was crying, there were
4 tears running down her face. Her hands were shaking,
5 her hands were trembling, she was visibly shaking and in
6 shock. She is very small and of slight build. I think
7 she has only 5 years police service. I queried the
8 injuries she had to her. She said that the back of her
9 head was 'sore'. She had been struck to the back of the
10 dead, she did not say how. She said 'he did it'. I
11 took it this was Sheku Bayoh she referred to. She said
12 something similar to he was going to jump on her head
13 and if it was not for 'Craig' meaning PC Walker, then
14 she broke down more. When I made reference in my
15 earlier statement to 'other officers present protected
16 her' I believe she meant PC Craig Walker."

17 And that's what you told PIRC on 2 June 2015.

18 A. Yes, that's correct.

19 Q. Thank you. Was there anything obvious about her head,
20 or did you notice any obvious injury?

21 A. No, so I got out of the van and went round to the
22 passenger side. I comforted her and took her from the
23 van onto the kind of pavement or the road, and I tried
24 to have a look at her head. As you are aware, you have
25 met Nicole, her hair is particularly thick and

Transcript of the Sheku Bayoh Inquiry

1 I couldn't actually get a proper look but what
2 I ascertained was there was no bleeding injury and it
3 was at that point DI Colin Robson turned up and we made
4 the decision that we weren't waiting on an ambulance, we
5 were just going to take her because she was walking
6 wounded.

7 Q. And did he then make arrangements to have her taken to
8 the hospital or did you make those arrangements?

9 A. No, he pulled up behind the van in his vehicle, so
10 I approached the vehicle and just said "Look" -- we
11 could see the hospital from there, it was like 200 yards
12 away, so I put her into the passenger side of the
13 vehicle and DI Colin Robson took her to the hospital,
14 a short journey.

15 Q. And that was a quicker approach than actually waiting
16 for the ambulance?

17 A. Yes, she was safe enough to be travelled in a police car
18 as opposed to --

19 Q. And then at paragraph 15 of your Inquiry statement, if
20 we can go back to that, you were asked if you remember
21 any mention being made of her being stamped on:

22 "At that point, I was not aware of any reference to
23 Nicole being stood on or stamped on, from Nicole or even
24 transmissions on the radio, I don't think. Certainly,
25 I didn't overhear that Nicole had been stamped on. It

Transcript of the Sheku Bayoh Inquiry

1 wasn't until later in the media scenario that I've seen
2 that, but at that moment in time, I didn't ask and it
3 was never said to me. I didn't see any marks on
4 Nicole's uniform. But again, I wasn't paying particular
5 attention, but certainly there was nothing obvious."

6 And that remains your position today?

7 A. Yes.

8 Q. Thank you. Then you have told us that you -- how long
9 did you spend with Nicole Short, did I ask that?

10 A. A few minutes at most.

11 Q. And then you have told us you drove the Transit closer
12 to where the restraint was going on?

13 A. That was correct, yes.

14 Q. So DI Robson arrived and you arranged that he would take
15 her to the hospital, Nicole Short.

16 A. Mm-hm.

17 Q. And then did you get the keys to the Transit van and
18 move it at that point?

19 A. Yes.

20 Q. And can I ask you to look at some still images too:
21 number 4 in the still images. Actually I think I would
22 rather have -- sorry, it was actually number 6 that
23 I was interested in. Right, so this is an image -- a 3D
24 image of various vehicles at the scene at a later moment
25 in time. Can you -- just for the purposes of clarity,

Transcript of the Sheku Bayoh Inquiry

1 can you identify your vehicle from this image?

2 A. Yes, it's the small grey one.

3 Q. And the Transit van that you moved that had had
4 Nicole Short in it.

5 And for both of those vehicles, are you reasonably
6 content that these are a reasonable indication of the
7 position in the road, Hayfield Road, that they were in?

8 A. Yes, reasonable, yes.

9 Q. Thank you. So 2 was the Transit van that had been taken
10 from the bus stop area?

11 A. Mm-hm.

12 Q. And then was moved to nearer the island on Hayfield Road
13 that we see on the image.

14 A. Yes.

15 Q. And the restraint that you returned to was going on
16 where?

17 A. In this area here, I believe (indicating).

18 Q. Thank you, that's lovely. That's number 3. Now, can
19 I ask you, prior to leaving the area of the restraint
20 and going to speak to Nicole Short, had anyone at that
21 time been monitoring Mr Bayoh's breathing as far as you
22 were aware?

23 A. I was not aware of that.

24 Q. All right, thank you. Can we look at the spreadsheet,
25 please, and can we look at 7.25.17 and this is on page 7

Transcript of the Sheku Bayoh Inquiry

1 of the spreadsheet. Now, you will see that at this
2 time, 7.25.17, it's a transmission from PC Smith which
3 says:

4 "This male certainly appears to be unconscious,
5 breathing, not responsive, get an ambulance for him."

6 Did you remember hearing that transmission?

7 A. I recall hearing a transmission that he was
8 unresponsive. I couldn't tell you if it was from
9 PC Alan Smith or the full context, but I do remember
10 knowing that he was unresponsive.

11 Q. So you realised that he had become unresponsive?

12 A. Mm-hm.

13 Q. Where were you when you heard that transmission?

14 A. I believe I was mid-driving the van back towards the
15 restraint area.

16 Q. So you were in the Transit van, moving it to the
17 position you just demonstrated on the image --

18 A. Yes.

19 Q. -- when you realised that he had become unresponsive.

20 What did you do after you stopped the van? What did
21 you do immediately after that?

22 A. I'm slightly confused as to what came first, but
23 essentially I know I approached the restraint and
24 observed Mr Bayoh for myself. I felt for a pulse.
25 I couldn't feel an external pulse so I asked

Transcript of the Sheku Bayoh Inquiry

1 PC Alan Smith to corroborate that because I wasn't sure
2 that that was correct and he did so and then CPR
3 commenced.

4 Q. Right. Let's look at PS 379 again before I ask you some
5 further questions. So this is your self-statement dated
6 4 May, so this is the first statement that we have in
7 the bundle.

8 A. Mm-hm.

9 Q. And can we look at page 3 -- sorry, page 4, I should
10 have said. At the very top of the page it says:

11 "At this point I myself checked the deceased for
12 a pulse; right side of his neck. I could not feel
13 a pulse. I asked PC Alan Smith to confirm or locate
14 a pulse.

15 "I believe PC Smith could not feel a pulse as soon
16 thereafter the officers relayed the deceased had no
17 cardiac output and CPR commenced. I mainly observed
18 PC Walker carry out chest compressions.

19 "An ambulance was requested to attend immediately
20 and the current position of the deceased was transmitted
21 on the radio."

22 So you yourself checked by pressing the right side
23 of his neck?

24 A. Mm-hm.

25 Q. Without success in finding a pulse?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Mm-hm.
- 2 Q. You got PC Alan Smith to do something similar. Did he
3 touch the same area, or did he touch a different area?
- 4 A. I believe he did the exact same movement I did.
- 5 Q. Same thing. And he couldn't feel a pulse and then you
6 have said:
- 7 "The officers relayed the deceased had no cardiac
8 output and CPR commenced."
- 9 Does that mean there was a message transmitted?
- 10 A. I believe so, yes.
- 11 Q. And do we see in fact on page 7 of the spreadsheet,
12 7.25.17, from PC Smith:
- 13 "Male now certainly appears to be unconscious,
14 breathing, not responsive, get an ambulance for him."
- 15 A. I don't believe that would be the message.
- 16 Q. That was the first message --
- 17 A. That's the unresponsive message.
- 18 Q. -- and then there's a message later, on page 11 of the
19 spreadsheet at the top, and this is 7.29.30, from
20 Scott Maxwell:
- 21 "Control can you get a move on with the ambulance.
22 This accused is now not breathing. CPR is commencing.
23 Over."
- 24 Is that the message that you --
- 25 A. I believe so, yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- remember. So the first message when he was
2 unconscious but breathing, where -- were you --
3 A. I was still driving the van back, so I was aware --
4 Q. You were driving the van back?
5 A. -- but I wasn't at the restraint.
6 Q. You weren't there at that time?
7 A. Yes.
8 Q. But when this second message is made by Scott Maxwell
9 that he is not breathing and CPR is commencing, were you
10 at the restraint at that point?
11 A. Yes, yes.
12 Q. So you had returned to the restraint from there?
13 A. Yes.
14 Q. The van had been moved by that point?
15 A. Yes.
16 Q. Thank you. From the point you were at the restraint at
17 that stage, did you see PC Smith do a test to see if he
18 could get a pain response from Mr Bayoh?
19 A. I believe I have said in statements that I heard him
20 trying to get a verbal response.
21 Q. What do you mean by that?
22 A. I believe he was just asking him "Are you" -- "Can you
23 hear me" type scenario, "Are you okay?" I don't remember
24 any kind of pain response. It could have happened, it's
25 something I didn't observe.

Transcript of the Sheku Bayoh Inquiry

1 Q. Do you remember at all seeing PC Paton slapping or
2 tapping or patting Mr Bayoh on the face?

3 A. No.

4 Q. At that time, was there anyone monitoring his breathing?

5 A. I don't have any recollection of that because when
6 I arrived, I have pretty much immediately felt for
7 a pulse and it was CPR so I don't know if that was maybe
8 pre my arrival but I didn't observe any of that.

9 Q. All right, thank you.

10 In relation to how the officers in the area were,
11 can you tell us where they -- how many officers were
12 around at that time and where were they?

13 A. I knew all eight officers from team 4 were on scene.
14 Exactly where they were, I don't know. PS Scott Maxwell
15 was in the area of the restraint also. I was aware of
16 him in my periphery. PC Craig Walker was again
17 remaining on the left side of Mr Bayoh. Alan Paton was
18 in and around the kind of head area on the pavement and
19 I knew Alan Smith was down to my right. He was directly
20 next to me on the right. Where the other officers were
21 positioned -- I suspect nearby, but I don't know.

22 Q. What was PC Walker doing at the time?

23 A. He was just kneeling down to Mr Bayoh's side.

24 Q. What was PC Paton doing, do you remember?

25 A. Likewise, he was just kneeling down on the pavement but

Transcript of the Sheku Bayoh Inquiry

1 exactly I don't know.

2 Q. Do you know what PC Smith was doing?

3 A. When I arrived? He was kneeling down and, as I said, he

4 was trying to get a verbal response. I certainly

5 I think recall that and then I have went over, felt for

6 a pulse, he has done similar and then CPR has commenced.

7 Q. And which officers commenced the CPR?

8 A. PC Craig Walker.

9 Q. And we have heard they sometimes work in teams of two.

10 A. Yes.

11 Q. Who was his team -- who was his partner?

12 A. I suspect Alan Smith took over, but I didn't observe

13 that.

14 Q. Did you observe the CPR?

15 A. Yes.

16 Q. By the time CPR was being performed, was Mr Bayoh in

17 handcuffs?

18 A. Yes.

19 Q. Was he in leg restraints?

20 A. I never ever observed leg restraints.

21 Q. You didn't?

22 A. But it is -- they would have been in position but I do

23 not have a recollection of physically seeing them.

24 Q. Did -- can I ask you, by that time, by the time you have

25 arrived, you're a sergeant in the CID --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- we have heard about Maxwell was an acting police
3 sergeant --

4 A. Yes.

5 Q. -- when you arrived at the scene, in terms of your rank
6 and seniority, were you in charge at that point?

7 A. No, we were -- I wouldn't be in charge initially. That
8 is a response call and we are attending not an
9 investigative matter, we are attending to back up other
10 police officers, so I wouldn't take charge of
11 PS Maxwell's team or the situation, so we can work
12 together, that's not an issue at all, we can work
13 together, I will help him out, he can help me out, but
14 certainly I was going as a support officer for the
15 response.

16 Q. So you're not coming onto the scene and taking
17 command --

18 A. No.

19 Q. -- or taking charge of that?

20 A. No. Unless I see I need to do so, I wouldn't do that.

21 Q. If you saw the need for you to do that --

22 A. Yes.

23 Q. -- how would you communicate that to the officer who was
24 in charge?

25 A. I would essentially discuss it constructively and pass

Transcript of the Sheku Bayoh Inquiry

1 my guidance on.

2 Q. Okay. But that conversation did not happen?

3 A. No.

4 Q. -- on this occasion?

5 A. No.

6 Q. So as far as you are concerned, who was in charge of

7 this incident?

8 A. PS Scott Maxwell was there in charge of the incident

9 initially and he was in charge of his officers.

10 However, I will be happy to share that responsibility.

11 I was on scene also and I was a sergeant.

12 Q. Okay, right.

13 So during the CPR when you're -- you're in the area

14 and you see that proceeding.

15 A. Yes.

16 Q. And you think it was commenced by PC Walker.

17 A. Yes.

18 Q. At any time did you consider instructing or requesting

19 that his handcuffs be removed?

20 A. No, I didn't consider instructing that. My sole focus

21 was on Mr Bayoh, his upper body, looking at his face,

22 looking at the CPR. If I'm being honest, I didn't even

23 look at the cuffs. The urgency was life-saving kind of

24 intervention so I didn't look at the cuffs, I didn't

25 consider taking them off.

Transcript of the Sheku Bayoh Inquiry

1 Q. And are you first aid trained?

2 A. Yes.

3 Q. You can perform that type of CPR?

4 A. Yes.

5 Q. Was there anything about the CPR at that time that

6 caused you to have any concerns about its effectiveness

7 or the way it was being performed?

8 A. No. I observed Craig Walker completing the CPR. As far

9 as I'm aware, it was very effective, and there was no

10 restriction to the chest area that I observed.

11 Q. We have heard that Mr Bayoh had his hands cuffed

12 together at the front.

13 A. Yes.

14 Q. And that that position can compress the chest.

15 A. Mm-hm.

16 Q. And could interfere with effective CPR.

17 A. Yes.

18 Q. I'm paraphrasing, obviously, but we have heard evidence

19 about that, and do you -- was there anything that drew

20 your attention or caused you to have concern about the

21 position of the handcuffs or the fact it was to the

22 front?

23 A. My observation of CPR gave me no concern, you know, it

24 was effective and it was ongoing, I had no concern and

25 I was not drawn to the cuffs causing any issue. As

Transcript of the Sheku Bayoh Inquiry

1 I say -- and honestly, I didn't even look at the cuffs,
2 my focus was on Mr Bayoh and the CPR and the concern for
3 him.

4 Q. Now, you have told us when you first arrived Mr Bayoh
5 was prone; you have told us about CPR.

6 A. Yes.

7 Q. When CPR was being performed, was he on his back?

8 A. Yes.

9 Q. Were you present when he moved from his front to his
10 back?

11 A. No.

12 Q. Did you see at any time how he was moved from his front
13 to his back?

14 A. When I first arrived he was on his left side. When
15 I came back with the van he was on his left side.
16 I didn't know who moved him from his back to his left
17 side and then obviously Alan Smith and Craig Walker took
18 part in moving him to his back to perform CPR.

19 Q. So when you returned from moving the Transit van --

20 A. Yes.

21 Q. -- he was on his left-hand side by that time?

22 A. Yes.

23 Q. And then you witnessed him being moved onto his back to
24 start the CPR?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. Did you see PC Smith bringing a mask to try
2 and provide rescue breaths?

3 A. No, I don't -- I didn't observe that. So I have
4 obviously left PS Maxwell, the officers, with Mr Bayoh
5 doing CPR and gone off to do other matters.

6 Q. Thank you. Did you see Mr Bayoh being stretchered into
7 the ambulance later?

8 A. I did.

9 Q. So you were back by that stage?

10 A. Yes, I was in that vicinity at all times but -- yes.

11 Q. Yes. Can I ask you then about paragraph 19 of your
12 Inquiry statement, please. You say:

13 "Derek Connell was to my right-hand side (as you
14 face Hendry Road), not far away, just across the road.
15 He shouted over that he had recovered a knife. Whether
16 he did that as I approached the officers and Mr Bayoh,
17 or whether this was after I checked for a pulse, I can't
18 remember. The order of that is a bit jumbled and
19 I can't be 100% sure, but it probably happened pretty
20 much all at the same time, because we were only a short
21 distance away from each other and things were happening
22 simultaneously. Somebody was shouting on this side and
23 I was helping out this side. So, it's probably all
24 consecutively happening about the same time."

25 I'm interested in this knife.

Transcript of the Sheku Bayoh Inquiry

- 1 A. Mm-hm.
- 2 Q. Can you tell me about DC Connell's involvement with
3 that?
- 4 A. Obviously when I have arrived back with the van after
5 Nicole Short had gone to the hospital, Mr Bayoh is
6 unresponsive but obviously Derek is over to my right
7 which would be the north side of Hayfield Road, the
8 grass area on the corner, and he shouts that he has
9 located the knife. By this point he has already
10 collected the knife from its original position from the
11 grass and walking towards our vehicle, so I have gone to
12 the boot of our vehicle, there's not a big enough knife
13 tube that we had within the boot, so I grabbed a brown
14 evidence bag. We put it within the bag and then secured
15 it and locked our vehicle and secured it within the
16 vehicle.
- 17 Q. Could I ask you to look at something for me, please, and
18 I'm just going to -- it's in a plastic tube and I'm just
19 going to ask you if you recognise this.
- 20 A. Yes.
- 21 Q. And what is that?
- 22 A. That is the knife.
- 23 Q. That's the knife that you have just described to us --
- 24 A. Yes.
- 25 Q. -- that DC Connell recovered, and actually you will see

Transcript of the Sheku Bayoh Inquiry

1 a photograph on the screen which shows the knife and
2 that's the knife that was recovered from Hayfield Road
3 in the grassy area?

4 A. Yes, and my signature is on that.

5 Q. That's lovely, thank you very much.

6 Then can I ask you just to confirm something,
7 7.31.13, which you will see at the bottom of page 11,
8 and we have heard some evidence at this stage that there
9 had been a request initially for a dog unit to attend
10 and during the course of the events on 3 May that
11 a Gary Wood from the dog unit had been in touch and then
12 you were involved to say Gary Wood at 7.31.02 said:

13 "That's great, thank you. Was there any talk,
14 I dinnae hear the entirety of the job initially came in.
15 Is there anything else that's outstanding that you may
16 require a dog for?"

17 And you made the transmission at 7.31.13 and said
18 "No negative".

19 So it was you that told the dog unit, Gary Wood,
20 that he wasn't any longer required?

21 A. I believe so. I have no recollection of that, but yes,
22 it is recorded obviously.

23 Q. Thank you. At paragraph 21 of your Inquiry statement
24 please, if we can have that on the screen:

25 "At the point of Mr Bayoh becoming unresponsive and

Transcript of the Sheku Bayoh Inquiry

1 in cardiac arrest ..."

2 This is the point at which CPR was commenced?

3 A. Yes.

4 Q. "... the situation changed to a far more serious
5 incident and something that CID would lead on. So, it
6 was at that point that the transition is that I'm going
7 to start taking control of this incident. It's no
8 longer a uniformed response incident. I collected
9 barrier tape from one of the police vehicles. I'm not
10 sure which one. We're all in all the vehicles, so it
11 would have been whatever vehicle was nearby to me.
12 I then set parameters for the locus protection, which
13 was at the junction of Hayfield Road with Hendry Road
14 and also Hayfield Road with Poplar Road. As I was
15 setting the barrier tape on Poplar Road, that's when the
16 ambulance has arrived. I allowed them in and then set
17 the cordon again and I put officers on locus protection,
18 which was PC Kayleigh Good at the
19 Hayfield Road/Hendry Road junction and PC McDonough at
20 the Hayfield Road/Poplar Road junction with instructions
21 not to allow anybody to enter unless they have
22 permission to do so."

23 If we can go back to the top of that, I will ask you
24 some questions. So I asked you a few moments ago about
25 who was in charge and you explained your understanding

Transcript of the Sheku Bayoh Inquiry

1 of the position initially, but you said in paragraph 21
2 that when Mr Bayoh became unresponsive in cardiac arrest
3 and CPR was commenced, that you realised this was a far
4 more serious incident?

5 A. Yes.

6 Q. So was this the point at which things changed in terms
7 of command and who was in charge?

8 A. Yes, I instinctively took charge at that point, knowing
9 the kind of gravity of the situation, and obviously
10 started completing some priority actions in containing
11 the scene, et cetera.

12 Q. Right. So because you were on the scene at that time
13 you were able to take that decision --

14 A. Yes.

15 Q. -- as soon as that happened?

16 A. Yes.

17 Q. And when you talk about taking priority decisions, can
18 you maybe explain to us what priority decisions were
19 taken by you?

20 A. So the initial one was scene management in terms of
21 setting parameters and securing the area, in terms of
22 any further contamination of the area. I would be
23 resourcing persons within the ambulance and also at the
24 hospital, and then we would then follow on to, you know,
25 contacting initial witnesses, et cetera, gathering

Transcript of the Sheku Bayoh Inquiry

1 information to develop the situation.

2 Q. So that then becomes a serious investigation that will
3 need witnesses and such-like?

4 A. Yes.

5 Q. And so in terms of you taking control, is that something
6 that you shared with Acting Police Sergeant Maxwell, or
7 was that something that you just naturally or
8 instinctively took control of?

9 A. No, time was not on our side. Essentially
10 I instinctively done that. PS Scott Maxwell did not
11 object to it. We didn't have a big discussion about it,
12 it was just something that happened and he went along
13 with.

14 Q. And would it have been reasonably obvious to Maxwell or
15 other officers that you were now in more of a control --
16 taking control, being more proactive?

17 A. Yes. He was still in control of his own officers,
18 I didn't take full control from him, but I was
19 controlling and containing the scene and the incident.

20 Q. Right. So by the time we looked at that message that
21 you made -- you made a couple of messages on page 11 of
22 the spreadsheet, so we see the entry at 7.29.30 towards
23 the top of the page, Scott Maxwell:

24 "Get a move on with the ambulance. This accused is
25 now not breathing. CPR is commencing. Over."

Transcript of the Sheku Bayoh Inquiry

1 So how long after that call would you say you took
2 command? We see the entry 7.29.51 where you say:

3 "That's me now taping this area off. Did you hear
4 the last?"

5 Was it really from that point that you were in
6 charge?

7 A. Yes, in or around that point.

8 Q. In or around. And when you say "Taping the area off" is
9 that -- we have seen some footage with officers taping
10 off one end of Hayfield Road at the roundabout end. Is
11 that the sort of exercise that was being carried out by
12 officers?

13 A. Yes. I would tell them exactly where I want it taped.
14 It's the police barrier tape, essentially, and you just
15 cordon that area and guard it.

16 Q. Thanks. And as one of the actions that you take when
17 you're taking control of what's become a serious
18 incident, do you also prepare a scene log?

19 A. You don't prepare one; they're within the vehicle,
20 they're blank documents or blank books.

21 Q. Can we look at paragraph 22, please:

22 "I am asked about what the usual practice would have
23 been regarding having a scene log. The scene log would
24 generally start as soon as practical, if you have them
25 to hand, given the situation. We ... have [them in]

Transcript of the Sheku Bayoh Inquiry

1 vehicles ... they can be produced fairly quickly, and if
2 not, we [could] collect them from the nearest police
3 station."

4 So really as soon as an incident becomes more
5 serious and you're in charge, these are the sorts of
6 documentation that you want to have to hand?

7 A. Yes, the scene log is essentially there to log anybody
8 coming to and from entry from the scene, so it's
9 essentially persons, scenes of crime photographers,
10 et cetera.

11 Q. Anyone entering into your --

12 A. Yes, cordon, yes.

13 Q. -- secure area or leaving the secure area?

14 A. Yes.

15 Q. And the timings of those?

16 A. The timings and rationale for visit and permission.

17 Q. And the purpose of that is to have a record of everyone
18 entering or leaving the scene?

19 A. Yes.

20 Q. Thanks. Then paragraph 23 you say:

21 "I told DC Connell to accompany [Mr] Bayoh to the
22 hospital. I see from my statement that DI Robson was
23 back at the scene by that time ..."

24 You told us earlier he had gone to take Nicole Short
25 to the hospital:

Transcript of the Sheku Bayoh Inquiry

1 "... and that we had a discussion about the
2 cordons."

3 What are the cordons?

4 A. That is the police barrier tape.

5 Q. And then you say:

6 "A discussion also took place between PI Kay,
7 Sergeant Maxwell and me regarding replacing the officers
8 at the scene: that the officers involved should return
9 to the Kirkcaldy Police Office and go to the canteen."

10 So do we see that Inspector Kay had arrived by this
11 time?

12 A. Yes.

13 Q. Do you remember when he arrived?

14 A. He gave me a point-to-point. I think he was originally
15 on Victoria Road. There was a confusion initially with
16 a few of the calls, and he had gone to Victoria Road
17 point-to-point and I told him to come up to
18 Hayfield Road. I don't -- I think that was after
19 Mr Bayoh went into cardiac arrest. I don't think it was
20 before then.

21 Q. So after he has gone into cardiac arrest, after the
22 ambulance has been called?

23 A. Possibly, I don't know.

24 Q. But before the ambulance has arrived and taken him to
25 hospital?

Transcript of the Sheku Bayoh Inquiry

1 A. I'm not sure.

2 Q. Not sure. So -- but he was there at some point at the
3 scene?

4 A. Mm-hm.

5 Q. And then this discussion took place between you,
6 Inspector Kay and Sergeant Maxwell about the officers
7 involved returning to Kirkcaldy Police Office.

8 A. Yes.

9 Q. Tell us about that.

10 A. Well, essentially we were on scene. All the officers
11 looked, you know, particularly shocked, quiet, I was
12 really worried about their welfare actually. My initial
13 concern was this was the full Kirkcaldy resource; what
14 do we do to answer the calls that are still coming in,
15 and my fear was that the controller would dispatch these
16 officers to another call.

17 Q. I see.

18 A. So I made it clear to Inspector Kay that I think we need
19 to quickly resource Kirkcaldy with other officers so
20 these officers would not be sent to another call,
21 because if an immediate 999 call came in there was
22 a potential that they would get pulled away and
23 dispatched, so I knew that they weren't fit to do so,
24 they were in shock and they needed to return and debrief
25 back at the station.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right. So as part of that you needed to resource other
2 officers who could take control of any 999 calls that
3 came in?

4 A. That was Inspector Kay's --

5 Q. So was that was -- but you raised that concern with
6 him --

7 A. I raised that concern with him.

8 Q. -- at that point. And then it goes on to say:

9 "At that time PC Good and McDonough remained on
10 scene undertaking locus protection."

11 So did you feel at that stage that PC Good and
12 McDonough were sufficiently well to continue with duties
13 on locus protection?

14 A. More so than the other officers. However, I wanted to
15 replace them as soon as I could as well, but I had no
16 other option. It was essentially use both of them at
17 that time. They appeared okay with that, they agreed to
18 it, and then we quickly obviously resourced and replaced
19 them.

20 Q. Thank you.

21 "My statement notes that I recall PC Paton and
22 Walker were running to the police van. The word running
23 here is incorrect. PC Paton and PC Walker were directly
24 next to the van and would have no requirement or
25 opportunity to run. I recall observing both sitting in

Transcript of the Sheku Bayoh Inquiry

1 the van with the engine running and they left locus
2 thereafter."

3 So PC Walker and PC Paton, had they gone back to the
4 Transit van that they had arrived in originally?

5 A. They were now sitting within the Transit van, yes.

6 Q. Walker in the driver seat?

7 A. I believe so, yes.

8 Q. But they weren't running to the van, it was (inaudible -
9 overspeaking) engine running?

10 A. No, I think that's a typo, yes, a typo in the PIRC
11 statement which I corrected. The van was running; they
12 weren't running.

13 Q. Thank you. And paragraph 24, you went back to Kirkcaldy
14 Police Office at 8 o'clock. You say that DC Connell was
15 at Victoria Hospital with Sheku Bayoh. So we may hear
16 that he had gone in the ambulance.

17 A. Yes.

18 Q. You had not spoken to any senior officers on your
19 return. You mention a couple of officers there at
20 Kirkcaldy CID and they were sent to Victoria Hospital to
21 remain with Mr Bayoh and then if we can move up the
22 page, please.

23 You made arrangements in relation to what was
24 happening at the hospital at that time and are those two
25 officers, Balsillie and Brown, was it, sorry?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Mm-hm.
- 2 Q. Are they part of your -- or were they part of your team
3 at that time?
- 4 A. Yes, they commenced duty at 8 o'clock, it is a staggered
5 start, so it was myself and Derek Connell at 7.00;
6 Ryan Balsillie and Andrew Brown were starting at
7 8 o'clock.
- 8 Q. Right. And then:
- 9 "... Connell returned to Kirkcaldy around quarter
10 past 8. He had a gold mobile phone and a lighter which
11 I understand belonged to Mr Bayoh and these items were
12 placed in the ambulance with DC Connell. It was at this
13 point that DC Connell explained he had taken
14 a photograph of the knife in situ with his mobile phone
15 and he had been instructed by DI Robson to do this."
- 16 Is that the knife that you identified for me just
17 moments ago?
- 18 A. Yes, it is.
- 19 Q. So DC Connell had actually taken a photograph at the
20 scene of the knife, before he picked it up and recovered
21 it?
- 22 A. Yes.
- 23 Q. And then paragraph 25:
- 24 "I am asked about an Airwave transmission at 8.18 in
25 which I transmitted to the officers at the locus asking

Transcript of the Sheku Bayoh Inquiry

1 the officer who had taken a statement to point-to-point
2 me."

3 We have heard that that's a direct radio call
4 between one officer and another.

5 A. Mm-hm.

6 Q. And then you require a certain number of the radio you
7 wish to contact in order to do that:

8 "One of the officers involved in locus protection
9 mentioned he had been approached at the cordon.

10 I didn't have the number to phone him. When
11 I transmitted to request that officer to make contact my
12 number would have been visible and able to him to then
13 point-to-point me."

14 So this is really just you're continuing to
15 communicate with an officer at the scene at
16 Hayfield Road but you're back in Kirkcaldy Police Office
17 at this time?

18 A. I believe so, yes.

19 Q. Thank you. Can I ask you to look at some photographs
20 now, please, for me. 03374. Am I correct in saying
21 that it was you that added all the names to this
22 photograph?

23 A. I don't believe it's my writing, it was the PIRC
24 officer's writing, but yes, I talked through it and
25 named each officer on scene.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we see DC Connell heading towards the grassy area at
2 the top of the screen.

3 A. Yes.

4 Q. In the blue jacket.

5 A. Mm-hm.

6 Q. And then we can see you, DS Davidson, dressed in dark
7 clothing -- did you have your hair up that day?

8 A. Yes.

9 Q. And that's you standing next to -- or to the right of
10 PC Smith. And again, looking at that picture today, do
11 you still agree with everyone you have identified?

12 A. Yes, I believe so.

13 Q. Now can we look at the next photograph, please, and
14 again it may not be your writing but again, did you
15 identify people from this photograph?

16 A. Yes, I believe I did, yes.

17 Q. So again, those are your identifications. Thank you.
18 And you agree with those today?

19 A. Yes.

20 Q. Thank you. Before you left the scene, did you issue any
21 instructions to officers not to confer or discuss the
22 incident with each other?

23 A. I did not instruct them.

24 Q. And is there a reason for that or not?

25 A. It just wasn't priority at the time, I didn't think

Transcript of the Sheku Bayoh Inquiry

1 about it. My concern was scene management, tasking the
2 priority actions and the welfare of the officers. The
3 non-conferring aspect, I didn't even consider it on
4 scene.

5 Q. Okay. And then at some stage were you involved in
6 identifying Mr Bayoh?

7 A. Yes.

8 Q. And I think you have given the Chair information about
9 that in paragraph 31 of your Inquiry statement. And was
10 that in relation to, or in comparison to images that you
11 recovered from Facebook?

12 A. I didn't recover them from Facebook; I think it was
13 a family member that had recovered them.

14 Q. And you used that as a comparison?

15 A. Yes.

16 Q. With Mr Bayoh at the hospital?

17 A. Yes.

18 Q. And can I ask you how is it normally done, that you work
19 out the identification of someone who is in hospital?

20 A. In hospital generally when we're in that setting, family
21 are with the person, have probably travelled with or
22 been contacted --

23 Q. But if you don't know the person?

24 A. In a hospital setting, it depends if it's an unexplained
25 death or an expected death. If it's an unexplained

Transcript of the Sheku Bayoh Inquiry

1 death and there's forensic aspects to it, then it will
2 be an SIO's decision how we go about identification.
3 Obviously it's very important that we complete that. On
4 most occasions, for an unexplained death where forensic
5 integrity is a matter, we would convey the deceased to
6 the mortuary. There's an area -- a viewing area in the
7 mortuary where it's behind glass, so there's no physical
8 contact at that stage, so we could do the identity with
9 least impact to the forensic integrity. That was how
10 I would normally do it, would be at the mortuary
11 setting.

12 Q. And you have mentioned the SIO, that's the senior
13 investigating officer?

14 A. Yes.

15 Q. So who would that have been on 3 May 2015?

16 A. Initially obviously on scene it was myself was the
17 deputy SIO, Colin Wilson was the SIO, however, that
18 changed dynamically throughout the day because more
19 senior officers arrived. I'm not privy to the structure
20 of command thereafter, so it would be probably something
21 that would have to be asked of someone else.

22 Q. Okay. When you returned to Kirkcaldy Police Office we
23 understand the officers went back to the canteen?

24 A. Yes.

25 Q. And I think you have given some information in your

Transcript of the Sheku Bayoh Inquiry

1 Inquiry statement, paragraphs 63 and 64 --

2 A. That doesn't look --

3 Q. Maybe I've got the wrong --

4 A. Wrong numbers.

5 Q. I don't know why I've got those numbers there. Let's
6 forget that, forget I said that. Terrible typo there.

7 Did you have any involvement with speaking to the
8 officers in the canteen about what they should be doing,
9 providing any information, giving any statements?

10 A. No.

11 Q. We may have heard some evidence that one or more officer
12 felt that you and DC Connell were treated differently --

13 A. Mm-hm.

14 Q. -- to the officers who had been at the scene maybe
15 involved in the restraint.

16 A. Mm-hm.

17 Q. Were you aware of that at the time?

18 A. I was aware -- I wasn't aware of post-incident
19 procedures, that's not something I was aware of, I don't
20 believe that was routine for death in -- or serious
21 injury in custody. I believe that that was something
22 that came in later, but at that moment in time, I had no
23 awareness of post-incident procedures or the role of
24 a post-incident manager. I don't believe the officers
25 would have done either. My belief was that they were in

Transcript of the Sheku Bayoh Inquiry

1 the canteen for a welfare aspect, nothing other than
2 that.

3 Q. And we may have heard some evidence -- we have heard
4 some evidence that one of the officers felt that perhaps
5 you were getting favourable treatment because you were
6 allowed to leave the canteen and go about your business
7 to some extent --

8 A. Yes.

9 Q. -- as did DC Connell, whereas they were told to remain
10 within the canteen. Can you explain why that would have
11 been?

12 A. To be fair, retrospectively I understand that and
13 I acknowledge that. At the time I wasn't told to go
14 anywhere specific, I wasn't told I was subject to any
15 specific procedures, so I didn't. I continued in my
16 job, I had a job to do, I had other jobs to do and
17 I believe -- you know, I was under the belief they could
18 have left the canteen so no, I didn't question it.
19 Apologies.

20 Q. No, not at all. So you just went about your normal
21 business that day, after you got back to Kirkcaldy
22 Police Office?

23 A. Yes, I had other matters to...

24 Q. And did you complete your notebook and you obviously
25 completed your self-penned statement and gave

Transcript of the Sheku Bayoh Inquiry

1 a statement to PIRC at an earlier date in May and then
2 again on 2 June.

3 A. Yes.

4 Q. Thank you. Did you have any involvement with
5 Amanda Givan?

6 A. No.

7 Q. Can I ask you just one or two questions about race
8 before we complete this section.

9 Can I ask you -- you're obviously an inspector.

10 A. Yes.

11 Q. I have been asking officers about equality and diversity
12 training, and many of them have spoken about training
13 they had at Tulliallan.

14 A. Mm-hm.

15 Q. And it would appear that many of them have said they
16 didn't really receive any additional equality and
17 diversity training. Is that your experience?

18 A. My experience is obviously the initial -- we had two
19 weeks when we first joined. I believe I also had
20 diversity and equality training locally in Fife in 2014,
21 which is recorded on my SCOPE, and recently we have had
22 further training online which is to do with the
23 competency and value frameworks. Fundamentally that
24 brings in human rights, et cetera, so within that
25 package, online package and testing, there was also

Transcript of the Sheku Bayoh Inquiry

- 1 aspects to do with diversity within that.
- 2 Q. And is that training that you have had as part of your
3 role as inspector, or is that just across
4 Police Scotland?
- 5 A. No, that's across Police Scotland.
- 6 Q. For all officers, of any rank?
- 7 A. The competency and value framework?
- 8 Q. Yes.
- 9 A. All officers should complete that.
- 10 Q. Right, thank you. And part of that involves equality
11 and diversity training?
- 12 A. Yes, within that, yes.
- 13 Q. Was any of that training in relation to race,
14 discrimination, bias?
- 15 A. It's about integrity, fairness and respect for all
16 cultures within your community, so it doesn't go
17 specific, it's that kind of fundamental principles, the
18 overarching principles or values, and how you should, as
19 a person have them personal values as well, on or
20 off-duty, so that's the framework that we as
21 police officers should abide by and we should value,
22 personally and whilst -- as an officer.
- 23 Q. Right. And was any part of any of the training you have
24 had -- did any of it relate to unconscious bias or
25 recognising unconscious bias?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I don't believe it was labelled unconscious bias, but
2 I don't recall.
- 3 Q. Has any of the training ever asked you to self-reflect
4 or consider your own bias, or asked you to recognise any
5 unconscious bias or anything like that?
- 6 A. Most of the -- even my detective training you have to be
7 self-reflective to learn and develop and evolve, so
8 self-reflection is something that is apparent in most
9 training packages that we do, certainly detective
10 packages, senior investigating officer's training, and
11 the CVF also, to be self-reflective.
- 12 Q. And have you been taught any tools or skills that would
13 allow you to guard against bias or prejudice or
14 discrimination?
- 15 A. No tools, there's no specific tools to go by. It's
16 inevitably to be open minded, considerate, and if you're
17 open minded, you will make accurate and informed
18 decisions. If you're not open minded and you're not
19 taking in all accounts, then you will make inaccurate
20 and, you know, poor decisions, essentially, so yes, open
21 mindedness is the main factor for me anyway.
- 22 Q. All right, thank you. When you were at Hayfield Road
23 were you aware at that time -- so we're
24 talking May 2015. Were you aware at that time about
25 some high profile deaths in the UK and abroad of people,

Transcript of the Sheku Bayoh Inquiry

1 particularly black men, dying after police restraint?

2 A. I have to say I have no recollection. I have tried --

3 I knew -- and kind of -- this question had been asked

4 before and honestly, if I'm answering that honestly and

5 uninfluenced, I have no -- I have no recollection.

6 Q. That's not something you had been taught about or had

7 been raised with you in any training courses?

8 A. Possibly, but I can't recall.

9 Q. So you weren't aware of any particular risks associated

10 with restraint in the prone position or statistical

11 information about --

12 A. I was aware about risks in terms of prone position,

13 we're aware about positional asphyxia, et cetera, we're

14 taught that in OST, so I was aware of prone position

15 being a risk.

16 Q. Right. When you saw Mr Bayoh on the ground in

17 Hayfield Road being restrained by officers, you have

18 told us when you arrived he was in the prone position.

19 A. Yes.

20 Q. Did you consider the risks, significant risks of that

21 restraint when Mr Bayoh was in the prone position?

22 A. I did not consider intervening or thinking there was

23 a kind of increased risk at that point. As I have

24 detailed that my impression was -- my assessment was

25 that he had just become to be in that position due to

Transcript of the Sheku Bayoh Inquiry

1 the timeline of events and that once cuffs were applied,
2 he would be moved into a safer position. Yes, I didn't
3 observe that movement, however, that was my assessment
4 and I didn't consider any risks at that point.

5 Q. Did you consider at that stage calling for an ambulance
6 straight away?

7 A. No.

8 MS GRAHAME: If you would just give me a moment, please.

9 Thank you very much.

10 LORD BRACADALE: Any Rule 9 applications? Ms Mitchell.

11 Detective Inspector, would you retire to the witness
12 room, please, while I hear a submission.

13 (Pause).

14 Yes, Ms Mitchell, if you come to the table please.

15 (Pause).

16 Application by MS MITCHELL

17 MS MITCHELL: Yes, the first issue is in relation to the
18 taking control of the scene, barrier tape having been
19 placed up, and it was simply to ask after Sheku Bayoh's
20 body was removed in the ambulance, did the officer
21 notice batons lying around and did she consider taking
22 any action in relation to them.

23 The next issue is in relation to the sudden death
24 report and we had understood from a section 9
25 application that my learned friend was going to ask

Transcript of the Sheku Bayoh Inquiry

1 questions on this, and I don't think my learned friend
2 highlighted that particular issue so I would like to ask
3 some of the questions that we wanted to in relation to
4 that, namely what was the purpose of the report, what is
5 the content of a sudden death report. The witness
6 indicates that she had sight of and relied upon
7 Zahid Saeed and Collette Bell's statement when she wrote
8 the document for the sudden death report and to ask her
9 what the relevance of those two witnesses were for that
10 report and whether or not she thought to seek any
11 information from the officers that were in attendance
12 and, if not, why not? And the death report itself
13 states:

14 "This resulted in the deceased being restrained to
15 the ground. Handcuff and leg restraints were applied
16 (details of officers involved are known to PIRC and are
17 not included in this report)."

18 And to ask why the details of the officers involved
19 were not included in the death report.

20 The next issue is in relation to something
21 my learned friend did touch on, which was the
22 identification and the treatment of Mr Bayoh's body, and
23 it is to ask more questions in relation to paragraph 31
24 of the witness's statement.

25 The witness did give information that this was not

Transcript of the Sheku Bayoh Inquiry

1 an orthodox way of identifying, and she gave some
2 information of what was the orthodox way or
3 straightforward, and she gave an explanation about
4 urgency, and what I want to ask was what had been the
5 delay to that point and then ask her if she was then at
6 11.00 am able to accurately confirm that it was
7 Mr Bayoh, who she confirmed that to, and also given the
8 fact was that the urgency was to let his family know as
9 soon as possible, to explore the fact that despite some
10 four hours passing, Sheku Bayoh's family members, his
11 sister and other family members, had still not been
12 informed.

13 Lastly, the Inquiry -- second last, the Inquiry may
14 come to hear that Sheku Bayoh's sister and his
15 brother-in-law were asked to identify Mr Bayoh later on
16 and they asked if that could happen the next day when
17 Mr Sheku Bayoh's mother had arrived in Scotland and to
18 ascertain whether or not it would be orthodox to have
19 a second identification by family members.

20 Finally, to ask this witness whether or not she is
21 aware of the identity of the person who contacted the
22 Sierra Leone Embassy to have Sheku Bayoh's body
23 repatriated.

24 LORD BRACADALE: Ms Grahame, in relation to the sudden death
25 report, is that something that the Inquiry will be

Transcript of the Sheku Bayoh Inquiry

1 looking at a later stage?

2 MS GRAHAME: Yes, and I apologise to Ms Mitchell, I should
3 have explained this to her earlier today and it slipped
4 my mind.

5 There is reference in the witness's Inquiry
6 statement to the sudden death report, paragraphs 34, 35
7 and 36, and I -- initially when I was considering the
8 Rule 9 application I said I would be happy to ask
9 further questions. I checked the position and it was
10 confirmed to me this morning that the sudden death
11 report was not cleared for disclosure to core
12 participants, has not ever been disclosed, and it is not
13 at a stage it has been cleared for disclosure publicly,
14 and so it wouldn't be possible to have any of that on
15 the screen, and in relation to the Inquiry witness
16 statement, this witness has indicated already -- and
17 this is evidence before the Chair, that she created
18 a synopsis used to assist DS Moore and DI Wilson to
19 submit the SDR, and we will be exploring this at a later
20 stage, but as at today's hearing, I'm not in a position
21 to put any of the content of that onto the screen or to
22 make it public.

23 LORD BRACADALE: Very well. I think we should leave the
24 sudden death report for later.

25 Is that all the matters?

Transcript of the Sheku Bayoh Inquiry

1 MS MITCHELL: Those were all the matters.

2 LORD BRACADALE: Right.

3 (Pause).

4 Also, Ms Grahame, in the post-incident management
5 chapter will you be addressing the issue of the
6 identification of the body in more detail?

7 MS GRAHAME: Yes. That will be a matter that can be
8 explored in what we anticipate to be the third hearing
9 regarding post-incident management and, in particular,
10 the way that information was relayed to the family at
11 that time will be explored in some detail.

12 LORD BRACADALE: And I suppose that will also extend to the
13 issue of the embassy, Sierra Leone Embassy?

14 MS GRAHAME: Yes, that is also a matter -- I'm grateful to
15 Ms Mitchell because at a very early stage, a number of
16 matters, significant matters, were raised with the -- to
17 my attention and we very much intend to explore those in
18 detail at that later hearing on post-incident
19 management, and you may recall that the way in which the
20 authorities dealt with the family and friends in all
21 manner of aspects is something that we wish to explore
22 in significant detail.

23 Ruling

24 LORD BRACADALE: So I think I would prefer to explore these
25 important matters thoroughly and in a later hearing, so

Transcript of the Sheku Bayoh Inquiry

1 I can allow you to ask the question about the batons,
2 but the other matters seem to me to be all for later --
3 to be addressed at a later stage.

4 So do you wish to ask the question about the batons?

5 MS MITCHELL: Yes, indeed, my Lord.

6 LORD BRACADALE: We will rearrange the seating for that.

7 (Pause).

8 TEMPORARY DI SAMANTHA DAVIDSON (continued)

9 LORD BRACADALE: Detective Inspector, you're going to be
10 asked some questions by Ms Mitchell, counsel for the
11 family.

12 Questions from MS MITCHELL

13 MS MITCHELL: There is just one issue I want to ask you
14 about and that's in relation to the point at the scene
15 at Hayfield Road, where you took control, you have given
16 your evidence to explain that at a point you realised it
17 was more serious and you took over control, and one of
18 the things that you did was to put up barrier tape?

19 A. Yes.

20 Q. And you have given an explanation of why you might want
21 to secure that area, and I think you gave evidence to
22 say that one of the initial things you did was scene
23 management in terms of setting parameters and securing
24 the area, and in terms of any further contamination of
25 the area, is that correct?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. After Sheku Bayoh's body was removed and it was put in
3 the ambulance, did you see police batons lying around?
- 4 A. Not at that stage, no. I was aware that they were
5 already collected by DC Connell.
- 6 Q. So having known that they were collected, did you take
7 any action in relation to them as to what should be done
8 with them?
- 9 A. They were already seized from their original position,
10 we were past that point, so they would be seized as
11 a production. I wouldn't place them back on the ground,
12 that wouldn't be --
- 13 Q. No, I wasn't suggesting that, but if you knew they had
14 been bagged, were you going to decide to put them
15 somewhere or...?
- 16 A. They were within my police vehicle and I subsequently
17 seized them individually in evidence production bags.
- 18 Q. Okay. So you split them up?
- 19 A. Yes.
- 20 Q. And tagged them, presumably?
- 21 A. Yes.
- 22 Q. And then did what?
- 23 A. They were lodged as a production with the inquiry team.
- 24 LORD BRACADALE: Thank you.
- 25 Detective inspector, thank you very much for coming

Transcript of the Sheku Bayoh Inquiry

1 to give evidence to the Inquiry. I'm going to rise
2 briefly to let the next witness to be brought in and you
3 will then be free to go.

4 A. Thank you, sir.

5 (3.25 pm)

6 (Short Break)

7 (3.30 pm)

8 LORD BRACADALE: Now, Ms Grahame, who is the next witness?

9 MS GRAHAME: The next witness is DC Jennifer Bruce.

10 LORD BRACADALE: Good afternoon, Detective Constable. Would
11 you take the oath.

12 A. Yes.

13 DETECTIVE CONSTABLE JENNIFER BRUCE (sworn)

14 LORD BRACADALE: Ms Grahame.

15 Questions from MS GRAHAME

16 MS GRAHAME: Thank you.

17 You are Jennifer Bruce?

18 A. Yes.

19 Q. What age are you?

20 A. 37.

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

22 A. 14.

23 Q. And you have been a DC since 2014?

24 A. 2012.

25 Q. Oh, sorry, my mistake. Prior to that you had been

Transcript of the Sheku Bayoh Inquiry

- 1 a police constable?
- 2 A. Yes.
- 3 Q. And we have all your contact details, so we don't need
4 to look at those.
- 5 A. Yes.
- 6 Q. Have you been able to watch any of the other evidence
7 that we have had?
- 8 A. Yes.
- 9 Q. Great. You will know there's a black folder in front of
10 you?
- 11 A. Yes.
- 12 Q. Let's look at the two things that should be there, the
13 first should be PS 00772, a statement dated 5 May 2015?
- 14 A. Yes.
- 15 Q. This was an operational statement, was it?
- 16 A. Yes, this is a statement I compiled myself.
- 17 Q. A statement you prepared --
- 18 A. Yes.
- 19 Q. -- on 5 May, two days after the events we're here to
20 explore?
- 21 A. That's correct.
- 22 Q. And were you doing your best to give a true and accurate
23 record of your involvement with these events in that
24 statement?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. And then can we look at your Inquiry
2 statement, please, SBPI 32. This is a statement you
3 have given to the Inquiry taken by a member of the team
4 on 14 March 2022. Do you have that in your black folder
5 as well?

6 A. Yes, I do.

7 Q. And can we look at the last paragraph, 35, and we will
8 see that it says:

9 "I believe the facts stated in this witness
10 statement are true. I understand that this statement
11 may form part of the evidence before the Inquiry and be
12 published on the Inquiry's website."

13 And am I correct in saying you signed every page?

14 A. Yes.

15 Q. And that was on 14 April this year?

16 A. Yes.

17 Q. Lovely. You have hard copies of those. If you want to
18 refer to any part of them at any time, please feel free
19 to do so, and if it's not on the screen, I will make
20 sure it gets on the screen.

21 So paragraph 4, first of all. You were part of
22 a major investigation team and you started as a DC in
23 MIT and you were there in May 2015.

24 A. Yes.

25 Q. And then paragraph 7. Your team -- you say you always

Transcript of the Sheku Bayoh Inquiry

1 worked in Dundee, but your team helped cover the Fife
2 area and sometimes worked weekend cover and occasionally
3 be asked to go to Kirkcaldy?

4 A. Yes.

5 Q. And -- but it wasn't your usual base, Kirkcaldy?

6 A. No.

7 Q. You would sometimes work there?

8 A. I worked in Dundee and we generally covered the north so
9 we would go Aberdeen, Inverness way, but just given how
10 close we were at Fife, if need be, we would come to
11 Fife, but not very often.

12 Q. Sometimes?

13 A. Yes.

14 Q. Then paragraphs 14 and 15, you tell us that on
15 3 May 2015 you started at 8 o'clock in the morning in
16 Dundee and that was you and a colleague and you were the
17 only two working in the MIT in Dundee that day. It was
18 a Sunday.

19 A. Yes.

20 Q. And then paragraph 15, you were asked to go and help in
21 Kirkcaldy, so you then travelled to Kirkcaldy.

22 A. That's right.

23 Q. And what time did you arrive in Kirkcaldy?

24 A. I think from my first statement it said we were asked to
25 go about 11 o'clock, and then maybe we took 40 minutes

Transcript of the Sheku Bayoh Inquiry

- 1 to get there, so probably just before lunchtime.
- 2 Q. So was it a senior officer in Dundee asked you and your
3 colleague to travel --
- 4 A. We had a sergeant in Dundee who was dealing with another
5 incident, so he asked us to go to Kirkcaldy.
- 6 Q. And you went there to help in connection with the
7 Sheku Bayoh incident?
- 8 A. Yes.
- 9 Q. And what was your role to be?
- 10 A. Just an enquiry officer, just to assist with any
11 enquiries that were required. Usually it would be
12 noting witness statements.
- 13 Q. So you are really an additional resource at Kirkcaldy to
14 help organise and prepare the investigation?
- 15 A. Yes, generally it would be noting civilian witness
16 statements, I think that was the role that we were
17 tasked with.
- 18 Q. And I think you have said in paragraph 17 of your
19 Inquiry statement that you did actually take a witness
20 statement at that time?
- 21 A. Yes.
- 22 Q. Can I ask you about your involvement with
23 Inspector Combe, Jane Combe?
- 24 A. Yes, so later on that day, my colleague that I had been
25 working with finished duty, so I was left without

Transcript of the Sheku Bayoh Inquiry

1 a double up, and I was asked, being a female, if I would
2 pair up with a female inspector to assist in seizing
3 clothing.

4 Q. Right. And can we look at paragraph 18, please.

5 I think you say Keith, your colleague, had to finish on
6 time:

7 " ... so I ended up there [on your] own. I was
8 paired up with a uniform Inspector just to seize some
9 clothing. Her name was Inspector Jane Combe. I hadn't
10 worked with her before. I don't remember who asked me
11 to do that."

12 A. Yes.

13 Q. And were you aware of Inspector Combe at that time?

14 A. No, I had never met her before.

15 Q. You had never previously met her. Can I ask you, did
16 you have any involvement with Conrad Trickett that day,
17 who was the post-incident manager?

18 A. I was aware he was there because he had also come from
19 Tayside, but no, I didn't have any --

20 Q. No involvement with him?

21 A. No.

22 Q. Can I look at paragraph 19. You have been asked here
23 about seizing clothing:

24 "We seized the clothing of four officers and I wrote
25 up the labels and helped seal up the bags. Seizing the

Transcript of the Sheku Bayoh Inquiry

1 clothing of the officers is to try and preserve the
2 productions forensically."

3 And we have heard some evidence today that forensic
4 seizing rather than just normal seizing would involve
5 officers wearing white uniforms?

6 A. Yes, a forensic suit.

7 Q. Suits, sorry, that's the word, it's Friday afternoon.

8 So did you wear a forensic suit, a white forensic
9 suit that day?

10 A. Yes. We wore a different one for each officer and then
11 bagged up those suits.

12 Q. And did Inspector Combe also wear that?

13 A. Yes.

14 Q. And we have already heard that after each item -- each
15 officer has been dealt with, the white suit that you're
16 wearing is then folded up and also seized at that time?

17 A. Yes, and then we put a new one on for the next officer.

18 Q. And what's the reason for that being done?

19 A. Just to avoid any cross-contamination for when they're
20 later examined.

21 Q. So the items you're examining are then sent off to be
22 forensically examined by other scientists and forensic
23 people?

24 A. Yes.

25 Q. And some of the items that you recovered were from

Transcript of the Sheku Bayoh Inquiry

1 Nicole Short?

2 A. Yes.

3 Q. PC Short?

4 A. Yes.

5 Q. It wasn't just only female officers that you seized
6 items from that day, but she was one of them?

7 A. Yes. I think initially it was all females and then
8 I think there was one male at the end.

9 Q. All right, thank you. Could we look at paragraph 20,
10 please. It is on the screen:

11 "Specifically on that day, as best as I can
12 remember, we got the officers to stand on a brown paper
13 bag and take each item of their uniform off. We were in
14 forensic suits as well, with gloves on. As they took
15 each item off, they would hand it to me or the
16 Inspector, and we would put it in a production bag and
17 we would give the production a name by writing on the
18 bag or label. We just did that until we had every item
19 that we needed. Then we bagged up our own forensic
20 suits and gloves. You end up with a pile of everything
21 that they were wearing, everything that we were wearing,
22 all bagged and labelled and sealed for each officer."

23 And then if we look at paragraph 21:

24 "Different officers wear their equipment
25 differently. We didn't remove or unclip any of it. So

Transcript of the Sheku Bayoh Inquiry

1 for Samantha Davidson I have written in my statement on
2 page 3 'vest (with baton)' which means it is clipped on
3 or in one of the pockets ..."

4 But they have different preferences, let's say.

5 A. Yes.

6 Q. Right. And can we look at paragraph 23, please. You
7 are asked about your previous statement on page 2:

8 "... I wrote that ..."

9 This is your self-penned statement:

10 " ... I wrote that we seized PC Kayleigh Good's
11 clothing between 1647 and 1653 hours and Nicole Short's
12 clothing between 1808 and 1812 hours. I don't know why
13 there was a delay between these two officers having
14 their clothing seized. I don't think the delay would
15 have been on our part."

16 We have heard evidence from Inspector Combe that
17 there were a number of officers. Thinking now, can you
18 think of any reason why there was a delay in recovering
19 Nicole Short's clothing?

20 A. No, I have no idea. We were based in an office and the
21 officers were either brought up to us or came up to the
22 office and when they arrived we seized their clothing,
23 but what was happening prior to them coming to us,
24 I have no idea.

25 Q. So it was other officers organising when the

Transcript of the Sheku Bayoh Inquiry

- 1 individual --
- 2 A. Yes.
- 3 Q. -- officers would attend with you?
- 4 A. Yes. It was certainly nothing to do with me.
- 5 Q. And you were available, I think you said from about
- 6 11.00 that day?
- 7 A. I think we were asked in Dundee to go through at 11.00,
- 8 so we probably arrived just before lunchtime, but then
- 9 I noted statements after that.
- 10 Q. When were you available that day to forensically recover
- 11 or preserve productions or items of clothing?
- 12 A. I think I noted a statement at about quarter past 1, so
- 13 I don't know how long that took, maybe an hour or two,
- 14 so potentially from between 3.00 and 4.00.
- 15 Q. And certainly you seized Kayleigh Good's clothing at
- 16 4.47?
- 17 A. Yes.
- 18 Q. And we have heard that there was a room within Kirkcaldy
- 19 Police Office and the officers attended and you were
- 20 there with Inspector Combe?
- 21 A. Yes.
- 22 Q. And I think she described sort of standing at the door
- 23 making sure nobody was coming in to interrupt, is that
- 24 correct?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. What time did you go home that evening? You say at
2 paragraph 25:

3 "I went home after that."

4 So this was after you had gathered in these items.
5 What time was that?

6 A. I don't know what time I finished duty, but we have
7 obviously seized clothes right up to 8.02 that evening,
8 so probably just shortly after that I left and then we
9 would have to travel back to Dundee to go off-duty.

10 Q. Thank you. Can we look at paragraphs 26 and 27. This
11 relates to Nicole Short. 26:

12 "The 4 minutes to seize Nicole Short's clothing was
13 the time for her to take them off and for us to put them
14 in the bags. I don't think I would've spent much longer
15 with her before or after that. She would have had to
16 get redressed into something afterwards but that would
17 be about it."

18 Do you remember what she was wearing when she
19 arrived? You have said at paragraph 27:

20 "When she came to us, she had her T-shirt ...
21 microfleece and ... her vest."

22 A. They all arrived to us in uniform, but whether they were
23 carrying some of it or wearing some of it -- I don't
24 know if they had their vests on or not, but the rest of
25 it, they were wearing their uniform.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. I was going to ask you: was Nicole Short wearing her
2 body armour and her high-visibility vest or carrying it?
- 3 A. I don't remember.
- 4 Q. Thank you. When you talk about her micro fleece and her
5 vest, what do you mean by that?
- 6 A. So by her vest, it's her stab-proof vest.
- 7 Q. The black body armour?
- 8 A. Yes, the body armour, yes. And the micro fleece is just
9 a thin, fleecy top that you wear underneath your
10 stab-proof vest.
- 11 Q. Is that standard police issue or something --
- 12 A. Yes, you get issued them. They've got "police" on the
13 arm, a small zip and just thin fleece material.
- 14 Q. Right. Could I ask you to look at a vest, please. It's
15 in a bag. Ms Wildgoose will hand this to you and I'm
16 going to ask you if you recognise it.
- 17 A. Yes, that's my writing on the label.
- 18 Q. And is that Nicole Short's vest?
- 19 A. Yes. It's called "Nicole Short's".
- 20 Q. Thank you. And that was the item that you seized from
21 her that day?
- 22 A. Yes.
- 23 Q. And do you remember anything unusual about it at the
24 time?
- 25 A. No.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Was anything drawn to your attention?
- 2 A. No.
- 3 Q. Did PC Short indicate to you in any way that there was
4 a mark, or something on it that was significant or
5 important?
- 6 A. No.
- 7 Q. Would you look at this photograph, please, that we've
8 got on the screen, the second one, and you will see this
9 is a photograph of the rear of Nicole Short's vest and
10 you will see that there's a dark-coloured mark on the
11 back of the yellow hi-vis jacket part?
- 12 A. Yes.
- 13 Q. Was that drawn to your attention at all on the day that
14 you recovered it?
- 15 A. No.
- 16 Q. If it had been drawn to your attention, what would you
17 have done to respond to that?
- 18 A. We would have raised that with a senior investigating
19 officer and let them decide how they wanted to proceed
20 with that.
- 21 Q. Who was the senior investigating officer?
- 22 A. DCI Stuart Houston, I think.
- 23 Q. Right. And was he someone that you could have gone to
24 and spoken about a mark on a vest if that had been drawn
25 to your attention?

Transcript of the Sheku Bayoh Inquiry

- 1 A. If not him, somebody just below him, yes.
- 2 Q. But ideally the senior investigating officer?
- 3 A. Yes, or the deputy.
- 4 Q. The deputy, whoever that may have been.
- 5 A. Yes.
- 6 Q. And was there any sort of mechanism or procedure in
7 place where you would have drawn that to the attention
8 of the forensic services in any way? Would you have
9 marked it on the label?
- 10 A. No, I would say that's probably -- no. I would say it's
11 probably more a decision for the SIO to make how they
12 wanted to proceed with that, whether they wanted it
13 photographed or taken straight to the lab, or -- that
14 would be a decision for them.
- 15 Q. So if you have noticed something on an item, or it's
16 drawn to your attention, you can draw that to the
17 attention of the SIO and is there any reason you can
18 think of why if someone has brought something to your
19 attention, or you have noticed something, that you
20 wouldn't mention that to the SIO?
- 21 A. Not if it was flagged up as potentially being relevant.
- 22 Q. Right. So no reason that you -- if that mark had been
23 drawn to your attention, you can't think of any reason
24 why you wouldn't have mentioned that to the SIO that
25 day.

Transcript of the Sheku Bayoh Inquiry

1 A. No.

2 Q. Right.

3 Could I ask you about paragraphs 29 and 30 of your
4 Inquiry statement please. It says:

5 "I don't remember if Nicole Short said anything to
6 me about her uniform when she came to us. I didn't have
7 much of a conversation with any of them. I don't think
8 any of them said very much at all, but I can't
9 specifically remember.

10 "I didn't consider photographing any of the
11 clothing. This is not something I would normally do.
12 It's not routinely done."

13 I'm quite interested in the taking of photographs.

14 A. Okay.

15 Q. What's the normal routine with photographs?

16 A. We wouldn't normally photograph items of clothes that we
17 have seized. We would package them, send them for
18 examination and it would be for the scientists, if they
19 find something during examination, to decide to take
20 a photo.

21 Q. So more the forensic specialists could take photographs.

22 A. We are not examining them, so it's more during the
23 examination that if anything is found it would be
24 photographed.

25 Q. Right, thank you. So that wasn't part of what you were

Transcript of the Sheku Bayoh Inquiry

1 doing, the process you were following, it wasn't any
2 part of it?

3 A. No, we weren't to examine them. We were just to seize
4 them and bag them.

5 Q. Thank you.

6 If an officer had asked about a photograph, or
7 wished a photograph taken, is that something that you
8 would also have spoken to the SIO about?

9 A. Yes.

10 Q. Thank you. Can we look at paragraph 32:

11 "When I was seizing the officers clothing, it was
12 clear to all parties that bagging and labeling the
13 uniform was our only role at that time. There was
14 a mutual understanding that we would not ask the
15 officers any questions and they would not discuss the
16 incident with us. Our role that day was purely to seize
17 their clothing, not to obtain any information from
18 them."

19 And is that -- you weren't having discussions with
20 them or noting down what had happened earlier that day
21 or any of that?

22 A. No, there was no conversation.

23 Q. Do you have any recollection now about how Nicole Short
24 was when you seized her clothing?

25 A. Not specifically Nicole. I remember all the officers

Transcript of the Sheku Bayoh Inquiry

1 seemed upset, but not specifically anything about
2 Nicole.

3 Q. All right, thank you. Can we look at paragraph 33
4 please. You are asked about the media:

5 "I have not really been following the media
6 surrounding this case. I see the headlines
7 occasionally, or if it is on STV news at night. I don't
8 go out of my way to follow it.

9 "I haven't really seen much more other than that,
10 maybe a headline on the news about his family. I really
11 haven't followed it much at all. The family were making
12 a complaint about how it was dealt with. That's all
13 I know really. I've maybe seen a family member or their
14 solicitor making comment about complaints that they have
15 made and the processes that they are going through.
16 I have not seen anything outwith that about the incident
17 itself."

18 So you have not really followed this?

19 A. No, I mean other than that -- the day of the incident
20 that I attended, I then went back to Dundee and had
21 nothing at all to do with the inquiry thereafter.

22 Q. So you have not had any ongoing contact really with the
23 officers who were involved?

24 A. I didn't know any of them. I have had no contact with
25 them since and, yeah, because it was a Sunday I helped

Transcript of the Sheku Bayoh Inquiry

1 that day and then had nothing else to do with it.

2 Q. So you had an awareness that the family were
3 concerned --

4 A. Yes, but --

5 Q. -- about certain aspects, but no more than that really?

6 A. No.

7 Q. Thank you very much. I have no further questions.

8 LORD BRACADALE: Any Rule 9 applications? No.

9 Detective Constable, thank you very much for coming
10 to give evidence to the Inquiry. I am about to rise for
11 the day and then you will be free to go.

12 A. Thank you.

13 (3.50 pm)

14 (The Inquiry adjourned)

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Transcript of the Sheku Bayoh Inquiry

1
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10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

INDEX

DR RUDY CRAWFORD (continued)	1
Questions from MS THOMSON (continued)	1
Application by MS MITCHELL	24
Ruling	27
MS JANE COMBE (sworn)	28
Questions from MS GRAHAME	28
Application by MS MITCHELL	93
Ruling	96
MS JANE COMBE (continued)	98
Questions from MS MITCHELL	98
TEMPORARY DI SAMANTHA DAVIDSON	109
(sworn)	
Questions from MS GRAHAME	109
Application by MS MITCHELL	180
Ruling	184
TEMPORARY DI SAMANTHA DAVIDSON	185
(continued)	
Questions from MS MITCHELL	185

Transcript of the Sheku Bayoh Inquiry

1	DETECTIVE CONSTABLE JENNIFER BRUCE	187
2	(sworn)	
3		
4	Questions from MS GRAHAME	187
5		
6		
7		