

WITNESS STATEMENT

Agency Ref : **S181**

PF Ref :

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Surname : TOMLINSON Other or previous surname :

Forenames : Ashley DoB : [REDACTED]/1991 Age : 23

Occupation : Police Officer  
Reg. No [REDACTED]

Other Occupation : Shoulder No. 691

Police Station : [REDACTED] Police Station. 18 months Service :

Disclosable address : [REDACTED]

Post Code:

This statement was taken :

Date and time : 4th of June 2015 11.55

By : DSI BRIAN DODD

Place : Scottish Police College, Kincardine

In the presence of : INV KEVIN ROONEY

I have/the witness signed/refused to sign this and all other pages

It was/not read over to the witness and was/not recorded on Audio tape and/or Video tape

States :

I am 23 years of age and have completed 18 months police service. I am now based at [REDACTED] Police Station at [REDACTED] but on 3rd May 2015, I was based at Kirkcaldy Police Office on Group 4. I am a response police officer. I am currently OST trained and I last re-qualified on 23rd November 2014.

I would describe myself as white, 5'11½ ", Bolton accent, dark short hair, black/brown rimmed glasses, clean shaven, medium/well built, 14 ½ stones/ 90 kilos. My appearance has not changed since 3 May 2015.

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On Sunday 3 May 2015, I was early day shift 0700 -1600hours. I was in the office at Kirkcaldy just after 0630hours. I retrieved my handcuffs and baton from my locker and collected my Airwave Terminal and CS Spray and notebook from my Airwave locker. I then went to muster and listened to the briefing which was an E-briefing read by PC Kayleigh Good. I was given a task by Sergeant Scott Maxwell which was a bail check. I was paired with PC Nicole Short and we were given call sign PR41C, which is a Ford Transit Connect, which everyone calls the Fish Van. I'm not sure of the registration number. There were eight constables, plus the sergeant on that morning. I was in full uniform.

Initially I was actioned to an alarm call but Craig Walker and Allan Paton in PR41A took the call to allow me to see Sergeant Maxwell about a historical domestic I was dealing with.

Whilst in the sergeants' office a call came in about an incident on Victoria Road, about a black male brandishing a knife. I requested additional units to assist prior to entering the police vehicle with Nicole Short. Craig Walker/Allan Paton shouted in that they would also attend and assist. They were already out in the larger Ford Transit van with the cage. I drove the police vehicle and Nicole was in the front passenger seat.

Another call or calls came in for Hayfield Road about a black man in possession of a knife. I knew that Hayfield Road ran from the roundabout at Gallaghers Pub to the hospital. There was a lot of Airwave traffic and I heard requests for dogs/firearms to attend. My initial thoughts were this was a crank call because of the different locus and it was early on a Sunday morning when nothing ever happens. It was then clarified that the locus was Hayfield Road near to Gallaghers Pub. My route was from Kirkcaldy Office yard, turn left to traffic light junction, right on the junction to Victoria Road, left onto Bennoch Road to mini-roundabout, right onto Hendry Road all the way up to Gallaghers from the Valley. I put on my blues and twos when I left Kirkcaldy Police Office.

As I was driving towards the roundabout at the Valley, I saw the 19 van (PR41A) leaving the roundabout in front of me towards Gallaghers. This was the van crewed by Allan Paton and Craig Walker. I approached the roundabout at about 50 mph and drove over the roundabout. I turned the vehicle into Hayfield Road and saw the 19 van parked nose into the bus stop on the left hand side. I then saw a black guy on the pathway which cuts the corner between Hayfield Road and Hendry Road, same side as bus stop. I saw this male walking directly at Craig Walker at the passenger side of his van face to face. I didn't see Alan Paton. I have been shown

Label No.            Satellite View of Hayfield Road

and have marked where I parked my vehicle and where the other police vehicle was parked. I have named them 'Fishvan' and 'A19'. I have also marked on the map where Craig Walker and the black man I now know as Sheku Bayoh were standing as CW and SB, and where I was when I got out the van with Nicole as AT and NS.

I saw Craig lift his hands to his face and my first thoughts were that he had been slashed because of the mention of a knife on airwave. As soon as Craig held his

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face, the black guy turned away and did a bouncy type of walk which was almost like he had won a victory or something. He strutted along the pathway. I shouted "desist" and he turned round to look at me with a kind of dirty look. I shouted for him to stop and I didn't know whether he had a knife or not. I followed him to the path at the shrubbery. I was parallel with him. I have marked the furthest point he and I reached on the

Label No.            Satellite View of Hayfield Road

as SB2 and AT2.

I got my CS Spray out but I could not see a knife. I thought Craig had been slashed. The black man did not say anything and his fists were clenched. I sprayed my CS at him from about 4 or 5 metres away from him. The wind was strong and it was raining too. The first spray missed him due to the wind so I adjusted my aim and sprayed again. The spray curved in the wind but again missed his face and hit the top of his left neck/shoulder area. He had stopped walking when I sprayed him. I shouted for him to get on the floor. I emptied my full CS spray on him and kept my finger on it until it was empty. The CS spray had no effect. There was no reaction from him and it was almost as if I had squirted him with water. I put my CS spray back in its holder on my utility belt. At this time, Nicole was behind me to my right hand side. I was shouting at the man but didn't hear her shout anything. He was still standing still and I think he was sizing myself and Nicole up by the way he was looking at us. I fully expected him to attack us. I got my baton out and drew it to the high carry position with my right hand. The man started to run in my direction but then veered right, Straight towards where Nicole was.

He ran past me and I turned round right about 180 degrees to see him chasing Nicole. She was running across the road away from the bus stop. He caught up with her and punched the back of her head. She didn't have her police hat on and neither did I. She fell to ground face down when he punched her and she tried to protect her head and push herself up with her hands at the same time. I ran over to assist her, but before I got there, he stomped on her back with his foot with a great deal of force. He put his full bodyweight into the stomp and used his arms to gain leverage. After he did this she went back to the floor and never moved. I thought he had killed her. He stomped on her back again with the same force and she wasn't moving. I have indicated on the

Label No.            Satellite image of Hayfield Road

where this assault by punching and stomping took place as NS2 and SB3.

I struck him with my baton once to his head. It was to the left hand side to his head, diagonally from the back of the head to his jaw. He stopped stomping on Nicole at that point. I think I hit him again which was about 2 or 3 times in total to the head area. He turned around and took up a boxing sort of stance, with both fists clenched in at his chest. I thought he was going to attack me again so I struck him 2 or 3 times with my baton to his arms. At that time I thought he was trying to kill me now after killing Nicole. Craig Walker came in at this point and grabbed the man like a bear hug and wrestled him to the floor. Craig was trying to control his arms so I tried to get

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a hold of his legs, which were kicking out in the air. I struck the back of his legs at his achillies area a few times but he didn't stop and it failed to control him. I threw my baton to one side and jumped on the legs to try to control him.

The man was face down, Craig was on his back trying to control him and I was on his upper thighs straddled over him trying to control his legs and facing his head.

He started to bench press both of us and was incredibly strong. I tried to pull his right arm to stop him doing this and he started to pull me in. He was overpowering us and we were struggling to keep him on the floor. I would say Craig is about 20 stones, and he was still too powerful for us. He kept pulling me in and I pushed the emergency button for assistance.

My thoughts now were to try and get one of the handcuffs on him to control his arm, but he again flicked his legs, causing me to lose balance and drop my handcuffs. I managed to get back onto the back of his legs and at this point other officers started to arrive. I have marked the point of restraint on the

Label No.            Map of Hayfield/ Hendry Road

as SB4, AT3 and CW2 to denote the positions of Sheku Bayoh, myself and Craig Walker and the position of the vehicles E19 and Fish, together with the position of the path in a dotted line from Hendry Road to Hayfield Road. The only thing I can remember about the man was that he was black male, late 20's/early 30's, really short shaven head, round head, 6'0"/6'2", really well built, broad massive shoulders with a tight t-shirt, blue jeans with a fabric belt.

That was the first time I remember seeing Alan Paton. I remember Alan Smith trying to put fast strap on the man, but he grabbed my leg by mistake and I asked him what he was doing. The man was still face down and still struggling. His head was pointing towards the houses. I looked for Nicole but couldn't see her. At some point Craig or someone said to Alan Smith not to spray him with CS as it didn't work. I think Craig stopped Alan from using the spray and knocked it from his hand. I thought I was the only officer who had used CS spray on the man during the whole incident. I didn't see any other officers using their batons or who applied handcuffs or leg restraints. It all happened so fast.

Craig shouted for someone to check for a knife. I checked his right side from his waist to ankle and by that time he had been rolled onto his side and was handcuffed to the front palm to palm. The only thing I found was a packet of chewing gum in his right hand pocket. I threw it to the ground. I also remember a gold coloured mobile phone which was lying beside him. I don't remember where it came from or if he had dropped it or if some other officer had recovered it. There was no sign of a knife at this point.

When he was on his side, I took hold of the fast strap to control his legs.

I was there with Craig to my left controlling his upper body. I was controlling his legs. Alan Smith and Alan Paton were at his head area.

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The man had calmed down and wasn't moving or struggling. Alan Smith bent down and put his ear to the man's mouth and confirmed he was breathing. He wasn't responding so Alan Smith or someone asked for an ambulance. Shortly after that Alan Paton said that the wasn't breathing. Alan Smith checked and confirmed this so we rolled him onto his back to carry out CPR.

Craig Walker started CPR. Alan Paton and Alan Smith tried to apply the mouthpiece which would allow them to give breaths. They couldn't manage to get it in properly. I think they were carrying out SPELS 30/2, but Alan Smith got contaminated with something from the man and rinsed out his mouth with his hand sanitizer before getting a glass of water from a resident nearby. Craig and Alan Paton did the CPR between them and they were getting tired. I heard Craig mention that there were broken ribs from the CPR he heard breaking.

Scott Maxwell asked for an ETA for an ambulance for Nicole and the man on the floor. The ambulance seemed to take forever and I kept on asking how and where Nicole was.

First of all somebody said that Nicole was in a police van and then somebody said that Chunk who I think is DC Connell had taken her to hospital in a car.

I stood up and saw loads of people at the windows of some of the houses watching what was going on. I remember a Silver Vauxhall Astra stopping at the roundabout and it stopped there. I walked towards the roundabout to move the car on and stop other vehicles from coming round the corner into the incident. I stood on the point on the roundabout and stopped a woman in a car from turning into Hayfield Road. It was a small car and the woman was on her own. She drove up Hendry Road towards the garage and the silver Astra drove down the other direction in Hendry Road.

The ambulance had already arrived when I did this and DS Davidson had put barrier tape up at the junction of Hayfield Road and Hendry Road.

I saw two male paramedics arrive, one of the paramedics was on the airwave and the other was unpacking a red bag. The police officers continued with CPR. There was mention of the question of whether the man had been shocked yet on the paramedic airwave and he said that they had just arrived. A stretcher appeared and I helped the man onto it face up helped by Alan Smith, Craig Walker and Alan Paton. We put him onto a stretcher on his back still handcuffed to the front and one fast strap to his lower knee. The two paramedics got into the back of the ambulance with him and Alan Smith drove the ambulance. I ripped off the barrier tape, which was attached to a CID car wing mirror and road sign, to allow the ambulance through. The ambulance drove down Hendry Road towards the Valley.

With regards to a knife being found, when I was searching for a knife on the man, James McDonagh ran towards the grass area where the man had been walking towards and pointed to the ground. I didn't know what he was doing, but I saw Chuck (DC Connell) move to the same area with a brown paper bag. I didn't see him pick anything up, and never paid any attention to it after that.

On the

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I have marked the CID car, road sign and area where I saw DC Connell with the brown paper bag as CID, road sign and between the two solid lines.

DS Davidson gave me a set of keys for a van and I drove back to the station with Danny Gibson on the same route I had come on previously to the initial incident.

I arrived back at Kirkcaldy Police Office about 8am with Danny Gibson. We met Alan Paton and Craig Walker who were there before us. The four of us went to the upstairs writing room and dumped our body armour, utility belt and radios on the floor.

Scott told us to go to the canteen which is at the other side of the building. Myself, Alan Paton, Craig Walker, Dan Gibson and Scott Maxwell went to the canteen initially, before Scott went away to update management.

PC Austin Barrett came to the canteen and said that he had rang the Federation Rep Amanda Given who was on her way down. He remained in the canteen for a short time and made us coffee.

We were all talking about what had happened and our main concern was the condition of Nicole. I wanted to go to the hospital to make sure she was ok.

I still had my leg restraints and CS Spray. I didn't know where my baton and handcuffs were at this time. At some point around then I changed my shirt and micro fleece as they were contaminated and put them in a property bag from the Custody area. I put the bag on the floor in the canteen with my kit. Different people were coming into the canteen and asking how we were. During this time Nicole arrived back from hospital about 11am. She still had all her kit on. She took off her body armour and put it down beside my kit in the canteen. Amanda Given arrived as she went with Scott Maxwell to get everybody a KFC meal. Amanda and Scott came back and Chief Inspector Conrad Tricket came in to speak with us in the presence of the Federation Representatives about Post Incident Procedures. He was there all day and didn't say anything to us about conferring etc. but we watched TV and played pool mostly. After the KFC I asked Amanda Given if I should fill in my notebook, she said not to and I asked her if I needed a solicitor and she said yes because by that time the man had died and we would need legal advice. She said that it was a death in custody and the PIRC would investigate. She told us not to give statements to the police and if anyone approached us to ask for statements, we had to refuse and seek legal advice. Amanda also told us not to fill in a Use of Force or CS spray form because that would have outlined our actions without speaking to a solicitor first.

We were told that we would have to be examined by the nurse and our clothes forensically seized. Nicole was confused and thought she had to take her body armour through. I said she didn't need to take her kit to the nurse. When she put down her kit, I saw a dried in dirty footprint on the back of her body armour below the Police badge at an angle. I told her to tell somebody about this and I think she told Conrad and Amanda about this. I saw the nurse and had some redness between my

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knuckles on both hands and a line across my back. I don't know what caused the line but the redness was caused by CS irritation. Two males came and forensically seized our uniforms. I went off duty about 6.15pm.

The decision not to give a statement or fill in CS/Use of Force forms and notebook was an instruction from Amanda Given. My CS Spray was seized as a production. We don't weigh it as a matter of course when it is issued to us and don't complete any paperwork in respect of it. This also applies to the use of airwaves and batons.

Over the next few days, there were a number of welfare meetings with the Federation and Inspectors and Gary McEwan.

I attended a Traumatic Incident Management Meeting at Kirkcaldy (TRIM) with an individual one to one within DI's room at Kirkcaldy. The day before that I thought I was coming in for a TRIM meeting but arrived at the station to be told that the Major Investigation Teams (MITs) wanted statements from us. Based on the information that the Federation gave us we decided to decline to give a statement to the MITs. I spoke to two MIT officers who were Stewart Wilson and another CID officer. I told them I wasn't giving them a statement and if they wanted one I would refer them to my solicitor Peter Watson who told us not to give statements.

We met Peter Watson at Livingston SPF headquarters and he advised us not to give statements until our status was clarified. He said that John Sallens would take statements from us.

John Sallens contacted me about a week later and arranged to come to my house to take a statement.

[REDACTED]

I am now back at my work at a different station at [REDACTED] [REDACTED] This is a true and accurate account.

Signed :

(Witness)

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WITNESS STATEMENT

CONFIDENTIAL MATERIAL - NOT TO BE DISCLOSED

Surname : TOMLINSON Forenames: Ashley  
Alias/known as :

Place of birth : [REDACTED] Age : over 18

Home address : [REDACTED] Telephone :

Post code : [REDACTED]

Business address : [REDACTED] Telephone :  
[REDACTED] Police Station

[REDACTED]  
Fife

Post Code :

Mobile :

Email : [REDACTED]

Fax/Pager :

Other :

Dates when unavailable in next 12 months :

Other Confidential Material :