

HEARING 1 - CHRONOLOGY

The Inquiry will consider evidence in connection with the events detailed below. The evidence and issues will not be restricted to or limited by the scope of this document or its precise terms, but will remain an issue for the Chair with regard to the broader Terms of Reference.

The Inquiries Act 2005 lays down two guiding principles in relation to the conduct of the Inquiry. The first is that the Chair must act with fairness and also that he must have regard to the need to avoid unnecessary cost, whether to public funds or to witnesses or to others.

This document, is designed to identify the evidence to be considered in Hearing 1; identify key issues and highlight areas of potential controversy. In providing this document in advance, the aim is to assist the Core Participants in their preparation for the hearings and to allow them an opportunity to engage with the work of the inquiry.

The Terms of Reference require the Inquiry to consider the extent, if any, to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race. At each evidential hearing the inquiry will consider the extent, if any, to which the events and actions of the officers involved were affected by Mr Bayoh's actual or perceived race, and this evidence will be collated. In carrying out this task, particular regard will be had to any actions, steps, instructions, behaviours or omissions that fell below, or were contrary to, any applicable guidance, practice or legislation.

Threat Level in May 2015

On 16 January 2015 the Police Personnel Threat Level was increased to Severe. In a message¹ to all Police Scotland officers and staff, the Deputy Chief Constable said that "an attack focussed on the police service is assessed as highly likely". He reminded all officers to "take sensible and proportionate steps in relation to their own personal safety and maintain a heightened awareness of the safety of colleagues".

¹ PS01314

A “stay safe” memorandum issued by the Assistant Chief Constable Nicholson on 19.2.15² reiterated that an attack was “highly likely”. Reference was made to recent attacks in other countries and to the murder of Fusilier Lee Rigby. He advised that “intelligence suggests that the current threat comes from an opportunistic attack by self-organised Islamist extremist groups or individuals”. A video message from Assistant Chief Constable Higgins advised the type of attack most likely to occur was “a lone individual carrying out a low sophisticated attack, and this is why continued and sustained vigilance is so important ... complacency would be our biggest threat”.

In early 2015 officers were advised to be double-crewed, and not to wear clothing that would identify them as police officers when travelling to and from work.

PC Paton later remembered a “rumour going about” Kirkcaldy Police Office that “somebody intended to cause harm to a female cop”.³

PC Brian Geddes later indicated he was “95% sure a briefing was given” regarding a possible attack on a female officer by ISIS. He could not recall whether this was electronic or in a memo; who gave the briefing or when, but “believed it was roughly the same time we were told to always be double crewed.”

Temporary Inspector Stephen Kay had no recollection of any briefing being given regarding a threat to a female officer.

PC April Rodden, Intelligence Officer, had been asked by PIRC to research intelligence/briefings in P Division regarding possible threats to female officers. A search on the Scottish Intelligence Database between 1 August 2014 and 1 May 2015 had shown no such threats. A search on the Electronic Briefing System, the Intelligence Bulletins and Archive Bulletins also showed no such threats directed to female officers having been recorded.

Kara Ferrier an Intelligence Officer with MIT⁴ researched published briefings on the Police Scotland Intranet and Scottish Database relating to threats to UK police officers. No specific threats to female officers were mentioned.

PC Craig Walker⁵ recalled being on a severe threat level for an attack on the police. He was “concerned that this was early on a Sunday morning. This is not something I have heard of in my police career, an incident of this type at that time of day. I did even mention to PC Paton if the worst case scenario came to be and he came at the vehicle with a knife or a sword I wasn’t getting out and I might hit him with the vehicle.”

PC Daniel Gibson⁶ recalled that at the time they arrived at the office in civilian clothes due to the current threat level and they were instructed not to travel to work in uniform.

² PS09749

³ PIRC-00262

⁴ PS09751

⁵ PIRC-00264

⁶ PIRC-00258

Whyteman's Brae Hospital, Kirkcaldy

Whyteman's Brae Hospital is a Community Hospital in Kirkcaldy which caters for psychiatric patients. There is an inpatient ward, Ravenscraig, at the site. The Hospital is at Whyteman's Brae, Kirkcaldy, KY1 2NA.

The Hospital is around 10 minutes (walk) from Hayfield Road.

Events on 3rd May 2015

During the early hours of 3 May 2015, arrangements were made via text message by **Zaeed Saeed**⁷ to attend the home of **Martyn Dick**⁸ and **Kirsty MacLeod**⁹ to watch the Mayweather vs Pacquiao fight on television.

Shortly after 0400 hours, Zaeed Saeed and **Sheku Bayoh** [REDACTED] to Martyn Dick's home in Kirkcaldy. All four sat talking prior to the boxing match beginning and everyone appeared to be in a good mood. Mr Bayoh was drinking alcohol.

During the course of the visit it appeared that Mr Bayoh's mood changed. It appeared that he believed that the others in the house were being disrespectful towards him. Zaeed Saeed had seen him like this before.

At about 0530 hours Mr Bayoh suddenly left the house via the back door. Mr Saeed apologised for his behaviour and followed Mr Bayoh out of the house but could find no trace of him.

After making a cursory search of the nearby streets and unsuccessfully attempting to call Mr Bayoh on his mobile telephone, Mr Saeed travelled [REDACTED] to Mr Bayoh's home at Arran Crescent, Kirkcaldy.

Mr Bayoh arrived at his home in Arran Crescent, shortly after Mr Saeed. Mr Saeed walked up the path to the house with Mr Bayoh, questioning him about his earlier behaviour. Mr Bayoh told Mr Saeed to go away. He was not behaving normally. Both entered the house.

Mr Saeed tried to explain to Mr Bayoh that his behaviour appeared out of character and Mr Bayoh agreed. He pulled a clear plastic money bag containing tablets, from inside one of his socks.

After a while, Mr Saeed decided to leave. As he left he was followed by Mr Bayoh and on the garden path he was punched several times to the back of the head by Mr Bayoh. Mr Saeed ran from the garden, pursued by Mr Bayoh who threw a clothes pole at him and chased him round a number of gardens, catching up with him when he slid and fell. Mr Bayoh straddled him and punched him to the face and body. Mr

⁷ PIRC-00032; PIRC-00033; [REDACTED]

⁸ [REDACTED]

⁹ [REDACTED]

Saeed shouted and managed to get up and ran off, up a nearby alleyway. Mr Saeed quickly sent Mr Dick text messages.¹⁰

Contact with Neil Morgan

This incident was heard by a number of local residents,¹¹ including a neighbour **Neil Morgan**. Many of these residents and neighbours knew Mr Bayoh. He was described as “a good neighbour”, “a genuinely nice, friendly guy who would always say hello”. He would “do anything for everyone”; “exceptionally well mannered and polite at all times”¹²

After the incident with Mr Saeed, it appears that Mr Bayoh returned home and took a knife from his kitchen.

At around 0645 hours, Mr Morgan made his way outside and had a conversation with Mr Bayoh, after which Mr Bayoh walked off.

Mr Morgan was the last person known to have talked to Mr Bayoh, prior to his contact with the police. He noted that Mr Bayoh “...didn’t seem hyped up, didn’t appear psychotic or drunk. I couldn’t tell if he was under the influence of something but he definitely wasn’t himself”.

Route Taken by Sheku Bayoh

Mr Bayoh walked from Arran Crescent, turned right into Cramond Gardens, left into Templehall Avenue, right into Hendry Road then left into Hayfield Road. He was seen by witnesses at various points en route.¹³

Telephone Calls to the Police

The Police Scotland Area Control Room (ACR) at Bilston Glen received various 999 and 101 calls between 07:09:43 and 07:16:33, from witnesses who observed a black man dressed in a white T-shirt, in possession of a knife and attempting to strike vehicles.

Harry Kolberg, drove along Templehall Avenue and was at the junction with Templehall Avenue. He telephoned twice (07:10:11 hours and 07:15:29 hours) and described the man as having “thumped” his car and “starting chasing the car” and, later, as “jumping out trying to hit other cars”.

¹⁰ 06:38 hours “I need your help”; 06:46 hours “Shek has just attacked me”

¹¹ [REDACTED]; Naomi Rhodes PIRC-00110; [REDACTED]

¹² [REDACTED] 1 Eleanor Galloway PIRC-00039; PIRC-00040

¹³ [REDACTED]; Alan Pearson PIRC-00066, PIRC-00067; Harry Kolberg PIRC-00064; Robson Kolberg PIRC-00015, PIRC-00016; Tracy Clive PIRC-00293; Simon Rowe PIRC-00010, PIRC-00011; [REDACTED] - [REDACTED] Joyce Joyce PIRC-00065; Andrew O’Connor PIRC-00063; [REDACTED] Geoff Levy PIRC-00198; Linda Limbert PIRC-00017 PIRC-00018; [REDACTED]

Linda Limbert was travelling to her place of employment at the Victoria Hospital, Kirkcaldy in her car. She travelled along Templehall Road, turning right into Hendry Road and travelled southwards. As she approached the roundabout at the junction with Hayfield Road she saw a man in the centre of the roadway walking towards her carrying a knife in his right hand. She stopped in Hendry Road and called 999 at 07:16:33 hours.

Joyce Joyce saw a male walking across the road from Templehall Avenue to Hendry Road. He was the only person about and was a black man, holding a 10" kitchen knife. "He was walking with a purpose, like he was on a mission, he was a big muscly guy and was just walking like a zombie, like he was focused and on a mission, to go where he was going." She noted that "due to his mannerisms and fixed state I assumed he was on something, because he was massively bulky I assumed steroids."

Simon Rowe¹⁴ was driving [REDACTED]. He phoned to report a "black man with what looked like a huge blade walking along Templehall Avenue, towards the Hub garage"; "like a big kitchen knife". He was "Just walking along the road with it." On 4 May 2015 he gave a statement describing the male as "dark coloured skin, muscular build, about 6' in height, wearing a white t shirt and dark coloured jeans and shoes/trainers" and "carrying what I believed to have been a kitchen knife in his right hand. The knife itself was about 8" in length, the blade being 6" at most." "...his arms appeared to be swinging at his sides and he looked to be walking with purpose. I remember noting that it was raining at this time and he looked to be soaking wet."

Alan Pearson¹⁵ saw a male with a knife on Hayfield Road, jog across the road and kick or try to kick the side of a passing taxi. He had a large kitchen knife.

Area Control Room (ACR)

Control made its first call to officers in Kirkcaldy at 07:16 hours. The call was to **PC Tomlinson**¹⁶ and **PC Short**,¹⁷ who were on duty in Kirkcaldy Police Office when they were instructed by ACR staff via Airwave radio to attend the report of a disturbance in Hendry Road, Kirkcaldy:

"a disturbance on-going, male armed with a knife... African looking male chasing... Someone... Maybe carrying a knife... Described as big with muscles about 6 foot tall wearing a white T-shirt and dark coloured jeans. Another job coming in about it, standby".¹⁸

PC Tomlinson asked (07:17 hours), if there were other units that could assist them to deal with the incident. He was immediately advised by ACR staff that another priority call had been received about a black male armed with a large knife, about a 9 inch blade. The location of this call was given as Victoria Road, Kirkcaldy.

¹⁴ PIRC-00010

¹⁵ PIRC-00066; PIRC-00067

¹⁶ PIRC-00263

¹⁷ PIRC-00253; PIRC-00254; PIRC-00255; PIRC-00256

¹⁸ PS10939; [REDACTED]; PIRC-00395; PIRC-00284; PIRC-00285; [REDACTED]; PIRC-00507

PC Tomlinson and **PC Short** began to make their way to Hendry Road and activated the vehicle's emergency response equipment (blue lights and klaxon).

PC Craig Walker¹⁹ and **PC Alan Paton**²⁰ were on uniformed mobile patrol duties in Nicol Street, Kirkcaldy, when they heard the call for the incident on their radios. They told the ACR that they would also attend the incident (07:17 hours).

PC Walker was driving a standard Ford Transit motor vehicle with police markings. He activated the vehicle's blue light only.

Acting Police Sergeant (APS) Scott Maxwell²¹ was the shift supervisor at Kirkcaldy that morning. Having heard the incident on the radio, he contacted the ACR and instructed:

"I want all units to attend that, bearing in mind officer safety, an ARV²² and a dog as well please".

There was some confusion about where in Kirkcaldy the locus was, but that was quickly cleared up when a further call came in from a member of the public making it clear that the man was in Hayfield Road near to Gallagher's pub.

PC Paton acknowledged that call at 07:18:50 hours.

Police Response

PCs Alan Smith²³ and **Kayleigh Good**²⁴ left Kirkcaldy Police Office in a white coloured Ford Transit motor vehicle with police markings.

PC James McDonough²⁵ and **PC Daniel Gibson**²⁶ who were in a marked silver coloured Vauxhall Astra Estate motor vehicle also responded to the call.

APS Scott Maxwell followed each of the other vehicles from Kirkcaldy Police Office in a marked white coloured Vauxhall Corsa motor vehicle.

At 07:19:12 hours **APS Maxwell** asked for an update on the ARV or the dog unit. Control 1 responded "I believe a dog unit is en route" and Control 2 added "be aware organising an ARV as well, standby".

At 07:19:54 hours **PC Paton** advised control that they were approaching the locus. At 07:19:57 hours control advised that there was another call saying "he was seen walking in the direction of the hospital in the middle of the road".

¹⁹ PIRC-00264; PIRC-00265

²⁰ PIRC-00262

²¹ PIRC-00266; PIRC-00267

²² Armed response vehicle

²³ PIRC-00278

²⁴ PIRC-00274; [REDACTED]

²⁵ PIRC-00273

²⁶ PIRC-00258

PC Paton makes a call at 07:20:05 hours saying “Yes, yes. That’s us on Hayfield Road heading in that direction”.

In response, at 07:20:12 **Inspector Steven Stewart** in the control room gave the following instruction:

“Inspector Stewart control room to the set attending eh... I’m monitoring this obviously from a...eh... an ARV perspective. If you get sightings of the male you need to make an initial assessment yourself ...em...and feedback through straight away and I will listen out on the channel”.²⁷

He completed this instruction at around 07:20:29 hours.

No apparent risk assessment was completed prior to the arrival of the police officers at the scene.

On route to the incident at Hayfield Road, **PC Walker** “had a brief discussion with **PC Paton** on tactics and worst case scenario”. He considered whether it was a hoax call; they were aware the man appeared to be acting under the influence of a substance; PC Walker recalled “PC Paton also mentioned the mental health hospital in Whiteman’s Brae was also nearby and he could have been from there or the main hospital the Victoria Infirmary, but PC Paton and I did not discuss the hospitals”.²⁸

Nine officers in their respective police vehicles made their way towards Hayfield Road, Kirkcaldy. Seven approached from the west via Hendry Road, which took them directly past Gallagher’s public house.

PC Smith²⁹ and **PS Good**³⁰ approached Hayfield Road from the east via Dunnikier Road.

Attendance at Incident

There is no record of any (dynamic) risk assessment having been carried out at the scene by any officer.

Control Room were not advised by the first officers at the scene that an initial assessment had been carried out.

PC Walker and **PC Paton’s** vehicle is seen on CCTV heading towards a roundabout at Hayfield Road at around 07:20:14 hours. They were the first officers to arrive and stopped their vehicle in Hayfield Road at around 07:20:23 hours.

PC Walker brought the Ford Transit police vehicle to a halt about eight feet from Mr Bayoh. **PC Paton** opened the passenger door of the vehicle and **immediately took**

²⁷ PIRC-00395

²⁸ PIRC-00264

²⁹ PIRC-00278

³⁰ PIRC-00274; PIRC-00275

out his CS spray. **PC Walker** also exited the police vehicle and took out his **PAVA spray**.³¹

Neither **PC Walker** or **PC Paton** could see a knife in his hands.

Daniel Robinson³² was travelling as a passenger in a vehicle in Hayfield Road being driven by **Sean Mullen**³³. He states that he saw a police vehicle arrive and skid to a halt near the man and two police officers got out. He states one of the officers shouted, 'halt', however the man continued walking towards the officers, who **both had their batons out**.

Next to arrive were officers **PC Tomlinson** and **PC Nicole Short** at around 07:20:40 hours.

PC Nicole Short said that when she arrived PC Paton and PC Walker were shouting at the man to stop, but **he kept moving towards them with his fists clenched out at his side**. **"I couldn't see the knife and didn't know where it was."**

At 07:20:42 hours PC Paton hit the 'emergency button' on his personal Airwave radio whilst shouting *"Get down on the fucking ground"*.

PC Paton sprayed his CS Spray towards Mr Bayoh's face.

PC Walker states that, as he stepped around the front of the police vehicle, Mr Bayoh turned towards him at which point he shouted at him, *"Stay there"*. **PC Walker** adopted a 'spray drawn' position, and states he further shouted at Mr Bayoh, something like *"Drop your weapon"*. There was no verbal response from Mr Bayoh and **PC Walker discharged his PAVA spray** at him.

Another witness formed the view that the man was ignoring the police officers and had nothing in his hands.³⁴ He was walking towards them. Almost immediately thereafter both PC Paton and PC Walker incapacitated themselves with their sprays and the man walked past PC Short and PC Tomlinson, ignoring them.

When **PC Walker** and **PC Paton** were incapacitated, **PC Short** and **PC Tomlinson** were the only other police officers present. **PC Tomlinson** used the CS spray to no effect.

PC Short and **PC Tomlinson** saw Mr Bayoh walk past them towards the trees and bushes. He turned around and walked to the path leading from the bus stop on Hayfield Road to Hendry Road. The officers followed Mr Bayoh shouting at him to stop.

PC Tomlinson followed Mr Bayoh onto the path, walking parallel to him and shouting at him to stop.

³¹ PIRC-00264

³² PIRC-00117; [REDACTED]

³³ PIRC-00120; [REDACTED]

³⁴ Kevin Nelson *infra*

Incident involving PC Nicole Short

In a statement dated 13 May 2015³⁵ **PC Short** recalled that she drew her baton. She states that she said “Stop where you are”, “Go down on your knees”, “Put your hands behind your back or I will strike” and pressed the panic button. The man turned and, according to PC Short, said “Fucking come on then” and adopted a boxing position.

PC Short swung her baton but did not strike him. The man “boxer skipped” towards her; she turned and ran away.

PC Tomlinson saw the man chasing PC Short. PC Tomlinson states that he saw the man catch up with PC Short. He punched her on the back of the head.

PC Short “felt an almighty blow to the back of my head”. She recalled: “The blow was so powerful it knocked me flying to my face. I remember seeing the kerb coming towards me and trying to put my hands out to stop my face hitting the ground.” **“I passed out at this point. The next thing I remember was curling up in a ball to protect my head”** but **“Nothing came...”**.

In her statement dated 4 June 2015³⁶ **PC Short** states that she felt a blow to the back of her head to the side of her right ear. This was a “full close-up punch”. It caused her to fall forward to the ground and she curled up in a ball with her hands gripping her head. She was in the foetal position. She **“was waiting for more blows”**.

PC Short stated: “I tried to get on my feet. I could not get my legs to work. I went down on my knees. Then I got to my feet ... It was PC Paton that pulled me up onto my feet by holding onto my vest ... he looked horrified. He shouted at me “get to the van””. She stated: **“I felt my right side was painful. I don't know what caused this”**. I staggered towards the van holding my side...”

In her statement dated 9 June 2015³⁷ PC Short stated: **“I do not recall “strikes to my body” whilst I was lying on the ground”**.

In her PIRC statement dated 16 June 2015³⁸ PC Short confirmed she was **not aware of bruising on her chest or torso, but did have pain, front and back from her collar bone to her hip** and she had told her GP and Dr Anderson, the Consultant.

PC Tomlinson states that having seen the man punch PC Short, she fell to the ground face down and tried to protect her head and pushed herself up with her hands at the same time. As PC Tomlinson ran over to assist her the man **“stomped on her back”** with his foot with a great deal of force. **He put his full body weight into the stomp and used his arms to gain leverage.** After he did this she went back to the floor and never moved. PC Tomlinson thought that the man had killed

³⁵ PIRC-00253

³⁶ PIRC-00254

³⁷ PIRC-00255

³⁸ PIRC-00256

PC Short. The man **stomped on her back again with the same force** and she was not moving. PC Tomlinson also stated: **“I struck him with my baton once to his head. It was to the left hand side of his head, diagonally from the back of the head to his jaw.** He stopped stomping on Nicole at this point. **I think I hit him again which was about 2 or 3 times in total to the head area.”** He also **struck the man 2 or 3 times with his baton to his arms.**

At the same time, **PC Walker** says that he looked up and saw the man chasing PC Nicole Short. She was running away from him and he was chasing after her. He was very close to her. PC Walker said to PC Paton “give me your baton”. He looked back to PC Nicole Short again and she was falling to the ground with the man right behind her. Both her feet were off the ground and the man’s hands were raised. PC Paton gave him the baton. He turned back towards PC Nicole Short and started running towards the man and PC Short. By this time PC Short was **lying face down in the prone position** on the road close to the south pavement. **The man had his right leg in a high raised position and his arms were raised up at right angles to his body and he brought his right foot down in a full force stamp onto the lower back of PC Short.**

Kevin Nelson³⁹ was watching events from his living room window. In a statement given to PIRC on 5 May 2015, he stated that he saw the black man **“acting as if the police were not talking to him. He ignored everything that was being said ... he did not appear to be carrying anything** in either of his hands.” He stepped towards the female officer and **“appeared to lunge at her with his left fist towards her face, head area.”** Mr Nelson stated: **“I believe he struck at her with his closed fists at least 3 times. I heard her scream out.”**

At this point Mr Nelson decided to go into the front garden to have a closer look. He went on to say: **“I believe it may have taken me between 10-20 seconds to do this.** I exited my house via the front door and stood looking over my gate. In this time the black male **now appeared to be face down** on the pavement to the left of my house on my side of the street. I could no longer get a clear view of this male, there appeared to be **five or six male police officers attempting to restrain him.”** “I observed one officer appeared to be **kneeling on the ground with the weight of his upper body by use of his arms to the black male’s shoulder/back of neck area.**” “The other police officers appeared to be **laying across the black male’s body.**”

In a precognition given to Crown Office on 6 October 2016 Kevin Nelson noticed a female officer and stated: “At that point it was like something triggered a switch in the guy. **He ran into the middle of the road and lunged and swung a punch at the female officer’s head. He caught her with the punch** and tried again but missed as she had stumbled to the side.” Mr Nelson then left his living room to go outside. This “took about **10 seconds**”. “Once outside I saw two officers on the ground struggling to restrain him. They were on my side of the road. Everyone was shouting and swearing. **It was ‘get the fuck off me’ and ‘calm the fuck down’.** “He was kicking and punching without direction. I could only describe it like a toddler having a tantrum on the ground. They had got him to the ground but he was having none of it.

³⁹ PIRC-00017; PIRC-00018; PIRC-00020; COPFS-00055

The two officers were trying to stop him from lashing out. He was **swinging his arms and legs and trying to lift his head up**. At this point he was **face down** with his legs turned up at the knees.”

Mr Nelson went on to describe the actions of two of the officers: “They were **lying across his body like crossing over it**.” One was at the top half and the other was in the middle. I only saw two officers on top of him. Another officer was trying to get cable ties around the guy’s legs as he was kicking out.”

During a subsequent interview with Mark Daly of the BBC, Mr Nelson was asked about further physical contact between Sheku Bayoh and PC Nicole Short. He replied: “No. He was **running off ... after the punch, that was it, there was no more attack** on her at all.”

In particular, Mr Nelson was asked whether Sheku Bayoh stamped on PC Short and replied, “**That never happened. I didn’t see him stamping at all.**”

Daniel Robinson⁴⁰ said that “the black guy went to the female officer and picked her up and slammed her down on the floor”. She was screaming. . **The man then fell on top of the female officer. He must have tripped or something because I never seen anybody hit him. He just fell. I think he was lying on top of her legs.**” He went on to say: “When he slammed her down on the ground “**the black man definitely lifted her up off her feet with his two hands and threw her down on her side**”. He was shocked at what he saw.

Sean Mullen described a “coming together” and a struggle between the man and the two officers [a male and a female officer]. The female officer ended up on the ground and she was hurt. She ended up limping away towards the police vehicle.

PC Short states she attempted to get up but fell back on her knees and PC Paton pulled her up onto her feet by holding on her vest. She staggered towards a vehicle and saw PC Paton, PC Walker and PC Tomlinson on the ground at both sides of [the man] and one at his feet.⁴¹

APS Maxwell broadcast via the Airwave. One transcript of the recording reads as APS Maxwell saying: said “Although there’s no visible injuries to PC Short she’s eh... been **thumped** to the body a few times etcetera...eh...and struck to the head...”⁴²

The audio of the Airwave broadcast appears to record APS Maxwell broadcasting the following message: “Although there’s no visible injuries to PC Short she’s eh... been **stomped** to the body a few times etcetera...ehm...and struck to the head...”

⁴⁰ [REDACTED]

⁴¹ PIRC-00253; PIRC-00254; PIRC-00255; PIRC-00256

⁴² PIRC-00266; PIRC-00267

Restraint

The restraint took place outside, and to the left of, the house of **Kevin Nelson**. After watching the incident involving PC Nicole Short, from his living room window, **Kevin Nelson** decided to go into the front garden to have a closer look. His statements are summarised above⁴³.

PC Tomlinson was involved in the restraint from an early stage. After the incident involving PC Nicole Short, PC Walker brought the man to the ground. PC Walker was trying to control his arms and Tomlinson tried to get a hold of the man's legs, which were kicking out in the air. He struck the back of the legs in the area of the heels with his baton a few times. As that failed to control him, PC Tomlinson threw his baton away and jumped on the legs of the man to try to control him. **The man was face down**. PC Walker was on the man's back trying to control him and PC Tomlinson was on his upper thighs straddled over him facing towards his head, trying to control his legs. The man was overpowering them and they were struggling to keep him on the ground. "He started **to bench press both of us** and was incredibly strong". He pushed **the emergency button for assistance and Airwave records this at 07:21:19 hours**

PC Tomlinson wanted to try to get handcuffs on him, but the man flicked his legs causing PC Tomlinson to lose balance and drop his handcuffs. PC Tomlinson managed to get back onto the back of his legs and other officers arrived.

PC Tomlinson remembered PC Alan Smith tried to put a fast strap on the man, but grabbed Tomlinson's leg by mistake. **The man was still face down** and still struggling. PC Walker or someone said to Alan Smith not to spray him with CS as it did not work.

PC Walker shouted for someone to check for a knife. By that time **the man had been rolled onto his side** and was handcuffed to the front palm to palm.

On arrival at the scene **PC Kayleigh Good** and **PC Smith** first attended to PC Nicole Short.

PC Kayleigh Good became aware of several officers diagonally across the road and south pavement. She could see clearly a black man lying on the pavement **face down**. His chest was on the ground and his head was up off the ground and turned to the right towards Gallagher's pub. His feet were closer to her and his head was further away. His arms and legs were flying, kicking out and arms flailing, and he was trying to force himself up using his arms like a press up movement. **Several officers were trying to restrain him by pushing him to the ground**. PC Paton was trying to restrain him with a baton using a technique where you place the baton through between a person's arms and his body which takes the person's arm behind their back with the baton extended. The man was so muscular that the technique was not working. PC Walker was **lying across the top of the man's back** towards the upper half in an effort to stop him from forcing himself to his feet. This was effectively to assist in **pushing him to the ground**. PC Walker only had the top half

⁴³ Page 10 above

of his own body over the man. PC Smith was at the feet and was trying to stop him kicking out. PC McDonough was kneeling next to the left side of the man and was getting his leg restraints out of the holder. She left PC Short on the North footpath and went across the road to assist. She managed to pull the straps of the restraint through under his legs and PC Smith fastened them to the top side of his legs effectively at the back of his legs. **The man was still chest down.**

Once the straps were on, PC Paton said “Right, roll him onto his side” and they did that. He was **rolled onto his left hand side**. She did not think that he was handcuffed at that time but did not remember seeing his hands. When they rolled him onto the side she noticed that he had **stopped struggling and his eyes were shut**.

Sean Mullen⁴⁴ stopped his car in Hayfield Road at the beginning of the incident. He then drove his friend home and returned to the scene. When he came back he saw the same man on the pavement opposite the bus stop before the roundabout, his head was facing towards the house and **he was face down**. He was not moving or struggling and there were four or five officers **holding him down**.

When **PC Daniel Gibson** approached the scene he saw officers on the ground with a man. This was around 07:21:44 hours and the man **was lying on the ground on his side**, on his left hand side facing the witness. PC Tomlinson and PC Walker were with him. PC Walker was struggling with the man; he was at the rear of the man leaning over him and trying to grab the man’s arms. The man was struggling, kicking his legs about, swaying back and forward with his arms and shoulders. PC Gibson did not know if the man was handcuffed at that point. PC Gibson went to the ground at the feet of the man. He lay across the legs leaning on the legs with the right hand side of his body. He kept his weight on the feet of the man as he was still kicking off. PC McDonough started trying to apply the fast straps and PC Kayleigh Good was assisting. **By this time the male was on his front**. When the straps went through, PC Smith crossed the straps over and tightened them. PC Gibson was still on the man’s legs, but the man was not able to kick out as much due to the straps.

PC James McDonough saw a black man lying on the ground **on his stomach, face down**. PCs Smith, Walker, Paton and Tomlinson were dealing with him. PC Smith was on his knees attempting to control the man’s legs. PC Walker was also on his knees at the man’s waist area. PC Paton was on his knees next to the man’s head and attempting to control his arm. PC Tomlinson was attempting to control the man’s right arm.

When **DS Samantha Davidson**⁴⁵ arrived she saw a black man **lying face down** on the ground. Most of his body was on the path. His feet were stretched out on the road. His head was nearer to the perimeter hedge of the houses. He was moving; she could see both legs moving. PCs Walker, Paton, Tomlinson and Gibson were there. PC Paton was on his right hand side controlling the man but she did not know how. PC Walker was lying on the left side of the man’s upper shoulder area.

⁴⁴ PIRC-00120

⁴⁵ **PS00379**; PIRC-00184; PIRC-00185

Abdelouhab Guessoum⁴⁶ was driving along Henry Road with Hayfield road to his right when he saw four or five police officers restraining a man. **The man was lying chest down on the ground. One officer was using his knee to hold the man down; he thought the knee was on his right shoulder.** He thought it was a normal arrest.

Christopher Fenton⁴⁷ was a psychiatric nurse with experience in restraint. As he drove into Hayfield road he saw **the black man lying in a prone position** but was not sure if his face was towards the ground or if his head was turned slightly. He thought there were as many as six officers on top of him. It just looked like a “pileup”. There did not appear to be a lot of struggling going on and that they had control of him. He did not consider there was anything that jumped out at him as being overly excessive.

In contrast to the statements of these witnesses, according to the statements of **PC Walker** the man was not in the prone position at any time during the restraint. After shoulder charging the man to the ground he and the man fell together to the pavement. PC Walker was on his knees and **the man was on his back.** PC Walker attempted to get over the top of his shoulders and hands to get them under control. There was an exchange of punches. Before PC Tomlinson became involved PC Walker got the man to a position where he had a hold of his right wrist which forced his arm across his body. PC Walker put pressure from his chest into the man’s right shoulder **pushing him onto his left side.** PC Walker was in a **crouched position over him with his knees on the pavement** against his back so he couldn’t turn back towards PC Walker. The man remained on his side until he seemed to stop resisting and they **rolled him onto his back** to search his pockets for a weapon.

PC Paton states that the man was on his back throughout the restraint: **“the boy was face up. He was always lying on his back”.** The man lifted PC Walker with his body weight. PC Paton picked up a baton and put it across the man’s bicep; PC Paton was in a **push-up position with his whole body weight** with the pressure on the baton over the bicep and the man was still struggling.

PC Smith states that when he arrived the man was **lying on his left side** facing towards Henry Road. PC Walker, PC Paton and PC Tomlinson were all in a kneeling type position to the back of the man. The man was struggling moving his arms about, pulling his arms away from the officers, pulling himself up. PC Tomlinson was struggling to control the legs. PC McDonough joined in and he had leg restraints. At this point PC Tomlinson was attempting to control the man’s ankles. **The man’s legs were lying in the prone position flat to the ground, knees to the ground.** PC Smith then attempted to get the man’s legs straightened out to get the straps on. Initially he got a hold of PC Tomlinson’s boot by mistake. He then got a hold of the man’s ankles and pulled his legs to straighten them. He and PC McDonough succeeded in applying fast straps on the ankles. The second fast strap was above his knees.

⁴⁶ PIRC-00075

⁴⁷ PIRC-00251

PC Smith stood up. The **man was tilted over to his front**. PC Smith was **not sure that he was completely prone**. PC Walker said that they would have to get the male onto his side and PC Paton, PC Tomlinson and PC Walker **moved him onto his side**. The man was moaning.

APS Maxwell states that when he arrived [07:22:26 hours] he saw the man **lying on the ground on his left side** with his head towards the houses and his feet towards the road. The man was **handcuffed to the front**. The officers were on their knees and leaning on the male. **Nobody was lying on top of him**. They were applying pressure to restrain him, but it was not full body pressure because they were anchored from the knees. APS Maxwell did not describe the man being in any other position.

Initially, in her statement given on 3 May 2015, **Ashley Wyse**⁴⁸ said that **she could not say whether the man was on his back or his front on the ground** because she could not see his head. From her subsequent statement taken on 5 May 2015, she thought that the man was **on his back** lying on the ground.

DS Davidson advised ACR that the man was on the ground restrained at 07:23:12 hours and posed no risk at the moment.⁴⁹

After the Restraint

By this time, **PC Short** was sitting in a Police van and **DI Colin Robson**, who was now in attendance, personally conveyed her to hospital.

At that point **PC Smith** noted that Mr Bayoh's eyes were closed and his attempts to get a verbal response were unsuccessful. He appeared to be unconscious. The man was almost in the recovery position.

PC Smith became concerned that the man "was not breathing normally and his chest was not moving". Mr Bayoh was moved from his side onto his back by PC Smith and he put his ear over the deceased's mouth and looked down the line of his chest. PC Smith states that he "could not feel, hear or see breathing" and he immediately said to the other officers that they needed to start CPR (cardiopulmonary resuscitation).

PC Walker began to carry out chest compressions on Mr Bayoh in accordance with his police first aid training. This was observed by **Kevin Nelson** and **Ashley Wyse** who saw officers start CPR and mouth to mouth.

When **Hazel Sinclair**⁵⁰ looked out of the window she saw the black man lying flat on his back. He had some sort of yellow leg restraints on his ankles and legs were straight out in front of him. He was not moving at all; there were a number of police officers around him. Somebody started giving him CPR.

⁴⁸ PIRC-00043, PIRC-00044

⁴⁹ PS00379; PIRC-00184; PIRC-00185

⁵⁰ PIRC-00056, PIRC-00057

One-Way Valve Face Shield

Whilst **PC Walker** was performing chest compression on the deceased, **PC Paton** and **PC Smith** attempted to fit a one way valve face shield into the deceased's mouth to enable them to provide rescue breaths. They were unable to fit the face shield correctly as the deceased's teeth were clenched shut. They attempted to open the deceased's mouth with their fingers but they did not succeed.

PC Smith stated that he attempted on three occasions to provide rescue breaths with the ill-fitting mask, but he was aware that the breaths appeared to be escaping out of the side of the Mr Bayoh's mouth. In addition he states the face mask appeared to be getting contaminated with saliva and mucus and that mucus was also coming out of Mr Bayoh's nose.

Request for Ambulance

At 07:25:16 hours, **PC Smith** made an Airwave radio transmission to the ACR stating, "This male now certainly appears to be unconscious, breathing, not responsive, get an ambulance for him".

Airwave radio records show communications between the police officers at the scene and the ACR regarding the ambulance⁵¹.

Hazel Sinclair watched the officers perform CPR until the arrival of an ambulance at 07:33 hours.

Prior to the arrival of the ambulance, APS Maxwell was told that no ARV was available but the dog unit was attending from Edinburgh. He cancelled the dog unit.

Recovery of items at the scene

On arrival at the scene, police **DC Connell**⁵² saw a number of officers with Mr Bayoh. He observed that lying on the ground adjacent to them, were batons.

DC Connell lifted each of the items and placed them in the boot of his police vehicle. The seizure of these items was corroborated by **DS Davidson**.

The items were not photographed or subjected to forensic recovery.

DC Connell began a search of the immediate area for other items which may be connected to the incident and, whilst doing so, he was alerted by **PC McDonough** to

⁵¹ 07:26:40 "I'm just looking to clarify has an ambulance been contacted for this accused also over"
07:29:29 "Control can you get a move on with the ambulance this accused is now not breathing CPR is commencing over"
07:31:22 "Control any update on ambulance we could really do with it here over"
07:31:56 "ETA for the ambulance three minutes"
07:32:55 "ETA two minutes for the ambulance"
07:34:07 "Ambulance at Locus"
⁵² PIRC-00047; PS00757

an area of grass on the north footpath of Hayfield Road near to the roundabout with Hendry Road. **PC McDonough** could see something shiny lying in the grass.

DC Connell walked to this area where he observed a knife lying on the grass at this location, lying about 3 yards from the road. The knife had a silver steel handle, blade about 5 or 6 inches in length.

The knife was found around 20 metres from where the police initially confronted Mr Bayoh.

At around 0724 hours **DC Connell** spoke to **DI Robson** and **DS Davidson** and informed them of the discovery of the knife. He was instructed by **DI Robson** to photograph the knife with his own phone and seize it.

DI Robson states that he took the decision to seize the knife at that time due to the inclement weather conditions, a need to preserve best evidence and on the grounds of public safety.⁵³

DC Derek Connell took photographs of the knife on his personal mobile phone and later sent a copy of the photograph by email to his Police Scotland email account, later secured by PIRC.⁵⁴

The knife was later submitted to SPA Forensic Services for examination.

Two impressions were found on the knife which, following fingerprint examination, revealed insufficient detail to allow them to be attributed to Mr Bayoh.

A DNA profile was obtained from the knife which, following analysis, showed that the DNA profile was from at least three individuals and unsuitable for any meaningful comparison.

Further examination of the knife found that it was a 'metal knife with metal handle with manufacturer's markings 'House & Home' on the blade. This knife was compared with the three knives recovered from the kitchen of Mr Bayoh's home at Arran Crescent, Kirkcaldy.

The knife recovered from the scene had 'House & Home' on the blade, as did the knives from the kitchen. All these knives were similar in general appearance with similar markings and the knife recovered from the scene could have come from the same set as the knives recovered from the kitchen of his home at Arran Crescent; or from any other set of knives with similar appearance and markings.

Miss Bell was not asked to formally identify the knife found at the scene.

⁵³ PS00280

⁵⁴ PIRC-00253; PIRC-00254; PIRC-00255; PIRC-00256

Arrival of Ambulance

On arrival, the ambulance staff, **Alan Finlayson** and **David Taylor**, immediately attended Mr Bayoh.

Having found no pulse, they decided to get Mr Bayoh into the ambulance as quickly as possible for the short journey to the Victoria Hospital, Kirkcaldy. They radioed to the hospital to inform staff that a male in cardiac arrest would be arriving shortly.

With the assistance of police officers they placed the deceased into the ambulance and both **Alan Finlayson** and **David Taylor** continued to administer medical assistance.

They requested that a police officer drive the ambulance to the hospital in order that both could continue to attempt to resuscitate. They applied a defibrillator in the ambulance and obtained a trace of a pulse and, therefore, did not apply a shock to Mr Bayoh.

PC Smith drove the ambulance to the Victoria Hospital, Kirkcaldy, whilst **DC Connell** travelled in the rear along with the deceased and both paramedics, assisting the paramedics with CPR.

Victoria Hospital

At 0745 hours Mr Bayoh arrived at the Hospital and **Linda Limbert** saw him as he was brought into a resuscitation cubicle in Victoria Hospital where she was involved in his medical interventions. He was attended to by a number of medical staff, headed by **Dr Gillian Pickering**.

On arrival Dr Pickering checked his carotid artery and **found a pulse**. She was advised of the circumstances by the paramedics and deduced that when the Scottish Ambulance Service had called the hospital that Mr Bayoh was actually in **respiratory arrest**.

From Mr Bayoh's initial admittance, medical intervention was undertaken by seven doctors, assisted by nursing staff.⁵⁵

These attempts included the use of a THUMPER pneumatic machine, which performs chest compressions. When initially applied, this was positioned a little low and was readjusted to the correct position, higher up the chest.⁵⁶ Despite these attempts, the patient continued to deteriorate.

Sheku Ahmed Tejan Bayoh, aged 31, (the deceased) of Arran Crescent, Kirkcaldy, died in the Accident and Emergency (A&E) Department of the Victoria Hospital, Kirkcaldy.

⁵⁵ Dr Gillian Pickering; Dr Surinder Panpher; Dr Martin Clark; Dr David Hall; Dr Susan Downie; Dr Sophie Rollings; and Dr Rachel Anderson

⁵⁶ Statement of Martin Clark: PIRC-00103

Life was pronounced extinct at 0904 hours on Sunday 3 May 2015.

**SHEKU
BAYOH
INQUIRY**

**RESTRICTED
MATERIAL**

Return to Kirkcaldy Police Office

Between around 0740 hours and 0745 hours, five officers: **APS Maxwell, PC Walker, PC Paton, PC Tomlinson,** and **PC Gibson** returned to Kirkcaldy Police Office.

APS Maxwell travelled back to Kirkcaldy Police Office on his own. Prior to leaving, Inspector Kay “reaffirmed to APS Maxwell not to allow the officers to discuss the ins and outs of the case”.⁵⁷ APS Maxwell spoke to PC Paton and PC Walker in the custody van and asked what happened: “Walker stated ‘I won’t be speaking to anyone or giving a statement until I speak to my federation rep’. PC Paton confirmed that that was his position as well”.

PC Walker returned to Kirkcaldy police office with **PC Paton** and on seeing **PC Austin Barratt**, a local Scottish Police Federation representative, in the CIU Room, they decided to seek his assistance.

PC Barratt recalled in his statement of 24 June 2015⁵⁸ that **PC Walker** had told him that PC Short “had been injured and that the guy had been **stamping on her back** and that she had been taken to hospital.

PC Barratt told both officers **not to speak to anyone** and said he would phone **PC Amanda Givan**.

PC Amanda Givan was a constable seconded to the Scottish Police Federation (SPF) as a full time office bearer. She was the SPF Deputy Secretary covering the East Area Command and was the lead for conduct issues. She also had responsibility for welfare and other matters.

At 0745 hours, **Chief Superintendent Gary McEwan**, Local Policing Commander for Fife Division, was told of the incident; that the man had become unconscious; CPR had been given and that the man had been taken to hospital.

Chief Superintendent McEwan made his way to Kirkcaldy Police Office and whilst en route briefed **Assistant Chief Constable Ruaraidh Nicolson, Detective Chief Superintendent Lesley Boal** and the duty Professional Standards senior officer, **Superintendent Craig Blackhall**, of the known circumstances and advised that **PC Nicole Short** had been injured and required medical attention.

PC Paton and **PC Walker** went into the writing room, directly upstairs from the CIU office. **APS Maxwell** and **PC Tomlinson** were there.

PC Paton’s statement⁵⁹ indicated that whilst there, **PC Tomlinson** became emotional and said something like: “I’ve struck him to the head with a baton”.

PC Walker told **PC Tomlinson**: “... I was gonna hit him with a van!”

⁵⁷ PIRC-00266

⁵⁸ PIRC-00311

⁵⁹ PIRC-00262

PC Walker suggested they move to the canteen and they arrived there around 0810 hours.

At 0836 hours, a call was made by **Colette Bell** reporting her boyfriend as having “left the house wide open” and that he had “beaten up” his friend.⁶⁰

The Canteen at Kirkcaldy Police Office

The officers involved in the incident gathered in the canteen at Kirkcaldy Police Office.

On arrival at Kirkcaldy police office, **Acting Police Inspector Kay** spoke with those officers in the canteen. He stated that, to protect the integrity of the inquiry and officer welfare, he told officers of the pitfalls of discussing the incident, highlighting anticipated media attention.

He also offered basic trauma incident management (TRIM) advice to the officers and gave them guidance and answered any questions or doubts they had.

He informed them that they would have all their outer equipment seized for evidential purposes although they were not under suspicion for any offences.

No officers were willing to discuss the incident in full until they had spoken with the Police Federation. **API Kay** informed them “to utilise the canteen area as respite and [he] would bar other officers’ access to the canteen to offer privacy and ensure the area was sterile.”

DI Robson recalls he attended the canteen where the officers were gathered sometime between 0830 and 0900 hours. They were all there except **PC Short**, who was still at the hospital and **PC Smith** who had driven the ambulance to the Hospital.

DI Robson spoke to the officers and explained there would be an investigation to get an accurate account. He states that he “requested that they **not actively discuss the incident** at this time and just relax, watch TV and have a cup of tea or coffee.”

At about 0910, on learning of Sheku Bayoh’s death, **Chief Superintendent Gary McEwan** declared a critical incident.⁶¹

PC Walker states that about 0930 hours **DI Robson, DS Davidson** and **DC Connell** came into the canteen and **DI Robson** said to those gathered there, that they should not worry and that as far as he was concerned they had done nothing wrong. **He did not think that DI Robson told them not to discuss the incident.** During the time they were in the canteen, the officers discussed the incident.

PC Walker’s statement describes how the officers questioned how PAVA and CS spray did not work; and wondered what the man was on (drugs). They all agreed it

⁶⁰ Bell – [REDACTED]
⁶¹ PS03136

was ridiculous that an ARV was not available or a dog van. **PC Walker** recalls **PC Paton** said he thought he was going to die that day because when he was incapacitated he thought a knife was coming.

PC Brian Geddes was not in attendance at the incident, but he had conversations with other officers, within the cell area, discussing the incident. **PC Walker**, **PC Tomlinson** and **APS Maxwell** all visited the cell area during this time.

PC Geddes' detailed knowledge of the incident indicates that he had been told what happened by an officer who was present. **PC Geddes** was later interviewed by PIRC investigators and stated that he discussed aspects of the incident with **PC Walker**.

PC Nicole Short – Attendance at Hospital

After the incident, **PC Short** was “complaining of a sore head” and **DI Colin Robson** took her to hospital. On the way to hospital “**PC Short recalled being on the ground and seeing the male’s foot coming towards her head**”.⁶²

She was triaged by **Nurse Leigh Ann McLaughlin**.⁶³ **PC Short** told her they had gone to arrest someone. Her partner had got his baton out so she got hers out. She said he was coming for her so she swung her baton but didn't know if she hit him or not. Then she said that she just turned and ran. She said that she had collapsed onto the ground. She curled into a ball. She **did not know** if she had been knocked out.

Observations were normal, GCS 15. **Nurse McLaughlin** checked her head and observed no cuts or anything obvious. She did not remember seeing any other injuries or swelling at that time.

PC Mark Hay sat with PC Short in Accident & Emergency.

PC Short was subsequently seen by **Dr Katherine Mitchell**.⁶⁴ **PC Short** described to Dr Mitchell that she had been chased by a member of the public who had **struck blows to the back of her head**. She fell to the ground, putting her arms out to save herself and when she was on the ground, she curled up into a ball. She said she had then been lifted up by one of her colleagues. She had not been sick. She had a headache at the back of her head.

Dr Mitchell discounted the possibility of loss of consciousness because of PC Short's ability to recall the events prior to and after the incident.

She was discharged with head injury advice.

⁶² PS00280

⁶³ PIRC-00302

⁶⁴ PIRC-00294

The Return of PC Nicole Short to Kirkcaldy Police Office

About 1100 hours **PC Short** returned from the Hospital to Kirkcaldy Police Office. **PC Mark Hay** was with her at that time. She went straight to the canteen.

PC Short stated, "When I got there I met the whole team: **PCs Paton, Walker, McDonough, Gibson, Good, APS Maxwell** and **PC Amanda Givan** and **PC Austin Barrett**." She heard that Mr Bayoh had died.

PC Short gave a statement on 4 June 2015. In this she stated that: "The next thing I remember was **Amanda Givan** saying to me that it was already in the press and that a female officer had been stabbed in Kirkcaldy. She suggested I should phone my parents in case they were "worried". I phoned my dad ... I told him that I had been assaulted and had been to the hospital, but I was fine. He wanted me to go home but I explained I needed to stay the now. I went back to the canteen I sat down with my team, they asked me how I was. I explained I was "sore". I said "**What happened to me after he punched me?** **PC Tomlinson** said "**He was stamping and kicking at you every time you tried to get up**". I knew he meant Sheku Bayoh when he spoke of this. **PC Kayleigh Good** also asked if I was alright, everybody else was just "flat". I thanked all of them for "saving my life"."

PI Jane Combe and **DC Jennifer McAulay**⁶⁵ were instructed to seize the clothing and equipment from the female officers. The officers had removed their outer clothing and equipment and stored it at various locations in Kirkcaldy Police Office, some in locker rooms, the canteen or other areas.

In her statement dated 9 June 2015, **PC Short** recalled: "I remember taking my body armour off and I noticed that there was black **footprint marks on the right part of the yellow vest**. This was on the side I was "sore". I was convinced these were "footprint marks". I showed it to **PC Tomlinson** and **PI Jane Combe**, who had arrived."

PC Short provided **PI Combe** with her body armour, vest and CS Spray. The vest was recovered (around 1808 – 1812 hours).

PC Tomlinson was present when PC Short put down her kit and "...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."

PC Combe later stated: "I have been asked and I cannot recall if Nicole Short told me if she'd been stamped on or kicked. I cannot recall if Nicole Short's equipment specifically her body armour had any marks, dirt or footprints on it or if she pointed these out to me at the time. The clothing was not photographed whilst worn by the officers, nor when removed prior to being bagged as productions."

A subsequent forensic examination was carried out on the boots recovered from Mr Bayoh and the vest of PC Short. The vest was a black padded police vest with an

⁶⁵ PIRC-00190; PIRC-00191

outer high-visibility vest attached. Areas of discolouration or light markings were noted on the black padded vest, particularly on the front left pocket; front right pocket and near the neckline. A darker partial mark was also noted on the high-visibility vest below the 'POLICE' marking.

On examination, the partial mark on the high visibility vest was found to have insufficient detail for a meaningful comparison to be carried out.

DC Jennifer McAulay makes no reference in her statement dated 5 May 2015, to anything said by PC Short at the time her clothing was seized.

Status of Police Officers in Canteen

At some time between 0745 and 0830 hours, **Detective Superintendent Campbell** was appointed to be the Senior Investigating Officer and travelled to Kirkcaldy Police Office.

At around 0930 hours **Chief Inspector Conrad Trickett**⁶⁶ was appointed Post Incident Manager at a tele-conference chaired by Assistant Chief Constable Ruaraidh Nicolson. He was directed to attend Kirkcaldy Police Office.

At around 0930 hours, **Mr David Green**, Head of the Scottish Fatalities Investigation Unit of COPFS was contacted and informed of the death of Sheku Bayoh. David Green instructed that the death would be investigated by the PIRC while the preceding events would be investigated by Police Scotland.

At around 0935 hours, **PIRC Deputy Senior Investigator Keith Harrower** was contacted by David Green.

At around 1022 hours on 3 May 2015, **PIRC Investigator Harrower** spoke to **Detective Superintendent Campbell** by telephone, to discuss the handover of the investigation to PIRC. DSI Harrower advised him that, at that time, he considered the position of the officers to be that of witnesses.

CI Trickett arrived at Kirkcaldy police office about 1100 hours on Sunday 3 May 2015. He met with **PC Givan** and **Inspector Jane Combe**, deputy Post Incident Manager, and briefed them on the Post Incident Management process. He explained to them that it was his intention to meet the principal officers.

Detailed consideration of post incident management will be explored in Hearing 3.

At 1240 hours **DSI Harrower**⁶⁷ of PIRC spoke to **Detective Superintendent Campbell**⁶⁸ and again informed him that he considered the position of the officers to be that of witnesses.

⁶⁶ PIRC-00121; PIRC-00122; PIRC-00123

⁶⁷ [REDACTED]

⁶⁸ PS00288

At around 1340 hours **Chief Inspector Trickett** met with **Detective Superintendent Campbell**. During the discussion **Chief Inspector Trickett** asked **Detective Superintendent Campbell** whether accounts were needed from the (principal) officers and he stated: Detective Superintendent Campbell “made it clear that he did not expect any accounts to be taken from the officers that day.”

The PIM Logrecords that **Detective Superintendent Campbell** stated that there was ‘no need to take statements’.

At around 1405 hours, **DSI Harrower** attended a meeting with ACC Nicolson, Detective Chief Superintendent Lesley Boal, Chief Supt Gary McEwan, Detective Superintendent Campbell, Senior Investigating Officer, Chief Inspector Nicola Shepherd and DI Colin Robson. **DSI Harrower** confirmed to those present that **PIRC considered the officers to be witnesses and requested operational statements from them.**

At around 1515 hours, **Detective Superintendent Campbell**, informed **DSI Harrower** that the officers involved in the incident had been advised by Scottish Police Federation representatives not to provide statements.

On 4 May 2015, **PIRC Investigator Little**⁶⁹ informed Police Scotland that the outcome of the post-mortem was inconclusive. At that time, he again advised **Detective Superintendent Campbell** that the status of the officers was that of witnesses and requested statements from them.

PIRC investigators made a number of subsequent requests for statements from the principal officers on the basis they were being treated as witnesses.

Medical Examinations of Police Officers

Before leaving Kirkcaldy Police Office on 3 May 2015, the officers underwent medical examinations, carried out by Forensic Medical Examiner (FME) **Dr Gillian Norrie**.⁷⁰

Dr Norrie examined the officers, obtained a brief history from each officer and documented any injuries.

PC Short told **Dr Norrie** that she was hit on the back of the head with fists and fell forward to the ground onto her hands and knees. **She displayed no signs of confusion** and behaved appropriately. **She did not appear to be suffering from amnesia** and was orientated in time, place and person.

Between 1815 hours and 2030 hours each of the nine police officers left the PIM suite to go home.

⁶⁹ [REDACTED]

⁷⁰ PIRC-00282; PIRC-00283

Medical Examination of Zaeed Saeed

About 1830 hours **Dr Norrie** carried out a medical examination of **Zaeed Saeed** and took swabs from him. He was found to have swelling and grazing to the face, arms and left leg.

Completion of Paperwork by Police Officers

The police officers involved did not provide (operational) statements on the date of the incident. They did not provide statements to PIRC until 4 June 2015.

The police officers involved did not complete Use of Force forms in relation to the incident.

The police officers involved did not make entries in their notebooks about the incident.

The police officers involved did not complete Use of CS/PAVA forms in relation to the incident.

PC Walker stated: "While I was in the canteen with my team the advice from **Amanda Givan** was **to say nothing to anyone** at that time. That was my intention anyway until we found out more about what kind of inquiry was going to take place and what the man had died of. I also made it known that **I would not be completing my notebook either and I suggested that others don't do theirs**. Some of the team, I'm not sure who, spoke about doing their notebooks, but I wasn't doing that. No other officers outwith the team gave any instructions on the notebooks."

PC Tomlinson stated: "**I asked Amanda Givan 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." "The **decision not to give a statement or fill in CS/Use of Force forms and notebook was an instruction from Amanda Givan.**"

PC Barrett stated that at 0800 hours, when he called **PC Givan**: "**I'm not sure if Amanda Givan told me to tell the cops (Craig and Al Paton) not to say anything but I had said this to them anyway** as I knew everybody would want to get in about it." **PC Givan** arrived at around 0900 hours, but PC Barrett made clear: "I certainly didn't hear her saying anything either way" about officers giving statements. He could not say whether any officer asked her for advice, "I never heard anything. I only heard Amanda giving welfare advice." They did not make notes in their notebooks.

Chief Inspector Trickett, Post Incident Manager,⁷¹ stated that, “at some point during the course of the interaction with Detective Superintendent Campbell, either immediately before, during or immediately after, Amanda Givan said that **the Federation perspective was that officers shouldn't give statements at that time or words to that effect.**

In his statement on 4 June 2015, **PC Paton** “could not remember if SPF gave advice”. He did not complete use of force or discharge of CS spray forms. He did not recall being instructed not to fill in any of the forms. He did not make entries in his notebook, but did not receive instructions not to put entries in the notebook.

At 1130 hours there was a ‘Gold Group’ meeting of senior officers, chaired by **Assistant Chief Constable Nicolson. Detective Superintendent Campbell** discussed the matter that the officers were refusing to provide operational statements. He informed the meeting that, “the officers had taken advice from the Police Federation Representative, **PC Givan**, who had **advised them not to provide statements**. When PC Givan had told me this she did make reference to the new guidance in respect of officers not having to provide statements with regards 'on duty criminal allegations'. At this time I was aware of two memos regarding this advice.”

In her statement to PIRC, **PC Givan**⁷² **denied giving such advice or did not recollect** giving such advice.

On 5 May 2015, **Professor Peter Watson**, the police officers’ legal representative was contacted. He confirmed that he had advised officers to make “no comment” until full details of the post-mortem results were known.

On 6 May 2015, PIRC Investigations staff again requested the provision of operational statements from the officers from **DCI Hardie**, Police Scotland.

On 7 May 2015, when PIRC wrote to Police Scotland stating that, notwithstanding Professor Watson’s advice to the officers involved in the incident, PIRC wished to confirm the individual position of each of the officers in relation to its request for statements. This correspondence again confirmed the status of the officers as witnesses to the event.

In response, Police Scotland advised that each of the officers had been contacted, their status as witnesses clarified and that they had been asked if they were willing to provide a statement. Police Scotland advised PIRC that each of the officers did not wish to provide a statement at that time, following legal advice.

In the absence of statements, on 25 and 26 May 2015, PIRC seized, Label No’s. 13 x Police issue notebooks from the nine officers involved and **DS Davidson** and **DC Connell** (**PC Walker** and **PC McDonough** had two notebooks each).

No further steps were taken by PIRC to request statements until 2 June 2015, when PIRC again e-mailed Professor Watson and reiterated their request to interview the

⁷¹ PIRC-00121; PIRC-00122; PIRC-00123

⁷² PIRC-00238

police officers involved. The email again confirmed that the officers were to be interviewed as witnesses. On this occasion, the officers agreed to be interviewed.

Statements were given to PIRC on 4th June 2015 by the officers.

PC Shirley Buttercase had responsibility for administering the acquisition, retention, distribution and receipt or return of **CS/PAVA** canisters for P Division (Fife) of Police Scotland. No detailed weights or calculations of the amount of spray used by officers are available. Detailed evidence about the procedures and weight of sprays will feature in Hearing 3 on Post Incident Management.

Recovery of Items in the Hospital

Initially **DC Connell** had accompanied the deceased to the hospital. He was relieved by **DC Balsillie** and **DC Brown**. They were informed by Dr Rachel Anderson that the deceased had been pronounced life extinct.

The body of the deceased which had been in the resuscitation area of the Accident & Emergency Department was moved to a private room nearby.

DC Balsillie and **DC Brown** remained in the Hospital until responsibility was later passed to PIRC. They were not forensically dressed.

About 1910 hours PIRC Investigators **John Ferguson** and **Stuart Taylor**, **Detective Constable Peter Grady** and **SPA Scene Examiners Gordon Young and Judith Harley** attended at the hospital where they took over responsibility from **DC Balsillie** and **DC Brown**.

The PIRC Investigators were all forensically dressed. There was a full forensic recovery of samples of blood and clothing, including footwear.

At around 2230 hours, the undertakers The Co-op, Glenrothes, attended by arrangement and the body of the deceased was taken by private ambulance to Edinburgh City Mortuary, Cowgate, Edinburgh. The body was accompanied by PIRC Investigators **Ferguson** and **Taylor** and **DC Peter Grady**.

Subsequent Injuries & Forensic Analysis

Cause of Death will be considered by the Inquiry in detail in Hearing 2, but some limited medical and forensic evidence will be considered in Hearing 1:

- **Fractured Rib**

There was a fractured first rib identified at the post-mortem examination on 4 June 2015.

In his statement to PIRC on 4 June 2015, **PC Walker**⁷³ recalled: “After two or three compressions **I heard the sound of a rib breaking** in the chest area. In my training I was told if you were doing it right you might break a rib, don't worry and don't stop.”

In a self-penned, undated, statement, PC Walker makes no reference to hearing the sound of or being aware of a rib breaking. This statement was referred to when PC Walker provided a statement to PIRC on 4 June 2015.

On 4 June 2015 in his statement to PIRC, **PC Tomlinson** stated: “...Craig and Alan Paton did the CPR ... I heard **Craig mention that there were broken ribs from the CPR he heard cracking.**”

- **Tablets Recovered from [REDACTED] Arran Crescent, Kirkcaldy**

From the kitchen at [REDACTED] Arran Crescent, Kirkcaldy, the police recovered a number of items including a bottle of 38 capsules marked ‘testosterone booster’; a box of 7 tablets marked ‘Omeprazole’; 33 tablets marked ‘Herbal VY for Men’ 50 tablets marked ‘Creatine’; and 48 tablets marked ‘Rhodiola Root’. All were subsequently analysed by SPA Forensic Services and found to be negative for controlled drugs under the Misuse of Drugs Act 1971.

- **Toxicology**

Toxicological analysis of blood samples taken during resuscitation attempts at the Victoria Hospital, and blood and urine samples taken during the post-mortem examination, all confirmed the presence of MDMA, MDA (a metabolite of MDMA) and Alpha PVP.

Subsequent Medical Examinations - PC Nicole Short

On 4 May 2015, at around 1540 hours, **PC Short** attended Accident & Emergency and was seen by **Dr Zoe Smeed**.⁷⁴

PC Short told Dr Smeed that she said she had received a blow to the back of her head and **her back had been stamped on. She was not sure if she had lost consciousness.** She presented as feeling anxious with flashbacks about the event [REDACTED]. She had mild headaches, resolved with analgesia. There had been no vomiting or nausea, but she felt intermittently lightheaded.

On examination she had mild soft tissue swelling to the right side of her face with no bony tenderness, mild paraspinal muscle tenderness, but otherwise was normal. She was tearful and appeared anxious.

Dr Smeed formed the impression that PC Short had a mild head injury, post-concussion syndrome. She had soft tissue injuries and acute stress reaction.

⁷³ PIRC-000264; PIRC-000265

⁷⁴ PIRC-00259

PC Short was advised to see the police psychologist/psychiatrist. She was prescribed ibuprofen and co-codamol and again discharged with head injury advice.

On 5 May 2015 **PC Short** attended her **GP, Dr Erica Ellison**.⁷⁵ She described how she had been attacked and “ended up on the ground and **he had jumped on her back**”. She complained of feeling distressed and thought that he was going to kill her.

She complained of neck pain and Dr Ellison found limited range of movement on examination. She had bruising to her knees and noted slight loss of train of thought. Dr Ellison formed the view that PC Short had likely concussion and suggested time off work. She was given a sick line to 15 May 2015.

On the evening of 10 May 2015 PC Short phoned NHS 24. She was seen at Victoria Hospital by a junior doctor, **Dr Christopher Speakman**.⁷⁶ So told him she had been violently assaulted during the arrest of a suspect and had been punched to the back of her head and that after being punched she fell to the ground and that the suspect had **stamped on her head**. She told him that she had attended A & E after this where concussion was diagnosed, she was given reassurance, painkillers and allowed home.

Dr Speakman later recalled her saying it was her **head that had been stamped on**. She described a week’s worth of concussive symptoms, sensation of vertigo, nausea, blurred vision and struggling to find words.

Additionally she described a disturbance and a sensation on the right side of her face as well as noticing a drooping on the right side of her face. She felt also that the right side of her body was weak and she was having problems remembering things that had happened since the incident.

He planned a CT scan to rule out a skull fracture, brain injury or blood clot. All were ruled out by the scan.

On 11 May 2015, at around 0850 hours, she was examined by **Consultant Physician, Dr Ali Siddiqui**⁷⁷ at the Acute Admissions Ward, when she described having been assaulted whilst on duty a week earlier, when she had been **kicked and punched to the right side of her head**. She complained of numbness to the right side of her face.

Upon examination (neurological) there was no significant loss of neurology. It was unremarkable. She was tender over the right shoulder over her neck, no other abnormality found. CT head normal. BP, heart rate, oxygen all normal. No neurological deficit. No evidence of facial droop. The junior doctor who originally saw her documented subtle facial droop, very mild and would be insignificant. She was prescribed naproxen and paracetamol.

She was given a CT scan and was seen by **Dr Katherine Pollock**, who explained the results (clear). She did not examine or treat PC Short who at that time, complained of headaches and neck pain.

⁷⁵ PIRC-00320

⁷⁶ PIRC-00319

⁷⁷ PIRC-00288

PC Short again attended her GP on 15 May 2015 complaining of continuing neck pain, altered sensation to the right side of her face; right sided facial droop.

She visited her GP on 4 separate occasions in May and June.

On 21 May 2015, she was sent by the Scottish Police Federation to a **Consultant, Mr Ian Anderson**.⁷⁸

Mr Anderson provided an opinion that **PC Short** suffered a blunt head injury and contusions to her head; an associated neck sprain injury; **contusions to the right side of her torso consistent with blunt injury**; and abrasions and soft tissue injuries consistent with falling on the ground after being struck on the head.

He was of the view that she suffered post-traumatic amnesia and post-concussional symptoms. Additionally, Mr Anderson found PC Short suffered right sided facial weakness which, on the balance of probabilities, has been the result of local injury to the main nerve supply to the muscles over the right side of the face as it exits the skull.

On examination (18 days after the incident), she continued to suffer concussional symptoms, slowly resolving right sided facial weakness and resolving focal neurological signs of weakness affecting her right upper limb. [REDACTED]

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INQUIRY

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⁷⁸ PIRC-01405