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2 **TRANSCRIPT OF THE INQUIRY**

3 Wednesday, 25 May 2022

4 (1.18 pm)

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

6 MS GRAHAME: The witness today is PC Ashley Tomlinson.

7 LORD BRACADALE: Good morning, constable. Could you say the  
8 words of the affirmation after me, please.

9 PC ASHLEY TOMLINSON (affirmed)

10 LORD BRACADALE: Ms Grahame.

11 Questions from MS GRAHAME

12 MS GRAHAME: Thank you.

13 Good afternoon. You are Constable Ashley Tomlinson?

14 A. Yes, that's correct.

15 Q. What age are you?

16 A. Currently 30.

17 Q. And how many years' service do you have at the moment?

18 A. 8 and a half.

1 Q. Now, all of your contact details are known to the  
2 Inquiry, so I won't repeat those here now.

3 I would like to first of all make sure that you've  
4 got everything that you need in front of you for this.  
5 When you are referred to your statement, the Inquiry  
6 statement, that will come up on the screen in front of  
7 you, but as well as that you should have a black folder  
8 on the desk and please feel free to open it. There's  
9 copies of that statement in there, so you have a hard  
10 copy, so on the screen we might just see one or two  
11 paragraphs shown but you will have access to everything  
12 that's around it, if you need it.

13 A. Okay.

14 Q. So feel free to rely on that. And if you would like to  
15 have something up on the screen yourself from your  
16 statement, we can arrange that as well.

17 A. Yes.

18 Q. Then in addition can I ask you to look at -- it is  
19 called PIRC 263. This is a statement from 4 June 2015  
20 and you should have a hard copy of that in your black  
21 folder. Do you see that?

22 A. Yes, that's the one I'm looking at.

1 Q. We also have that on the screen. So that was  
2 a statement taken by DSI Brian Dodd at Scottish Police  
3 College, Kincardine. When you gave that statement were  
4 you doing your best to give a true and accurate record  
5 of what had happened on 3 May 2015?

6 A. I was, yes.

7 Q. Thank you. And then in addition to that I think you  
8 should also have a copy in your black folder of a map  
9 that was attached to that PIRC statement, that's  
10 COPFS 05956 and I think you will see -- if we can move  
11 up slightly on that page you will see your name is given  
12 there, Ashley Tomlinson.

13 A. That's probably the one thing that I'm missing from the  
14 folder.

15 Q. All right. Well, I'm not going to spend a lot of time  
16 on that anyway.

17 A. Okay.

18 Q. But can you see it on the screen? Does that look  
19 familiar to you?

20 A. Yes, I can see it, yes.

21 Q. That's lovely. Let's go back for a moment to your  
22 Inquiry statement, so that's SBPI 43, and this is dated

1 13 April 2022. Just to explain the circumstances, you  
2 will see on the last page the date is 13 April.

3 A. Yes.

4 Q. And just to explain the circumstances, you were sent  
5 almost 100 questions by the Inquiry team and it was --  
6 formally it's known as a Rule 8 request, and you were  
7 asked to answer those questions and set it out as  
8 a statement and you presumably discussed that with your  
9 solicitors and they typed that up for you. So basically  
10 what we see here is your own statement to the Inquiry;  
11 is that right?

12 A. Yes, that's correct.

13 Q. I'm going to call that your Inquiry statement, although  
14 technically it's called a Rule 8 request and a Rule 8  
15 response.

16 A. Okay.

17 Q. Great, thank you. And then you have signed it on the  
18 last page and do we see just above that there's  
19 a paragraph that the Inquiry asked you to insert and it  
20 says:

21 "I believe the facts stated in this witness  
22 statement are true. I understand that this statement

1           may form part of the evidence before the Inquiry and be  
2           published on the Inquiry's website."

3           And you were happy with that?

4           A. Yes, I was, yes.

5           Q. Thank you. So again, doing your best to give a true and  
6           accurate record --

7           A. Yes.

8           Q. -- of the events in Hayfield Road. And you sent that  
9           in. So are you happy that -- subject to the map that  
10          isn't there, are you happy you've got everything in  
11          front of you that you have provided and you might need?

12          A. Yes, I'm happy I've got everything in front of me, yes.

13          Q. Great, thank you very much.

14                 So in addition to that, you will also see to your  
15          left that there's a spreadsheet. It's a combined audio  
16          and visual timeline. Now, I understand you have  
17          probably watched some evidence already that's been given  
18          by other officers on the website, and you may have seen  
19          me refer to that spreadsheet, but looking at it now,  
20          just so that you can see it, there's times given on the  
21          left-hand side and there's Airwaves transmissions  
22          transcribed just to the left of centre, and then just to

1 the right of centre there's a brief sort of thumbnail  
2 description of what can be seen in the CCTV. Do you see  
3 that?

4 A. Yes, I see that, yes.

5 Q. So as we go through things, please feel free to refer to  
6 that as well and have a look at it. There will be  
7 times, as you know, I will probably play some footage  
8 and you will also have the spreadsheet in front of you.

9 A. Yes, that's all right.

10 Q. Normally I will ask for it to be played once and I might  
11 ask you some questions, but if you feel you need to see  
12 things more than once, just let me know.

13 A. Okay.

14 Q. Now, before I go on to play some footage, first of all,  
15 we have heard some evidence that you had worked in  
16 Kirkcaldy longer than your colleague, PC Short?

17 A. Yes.

18 Q. Could you tell us how long had you actually worked in  
19 Kirkcaldy by May 2015?

20 A. I don't know in exactly months. Probably around about  
21 17/18 months, something like that.

22 Q. Had you been based at Kirkcaldy Police Office during

1           that time?

2           A. Yes, so from basically finishing my training at the  
3           Scottish Police College that was my first deployment  
4           station, was Kirkcaldy Police Office.

5           Q. We heard somebody mention the term probationer?

6           A. Mm.

7           Q. Can you explain what that is?

8           A. So I was a probationer for -- for effectively two years  
9           you're a probationer, you kind of -- you get assessed at  
10          regular points. During your probationary period you  
11          obviously undergo the initial training phase at the  
12          Scottish Police College, which I think has now maybe  
13          changed but it's around about 12 weeks. From that kind  
14          of training you then get deployed. You have a tutor  
15          constable and you will go to different incidents and  
16          obviously learn the craft, how to be a police officer,  
17          and there will be, at points in that period, reviews  
18          with whatever sergeant or inspector would take that  
19          review on and just give you kind of pointers maybe, or  
20          kind of praise, you know, about your performance and  
21          things that you can maybe try and focus on for your --  
22          to aid your development and at the end of that two-year

1 period you -- or towards the end of that two-year  
2 period, sorry, you do an oral exam which is definitions  
3 and covers kind of various aspects that you have learned  
4 and then you get a confirmation letter to confirm you're  
5 substantive in rank.

6 Q. So that lasts for two years?

7 A. Yes, that does, yes.

8 Q. And you are monitored more closely then during that  
9 period?

10 A. Yes, more closely probably initially, but certainly  
11 throughout that two-year period you are monitored by  
12 your supervising officers as well as your -- initially  
13 the three months, I think it is, tutor period with  
14 an officer from the shift that would kind of show you  
15 how to apply what you have learned at the college into  
16 a more practical setting.

17 Q. And who was your monitor or supervisor, do you remember?

18 A. Throughout my time at Kirkcaldy it changed more  
19 regularly. I kind of probably lost track of the amount  
20 of supervisors I had but latterly I know that it was  
21 Scott Maxwell who is an acting sergeant, but I couldn't  
22 give you an exact figure on how many sergeants I had

1 during my probationary period.

2 Q. Was that the norm to have a number of different people  
3 taking that role?

4 A. I think it's -- it was more that sergeants were applying  
5 for different jobs and moving around. It wasn't  
6 necessarily the norm that there would be so much  
7 movement, but certainly the sergeants that I had then  
8 applied for different jobs and subsequently moved on to  
9 do new things, so I don't know if it's the norm for  
10 every station, but certainly it was normal for me.

11 Q. When did your two-year period come to an end?

12 A. So I joined in September 2013, so it would have been  
13 around about September 2015.

14 Q. So in May 2015, was Sergeant Maxwell monitoring you or  
15 supervising you at that time?

16 A. He would have been -- yes, he would have been my  
17 sergeant in or around that time. I don't know if he was  
18 necessarily the shift sergeant, but certainly he was  
19 acting obviously at the time of the incident.

20 Q. And was he your supervisor in terms of your probationary  
21 period?

22 A. That would just depend on who my shift sergeant would

1 be, but if he was covering the shift then, aye, he would  
2 more than likely adopt that role.

3 Q. Right, thank you. So by May 2015 you hadn't quite  
4 completed your probationary period?

5 A. No.

6 Q. So you hadn't sat your oral exam by then?

7 A. No, no, I hadn't, no.

8 Q. Right, thank you. Right, I would like first of all to  
9 play some footage from the evidence video timeline.  
10 We're just going to play the whole thing, 7.16.22 to  
11 7.20.39, and this will play -- you will hear all the  
12 Airwaves transmissions that were played prior to your  
13 arrival and then I will come back and ask you one or two  
14 questions about that.

15 A. Okay.

16 Q. So you can listen to the footage as we watch this on the  
17 screen and Ms Taylor-Smith will play that.

18 And you have also got the -- we will just pause it  
19 there for a second, please. You've got the spreadsheet  
20 as well if you want to look at what's written. Thank  
21 you very much.

22 (Video played)

1           Thank you. Did you manage to hear all those audio  
2           Airwaves transmissions?

3           A. I did, yes.

4           Q. Good, thank you. At 7.16.59 -- sorry, that's not  
5           correct. 7.17 -- let's look at 7.17.23. So you will  
6           see on page 2 of the spreadsheet, you will see at the  
7           very top, 7.16.59, PC Ashley Tomlinson and it says:

8           "That's received control. Is there other units that  
9           can assist us?"

10          Was that your voice?

11         A. Yes, it was, yes.

12         Q. And that was you asking:

13         "Is there other units that can assist us?"

14         A. Yes.

15         Q. So at that moment in time am I correct in saying you and  
16         PC Short are on your way?

17         A. Yeah, we would have been dispatched. I don't think we  
18         had left the station at that point but certainly we were  
19         going to make our way there.

20         Q. So you have not left Kirkcaldy Police Office at that  
21         time, but you have made the Airwave transmission --

22         A. Yeah.

1 Q. -- which we see at the top of page 2. And I would like  
2 to ask you why you asked if there were other units that  
3 could assist?

4 A. Yes, just with the nature of the call being possibly  
5 a person in possession of a knife, kind of having other  
6 units there, more than just two people would allow for  
7 the use of different tactics if we needed that, and also  
8 Hayfield Road is quite a large road, so to kind of  
9 search that in a realistic timeframe with one set might  
10 take some time, so other units to assist in that search  
11 to locate the male would have actually sped things up  
12 for us as well.

13 Q. So a combination of things then: the timeframe of  
14 searching Hayfield Road, which is the length of it would  
15 be difficult just with the two of you?

16 A. Yes.

17 Q. And also the fact that, you said, it was a person with  
18 a knife. What was it about that, the fact the person is  
19 said to have a knife?

20 A. It obviously increases the danger to officers. A knife  
21 is in effect a deadly weapon, so to have more units  
22 there would allow us to maybe look at different options

1 and use different tactics, which I will come on to later  
2 on, but things like, for example, containment and things  
3 like that, without going in that situation with a kind  
4 of pre-judgment, it was just to give us the best kind of  
5 tactical options and to go in there with, kind of,  
6 almost everything really available to us.

7 Q. And you're talking about different options and different  
8 tactics. Do you want to briefly explain what was going  
9 through your mind?

10 A. Yeah, I mean one of them obviously -- there's a range of  
11 different options you could use. You could simply drive  
12 up and park and monitor, you could try a containment, so  
13 getting out of your cars. You could -- you might find  
14 that actually an individual doesn't respond well to  
15 a particular officer, not for any specific reason, but,  
16 you know, they might take a shine to a different  
17 officer, so that's always something we can use to our  
18 advantage in effective communications with an  
19 individual -- so actually having kind of other units  
20 there isn't necessarily a show of force, it sometimes  
21 can be simply, you know, another officer might have  
22 a better time engaging with the individual, so they're

1 kind of the options I was thinking of when I was asking  
2 for additional units and obviously the other thing to  
3 consider obviously we're dealing with potentially  
4 someone with a knife so if we do get an officer injured  
5 then you have still got sufficient resources to try and  
6 remain in control of the situation.

7 Q. Right. You have given us quite a lot of information  
8 there. Can I ask you for a little bit more detail. You  
9 just said the words "park and monitor". What's park and  
10 monitor?

11 A. Well, you could -- for example, if you turned up and,  
12 you know, the person's got a knife, you probably  
13 wouldn't get out of the car, you would relay that  
14 message back to the control room, so you could  
15 effectively observe from your vehicle. That's what  
16 I mean by that.

17 Q. So that's sitting and observing in the car?

18 A. Yes.

19 Q. Waiting and relaying information --

20 A. Yes.

21 Q. -- to ACR on your police radio?

22 A. Yes, so it would be an Airwave terminal.

1 Q. And we have heard that other officers who are logged  
2 into, say, Kirkcaldy 1, can also hear all of those  
3 messages?

4 A. Mm-hm.

5 Q. So that's one option. You also mentioned containment;  
6 what's that?

7 A. So you would try and keep an individual in a specific  
8 area, which is sometimes quite difficult, but to try and  
9 almost surround -- not surround as such, but  
10 strategically place yourself to stop the individual  
11 walking away and that could be through the use of "Stay  
12 here with me, just go and stop what you're doing until  
13 we figure out what's going on", so it's trying to keep  
14 the individual in place in the event that we do need  
15 more specialist resources.

16 Q. If you're thinking about the option of containment, are  
17 there a minimum number of officers you need to do that?

18 A. More than two, which would be why I had asked for  
19 additional units to support. I say more than two  
20 because it would be very difficult to try and have  
21 containment, especially in a built-up residential area  
22 like Kirkcaldy, specifically Hayfield Road as well.

1 Q. So you considered Hayfield Road to be a built-up area?

2 A. Yes.

3 Q. And that would mean limitations on containment?

4 A. Yes, it would, because there would be a number of  
5 different paths or places that an individual could seek  
6 to go to avoid police and that would actually increase  
7 the risk to the public and it would be very difficult to  
8 put the containment on.

9 Q. So when you are considering the options and tactics that  
10 are open to you, are you considering things like the  
11 area, the locus --

12 A. Yes.

13 Q. -- escape routes, exit points, that type of thing?

14 A. Yes.

15 Q. And you were familiar with Hayfield Road?

16 A. I was, yes.

17 Q. And then you have said that some people -- in terms of  
18 communication, some people can take a shine to  
19 a particular officer.

20 A. Yes. There's not really a specific reason for it but,  
21 you know, you would go to a call and maybe the person  
22 wanted to speak to a female officer or vice versa,

1 a male officer, so having that -- they might want to  
2 speak to an older officer, a younger officer, it's  
3 really just personal preference so actually, again, as  
4 I say, having additional units there might open those  
5 effective lines of communication with that individual as  
6 well.

7 Q. And could you give us some examples of what you mean  
8 when you say "Effective lines of communication"?

9 A. So what I mean is you obviously want to speak to an  
10 individual to find out what's going on and it's  
11 effective obviously if you can get that individual to  
12 speak to you and, you know, we've got, as I say,  
13 changing individual officers, that would be one way of  
14 maybe utilising the tools we have available by swapping  
15 out officers, but it's really just to open the lines of  
16 conversation between us and an individual and then get  
17 them talking and then figure out what's going on,  
18 you know, how can we help, what's -- effectively build  
19 a picture on what's going on, why have we been called  
20 out, in essence.

21 Q. What sort of tone would you use if you were adopting  
22 that type of line of communication?

1 A. Probably just kind of how I'm speaking to you now,  
2 you know. It ultimately depends on what you're faced  
3 with, but I would always look to make sure that the  
4 person understood me but, aye, if I'm going to start off  
5 I would start off with a conversational tone.

6 Q. And that's the sort of tone that you're using with me  
7 now?

8 A. Yes, yes.

9 Q. And you used the word "Understood" there, you said you  
10 wanted to make sure the person understood you; what do  
11 you mean by that?

12 A. So sometimes you can speak to an individual and they  
13 might not understand maybe the words you have used, or  
14 the language you have used, or it could simply be that  
15 the person maybe is hard of hearing, they maybe don't  
16 quite understand what you're saying, it could be things  
17 like accents, it could be the person doesn't speak  
18 English and maybe speaks a different language, so it's  
19 trying to figure out what you've got in front of you and  
20 by kind of engaging with the person, you would get  
21 a kind of flavour of that.

22 Q. When you're en route to an incident like this you

1           wouldn't necessarily know the answer to --

2           A. No.

3           Q. -- the questions that you're just posing there, so is  
4           that information that you would try and gather when you  
5           arrive?

6           A. Yes, it's things that you need to try and establish when  
7           you arrive at locus, and by locus I mean the place that  
8           you're called to.

9           Q. And once you have arrived and maybe gathered that  
10          information, what would you do with that information?

11          A. I would use it to try and figure out what's gone on but,  
12          you know, if I'm gathering information, I'm kind of  
13          speaking to the individual, I'm figuring out why we're  
14          here, what's going on, that's things that I can then use  
15          to kind of feed back to control or other officers and  
16          just say: look, this is what the situation we've got  
17          just now.

18          Q. We have heard that a lot of it is about gathering in  
19          more information.

20          A. Yes.

21          Q. And we have heard reference to the National  
22          Decision-Making Model.

- 1 A. Yes.
- 2 Q. Is that the type of model that you would be using?
- 3 A. Yes, that's a model that is taught at the police college
- 4 and that's the model that I would use.
- 5 Q. So attending a scene, gathering in information --
- 6 A. Mm-hm.
- 7 Q. -- and then deciding what the best option or the best
- 8 tactics were from there?
- 9 A. Yes.
- 10 Q. And we have heard that the more information you get, you
- 11 go back to the beginning and you keep reviewing --
- 12 A. Yes.
- 13 Q. -- as you go along?
- 14 A. It's not something that you would need to just do once
- 15 and stop, it's something that naturally you would
- 16 continue to, in effect, spin and by "spin" I mean
- 17 continually feeding that information in and working
- 18 round because it's -- when you see the diagram it's
- 19 almost a --
- 20 Q. It's a cycle?
- 21 A. -- circle.
- 22 Q. A circle.

1 A. Aye.

2 Q. And we have heard that, for example, the area control  
3 room is at a remote location in Bilston Glen?

4 A. Yes.

5 Q. So they don't have eyes on the ground. Do you  
6 understand that to be the case?

7 A. Yes, I understand that, yes.

8 Q. So effectively you were, as an operational officer, you  
9 were the eyes on the ground?

10 A. Yes.

11 Q. In the absence of CCTV in the area.

12 A. Yes, yes.

13 Q. We have heard that there wasn't any CCTV, open air CCTV  
14 in Hayfield Road. Do you know if that's right?

15 A. To my knowledge, yes, I think that's correct.

16 Q. Right. And can I ask you when you attended other knife  
17 incidents, or incidents where someone is said to have  
18 had a knife, was that your practice, to request further  
19 units?

20 A. Yeah, it would be, yeah.

21 Q. So in any other knife incident you have been sent to  
22 attend, that would be your practice?

1 A. It's not just knife incidents, disturbance calls, things  
2 that there's a potential for, you know, disorder often  
3 my go-to practice would be to see what other units are  
4 available to assist us as well. It might be the case  
5 that when we arrive we don't need those units and they  
6 can get stood down but, aye, as a matter of course,  
7 I would ask for them.

8 Q. And does requesting those additional units give you more  
9 options and more tactical choices?

10 A. Yes.

11 Q. Thank you. In relation to that response there was then  
12 at 7.17.23 an Airwaves transmission said to be by Acting  
13 Police Sergeant Scott Maxwell, you have mentioned him  
14 already today and he said:

15 "I want all units to attend that. Bearing in mind  
16 officer safety is there an ARV and a dog as well  
17 please."

18 Did you understand that to be in response to your  
19 request?

20 A. Not necessarily, no. I don't think it was in response  
21 to my request. I think it was an instruction from  
22 Sergeant Maxwell to any other units again to assist us

1           because it would allow us obviously more control and  
2           more tactical options.

3           Q. And what was your understanding of the words "Bearing in  
4           mind officer safety"?

5           A. The mention of a knife, so going into it shouldn't be  
6           complacent that just because we can't see a knife  
7           doesn't mean there isn't one. It has obviously been  
8           reported that there is a male with a knife so that's  
9           what I would take that to mean, just be cautious of our  
10          own safety when we're attending the call because there's  
11          a weapon.

12          Q. And as well you have talked about you requesting other  
13          units, but Sergeant Maxwell appears to say here "Is  
14          there an ARV and a dog as well please", and what was  
15          your understanding of that?

16          A. It's -- he has asked the control room if those resources  
17          are available. Again, it gives us more tactical options  
18          so that was just a question to the control room.

19          Q. And are these specialist resources?

20          A. Yes, I believe they would be classed as specialist  
21          resources.

22          Q. And do you know who had the authority to allocate those

1 resources to any particular incident?

2 A. My understanding is I think it's the control room  
3 inspector, or certainly somebody sitting within the  
4 control room that would have an oversight of those  
5 resources.

6 Q. Someone more senior?

7 A. Yes.

8 Q. And had you been on any calls by May 2015 where there  
9 had been an ARV in attendance?

10 A. It would be a guess to -- I don't --

11 Q. I don't want you to guess, no.

12 A. Aye. No, I'm not able to remember, no.

13 Q. You have no recollection of that today. And had you  
14 been involved in any where a dog unit had attended?

15 A. Again, I can't recall anything specific but, you know,  
16 a dog unit attending calls can be for a variety of  
17 reasons. You know, it can be for disorder or it can be  
18 to help looking for missing people, so I can't recall  
19 anything specific, but more than likely, yes.

20 Q. Had you been involved in previous incidents prior  
21 to May 2015 where there had been a request from a police  
22 sergeant or someone along those lines for an ARV and

1 a dog unit?

2 A. Again, I can't recall anything specific but it's likely.

3 Q. Okay. At that moment when you are travelling on your  
4 way to Hayfield Road, were you aware of who was in  
5 charge of the incident?

6 A. So in the first instance it would have been  
7 Sergeant Maxwell.

8 Q. When you say "In the first instance", what do you mean  
9 by that?

10 A. So if it was to change in -- you know, later on I think  
11 we hear that the control room inspector says he is  
12 monitoring from an ARV perspective. Obviously if it  
13 became a firearms incident then command would transfer  
14 from Sergeant Maxwell to the control room inspector.

15 Q. So we may have heard that if it was declared a firearms  
16 incident the area control room would take charge of that  
17 situation.

18 A. Yes.

19 Q. You understood that to be the case?

20 A. Yes.

21 Q. But this wasn't declared to be a firearms incident?

22 A. No, so at that time it was Scott Maxwell.

1 Q. Thank you. Did you understand where Scott Maxwell was  
2 at that time as you were travelling to Hayfield Road?

3 A. My understanding was he was in the Kirkcaldy Police  
4 Station because I had left from the police station and  
5 Scott Maxwell was -- I think I was maybe in his office  
6 when the call came in.

7 Q. Right. So you had left him to travel to Hayfield Road?

8 A. Yes.

9 Q. And did you have any awareness at that time if the dog  
10 unit was available in Edinburgh, or whether there was  
11 anything --

12 A. No, I don't think anything was passed as to where the  
13 dog was maybe coming from.

14 Q. You didn't know -- you don't remember anything along  
15 those lines?

16 A. No, I don't remember anything, no.

17 Q. And did you have any awareness at that time of how long  
18 it would take an ARV to come if one was deployed?

19 A. No.

20 Q. No, okay, thank you. We have heard that you hadn't been  
21 paired to work with PC Short previously; is that  
22 correct?

- 1 A. Yes, that's correct.
- 2 Q. So this was your first time with PC Short?
- 3 A. I don't know if it was necessarily my first time working  
4 with her, but certainly as far as I recall I hadn't  
5 worked with her very much.
- 6 Q. But you were -- I think you were part of the same team?
- 7 A. We were part of the same team, yes.
- 8 Q. Can I ask you, as you were travelling to Hayfield Road,  
9 I would like to ask you about what sort of things you  
10 were conscious of and aware of and thinking of. Did it  
11 make any difference to you that you were aware of  
12 Hayfield Road and knew the area?
- 13 A. I know Hayfield Road's quite a busy road. I know it's  
14 Sunday morning, but certainly at that time in the  
15 morning you've got like the hospital is quite a large  
16 employer in the area so you've got the passing traffic  
17 and shift changeover, so that's probably one of the  
18 things I would have considered but I knew that area was  
19 also quite well built-up as well and you've got  
20 a variety of houses and footpaths, so they would have  
21 been the things that I would consider kind of going to  
22 the locus.

1 Q. We may have heard that there were a couple of hospitals  
2 in the area; did you know about both of those hospitals?

3 A. Yeah, I maybe should say I would probably class them as  
4 just the one hospital. I know it is on two different  
5 sites, but certainly, like, they're a stone's throwaway  
6 from each other, as it were. One is on the other side  
7 of the road and the other's on -- you cross a road and  
8 that's you at the next hospital.

9 Q. We have heard one is called Victoria Infirmary and one  
10 is called Whytemans Brae?

11 A. Yes, so the Whytemans Brae is sort of the mental health  
12 side of the hospital.

13 Q. Was that something that you were conscious of, that  
14 there was a psychiatric hospital in the area?

15 A. It's something I had an awareness of, yes.

16 Q. You have told us that this wasn't the first time you had  
17 ever attended an incident where someone was said to have  
18 had a knife.

19 Can you give us some indication of the regularity  
20 with which you had attended knife incidents, if I can  
21 call them that, prior to May 2015?

22 A. Yeah. I couldn't put an exact number on it but,

1           you know, they're quite common. Even if I wasn't  
2           dispatched, you know, you would maybe have an awareness  
3           that there was a knife incident, or a call relating to  
4           a knife, but I couldn't put a specific number on it for  
5           you.

6           Q. When you say quite common, how regularly would you hear  
7           of knife incidents or be involved with them?

8           A. I would say probably at least one per set of shifts and  
9           a set of shifts is two days, two backs, two nights, so  
10          in, like, a six-day period you would probably expect at  
11          least one call.

12          Q. Right. At least one and perhaps more?

13          A. Perhaps more, yes. Perhaps none, you know, but on  
14          a regular basis perhaps at least one.

15          Q. Okay. In those previous knife incidents that you have  
16          attended, tell us about the equipment you had used?

17          A. I mean I would -- I would class my voice or  
18          communication as part of my equipment as well so I can't  
19          recall anything specific, but probably my voice and my  
20          handcuffs.

21          Q. How would you use your voice?

22          A. You know, just to open that line of communication with

1 the individual and ask what's going on, figure out  
2 what's going on. Maybe that's even speaking to  
3 witnesses that are nearby if you can't get anything from  
4 the individual themselves, but certainly I would be  
5 looking to try and open that line of communication so  
6 I could understand and try and figure out how best to  
7 help.

8 Q. How would you use your handcuffs?

9 A. That would be if you've got a call whereby an  
10 individual's said to be in possession of a knife I would  
11 never be complacent even if I couldn't see the knife so  
12 the handcuffs may be applied basically to allow me to  
13 search the individual safely, for my safety and for the  
14 individual's safety, as well as my colleagues and  
15 members of the public, or if a person needed to be  
16 arrested obviously you would use the handcuffs to arrest  
17 the individual if they were found to be in possession of  
18 a knife.

19 Q. How would you normally handcuff a person? Which  
20 position would they be in?

21 A. It can vary depending on the situation, but my  
22 preference to handcuffing would -- for specifically

1 knives would be a rear handcuff and that prevents people  
2 as easily from reaching areas of concealment on the  
3 body.

4 Q. Okay. Had -- in any previous knife incidents had you  
5 ever used your baton?

6 A. Not that I recall, no.

7 Q. In any previous knife incidents had you used your spray?

8 A. No, not that I recall.

9 Q. Do you remember if you had a CS or a PAVA spray?

10 A. I think it would have been CS at the time. It was  
11 certainly a grey canister.

12 Q. Right. In using your voice and perhaps your handcuffs,  
13 had you always successfully managed to calm a situation  
14 down and avoid using the spray or the batons?

15 A. Yes, normally when you go, you can engage with somebody  
16 quite effectively and yes, you could de-escalate the  
17 situation quite effectively.

18 Q. In those previous knife incidents had you been one of  
19 the first officers on the scene?

20 A. I wouldn't be able to say that.

21 Q. You can't remember, thank you.

22 So you have talked, for example in paragraph 6 of

1 your Inquiry statement -- so this is on page 2. Now,  
2 paragraph 6 covers two pages. At the beginning you go  
3 through the risk to officers, so you considered risk  
4 factors at Hayfield Road to be under three broad  
5 categories?

6 A. Yes.

7 Q. In this paragraph you split that into the risk to  
8 officers, and then if we can move on to the next page  
9 you will see that it is also the risk to the public and  
10 the risk to Sheku Bayoh. So are these the large sort of  
11 broad areas that you were considering --

12 A. Yes.

13 Q. -- were areas of risk?

14 A. Yes.

15 Q. And you took those into account. I wonder if you could  
16 just briefly explain those three broad areas to the  
17 Chair.

18 A. Yes, so the risk to officers, obviously we're going to  
19 a call whereby a male has been described by a number of  
20 callers as having possession of a knife, so for me the  
21 risk is -- do you know --

22 Q. Can I stop you there. I wonder if we could have the

1 previous part of this paragraph on the screen as you go  
2 through it. Thank you, that's very helpful. Sorry,  
3 continue.

4 A. So the risk to officers is obviously we get the -- when  
5 there's a concealed bladed article or a knife, we don't  
6 know where that is, so the risk for us is obviously  
7 injury with a knife depending on how big it is, it could  
8 be -- you know, a knife should be treated with a healthy  
9 respect and knives can kill people so that would be the  
10 significant risk.

11 The risk is obviously we don't know necessarily also  
12 anything about the individual, or about why the police  
13 had been phoned, other than there's a male potentially  
14 seen with a knife so it's trying to get an understanding  
15 of what has gone on and that obviously takes time which  
16 can increase the risk to officers as well.

17 I have mentioned here a lack of resources for any  
18 meaningful containment, so again, if a person is going  
19 to break free and maybe charge at you or get close to  
20 you, you know, you're putting yourself within danger of  
21 striking distance from a bladed article.

22 Q. And that's something that you would want to avoid?

1 A. I would want to avoid getting anywhere within a fighting  
2 arc of a person who may or may not have a knife if it  
3 has been deemed by, you know, the controller as a knife  
4 incident because we've got members of the public phoning  
5 in, I wouldn't be complacent about that, I would treat  
6 the situation as if a knife is potentially present until  
7 I can secure the individual or locate the knife.

8 Q. Thank you. You have talked -- you have mentioned there  
9 the term "fighting arc"; would you explain that to the  
10 Chair, please?

11 A. So a fighting arc, it's something you're taught in OST  
12 and it's basically kind of this (indicating) would be a  
13 fighting arc for a person, the reach of a person, and if  
14 you get within that distance of a person, you're at risk  
15 of being injured, so it's always best to avoid this kind  
16 of arm's length of a person or just -- well, you need to  
17 try and keep more than just an arm's length to avoid  
18 potentially exposing yourself to an increase of risk.

19 Q. And we have heard that some officers were wearing body  
20 armour, black --

21 A. Yes.

22 Q. -- vests with high visibility jackets. Is that the sort

1 of thing that you were wearing that day?

2 A. Yes, I would have been wearing my stab vest, yes.

3 Q. And you're calling that a stab vest; how does that  
4 protect you?

5 A. I call it a stab vest, it's just probably the way

6 I would refer to it. It's firstly body armour. We were

7 told when we got issued it that it protects your vital

8 organs from obviously potentially knife attacks,

9 however, that's all it does protect. My body armour

10 stops above my belly button, so you've got a large

11 portion of your stomach available to be stabbed and you

12 have also got holes under the arms and also around the

13 neck area, so really the coverage is very kind of

14 limited to your heart, your lungs and anything major in

15 your internal sort of ribcage area, but it should

16 protect you if somebody was to stab you in the vest area

17 against a knife.

18 Q. But anywhere else, there wouldn't be that protection?

19 A. Anywhere else, no, you would have no protection.

20 Q. Thank you. Then can we look at the risk to the public

21 that you mention. Again, would you like to add to this

22 section? What were you thinking about in relation to

1 risk to the public on the journey to Hayfield Road?

2 A. So the risk to the public is when you've got people

3 going about their daily business that aren't kind of --

4 maybe don't know about this individual that's been

5 reported with a knife, they could come across this

6 individual and suffer serious or fatal injuries with

7 a knife. What was also probably going through my head

8 as well is it might not have been reported yet but there

9 may be a casualty there as well and again that would be

10 a risk to a member of the public that we have maybe just

11 not had that report yet that because nobody is

12 physically aware that somebody has maybe been injured.

13 It's obviously described as a disturbance, so

14 a disturbance normally would indicate there's some sort

15 of contact with people, especially if you're getting

16 numerous calls, and the need to contain the person

17 obviously. We're in a residential area so you've got

18 people in their houses that might leave their doors

19 unlocked and things like that, so you've got all these

20 things -- well, all the things going through my head

21 about the dangers to members of the public, and

22 obviously a member of the public doesn't have the luxury

1 of a stab vest.

2 Q. And you have mentioned it was a residential area. We  
3 may have heard that there weren't really any people  
4 around at that time in the morning.

5 A. Mm-hm.

6 Q. But the fact it was a residential area gave you cause  
7 for concern about risk to the public?

8 A. Yeah, I mean -- you know, I would argue there were  
9 people there because police officers are people as well  
10 and obviously when police officers deploy to the scene  
11 we're still effectively skin and bones, do you know,  
12 we're in uniform, but we are still people, but, aye,  
13 largely residents could -- probably on hearing, you  
14 know, the sirens, maybe come to the windows, or be  
15 curious, natural curiosity and come out into the streets  
16 so you've got that ongoing risk to members of the public  
17 that, through their natural curiosity, maybe leave their  
18 houses to come out and have a look.

19 Q. And if that natural curiosity causes them to come out of  
20 their houses, does that then increase the potential risk  
21 to the public?

22 A. It does, yes.

1 Q. And then you come on to the risk to Sheku Bayoh.

2 A. Mm-hm.

3 Q. So were you also considering the risk to him as an  
4 individual?

5 A. I was, yes.

6 Q. Tell us about that.

7 A. So the risk to Mr Bayoh is obviously the risk of  
8 self-harm. We don't know why the police have been  
9 called, we don't know what this disturbance is. He  
10 could already be injured. He could be in possession of  
11 a knife. He could be throwing himself in front of  
12 vehicles or, you know, under the control -- sorry, not  
13 under the control -- under the influence of a substance  
14 so obviously that impacts his safety and his welfare so  
15 that's obviously one of my concerns as well.

16 Officers trying to safely restrain Mr Bayoh, that  
17 could cause, you know, injuries as well from being taken  
18 to the floor, so these are all things that I would be  
19 considering when I was going there.

20 Q. And you have mentioned possibly under the influence of  
21 a substance. That was in your mind on the way to  
22 Hayfield Road and you also mention in that paragraph

1           mental health problems?

2           A. Yes.

3           Q. Was that something else that was in your mind?

4           A. Just the proximity to the hospital, the kind of almost  
5           erratic behaviour. You would probably naturally  
6           consider that as a potential risk as well. I wouldn't  
7           necessarily hone in on that, but certainly it's there in  
8           my mind as something that I need to consider.

9           Q. So these are things that are in your mind and again,  
10          you're conscious of that National Decision-Making Model  
11          of --

12          A. Yeah.

13          Q. -- adding in information and processing what options you  
14          have open to you.

15          A. Yes.

16          Q. As you're considering the resources you have, can you  
17          tell us what difference, if any, did it make that you  
18          were with a colleague, PC Short, so there were two of  
19          you at least going to attend that incident?

20          A. I mean with two people you can use contact and cover,  
21          which is something that's taught in officer safety  
22          training, and by that what I mean is contact, one

1 officer would try and open up lines of communication  
2 with the individual and the cover officer would be there  
3 to monitor from a little bit kind of more of  
4 a triangular position, so you've got the individual, one  
5 officer for contact, one officer for cover, it doesn't  
6 necessarily need to be in that order but then the cover  
7 officer looks at maybe intervening if, you know, things  
8 escalate and we're no longer on sort of speaking terms.

9 Q. And what's contact, what's the contact officer doing?

10 A. Trying to speak with the male.

11 Q. The communicator?

12 A. Yes, so sorry, contact would be like trying to speak and  
13 use your communication skills to get an understanding of  
14 what's going on.

15 Q. Would either of those officers be communicating  
16 information on Airwaves to the control room?

17 A. It again depends on the circumstances, but if you've got  
18 an update that's relevant to the control room I would  
19 say, aye, there's no set rule as to which officer it is.  
20 If you feel that there's a significant update then you  
21 can pass that, if it's safe to do so.

22 Q. Thank you. But you say "If it's safe to do so"?

1 A. Yes.

2 Q. And what difference, if any, did it make to you knowing  
3 that both you and PC Short had been, as you said  
4 earlier, OST trained, so officer safety training had  
5 been given to both of you?

6 A. It just means that you're up-to-date with current  
7 practices and it kind of gives you that confidence that  
8 you have been trained in techniques to keep you safe.

9 Q. And did you feel confident in the training you had had  
10 in those techniques?

11 A. Yes, to use, like, CS communication, kind of restraints,  
12 baton, yes, aye, everything I would feel confident with.

13 Q. Thank you. And as far as you are aware, both of you had  
14 your equipment with you on your utility belts?

15 A. Yes, that's correct.

16 Q. And that included spray, handcuffs, baton, your vest and  
17 your radio?

18 A. Yes, yes.

19 Q. Anything else that I have missed out?

20 A. No, I was just trying to think. Maybe just a pouch with  
21 first aid equipment in.

22 Q. Did you have one of those?

1 A. Yes, I think all officers get issued -- I don't know,  
2 sorry, if you covered leg restraints as well.

3 Q. Did you have leg restraints?

4 A. Leg restraints, yes.

5 Q. Where did you keep those?

6 A. So I ran out of space on my belt to access them easily,  
7 but leg restraints -- there's basically on the body  
8 armour, I don't know if you want me to stand up.

9 Q. Yes, please do.

10 A. So on the body armour there's a variety of different  
11 docks. So you've got docks that I would -- Airwave  
12 terminal, torch, for me leg restraints are docked here  
13 (indicating) just because it is easy access for both  
14 hands.

15 Q. Right, thank you. So they're attached to your uniform  
16 in some way?

17 A. Yes, it's like a plastic clip that just, you kind of  
18 slotted in and it stays on.

19 Q. Thank you. And then you have told us about your  
20 previous experience. Did that previous experience also  
21 make you more confident, the experience of dealing with  
22 knife incidents?

1 A. I wouldn't say you should rest on your laurels.  
2 Certainly I would take each individual incident on its  
3 own merits and I wouldn't go in with a pre-judgment of  
4 how this is going to play out, so as much as I've got my  
5 experience, I wouldn't say I rested on that experience.

6 Q. You were still a probationer at the time?

7 A. Yes.

8 Q. Now, on that day, am I right in saying you were  
9 5 foot 11 tall and you weighed 13 and a half stone?

10 A. I did, yes.

11 Q. And that's when you were examined later that day I think  
12 those are the figures that were given.

13 A. Yes.

14 Q. Can I ask you something about your PIRC statement 263.  
15 This is the one given on 4 June at 11.55, and on page 1,  
16 if we go further down, you will see at the bottom you  
17 say you were 5'11 and a half and you say you were 14 and  
18 a half stones and your appearance has not changed since  
19 3 May.

20 Did you put a stone on in a month? And I'm not  
21 saying that's difficult, I'm just saying did you?

22 A. No, I don't think I did. It's maybe -- I maybe just

1 thought that's what I weighed. Like, I don't own a set  
2 of scales at home, so I think that's probably what  
3 I assumed I weighed.

4 Q. So you have given that figure in June, a month later --

5 A. Yeah --

6 Q. -- but you didn't weigh yourself when you gave that?

7 A. I would have weighed myself at the scales in the gym,  
8 but, aye, that would probably be from the best of my  
9 recollection.

10 Q. All right. And today, are you a similar weight today to  
11 either 13 and a half or 14 and a half?

12 A. Probably more close to 14 and a half.

13 Q. Okay, thank you. Right. We have heard from former  
14 PC Short that she is only 5 foot 1 and she wasn't more  
15 than 8 stone. What did you think about that? Did you  
16 bear that into consideration when you were on the  
17 journey?

18 A. No, I wouldn't -- that wouldn't -- like, I wouldn't look  
19 at an officer and think "You're tall" or "You're short".  
20 You know an officer has been trained to the same  
21 standard as I have, so that wouldn't really feature in  
22 my risk.

1 Q. We have also heard that PC Walker and PC Paton who  
2 arrived before you were very experienced officers. Was  
3 that something you were aware of prior to arriving at  
4 Hayfield Road, either that they had arrived before you,  
5 or that they were very experienced officers?

6 A. I knew that both Craig and Alan were just kind of  
7 experienced -- I knew they had more service than me but  
8 I didn't know how much service.

9 Q. All right. When -- before you arrived at Hayfield Road,  
10 were you aware if all units were attending?

11 A. I think that -- aye, the message from Sergeant Maxwell  
12 was that all units should attend if they're kind of free  
13 to do so.

14 Q. Did you assume then that that instruction would be  
15 followed by all units?

16 A. Yes, all units that certainly were either listening to  
17 the radio or free from kind of a call or a commitment  
18 that they had.

19 Q. Did you have any expectations as to how many would turn  
20 up?

21 A. No.

22 Q. Okay. Can I ask you about an Airwaves transmission from

1 Inspector Stewart, which is 7.20.13, I think. 7.20.13,  
2 it's on page 3 of the spreadsheet. We heard evidence  
3 before that this was the first time that  
4 Inspector Stewart came onto the Airwaves transmission,  
5 onto the group, and he says he is monitoring obviously  
6 from an ARV perspective:

7 "If you get sightings of the male you need to make  
8 an initial assessment yourself and feed back through  
9 straight away and I will listen out on the channel."

10 What was your understanding of that -- did you hear  
11 that message?

12 A. Look, I couldn't answer whether or not I remember  
13 hearing that message looking back on it, so I would have  
14 to rely on my kind of original statement, whether or not  
15 it is contained in that.

16 Q. Looking at it now what's your understanding of what he  
17 is requesting?

18 A. So what he is requesting is the units that are going to  
19 pass back some sort of update so he can figure out,  
20 probably using the National Decision Model, whether or  
21 not it meets the criteria for armed response to attend.

22 Q. And when he refers to initial assessment, is that

1 effectively a risk assessment to assess the situation  
2 and gain more information?

3 A. Yes, aye, so you would go over saying -- say what you  
4 see, kind of again if it's safe to do so, but he is  
5 referring to us needing to make that initial assessment  
6 so obviously we would need to establish what's going on  
7 and that would take a little bit of time as well to do  
8 that.

9 Q. How much time?

10 A. I mean there's nothing set in stone. It could --  
11 you know, it could be instantly you would turn up and  
12 there's someone brandishing a knife at you or a gun and  
13 you would know kind of instantly "This is a firearms  
14 incident, I will pass that message back", but other  
15 incidents, you know, that might not be instantaneously  
16 obvious, you need to get a steer on what's going on  
17 and -- aye, so that's what would take the time to try  
18 and understand what situation you've got in front of  
19 you.

20 Q. Okay. Looking at that message now, do you understand  
21 that it would be something you would need to respond to,  
22 that you would need to provide feedback if you gained

1 information about what was going on?

2 A. Yes.

3 Q. Yes. At any time did you feed back to ACR about what  
4 was happening?

5 A. Not throughout the incident because 1, it happened so  
6 fast, and 2, it wasn't safe to do so because to actually  
7 broadcast on the Airwave takes up a hand and that hand  
8 could be used to either defend myself or use equipment.

9 Q. Thank you. At that stage when you first arrived, did  
10 you consider at that point pressing your emergency  
11 button?

12 A. When I very first arrived, sorry?

13 Q. When you arrived?

14 A. I wouldn't press my emergency button when I first  
15 arrived, just because that then commands the Airwave and  
16 I wouldn't know what update to press.

17 Q. Okay. Is pressing the emergency button an option with a  
18 sort of hands-free option?

19 A. It is, yes.

20 Q. So you wouldn't need a hand to --

21 A. No, sorry, aye, you would need a hand to press the  
22 button.

1 Q. You would need a hand to press the button?  
2 A. Yes.  
3 Q. You wouldn't need to keep the button pressed down to  
4 speak into that?

5 A. No. [REDACTED]

6 [REDACTED]

7 UNKNOWN SPEAKER: (Mic turned off).

8 MS GRAHAME: Could I have a moment, please? Would that be  
9 possible?

10 LORD BRACADALE: (Mic turned off).

11 (Pause)

12 MS GRAHAME: Sorry about that. I'm going to move on from  
13 this, thank you.

14 Can I ask you about when you were travelling to this  
15 incident at Hayfield Road. Do you have a recollection  
16 now of how, if at all, this differed from previous knife  
17 incidents that you had attended?

18 A. The volume of calls coming in, you know, it's not just  
19 one call, it's more than one call.

20 Q. And when you say the volume of calls, what are you  
21 referring to?

22 A. So, like, members of the public phoning in to report

1           there's a male brandishing a knife, or along those  
2           lines.

3           Q. What -- was that unusual?

4           A. For -- I would say for a Sunday morning, yeah, and that  
5           specific time, unusual. You would maybe get a knife  
6           call, one call and you would go and it's a hoax, so to  
7           have more than one member of the public phoning in  
8           certainly increases the risk significantly because it  
9           corroborates a single source of, effectively, evidence.

10          Q. We have heard that you couldn't hear the number -- the  
11          calls from the public, that's not on the Airwaves  
12          transmission, but you were aware that there were more  
13          than one call --

14          A. Yes.

15          Q. -- there was more than one call coming in? And you have  
16          said that was unusual. Had you been to any knife  
17          incidents before where there had been more than one call  
18          coming in, or multiple calls?

19          A. I'm not sure, like, I couldn't remember that.

20          Q. How were you feeling on the way to Hayfield Road about  
21          attending this incident?

22          A. Nobody likes to go to a knife call. Like -- there's

1 a significant danger there so obviously there's  
2 a natural, probably, fear, I suppose, in the back of  
3 your mind, but obviously you remain professional and you  
4 still go, but aye, other than probably -- that would be  
5 my natural response anyway so I can't specifically  
6 remember what I would be feeling at the time, but  
7 certainly as a natural response that would be something  
8 that would sit in the back of your mind.

9 Q. And what difference, if any, did it make that the man  
10 said to have had the knife was black?

11 A. It made no difference at all.

12 Q. Was that a factor in relation to your assessment of the  
13 situation on the route to Hayfield Road?

14 A. No.

15 Q. I would like to move on to your arrival at  
16 Hayfield Road, and what I'm going to do, first of all,  
17 is ask Ms Taylor-Smith to play some footage and I think,  
18 first of all, we will play footage from 7.20.39, or just  
19 prior to that, to 7.21.02, or just around those sorts of  
20 times, please, and you will see -- if we can pause it  
21 for a second, please. You will see that this spans  
22 pages 3 and 4 on the spreadsheet.

1           So we're going to start at 7.20 -- around about  
2           7.20.39.

3                         (Video played)

4           Thank you. I think if we could go back to 7.20.39  
5           or thereabouts, I am going to ask you some questions.

6           Did you get an opportunity to watch that on the screen?

7           A. Yes, I kind of flitted between the reconstruction and  
8           the Gallaghers CCTV.

9           Q. Would you like to see that again for a second time  
10          before I ask you some questions? Would that help, or  
11          are you happy to carry on?

12          A. I should be all right, I think, unless you want me  
13          specifically to look at --

14          Q. No, no, that's fine. So we're now at 7.20.35, and  
15          that's quite a convenient time. We have heard by this  
16          time that a Transit van has arrived and parked on  
17          Hayfield Road towards the bus stop there. You may see  
18          that actually in the distance on the CCTV.

19          A. Yes.

20          Q. And then you will see on the reconstruction that there  
21          is a van there and then on the roundabout at the real  
22          time, 7.20.35 there, we see a smaller van going round

1 the roundabout and if we watch that just for a few  
2 seconds, please.

3 (Video played)

4 That's fine, thank you. Pause it there. Do you  
5 recognise that van?

6 A. The small one --

7 Q. Yes.

8 A. -- yes, the fish van.

9 Q. The fish van. We have heard it called the fish van; is  
10 that the van that you were driving?

11 A. Yes, it was, yes.

12 Q. And PC Short was in the front passenger seat?

13 A. Yes, she was.

14 Q. And is that where you parked in Hayfield Road?

15 A. Yes, yes.

16 Q. And then you will see from the spreadsheet at 7.20.42 --

17 it's on the bottom of page 3 -- there is an entry that

18 says "PC Alan Paton's emergency status is turned on".

19 Do you see that?

20 A. Yes, I do.

21 Q. Were you conscious that an emergency button had been  
22 pressed?

- 1 A. No, I wasn't.
- 2 Q. No. We have heard that this causes the radio to  
3 vibrate?
- 4 A. Yes.
- 5 Q. But that wasn't something you were conscious of at that  
6 time?
- 7 A. No, if I had been moving around, I might not have  
8 necessarily felt the vibration.
- 9 Q. So if your van stopped at 7.20.39, what was the first  
10 thing that you did at that point once you had stopped  
11 the van?
- 12 A. I had to put the handbrake on and turn the ignition off  
13 and then undo my seatbelt and get out.
- 14 Q. How long would that take you?
- 15 A. It depends if I get myself tangled in the seatbelt  
16 because it can catch on your belt and your equipment,  
17 so, I don't know, 3 or 4 seconds, I don't -- maybe not  
18 as long as that, I don't know.
- 19 Q. And during that period of time that could -- if the  
20 radio vibrated, you may not be conscious of that?
- 21 A. No, and I think I would have -- I think I had the sirens  
22 on as well so I would have had to turn the sirens off.

1 Q. Right. And if we could just play -- just for a couple  
2 of seconds, please.

3 (Video played)

4 Thank you. Would you stop it there, please. So you  
5 have told us you stopped the car, took your seatbelt  
6 off, got out the driver's side of the fish van?

7 A. Yes.

8 Q. And where did you go?

9 A. My recollection is I went around the front of the  
10 vehicle, like -- not like around it, but like I would  
11 have had the vehicle on my left side and walked kind of  
12 off --

13 Q. Straight ahead?

14 A. Straight ahead, yes.

15 Q. Right. Where was PC Short?

16 A. She was somewhere behind me, I think.

17 Q. Right. I'm going to be asking you questions about this  
18 period of time, your initial arrival at the scene. You  
19 will see in your statement that this covers paragraphs 7  
20 to 23, so there's -- I think there's about five or more  
21 pages of description from you in your statement, and I'm  
22 going to go through this with you, and as I go through

1           this, I would like to look at an image from -- it's a 3D  
2           reconstruction and you may have watched this yesterday  
3           with PC Short or last week with PC Walker, and I'm going  
4           to ask you to look at either image 5 or 6. And can we  
5           have a look at 6 as well, please. So it's just so you  
6           see what 5 and 6 are. So 6 is taken from a sort of  
7           aerial shot of Hayfield Road. You will see the  
8           roundabout at the top of the screen which is the  
9           roundabout with Hendry Road and Hayfield Road, and you  
10          will see the Transit van near the bus stop and the fish  
11          van behind.

12         A. Yes.

13         Q. And if we could go back to number 5 and you will see  
14          this from the other side of Hayfield Road to the vans.  
15          Again, you will see the Transit van and the fish van,  
16          the Transit van is in the bus stop area. And happy to  
17          use either of these at any time, but as you have  
18          probably seen with other witnesses, I'm going to ask you  
19          to describe where you were and where others were.

20         A. Yes, okay.

21         Q. And we will get you to touch the screen. There will be  
22          red circles available or lines, purple lines. So could

1           we maybe start with number 5? Would you be happy to use  
2           number 5 at the moment?

3           A. Yes, I think either/or.

4           Q. Would either be okay?

5           A. Yes.

6           Q. Let's start with number 5. Can you show us on this  
7           screen where you were when you got out of the fish van  
8           and you stood at the front?

9           A. Just tap it?

10          Q. You just tap it and, please, you can -- if you don't  
11          like where you have positioned it we can either remove  
12          it, or you can keep your finger on it and it will move  
13          about, or you can drop it down to the bottom of the  
14          screen and we will do something else. So you have put  
15          that on the van at the driver's side?

16          A. Yes.

17          Q. So quite close to the front of the van but still with  
18          the van on your left-hand side?

19          A. Yes, so when I immediately got out.

20          Q. And then where was PC Short?

21          A. She would have been on the passenger side.

22          Q. The other side. And would that be on the pavement area?

1 A. I don't know how -- I think maybe the van was touching  
2 the pavement, so I assume it must have been. It wasn't  
3 in the bushes like I have --

4 Q. No, no, that's fine.

5 A. -- put, but no, it was on the pavement.

6 Q. You probably realise we're going to be able to refine  
7 these positions later, so Mr DeGiovanni will prepare  
8 further images and I will ask you to refine them later  
9 on, either today or whenever.

10 So when you got out and you're at the front of the  
11 van, can you tell us what could you see?

12 A. The first thing that I could see when I got out of the  
13 van -- do you want me to touch the screen?

14 Q. Yes, please do.

15 A. Was PC Walker and he was stood somewhere in that area  
16 towards the front of the 19 van.

17 Q. Is that the Transit van?

18 A. Yes, the Transit van, sorry.

19 Q. Was that its call number or something, Alpha 19?

20 A. Yes, so Alpha 19 would normally be the call sign for the  
21 crew using the big van, so I just always referred to it  
22 as the 19 van.

1 Q. All right. So he is towards the front on the passenger  
2 side of that van?

3 A. Yes.

4 Q. Was he on the pavement?

5 A. I can't remember now whether or not he was on the  
6 pavement or the road, but certainly in that general area  
7 towards, like, the front passenger door of the van,  
8 like, going towards, like, the, I think the front --  
9 I don't know how you would call it -- panel that goes  
10 over the wheel, if that makes sense.

11 Q. Wheel arch?

12 A. Aye, the wheel arch, yes, just near the front wheel arch  
13 of the passenger side of the van.

14 Q. What was he doing?

15 A. When I got out of my van and the first thing I seen --  
16 seen him do was that (indicating), so he put his hands  
17 to his face.

18 Q. Had you seen what had happened?

19 A. No, that's -- so me exiting the vehicle, that's the  
20 first thing that I'm confronted with was basically that.

21 Q. What did you think?

22 A. Mr Bayoh was, I would say, within arm's reach of

1 PC Walker, so my initial thought, given the number of  
2 the calls in relation to a knife was that PC Walker had  
3 been slashed to the face, or injured to the face, hence  
4 the reason he has put his hands up.

5 Q. Could you point out on the screen where Mr Bayoh was.

6 And circle 4, does that appear on the pavement area of  
7 Hayfield Road?

8 A. Aye, I don't know whether it's on the pavement or kind  
9 of close to the pavement or kerb line, as you would  
10 probably call it, but certainly it was within, I would  
11 say, arm's reach.

12 Q. What direction was PC Walker facing? You can't point it  
13 out on this screen, we will be able to refine that  
14 later.

15 A. Right, sorry. He was facing, like, towards the  
16 direction of Gallaghers which -- if you look at this  
17 picture would be to the left of the picture, if that  
18 makes sense, like the direction of the fish van.

19 Q. The footage we watched a moment ago was from a CCTV on  
20 Gallaghers pub?

21 A. Yes.

22 Q. So that was past the roundabout with Hendry Road and

- 1 Hayfield Road that we have seen?
- 2 A. Yes.
- 3 Q. And what direction was Mr Bayoh facing?
- 4 A. The opposite way, so he was like facing PC Walker,
- 5 looking in the direction of obviously like the hospital
- 6 direction.
- 7 Q. So they were facing each other?
- 8 A. Facing each other, yes.
- 9 Q. Can you describe Mr Bayoh when you first saw him?
- 10 A. I didn't see -- obviously I seen the back of him,
- 11 I didn't see the front of him, but, aye, he was close
- 12 to -- as I say, within arm's reach of PC Walker.
- 13 Q. Could you tell anything about his position, or his
- 14 demeanour from the back?
- 15 A. No, because I couldn't see his face or kind of what he
- 16 had in his hands or anything like that.
- 17 Q. Could you hear anything at that point?
- 18 A. I never heard anything, no.
- 19 Q. Where was PC Paton?
- 20 A. I never actually saw PC Paton.
- 21 Q. Right. How far were you from Mr Bayoh and PC Walker?
- 22 A. So I was probably -- see when I've got in my van, see

1           where 1 is, if I click again -- I don't necessarily know  
2           if I've got as far as 5, but obviously as I have seen  
3           what's unfolding in front of me I have moved probably  
4           towards position number 5, so I don't know distance-wise  
5           what that would be.

6           Q. That's just before the pavement on Hayfield Road appears  
7           to curve round slightly to the left?

8           A. Yes, I don't think I ever got as far as the bus stop.

9           Q. Right. When you were in position number 5, where was  
10          PC Short?

11          A. I thought she was somewhere behind me, but I don't know  
12          where exactly behind me. I don't know if it was to my  
13          left or my right, but I had an awareness she was there.

14          Q. When you were in position number 5, could you see  
15          PC Paton?

16          A. No.

17          Q. How long did it take you to get from position 1 to  
18          position 5?

19          A. Not long.

20          Q. What did you do when you were at position 5?

21          A. When I got obviously as far as position number 5  
22          Mr Bayoh started to then walk away from PC Walker and

1 I started to shout like "Get down", like "Stop what  
2 you're doing", to try and gain some sort of control.

3 Q. What direction did Mr Bayoh walk in? Do you want to use  
4 an arrow for this?

5 A. Aye, please.

6 Q. We will get that on the screen if you give us a moment.

7 Thank you. You can use the arrow now. Thank you.

8 So Mr Bayoh has turned round at that point and  
9 walked away from PC Walker?

10 A. Yes.

11 Q. And you have drawn that arrow, number 6, towards we have  
12 heard what is a path between the trees?

13 A. Mm-hm.

14 Q. When you saw that, can you describe Mr Bayoh?

15 A. Aye, he was walking with purpose.

16 Q. What do you mean by that?

17 A. It's hard to describe. It's like a -- like, I don't  
18 know, a bounce, sort of like -- not a skip in his step,  
19 that would be wrong, but like a -- I don't know if you  
20 would really call it swagger, but more of a kind of  
21 meaningful movement, like, larger strides and like --  
22 it's hard to put into words.

- 1 Q. Would you be able to demonstrate it?
- 2 A. I could demonstrate easier than I could describe it,  
3 yes.
- 4 Q. Lovely, thank you. Now, as I have said to other  
5 witnesses, there's a bit of sticky tape on the floor and  
6 if you can stand in that general area but give us  
7 a moment because it will become obvious on the screens,  
8 and then everyone in the room can see what you're  
9 demonstrating.
- 10 A. Yes.
- 11 Q. We won't have audio necessarily so I may not be able to  
12 hear what you're saying, but I will bring you back to  
13 the microphone. Thank you, so if you come out, please,  
14 and demonstrate what you have been describing.
- 15 A. So if I was to demonstrate it would be kind of like that  
16 (indicating).
- 17 Q. Thank you. If you want to come back to your microphone.  
18 As you did that, you clenched your fists. Was that how  
19 Mr Bayoh was walking?
- 20 A. Aye.
- 21 Q. Yes. Thank you. In the direction of the path?
- 22 A. Yeah.

1 Q. Where was PC Walker?

2 A. PC Walker never followed. I don't know where he went,  
3 I just remember him raising his hands to his face so  
4 I don't know whether he stayed where he was or whether  
5 he took cover or -- I don't know.

6 Q. At that point, had you seen PC Paton?

7 A. No.

8 Q. When Sheku Bayoh walked towards the path, as you have  
9 demonstrated, was there anything you noticed about him  
10 at that stage, other than obviously the manner in which  
11 he was walking?

12 A. He wasn't like -- we were obviously shouting, like,  
13 stop, or kind of words to that effect. I don't know  
14 specifically what I shouted, but it would have been to  
15 try and get some sort of response or control, but he  
16 wasn't, like, responding, like, he wasn't showing any  
17 sign of what I was shouting across to be sinking in or,  
18 like, there was nothing that would have indicated that  
19 he either wanted to listen or understood what I was  
20 saying.

21 Q. Were you getting any reaction from Mr Bayoh?

22 A. No.

1 Q. Could you see his face at that point?

2 A. Aye, I would have been able to see his face but  
3 I couldn't tell you what kind of facial expression he  
4 had.

5 Q. Was there anything you noticed about him other than the  
6 manner in which he was walking along, anything you  
7 noticed about his mood or his demeanour?

8 A. I mean in that short time that I had been in his  
9 presence, I don't think I could accurately describe  
10 a kind of mood other than he looked like he was on  
11 a mission.

12 Q. Are you able to describe his physique at that time?

13 A. Aye, he was like well built, muscular, looked like  
14 somebody who enjoyed going to the gym.

15 Q. So at that stage, what was your assessment of the  
16 situation?

17 A. My assessment was obviously that there remains to be  
18 kind of -- obviously the concern of a knife. My  
19 assessment now is I think I've got an officer  
20 incapacitated because of the way that PC Walker has  
21 raised his hands to his face and the male's, you know,  
22 significantly well-built, you know, they're all kind of

1 things that I would consider in trying to approach the  
2 male would probably do me serious harm with what I had  
3 just seen, as I say, PC Walker raised his hands to his  
4 face, the fact that I couldn't see Alan -- PC Paton was  
5 also a concern because I had no idea where he was and  
6 I knew they had arrived as a crew, they were paired  
7 together, so his absence from my field of vision gave me  
8 concern as well that something might have happened to  
9 him.

10 Q. Why did you not feed back that information to the ACR at  
11 that time?

12 A. Because it was all happening too quickly. Like it  
13 wouldn't have been safe for me to get on the radio and  
14 also try and give commands, verbal commands.  
15 I couldn't -- it wasn't possible.

16 Q. What did you do after -- you have described Mr Bayoh  
17 walking towards the path. What did you do at that  
18 stage?

19 A. So what I will do is I will just draw a line on. So  
20 Mr Bayoh obviously kept walking along the path.

21 Q. Before you move on there, you have drawn a line which  
22 has a number 7 on it?

1 A. Yes.

2 Q. Is the end of that line where he reached in the path?

3 A. I don't necessarily know where he reached but I don't  
4 think he got any further than that. I will kind of be  
5 able to come on to that shortly because --

6 Q. Sorry, I interrupted.

7 A. No, it's all right. So basically from my position at  
8 number 5, I have then mirrored kind of the movement in  
9 terms of walking along to be kind of walking parallel  
10 with him, so that I could continue to shout commands,  
11 you know, along the lines of "get on the floor, stop  
12 what you're doing", like, but nothing was working and by  
13 walking along with him it would have allowed me to keep  
14 up with him and to avoid him maybe not understanding  
15 that, kind of, I was directing my requests at him, I was  
16 shouting at the top of my voice, so that even if he  
17 didn't -- you know, hear me with the level of volume I'm  
18 speaking just now, there was no doubt that I was  
19 shouting something at least, I would have expected some  
20 sort of response from that.

21 Q. Do you want to demonstrate the level of shouting that  
22 you were adopting?

1 A. I don't know if it will -- is it all right to shout in  
2 here, aye?

3 Q. I would appreciate if you would demonstrate?

4 A. Aye. So obviously we're speaking just now, but if I was  
5 out on the street it would be "Get back, stay back, stay  
6 where you are", to avoid any, basically, (inaudible) of  
7 the -- you know, I'm shouting something, I would have  
8 expected a response back from that. A normal member of  
9 the public -- I seen a few people jump and I apologise  
10 for that, but a normal member of the public, hearing  
11 that on the street, I would have expected some sort of  
12 response.

13 Q. And looking at the arrow you have drawn on the screen,  
14 obviously these arrows are straight lines, but arrow 8  
15 you would have been going round the fish van walking  
16 parallel; were you?

17 A. I don't know necessarily if I went round, like, this  
18 side -- like --

19 Q. The driver's side?

20 A. The driver's side, I don't know if I went round that or  
21 the passenger side, but certainly that's the general  
22 area of movement that I was going in.

1 Q. Thinking back now, do you have any recollection of which  
2 side it was?

3 A. No. I would have to rely on my statement, or the CCTV.

4 Q. I will go back to the CCTV in a moment actually, that  
5 might assist you. Where was PC Short?

6 A. Again, I had an awareness that she was somewhere but  
7 behind me.

8 Q. Do you want to point on the screen to where you think  
9 she was?

10 A. So kind of as I was moving along like -- say, for  
11 example, if I'm here --

12 Q. Do you want the red circles?

13 A. Please, yes.

14 Q. If we can have those back, please.

15 A. So if I was there, I thought that PC Short was somewhere  
16 like either there or there (indicating).

17 Q. So your position for number 8 is yourself, and  
18 PC Short's position is either 9 or 10?

19 A. Yes, somewhere along that kind of --

20 Q. Behind you --

21 A. Yes.

22 Q. -- in some direction? Were you conscious at that time

- 1 of what she was doing?
- 2 A. No.
- 3 Q. Was there anyone else in that area at that time?
- 4 A. Not that I'm aware of.
- 5 Q. When you shouted to Sheku Bayoh, what was the reaction?
- 6 A. I didn't get a reaction.
- 7 Q. Nothing at all?
- 8 A. (shakes head).
- 9 Q. Did he turn round?
- 10 A. No.
- 11 Q. What did you do?
- 12 A. As he was walking off, I would have drawn my CS spray
- 13 and issued, again, commands "Stop, stay where you are,
- 14 get back", and shouted that I had CS spray and for him
- 15 to stop.
- 16 Q. Right. At that moment, had you seen a knife in the
- 17 possession of Mr Bayoh?
- 18 A. But I couldn't assume there wasn't one because of the
- 19 number of calls. He could have had it concealed at any
- 20 point on his person.
- 21 Q. So you hadn't seen one?
- 22 A. No.

1 Q. You're shaking your head, right. So you have taken out  
2 your CS spray. Before we move on to this, can I ask you  
3 to look -- no, actually I won't leave this screen in  
4 case we lose any of the circles on it. You have taken  
5 out your spray. What stance did you adopt at that  
6 stage?

7 A. It would have been -- I would call it a bladed stance or  
8 a defensive stance where you stand with, like, your weak  
9 foot in front of you and your strong foot behind you.

10 Q. Would you mind coming out and demonstrating that again.

11 A. So it would be a bladed stance or a defensive stance.

12 Q. Can you demonstrate to the Chair and the Assessors how  
13 you would hold your spray?

14 A. Like that (indicating).

15 Q. Thank you. If you come back to the microphone. So you  
16 had your left hand up and your right hand is at your  
17 side holding your spray?

18 A. Yes.

19 Q. With your left foot forward?

20 A. Yes.

21 Q. In holding your left hand up, was that a means of  
22 communicating?

1 A. It can really be almost like -- well, that in case the  
2 person gets too close and you can fend them back and by  
3 that I mean push them back. It's also not a rangefinder  
4 as such, but you can use it to kind of like aim, as it  
5 were, and obviously you can point as well when you've  
6 got your hand in that position to make kind of -- show  
7 that the individual, obviously Mr Bayoh knew that I was  
8 meaning him, "you", by that kind of movement.

9 MS GRAHAME: Right. I'm going to move on and go back to  
10 some of your statements and ask you more questions about  
11 this incident, but I think -- I'm conscious of the time  
12 and I wonder whether now would be an appropriate time to  
13 have a --

14 LORD BRACADALE: Yes, this would be a good time for a break,  
15 so we will stop for 25 minutes.

16 MS GRAHAME: Thank you.

17 (2.46 pm)

18 (Short Break)

19

20 (3.13 pm)

21 LORD BRACADALE: Ms Grahame.

22 MS GRAHAME: Thank you.

1           We were talking about you having drawn your CS spray  
2           and having adopted a defensive stance, and I would like  
3           to move on to get you to describe what you did with your  
4           CS spray. Now, just to let you know, paragraph 22 of  
5           your Inquiry statement deals with CS spray in the top  
6           half of that paragraph, just so you can see that. So  
7           you have already provided the Chair with some  
8           information about that, and you have described using  
9           your spray twice, and I wonder if you could help us  
10          understand a little bit more about how you used your  
11          spray.

12          Now, on the screen we had been using the screen to  
13          see where you were, and I would quite like a clean  
14          sheet, if that's all right. Thank you, perfect. So  
15          this is number 5. Now, can you again point to the  
16          screen and tell us where you were when you adopted your  
17          defensive stance with the spray?

18          A. Yes.

19          Q. These are indicative marks; we will be able to refine  
20          them in due course.

21          A. I just remember there being an opening in the trees and  
22          there being no, like, shrubbery in front of me, so when

1 I drew the line on earlier on I think it was number 7  
2 and I kind of said I think it was either -- that was the  
3 furthest point so the point I think I was at was there  
4 because of the opening in the trees, but equally,  
5 I could have been there, because it's an opening in the  
6 trees.

7 Q. All right. So you were in an opening of the trees.

8 A. Yes.

9 Q. Now it may be that we will be able to narrow those  
10 options down in due course, we will be able to see lines  
11 of sight and things when Mr DeGiovanni is here, but if  
12 we -- could we hear your description -- assuming  
13 number 1, that was your first choice, assuming you're  
14 there, you have adopted the stance, you have taken your  
15 CS spray out, tell us what you did?

16 A. I drew it and I would continue -- I continued to shout  
17 obviously "Stop, stop what you're doing, stay where you  
18 are", and when that has not had any effect I issued --  
19 I would have issued a warning which is "If you don't  
20 stop what you're doing, I will use my spray", and again,  
21 nothing.

22 So I sprayed initially and the reason I sprayed

1 twice is one, when I did my initial burst because you're  
2 shown to use initial, like, bursts of CS or PAVA, so  
3 that if you miss, you have then got the option to kind  
4 of spray again, and when I sprayed my initial burst,  
5 like, it's a case of on/off, like, it's no longer than  
6 on/off, and it fires out, obviously, a jet of  
7 incapacitant spray, and the wind that day just blew it  
8 away, so the next time I -- the way I kind of overcame  
9 that was I just kept my finger on the trigger -- I say  
10 the trigger, the button, and then I guided the spray in,  
11 so the wind was basically blowing it and I could  
12 physically see that the spray was bending, so rather  
13 than it keep missing, I just basically went like that  
14 into the wind so I would stay still and I would  
15 basically guide the stream onto, obviously, Mr Bayoh.

16 Q. Right. I will go back over that with you, if you don't  
17 mind. So you have -- we're working with number 1 at the  
18 moment, we can refine that later. How far was Mr Bayoh  
19 from you at that stage?

20 A. He was within, I would say, probably 12 to 15 feet,  
21 something like that. Whatever the distance is from that  
22 pavement to the path.

1 Q. Point to the area on the path where he was? What  
2 direction was he facing?

3 A. Like -- that's not much use, is it? Towards the  
4 Gallaghers.

5 Q. So towards the left of -- as we look at the screen?

6 A. Towards the left if you look at it, yes.

7 Q. And what direction were you facing?

8 A. Like, directly at Mr Bayoh, so he is facing obviously  
9 left, I'm facing, like, in a north-ward direction kind  
10 of towards him.

11 Q. Thank you. And you have described the short burst of  
12 spray. How long does that last?

13 A. Like, you would just keep your finger on and then just  
14 take it off, just as quick as you could do that, but  
15 that would be enough, like, in training when you do  
16 that, that's enough to give you enough, like, spray to  
17 travel and hit the intended target.

18 Q. But your recollection today is that that did not  
19 connect?

20 A. No, the wind -- basically when I have sprayed, the wind  
21 just took it, so it actually just totally missed.  
22 I don't know where it went, but I just know it blew it

1 off into basically nowhere.

2 Q. Which direction was the wind coming from?

3 A. Sort of from -- if you look at this picture, from left

4 to right, so blowing towards the big van.

5 Q. Thank you. And so you have then described that you made

6 a second attempt with your spray?

7 A. Yes.

8 Q. And you kept your thumb on the button?

9 A. Yes.

10 Q. And how long did you keep your thumb on the button?

11 A. I don't know if I took my thumb off, or whether or not

12 the can just finished, but it was until nothing came

13 out.

14 Q. How long does it take for a CS spray to reach empty?

15 A. I don't know because we never -- in training, because of

16 the way you do the scenarios repeatedly you just -- you

17 always do short bursts because -- to fill the training

18 aids is, I think probably quite expensive, I think, from

19 what I have been told, so you always just train with

20 short bursts so that you can increase the longevity of

21 the training aids, but I don't know how long it would

22 take from start to finish.

1 Q. Do you actually use CS spray in training?

2 A. No, you use water, so, like, a training CS or PAVA

3 I think has got a blue lid, whereas a live, or one  
4 that's filled with PAVA or CS, PAVA now has got a red  
5 lid, so you can distinguish between the two and you  
6 would never spray a red, live PAVA in just your OST  
7 refresher. You get exposed at the college, but you  
8 wouldn't spray colleagues with PAVA.

9 Q. And you have talked about directing the spray of the CS.

10 Does it come out as a spray, or does it come out as  
11 a jet?

12 A. It comes out as a jet, so if you imagine the easiest way  
13 to describe it for somebody who has maybe never seen  
14 that is like a water pistol. Like, can you imagine the  
15 jet of water that comes out of a water pistol, it's like  
16 that but under more pressure.

17 Q. And you described as you were gesturing sitting there  
18 that you moved your hand towards the direction of the  
19 wind?

20 A. Yes. Just instinctively, if the wind is going to blow  
21 it away, I can move the, like, stream of CS and I know  
22 that obviously it will then curve in. It's maybe not as

1 accurate but it does the same job.

2 Q. Did that second attempt connect with Mr Bayoh?

3 A. It did.

4 Q. Where on Mr Bayoh did it connect?

5 A. I would need to go back to my statement because I know

6 it connected somewhere in this kind of region

7 (indicating).

8 Q. Please feel free to look at paragraph 22 of your

9 statement. I will read this out actually, rather than

10 remove the image from the screen. It says:

11 "I attempted to spray Mr Bayoh using a short burst,  
12 but this had no effect. I readjusted my aim and again  
13 sprayed Mr Bayoh to no effect. My second attempt at  
14 spraying Mr Bayoh used an extended spray due to the  
15 prevailing wind conditions and the need for me to try  
16 and continually readjust my aim to guide the jet of  
17 incapacitating spray towards the intended target, his  
18 face and eyes."

19 A. Yes.

20 Q. So where did it connect with Mr Bayoh?

21 A. Am I able to look at my original statement?

22 Q. Yes, please, feel free. So this is PIRC 00265. I think

1 on page 3 you will see that there's reference in  
2 paragraph 2 to you getting your CS spray out and  
3 describing the wind was strong, and you say -- have you  
4 got page 3:

5 "The first spray missed him due to the wind so  
6 I adjusted my aim and sprayed again. The spray curved  
7 in the wind but again missed his face and hit the top of  
8 his left neck or shoulder area. He had stopped walking  
9 when I sprayed him. I shouted for him to get on the  
10 floor. I emptied my full CS spray on him and kept my  
11 finger on it until it was empty. The CS spray had no  
12 effect, there was no reaction from him and it was almost  
13 as if I had squirted him with water."

14 A. Yes.

15 Q. So your recollection when you gave your statement to  
16 PIRC on 4 June 2015 to DSI Brian Dodd was that it hit  
17 the top of Sheku Bayoh's left neck or shoulder area.

18 A. Yes, so that would have been the closest point to me.

19 Q. If CS spray hits someone in that area, is that  
20 sufficient to incapacitate them?

21 A. You would normally expect it to have some effect. Each  
22 individual person is obviously different as to how they

1 would be affected by it, but CS spray is different from  
2 PAVA in the fact that it kind of, like, disperses in the  
3 kind of immediate area and it would normally just have  
4 that reaction with your eyes and kind of your airways,  
5 and the fact that it will either make you cough or you  
6 would put your hands up to your face.

7 Q. So it's not necessary to have it sprayed onto your face  
8 or your eyes?

9 A. No, I mean that's probably close enough to have probably  
10 a full dose, if -- I don't know if "dose" is necessarily  
11 the correct way of saying it, but certainly to feel the  
12 effects of basically CS from being hit there or kind of  
13 that area should normally be enough.

14 Q. What reaction did Mr Bayoh have?

15 A. None.

16 Q. Were you still shouting at the time you were spraying?

17 A. Yes, I would have been shouting continually. I don't  
18 know exactly what words, but kind of, it's drilled into  
19 you when you do your OST, it's "Get back, get back, stay  
20 back", or "Stop, stop what you're doing, get on the  
21 floor, get on the floor", and it would just have been  
22 a reiteration of kind of those, having issued already

1 the command that "If you don't stop what you're doing  
2 I will spray".

3 Q. So you're shouting and getting no reaction. You have  
4 sprayed and got no reaction.

5 A. Yes.

6 Q. Was there any reaction from Mr Bayoh to any of the  
7 things you were doing?

8 A. No, but I -- he did eventually turn and basically face  
9 me (inaudible overspeaking) --

10 Q. What caused him to turn?

11 A. I don't know if it was the shouting or the -- maybe the  
12 feeling. I don't know what caused him to turn, but  
13 I kind of thought at that point I had his attention at  
14 least.

15 Q. And you have said he turned to you and PC Short?

16 A. Yeah, I don't necessarily again know where exactly she  
17 was, but I had an awareness that she was close by behind  
18 me, so in turning to look at me it was also -- would  
19 have been facing PC Short as well.

20 Q. When he turned to face you, tell us what you could see,  
21 describe him for us?

22 A. He was basically just -- I think I have described it in

1 my original statement as a ... a dirty look, or  
2 certainly that's the best way to describe it. Just kind  
3 of like -- I don't even know if I could reproduce it  
4 with my own face to give you an idea but kind of -- he  
5 just looked at us and my kind of fear at that point was  
6 that he was maybe sizing us up or -- because I had  
7 sprayed him, you know, he was looking at me and his  
8 attention was solely focused on me, but aye, that gave  
9 me a -- obviously I had achieved what I wanted to  
10 achieve in that I got his attention and I thought that  
11 would allow me then to start communicating with him, but  
12 he wasn't saying anything, he still wasn't responding,  
13 he was now just looking, and basically I thought we were  
14 going to get attacked.

15 Q. You used the word "sizing us up".

16 A. Mm-hm.

17 Q. And then you said "Me". What do you mean by that?

18 A. Like, if somebody's going to have a fight or going to  
19 get close to somebody, you kind of like look them up and  
20 down and almost take in, I think, to your mind,  
21 you know, how maybe big a person is, how -- you know,  
22 what am I up against, almost. I don't know if that's --

1           that's what I kind of mean by the phrase, like, sizing  
2           up, so taking in who I am as a person now.

3           Q. And you say you got his attention and you thought that  
4           might allow you to communicate. At that stage when you  
5           say it might allow you to communicate, were you still  
6           thinking about the possibility that you could converse  
7           with him or speak to him?

8           A. That's always on your mind throughout, kind of running  
9           through this: if there's a way to end this by  
10          conversation then absolutely, that's what I want.

11          Q. What would you have needed his response to be to allow  
12          you to engage in that communication?

13          A. Just anything. You know, he could have said anything to  
14          me or it could have just been him just standing there  
15          for an extended period of time allowing me then to,  
16          you know, try and build some sort of rapport with him,  
17          "Is there anything I can do to help you? What's going  
18          on?" Things like that would have been probably my go-to  
19          phrases, but I wasn't afforded that opportunity because  
20          he then decided to charge.

21          Q. So even at that stage, after you had used your CS spray,  
22          you still would have been willing to communicate?

- 1 A. Yes.
- 2 Q. You then say he decided to charge.
- 3 A. Mm-hm.
- 4 Q. Tell us what happened then.
- 5 A. He basically ran from his position at 3 to my position  
6 at 1, and I actually thought he was running at me so  
7 because I -- fearing that I was going to be attacked  
8 I put my PAVA back in its holder. I must have got quite  
9 lucky because it's only a small clip to get your PAVA to  
10 slide on back to its holder and then I drew my baton  
11 initially as a defensive kind of mechanism, but  
12 I remember being confused because he seemed to veer off  
13 to my right and I was a bit confused as to what was  
14 going on and the fact that he hadn't attacked me and  
15 I basically pivoted 180 on my feet, so basically instead  
16 of looking north, as you look at the image, I was then  
17 kind of looking almost south or in a general south  
18 direction and I seen him basically running after  
19 PC Short.
- 20 Q. When you withdrew your baton, were you still in  
21 position 1?
- 22 A. Yes, I would have been.

- 1 Q. Where do you keep your baton?
- 2 A. On my left side, so on -- basically you wear a utility
- 3 belt and it's just like a thicker belt that you would
- 4 wear on jeans or suit trousers and that has attachments,
- 5 so my baton is kept on my left side because I'm
- 6 right-handed, so it allows you to draw across the body.
- 7 Q. And you have said you pivoted 180. I wonder, looking at
- 8 the image again, what direction -- you could maybe
- 9 indicate what direction you were facing?
- 10 A. Has it got circles --
- 11 Q. You could just describe it, if you wish.
- 12 A. Oh, right. So initially, like, facing from 1 facing to
- 13 3, so looking at 3, and then as the circle 3 moves
- 14 past --
- 15 Q. We will provide you with a purple line and you can show
- 16 us where Mr Bayoh -- which direction he went in. Thank
- 17 you. And describe where you pivoted to?
- 18 A. Like --
- 19 Q. You have told us you were facing towards the number 3
- 20 red circle.
- 21 A. Yes, so it would have been facing the tip of the arrow
- 22 now.

1 Q. So pivoting round to the direction in which you have  
2 drawn the arrow?

3 A. Yes.

4 Q. So was that towards the middle of Hayfield Road?

5 A. Yes, yes, towards the middle of the road.

6 Q. And when you pivoted, describe what you saw?

7 A. What I saw was Mr Bayoh strike PC Short with his fist to  
8 the back of her head. She wasn't wearing a hat, so that  
9 impact would be fist on head, so it was the back of her  
10 head and that action caused her to fall, or lose balance  
11 and she fell forward onto the road.

12 Q. When you say the back of the head, where do you mean?

13 A. So, like, that area (indicating).

14 Q. You're pointing to the back of your head?

15 A. Yes.

16 Q. It seems to be in the middle, is that right or --

17 A. Aye, just that kind of general area. I couldn't  
18 pinpoint a specific area, but, like, from what  
19 I remember, it's the back of the head.

20 Q. Where was PC Short when this happened? Could you put  
21 a red circle on the screen. That's number 5.

22 A. Yes.

- 1 Q. What force did he use?
- 2 A. From where I was standing, a lot, because it knocked
- 3 her, like, so off-balance that she has fallen forward,
- 4 so I would imagine to do that would require a lot of
- 5 force.
- 6 Q. And you have talked about her falling forward; how did
- 7 she fall forward, are you able to describe that?
- 8 A. Full length, basically. If you imagine, like, a child
- 9 going down a slip and slide -- I'm just trying to think
- 10 of things that would be similar in terms of movement.
- 11 Like that (indicating), kind of putting her arms out and
- 12 taking, basically, a dive towards the road.
- 13 Q. And what position did she fall into?
- 14 A. Like, flat on the road, so, like, it would have been --
- 15 so the front of her body and face and that on the side
- 16 of her arms would have been touching the road.
- 17 Q. Right. And are you able to indicate on this image,
- 18 image 5, where she fell?
- 19 A. From where she was hit, I don't know how far she has
- 20 gone, but it would have been kind of -- I don't know if
- 21 it would -- I don't know which side it was, I don't
- 22 remember the cars but ... I don't know if it was either

1           6 or 7, but kind of, like, it wasn't forward, it was  
2           kind of -- I don't know, I felt like she fell at an  
3           angle, if that makes sense, so it wasn't, like,  
4           perpendicular to the road. I felt like she fell at  
5           an angle.

6           Q. Can you describe the angle, or could you show us with  
7           a purple line?

8           A. Yes, I can show it with a purple line.

9           Q. Give us a moment to get the lines onto the screen.

10          A. It's not helpful with the number 8, but that kind of  
11          like, slanty angle.

12          Q. So angled further down Hayfield Road from where you  
13          were?

14          A. Yes.

15          Q. How long did she remain in that position?

16          A. She remained in that position until I became involved in  
17          the restraint of Mr Bayoh.

18          Q. How long was that?

19          A. I don't know how long that would have been. It felt  
20          like forever but I know it -- I know obviously it wasn't  
21          forever. It was all happening so fast that I couldn't  
22          accurately say how long it was from that point to the

1 point of restraint.

2 Q. You have said you became involved. Tell us what you  
3 did?

4 A. When Mr Bayoh had punched PC Short, she has fallen down  
5 on the floor. What I remember is she has tried to push  
6 herself up, but then he stamped on her back, which has  
7 caused her to basically ... I thought he'd killed her.

8 Q. Tell us how she tried to push herself up?

9 A. Using her hands.

10 Q. Did she succeed in doing that?

11 A. No.

12 Q. What happened when she tried to do that?

13 A. He stamped on her again.

14 Q. At any time at that point, were you aware of her being  
15 curled up in a foetal position?

16 A. No.

17 Q. Holding the back of her head, the bun on her hair?

18 A. I can't remember that.

19 Q. Right. Where was Mr Bayoh when Nicole Short was flat on  
20 the ground?

21 A. He was directly behind her, stamping on her.

22 Q. Was that closer to you or closer to the other side of

1 Hayfield Road?

2 A. Probably closer to the other side of Hayfield Road,  
3 I would say.

4 Q. It might be easier if we get another clean image of  
5 this. Thank you. So again, would you just put a red  
6 circle round the position where Nicole Short was on the  
7 ground. Thank you. Is that where she was on the  
8 ground?

9 A. I think so. It was there or thereabouts.

10 Q. Okay, and point to -- or indicate the position where  
11 Mr Bayoh was. So that's just beside her. Her head is  
12 to the other pavement on Hayfield Road?

13 A. Yes, so her head would be pointing towards -- as I say,  
14 I don't remember the cars, but her head would have been  
15 like that direction (indicating).

16 Q. That direction. And what direction was Mr Bayoh facing?

17 A. As you look at this picture, to the right, so  
18 Hayfield Road. Sorry, Kirkcaldy Hospital, down  
19 Hayfield Road.

20 Q. Down Hayfield Road to the right as we look at the  
21 screen. And where were you when you saw this? How far  
22 away were you?

1 A. I don't know, maybe that's not as accurate as I thought.

2 Could I move that down a little bit.

3 Q. You can move those around. If you touch them, you can

4 move them around, or we can remove 3 and you can --

5 A. Maybe probably more towards the kerb line, so from the

6 distance to the kerb line to the centre of the road

7 would have been the distance I would have been away when

8 I seen that.

9 Q. So you're number 3, you're in that general area.

10 How was Mr Bayoh positioned when he stamped on

11 Ms Short?

12 A. Like, at the -- not directly over her, but at the side

13 of her, so he could use her foot to stamp her back.

14 Q. Where on her back did he make contact?

15 A. Like, the centre, so when you've got a body armour, it's

16 got the word "Police" written on it, and I remember it

17 being somewhere below the word "Police". I can't say

18 specifically where on the body armour, but it wasn't

19 above the word "Police" and it wasn't at the side, it

20 was on -- the way the panels are and the way they bend

21 around the body, they form flat points, or it looks as

22 though they form flat points, and it was on basically

1 the large flat section of her back.

2 Q. We actually have a model vest and it may be easier if we  
3 just hand that to you. If you could hold that up and  
4 demonstrate to the Chair and to the Assessors what area  
5 you're describing there.

6 A. Sort of this (indicating). You can kind of see the  
7 stitching creates like a flat patch, so somewhere in  
8 this, this area.

9 Q. So beneath the "Police" badge on the back --

10 A. Yeah, mid-back.

11 Q. -- in the centre --

12 A. (inaudible overspeaking) in that area.

13 Q. -- somewhere in that area. Thank you. Can you describe  
14 how Mr Bayoh was standing when he stamped on PC Short?

15 A. The movement or the --

16 Q. Yes. I'm going to ask you to demonstrate.

17 A. Yes.

18 Q. Would you find that easier?

19 A. Probably, aye.

20 Q. Right, again, I'm not going to ask you to speak when you  
21 do it, but what I would like you to do is come out and  
22 then demonstrate how he was standing, and I would like

1           you to demonstrate the force that he used and the number  
2           of times he stamped.

3           A. Okay.

4           Q. Thank you. And then I will bring you back to the  
5           microphone, thank you.

6           First of all, I would like you to demonstrate how he  
7           was standing, please.

8           A. (Indicating).

9           Q. Thank you. And that's your right leg that's lifted, and  
10          I would like you to demonstrate the force, please?

11          A. I don't know if it was right or left but (Inaudible -  
12          too far from microphone) if that makes sense.

13          Q. Right, well, I will get you to demonstrate the force,  
14          please.

15          A. (Indicating).

16          Q. Thank you. Please go back to the microphone.

17          Now, you said there you weren't sure if it was  
18          Mr Bayoh's right or left leg?

19          A. No, not -- like I can't recall that now. Probably at  
20          the time I would have been able to recall but I'm  
21          right -- like -- my right side is my dominant side so,  
22          like, that's how I would like --

1 Q. That's how you would replicate the force used?

2 A. Aye. I don't think I could do it on my left foot, even  
3 if I tried.

4 Q. All right. Thinking back now, do you have any  
5 recollection about whether it was his right or left leg?

6 A. At the present time, no, I couldn't say that. Unless it  
7 is contained in my original statement.

8 Q. Okay. We will come on to that in a moment.

9 Right, let's look at your original statement, so  
10 that's PIRC 263, and this is your statement dated  
11 4 June 2015, and we will look at page 3. There should  
12 be paragraph 3. We looked at this a short while ago and  
13 it starts:

14 "He ran past me ..."

15 It is coming on to the screen now:

16 "He ran past me ..."

17 Do you see that?

18 A. Yes, I've got that, yes.

19 Q. "... and I turned round right about 180 degrees to see  
20 him chasing Nicole. She was running across the road  
21 away from the bus stop. He caught up with her and  
22 punched the back of her head. She didn't have her

1 police hat on and neither did I. She fell to ground  
2 face down when he punched her and she tried to protect  
3 her head and push herself up with her hands at the same  
4 time. I ran over to assist her, but before I got there,  
5 he stomped on her back with his foot with a great deal  
6 of force. He put his full body weight into the stomp  
7 and used his arms to gain leverage. After he did this,  
8 she went back to the floor and never moved. I thought  
9 he had killed her. He stomped on her back again with  
10 the same force and she wasn't moving."

11 And is that the -- that's the description you gave  
12 to PIRC on 4 June.

13 A. Yes.

14 Q. And where you say:

15 "She fell to ground face down when he punched her  
16 and she tried to protect her head and push herself up  
17 with her hands at the same time."

18 What did you mean when you said that?

19 A. To be honest, I'm not quite sure. From obviously  
20 reading that, I'm going to assume that she was on the  
21 floor, she's tried -- like that (indicating).

22 Q. But you don't have any recollection of that?

1 A. I don't have any recollection, no, not at the present  
2 time.

3 Q. So if there's any difference between this statement and  
4 what you have said today, what do you think the Chair  
5 should prefer?

6 A. The statement, because it was fresh in my mind at the  
7 time.

8 Q. Right, thank you.

9 Do you remember now how long -- you have described  
10 the stamping -- do you remember how long that took?

11 A. Again, because it was all happening so quickly,  
12 I couldn't say with any accuracy like how long that  
13 would have taken. There's obviously a stamp and then  
14 what I would say is a reload, and by that what I mean is  
15 getting your body back in the same position to stamp  
16 again, so it's whatever time it would have taken to  
17 stamp and then reload and stamp again.

18 Q. Would it be similar to the time it took you to  
19 demonstrate?

20 A. Yes, I think so.

21 Q. What did you do?

22 A. I honestly thought he had killed her, or was in the

1 process of killing her, so -- because I had my baton out  
2 I used my baton to deliver a blow. The only -- I deemed  
3 that the only option I had was to use my baton because  
4 if I'd have ran (inaudible) ended up -- my fear was if  
5 I had fallen I'm on the floor as well and the floor is  
6 not a safe place to be when you're dealing with  
7 something like that, you know, you can't run away, and  
8 trying to strike a leg isn't an option because that's  
9 moving about again, the arms are moving about and I want  
10 him to stop, so I struck him in the head area.

11 Q. Right. And you struck him with your baton?

12 A. Yes.

13 Q. Where in the head area did you strike him?

14 A. I remember initially the first blow was from back of  
15 head to what would be, if you imagine drawing a line  
16 through someone's head, it would have been from the back  
17 to the jawline area.

18 Q. Do you want to show us on your own head?

19 A. Yes, so sort of from that to kind of jawline  
20 (indicating).

21 Q. So that's behind your left ear towards your jaw?

22 A. Yes, somewhere in that area, but the reason I say

1 diagonally is because that would have been, like, the  
2 way my body would have moved, do you know, it would have  
3 been a natural diagonal sort of down.

4 Q. And once you had done that, what happened?

5 A. It didn't stop him, so I delivered two more baton  
6 strikes to that general area, but I don't know where  
7 they would have connected, or if they did connect,  
8 I couldn't say. I would have to rely on my original  
9 statement, but that stopped him.

10 Q. When you say the first strike didn't stop him, what was  
11 he doing at that point?

12 A. Well, I think the first strike obviously it was timed so  
13 that -- just a coincidental timing that he wasn't  
14 actually stomping on her, but it didn't move him away  
15 from her, it didn't cause him to fall, it didn't cause  
16 him to turn around and my fear was that he was going to  
17 do it again, so I didn't want to gamble on the "What  
18 if", so I delivered two more strikes and that was enough  
19 to cause him to basically turn around and look at me and  
20 do that (indicating).

21 Q. So he turned towards you?

22 A. Yes.

1 Q. What was PC Short doing at that moment?

2 A. She wasn't moving.

3 Q. Was she -- had she remained on the ground?

4 A. Yes.

5 Q. Are you able to help the Chair and the Assessors  
6 understand the force that you used when you were  
7 delivering those strikes?

8 A. I couldn't say with any, you know, huge accuracy how  
9 much force would have been used. The first blow  
10 certainly would have been probably my strongest blow  
11 because the subsequent two blows you -- you know, I have  
12 been shouting, I have sprayed, I have had to run across,  
13 so, you know, the subsequent two blows are probably  
14 softer than the first initial blow, but it certainly  
15 wasn't enough to stop him from what he was doing.

16 Q. And I wonder if you could have a look at a baton for me,  
17 please. Now, we have had a demonstration with the baton  
18 yesterday, but we understand it's extendable.

19 A. Yes.

20 Q. So what I would like you to do, first of all -- and not  
21 to use it at the witness table -- I would like you to  
22 come out and show the Chair and the Assessors how it

1 extends and then I would like you to demonstrate the  
2 force you used with the strikes.

3 A. Okay.

4 Q. Thank you. So first of all, if you could demonstrate  
5 how it becomes an extendable?

6 A. (Indicating) (Inaudible - too far from microphone).

7 Q. Thank you.

8 A. I've extended down and into what I would call a high  
9 carry; it's high because (Inaudible - too far from  
10 microphone).

11 Q. Okay. And then I would like you to demonstrate the  
12 strikes that you used?

13 A. (Inaudible - too far from microphone) (indicating).

14 Q. Right. And do you remember or can you demonstrate the  
15 second and third strike?

16 A. No, it would be -- at the present time it would be  
17 guess-work.

18 Q. If you could come back to the microphone, please.

19 LORD BRACADALE: Ms Grahame, just for the transcript, if you  
20 could just sum up what he did there, what he said  
21 because the microphone didn't pick up what he said about  
22 not being able to demonstrate the second and third.

1 MS GRAHAME: Yes, yes.

2 So just to sum up there, PC Tomlinson, we have --  
3 you initially demonstrated how the baton can be extended  
4 by a sharp movement with your right hand down to your  
5 right side?

6 A. Yes, it's not the only way it can be extended, there are  
7 other ways, but that would be --

8 Q. That's the way you extended it that day?

9 A. That would be the way that I would prefer to extend  
10 things, yes.

11 Q. And then I asked you to demonstrate the strikes that you  
12 used on the day and you were able to demonstrate the  
13 first, but at the moment you're unable to recall the  
14 second and third strike?

15 A. Yes, I don't want to guess so, aye, right now I couldn't  
16 say so I would have to kind of fall back on my original  
17 statement.

18 Q. But do you feel that the demonstration that you have  
19 given of the first strike --

20 A. Yes.

21 Q. -- is the level of force that you used on the day?

22 A. Yes.

1 Q. Thank you. Then I would like to go back to the  
2 statement, the PIRC statement that we have in front of  
3 us, which is still on the screen. This was the  
4 statement that you gave to PIRC on 4 June 2015. If we  
5 could look at page 3, paragraph 4, and we can just see  
6 at the bottom of the screen -- so if we move up  
7 slightly, thank you. I will just read this out:

8 "I struck him with my baton once to his head. It  
9 was to the left-hand side to his head, diagonally from  
10 the back of the head to his jaw."

11 And that's actually what you have told us today:

12 "He stopped stomping on Nicole at that point.  
13 I think I hit him again which was about 2 or 3 times in  
14 total to the head area. He turned around and took up  
15 a boxing sort of stance, with both fists clenched in at  
16 his chest."

17 And again, that's what you have described to us  
18 today:

19 "I thought he was going to attack me again so  
20 I struck him two or three times with my baton to his  
21 arms. At that time I thought he was trying to kill me  
22 now after killing Nicole."

1           Now, can I ask you about those two sentences.

2           A. Yes.

3           Q. "I thought he was going to attack me again so I struck  
4           him two or three times with my baton to his arms."

5           Did you strike him with the baton two or three times  
6           to his arms?

7           A. I don't know if it would have been his arms but I was  
8           going for like his -- because he was like that, what  
9           I was trying to go for was like -- because if I was  
10          going to get punched I'm hoping that actually connecting  
11          the baton with Mr Bayoh's hands or arms might take the  
12          power out of it, if it comes to me getting punched.

13          Q. Right. So you had again used your baton towards his  
14          arms but you're pointing also to the hands area?

15          A. (Nods).

16          Q. Do you remember now where, or if you connected with him?

17          I mean you have said there "I struck him two or three  
18          times with my baton to his arms"?

19          A. I think if I have said I have struck him I must have  
20          connected, but, as I say, right now I can't remember if  
21          the baton actually connected or if it did, what portion  
22          of the baton connected, but if I have said in my

1 original statement I have struck him, I would take it  
2 from that that I have connected.

3 Q. So again, if there's a difference, the Chair should  
4 prefer this statement?

5 A. Yes.

6 Q. And where you say "I thought he was going to attack me  
7 again", can I ask you, had there been an attack  
8 previously?

9 A. No, I think --

10 Q. What do you mean by that?

11 A. So the initial thought of him attacking me was when he  
12 charged and ran past, so again I have had that same  
13 recurring thought, "I think I'm going to get attacked".

14 Q. But he hadn't attacked you at that point?

15 A. No, he hadn't attacked me but that thought had obviously  
16 entered my mind now twice.

17 Q. So again you thought he was going to attack you. Did he  
18 make any contact with you at this moment?

19 A. No, no.

20 Q. And you say:

21 "At that time I thought he was trying to kill me now  
22 after killing Nicole."

1           Is that what your thought process was at the time?

2           A. Yes, the -- if I was to put it professionally,

3           I thought, you know, "This is it, I'm not going home".

4           Q. Right. I want to go back over some of the information

5           that you have given us before I move on from here. Was

6           there any -- I should say was there anything else at

7           that stage that Mr Bayoh did because you have not given

8           us any information about this in your statement?

9           A. No.

10          Q. Well, I would like to go back over a few things about

11          this section of events.

12          Can I ask you, first of all, to think back to your

13          use of the CS spray.

14          A. Yes.

15          Q. Were you aware, or did you consider that the use of

16          spray can make someone react more aggressively?

17          A. There is obviously that potential that it could make

18          somebody obviously have an increased amount of anger,

19          but it wouldn't be something that would deter me from

20          spraying it, because to have that consideration and

21          doubt in your mind, you know, that would probably be

22          enough time for somebody to close down that gap on you

1           that you've got for safety, so no, I mean I would have  
2           considered it, but it's not something that would have  
3           stopped me spraying.

4           Q. Okay. And it didn't stop you spraying that day?

5           A. No.

6           Q. And then in paragraphs 13 and 14 of your statement, you  
7           talk about assessing if a person is suffering from  
8           a mental health crisis, or if they are under the  
9           influence of drink or drugs.

10          A. Mm-hm.

11          Q. Now, you have described how Mr Bayoh was not reacting to  
12          your use of the spray?

13          A. Yes.

14          Q. He wasn't reacting to your verbal commands, or your  
15          shouting, and you had mentioned earlier that you are  
16          aware of people being under the influence of drink or  
17          drugs. Did you think at any point up until the incident  
18          you have described with Nicole Short that this was a man  
19          who was under the influence of drink or drugs?

20          A. I wasn't with him long enough to obviously make  
21          a lengthy assessment. It was obviously something that  
22          would go through my mind, he is potentially under the

1 influence of something, but the fact that spray didn't  
2 work doesn't necessarily mean that. As well it could  
3 just be that the person doesn't -- because, you know --  
4 and there was one guy when I went to the college who  
5 didn't actually have any effects by the spray, so it's  
6 not -- it could have not had that effect because it  
7 might just not have had any effects. All military  
8 personnel I think train -- I don't think, I know, or  
9 I have been made aware, that they train through the  
10 effects of CS, so again, taking that into account you  
11 have maybe potentially got somebody with military  
12 experience, but again, I wasn't with him long enough to  
13 establish that either.

14 Q. And when you talk about not being with him long enough  
15 to carry out a lengthy assessment --

16 A. Yes.

17 Q. -- how long would you consider it necessary to spend  
18 with someone to assess whether they were under the  
19 influence?

20 A. I would need to kind of see them sort of walking about  
21 normally rather than aggressively. I would need to try  
22 and speak to them. You know, like, if someone is under

1 the influence of drink or drugs there's little giveaway  
2 signs like slurring speech or being unsteady on their  
3 feet, so that assessment, like -- because the incident  
4 was happening so fast and I didn't have enough time --  
5 I wasn't afforded the opportunity to speak to him  
6 normally, you know, without his level of aggression,  
7 I couldn't form an opinion.

8 Q. So did you see any signs that he may have been under the  
9 influence of drink or drugs when you were with him?

10 A. Again, because it happened so quickly, like, I wouldn't  
11 have been able to tell, and also I was at a distance as  
12 well, so do you know like I'm not able to see close-up-  
13 eyes and things like that because again, eyes -- your  
14 know, your pupils can dilate and things.

15 Q. So you had some information from the Airwaves  
16 transmissions about his behaviour --

17 A. Mm-hm.

18 Q. -- in advance of the police arriving, and you know that  
19 you have tried to spray him twice and that's not had  
20 a reaction, and he has not reacted, he has been quiet or  
21 not been speaking to you. Did you consider at any point  
22 that that may be a sort of red flag of someone in

1 a mental health crisis?

2 A. Yes, I mean the thought would have crossed my mind that  
3 it would have been sort of an indicator that somebody is  
4 maybe suffering from a mental health problem, but  
5 I didn't solely hone in on that either because it would  
6 then -- you know, you don't want to become blinkered to  
7 potentially other reasons why he has maybe not reacted  
8 to CS the way in which we would have expected.

9 Q. And having considered that as a possibility, that  
10 someone was maybe under the influence or suffering from  
11 a mental health crisis, at any stage, did you consider  
12 treating it as a medical emergency and perhaps  
13 requesting an ambulance?

14 A. I wasn't afforded enough time to do that and again, the  
15 danger and risk that he posed to himself, Nicole -- or  
16 PC Short, sorry, and myself was still such that I wasn't  
17 afforded any time to get on the radio, or, you know, try  
18 anything else.

19 Q. And you had had some training in these sorts of issues.  
20 I think at paragraph 21 actually you mention training.  
21 I think you say that none of your training had prepared  
22 you to deal with someone who was likely suffering from

1 a combination of mental health crisis or acute  
2 behavioural disorder and drug intoxication?

3 A. Yes, and I specifically kind of -- I was specifically  
4 referring to this incident, so, like, what I mean by  
5 that is you do training, you know, you do skills  
6 training, so you do, like, your resuscitation, you do  
7 your PAVA training, you do your baton training, you do  
8 your handcuff training, they're all quite individual,  
9 and what you don't train for is a scenario whereby you  
10 turn up and a male is not responding to you, he is not  
11 responding to TAC comms, he is not responding to CS.  
12 You don't train in a scenario whereby a member of your  
13 team is incapacitated or potentially worse, so this  
14 situation -- training in large does prepare you to be  
15 a police officer, but training can't prepare you for  
16 a situation like this. There's a limitation to how  
17 realistic training can be and none of our training  
18 prepared us for a failure of repeated uses of tactical  
19 options, such as communication, PAVA, baton, and also  
20 the position that I was left in with reduced officer  
21 support because at that point when Nicole was on the  
22 floor, I was the only officer -- to my awareness, I was

1 the only officer left.

2 Q. Right. If you had had training in this type of  
3 scenario, where someone is not engaging with you, would  
4 you have found that to be of assistance?

5 A. It would more than likely be of assistance but again,  
6 training's limited to a training scenario. You don't  
7 train to injure officers. There's a limitation on the  
8 level of resistance and force used. You would never  
9 train to -- this is a dangerous situation and you  
10 wouldn't train in dangerous conditions, if that makes  
11 sense.

12 Q. So there's not -- it's not real life in the sense that  
13 you're --

14 A. No.

15 Q. -- put at risk --

16 A. No.

17 Q. -- of serious injury?

18 A. No, you're never put at risk of serious injury or harm  
19 in training.

20 Q. Would you have found it helpful to have some sort of  
21 training in maybe situations such as this, more  
22 realistic training?

1 A. I think the training has developed so it is a little bit  
2 more scenario-based, but, yes, I think training to  
3 include situations whereby officers become injured or  
4 incapacitated would be obviously beneficial. I don't  
5 think -- I don't know how obviously the syllabus for OST  
6 works so I couldn't answer obviously what's on the  
7 horizon for that.

8 Q. We will no doubt hear from others about that in due  
9 course.

10 Is it fair to say that you would treat someone  
11 differently if they were having a mental health crisis  
12 than -- or suffering, or under the influence, rather  
13 than someone who wasn't?

14 A. It's difficult to answer because, you know, I would  
15 almost be sort of guessing, but if a person is  
16 presenting you with a knife, you know, there's still  
17 a need to control that person, regardless of whether or  
18 not that person is intent on hurting you, or hurting  
19 members of the public or suffering a mental health  
20 crisis. You know, there's still a need to control that  
21 situation, so no.

22 Q. All right. I would like to move on. You said at the

1 point you were using your baton, you weren't aware of  
2 any other officers; what was the first moment you became  
3 aware that there was another officer?

4 A. It was when I was -- basically when Mr Bayoh was facing  
5 me with his fists like that.

6 Q. Is this before or after you have struck him?

7 A. So after I have struck him and he has turned around. At  
8 this point I'm still under the impression and belief  
9 that I'm the only officer left.

10 Q. And that's after you have struck him to the head area?

11 A. Yes.

12 Q. Before you struck him to the arm area?

13 A. So -- sorry, I struck him to the head and then he has  
14 turned to me like that (indicating) and I have struck  
15 him to the arms and that's when I was aware then  
16 obviously another officer was there because, like, the  
17 point at which he has faced me and had his arms raised,  
18 like, in my mind I thought, for want of a better phrase,  
19 "Fucking hell, this is like -- this is it". And the  
20 next thing I remember is PC Walker coming into my view  
21 from my left and I don't know how to describe it other  
22 than, like, some sort of, like, bear hug, like wrestle

1 thing, to basically knock Mr Bayoh off-balance and take  
2 him to the floor, but that was moving, so it wasn't  
3 like -- it wasn't a come in and we go to the floor right  
4 where we stood, it was quite dynamic, so it felt like it  
5 travelled some distance from where Nicole was.

6 Q. Right, I'm going to ask you to look at an image again.

7 I think we will use a different image this time.

8 Now, let's select that image. It may be that image  
9 6 is a useful image. This is the one which was more of  
10 an aerial shot of Hayfield Road, but if not, there are  
11 others. I think I have accidently left my hard copy of  
12 my images on my desk, so what we will do is if we can  
13 scroll through, please, and if you stop that for  
14 a second. Yes, so if we could -- do you see the image  
15 on the far left-hand side, second row of images, so  
16 image -- if you were counting from the left, image 3?

17 (Pause).

18 So if we're counting from the top left, image 3. Go  
19 back one, please. And could you go forward two, please,  
20 and carry on, and I will tell you when to stop, please.

21 Right. Stop, please, at image number 8. Sorry about  
22 that.

1           So this is an aerial image of Hayfield Road and the  
2           vehicles, other than the row of vehicles on the south of  
3           Hayfield Road have been removed. So it may be better if  
4           we can find one -- a similar one where the vehicles are  
5           in position.

6           I think what we will do is actually wait until my  
7           copy comes, it is on its way, and I will just move on to  
8           something else at the moment.

9           Right, you have talked about PC Walker.

10          A. Yes.

11          Q. And you have described a bear hug, so could you tell us  
12           a little bit more in terms of the description of what  
13           his contact with Mr Bayoh was.

14          A. So if I was obviously facing Mr Bayoh, what would have  
15           been available to -- the view that would have been  
16           closest to PC Walker would have been Mr Bayoh's right  
17           side because he was obviously facing back, kind of in  
18           a north-ward direction.

19          Q. You told us earlier that he was facing to the right,  
20           down Hayfield Road?

21          A. Yes, but when he has turned like that (indicating), he  
22           has turned as well to where I was standing.

1 Q. Was that back towards the tree-lined area of --

2 A. Yes, so, like, I was facing the houses and he was facing

3 the tree line -- when I say "he", sorry, Mr Bayoh was

4 facing the tree line and the contact that PC Walker that

5 I seen was that he came -- I just remember him appearing

6 out of nowhere from my left-hand side and what I would

7 describe as a bear hug is probably just my best attempt

8 at trying to verbalise what I seen. It was kind of like

9 a grab or something like that, it appeared to be a grab,

10 but something that would cause Mr Bayoh to be

11 off-balance and push him from where he was standing and

12 cause like a stumbling sort of motion basically along

13 the road, further away from where Nicole was lying.

14 Q. Where was PC Short at that time?

15 A. She was still lying on the floor and I hadn't seen her

16 move.

17 Q. Right. And he came from your left?

18 A. Yes.

19 Q. So as you're describing, that would have been the area

20 where the police vans were parked?

21 A. Yes, so I don't know what area specifically, but

22 somewhere from that general area of the big 19 van or

1 the fish van. He just seemed to appear for me out of  
2 nowhere, because I remember the instant feeling of  
3 "You've just saved my life".

4 Q. And when you describe them falling to the ground -- oh,  
5 thank you very much.

6 When you describe them falling to the ground, do you  
7 remember where they fell?

8 A. It was near the kerb-line on the -- if you look at the  
9 picture it would be the south side, so what appears to  
10 be closest to the bottom of the screen, but I don't  
11 remember ever being on the kerb-line, like, there wasn't  
12 a difference in height, if that makes sense.

13 Q. Well, what I'm going to do is ask you to look at image  
14 15, please. So this is a scene of Hayfield Road. Can  
15 you indicate on this image where you think Nicole Short  
16 was. We will clear those from the previous picture.

17 And you have said that Mr Bayoh was facing you, you were  
18 standing with your back to the tree area?

19 A. Yes.

20 Q. And he would have been -- as we look at this screen --  
21 on the left?

22 A. So, yes, he would have been just to, like, the left of

1 where the 1 is.

2 Q. And your recollection is that Nicole Short was still  
3 flat on the ground at that time?

4 A. Yes.

5 Q. And PC Walker came from your left?

6 A. Yes.

7 Q. And tell us where they landed on the ground?

8 A. I can't remember exactly, but I know I don't remember  
9 cars, so the only area it could have been was in and  
10 around there. As I say, I don't know if they reached as  
11 far as the kerb-line because obviously with the road and  
12 the kerb there's a difference in height as you would  
13 step off the kerb onto the road, or off the road onto  
14 the kerb. I don't remember that being the case, I just  
15 remember it being flat.

16 Q. We have heard that the pavement was quite low, the kerb  
17 was quite low near to the ground.

18 A. Okay.

19 Q. You have said you don't remember cars. We're looking  
20 there at a row of cars. The one closest opposite  
21 number 1 is a sort of silvery grey colour. You say you  
22 don't remember that being anywhere near where you were?

- 1 A. No, which then makes sense as to where number 2 is  
2 placed -- because if he had gone anywhere else we would  
3 have ended up, like, hitting a car.
- 4 Q. So do you think number 1 is maybe in the wrong position?  
5 Feel free to adjust it.
- 6 A. It's a little bit more difficult because the vans aren't  
7 in position.
- 8 Q. Let's move those circles, away, and if you wish to  
9 replace number 1 where Nicole Short was. So maybe  
10 closer to the island in the road than you had  
11 previously?
- 12 A. Yeah. I just -- I can't remember any cars, like I don't  
13 remember ever seeing any like cars on the roadway.  
14 I don't know if I would have paid attention to the grey  
15 car because it's not on the roadway, but -- aye.
- 16 Q. But you don't remember any cars --
- 17 A. No.
- 18 Q. -- being on that side of the road?
- 19 A. No.
- 20 Q. So we now have position 1, that's where you have now  
21 positioned Nicole Short?
- 22 A. Yeah.

1 Q. And you have described you and Mr Bayoh -- as we look at  
2 this you would have been on the left of that red circle  
3 number 1.

4 A. Yeah, aye, I would have been slightly to the left of it,  
5 yes.

6 Q. Just as we look at this screen?

7 A. Yes.

8 Q. And number 2, that's where you think that PC Walker and  
9 Sheku Bayoh landed on the ground?

10 A. I couldn't say exactly, but that generally I think would  
11 be the general area. Like I say, I can't remember there  
12 being a height difference between the roadway and the  
13 pavement.

14 Q. We can fine-tune this later?

15 A. Okay.

16 Q. When PC Walker did the bear hugging and landed with  
17 Sheku Bayoh, how did they land?

18 A. Just in a heap. Like, Mr Bayoh was obviously still  
19 struggling so, like, there was no set, like, position,  
20 if that -- it was kind of like a struggle basically and  
21 body positions were changing all the time, so, like,  
22 I couldn't like -- I don't know how to describe sort of

1           how they landed but they both obviously landed on the  
2           floor.

3           Q. Who was on top?

4           A. I don't think anybody. I don't know. I don't know.

5           I couldn't say -- without guessing, I couldn't say.

6           Q. Where was PC Short at this time?

7           A. Still lying in the roadway.

8           Q. How had PC Walker avoided PC Short?

9           A. I don't know.

10          Q. When you were standing with Mr Bayoh, how far were you  
11          from PC Short?

12          A. Probably within about 10 feet, something like that, 10  
13          to 15 feet something. Again, I would have been  
14          positioned kind of at the kerb line or just on the  
15          roadway and from my memory I think they were in the  
16          middle of the road, so I would have been like the width  
17          of a carriageway -- width of one of the lanes on the  
18          roadway.

19          Q. Could you point to where you're describing. Right.

20          How did Mr Bayoh get from being over Nicole Short  
21          and stamping on her to that distance away from her?

22          A. Because when Craig has -- when PC Walker's came in from

1 the side -- so Mr Bayoh was actually to the left of  
2 PC Short anyway, so any push of Mr Bayoh wouldn't have  
3 caused him to trip over her body, it would have actually  
4 sent him further away from PC Short. I don't know how  
5 PC Walker got over PC Short, I can't remember that.

6 Q. Thank you. So when PC Walker made contact with Mr Bayoh  
7 in the bear hug, how far was Mr Bayoh from PC Short at  
8 that moment?

9 A. Just a couple of feet, because his position -- when he  
10 turned to me, it was, again, like a pivot.

11 Q. Mr Bayoh turned to you?

12 A. So when he has turned to me and done that (indicating),  
13 like, his position would still have been very, very  
14 close to PC Short, so he can't have been anything more  
15 than a couple of feet away, certainly within the  
16 distance -- it would have been the length of when you  
17 stand up to do a stomp, that sort of distance, so the  
18 length of like -- I don't know, maybe an arm, if that,  
19 because he still was in range to continue stamping.

20 Q. Can you point out on this image what direction PC Walker  
21 came from?

22 A. Yes.

1 Q. We will maybe use a line, an arrow. I wonder if you can  
2 explain then again how PC Walker avoided PC Short if she  
3 is lying on the ground in the red circle, number 1.

4 A. I don't know. I wasn't -- all I have seen -- I was  
5 focused on Mr Bayoh, so, like, my attention wasn't on  
6 PC Walker and it only became on PC Walker when, like,  
7 I'm aware that he is now like bear hugging Mr Bayoh and  
8 the two of them are travelling across, like, the rest of  
9 the road, so I don't know how he has managed to get  
10 over -- I don't know if he has stood on her, I don't  
11 know, I don't know what he has done.

12 Q. But that's not something you have a recollection of?

13 A. No. I wouldn't have thought he would have stood on her  
14 because -- well, he would have fallen over her, you  
15 know.

16 Q. All right, but you didn't see what he did and you  
17 don't -- you can't comment on that --

18 A. I can't, no, no, I can't.

19 Q. -- from your recollection. And you have placed the red  
20 circle at number 2. That's where they fell to the  
21 ground.

22 A. Mm-hm.

1 Q. Now, can you -- you have said that initially you  
2 couldn't -- you can't describe their positions, but  
3 could you tell us which direction Mr Bayoh was lying in  
4 on the ground?

5 A. Yes, so you see where you've got number 2, and you've  
6 got the green hedge directly below it so --

7 Q. Do you want to point to that?

8 A. Yes, sorry.

9 Q. We will maybe have a red circle. There you go.

10 A. There we go.

11 Q. That's a hedge --

12 A. Yes, that's the hedge, so Mr Bayoh's head would have  
13 been facing towards the hedge direction.

14 Q. Right, so that's the south of Hayfield Road?

15 A. Yes, to the south.

16 Q. And which direction were his legs in?

17 A. So pointing back, towards, like the tree line, or the  
18 north.

19 Q. Towards the island and then the trees on the other side?

20 A. Yes, I don't necessarily know if they were pointing  
21 directly at the island, but in that general direction.

22 Q. That general -- right. And was he lying completely on

1 the pavement, or straddling the pavement and the road?

2 A. I don't know. I -- all I remember is it was flat so

3 I don't know if there's any dips in the kerb, or whether

4 or not he was totally on the road, I don't know, but

5 I just know there wasn't, like, a difference in height.

6 Q. Where was PC Walker? What position was he lying in on  
7 the ground?

8 A. I don't know if he was lying, but PC Walker had taken up

9 trying to control Mr Bayoh. I'm assuming it's his hands

10 or his upper body, I don't know, but that, like, it was

11 towards like the upper part of his kind of -- his

12 figure.

13 Q. Would it be easier if you demonstrated to us the  
14 position?

15 A. I couldn't -- like, I couldn't specifically say what

16 position, other than just to say --

17 Q. Right.

18 A. So you have seen for yourself obviously PC Walker is

19 quite a large officer.

20 Q. We have heard he was 6 foot 4 and 25 stone.

21 A. So when I have arrived at the point at which the

22 restraint is taking place, I have largely just seen

1 PC Walker's back, and like, the reverse of his body  
2 armour.

3 Q. You mean the back of the vest?

4 A. The back of the vest, yes. So I couldn't say what arm  
5 or what area, you know, PC Walker took up that restraint  
6 because my view was actually blocked by his back, so  
7 I couldn't, like, I couldn't see that.

8 Q. So you couldn't see Mr Bayoh under him at that point?

9 A. No, I don't think Mr Bayoh was under him, but certainly,  
10 like, my view of, like, Mr Bayoh's upper part of his  
11 body was obstructed by PC Walker, so I couldn't see --  
12 I couldn't see kind of around that, if it that makes  
13 sense.

14 Q. I see. So you could see the back of PC Walker, but you  
15 couldn't see Mr Bayoh?

16 A. No.

17 Q. So you couldn't say what position --

18 A. Well, I could see his legs, aye, but I couldn't see, as  
19 I said, the upper portion of Mr Bayoh.

20 Q. When you could see his legs, Mr Bayoh's legs, where were  
21 they in relation to PC Walker?

22 A. So they would have been on PC Walker's right-hand side.

1 Q. Right. So how was PC Walker -- how was he positioned  
2 when you saw his back?

3 A. It would have been -- I think it's maybe just easier if  
4 I try and -- it's maybe not as accurate but, aye, I can  
5 try and demonstrate it.

6 Q. Thank you, that would be good.

7 A. It's probably easier than trying to do it in words.

8 Q. So again remember that the audio won't catch up things  
9 that you say, so I would like first of all for to you  
10 demonstrate how -- demonstrate PC Walker and his  
11 position first please.

12 A. You imagine I'm stood kind of here (inaudible - too far  
13 from microphone) my viewpoint, so all I can see is that  
14 portion (indicating).

15 Q. Right.

16 A. (Inaudible - too far from microphone) portion of his  
17 back.

18 Q. Thank you. Can you show us what you could see of  
19 Sheku Bayoh's position.

20 A. Ignore this part of my body. I'm lying down (inaudible  
21 - too far from microphone) so what I could see is this  
22 (indicating), so ignore all the left part of my body.

1 Q. Right.

2 LORD BRACADALE: Ms Grahame, could you describe --

3 MS GRAHAME: I will. I'm taking notes.

4 So as you're lying there, we have to ignore the  
5 left-hand side of your body?

6 A. Yes. All I can see is basically Mr Bayoh's right hand  
7 like that (indicating).

8 Q. And you have your right hand on the ground and your  
9 right elbow bent?

10 A. Yes, but I don't know (Inaudible - too far from  
11 microphone) elbow is bent so like that (indicating).

12 Q. Yes. And you have your legs -- you are lying on your  
13 left-hand side and your right leg is in front.

14 A. (Inaudible overspeaking) basically kicking out like that  
15 (indicating) if that makes sense so it wouldn't have  
16 been just a stable position like this.

17 Q. Right, so the legs are moving backwards and forwards.

18 And when you were demonstrating PC Walker's position you  
19 were actually on your knees with your hands down?

20 A. Yes, because the only part of PC Walker I could see was,  
21 as I said, like the back of his body armour. I couldn't  
22 see any other part of him. I just remember (inaudible -

1 too far from microphone).

2 Q. Yes, come back and we will get you in front of the  
3 microphone, but with PC Walker you -- the position you  
4 were demonstrating was you were on your knees, your  
5 hands were down on the ground, leaning over, and you  
6 gestured, when you were on your knees, to the back of  
7 the vest --

8 A. Yes.

9 Q. -- that you could see and that was PC Walker's vest.

10 A. Basically I don't know -- as I say, I can't comment on  
11 where PC Walker's hands, or like knees or anything were,  
12 but from what I can see is this portion of the vest --

13 Q. The back of the vest?

14 A. The back of the vest, aye.

15 Q. Could you see his legs?

16 A. No.

17 Q. How did you know he was on his knees?

18 A. If I can't see his legs then he wouldn't -- like so if  
19 he was lying down, I would expect to see legs.

20 Q. Could you see his feet?

21 A. Not that I could -- again, if they were tucked under him  
22 I wouldn't see them.

1 Q. Okay, so it really was the back of his vest that your  
2 attention was drawn to?

3 A. My attention is drawn to that, aye, and I can't see  
4 through it.

5 Q. All right. And you have described this as a dynamic  
6 movement, they're on the ground --

7 A. Yes.

8 Q. -- there continues to be movement, you've described.  
9 Tell us what you saw -- how long you watched that.

10 A. I was already making my way from -- as soon as I had  
11 seen basically Craig come in and move Mr Bayoh with his  
12 bear hug, I had already started making my way towards  
13 where they were going to land, so that's -- I've  
14 basically kind of almost followed them, so I've been  
15 maybe a second or two behind from where I was, like it's  
16 taken me that amount of time to get over to kind of  
17 their position.

18 Q. And what did you do?

19 A. So my fear was that the legs -- Mr Bayoh's legs would  
20 have come up and been used as leverage to get up off the  
21 floor again, so what I've done when I've gone over is  
22 I've used my baton to deliver I think two or three

1 strikes to the Achilles area, so the heel area, with the  
2 intention that that might elicit some sort of pain  
3 compliance and what I mean by that is to get a person to  
4 comply to instruction through the use of pain and that  
5 is a technique -- pain compliance is a technique that's  
6 taught in OST, so that was -- you know, I'm working  
7 through my NDM again to assess the risk of if Mr Bayoh  
8 gets up, it's significant, again a risk to us and again  
9 with reduced numbers we were trying to bring him under  
10 control.

11 After I've delivered those strikes, they have not  
12 been effective, so I changed my kind of approach.

13 Q. Right. Let me take you through that again. You have  
14 used your baton two or three times to the Achilles area.

15 A. Yes.

16 Q. Is that the Achilles tendon on both legs?

17 A. I don't know which -- I don't know if it would have been  
18 on both legs or what, but I went for the Achilles  
19 because having hit that area myself I know it's quite  
20 painful and if a person was to then obviously have  
21 a strike delivered to that area and stand up again, it  
22 would maybe prevent them from running around so fast, or

1 prevent them from stomping with as much force.

2 Q. And did you get any reaction to that?

3 A. No.

4 Q. So you were at Mr Bayoh's feet at that moment?

5 A. Yes.

6 Q. And was PC Walker towards the upper half of Mr Bayoh's  
7 body?

8 A. Yes.

9 Q. Could you demonstrate the force you used for the strikes  
10 to the Achilles area using the baton? Have you still  
11 got that?

12 A. I've got that, aye.

13 Q. Thanks. So if you want to come out and ... if you can  
14 demonstrate how it was that you struck with the baton to  
15 the Achilles?

16 A. Like that (indicating).

17 Q. And as you're doing that you're crouching -- you're not  
18 kneeling but you're crouching down --

19 A. No because, if I was crouching I wouldn't have like, I  
20 wouldn't have any movement really in my arm.

21 Q. So your right knee is not on the ground but you're  
22 crouching?

1 A. No (inaudible - too far from microphone) to try and get  
2 some sort of response.

3 Q. And that looks like less force than --

4 A. Yeah. I wouldn't have used a lot of force for that.

5 Q. And that was to Mr Bayoh's leg area -- Achilles area?

6 A. So this area (indicating).

7 Q. Thank you, if you want to come back to the microphone.

8 Was anyone else there at that moment in time? You  
9 have talked about PC Walker and his position.

10 A. Yes.

11 Q. You have talked about yourself and what you were doing.

12 A. Yes.

13 Q. Anyone else there at that moment?

14 A. I don't remember anyone else being there. I just  
15 remember it being me and Craig.

16 Q. And after you struck with your baton to the Achilles  
17 area and there wasn't a reaction, what did you do then?

18 A. I basically -- from that position I just -- I think  
19 I either dropped or just threw my baton to one side. As  
20 an option it wasn't just -- it didn't seem to be having  
21 any effect and what I did was I took up a position  
22 whereby I was straddling Mr Bayoh's legs, so if you

1            imagine mounting a horse and Mr Bayoh's legs being the  
2            horse, so I would use my knees to balance on the road,  
3            so his legs would have been running under my bum and  
4            from there I basically remained kneeling on the roadway  
5            and tried to -- because, as I have described it,  
6            Mr Bayoh obviously had his right-hand like that  
7            (indicating), so I have tried to at that point apply  
8            a single cuff, so a single handcuff, and again that's  
9            a technique used because, as I mentioned earlier, my  
10           preference would always be in relation to males -- or  
11           anybody, males/females, in possession of a knife or  
12           a weapon, would be to cuff to the rear, so from that  
13           position I could get my hand and effectively use my left  
14           hand to control the wrist and my right hand to reach  
15           around, get my cuffs and apply, so apply a single cuff  
16           to Mr Bayoh's wrist. That was basically my attention.

17           As I'm kneeling, I have grabbed control of the wrist  
18           and I have gone in like that (indicating), but as I'm  
19           trying to do that Mr Bayoh was basically pulling his  
20           hand forward or lifting up. Whatever he was doing with  
21           his hand, it was dragging me towards him, like further  
22           in towards like his arm, so I just -- I was thinking

1 I need to get the cuff on and as I've gone to get my  
2 cuff he's flicked his legs so it's been a judd(?) to me,  
3 which has caused me to lose control of my cuffs and  
4 they've bounced out of my reach. At which point  
5 I thought "This is like" -- I now don't have my  
6 handcuffs so I moved from a position where I was  
7 straddling with Mr Bayoh's legs between my legs and  
8 under my bum, I basically then moved to a lying position  
9 across diagonally which -- it is probably easier if  
10 I again demonstrate probably both moves.

11 Q. Yes, I'm going to take you through all of this if I can  
12 and then I will get you to demonstrate all of this  
13 again.

14 So you have not got the reaction you wanted to the  
15 baton to the Achilles?

16 A. No.

17 Q. You're then on top of Mr Bayoh's legs.

18 A. So his legs --

19 Q. Straddling them?

20 A. Straddling them. So my weight would have been primarily  
21 on my knees, which were on the roadway, and then his  
22 legs under me, so between my legs.

1 Q. So he is under you with both legs between your legs?

2 A. Yes.

3 Q. And you're putting your weight on your knees at that  
4 point?

5 A. Yes, because that's the most stable surface.

6 Q. The ground is the most --

7 A. The ground is the most stable surface, aye.

8 Q. Is he still struggling at that point?

9 A. Yeah.

10 Q. So his legs are moving, but are you maintaining your  
11 position at that stage?

12 A. Yeah, for a very short time I maintained that position.

13 Q. And then you have described Mr Bayoh's right wrist or  
14 hand being on the ground and you were trying to secure  
15 that with a view to applying a handcuff, a single cuff.

16 A. Yeah.

17 Q. But you weren't able to secure that and the cuffs  
18 bounced away.

19 A. Yes. Basically Mr Bayoh flicked his legs, or did  
20 something with his legs that caused me to lose balance  
21 and I lost the grip on my handcuffs, but the way they  
22 fell meant that they bounced, so then I couldn't -- they

1           were too far for me to reach, or I was scared that if  
2           I got off to try and collect them that we would have  
3           lost total control.

4        Q. Right. So when he moved his legs, that caused you to  
5           move your body as well?

6        A. Aye. Again, I reassessed -- based upon now the fact  
7           that I don't have my handcuffs, the only option I had  
8           left was obviously my leg restraints, but that's  
9           a two-person technique and I would need someone else to  
10          help me with that so ...

11       Q. And when you moved, because he had moved his legs, did  
12          your knees come off the ground or did one come off the  
13          ground?

14       A. It was kind of like a motion that -- if you imagine  
15          somebody vaulting a fence, so what I've done is I've  
16          basically used my hand to basically support myself on  
17          the roadway and then I've basically flicked what would  
18          effectively be my right leg from under me and across,  
19          and then taken a position -- so instead of Mr Bayoh's  
20          legs being under my legs and through under my bum, his  
21          legs would now be under here (indicating).

22       Q. I think I will ask you to demonstrate that now, if you

- 1 don't mind.
- 2 A. Yes. Do you want me to demonstrate how I was originally  
3 and then into --
- 4 Q. Yes, please. So if you could demonstrate how you were  
5 originally please, so you're kneeling down and you're --
- 6 A. The difference being obviously I've got my police boots  
7 on as opposed to a pair of brogues, but (indicating)  
8 considering it's impossible for me to go down any more  
9 than that so my weight is on my knees. His legs through  
10 there and as we've seen in the presentation, his wrist  
11 like that, that's an opportunity for me to try and gain  
12 control so I've locked on.
- 13 Q. And you're using your left hand --
- 14 A. So that would be -- so like that (indicating).
- 15 Q. Right, so you're now gesturing with your right hand, as  
16 if that was Mr Bayoh's hand, and you're using your left  
17 hand to wrap it round the wrist.
- 18 A. Yes, pulling it back basically so I could reach  
19 around -- my handcuffs are positioned here (indicating),  
20 so my view was to go like that (indicating), handcuffs  
21 around and (inaudible - too far from microphone).
- 22 Q. And that would have brought his right arm round his back

1 so you could have then gained some control.

2 A. Some control. We would then have needed obviously to  
3 gain control of the other arm which (inaudible - too far  
4 from microphone).

5 Q. So PC Walker was in front of you at that point, still  
6 over Sheku Bayoh?

7 A. He can't have been over Sheku, Mr Bayoh, if I had been  
8 able to like get the wrist, like, he must have been at  
9 the side because I had a clear opportunity to secure the  
10 wrist and pull in, so he must have been towards the side  
11 but in a position whereby I could see his back.

12 Q. Right. I will need you to come back and say that again  
13 into the microphone, sorry, because it doesn't pick up  
14 what you're saying. So you have demonstrated how you  
15 were straddling Mr Bayoh's legs.

16 A. Yes.

17 Q. Which part of his legs were under your bum?

18 A. So it would have been -- I don't know. It would have  
19 been the middle portion of his legs but I don't know if  
20 it was the thigh, the knee or, like, the calf.

21 Q. So when you say the middle part of his legs, what are  
22 you meaning?

1 A. So like, if you were to look at a person, like, that  
2 middle section where the knees are so what would have  
3 been under me would have been sort of knees.

4 Q. So his knees would have been under your bottom?

5 A. I think so. That's the -- that would give me enough  
6 reach at least mechanically to allow me to try and cuff  
7 the wrist.

8 Q. And you have described PC Walker; what was PC Walker  
9 doing?

10 A. So -- I don't know what PC Walker was doing. He was  
11 trying to obviously gain control. From his position  
12 I can assume only that he was trying to gain control of  
13 his left arm because I could quite clearly see  
14 Mr Bayoh's right arm and that's how I was able to have  
15 an opportunity to take a hold and secure the rest, so  
16 from his position, like, I can only assume that he was  
17 trying to gain control of his left arm but, as I say, my  
18 view of that was blocked because all I could see was the  
19 back of PC Walker's vest.

20 Q. Could you see where PC Walker's hands were or arms?

21 A. No.

22 Q. No. Could you see Mr Bayoh's left arm?

1 A. No, because it was blocked by the back of -- well, by  
2 PC Walker.

3 Q. Could you see PC Walker's legs?

4 A. No.

5 Q. Did you have any sense of where PC Walker's legs were?

6 A. No, they can't, like, they can't have been in my way  
7 because I was able to basically rest at the side of  
8 Mr Bayoh's legs with my knees, so, like, I don't know  
9 where they would have been, but they must have been  
10 tucked out of my way because, like, I didn't ever  
11 interfere with his legs, I didn't get unbalanced by  
12 PC Walker's legs, like, I didn't see them sticking out  
13 or flailing about.

14 Q. And PC Walker's legs weren't under your -- between your  
15 legs?

16 A. No, no, they wouldn't have been -- there wouldn't have  
17 been enough space for three legs to get under.

18 Q. And then you described moving your position which was  
19 from straddling --

20 A. Yes.

21 Q. -- Mr Bayoh's legs, and you talked about lying  
22 diagonally.

- 1 A. Yes.
- 2 Q. So can you tell us about that -- and if it is easier to  
3 demonstrate that position, please --
- 4 A. Aye, I think it's probably easier to demonstrate and  
5 then I can always speak through it.
- 6 Q. And then we can come back and get the description.  
7 Thank you. Please come back.
- 8 A. So from this position (inaudible - too far from  
9 microphone) so what I've done is I've basically used  
10 this part of my arm (inaudible - too far from  
11 microphone) support me.
- 12 Q. Right, let me just describe that in the microphones, so  
13 you're sitting in the position you described as  
14 straddling Mr Bayoh's legs, you previously spoke about  
15 being unbalanced and you're using your right hand?
- 16 A. (Inaudible overspeaking) --
- 17 Q. And you have put your palm flat on the ground, and you  
18 have described -- you have gestured to the forearm area  
19 using to regain your balance.
- 20 A. (Inaudible - too far from microphone) what I've done is  
21 I've done this (indicating) (inaudible - too far from  
22 microphone).

1 Q. Right, so let me just try and describe that. So you  
2 have moved quickly, using your right arm on the ground  
3 from the palm to the elbow, and you have effectively  
4 very quickly moved your legs, both of your legs to your  
5 side, the left side, and Mr Bayoh's legs are now between  
6 your right arm and your torso?

7 A. Basically (inaudible - too far from microphone).

8 Q. Right, and you're basically lying -- when you say  
9 "diagonally", you're lying across both of Mr Bayoh's  
10 legs?

11 A. Yes.

12 Q. And they're underneath the area of your right armpit  
13 really.

14 A. Yeah.

15 Q. Right. Thank you. If you could come back to the  
16 microphone.

17 So you have moved from that straddling position to  
18 the diagonal across his legs.

19 A. Yes.

20 Q. Where was PC Walker?

21 A. Still in the same kind of position.

22 Q. Is Mr Bayoh still struggling?

1 A. Yes.

2 Q. Were you aware of how PC Walker was getting on? Was he  
3 still -- you have suggested he was trying to secure  
4 Mr Bayoh's left arm?

5 A. That's only what I could assume from his position.

6 Q. Where was Mr Bayoh's right arm at this point?

7 A. It was still like that (indicating), like he was still  
8 able to move himself around and like that, because at  
9 this point I'm now not in a position to take a hold of  
10 any arms, because as I'm on the floor like that, I would  
11 use, kind of, another hand to stabilise myself but it's  
12 at this point I have pressed my emergency button so  
13 before I have gone into this kind of like press to stop  
14 myself falling face-first on the concrete I have managed  
15 to press my emergency button and try and shout "We're  
16 struggling to control, we need more units".

17 Q. Right. Well, let's just look at this, again, then,  
18 please. So if we could go back to the evidence video  
19 timeline and we will play 7.20.30 or thereabouts to  
20 7.20.42, or thereabouts. So start with 7.20.30. This  
21 is on page 3 of the spreadsheet, if you wanted to follow  
22 that. So the real time is at 7.20.29 and if we carry on

1 and play that to just after 7.20.42.

2 You can watch the CCTV. This is -- you have told us  
3 that's your van arriving.

4 (Video played)

5 Thank you. So that's just gone a second beyond  
6 42 seconds. You will see on the spreadsheet it says  
7 "PC Paton's emergency status is turned on", 7.20.42, and  
8 then we will carry on playing until just after 7.21.21.

9 (Video played)

10 Can you just play that just for another second or --  
11 thanks.

12 (Video played)

13 And could you perhaps rewind that and just play it  
14 until the end of -- thank you, that will be fine, just  
15 play from ...

16 (Video played)

17 Thank you. So you will see on the footage there  
18 that an emergency status red button has appeared and it  
19 says "Tomlinson", and you will see on the page 4 of the  
20 spreadsheet that it says it is 7.21.19,  
21 "PC Ashley Tomlinson's emergency status is turned to  
22 on."

1           And would that be when you have turned on your  
2           emergency status button?

3           A. Yes.

4           Q. Right. And did you have the chance to watch the CCTV  
5           during those -- I played it twice, the footage, or were  
6           you looking at the spreadsheet?

7           A. I was probably more looking at the spreadsheet than  
8           the ...

9           MS GRAHAME: Okay. Well, I would quite like to go back over  
10          the footage and I will maybe talk you through that as we  
11          go, so if we could go back to 7.20.39, so this is --

12          LORD BRACADALE: Ms Grahame, I'm just looking at the time.  
13          This could perhaps take a little time and I'm wondering,  
14          this might be a convenient time to stop now.

15          MS GRAHAME: Yes, I'm very happy to do that.

16          LORD BRACADALE: I think we will stop now and we will start  
17          again at 10 o'clock tomorrow morning, so back to normal  
18          time tomorrow. 10.00 am. Thank you.

19          (4.56 pm)

20                 (The Inquiry adjourned until 10.00 am on  
21                 Thursday, 26 May 2022)

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