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**Crawford Medical Legal Services Ltd**



## Medical Report

**Instructed by:** Crown Office and Procurator Fiscal Service, Procurator Fiscal's Office, [REDACTED]

**Procurator Fiscal Ref:** [REDACTED]

**Number of Report:** First Report

**Claimant:** Nicole Short

**Address:** [REDACTED]

**D.O.B:** [REDACTED] 1986

**Age:** 29 Years

**Pre-Injury Occupation:** Police Officer

**Date of Injury:** 3 May 2015

**Date and Time of Hospital Attendance:** 3 May 2015 at 07:34

**Place of Attendance:** Accident and Emergency Department, Victoria Hospital, Kirkcaldy, KY2 5AH.

## REPORT SUMMARY

This report details the condition and opinion of Nicole Short

### CONDITION

1. A minor concussive head injury.
  2. Superficial soft tissue injuries to the elbows, knees, left hand and right side of the face.
  3. Generalised, self-limiting musculoskeletal aches and pains.
- [REDACTED]
- [REDACTED]

### OPINION

1. In my opinion, this woman sustained a minor head injury and musculoskeletal soft tissue injuries on 3 May 2015 in the course of her duties as a Police Officer when she responded to an incident involving a member of the public.
2. In my opinion, from a medical point of view, the physical injuries sustained were not serious or life-threatening.
3. [REDACTED] the incident, during which she was in fear for her life and was convinced that she would be killed, [REDACTED]  
[REDACTED]  
[REDACTED]
4. In my opinion, the injuries identified were consistent with the mechanisms of injury described in the various accounts of how they were sustained.

## **1.0 INTRODUCTION**

This medical report is prepared at the request of Crown Office and Procurator Fiscal Service, Procurator Fiscal's Office, [REDACTED]

### **1.1 Qualifications**

1. I have twenty-six years experience as a Consultant in Accident and Emergency Medicine and Surgery at Glasgow Royal Infirmary and Honorary Clinical Senior Lecturer of the University of Glasgow. I am a Fellow of the Royal College of Surgeons of Glasgow, a Fellow of the Royal College of Emergency Medicine and a medical member of the Faculty of Prehospital Care of the Royal College of Surgeons of Edinburgh.
2. My professional activities also involved teaching and examination of paramedics and examinations for the Royal College of Surgeons of Edinburgh both at home and internationally.
3. Glasgow Royal Infirmary is a busy university teaching hospital treating approximately 90,000 patients a year in the accident and emergency department. This involves the resuscitation, investigation, diagnosis and treatment of undifferentiated medical, surgical and traumatic emergencies and responsibility for the follow-up of soft tissue injuries and the in-patient management and early rehabilitation of patients with brain injuries.

### **1.2 Summary of Instructions**

1. I have been instructed by the Crown Office and Procurator Fiscal Service, to prepare a report commenting on the injuries sustained by PC Short, on 3 May 2015 and particularly to comment on:
  - a) Whether the injuries are consistent with PC Short being assaulted in the manner described in the various accounts.
  - b) Whether the injuries are consistent with her being stamped on in the manner described.
  - c) Whether the injuries are consistent with her being propelled through the air and landing in the manner described.

- d) Whether there is anything in the injuries noted that casts doubt upon the accounts provided of the incident.

### **1.3 Methodology and Documentation available**

1. My report is based on my examination of the following documents:

#### Statements of first four Police Officers to attend the incident

PC Craig Walker

PC Craig Walker self-prepared statement (Productions 456)

PC Alan Paton

PC Nicole Short

PC Nicole Short self-prepared statement (Production 472)

PC Ashley Tomlinson

Copy of opinion by Lord Woolman that contains description of events by PC

Nicole Short

#### Statements and Precognitions of Civilian Eye Witnesses

Kevin Nelson

Sean Mullen

Danny Robinson

#### Statements of Medical Witnesses who examined PC Short

Lee Ann McLaughlan

Dr Katherine Mitchell

Dr Gillian Norrie FME

Dr Zoe Smeed

Dr Erica Ellison

Dr Christopher Speakman

██████████

#### Medical Records and Reports

Pro 347 A & E Notes 3 May 2015

Pro 348 GCS Chart

Pro 349 A & E Notes 4 May 2015

Pro 350 NHS Fax Report

Pro 351 Copy Medical Discharge Letter 3 May 2015

Pro 352 Copy Medical Discharge Letter 4 May 2015  
Pro 489 Facial Views of PC Short taken by herself on 5 May 2015  
Pro 490 Forensic Medical Record PC Short  
Pro 499 Forensic Medical Report PC Short  
Pro 550 Copy Material Part General Medicine Maxillo Facial Medical Notes  
Pro 551 NHS 24 Fax Report 4 May 2015  
Pro 552 NHS 24 Fax Report 10 May 2015  
Pro 582 Copy of [REDACTED] Patient Record  
Pro 594 Medical Report Dr IWR Anderson  
Pro 644 Transcript NHS Calls 4 May 2015  
Pro 645 Transcript NHS Calls 10 May 2015  
Pro 710 Forensic Report

CCTV Footage provided by Police Investigation and Review Commissioner

**1.4 Patient Particulars**

**Full Name:** Nicole Short

**Address:** 

**Date of Birth:**  1986

**Age at Date of Report:** 33 Years

## **2.0 HISTORY**

### **2.1 History obtained from Claimant**

1. Not applicable.

### **2.2 History from Medical Records**

1. This 29-year-old Police Officer attended the Accident and Emergency Department of the Victoria Hospital, Kirkcaldy, on 3 May 2015 at 07:34 following an incident that was recorded as occurring at 08:10 (sic) on the same day.
2. The type of incident was noted to be "Assault/fight". The presenting complaint was recorded as "Head inj" (Head injury).
3. Initial assessment revealed a respiratory rate of 16 breaths per minute with a normal oxygen saturation of 98% on room air. The heart rate was 86 beats per minute and her blood pressure was slightly elevated at 143/81 millimetres of mercury. Her temperature was slightly elevated at 37.3<sup>o</sup> Celsius and she was fully conscious, alert and orientated, with a normal Glasgow Coma Score of 15/15. Both pupils were equal and reactive to light.
4. She was seen and examined by 2<sup>nd</sup> Year Foundation Dr Katherine Mitchell at 08:20. Dr Mitchell noted that the patient was a 29-year-old female Police Officer who had been chased by a member of the public that morning and sustained blows to the back of the head.
5. She remembered falling and putting her arms out to save herself. She curled up into a ball and was then lifted by one of her colleagues and told to sit in a Police Van.
6. She complained of an occipital headache. She had not vomited since the incident. She was noted to be generally fit and well and had no significant past medical history.

### **2.3 Examination in the Accident and Emergency Department**

1. On examination she was maintaining her own airway. Breathing assessment revealed that she had no chest pain and she had no obvious injury to the chest. Percussion was resonant throughout and auscultation revealed clear air entry with normal vesicular breath sounds throughout both lung fields.

2. Circulatory assessment revealed that she was peripherally warm; heart sounds were present with no added sounds.
3. The abdomen was soft and non-tender on palpation with no obvious abdominal injury and no abdominal pain.
4. Neurological assessment revealed that she was fully conscious, alert and orientated, with a normal Glasgow Coma Score 15/15. Both pupils were equal and reactive to light. Cranial nerve examination was normal with no neurological deficits identified. She had no double vision and no leakage of cerebrospinal fluid from the nose or ears. She was noted to have redness of the right external ear. Ear examination revealed no evidence of blood in the ears and no evidence of bruising over the Mastoid processes (Battle's Sign).
5. She had no cervical spine tenderness on palpation. Limb examination confirmed normal power, tone, sensation, coordination and reflexes in both upper and lower limbs. She had abrasions over both elbows and knees with abrasions and slight soft tissue swelling on the palmar aspect of the left hand (hypothenar eminence). There was no associated bony tenderness.

#### **2.4 Investigations**

1. None.

#### **2.5 Diagnosis and Treatment**

1. A minor head injury was diagnosed, with no associated neurological deficit and no bony injury.
2. Dr Mitchell discussed the patient with Dr R Anderson (sic) who agreed with the plan. She was discharged with head injury advice and advised to stay with someone overnight.
3. A Discharge Letter was sent to the General Practitioner which stated "*Miss Short attended following a head injury. She sustained blows to the back of the head. There was no loss of consciousness and as no abnormal features were detected on neurological examination, she was discharged with head injury advice.*"



## 2.6 Forensic Examination Record by Dr Gillian Norrie

1. PC Short underwent a Forensic examination by Dr Gillian Norrie at 15:45 on 3 May 2015 in Kirkcaldy after being discharged from hospital earlier that day.
2. Dr Norrie noted that PC Short had been called to an incident at 07:15 for “Black man chasing cars”. When she arrived, two colleagues were spraying (sic). Nicole’s colleague sprayed, then Nicole took baton out (sic) but ran away as she was chased.
3. She was hit on the head with fists and fell forward onto her hands on the ground then her back was stamped on. Her colleague arrived and ... illegible word .... to van to safety. She then attended A & E for a check-up where she was discharged with analgesia and observation.
4. Dr Norrie examined the Police Officer and her height was recorded as 1.55 metres (5 feet, 1 inch) and her weight 50 kilograms. Vital signs were normal with a normal heart rate of 74 per minute and a blood pressure of 114/82 millimetres of mercury.
5. Neurological examination confirmed that the pupils were equal and reactive to light, movement was smooth and symmetrical, fundoscopy was not done. Cranial nerves were intact.
6. Chest and abdominal examination were normal. Examination of the ears revealed no abnormalities.
7. The following injuries were noted:

### **Right knee**

- 1) A 1 centimetre by 1 centimetre abrasion which was circular and red in colour, on the kneecap (patella).

### **Left Knee**

- 1) A 3 centimetre horizontal by 2 centimetre, vertical, red, circular abrasion, 1 centimetre superior to the tibial tuberosity.

### **Left Hand**

- 1) A 1 centimetre, circular, blistering bruise on the hypothenar eminence of the palm, with erythema and tenderness.

## Head and Neck

- 1) There was no external evidence of injuries to the head and neck but she was found to be tender over the right occipital area of the head and over the right mastoid process.
- 2) The cervical spine was also tender on the right side but no visible injuries were identified.

## 2.7 Progress

1. She re-attended the Victoria Hospital, Kirkcaldy on 4 May 2015 at 15:40 having been referred by NHS 24. The presenting complaint was recorded as “Head inj/further complaint”.
2. The NHS 24 Fax Report revealed that she called NHS 24 at 14:33 on 4 May 2015. The reason for the call was recorded as “Light Headed 24 hours”.
3. The clinical summary noted:

*“Light headed for 24 hours and Pt (patient) is a Police Officer and whilst on duty yesterday received a punch to the back of head, fell to ground, then stamped on. Taken to A&E and discharged yesterday. Feels light headed and spaced out. Memory loss too, Advised A&E 4 hrs.”*

4. She was seen by Dr Zoe Smeed, whose status couldn't be identified but may be a 5<sup>th</sup> Year Specialty Trainee, at 16:40, who noted the patient was a 29-year-old Police Officer who had re-attended the Department. Dr Smeed noted that the patient had been chased by a member of the public at work yesterday (sic) and sustained an alleged assault. She had blows to the back of her head, back and was stamped upon her back.
5. The doctor queried whether the patient had a loss of consciousness at the time. She had been seen in the Emergency Department and discharged. [REDACTED]  
[REDACTED]  
[REDACTED]
6. She had no symptoms of nausea and had not vomited. She had mild headaches that resolved with analgesia. She also complained of “All over body pain”, and intermittent lightheaded episodes. [REDACTED]  
[REDACTED]

## **2.8 Examination in the Accident and Emergency Department**

1. Examination revealed that her chest was clear with good air entry. Heart sounds were normal and the abdomen was soft, non-tender and bowel sounds were present.
2. Her Glasgow Coma Scale was recorded as E4; M6; V5 (GCS 15/15). Both pupils were equal and reacting to light. She had a full range of eye movement and she was orientated. Cranial nerves were intact. Plantar responses were downgoing.
3. She had mild soft tissue facial swelling on the right side, with no bony tenderness of the facial bones or temporomandibular joints. She had a full range of movement in the neck, with no cervical spine tenderness. She had no tenderness of the thoracolumbar or sacral spine and no evidence of bruising. She was mildly tender over the right paraspinal muscles. [REDACTED]  
[REDACTED]

## **2.9 Investigations**

1. None.

## **2.10 Diagnosis and Treatment**

1. The doctor made the following clinical diagnoses:
  - a. A minor head injury
  - b. Post-concussion syndrome
  - c. Soft tissue injuries[REDACTED].
2. There were no clinical indications for CT imaging. She was given Co-codamol and Ibuprofen tablets for pain relief and discharged with head injury advice. [REDACTED]  
[REDACTED]  
[REDACTED] She was further advised to seek medical advice if there were other concerns.

## **2.11 Further Progress**

1. She attended her General Practitioner on 5 May 2015 with ongoing problems with pain in the neck and post-concussion-type symptoms, but there was no further information available in the documents provided.

2. She had further contact with the Out of Hours Service on 10 May 2015, complaining of a loss of power on the right side of her face, pain behind the right ear and reduced sensation in the face. She was referred to the Acute Medical Assessment Unit, where a CT scan showed no abnormality.
3. Review of the Acute Medical Assessment Unit Notes revealed a history of having been violently assaulted during the apprehension of a suspect, in the course of which she was punched to the back of the head, followed by a collapse and was stamped on whilst on the ground.
4. Friends had noticed a facial droop on the right side on the evening of admission. She had one week's worth (sic) of intermittent concussive symptoms consisting of nausea, vertigo, blurred vision, diplopia and word finding difficulties. However, she had persistent sensory disturbance affecting the right side of the face, with a right-sided facial droop and subjective weakness on that side.
5. According to the notes she also had anterograde amnesia. She had some neck stiffness initially, which had resolved. She had been prescribed [REDACTED] [REDACTED] Naproxen for pain on 5 May 2015.
6. General examination showed no abnormalities of cardiovascular or respiratory systems and the abdomen was soft and non-tender. She had a full range of movement of the cervical spine. Focal bony tenderness was noted over the mastoid process on the right, but there was no evidence of haematoma or bogginess.
7. Neurological assessment confirmed a Glasgow Coma Score of 15/15. Cranial nerve assessment revealed reduced sensation on the right side of the face and a subtle, right-sided facial droop at rest and on movement. Neurological examination was otherwise unremarkable.
8. She was reviewed on the Consultant Post-take ward round on 11 May 2015. The previous history was noted and it was further noted that she had felt intermittently dizzy and drunk since the incident. On the day prior to admission she had numbness on the right side of the face and she had felt weakness in the right arm. She also had a right-sided headache and neck pain. She was tender over the right trapezius muscle and subjective alteration of sensation was noted on the right side of the face, but there was no asymmetry.
9. The Consultant's clinical impression was that she had suffered trauma to the head and neck with concussion. A CT Scan of the head and cervical spine were ordered, which showed no abnormality. She was reassured and advised that the symptoms

were likely to be due to concussion. She was given advice and discharged with Naproxen for symptomatic relief.

10. On 18 May her General Practitioner made an urgent referral to the Oral Surgery Clinic at the [REDACTED] Hospital, [REDACTED] because she had ongoing symptoms related to abnormal facial symmetry with slight drooping of the right side of the mouth and continuing reduced sensation across the forehead, cheek and chin area on the right side.
11. She was reviewed at the Clinic on 8 June 2015. Further investigation with MRI of the head and neck and Ophthalmology assessment were to be carried out because of a clinical suspicion of enophthalmos (shrinking of the eye into the eye socket) and further review was planned.
12. No further information was available in the documents provided regarding the investigations or outcome.

### **3.0 STATEMENT OF NICOLE [REDACTED] SHORT DATED 13 MAY 2015**

1. Miss Short's Statement described the events leading up to the incident in which she was injured. On Page 6 of the Statement, she said "As we turned round the wee white painted roundabout into Hayfield Road I was astounded at what I saw in front of me". She saw two Police Officer colleagues confronting a large, muscular, black male, around six feet tall, and they had their sprays out (sic). They were shouting at him to stop, but he kept moving towards them. She described him as having a crazed look about him and she was in no doubt that he was going to attack them.
2. She stated: "I was absolutely terrified at what I was witnessing. I have never seen a more frightening crazy man in my life and I could see he was completely out of control ... I was terrified beyond belief ... I could feel my legs turning to jelly and my whole body shaking in fear". As she jumped out of her vehicle the other Police Officers sprayed the man, who was laughing at them.
3. On Page 8 she said: "I was in terror as he came at me and only me and I could see his muscles totally pumping. I knew he was going to kill me. I was shouting "Get back or I'll strike" as I tried to create more space between us. I swiped my baton in fend-off motion in front of me to try and create space. ... there was no doubt he was going to attack me and kill me. In terror and in fear of my life I just turned and tried to run away. I remember screaming "No" and crying but no tears were coming out and struggling to breathe".

4. She further stated: "I remember feeling his presence behind me and then I felt an almighty blow to the back of my head. The blow was so powerful it knocked me flying to my face. I remember seeing the kerb coming towards me and trying to put my hands out to stop my face hitting the ground. I passed out at this point. The next thing I remember was curling up in a ball to protect my head. I thought I was going to die and had resigned myself to the fact. I remember lying curled up in a ball on the ground totally powerless and waiting to be killed .... I was totally traumatised and frozen with fear".
5. On Page 9 she stated "He (Alan Paton) physically lifted me up by my vest before screaming into my face "Run to the van, run now". I tried to run but couldn't. I had a searing pain on my right-hand side. I had no idea what was causing the pain but was later told that the guy had been stamping on me every time I tried to get up. I have no recollection of this".
6. On Page 10 of the Statement she said that she was taken by CID car to A & E and was left on her own, crying in the waiting room. She was examined and discharged without any pain relief but was advised to take Paracetamol and Ibuprofen. However, she was not given any. She said that she was in a lot of pain at that time, but it was not nearly as bad as the pain she was in over the following days. "When I was in severe pain all over."

#### **4.0 STATEMENT OF SEAN MULLEN**

1. Sean Mullen was a witness at the scene. He was driving past the locus when he saw a Police vehicle approach at speed from the left of the roundabout and drove onto Hayfield Road and stopped at the bus stop. He stopped his car next to a tree to see what was happening.
2. He said that a male and female Police Officer jumped out of the car. They had their batons drawn and their CS Spray (sic). He saw a man standing on the footpath behind the bus stop. He said that he saw the officers approach the man and he thought that he saw the female spray the man, but it had no effect. The two officers struggled with the man and the female Police Officer ended up on the ground and she was hurt. She ended up limping away towards the Police vehicle (sic).

#### **5.0 STATEMENT OF PC ASHLEY TOMLINSON**

1. PC Tomlinson provided a Statement on 4 June 2015. PC Tomlinson described the situation when they arrived. He challenged Sheku Bayoh then attempted to spray

him from a distance of approximately four to five metres. The wind was strong and the spray missed him. He continued to spray him but the spray missed his face again.

2. He was shouting at the man who was standing still at that point and PC Tomlinson withdrew his baton and placed it in the high carry position with his right hand (sic). The man started to run towards PC Tomlinson but then veered to the right and ran directly towards PC Short.
3. Sheku Bayoh ran past him and PC Tomlinson turned around 180 degrees and saw him chasing PC Short, who was running across the road away from the bus stop. Sheku Bayoh caught up with her and punched her on the back of the head. She fell to the ground face down and she tried to protect her head and push herself up with her hands at the same time. PC Tomlinson ran over to assist her but before he could reach her Sheku Bayoh stomped (sic) on her back with his foot, with a great deal of force (sic). According to PC Tomlinson, Sheku Bayoh put his full body weight into the stomp (sic) and used his arms to gain leverage.
4. After Sheku Bayoh did this, PC Short went back to the floor (sic) and never moved. PC Thomlinson stated he thought that he had killed her. Mr Bayoh stomped on her back again with the same force and she wasn't moving. PC Tomlinson stated that he struck Sheku Bayoh once on the back of his head to the left side with no effect. Sheku Bayoh stopped stomping PC Short and PC Tomlinson thought he struck him again two or three times in the head area.
5. At that point, Mr Bayoh turned around and took up a boxing sort of stance, with both fists clenched in his chest. PC Tomlinson thought he was going to be attacked again and struck Sheku Bayoh two or three times with the baton to his arms. PC Craig Walker came in at that point and grabbed the man like a bear hug (sic) and wrestled him to the floor. PC Walker was trying to control his arms and PC Tomlinson tried to get a hold of his legs which were kicking out in the air. PC Tomlinson struck the back of his legs a few times, but it failed to control him. He then threw his baton to one side and jumped on Sheku Bayoh's legs to try to control him.

## **6.0 STATEMENT OF PC ALAN PATON**

1. PC Paton provided a Witness Statement on 4 May 2015 at 11:15. This Statement described the events leading up to the encounter with Sheku Bayoh on 3 May 2015 and went on to describe the incident.

2. He stated that upon entering Hayfield Road, he was the first Police vehicle on the scene and he could clearly see a large, black male on the street in front of him. He was near to the bus stop and the path which lead to Hendry Road. The man was facing him and walking towards him with his arms at his sides and with his palms facing forwards. PC Paton said that he had no knife in his hands and he did not see any knife about his body at that point.
3. He said that PC Craig Walker stopped the vehicle on the road at an angle and he was getting out of the vehicle just before it stopped. PC Paton said that he went straight out of the passenger-side door of the van and immediately took out his CS Spray. He held his spray in his right hand and pointed in the direction of the man and shouted loudly and very clearly “get down on the ground”. The man continued walking towards him and ignored him. PC Paton said that he feared for his life and he pressed the red emergency button and again shouted to the man, who continued to ignore him as he approached him.
4. PC Paton used his CS Spray when the man was approximately ten feet away but stated that although some of the spray hit him on the face, the wind was blowing towards him at the time and most of the spray was blown back into his own face. At that point, PC Walker had come out of the van and approached Sheku Bayoh from his left side. PC Walker discharged his Pava Spray towards Sheku Bayoh.
5. At that point, PC Paton was suffering from the effects of both CS Spray and Pava and was unable to keep his eyes clear and he felt very vulnerable, so he went to the back of the Police van.
6. At the time he was thinking about the soldier Lee Rigby who had been killed and he felt that he would be stabbed or struck on the head. He heard PC Short, who was between the van and Hendry Road, screaming behind him. PC Paton’s eyes were still streaming at that point and as he tried to open his eyes, he could see PC Short trying to get up to her feet. She fell down each time she tried. PC Paton went over and lifted her up and she was hysterical. She was standing up but he was holding her by the lapels and when she was able to stand on her own he told her to go and sit in the van and he thought that she had made her own way to the van.

## **7.0 STATEMENT OF PC CRAIG WALKER**

1. PC Walker provided at Statement on 4 June 2015 at 11:55. The preceding events were described, during which he had sustained some Pava droplets in his eyes, which caused him to retreat behind the Police van to create a distance from the assailant.



2. He was trying to clear his eyes and when he looked up he saw the man chasing PC Short. PC Walker said that both PC Short and the man were in view when he first saw them, she was running away from him and he was chasing after her. He was about four feet away. PC Walker turned towards PC Paton and asked him for his baton and when he looked back to PC Short again she was falling to the ground with the man immediately behind her. He said that both her feet were off the ground and the man had his hands raised. PC Walker believed that she had been pushed on the upper part of her body to the ground.
3. He turned back to PC Paton and took his baton, he then turned towards PC Short and started running towards her and the assailant. At that time PC Short was lying face down in the prone position on the road and the man was on the side of PC Short, opposite to PC Walker. The man was at right angles to her and facing PC Walker. PC Walker had a clear view of him and saw him with his right leg raised in a high position. He also had his arms raised at right angles to his body and the man brought his right foot down in a full force stamp onto her lower back, kidney area (sic). As PC Walker ran towards him, he saw PC Tomlinson come towards him and engage with him in some way. He said there was a physical coming together (sic) and the man took a step back towards the pavement, away from PC Short.
4. PC Walker continued towards him with the intention of striking him with his baton, but as he did so, he changed his mind and “shoulder charged” him with his left shoulder, with a fair bit of force, causing the assailant to fall backwards towards the pavement. They both fell together onto the pavement. PC Walker was on his knees and the man was on his back. He said that the man tried to punch him two or three times and he punched the man on his left cheekbone and struggled to try to gain control of him. At that point, PC Tomlinson approached from the right side and PC Paton came into his view from his left side, near the man’s head and they continued to struggle to control the man, who was very strong.

## **8.0 STATEMENT OF KEVIN NELSON**

1. Witness Kevin Nelson gave a Statement on 5 May 2015 at 19:00. He lived in a house near to where the incident occurred and saw some of the events on Sunday 3 May 2015.
2. He said that he approached the front window of his living room and opened the blinds and saw a Police van turn right onto Hayfield Road, coming from the direction of Hendry Road, Kirkcaldy. The Police van parked to the right of his house, on the opposite side of the road, just before a bus stop. He saw a male Police Officer with an extended black baton in his right hand, with his back towards

the witness. He appeared to be pointing at someone with his left hand. The witness's view was obstructed by the Police van but he formed the view that the Police Officer was pointing with his left hand and indicating with the baton to the ground. He then observed what he thought to be pepper spray in his left hand and at the same time he noticed a female Police Officer. He then saw a stream of liquid exit a canister and the wind appeared to blow it into the officer's face. The Police Officer almost immediately began rubbing his eyes.

3. He then saw a male walk out from the side of the Police van and begin to walk towards his left. The male ignored everything that was being said and started walking along the road. The witness remembered being aware of at least a further two marked Police vehicles approaching from his left and at least one from his right.
4. He also remembered noting the male suddenly appear to realise a Police Officer was talking to him and he turned and started shouting back. He became aware of a second male Police Officer appear from the side of the Police van, who stood to the right of the female, who was then in the middle between two male officers. He could hear shouting and the black male stepped towards the female officer and appeared to lunge at her with his left fist towards her face and head area. The witness believed that the male struck at her with his closed fists at least three times. He heard her scream.
5. At that point he decided to go into his front garden and by the time he got there, he saw the male face down on the pavement to the left of the house, on his side of the street. He was unable to get a clear view of the male as five or six male Police Officers were attempting to restrain him.

## **9.0 STATEMENT OF DANNY [REDACTED] ROBINSON**

1. Witness Robinson gave a Statement on 14 May 2015 at 18:00. He was a passenger in the car driven by Sean Mullen, who were on their way home after having been at another house watching a boxing match on the television. He had been pretty drunk that night (sic). On the way home he witnessed an encounter between the police and a black male. He saw a male and female Police Officer get out of their vehicle who ran towards the male who had his back to them. The male turned around and walked towards the officers who started to back off (sic). They were walking backwards and he saw the female Police Officer spray CS at the male. She was walking backwards at the time and had her hand out towards him.
2. He said that the black guy (sic) went to the female officer and picked her up and slammed her down on the floor (sic). The female officer was screaming. He said the

black guy fell on top of the female officer (sic). The male officer went towards the black guy and looked as if he was trying to grab the black guy as he was trying to get up (sic). When the other officers arrived, he asked Sean Mullen to take him home and they left the scene. At the end of the Statement he stated “when the female officer was slammed down on the ground, the black guy definitely lifted her up off her feet with his two hands and threw her down on her side. I can’t remember what side she landed on. I was really shocked at this”.

3. Witness Robinson gave a further Precognition Statement on 12 October 2016. In that Statement he also said “I think he picked one of them up, the woman police officer and slammed her to the ground. ... he definitely picked one of them up and slammed them to the ground, I think it was the female Police Officer. More Police Officers came and they overpowered him and piled on top of him on the ground. ... I remember that the Police Officer screamed when she was slammed to the ground. They went to hit him with truncheons no long (sic) after he slammed the woman.”

## **10.0 DRAFT OPINION OF LORD WOOLMAN**

1. Lord Woolman’s Draft Opinion in the Petitions of PC Nicole Short and PC Alan Paton against Decisions of the Scottish Police Authority refusing to allow them to retire on medical grounds contained a detailed account of her version of the events of 3 May 2015 in a Sworn Affidavit which he set out at length. This account was more detailed than the previous Statements and I have reproduced below an extract of her account of the circumstances in which she was injured:

“Constable Tomlinson alighted from our vehicle first and we met outside at the front of the vehicle. Mr Bayoh was now walking along the grass near the pathway outside the industrial estate .... He was walking in the opposite direction from Constables Walker and Paton. .... Mr Bayoh appeared to be on a mission from the manner in which he was walking. He appeared out of control and dangerous and given the reports of him chasing people with a knife as well as his demeanour and the way he didn’t react to the sprays, I felt that he could not be permitted to leave. I was terrified that he was going to kill a member of the public if he was allowed to leave the street, which is what he was trying to do. I still fully believed that he had a knife in his possession. I issued Mr Bayoh with verbal instructions and commands to stop by shouting, ‘stop ... stay where you are, put your hands behind your back, get down on your knees’. He ignored me. Constable Tomlinson shouted commands simultaneously, including a threat to use his spray if Mr Bayoh did not stop. Mr Bayoh did not stop, and he did not turn back. Constable Tomlinson was facing Mr Bayoh and I was behind them. Constable Tomlinson

used his spray on Mr Bayoh and I had my spray out of its holster in preparation to use it. I could see the path of the spray and it hit Mr Bayoh in the face I could see it running down his face but he kept laughing and just wiped it as if it was water, and kept walking in the same direction. I could see that despite being sprayed on at least two occasions which I was aware of, the spray was having no effect upon Mr Bayoh. We had issued verbal commands, we had drawn our sprays, we had threatened to use our sprays, sprays were then used, but nothing was working and we were not in control of the situation at all.

In response to the escalating situation, I removed my baton from its holster and shouted a command to Mr Bayoh which was 'I have a police baton, put your hands behind your back, get on your knees'. Mr Bayoh responded at the point when I said, 'get on your knees' by turning his head halfway to the side and stating, 'what the fuck \*It was like he scoffed. When he turned to his left, to face us, I could tell that he was under the influence of drugs. He was completely unresponsive. His face was expressionless, completely blank. He was not listening. His reaction to being sprayed was consistent with being under the influence of drugs and his eyes were totally black. I have never seen anything like it before, he was like a zombie. Mr Bayoh then looked at Constable Tomlinson, then at Constable Walker. He shouted, 'fucking come on then' and then moved towards me. The manner in which he moved was like he was skipping in the way I have previously seen boxers skip. At this time my thoughts were mostly in relation to the knife as I still ... did not know where it was. I believed it to be in his possession somewhere. I tried to step back and tried to keep distance between us. I still thought in my head that he would stop eventually. In all my years of service I have never needed to use my baton or spray at all and usually, because I am so short and petite, this serves to de-escalate situations with men. Part of me still believed that is what would happen, but he just kept coming towards me. I swiped my baton at him whilst he was skipping towards me to try to show him that I was serious and that he needed to stop. I swiped towards the middle of his body and I completely missed him. Mr Bayoh was now so close to me that he was right in my face and I decided to turn around and run. I was screaming at this point and desperate to get away from him. I screamed 'NOOOOO'. I knew that he was chasing me, and I knew that he was right behind me. I could hear him behind me and I knew from what he had said and the way he had moved towards me that he was going to hammer me. I felt an enormous blow to the back of my head over to the lower right side. ... I went flying. My feet actually left the ground and I landed on the ground almost at the other side of the road. ... At the time, I remember thinking that I would not let my head be kicked about like the videos they showed us in Officer Safety Training

and so I grabbed my hair which was in a bun and wrapped my arms around my head. I curled my body into a ball to protect myself. I did not feel him hitting me again and I'm not sure that I was conscious, but I was later told that he stamped on me at least three times.

I could not get up. I tried two or three times and I just kept falling back down on to my knees. I rolled onto all fours and tried to stand twice and could not. I felt someone helping me up. It felt like my legs were not working. I was desperate to get up. Constable Paton lifted me up by my vest and I recall that his complexion was grey. His eyes were bloodshot, he was really struggling to keep them open. Constable Paton pulled me to my feet and shouted in my face to 'run to the police van'. I staggered to my police van, then to the bigger van which had been driven by Constables Paton and Walker. The incident with Mr Bayoh continued, with other officers involved. I wanted to be further away. Whilst I was moving between vans, I tried to press my red emergency button, but my finger kept slipping off the button. I was like jelly. I do not know if I successfully activated the button or not. ... At this time, I was crying and hysterical. The wind had been knocked out of me and I couldn't breathe. Several of the officers asked me if there was blood and specifically stated that they thought I had been stabbed. I said that I had not and told them that I had been punched. I was unable to speak beyond that. I remember looking at myself and my new boots were scuffed, my police radio was upside down, my trousers were soaked and I could feel pain in my head, down my right side, in my knees and in my hands."

## **11.0 REVIEW OF CCTV FOOTAGE**

1. I have reviewed a section of CCTV footage provided by the Procurator Fiscal, showing the arrival of two police vehicles and the interaction between Police officers and Sheku Bayoh up to the point where he is taken down to the ground and restrained by several Officers.
2. I have watched the footage in the Procurator Fiscal's Office in Hamilton and at the offices of PIRC in Hamilton, both on a laptop and large screen television as well as on a Macintosh iMac Computer. I have watched the footage multiple times at various speeds including 50%, 25%, 10% and frame by frame. Unfortunately, the images captured by the camera and quality were insufficient for me to form an opinion, on the balance of probabilities, of the precise mechanism of injury sustained by PC Short during the encounter with Mr Bayoh.

## **12.0 REVIEW OF CLOTHING WORN BY PC SHORT AND FOOTWEAR WORN BY MR BAYOH**

1. On 11 June 2019, I examined the uniform and protective clothing worn by PC Short and the footwear belonging to Mr Bayoh at the PIRC offices under the supervision of PIRC Senior Investigating Officers Maurice Rhodes and William Little.
2. The items of clothing comprised:
  - a. Label 44- Karrimor left boot, waterproof; no protective metal toecap. The boot was lace-up and was in good general condition without significant wear and tear.
  - b. Label 46- a pair of heavy duty female uniform trousers made of 55% nylon and 45% wool with a 100% interior nylon lining extending to below the knee. On general inspection, there was no evidence of significant external damage to the trousers, but the inner nylon linings contained stretch marks around knee level and at the lower end below knee level.
  - c. Label 47- a Keela extra-small 100% Nylon Microfleece with signs of superficial wear.
  - d. Label 48- a thin Nylon short-sleeved Police issue T-shirt.
  - e. Label 50- a Police issue Utility Belt with adjustable attachments for handcuffs, baton, spray etc.
  - f. Label 51- a Ballistic Body Armour Protective Vest with a green square containing "Spike Plus" logo. The inner mesh Nylon lining corresponding to the area under the right armpit showed signs of wear and was burst.
  - g. A high visibility reflective yellow Police Gilet which had been chemically treated was in a sealed plastic bag and was not examined.
  - h. Label 166- a brown Urban Logik right shoe, UK shoe size 10. The uppers were in good condition and there was a superficial brown soil stain on the heel. Uneven wear was evident on the outer tread (lateral side) extending from the medial to lateral side. The uppers were cushioned and the soles were rubber-like material.
  - i. Label 167- Left Urban Logik size 10 shoe. The sole showed slightly more wear at one point revealing the underlying material but otherwise was the same as the right shoe.

3. On 18 June 2019 in the presence of Senior Procurator Fiscal Depute Fiona Carnan, I examined a sample Police Scotland Ballistic and stab body armour vest and High Visibility Utility Vest (Label 40). The latter contained pockets for storage of items and containing Klick Fast docks ([www.klickfast.com](http://www.klickfast.com)) for attaching radios etc.

## **12.0 IMAGE OF PC NICOLE SHORT**

1. I have been provided with a photograph (PRO 489) of PC Short taken on 5 May 2015. This showed a head and neck portrait image of an adult female.
2. There is slight facial asymmetry with a suggestion of slight facial swelling on the right side and possible bruising of the right cheek. The lips are asymmetrical with the right side slightly lower than the left. This could be due to associated swelling of the right side of the face or possibly weakness on the right side.

## **13.0 COMMENTS**

1. Unfortunately, it was not possible to clearly identify the precise injury mechanisms from examination of the CCTV footage. Reliance has been placed, therefore, on the events described in the various statements, the available medical records and documents supplied.

When she attended the Emergency Department shortly after the incident her main complaint was an injury to the head. The doctor noted that she had sustained blows to the back of the head from an assailant who chased her. She had an occipital headache. The doctor's examination was unremarkable apart from finding abrasions on both elbows, knees and left hand. She had no obvious symptoms or signs of a chest or back injury and she was discharged with routine head injury advice.

2. When she was examined later that day by Dr Gillian Norrie it was noted that the assailant had stamped on her back. Her physical injuries were documented, and she was noted also to have tenderness of the right Occiput, Mastoid process and the right side of the neck.
3. When she attended hospital for the second time the following day she reported further symptoms of "all over body pain" but her main concern was intermittent light-headedness, [REDACTED]. She had mild facial swelling on the right side and tenderness of the spinal muscles on the right side of her back. The doctor concluded that she was suffering from a minor head

injury with post-concussion syndrome, soft tissue injuries [REDACTED]  
[REDACTED]

4. Her symptoms continued and she eventually underwent CT scan of the head and neck which was unremarkable.

## 14.0 SPECIFIC QUESTIONS

I have been asked to comment on the following specific questions:

- a) **Whether the injuries are consistent with PC Short being assaulted in the manner described in the various accounts.**

There are several descriptions in the various statements, medical records and Opinion by Lord Woolman of the alleged assault of PC Short by the assailant. In my opinion, the injuries identified and the claimant's symptoms overall were consistent with being assaulted in the manner described in the various accounts.

- b) **Whether the injuries are consistent with her being stamped on in the manner described.**

In my opinion, the injuries were consistent with her being stamped on in the manner described. It is of note that the claimant had no recollection at the time or subsequently of being stamped on and there were no specific injuries related to that cause documented on her initial attendance at the Emergency department on the morning of the incident. In my view, however, if she had had been stamped on several times she could have sustained a concussive head injury with a brief loss of consciousness at that point, that would result in a brief retrograde and anterograde post-traumatic amnesia and she would have no recollection of this event.

In my view, on the balance of probabilities, this would explain the minor concussive head injury rather than the initial blows to the back of the head, of which the claimant had a full recollection, which would not be consistent with causing a concussive head injury. In my opinion, the complaint of all over body pain the following day would also be consistent with this account, as well as the effects of extreme physical exertion in a "fight or flight" situation. By that time also she had evidence of swelling and bruising on the right side of the face that was not evident on her initial hospital attendance immediately after the incident, or during Dr Norrie's examination later that same day.



**c) Whether the injuries are consistent with her being propelled through the air and landing in the manner described.**

In my opinion, the injuries were entirely consistent with her being propelled through the air and landing in the manner described. In my view, the soft tissues injuries on both elbows, knees and left hand strongly support the description given.

**d) Whether there is anything in the injuries noted that casts doubt upon the accounts provided of the incident.**

I could not find anything in the injuries or symptoms noted that was inconsistent with or cast doubt upon the accounts given of the incident.

## **15.0 OPINION**

1. In my opinion, this woman sustained a minor head injury and musculoskeletal soft tissue injuries in the course of her duties as a Police Officer when she responded to an incident involving a member of the public.
2. In my opinion, from a medical point of view, the physical injuries sustained were not serious or life-threatening.
3. In my opinion, however, [REDACTED] the incident, during which she was in fear for her life and was convinced that she would be killed, [REDACTED] [REDACTED]. However, I am unable to comment further as this is outwith my area of expertise and an opinion would be required from a suitably qualified expert in Clinical Psychology or Psychiatry.
4. In my opinion, the injuries identified were consistent with the mechanisms of injury described in the various accounts of how they were sustained.

**CLOSING DECLARATION AND STATEMENT OF TRUTH**

I believe the facts I have stated in this report are true and that the opinions I have expressed are correct.

This report is provided to those instructing me with the sole purpose of assisting those who are party to the matters on which the report comments. It may not be used for any other purpose, nor may it be disclosed to any third party without my express written authority.



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**16 August 2019**

**R Crawford MBE BSc (Hons) MB ChB FRCS (Glasg) FRCM**

**CONSULTANT IN ACCIDENT AND EMERGENCY MEDICINE & SURGERY**