

WITNESS STATEMENT

Agency Ref : **S187**  
PF Ref :

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Surname : MCDONOUGH Other or previous surname :

Forenames : James [REDACTED] DoB : [REDACTED]/1993 Age : 22

Occupation : Police Officer Other Occupation :

Police Station : Years Service : 7 months

Disclosable address :

Post Code:

This statement was taken :

Date and time : 4th of June 2015 12.20

By : GARRY SINCLAIR INVESTIGATOR  
Place : Scottish Police College

In the presence of : WILLIAM DAVIDSON INVESTIGATOR

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

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

States :

I am a police constable and I'm currently stationed at Kirkcaldy Police Office. I started working there on 3rd December 2014. I joined Police Scotland in the beginning of October 2014 and immediately went to the Scottish Police College for my initial training.

Prior to becoming a police constable I was a special constable and I worked at Dunfermline Police Office. I worked there for about a year. At this time I also worked for [REDACTED]. It was [REDACTED] role.

My registered number is [REDACTED] and my shoulder number is P435. I am attached to Team 4 at Kirkcaldy Police Office. It is a response team. My current shift inspector is [REDACTED]. My [REDACTED].

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previous inspector who was on duty on 3 May 2015 was Steven Kay. He was an acting inspector. There are two sergeants attached to my team. [REDACTED]

[REDACTED] On 3 May 2015 [REDACTED] one of the shift constables, Scott Maxwell, was doing his acting sergeant rank on the shift. On paper I'd say there are about ten constables attached to my team.

On March 2015 I'm not sure of the exact date, I completed an hours driving course which allows me to drive a police vehicle however I cannot drive a police vehicle with the emergency blue lights or siren in activation.

On Sunday 3 May my shift was 0700hrs - 1600hrs. I arrived at Kirkcaldy Police Office around 0630 hrs. I travelled there in my own private car and was alone. I was in civilian clothing at this time. I was wearing my jeans and a t-shirt. As soon as I entered the police office I entered the male locker room. I cannot recall if any other officers were within the locker room. The clothing I took from my locker was my black police issue trousers, black boots, black police issue t-shirt, black police issue fleece and my police issue utility belt. At that time on my utility belt was my handcuff key, my torch and my first aid kit. After that I walked to the room where the stab proof vests are kept. I put my vest on which has a fluorescent covering. On my vest were my mini torch, CS spray holder, handcuffs and police baton and my leg restraints. After that I went to my airwave locker and removed my radio and attached it to my vest. My police issue notebook and my CS spray was also in the locker and I took them out. I put the CS spray into the holder and my notebook into one of the zip pockets on my vest.

I then entered the briefing room which is next to the duty sergeant's room. I can't recall who else was within the briefing room when I entered however I do remember Kayleigh Good was there preparing the television monitor for the briefing. At this time I was unaware of what duties I would be carrying out and who I would be working with. I sat down and waited for the briefing to commence. As I was sitting other officers from my team entered and they sat down awaiting the briefing.

I'd say around 0650 hours that morning Acting Police Sergeant Scott Maxwell entered the room to commence the briefing. The officers that were there were Alan Smith, Alan Paton, Craig Walker, Kayleigh Good, Nicole Short, Daniel Gibson and Ashley Tomlinson. During the briefing I was informed that I would be working in the diary car and my neighbour would be Daniel Gibson. The diary car deals with lower priority incidents and members of the public make appointments for us to attend via the control room. The diary car's call sign is PM641 and is a marked Vauxhall Astra. The last three digits of the registration number are [REDACTED]. I'm sure that Ashley Tomlinson and Nicole Short were working together and their duties were within one of the response vehicles.

Acting Police Sergeant Scott Maxwell informed me that he had been unable to print the list of calls that Daniel Gibson and myself were to attend and instructed us to attend his room after the briefing and he would attempt to print out the list for us.

Around 0710 hours I went to the sergeant's room alone as Daniel was going to the writing room to deal with some paperwork and other work related things. I saw that

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Sergeant Maxwell was at his computer and before I was even able to ask him for a printout of our calls I heard a call over my airwave. I was on Kirkcaldy one channel. It was a male controller and he stated that a report had been made of a large male walking down Templehall Avenue carrying a large knife. The controller then instructed 41C to attend the call. I was aware that was the response vehicle that Ashley Tomlinson and Nicole Short were within. At this time I cannot recall if Ashley and Nicole were still within the office when the call came out. I cannot recall if they acknowledged the call however immediately I saw Sergeant Maxwell pick up his airwave and instruct all units to attend this location. When he instructed this I uplifted the police vehicle keys which were within the sergeants room and headed towards the writing room. Before I got to the room Daniel Gibson exited as he had also heard the call. Daniel is a fully qualified police driver and due to the nature of the call I handed him the vehicle keys so that he could drive.

I cannot recall if I was still in the office at the time but I remember Sergeant Maxwell asking if there was an Armed Response Vehicle or a dog van nearby. Again I'm not sure what one but I recall the controller stating that one of them wasn't on duty and the other one was on the other side of the Forth Road Bridge. The reply call from the controller was very quick after Sergeant Maxwell and asked them.

As far as I'm aware Daniel Gibson had all his equipment on including his baton, handcuffs and CS/PAVA spray. I'm not sure if it's PAVA or CS spray that he has.

Daniel and myself ran out to the yard and got into our marked Astra motor car. Daniel was driving. I was aware that other members of our team were entering other marked vehicles at this time. I cannot recall who was going into what vehicle. I was just concentrating on Daniel and myself.

We drove out of the police yard and headed towards the train station on St. Brycedale Avenue. I cannot recall if there were any other police vehicles in front or behind us. I do recall someone saying over the airwaves that they would attend via Victoria Road. Although we didn't shout in to the controller or even discuss with each other Daniel and myself attended via Hendry Road. Whilst we were travelling to the location there were updates from the controller that the male was black, he was muscular in possession of a knife and was heading towards Hayfield Road. Due to the number of calls that had been made I remember saying to Daniel that we may have a problem here. He didn't reply he was just concentrating on his driving. We were just approaching the mini roundabout at the old hospital when my airwave vibrated. I was aware that this meant someone had activated their emergency button. I looked down at the screen on my airwave. It said 691. I knew that this was Ashley Tomlinson. This informed me that it was Ashley who had activated his emergency button. I said this to Daniel. He was still concentrating on his driving but he looked worried when I told him. Seconds later I then heard Craig Walker's voice coming over the airwaves. He sounded out of breath and he was stating "Officer injured, officer injured". I'd say we were only about 30 seconds away from Hayfield Road. I remember going into a holdall that I carry with me and I took out my slash proof gloves which were given to me by my tutor constable. It was at this point we reached Hayfield Road. Daniel stopped at the side of the roundabout just as you enter Hayfield Road. I looked down Hayfield Road and saw Nicole Short standing slumped over next to the cell van which was facing towards Daniel and myself and

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was about 30 yards away. Nicole was holding her stomach area and she looked distressed. I also saw Kayleigh Good walking towards Nicole from the opposite end where I was. She was only a few yards from Nicole. Although I wasn't aware of how bad Nicole's injury was I felt better when I knew that Kayleigh was going to assist her. I then focused my view to the other side of the road, about 10 yards where Daniel and myself had stopped.

I observed a black male lying on the ground. He was wearing a white t-shirt and blue jeans. He was lying on his stomach face down. I saw that there were officers dealing with this male. The officers were Alan Smith, Craig Walker, Alan Paton and Ashley Tomlinson.

Alan Smith was on his knees and he was attempting to control the male's legs as he was struggling and it looked like the male was attempting to evade detention.

Craig Walker was also on his knees and he was facing towards me. I can't recall exactly what Craig was doing but he was at the male's waist area.

Alan Paton was also on his knees and was next to the male's head and he was attempting to control the male's left arm and the male was struggling violently as if attempting to escape.

Ashley Tomlinson was also kneeling at the male's head but with his back to me. He was attempting to control the male's right arm.

Even although there were four officers dealing with the male it still looked like they were struggling due to the male's muscular and aggressive manner so I decided to go and assist them. I did not speak to Daniel about my thoughts and I just assume he was thinking the same as myself as we both got out of our vehicle at the same time and went to the assistance of our colleagues.

As I approached the male I did look over towards Nicole who was with Kayleigh, I didn't speak to either of them. I was just happy that someone was with Nicole. I then concentrated on my other colleague and saw that the male was still kicking with his legs. I immediately went to Alan Smith's assistance and I got hold of the male's left leg. I was on my knees at this time. I grabbed the male's ankle with both of my hands. Alan Smith had a hold of the male's other leg. The male still appeared to have a lot of strength left in his legs as I was struggling to control him.

I looked at my colleagues and saw that Daniel Gibson was trying to control the male's upper body. He was holding the male's arm. The male was still struggling and even although Daniel and myself were assisting we were all having difficulty controlling the male.

I saw that handcuffs had been placed on the male's left wrist however the others were having difficulty getting the male's right wrist into the handcuffs. I can't recall if the male was saying or shouting anything during the struggle. I then said to Alan Smith that I was going to put leg restraints on the male. Alan then grabbed hold of the male's leg that I was holding which allowed me to get my leg restraints from my vest. I then put them around the male's legs just above his knees and with Alan's

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help managed to secure them around the male's legs. It helped our situation and the male stopped kicking out as violently as he had been.

I then took the other leg restraints I had a they came in a pair and pulled them around the male's ankle area. This prevented the male kicking out and the threat of violence on my colleagues and myself was reduced.

At this point I became aware of a male and female CID officer. I don't know their names. One of them, I can't recall which one, said "have you recovered a knife". I saw that the two CID officers had got out of a silver Corsa motor car which was parked near to the cell van, where Nicole Short and Kayleigh Good had been standing.

I had a glance around the male and I couldn't see any knife. My colleagues were still trying to secure the handcuffs on the male. I decided to stand up and have a look for the knife as Alan Smith and myself had secured the leg restraints.

Throughout the whole incident the male was lying on the pavement.

I looked over to the grass area on the opposite side of the road where the male was and saw something shiny. I said this to the CID officers and I walked towards the item. The male CID officer came with me. When I got to the grass area I saw that there was a knife lying about 3 yards in. It was a silver one with a silver steel handle. The blade was about 5 or 6 inches in length. I didn't say anything to the CID officer I just turned and went back over to assist my colleagues. I saw that nothing had changed. He was still struggling with his upper body and was still handcuffed on one wrist only. I can't recall if any of my colleagues were giving instructions to the male. I decided to stand back as I thought I would get in the way and hinder my colleagues. Although I've said I didn't want to hinder my colleagues I did kneel down at his feet and I still took hold of his legs however due to the leg restraints he was unable to kick out. He was able to move his legs slightly with the leg restraints and I could still feel the muscles in his legs tensing up. I then recall suddenly his legs not moving. I'm not sure who it was but somebody said at this point "he's motionless". I stood back as did the rest of my colleagues. The male was still only handcuffed on one wrist. I saw that the male wasn't moving.

Alan Smith and Alan Paton then crouched down and went to the male's head area. Although the male wasn't moving one of the Alan's, I'm not sure which one said "he's still breathing".

Around this point I remember someone asking for an ambulance. I'm not sure who and the controller shouting back that an ambulance was on its way.

I remember whilst I was standing seeing a police baton lying on the pavement where the male was lying. I didn't know whose baton it was.

At this point my sergeant, Scott Maxwell, approached me and instructed me to do traffic control. He told me to stand at Hayfield Road at its junction with Poplar Crescent and prevent traffic entering Hayfield Road. I immediately started to walk down Hayfield Road towards Poplar Crescent. The CID female officer followed me

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as she had police cordon tape. I looked over to my colleagues and saw that they were placing the male into the recovery position.

As I got to Poplar Crescent I was just about to place the cordon tape over the road when I saw the ambulance travelling along Hayfield Road. I let the ambulance drive through before I put the cordon tape over the road. As I was now about 200 yards away from where the male was lying I couldn't really see what was happening.

I was standing at Poplar Crescent and it was only about two minutes after the cordon tape had been placed over the road when I was approached by two [REDACTED] who said they had seen a black male walking on Templehall Avenue with a knife. The [REDACTED] were Andrew O'Connor and Simon Rowe. I sat in each of their [REDACTED] and noted brief details from them.

As I was dealing with the two [REDACTED] for about 15 minutes I wasn't aware what was happening with my colleagues and the male however when I finished speaking to the [REDACTED] I saw that the ambulance was away. I heard over my airwave around this time Sergeant Maxwell saying that all of the officers from our team would be returning to Kirkcaldy Police Office to regroup. I was unaware of the condition of the male at this time.

About 20 minutes after I dealt with the [REDACTED] a woman approached me in a new car. It was one with a passenger door that slides open. She identified herself as Joyce Joyce and that she had seen a black muscular male with a knife near to Templehall Avenue. I noted her details in my police notebook.

That morning the weather was really wet and as I was on cordon duty and after talking to Joyce Joyce I point to pointed Daniel Gibson to see if he was within Kirkcaldy Police Office and if he could bring my waterproof jacket to the locus. He said he was within the office but he had no vehicles as the vehicle we had attended with was still on Hayfield Road. He did not tell me anything about the male and I didn't ask him. I didn't think it was as serious as it ended up being.

Around 0830 -0845 hrs whilst I was still standing at the cordon I was approached by inspector Kay who told me that I would be getting relieved from my point and I was to make my way back to Kirkcaldy Police Office. He didn't tell me anything about the male and I didn't ask him.

Around 0900 hrs I was still standing on Poplar Crescent at the cordon when I was approached by a female officer who I did not recognise. She informed me that I was to take Kayleigh Good back to Kirkcaldy Police Office in the police vehicle that Daniel Gibson and myself had been using and that she and another officer would take over cordon duties from myself and Kayleigh. At no time whilst I was carrying out cordon duties did I have access to a scene entry log. I am unaware if the female officer who relieved me had one. Kayleigh and myself then drove back to Kirkcaldy Police Office. I would say we got back to Kirkcaldy Police Office around 0905 hours.

The only thing I learned from Kayleigh on our return to the office was that Nicole had been injured but she did not have a visible injury and that he had been taken to the

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hospital. I don't think Kayleigh knew any more than I did about what had happened to the male.

Kayleigh and myself entered the office via the rear back yard door and walked up the stairs to the sergeant's room area. When we reached the sergeant's room someone in the room, I can't recall who, stated that everyone was down in the canteen. I couldn't see anyone else from our team. Kayleigh and myself went down to the canteen. We both were still wearing our police vests and utility belts.

When we entered the canteen I saw that everyone who had been at the shift briefing earlier was there with the exception of Nicole Short. I can't recall who told me but someone said that Nicole was at the hospital. Nobody seemed to know how bad Nicole's injury was. Someone, again I can't remember who told me, that the black male was in a bad way and it wasn't looking good for him. The atmosphere was very subdued and everyone was just sitting around the canteen table. We were told that a Federation Representative was attending. Nobody was really talking about the incident everyone just seemed in shock.

Around the back of eleven that morning we were all still within the canteen when Amanda Given the federation representative arrived. I'm not sure if it was her but it was around this time that I learned that the black male had died.

Amanda informed everyone who was within the canteen that as a result of the circumstance the probability was that an independent investigation would take place and that this would be carried out by the PIRC. She said that our uniforms would be seized.

Amanda also informed us that we contributed through our wages to access to a federation lawyer and if we wanted the lawyer informed that she may contact them. Everyone agreed for Amanda to do this. Nicole Short was not present when Amanda told us this.

Amanda informed us that there had been previous occasions when officers had to approach the federation lawyer after a death in custody.

I would say around 1200hrs we were all in the canteen with the exception of Nicole Short when a Chief Inspector Conrad Trickett entered the canteen and introduced himself. I can't recall what his involvement was going to be but he mentioned that our uniforms were probably going to be seized.

Nicole Short arrived back at the office around 1300hrs that day. She joined us within the canteen, she still looked in shock and was looking awful. She said she had a sore back and neck. I asked her what had happened. she said the male had hit her on the back of the neck and that she had fallen onto the ground. She then said that he had repeatedly stamped on her back.

Around 1400hrs that day Chief Inspector Trickett returned to the canteen and said that our uniforms would be seized. We were informed that this would happen on an individual basis. I was one of the last to have their uniform seized, whilst waiting I remember Craig Walker popping his head back into the canteen and saying that he

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was away home. He said that after our uniforms had been seized we were allowed to go home.

Around 8pm that night I left the canteen and walked up to the top floor to a room above the canteen. I think its the chief inspector's room. I don't know the names of the two individuals who dealt with me but one was a female who said she had travelled down from [REDACTED] and the other was a female who I think was a uniformed officer maybe a chief inspector. I then went into the room and removed all my police uniform and equipment and changed into my civilian clothes. I then took all my police clothing and equipment and handed it to the two female officers who were wearing protective gloves, white suits and face masks. I was present when they put my clothing and equipment into production bags.

I handed over my boots, police issue trousers, police issue t shirt, police issue fleece, slash proof gloves, utility belt, vest containing my mini torch handcuffs, police baton and my leg restraints. In relation to my leg restraints they were returned to me when I was in the canteen. I can't recall who it was but someone said that there were items used in the incident lying on the table and I had to take what was mine and they would be seized when my uniform and equipment was seized. I took my leg restraints and later handed them over to the two female officers who were wearing the protective suits. My leg restraints don't have any distinctive marks however I was aware that I was the only one who used them during the incident.

My CS spray was also seized and at the time it was still within my utility belt. The two females removed it and placed it in a separate box and said it would have to be weighed.

After my clothing had been seized I went back downstairs and popped my head into the canteen. Amanda Given and Conrad Trickett were both there. I told them I was going home. Amanda said that someone would contact me in a day or two to let me know what was happening and that I was to start at my normal time the following day which was 1500hrs start however we'd all be non operational because our uniforms had been seized.

At no time on Sunday 3 May 2015 did anyone ask me to provide an operational statement. A lot of other officers entered the canteen whilst we were there and asked us how we were all feeling. One of the officers I know was Gary McEwan the Chief Superintendent but to be honest I cannot recall everything he said or any of the other officer said. I think we were all in shock.

On the morning of Monday 4 May 2105 I received a call from Inspector Seath who informed me that I was to start that day at my normal time of 1500hrs however it was only to have a welfare chat and that we would be able to go home and that we would not be carrying out any duties.

That day as arranged I went to Kirkcaldy Police Office around 1445 hrs. I cannot recall who from my team were there but I think most of them were. I can't remember who actually spoke to us but we were all in a group. It was a welfare chat asking if we were alright and help was there if we needed it. I would say I was only in the

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office for about an hour before I left. It was at this time we were told that the PIRC would be dealing with the investigation. We were also informed that we would probably not be operational for about another week as we would have to be remeasured for body armour. At no point during the chat were we asked to provide an operational statement.

I think it was Wednesday 6 May 2015 everyone involved with the exception of Nicole Short went through to Livingston to speak with the Federation lawyer Professor Peter Watson. He asked us what our concerns were which was mainly what our status was and that we did not want our names getting out to the public. He said if we were approached to provide a statement we should contact him first and seek his advice.

On Thursday 7 May 2015 because I wasn't operational I was allowed to pick what shift I wanted to do. I decided to start at 1400hrs.

Around 1500hrs that day I was within Kirkcaldy Police Office when the MIT officers approached me. I think one of them was called Keith Hardie. The other one was a male officer but I don't know his name. They asked me if I was prepared to provide an operational statement to them regarding my involvement in the incident on Sunday 3 May 2015 involving Sheku Bayoh. I informed them that on the advice of my lawyer I wasn't prepared to provide a statement at that time however I would probably provide a statement in the future.

I am aware that the male who died was called sheku Bayoh. I learned this from watching the television news on the Monday morning (4.5.15). I have never had any previous dealings with Sheku and that was the first time I had ever seen him. I know that the PIRC have seized two of my notebooks. They are serial number 019120 date started 06.04.15 and serial number 019161 date started 23.04.15. I have been asked why my notebook goes from Sunday 3 May 2015 to Thursday 14th April 2015. This is a mistake on my behalf. It should be the 14th May. Also the reason for the gap was because this was the gap between the incident and myself returning to operational duties.

I have been asked why my notebook serial number 019161 is dated 23/04/2015 however the first entry is dated 15th May 2015. The reason for this is I always get a new book when I'm coming to the end of an old one so that I can record details should I become involved in a lengthy enquiry and have to record multiple statements.

I have been asked why I did not record any details in my notebook about my involvement with sheku Bayoh. I did not record anything as I was unsure what my status was going to be. I have been taught at the college that it is my own aide memoire and should be used as I see fit. I decided not to put anything in and cannot recall if anyone else told me not to.

This statement is a true and accurate record.

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Signed :

(Witness)

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CONFIDENTIAL MATERIAL - NOT TO BE DISCLOSED

Surname : MCDONOUGH

Forenames:

James

Alias/known as :

Place of birth :

Age : over 18

Telephone :

Home address :

Post code :

Telephone :

Business address : Kirkcaldy Police Station

P Division

Fife

Post Code :

Mobile :

Email :

Fax/Pager :

Other :

Dates when unavailable in next 12 months :

Other Confidential Material :