

RESPONSE TO RULE 8 REQUEST

PS SCOTT MAXWELL

Please provide your **full name, date of birth, personal or business address.**

Scott Maxwell

█ 1979

C/o Glenrothes Police Office, Detroit Road, Glenrothes

14 years service

Police number 080349

Notwithstanding the answers noted below, I reserve the right to rely on the privilege against self-incrimination in the event of issues arising which have not previously been addressed.

Issue 2 – ACR Response

1. What was your role in Kirkcaldy Police Office on 3 May 2015?

My role on 3 May 2015 was response Duty Sergeant. At the time I was an acting Sergeant. This role entails managing a group of Police Constables to serve the public and manage the response to reports of crime whether it be ongoing and dynamic, or historic. Although I had supervision of the group of Constables, they are responsible and accountable for their own actions under the law and Human Rights Act and how they apply that on the streets.

2. Describe the actions you took when you first heard the call via the Airwave radio regarding the incident at Hayfield Road. What did you instruct in terms of a response to the incident?

In relation to the first call that came in from a member of the public I cannot recollect what, if any, initial grading it was given. The initial report was in relation to a male armed with a large knife chasing someone. I promptly classed this as an immediate threat to life which is one of the highest threat level indicators for risk assessing any incident.

When the second call was received and broadcast shortly after in relation to a further witness seeing a male, similar description, with a large knife in his right hand, this offered me the corroboration that this incident was genuine.

I ensured this call was a Grade 1 call, immediate threat to life and in terms of risk to the public and safety of officers attending. I instructed all officers attend and requested specialist resources to assist.

3. **Please read the transcript of the airwave calls [PIRC 01399]. When you issued the instruction “I want all units to attend that, bearing in mind officer safety, an ARV and a dog as well please” you appear to have overruled the existing instruction from ACR for one unit to attend. Please explain in detail why you took the action that you did and gave this instruction. Why did you consider this call to merit an ARV and a dog unit and all units in attendance?**

There was a confirmed and corroborated sighting of a male with a large knife. I was not going to allow two officers to face this risk alone without sufficient back up to assist. It is normal practice to send multiple officers to an incident like this.

At that point Police had not traced the described male. I needed as many officers as possible in the area in efforts to trace the person reported. One unit alone would not have been sufficient to carry out full street searches and once found to assess, control, and contain the subject. I also had in mind the ‘Contact and Cover’ principle.

A call like this is a high risk to life to the subject themselves, members of the public and the officers attending.

I requested specialist resources, Armed Response Vehicle (ARV) and Dog Unit, as I had assessed this incident as high risk, threat to life. They have alternative means to bring incidents to a conclusion whether it be peacefully or forcefully. There are several ways that an incident like this might develop which you need to be prepared for.

I was trained to account for all scenarios, and I had to request everything at my disposal to ensure the incident would be dealt with effectively depending on what I was faced with.

4. **What is a Grade 1 call? What was it about this call that merited it being graded, as a Grade 1 call? What was the level of grading given to it originally by ACR? What particular factors did you consider when you took the decision to increase the Grade level and the level of response to this call?**

A Grade 1 call is an immediate threat to life.

This call merited being graded Grade 1 as there was a sighting of a male with a knife which would have merited an immediate response. This was followed very shortly thereafter by another sighting of a male with a knife which corroborated the initial call. There was also a reference to the male chasing someone which created the inference that someone may be at risk of being seriously assaulted.

It is better to grade a call cautiously to ensure a full rather than an insufficient response.

I cannot recall what grading, if any, was given to the call by the ACR initially. As far as I was aware it was a Grade 1 call from the start. I didn't assign the grade. I treated it as a Grade 1 call. It is part of my role as the duty Sergeant to manage the response to calls. I am entitled to take a different view to the control room, and I decided that this call required multiple units to respond.

If the controller described it as a Grade 1 call, as the airwaves transcript (PIRC-01399) you referred me to records, then I would agree with that description.

In terms of particular factors I considered, please see questions 2 and 3 above.

5. **Did the alleged perpetrator's race or perceived race play any part in how you assessed the risk? What difference would it have made if the alleged offender had been white? Would you have graded the call Grade 1 if the alleged perpetrator had been white?**

The race of the perpetrator in this incident had no bearing whatsoever on how the incident was managed. I would have responded to a credible threat to life call in the same manner no matter the description of the perpetrator.

For the avoidance of doubt and because I know the Inquiry is going to examine this issue, I was aware of the threat level to national security and Police Officers as being Severe and that there had been high profile incidents in relation to terrorism in the United Kingdom. However, my risk assessment at that time did not take terrorism into account and only would have if credible evidence was available.

6. **What would on duty police officers, listening to the instruction you gave, have understood about the level of risk they were facing when they attended the incident?**

All of the officers attending the incident were fully aware of the risk they faced. They knew it was a Grade 1 call involving a threat to life and that a knife was involved. They would have been trained in how to approach a situation involving a knife in Officer Safety Training (OST) and what was expected of them. They would attend, assess the scene and feedback.

PC's Good and McDonough although new to the job were both paired with experienced officers.

Issue 3 – Risk Assessment

7. **What vehicle did you travel in on your way to Hayfield Road? What route did you take?**

A white coloured, marked Vauxhall Corsa 5 door. I cannot remember the VRM Registration.

On leaving the police station rear car park I turned left onto St Brycedale Avenue to the traffic lights where I turned right, heading north to traffic lights where I turned left onto Bennoch Road, continued north, took the second exit at the mini roundabout with Hendry Road, continued north until I arrived at the roundabout with Hayfield Road.

8. What risk assessment, if any, did you carry out during your journey to Hayfield Road on 3 May 2015? If you did not carry out a risk assessment, why not?

I think it is important to understand that the time scale involved in the whole incident unfolding was only a matter of minutes.

There is no specific standard operating procedure for ongoing dynamic incidents such as what occurred. I relied on my training and experience in the national decision-making framework whereby you constantly gather information, assess that information, consider your options, and then act upon that, then start again based on the outcomes. This is a natural process for all officers, however more relevant to some higher-level decisions made at Sergeant and above.

My initial risk assessment surrounded having sufficient staff to deal with the incident, having all available resources including specialist resources attending. All the information I had at the time was that members of the public had witnessed a male in possession of a knife. Information was limited until officers were at the scene and fed back.

The next thing I was aware of was the emergency buttons being pressed and hearing an officer was injured.

9. What training did you receive in carrying out risk assessments in advance of 3 May 2015?

I had completed OST which involves risk assessment. I also had experience from my years of service both as a Constable and as an acting Sergeant.

10. What risk assessment, if any, did you carry out on arrival at the scene of Hayfield Road on 3 May 2015? If you did not carry out a risk assessment, why not?

I carried out a risk assessment on arrival. I observed the scene. I noted what the officers were doing and what the subject was doing to establish what, if any, on-going risk there was.

I observed a male, who I now know to be Mr Bayoh, being restrained by my officers. He was continuing to struggle, but as my officers were restraining him effectively and appeared to have control of the situation, I felt that any risk to Mr Bayoh or my officers was low. My risk assessment then changed to ensuring everyone's safety and preserving the crime scene.

- 11. What risk factors did you consider on your arrival? What account did you take of risk to officers, the public or Mr Bayoh? Did Mr Bayoh's race or perceived race play any part in how you assessed the risk?**

The risk factor I considered on arrival was whether my officers had control of the perceived subject and what risk he was presenting.

Once I assessed whether my officers had control of the subject, who I now know to be Mr Bayoh, and determined that they did so, I then assessed whether the restraint of Mr Bayoh was causing a risk to my officers or himself.

Once I was satisfied that the restraint was not posing a risk, the next issue I considered was what risks there might be to Mr Bayoh and the officers given that the locus was an active public road.

Another risk factor I considered was the whereabouts of the knife.

Mr Bayoh's race played no part in my assessment.

Issue 4 – Response by Police Scotland and/or Individual Officers

(i) Initial Contact

- 12. Describe what you were thinking and how you were feeling on route to Hayfield Road.**

The main overarching feelings I had attending the incident were trepidation and a slight nervousness as to what I and my officers would be faced with bearing in mind we had two confirmed independent sightings of a male with a knife. On hearing the emergency button and a transmission that an officer was down made me feel fear that one of my officers had been killed or seriously injured.

- 13. To what extent did Mr Bayoh's race or perceived race impact your views?**

It did not impact on them.

- 14. What experience do you have of attending incidents involving an alleged perpetrator with a knife?**

At that time, I had attended and managed numerous calls where a knife was involved from the start or became involved during the response.

Subsequently, I have gained significantly more experience in attending and managing those types of calls, including one where one of my officers was stabbed in front of me.

- 15. Describe any training you had received regarding assessing whether a person was suffering from a mental health crisis or was under the influence of drink or drugs.**

Prior to the incident, I had received OST which teaches signs, symptoms, and warning factors to look for, which outlined how to deal with persons under the influence of alcohol or dealing with a mental health episode. I had also received first aid training.

- 16. Describe any prior experience you had of assessing whether a person was suffering from a mental health crisis or was under the influence of drink or drugs.**

This is a frequent occurrence in everyday duty which I had a lot of experience of.

- 17. Did you consider that you had adequate training for dealing with the incident?**

Yes, I feel I had adequate training.

- 18. When did you arrive at the scene? What did you do when you arrived at the scene?**

I arrived at the scene at the point when Mr Bayoh was on the ground being restrained by my officers.

When I arrived, I got out the car and assessed the risk. I went over to the officers who were actively restraining Mr Bayoh to ascertain briefly what was happening and if everything was ok.

- 19. Who did you see and what were they doing when you arrived?**

On arrival at locus, I could clearly see Mr Bayoh lying on the ground on the pavement to the south of the street.

From what I recall, there was a group of officers at or around Mr Bayoh. They were PC Alan Smith, PC Ashley Tomlinson, PC Alan Paton, PC Craig Walker, PC James McDonough and PC Danny Gibson.

PC Kayleigh Good was close to the group of officers, maybe a metre or a metre and a half from Mr Bayoh's feet.

Further down the street I saw PC Nicole Short. She was standing on her own in the middle of the road beyond the custody van. She was crouched over and looked to me as if she was in pain.

- 20. Where was Sheku Bayoh when you arrived at the scene?**

See my answer to question 19 above.

(ii) PC Nicole Short Incident

21. **Please provide as much detail as you can about PC Short and what you saw on or shortly after your arrival.**

See my answer to question 19 above.

22. **Did PC Short explain what had happened to her? If so, please describe in detail what she said to you.**

I went over to PC Short to ask her if she was okay. At the same time, I was giving her a visual check for any obvious signs of injury.

PC Short initially intimated to me that she was fine, but I could see she clearly wasn't. She looked in pain. She was grimacing with both arms across her chest as if she was consoling herself.

PC Short was visibly crying and shaking. In my opinion she was in an obvious state of shock. She was clearly not herself. She was rambling and it was hard to get a sense of what had gone on from her. It was clear that something serious had happened to her.

When I asked her what happened again, she intimated to me that Mr Bayoh had tried to kill her and that she had been kicked and punched.

23. **In your statement [PIRC 00267] you state as follows "I then turned my attentions to PC Short who I had been advised had been badly injured." Who advised you of that and what did they say? Did they indicate how she had been injured? Were you told of this before you spoke to PC Short?**

PIRC 00267 is not my statement but general notes I made for myself. I then provided these to the PIRC.

I had heard the emergency button when I was on route to the incident and that an officer was injured.

It was PC Paton who advised me that something had happened to PC Short. He told me that she had been kicked and punched. He told me that prior to me speaking to PC Short.

24. **Please confirm that at 07:23:34 hours you made an Airwave transmission: "*From four one one PC Short's been struck to the head...eh! bit upset I'm gonna need an ambulance here to check her over. No bleeding no visible injury over.*" If not, please describe what you said.**

I cannot confirm the time of the airwave transmission.

Without listening to the transmission itself [which you have not told me the number of] I cannot confirm the precise wording but my call was to that effect.

- 25. Please describe in detail what you saw immediately prior to making this airwave transmission. Please describe in detail what, if anything, you were told about the incident involving PC Short? Who by?**

I don't know what immediately preceded this transmission. However, I had spoken to her and made a visual inspection. She told me that she was in pain and had been kicked and punched. She was also visibly in pain.

- 26. Please confirm what you said on the airwave transmission at 07:24:28 hours. Did you say either "Although there's no visible injuries to PC Short she's eh... been thumped to the body a few times etcetera...eh...and struck to the head..." or did you say: "Although there's no visible injuries to PC Short she's eh... been stomped to the body a few times etcetera...ehm...and struck to the head...". If not, please describe what you said.**

I cannot confirm the time of the airwave transmission, but I have listened to the relevant recording. I said stomped.

- 27. Please explain how you received this information about the 'thump' or the 'stomp'. Why did you share that information with ACR?**

I think that prior to this transmission PC Tomlinson had heard my earlier transmission and he then told me that PC Short had been stamped on.

When I was using the word stomped, I meant stamped. I was telling the ACR this information so it was logged and so the ambulance crew would know for their assessment purposes.

- 28. Did PC Short tell you that she had been stomped to the body or did any other officer provide you with that information? What changed between your airwave message at 07:23:34 when you made no mention of being "stomped to the body" and 07:24:28 when you did.**

Please see my answer to question 27.

- 29. Did you assist PC Short? If so, how did you assist PC Short?**

I assessed her and I put her in the van pending the ambulance's arrival. I did this so that she would be warm and more comfortable as she was in shock. I also chased up the ambulance arriving on scene.

(iii) Restraint of Sheku Bayoh

- 30. Please provide as much detail as you can about the restraint of Mr Bayoh. Were you involved in the restraint? Where was he restrained?**

I was not involved in the restraint of Mr Bayoh.

On my arrival I could clearly see Mr Bayoh lying on the ground on the pavement to the south of the street. He was on his left side, and he was facing me. Mr Bayoh was still actively resisting but not to an extent that he was uncontrollable.

- 31. What was your impression of Mr Bayoh when you first arrived; and any risk he posed to himself, the public or police officers? Describe whether and to what extent you considered Mr Bayoh was having a mental health crisis or was under the influence of drink/drugs?**

Mr Bayoh was conscious and breathing. He was actively resisting, but he was under control. I was satisfied through my experience and training that he was being controlled proportionately and safely. Officers were in control and maintaining constant observations of Mr Bayoh.

I could not see Mr Bayoh bleeding, nor did I observe him as suffering from any other form of injury which would have presented a risk to him while being restrained.

I then considered the risk to him and the officers as they were on an active road.

Mr Bayoh was lying on the ground and was not saying anything, so it was difficult for me to undertake any assessment of whether he was suffering a mental health episode or was under the influence.

- 32. Describe the position of Mr Bayoh? Was he prone? If so, how long was he prone? If Mr Bayoh's position changed during the restraint please provide as much detail as you can as to when that position changed, how that position changed and why that position changed.**

When I first arrived, he was on his left side. He was moved on to his back when CPR commenced. I did not see him in the prone position at any time.

- 33. What was your location during the restraint? Were you able to see Mr Bayoh and all of the officers during the restraint? Did you have a clear line of sight regarding what each officer was doing? If so, please describe what each officer was doing.**

I was not involved in the restraint. I only observed Mr Bayoh being restrained on my arrival at the scene and as outlined in my answers above. I then went to see PC Short.

I saw PC Smith on the other side of Mr Bayoh as I was looking at the scene. He was near Mr Bayoh's shoulder area, kneeling down, leaning over Mr Bayoh facing towards me.

PC Tomlinson was next to PC Smith, to PC Smith's right. PC Tomlinson was also on his knees, and he was leaning over Mr Bayoh's right hip and buttock area. PC Tomlinson was also facing my direction.

PC Paton was standing over PC Smith and PC Tomlinson, facing towards me. PC Walker was standing to PC Smith's immediate right, facing me.

I saw PC McDonough kneeling at Mr Bayoh's feet.

PC Gibson was standing near to PC McDonough, slightly to the right.

PC Good was close to the group of officers, maybe a metre or a metre and a half from Mr Bayoh's feet.

34. Please describe the weight applied by other officers to Mr Bayoh and where they applied such weight.

By the time I arrived, officers had Mr Bayoh restrained and contained. From what I could see, there was no full body weight applied at that time. Officers were using the 'kneel and contain' technique.

35. In your statement [PIRC 266] you state "As I said when I first arrived I saw officers still applying force to restrain the black male. The officers were on their knees and leaning on the male. Nobody was lying on top of him." Please read PS00379 PIRC 00263, PIRC 00264 and PIRC 00274. Having read those statements do you maintain your description that nobody was lying on top of Mr Bayoh? Please provide an explanation for any differences between your recollection and that of your fellow officers.

For the part of the restraint which I witnessed, my recollection is that no one was lying on top of Mr Bayoh using their body weight.

I have not been asked to comment on any specific part of the other officers' statements which are considered to be different to mine. By the time I arrived, the officers had Mr Bayoh reasonably under control. I cannot comment on what happened before I arrived.

36. Did Mr Bayoh have handcuffs applied? If so, in what position was he handcuffed?

Yes, he had handcuffs applied. I recall when the ambulance arrived seeing that he was handcuffed to the front.

37. How did Mr Bayoh react to the restraint? What was he saying? What was he doing? At what point did he stop breathing? Describe what was happening at that moment?

As I said above, when I arrived, he was actively resisting but reasonably under control. I did not hear him say anything. I only knew he stopped breathing when PC Smith told me, so I cannot say what was happening at that moment.

38. Who was involved in the restraint?

Please see answer 33 above.

39. Please describe what the other officers were doing?

Please see answer 33 above.

40. What comments, if any, do you have about the manner of the restraint and the techniques adopted by the other officers?

From the point at which I witnessed Mr Bayoh's restraint, officers were complying with their OST and they were monitoring him as they should.

Issue 5 After the Restraint and Calling the Ambulance

41. Please provide as much detail as you can about when you became aware that Mr Bayoh had lost consciousness. Could you see Mr Bayoh at this time?

I did not see Mr Bayoh lose consciousness.

42. What were the other officers doing at this time? Describe in detail how they were assisting.

Not applicable, please see answer 41 above.

43. When did you first become aware that Sheku Bayoh was not breathing? What was happening immediately prior to him stopping breathing? What was happening at the moment you noticed he was not breathing? What position was he in?

It was only shortly after I returned from speaking with PC Short that PC Smith intimated to me that he thought Mr Bayoh was not breathing.

I do not know what happened immediately before Mr Bayoh stopped breathing as I was not present when that happened.

At the point I became aware Mr Bayoh was not breathing, he was still restrained and lying on his side. PC Smith carried out some checks on Mr Bayoh. I saw him place his head or his ear to Mr Bayoh's nose and mouth area to check for breathing.

44. What were the other officers doing at this time? Describe in detail how they were assisting.

PC Smith then checked for a pulse. PC Smith then said that we needed to start CPR. Mr Bayoh was placed on his back so that CPR could be performed.

PC Smith instructed PC Walker to start chest compressions. PC Walker then bent down. Both he and PC Smith were on the east side of Mr Bayoh.

PC Smith then got his resus aid out (a clear mask with a tube for 'mouth to mouth' to prevent cross contamination). PC Smith and PC Walker then coordinated with each other in performing CPR on Mr Bayoh.

At one point PC Paton took over from PC Walker. PC Walker and PC Paton then continued to carry out chest compressions and on one occasion I saw PC Smith give them a break.

The performance of CPR was continued by PCs Paton, Smith and Walker until the ambulance arrived and paramedics told them to cease.

45. What comments, if any, do you have about the manner in which attempts were made to resuscitate Mr Bayoh?

In my view, the CPR was performed professionally and appropriately based on the officer safety training I had received.

Moreover, as PC Smith is a first aid trainer, I was confident in his abilities to undertake and direct the CPR performed on Mr Bayoh.

46. Describe what you were thinking and how you were feeling during the attempts being made to resuscitate Mr Bayoh.

I was concerned for Mr Bayoh and was hoping that he would be alright. I was also hoping that the ambulance would arrive quickly to provide him with further assistance.

47. Describe, in detail, how Mr Bayoh was presenting during this time.

Unconscious and not breathing while lying on his back as CPR was ongoing.

48. Who called the ambulance?

I believe the ambulance was called when Mr Bayoh became unresponsive. I was not aware at the time who called the ambulance, but I am now aware it was PC Smith.

49. Please confirm that at 07:26:41 hours you made an airwave transmission: "I'm just looking to clarify has an ambulance been contacted for this accused also over". If not, please clarify what you said.

I cannot confirm the time of this call but I can confirm I made this transmission. I did it to ensure an ambulance was on its way and to make sure the control has actioned the request for an ambulance.

50. **Please confirm that at 07:26:52 hours you made an airwave transmission: “Just for the log the initial on attendance this male’s attacked PC Short quite violently...er...as a result he was sprayed with CS and PAVA and batoned there may be a suggestion that he has been batoned to the head area. Four one over”. If not, please clarify what you said. Why did you make this call?**

This is part of the same call as the transmission described at question 49 above. Again, I cannot confirm the time but I can confirm I made that transmission. I did so to ensure that what I had been told about the events by my officers was logged and to advise the paramedics about the potential for head trauma and the use of spray.

51. **Who provided you with this information?**

PC Tomlinson told me this just after I made my first call regarding the ambulance. He told me that he had struck Mr Bayoh on the head with a baton. I believe he also told me that Mr Bayoh had been sprayed with CS and PAVA.

52. **Please confirm that at 07:29:30 hours you made an airwave transmission: “Control can you get a move on with the ambulance this accused is now not breathing CPR is commencing over”.**

I cannot confirm that I made this transmission. The recording of this call has not been disclosed. I understand that my solicitor asked for the reference number for this call and the reference number he was given was not this recording. The timing of calls has also not been disclosed. I did make a call (PS13701) telling control that chest compressions had been commenced but breaths had stopped due to cross contamination etc.

53. **How long prior to you sending this message had Mr Bayoh not been breathing?**

I cannot confirm this as I cannot confirm that I sent this transmission.

54. **Do you recall how long it took for the ambulance to arrive?**

I couldn’t say exactly in terms of minutes and seconds, but it would have been a short time. However, it felt a lot longer.

55. **Please look at photograph PIRC 03374. You will see from that photograph that you are identified. Please confirm that you are the person identified as “PC Maxwell” in the photograph. If this is not you please identify yourself from the photograph.**

PIRC 03374 – Photograph 1 – I am correctly identified.

Photograph 2 – I am correctly identified.

NB. The photograph numbers are in the bottom right-hand corner of the image.

Issue 8 - Return to Kirkcaldy Police Station (KPO)

(i) Conferral

56. In your statement [PIRC 00266] you state “After I spoke to Inspector Kay I radioed in to the controller and informed control room all Papa Romeo officers involved in this incident would be returning back to Kirkcaldy Police Office for a de-brief. I then went round all my officers and informed them individually to return to the canteen at Kirkcaldy Police Office.” Did you inform the officers not to discuss the incident with the other officers? What did Inspector Kay discuss with you? Did Inspector Kay ask that you did not discuss the incident with the other officers?

Inspector Kay told me to ensure everyone’s welfare, monitor that and to ensure that the officers were not discussing the ‘ins and outs’ of what happened in detail.

At the canteen at Kirkcaldy, I said to the officers present something to the effect that they should not discuss the incident in detail.

57. In your statement [PIRC 00266] you state “Again before I left and whilst speaking to PC Alan Paton and PC Craig Walker who were sat in the custody van, I asked them what had happened. Craig Walker stated “I won’t be speaking to anyone or giving a statement until I speak to my federation rep.” PC Alan Paton confirmed that that was his position as well. I had to accept that.” Did PC Walker or PC Paton explain why they would not speak to anyone or provide a statement? Did they give you any information about what had happened? Why did you have to accept that?

No, they didn’t explain, that was all they said. No, they didn’t give me any information at that time.

I accepted that because I had never been in this situation before. PCs Paton and Walker also appeared very upset. I didn’t want to labour the point there and then. I knew we were all to go back to the police office and the investigative phase was about to commence.

58. What was your understanding of the obligations on police officers to provide operational statements; complete use of force forms; use of spray forms; and notebooks at that time?

My understanding was that officers should complete and submit the relevant forms and statements as soon as practicable in relation to an incident. That does not need to be the same day.

This was my understanding of the obligations in relation to a 'day-to-day' incident, but I had never been involved in an incident like this before. I was not aware of any guidance or training about what should be done in the aftermath of an incident like this.

59. How did you get back to KPO?

I drove myself back to KPO in the same vehicle I went to the incident in.

60. Describe how you were feeling on the return to KPO.

On my return to KPO, I was in a state of shock and disbelief at what had happened. I had to put my feelings to the side and I remained professional.

61. What happened on your return to KPO? Who did you speak to on your return to the KPO?

I initially attended the writing room to check for members of my team. I met PC Tomlinson, who was in total shock, and needed support mentally and physically. I had to hug him to console him. He was just saying things like "How did this happen?". He was very upset.

PC Walker arrived shortly thereafter, and we all then went to the canteen.

62. Where did you go? Who was there?

Initially, I went to the writing room and PC Tomlinson was there. PC Walker arrived shortly thereafter.

I then went to the canteen with PC Tomlinson and PC Walker. Present there were PC Paton, PC Good and PC McDonough. Shortly thereafter, PC Gibson and PC Smith arrived. PC Gibson had picked PC Smith up from the hospital.

Later on that day, PC Short arrived after being at hospital.

63. Where did you sit and who were you with? What did PC Tomlinson, PC Walker and PC Paton say about the incident?

I initially sat at the dinner table. I then moved around making sure that the officers were ok.

I cannot recall any specific comments by those officers, but in general terms those present were saying things like "Who was he?", "Where did he appear from?", "Why did the PAVA not work?", "Why was there no ARV?" and general expressions of disbelief.

64. How long did you remain in the canteen? Apart from the canteen, where did you go? What did you do when you left the canteen and who did you speak to? What did you say about the incident to other officers in Kirkcaldy Police Office? Why did you not remain in the canteen?

I was in the canteen from after the incident until I ended my duty later that evening except at the times described below.

I left the canteen to go to the toilet next to the canteen.

I went to the doctor for a forensic medical examination, and I left to hand over my uniform and equipment.

I also left the canteen at one point to attend at the Chief Inspector's office to find out what was happening because we had not heard anything from senior management. At this time, I was asked to attend at the custody suite to retrieve a pool radio for a senior officer who was going to attend KPO. After obtaining the radio, I took it back to the Chief Inspector's office. I then went back to the canteen.

I also left the canteen to help Amanda Given of the Scottish Police Federation go and get food for the officers. I then returned to the canteen.

When I was out of the canteen, a couple of other officers or custody staff asked me if everyone was ok and I said that they were. That was all that was said.

65. What advice or instruction were you given prior to or after entering the canteen about not speaking to anyone about the events at Hayfield Road? By whom?

Inspector Kay at the scene as I have already described.

As I described below in relation to the advice I received, I spoke to Amanda Given in private. Please see answer 80.

66. Did you or any of the officers involved discuss the incident that led to the death of Mr Bayoh?

The only discussion was in general terms of the sort described at answer 63 above. There was no discussion of any specifics. Once the initial shock died down, the incident was not further discussed in my presence.

67. If yes, what was said and by whom?

See previous answer.

68. Did anyone specifically discuss the incident between Nicole Short and Mr Bayoh?

I do not recall any specific discussion about this.

69. If yes, what was said and by whom?

Not applicable.

70. Did you speak to Nicole Short on her return to KPO? If so, what did you say and what did Nicole Short tell you about what had happened to her?

Yes, I spoke to PC Short when she returned. It was only a welfare check. I asked how she was and if she needed anything. She was still in shock at the time and needed support. I did not discuss the incident with her. She did not discuss it with me. I was conscious we were not to discuss the specifics.

71. Did Mr Bayoh's race or perceived race play any part in the approach taken or the discussion about the incident?

No.

72. In your view, would anything have been different had Mr Bayoh been white?

No. I do not think the incident or its aftermath would have been treated differently.

(ii) Recovery of equipment

73. What were you wearing on 3 May 2015?

I was wearing police issue black trousers, black police issue embossed t-shirt, black boots and a police hat. I was also wearing my officer safety equipment including my stab proof vest with high-vis cover, my airwave radio terminal, baton, CS spray, handcuffs, leg restraints, first aid kit and pouch and utility belt.

74. When you returned to Kirkcaldy Police Office, what did you do with your equipment and uniform?

When I returned to the police office, I put my officer safety equipment together with my hat on the floor of the canteen against the wall. I kept my police issue clothing on together with my boots.

75. What equipment was recovered from you on return to KPO?

My police issue black trousers, black police issue embossed t-shirt, black boots, police hat, stab proof vest with high-vis cover, airwave radio terminal, baton, CS spray, handcuffs, leg restraints, first aid kit and pouch and utility belt.

76. Who did you give that equipment to?

Two officers from the MIT, who I believe were covering the Stirling area.

(iii) Status of Officers

77. What did you understand your status to be at that time, namely as a witness or a suspect? How was that information shared with you and who by?

I did not have an understanding of my status at that time. The thought had not crossed my mind. My focus was the inquiry and ensuring the welfare of my officers.

78. Did you receive any advice regarding your status?

At that time, I didn't receive any advice about my status. However, I subsequently received advice about this from Prof. Watson, the solicitor the Scottish Police Federation had instructed to discuss this issue with us.

79. If yes, who gave you that advice and what was the advice you were given?

Please see answer 78 above.

(iv) Advice given to officers

80. Did you receive advice or instruction on your return to KPO from any senior officers or anyone from the Scottish Police Federation? If so can you please explain who gave you advice, in what capacity and what that advice was?

I was told by Inspector Kay that afternoon that, as I had been present at and involved in the incident concerning Mr Bayoh which was now going to be subject of an inquiry, I was relieved of all managerial and supervisory duties relating to the incident concerning Mr Bayoh. I was instructed that my continuing role as a Sergeant was limited to monitoring the welfare of those who were in my team and that had attended the incident.

On the day, Chief Inspector Conrad Trickett took over the role of post-incident manager for the incident involving Mr Bayoh. This role included having oversight of officers' completion of operational statements and relevant documentation such as Use of Force forms.

The following day I was advised that Inspector Seath was to take over the management of those officers who attended the incident, including myself.

On the day of the incident, I spoke to Amanda Given of the Scottish Police Federation in private. I did so in the kitchen area of the police office. I asked her to clarify whether I needed to provide an operational statement. In doing so, I told her that I wasn't directly involved in the initial confrontation or restraint of Mr Bayoh.

She told me that the Federation advice was not to submit any statement about the incident at that time as the incident had just happened. I took that advice and awaited further guidance on the matter from the Federation's legal representatives.

81. As far as you are aware, was race or the perceived race of Sheku Bayoh a factor in any of the advice given?

No.

(v) Completion of paperwork: use of spray forms; use of force forms; notebooks; statements

82. What did you understand your obligations to be in relation to completing paperwork, including your notebook or notebooks; a use of force form; a use of spray form insofar as these relate to the events at Hayfield Road?

In relation to my notebook, I refer to my general obligation discussed at answer 58 above. However, I had no experience of what I should do following an incident like this one. There was not time to complete my notebook that day because I was involved in caring for the welfare of my team. Emotions were running high and it would not be appropriate to try to record an accurate notebook entry in that state.

I didn't need to complete a use of spray form or use of force form as I did not use my spray and I did not use force.

83. As a police officer, what training do you receive, or what rules are you required to follow, in terms of completion of your notebook(s); use of force forms; use of spray forms; and the preparation of operational statements?

At the Scottish Police College, you are trained to complete a notebook entry as soon as reasonably practicable. Where you make a retrospective entry, you are also trained to note why there was a delay in making the entry into your notebook, e.g. guarding prisoner.

The training for use of force and use of spray forms is given during OST.

The training we received about operational statements was 'on the job' learning from your tutor Constable or duty Sergeant.

I do not recall any specific training about how to progress the completion of statements or other paperwork in circumstances where there has been a potential death in police custody.

84. Depending on your status as mentioned at (iii) above, what did you understand your obligations to be regarding the completion of such paperwork?

In general, when I am in a witness in an investigation, I understand that my obligations to complete paperwork are as set out above.

I understood that if I was a suspect, I did not have those obligations and I could seek legal advice. However, I did not know what my status was at that time.

85. Did you comply with those obligations regarding the completion of paperwork, after the incident on 3 May 2015? If not, why not?

Please see answer 82.

I took advice from Amanda Given which was not to provide an account at that time because the incident had just happened. Thereafter, I received advice from Prof. Watson not to provide a statement until my status was confirmed.

86. What, if anything, did you or any other officers present say about the completion of such paperwork? Did you advise any other officers not to complete any of the paperwork? If yes, why did you give that advice?

I did not give anyone any advice about the paperwork, nor did I ask anyone to complete the paperwork as I had been relieved of my supervisory role and the post incident management was in place.

87. What was said by PC Amanda Given, Scottish Police Federation Representative, about the completion of paperwork, including notebooks; use of force forms; use of spray forms; and the provision of operational statements?

Please see Answer 80 above.

88. Did someone advise you not to complete a statement? If yes, who gave you that advice and what did they say?

Amanda Given and Prof. Watson who was my legal adviser at the time. Please see Answers 80 and 85 above.

(vi) Examination of Officers

89. Did you attend a Forensic Medical Examination on 3 May 2015 whilst at the KPO? If yes, who carried out the examination?

I have a vague recollection of attending an examination. The disclosed report shows that it was performed by Dr Gillian Norrie.

90. Did the Forensic Medical Examiner (FME) measure your height and weight during the examination? If not, did you tell the FME your height and weight during the examination?

I vaguely recall having my height and weight taken during the examination.

91. Please confirm that on 3 May 2015 you were 6'2 tall and weighed 17 ½ stones, were 36 years of age and had completed 7 years' service.

Yes.

92. What did you tell the FME about the incident involving Mr Bayoh?

I do not recollect what, if anything, I told the FME.

93. Did you have any injuries?

No

94. Did you require treatment or medication?

No

I believe the facts stated in this witness statement are true. I understand that this statement may form part of the evidence before the Inquiry and be published on the Inquiry's website.

Scott Maxwell

Signature:


Mr Scott Maxwell (Apr 21, 2022 15:39 GMT+1)

Email:








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Final Audit Report

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