

TRANSCRIPT OF THE INQUIRY

Friday, 10 June 2022

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(10.01 am)

LORD BRACADALE: Good morning.

Good morning, Dr Crawford.

We will continue with your evidence now, so
Ms Thomson, when you're ready.

DR RUDY CRAWFORD (continued)

Questions from MS THOMSON (continued)

MS THOMSON: Thank you.

Good morning, Mr Crawford.

A. Good morning.

Q. Yesterday afternoon I think we maybe went a little off
topic and it was absolutely my fault, but what I would
like to do this morning is get back on point and really
focus on the matters that will help the Chair. I would
like to look at any evidence that is available to the
Chair for his consideration regarding any injuries to
Nicole Short's back, and whether that evidence is
consistent with the stamps as described and demonstrated
by Constables Tomlinson and Walker.

We're going to do that this morning, you and I, by

TRANSCRIPT OF THE INQUIRY

1 exploring three areas. Firstly, I would like us to look
2 at Nicole Short's medical records and identify any
3 entries that may be consistent with the stamps to her
4 lower back or kidney area, as demonstrated. Then I'm
5 going to invite your comment on the evidence given by
6 Mr Ian Anderson who expressed the view that the injuries
7 that he noted when he examined Nicole Short on
8 21 May 2015 were not consistent with the stamps as
9 demonstrated. And finally, we're going to look at your
10 Inquiry statement briefly and clarify your position for
11 the benefit of the Chair.

12 So we're going to begin by looking at some medical
13 records, Mr Crawford, and I understand that you would
14 ordinarily wear prescription glasses for looking at
15 medical records --

16 A. Correct.

17 Q. -- and you have perhaps left those behind this morning.

18 A. Correct.

19 Q. But you do, by happenstance, have a pair of prescription
20 sunglasses in your brief case.

21 A. Yes, yes, I'm very embarrassed about that.

TRANSCRIPT OF THE INQUIRY

1 Q. Please don't be, please don't be embarrassed in the
2 slightest. The most important thing is that you are
3 able to read the text in front of you. All of the notes
4 are in hard copy, we may bring some up on the screen,
5 but I'm going to ask you to simply look through notes to
6 identify entries for me, so if you would be more
7 comfortable doing so with your prescription sunglasses
8 on, then please feel free to pop them on.

9 A. Thank you.

10 Q. So we don't need to bring these up on the screen just
11 now, Ms Wildgoose, but I'm going to ask you firstly,
12 Mr Crawford, to look at the accident and emergency notes
13 from 3 May 2015, and they will have a PIRC reference on
14 them, which is 01158. That might help you to find them
15 in the folder. It may be that Mr Bruce and Ms Pang
16 might be able to assist.

17 A. Yes, I have them.

18 Q. At the very beginning --

19 A. Yes, at the very beginning.

20 Q. -- there we are. There are only a few pages of notes
21 and what I will ask you to do -- there are only two

TRANSCRIPT OF THE INQUIRY

1 pages of handwritten notes completed by Dr Mitchell.

2 Can I ask you please simply to cast your eye over those
3 notes and identify any entries that are consistent with
4 stamps to Nicole Short's lower back or kidney area, as
5 demonstrated. Please take the time that you need to
6 read through the records. Please don't feel intimidated
7 by the silence.

8 A. Thank you. Thank you.

9 (Pause).

10 Q. Having read the notes, Mr Crawford, if you form the view
11 that there are no entries that would be consistent with
12 the stamps we saw demonstrated, please just tell me and
13 we will move on.

14 A. Yes, I am familiar with the notes, but I was just
15 reading them again. There is no reference to any injury
16 or injury mechanism like that in these particular notes.
17 The only thing that I previously noted but which is not
18 directly relevant to stamps so I don't know whether I
19 should actually mention it -- is there's an entry on
20 a blank page here that's not annotated in any way but it
21 says "Query loss of consciousness, punches to back

TRANSCRIPT OF THE INQUIRY

1 head", and, you know -- which applies or suggests that
2 there was a head injury, but that's not related to
3 stamping.

4 Q. And the Chair heard from Dr Mitchell yesterday as to who
5 may have made that entry and the significance of it so
6 rest assured, that's not a matter that need concern you
7 today.

8 A. Okay, fine.

9 Q. So we can move on then from the notes from the accident
10 and emergency department on 3 May 2015 and we will look
11 now at the report and notes prepared by Dr Norrie, the
12 forensic medical examiner, who examined Nicole Short
13 later that day and again, what I'm going to ask you to
14 do, Mr Crawford, is look through these notes and
15 identify for the Chair any entries that you consider are
16 consistent with stamps to the lower back or kidney area,
17 as demonstrated by the officers, and for present
18 purposes, I don't think we need to concern ourselves
19 with any entries to do with head injuries.

20 A. Sure, okay.

21 Q. Now, these have PIRC references 01310 and 01301. I'm

TRANSCRIPT OF THE INQUIRY

1 not sure where in your folder they will be.

2 A. Yes, I have them here.

3 Q. You have them?

4 A. Yes. So 01310 --

5 Q. 01310 is the type-written report.

6 A. Oh, right.

7 Q. 01301 are the handwritten notes that preceded it.

8 A. Okay.

9 (Pause).

10 Right, again, there are none.

11 Q. All right. Let's move on then to the records from the

12 accident and emergency department on 4 May 2015. They

13 have PIRC reference 01160. Are you able to find those,

14 Mr Crawford?

15 A. Yes, I've got them.

16 Q. Grand. Again, please take the time that you need.

17 (Pause).

18 You mentioned yesterday afternoon that you recalled

19 somewhere seeing a reference to --

20 A. Yes, it's in these records.

21 Q. -- paraspinal tenderness.

TRANSCRIPT OF THE INQUIRY

- 1 A. That's correct.
- 2 Q. It's here, isn't it?
- 3 A. It is. It was on the attendance at the emergency
4 department on 4 May 2015.
- 5 Q. Let's bring these records up, please, Ms Wildgoose.
6 This is PIRC 01160, and the relevant entry I think,
7 Mr Crawford, is on page 5.
- 8 A. Yes. It is a little bit lower down.
- 9 Q. Bottom right-hand corner.
- 10 A. There it is, that's it.
- 11 Q. There we are.
- 12 A. "Mild right paraspinal tenderness."
- 13 Q. Just to help those who are looking at the screen, that's
14 in the margin on the right-hand side of the page, is
15 that right?
- 16 A. That's correct.
- 17 Q. But if we look slightly to the left, do we also see
18 recorded:
- 19 "No C-spine tenderness FROM ..."
20 Which I think is full range of movement?
- 21 A. Full range of movement, yes.

TRANSCRIPT OF THE INQUIRY

- 1 Q. "... neck ... no T/L/S spine tenderness..."
- 2 A. Thoracic, lumber or sacral spine tenderness or bruising.
- 3 Q. Thank you. And then in the margin "mild right
- 4 paraspinal tenderness."
- 5 A. Yes.
- 6 Q. And that's the entry that you recalled ringing a bell
- 7 with you yesterday afternoon?
- 8 A. Yes, and that's the area -- these notes refer to
- 9 specific bony tenderness of the spine and that entry
- 10 refers to the muscles around the spine, in this case on
- 11 the right side, where I was referring to yesterday which
- 12 also coincides with the kidney area, you know, that kind
- 13 of area, and so I formed the view that that was
- 14 supportive evidence of an injury there and that could be
- 15 attributed to a stamp.
- 16 Q. I see. Am I right to understand that the paraspinal
- 17 muscles run from the top to bottom of the spine on both
- 18 sides?
- 19 A. Well, you're -- yes, but these ones actually run from
- 20 the lower thoracic area to the pelvic area, so these are
- 21 lumbar muscles, they're predominantly in the -- either

TRANSCRIPT OF THE INQUIRY

1 side of the lumbar spine, the ones that they're
2 referring to there.

3 Q. What makes you think that they're references to the
4 muscles in the lumbar spine?

5 A. Because -- well, it's in the entry where she is
6 examining the spine and it is right next to where she
7 says that there's no bony tenderness of the thoracic
8 lumbar or sacral spine, and paraspinal muscles in
9 clinical practice, that would normally be referring to
10 that area of the body at the time they're examining
11 them. If it was cervical spine -- because you could say
12 paraspinal in relation to the cervical spine, but most
13 people don't, they would say cervical spine, but that
14 would be in relation to the cervical spine, so that's
15 put in there and that was my interpretation of it.

16 Q. So that's how you have interpreted what's written in
17 those records?

18 A. That's how I have interpreted it. This is the right
19 paravertebral muscles, in other words, the right lumbar
20 back area of the spine.

21 Q. Mr Crawford, I'm going to ask you to consider some

TRANSCRIPT OF THE INQUIRY

1 evidence that is before the Inquiry in written form from
2 Dr Smeed, and Dr Smeed is the doctor who made these
3 entries. Now you have not seen this before?

4 A. No.

5 Q. But if I can ask you, please, Ms Wildgoose, to bring up
6 on the screen SBPI 00121 and we will just satisfy
7 ourselves that this is in fact Dr Zoe Smeed's statement
8 and it is, and it was given to a member of the Inquiry
9 team on 4 April of this year.

10 Can we scroll down, please, to paragraph 60 and 61
11 and I will read these out, Mr Crawford, to save you
12 having to put your sunglasses on again. 60:

13 "I have been referred to the medical records at
14 page 5: 'no C-spine tenderness FROM neck mild R
15 paraspinal tenderness'. 'FROM' means full range of
16 movement. She's moving her neck normally. She had no
17 tenderness over the bones in her neck, she had some mild
18 tenderness to her right paraspinal muscles at her neck,
19 which are more muscular and she was able to fully move
20 her neck. So you do that if you're worried about
21 looking for a fracture with the neck. I test tenderness

TRANSCRIPT OF THE INQUIRY

1 by feeling down the spinal bones and checking if it is
2 sore.

3 "I have been referred to the medical records at
4 page 5: 'no TLS spine tenderness/bruising'. This means
5 she has no thoracic, lumbar or sacral spine tenderness
6 or bruising."

7 In light of that evidence, Mr Crawford, and the
8 clarification that the tenderness was mild and was to
9 the right paraspinal muscles at her neck and not in the
10 lumbar spine as you had understood the position to be,
11 do you consider that the entry on page 5 of the records
12 that we looked at a moment ago is consistent with the
13 stamps to the lower back or kidney area as demonstrated
14 by Constable Tomlinson and Constable Walker?

15 A. If that doesn't refer to the area -- to the entry "No
16 thoracic, lumbar or sacral spine tenderness or
17 bruising", if it doesn't refer to that, then I would
18 interpret that as being that there was no evidence of
19 injury in that area.

20 Q. So no evidence of injury in the thoracic, lumbar or
21 spinal area?

TRANSCRIPT OF THE INQUIRY

- 1 A. If that entry didn't apply to -- if the marginal note
2 didn't apply to that entry.
- 3 Q. Which it doesn't; the evidence before the Chair by the
4 author of that note is that the marginal note does not
5 apply to "No T/L/S spine tenderness/bruising", but does
6 apply to "No C-spine tenderness FROM neck". That is the
7 entry to which the marginal note refers.
- 8 That being the case, do you consider that the entry
9 is consistent with stamps to the lower back or
10 kidney area as demonstrated by the officers?
- 11 A. Well, if it doesn't refer to that then no, it's not
12 consistent with that.
- 13 Q. Would the tenderness in the right paraspinal muscles be
14 more consistent with Nicole Short having been struck to
15 the back of the head, behind her right ear with such
16 force that her feet left the ground?
- 17 A. Sorry, would you repeat that question, please?
- 18 Q. Of course. I'm wondering whether the tenderness in the
19 right paraspinal muscles of the neck might be more
20 consistent with Nicole Short having been struck to the
21 back of her head, behind her right ear, with such force

TRANSCRIPT OF THE INQUIRY

1 that her feet left the ground?

2 A. It would be consistent with that, yes. It would be
3 entirely consistent with that.

4 Q. We will move on. Can I ask you to look at another set
5 of records. These are slightly longer. PIRC 01361. We
6 don't need these on the screen, thank you. Let me know
7 when you find these, Mr Crawford.

8 A. Yes, I have them.

9 Q. They're a little bit longer and they encompass records
10 relating to an acute admission on 10 May following
11 a call to NHS 24, CT scans from 11 May and the GP
12 referral from 18 May to the maxillofacial unit where
13 Nicole Short was seen on 8 June, so they are quite long.
14 Please take the time that you need to go through these
15 records and again, I'm going to ask you to identify, for
16 the benefit of the Chair, any entries that you consider
17 are consistent with a stamp or stamps to the lower back
18 or kidney area as described and demonstrated by the
19 officers.

20 A. Well, on page 9, dated 8 June 2015, it says:
21 "Referred by GP."

TRANSCRIPT OF THE INQUIRY

1 And the presenting complaint is there of "Weakness
2 of the right lower face and reduced sensation right side
3 of face and" -- which is slowly improving, but in the
4 history that's been given to the doctor who has made
5 these notes it says that she was kicked and stamped on
6 the head.

7 Q. Yes. Would you forgive me for interrupting you there,
8 Mr Crawford. I anticipated that you might note that
9 entry and we see it, I think, on at least three
10 occasions within this bundle of notes.

11 A. Yes.

12 Q. And Ms Short was asked about this in her evidence and
13 she gave very clear evidence that she has no
14 recollection of being kicked or stamped on the head,
15 no one told her that she was kicked or stamped on
16 the head, there is no eye-witness evidence whatsoever
17 before the Chair to that effect, and this appears to be
18 a rogue entry. We cannot explain how it came to be in
19 the records. She does not consider that she provided
20 that information to the doctor, she can't explain how it
21 got there, but there is no information or evidence

TRANSCRIPT OF THE INQUIRY

1 before the Chair to suggest that she was kicked or
2 stamped on the head, so if we could perhaps leave
3 references to kicking or stamping of the head to one
4 side because they appear to be without foundation.

5 A. Mm-hm.

6 (Pause).

7 Right, well, there's no other reference -- sorry,
8 I haven't completed the notes, but in the handwritten
9 notes there, so far there's no specific reference to
10 other injuries related to stamping.

11 Q. Or any injuries to her back, Mr Crawford?

12 A. No, no, no, there's not.

13 Q. Nothing, okay.

14 A. The immediate discharge -- no, again, that's -- there's
15 a principle diagnosis: discharge of concussion/muscular
16 pain, but it is not specified.

17 Sorry, these notes go on -- am I still on the same
18 set?

19 Q. They are quite lengthy but you will see that many pages
20 have been redacted and are blank sheets.

21 A. Yes, indeed.

TRANSCRIPT OF THE INQUIRY

1 (Pause).

2 Again, the only references so far have been in the
3 history that's given, because on page 18, again, that
4 history is repeated, which is what I would expect. It
5 says that she was stamped on whilst on the ground:

6 "... punched to the back of head, collapsed, stamped
7 on whilst on the ground."

8 Q. That's part of the history --

9 A. That's the history.

10 Q. -- but what we're really looking for, and what I would
11 invite you to focus on, Mr Crawford, are any references
12 to injuries, bruising, tenderness, anything that's
13 consistent with the stamps that you saw demonstrated
14 yesterday.

15 A. The -- I have seen these notes before and I know that
16 there was no specific evidence of physical injuries,
17 you know, to the back of the spine.

18 Q. Very well. If you have seen them before and that's your
19 recollection, are you content that we move on?

20 A. Yes, I'm happy to accept that, yes.

21 Q. I would like to take you now to a report prepared by

TRANSCRIPT OF THE INQUIRY

1 a professional colleague of yours, Mr Ian Anderson. He
2 examined Nicole Short on 21 May of 2015 and I think in
3 fact you had sight of his report at the time that you
4 prepared your own report.

5 A. I had, yes.

6 Q. And I will ask that we bring this up on the screen
7 please. It is PIRC 1405. If we scroll down we will see
8 that this is indeed the report prepared by Mr Anderson
9 on 21 May and, as I mentioned a moment ago, he examined
10 Nicole Short on that date and gave evidence to that
11 effect yesterday.

12 I would like to take you very briefly, Mr Crawford,
13 to three very short entries, firstly, on page 6, fourth
14 paragraph down on page 6 -- this is page 6 of the
15 report. The PDF might have an additional page in.
16 I think it must be page 7 on the PDF, Ms Wildgoose.
17 There we are. Exactly:

18 "She described ongoing, troublesome symptoms of
19 headache, together with neck discomfort and stiffness.
20 She described discomfort and tenderness over the right
21 side of her torso."

TRANSCRIPT OF THE INQUIRY

1 So that's the history that she gave to Mr Anderson.

2 Then on page 7, please, or the next page, about five
3 paragraphs down beginning "No residual", there we are:

4 "No residual bruising was noted on either side of
5 her rib cage but localised tenderness was noted over the
6 outer aspect of the right side of her lower rib cage.

7 Aus --

8 A. "Auscultation".

9 Q. Thank you, I was about to ask for your help with that
10 word:

11 "... of her chest using a stethoscope revealed
12 normal breath sounds."

13 And onto the next page, please, for the final
14 entry -- so that was from Mr Anderson's examination, and
15 this section is his opinion and we see at the bottom of
16 the screen there -- just there is perfect, thank you:

17 "She suffered contusions to the right side of her
18 torso, particularly over her lower right rib cage,
19 consistent with having been caused by blunt injury."

20 So you have heard there from Mr Anderson's report
21 the history that he took insofar as it is relevant to

TRANSCRIPT OF THE INQUIRY

1 issues concerning the back, his findings on examination
2 and his opinion.

3 Now, Mr Anderson gave evidence yesterday,
4 Mr Crawford, and in his evidence he said that he did not
5 consider that his findings on examination on 21 May were
6 consistent with a stamp to the lower back or kidney area
7 as demonstrated by Constable Walker and Constable
8 Tomlinson. Would you wish to disagree with him?

9 A. I would say that tenderness over the right lower
10 rib cage is consistent with having been caused by blunt
11 injury, and I would say that that could be -- in my view
12 it is also consistent with that blunt injury being
13 a stamp or a blow to the right lower chest. There is
14 uncertainty as to exactly -- well, (a) whether this
15 occurred, (b) if it did occur, exactly where, it's not
16 just the back, it's -- there's suggestions that it could
17 be -- you know, it's the back area which includes the
18 right lower chest and that, in my view, could be
19 consistent, or would also be consistent with a stamp to
20 the right lower chest injuring the ribs and this is
21 21 May, which is a couple of weeks after the incident

TRANSCRIPT OF THE INQUIRY

1 I think, thereabouts, and, you know, so there's
2 definitely -- to me that's evidence of an injury there
3 and that would be consistent with a stamp.

4 Q. Evidence of an injury there consistent with a stamp, but
5 would it be consistent, in your opinion, Mr Crawford,
6 with the stamps demonstrated by Constable Walker and
7 Constable Tomlinson?

8 A. I have reservations about the interpretation of that in
9 terms of the potential severity of injury that actually
10 occurs, because quite clearly the demonstration is
11 impressive of, you know, a potential -- of a severe
12 force and a serious mechanism of injury. However, there
13 are other variables in this situation, you know, not
14 every person who is stamped on sustains serious
15 injuries, even if the stamps occur with apparent force,
16 so I'm not sure how I can answer that question more
17 accurately because I -- there are patients who can have
18 an apparent stamp like that but not sustain a serious
19 injury or a life-threatening injury, and this is
20 a couple of weeks down the line.

21 Q. So should we understand, then, that you disagree with

TRANSCRIPT OF THE INQUIRY

1 Mr Anderson who had the benefit of examining the patient
2 which is a benefit that you did not have?

3 A. Well, I disagree to the extent that -- I do agree to the
4 extent that she didn't have any signs of a serious
5 injury having been sustained, but I -- my concern is
6 that you could not exclude a stamp injury based on that
7 alone, because there is no other -- you know, there
8 are -- there doesn't appear to be another explanation
9 offered for that injury and -- or other injuries that
10 she may have sustained.

11 Q. Mr Crawford, you will correct me if I'm wrong, but
12 I think yesterday in your evidence you accepted that
13 pain to the right side could have been caused by her
14 lying on her right side curled up on top of her utility
15 belt and CS spray, and could also have been caused by
16 her falling to the ground?

17 A. Well, if I remember correctly, I didn't -- well, if she
18 had fallen on the ground onto her right side it could
19 have caused that. I think when you asked me that
20 question yesterday you specifically referred -- included
21 pain around the hip areas, which you were saying could

TRANSCRIPT OF THE INQUIRY

1 that be caused by lying, or contact with the spray and
2 the answer to that was yes.

3 However, I do recollect, and I saw it in the notes
4 there, that she actually had removed her spray from her
5 utility belt and, you know, it's not certain whether it
6 was actually in the utility belt at the time she fell.
7 That's for the Chair --

8 Q. Mr Crawford, these are very much matters within the
9 province --

10 A. Yes, so --

11 Q. -- the exclusive province -- if I may finish --

12 A. Yes, okay.

13 Q. -- of the Chair and it may be that the evidence that he
14 heard was in fact the casing was still on the belt and
15 the cover -- the spray itself had been --

16 A. Okay, well, sorry, I accept that and I don't want to
17 stray, but when I was considering mechanisms of injury,
18 I'm considering these factors as to how the injury was
19 caused, because if it's there, or if it's not there
20 would affect -- would have an influence on whether or
21 not an injury was sustained by that. That was all,

TRANSCRIPT OF THE INQUIRY

1 sorry.

2 Q. It's a matter for the Chair to consider --

3 A. Yes, okay, I accept that.

4 Q. -- to consider the cause of various injuries and really
5 my focus this morning is very, very narrow and it is to
6 explore with you whether there are any entries in any of
7 the records that are consistent with the stamps as
8 demonstrated by Constable Tomlinson and Constable
9 Walker, and that's what I'm interested in, because that
10 I think will assist the Chair.

11 So we should understand then that you disagree with
12 Mr Anderson to the extent that you consider that the
13 contusions to the right side of the torso may have been
14 caused, or may be consistent with a stamping injury.

15 A. (nods)

16 Q. And that's not withstanding the fact that the first
17 relevant entry appears to be on 21 May 2015 and that
18 there appear to be no relevant entries, or history
19 whatsoever, prior to that date?

20 A. I feel you're trying to lead me down a path that is very
21 strict and narrow and looking for a yes or a no answer.

TRANSCRIPT OF THE INQUIRY

1 Medicine is very rarely like that and you can -- and
2 the -- in the presence of a history of being stamped on,
3 that type of injury would be consistent with that.
4 That's all I'm saying. I'm not saying that it did or it
5 did not happen.

6 In the absence of a history, or if the evidence is
7 it did not happen, the -- sorry, I'm getting myself
8 confused. You said in the manner demonstrated. There
9 is sufficient uncertainty in my mind between
10 a demonstration and a real life situation to -- for me
11 to say "Oh, no, it is not consistent with that", because
12 the mechanism is stamping and the -- it would be
13 consistent with a stamp, and with an apparent stamp --
14 or a stamp of apparent severe force, but I absolutely
15 accept that she has not got physical evidence of
16 injuries that -- of a significant or serious injury
17 caused by a stamp but she -- as I said before, she was
18 wearing protective gear and there are other factors that
19 could affect the severity of the injuries that occurred
20 as a result of a mechanism like that.

21 Q. Can I take you to your Inquiry statement, please, in

TRANSCRIPT OF THE INQUIRY

1 conclusion of your evidence. That's SBPI -- we have it,
2 thank you.

3 So this is a statement you gave to a member of the
4 Inquiry team on 12 May 2022 and can I take you to
5 page 10, paragraph 41.

6 To put this in context you were provided with the
7 description of the stamp by Constable Tomlinson. You
8 weren't provided with the description by
9 Constable Walker, although they were quite similar, and
10 of course you weren't provided with the demonstrations
11 because they hadn't happened yet, but having been
12 provided with the description, you were asked if you
13 would:

14 "... expect the doctors examining Nicole Short to
15 discover any visible injuries on her back or side in A&E
16 on 3 or 4 May ... when she saw the [FME] and when she
17 saw her GP on 5 May ..."

18 If we scroll down to the next paragraph you say:

19 "Clearly PC Short didn't have broken ribs, punctured
20 lungs, internal bleeding and things like that. If it
21 happened she would have had bruising, straining, soft

TRANSCRIPT OF THE INQUIRY

1 tissue injuries. You may feel it at the time or may not
2 feel it at the time. You might not be aware of the pain
3 or injury but only later all the adrenaline and things
4 wear off. Over a period of time because muscles and
5 tissue suffer microtrauma, they can stiffen up within
6 a day, two days, 24 to 36 hours, that's when you get
7 maximum symptoms as the changes in the tissue cause
8 that. A light injury could take several days to a week
9 or longer to settle. Severely bruised ribs or broken
10 ribs can take 6 weeks or longer to get better. You
11 would get stiffness. It would take several days to
12 resolve it. It depends on your level of fitness and
13 what you're used to having."

14 Can I ask you whether the paragraphs that I have
15 read out to you just now remain your opinion today?

16 A. What I was trying to explain in that was that there is
17 a spectrum, or a range and -- a range of severity and
18 the -- you can go from, you know, a mild injury to
19 a severe injury, but there are shades of grey in-between
20 as well, you know, and it can vary and it can be very
21 difficult to predict just exactly how long symptoms

TRANSCRIPT OF THE INQUIRY

1 would persist.

2 I also explained during that discussion that,
3 you know, there can be other causes for stiffness and
4 soreness in muscles after extreme physical exertion
5 and -- but in one way we're going from a general to
6 a specific.

7 I do fully accept that in this particular case there
8 was no evidence of significant or severe injury to the
9 body of Ms Short as a result of stamping. My opinion
10 that was formed was based on the reports and the
11 statements that were given to me at the time describing
12 the mechanism of injury and describing, you know, her
13 symptoms and clinical presentation that -- to me at that
14 time in those statements was consistent with a stamping
15 injury.

16 MS THOMSON: Bear with me a moment, please, Mr Crawford.

17 (Pause).

18 I am grateful for your time. I have no further
19 questions for you.

20 A. Okay, thank you.

21 LORD BRACADALE: Are there any Rule 9 applications?

TRANSCRIPT OF THE INQUIRY

1 Dr Crawford, I wonder if you would retire to the witness
2 room while I hear a submission.

3 MS MCCALL: Sir, I wonder whether I can have a few minutes
4 to consider that?

5 LORD BRACADALE: Yes, very well. Do you want me to adjourn
6 then? I will adjourn for a short time to allow that.

7 (10.37 am)

8 (Short Break)

9 (10.53 am)

10 LORD BRACADALE: Ms McCall, do you have an application?

11 MS MCCALL: No, thank you, sir.

12 LORD BRACADALE: Ms Mitchell, would you come to the table
13 please.

14 (Pause).

15 Yes.

16 Application by MS MITCHELL

17 MS MITCHELL: The issue 1 is in relation to breathing,
18 Nicole Short's breathing. Yesterday there was evidence
19 given by this witness where he said on the information
20 that he was provided with, there were various places
21 where Ms Short did complain of being unable to breathe

TRANSCRIPT OF THE INQUIRY

1 and he explained that he thought that would be
2 consistent with receiving -- having a blow in that area
3 because she was unable to breathe because of an injury
4 to there, possibly having been winded or an injury
5 causing pain that was restricting breathing.

6 Now, I didn't propose to take him through possible
7 other mechanism for the pain injury at the side because
8 my learned friend has already done that, but I was going
9 to ask him to look at PIRC statement 253 which is the
10 statement of Nicole Short, page 3 thereof, because
11 Nicole Short says in her interaction with Sheku Bayoh,
12 before there's any question of any contact between the
13 two she said:

14 "I was in terror and fear of my life. I just turned
15 away and tried to run. I remember screaming 'no' and
16 crying but no tears were coming out and struggling to
17 breathe."

18 So I would like to take the witness to that part of
19 the statement where he can see that the symptom -- the
20 breathlessness symptom pre-dates any suggestion of
21 a punch or a stamp, and then simply identifying in the

TRANSCRIPT OF THE INQUIRY

1 emergency -- accident and emergency records, which he
2 records in his own report at page 7 of 26, at
3 subsection 3, that the witness's breathing was 16
4 breaths per minute as being recorded and just to confirm
5 with him that's within the normal range.

6 LORD BRACADALE: That's the only matter?

7 MS MITCHELL: No, no, there's one other matter. The second
8 matter is on the issue of Crown instruction and how the
9 report was obtained, the information given -- I will
10 give it more detail, my Lord, but the information given
11 and the reason for that, my Lord, is the Inquiry will of
12 course understand that part of the Inquiry terms --
13 whilst not specifically relevant to this Inquiry -- this
14 part of the hearing, is to examine the post-incident
15 management process and the investigation up to but not
16 including the making by the Lord Advocate of the
17 prosecutorial decision communicated to the family, and
18 it also says in brackets:

19 "... (and the victim's right to review process that
20 was undertaken by the Crown counsel in 2019 including
21 (1), the effectiveness of procedures for gathering and

TRANSCRIPT OF THE INQUIRY

1 analysing information et cetera)..."

2 In this particular report what I would like to deal
3 with this witness is some restrictions in the report,
4 for example the methodology, the questions that were
5 asked and the broadness of those questions, the
6 documentation, just to check that he didn't receive any
7 information on audio, such as Airwaves -- he was given
8 some visuals only -- and very importantly, in light of
9 the evidence that he has given about the mechanisms of
10 energy and efficacy and whether or not something was an
11 assault which was severe and most effective, whether or
12 not he was given any information on Mr Sheku Bayoh
13 himself, because it doesn't appear from the
14 documentation that that happened.

15 And then take him to the fact that there doesn't
16 appear to be any discussions, as was explored in
17 evidence, about outdoor shoes or the vest or repeated
18 stamps, or again the height, weight or fitness of
19 Mr Sheku Bayoh, and to ask him about the part of his
20 statement where he says:

21 "I don't think I was questioned on the report. It's

TRANSCRIPT OF THE INQUIRY

1 very common for solicitors to seek clarification of
2 certain points, or if there are any factual
3 inaccuracies."

4 And ask whether or not he can recall anyone from
5 Crown Office coming back to him to ask him about any of
6 these things and those would be my questions.

Ruling

7
8 LORD BRACADALE: Thank you. In relation to the first issue
9 it seems to me that I will have all that evidence
10 available to me and I don't consider it would assist for
11 this to be further explored with this witness. It can
12 be addressed in closing submissions in relation to the
13 whole evidence.

14 In relation to the second matter, that's really
15 a matter for the later hearing and I don't want to
16 embark on that with this witness at this stage. It may
17 be that the exploration of that issue by the Inquiry
18 will lead it back to this witness, but I wouldn't wish
19 to explore that with him at this stage, so I shall not
20 allow any questioning further of this witness.

21 MS MITCHELL: I'm obliged, and I'm obviously obliged

TRANSCRIPT OF THE INQUIRY

1 A. Good morning.

2 LORD BRACADALE: Would you take the oath, please, if you
3 raise your hand.

4 MS JANE COMBE (sworn)

5 LORD BRACADALE: Ms Grahame.

6 Questions from MS GRAHAME

7 MS GRAHAME: Thank you.

8 Good morning. Is it Ms Combe or Ms Combe?

9 A. Combe.

10 Q. Combe, thank you. I will try to get that right
11 throughout. As everyone here knows, I have an issue
12 with names at times.

13 You are a former police inspector?

14 A. I am.

15 Q. And what age are you?

16 A. 52.

17 Q. And you have been retired from the police force as
18 I understand it for about three years, is that right?

19 A. That's correct.

20 Q. But when you were working, you worked mainly in Fife?

21 A. I did.

TRANSCRIPT OF THE INQUIRY

- 1 Q. And you had various inspector roles. You were first
2 promoted to inspector in 2010, is that correct?
- 3 A. Yes.
- 4 Q. And you were posted to Kirkcaldy Police Office at that
5 time?
- 6 A. Yes.
- 7 Q. Good, thank you. Now, all of your contact details are
8 known to the Inquiry, so we won't ask you to say those
9 here. What I want to do, first of all, is to make sure
10 that you've got everything that you might need in front
11 of you, so as we go through your evidence you've got
12 hard copies. So you can see the black folder and what
13 you -- I will take you through what should be in there,
14 so when I'm maybe referring to a paragraph or
15 a particular section, it should come up on the screen in
16 front of you and so we will be able to see maybe
17 a paragraph, but if you want to look around that you've
18 got the hard copy and you please refer to it.
- 19 A. Thank you.
- 20 Q. And at any time if you wish to refer me to something you
21 would like to speak to, let me know and I can get that

TRANSCRIPT OF THE INQUIRY

1 brought up on the screen as well.

2 So the first thing I want to talk about is PIRC 190
3 which I believe is an operational statement dated
4 15 May 2015, and if that can be brought up on the
5 screen. We will see your name and the date it was taken
6 was 15 May 2015 at 9.00 in the morning and it says
7 "Self", so you prepared this yourself?

8 A. I did.

9 Q. And this was after the events of 3 May 2015.

10 A. Yes.

11 Q. And you prepared this in Cowdenbeath. Were you based in
12 Cowdenbeath at the time?

13 A. Yes, that's where I was stationed at the time.

14 Q. Right. And were you doing your best on 15 May to give
15 a true and accurate record of what you had done on
16 3 May?

17 A. Yes.

18 Q. Thank you. Can we look at paragraph 66 of your Inquiry
19 statement -- we will look at the first page first. We
20 will see this is your Inquiry statement. It was taken
21 by a member of the team on 22 March this year?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. And then if we can look at paragraph 66 you say:

3 "My operational statement ..."

4 Which is the one we were looking at a moment ago of
5 15 May:

6 "... would be the one that's most clear and I stand
7 by that because I gave that shortly after the event."

8 A. That's correct.

9 Q. So this was the first statement prepared by you after
10 the events of 3 May.

11 A. Yes.

12 Q. And then can we look at the end of Inquiry statement,
13 the last paragraphs, paragraph 125, and it says:

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

18 And in light of that you signed the pages of this
19 Inquiry statement?

20 A. I did.

21 Q. And although on the screen you will see it is redacted,

TRANSCRIPT OF THE INQUIRY

1 I believe the hard copy you have should have your
2 electronic signature.

3 A. Yes, on all pages.

4 Q. Thank you. And that was signed by you on 18 May this
5 year.

6 A. Yes.

7 Q. Thanks. And then can we also confirm that you were
8 doing your best when you gave this statement to the
9 Inquiry to be truthful and accurate in everything you
10 mentioned?

11 A. Yes.

12 Q. And then can we look at a statement dated 8 March 2018,
13 so this is almost three years after the events, and this
14 is PIRC 191. Again, at the top we should see your name,
15 we can just see your name, Jane, there we are, and then
16 we see it's dated 8 March 2018, 10.10 hours, and it was
17 noted by investigating officer Neil Duncan and the place
18 was at Cupar. Where you based at Cupar by 2018?

19 A. I was, yes.

20 Q. Thank you. And again, when you gave this statement was
21 this to PIRC, Police Information and Review Commission

TRANSCRIPT OF THE INQUIRY

1 officers?

2 A. Yes.

3 Q. And you were doing your best again, three years later,
4 to give a true and accurate record of what you had
5 done --

6 A. Yes.

7 Q. -- on 3 May 2015. Can we look at paragraphs in your
8 Inquiry statement again please, 65 and 66 and 67. Let's
9 start with 65, and you are talking about the different
10 statements that you have given and you say:

11 "The second was taken by PIRC who interviewed me on
12 8 March 2018 ... they came to see me at Cupar ... I told
13 them the truth ..."

14 And then in paragraph 66, which we looked at
15 a moment ago, you say:

16 "My PIRC statement will be less clear, likewise my
17 later statement provided, given the passage of time. In
18 2018 my recollection of that incident will be the same
19 as it is now. By 'clear' I mean my recollection would
20 not be affected by what I have seen in the media,
21 particularly the Panorama programme and media

TRANSCRIPT OF THE INQUIRY

1 reporting."

2 So it's something that you have kept an eye on in
3 the media, or been aware of?

4 A. Yes.

5 Q. And then paragraph 67:

6 "The content of both statements are exactly the same
7 other than the addition in the PIRC statement regarding
8 the contact with the force medical examiner (FME).

9 I don't see any difference in the content of my first
10 statement and my second statement. The only addendum
11 they have put in there is the contact with the FME, and
12 if I could remember any conversation with Nicole Short.
13 I don't think there's any other difference. If there is
14 a difference I stand by my operational statement because
15 it was produced closer to the time."

16 To help the Chair really it's the operational
17 statement, the first statement, that you think is
18 clearer and the most accurate?

19 A. Yes, definitely.

20 Q. Thank you. So if the Chair thinks there's any
21 difference between later statements, or your Inquiry

TRANSCRIPT OF THE INQUIRY

1 statement, or even your evidence today, if there's
2 a difference between what you have said and your first
3 statement, he should prefer your first one?

4 A. Yes.

5 Q. Thank you. Lovely. Can I also ask you about
6 paragraph 68 of your Inquiry statement and you say:

7 "I've also been interviewed numerous times as well
8 by the officers working on behalf of the
9 police officers. A Mr John Sallens and somebody else as
10 well, during COVID, they have also been in contact. So
11 I have given a statement, it's the same statement and
12 I've never changed it."

13 So we have heard the name of John Sallens previously
14 from others; do you know who Mr Sallens is?

15 A. No. I know that he was working obviously on behalf of
16 the solicitors for the police officers but I don't know.

17 Q. Right. And when did you give him a statement or speak
18 to him?

19 A. That was just when COVID began, so probably
20 about March 2020, about that time.

21 Q. So that's roughly when we went into lockdown, around

TRANSCRIPT OF THE INQUIRY

1 about that time?

2 A. Yes, just at lockdown.

3 Q. Just then. Do you know what happened to that statement?

4 A. No.

5 Q. But that was a later statement than your original

6 operational statement and your PIRC statement?

7 A. Yes.

8 Q. Thank you. What sort of things was he asking you about

9 at that time in 2020?

10 A. Just exactly the same: can I recall what happened on

11 that day, did I have any conversations with the

12 officers, did I have any conversation with Nicole Short

13 and that's what I could remember from him.

14 Q. All right, thank you. Do you still have a copy of that

15 statement, or was that only in the hands of Mr Sallens?

16 A. Mr Sallens' statement? No, it was dictated and then

17 they took that to be typed up but I've never seen that

18 statement.

19 Q. Right, thank you. And you also talk about being

20 interviewed numerous times. Were there other people who

21 interviewed you?

TRANSCRIPT OF THE INQUIRY

- 1 A. No, I think it was just Mr Sallens. I went into Police
2 Headquarters and then he was in contact via telephone so
3 that's what I mean by numerous times, but it was the
4 same person about the same statement.
- 5 Q. So PIRC interviewed you, the Inquiry team have
6 interviewed you and Mr Sallens has spoken to you as
7 well?
- 8 A. Yes.
- 9 Q. Thank you. And he spoke to you said at Police
10 Headquarters, is that --
- 11 A. Sorry, Glenrothes Police Headquarters, Fife Division
12 Police Headquarters.
- 13 Q. Fife Division Police Headquarters. And again, that's
14 where you were based?
- 15 A. No, I was retired by that time.
- 16 Q. Oh, I see.
- 17 A. There was an arrangement for me to go in.
- 18 Q. Thank you. Are you happy you've got everything that you
19 would need in front of you today?
- 20 A. Yes, thank you.
- 21 Q. Good. Can I ask you about paragraphs 37 to 47 in your

TRANSCRIPT OF THE INQUIRY

1 Inquiry statement, and the Chair can read through all of
2 these paragraphs himself, but you're talking here about
3 police culture and what it was to you and how it has
4 changed over the years, and you talk about it being very
5 different in 1991 to how it is today and I think I'm
6 very interested in your impressions of police culture in
7 2015.

8 A. It depends on which you mean by police culture. I mean,
9 I was asked that question, I didn't evoke that, I didn't
10 say I wanted to speak about that, so I was asked about
11 police culture, and for me, it's just the parameters of
12 an organisation, what we work within and what we think
13 is acceptable. We're obviously different from the fire
14 service, the police, education, but it has changed and
15 we are evolving all the time.

16 Q. Right. Can we move the screen up then and just have
17 a look. So you have talked about the difference between
18 working in a more urban area like Kirkcaldy where there
19 are more officers and maybe more violence, compared to
20 someone maybe in more of a rural area?

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 Q. And is that the sort of thing that can make a difference
2 to culture and the way police officers act in a police
3 station?

4 A. No, not necessarily, because every police officer should
5 deal with the situation as they find them on that time.

6 Q. Right. And you have said at paragraph 40:

7 "Compared to somebody up in St Andrews or Cupar
8 where I actually started my service you had to take
9 a different approach because your back up was maybe
10 10/15 miles away."

11 A. Yes.

12 Q. "Whereas in Kirkcaldy, if required and appropriate,
13 officers could take a more robust approach, however
14 officers should always adopt a policing style relevant
15 to the situation."

16 And so is this an issue about the support available
17 and how close --

18 A. Yes.

19 Q. -- or how much time it would take?

20 A. Yes.

21 Q. -- for officers to have back up and support?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. Less immediate in a rural area; more immediate in an
3 urban area?

4 A. Yes.

5 Q. Is that fair to say?

6 A. That's my experience.

7 Q. But as you say, every policing style or every tactical
8 option adopted by a police officer will depend on the
9 particular circumstances that they're faced with?

10 A. Yes.

11 Q. And then you talk at paragraph 41 about not advocating
12 arresting individuals in a large crowd, and it can
13 escalate a situation. Is that something that you were
14 always conscious of, not to escalate situations or make
15 them worse --

16 A. Yes.

17 Q. -- but is de-escalating situations something that
18 officers consider on a regular basis?

19 A. On a daily basis.

20 Q. What does it mean to you to de-escalate a situation?
21 How would you achieve that?

TRANSCRIPT OF THE INQUIRY

1 A. Well, obviously the example I was asked and I was given
2 was in a football crowd you wouldn't go in and arrest
3 someone there because you put the officers more at risk
4 and the public, so you would take an appropriate time,
5 whether that was them leaving the stadium, or if you
6 knew their identity you could get them at a later date,
7 and obviously, if that was a domestic situation you
8 would try and separate both parties. So officers have
9 a lot of things in their toolkit they can use to
10 de-escalate, communication being the priority one.

11 Q. So officers can bide their time --

12 A. Yes.

13 Q. -- pick their moment, depending on the circumstances
14 when it is appropriate.

15 A. Yes.

16 Q. And they can communicate. We have heard a lot of
17 evidence from officers talking about your voice is
18 actually a tool in your armoury --

19 A. Yes.

20 Q. -- that you can always be trying to communicate with
21 people and that can be an effective technique for

TRANSCRIPT OF THE INQUIRY

1 de-escalating a situation?

2 A. Yes.

3 Q. And you would agree with that?

4 A. 100%.

5 Q. Thank you. And then if we move up the screen you talk
6 about -- at paragraph 42, talking about negotiation
7 tactics and "talking people down". Is that what you
8 mean by de-escalating?

9 A. Yes.

10 Q. Right. And you say 43:

11 "I would expect any officer to adopt a tactic
12 correct for the situation they are faced with."

13 But the location can be an important factor in that?

14 A. It can be.

15 Q. So you have talked about football stadiums, a lot of
16 fans present, you talked about urban areas, rural areas,
17 it can be an important factor?

18 A. Yes.

19 Q. We have heard evidence from a number of people about the
20 National Decision-Making Model. Is that something you
21 were aware of before you retired?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. And we have heard that you are feeding in new
3 information, information about all the circumstances,
4 and that could include things like location and the
5 incident?

6 A. Yes.

7 Q. And then you're working out your tactical options and
8 the more information, the new information you get in you
9 review -- is that the type of thing that you're doing
10 all the time?

11 A. Yes.

12 Q. Thank you. And you then, at paragraph 44, talk about:

13 "In an urban area assistance is more readily
14 available."

15 And again, that's about the level of support that
16 may be available to officers at any time?

17 A. Yes.

18 Q. Thank you. And then looking further down, you again
19 repeat it's the situation you're faced with and you have
20 mentioned Alan Smith. We have heard from PC Smith and
21 you were aware of him?

TRANSCRIPT OF THE INQUIRY

1 A. Yes, he was one of my officers.

2 Q. So you were actually his inspector, were you?

3 A. No, I think I was his sergeant at that time.

4 Q. Right. And we have heard from PC Smith that he was
5 a trainer and first aid trained and the Chair has heard
6 his evidence so ... and then 47 you have also had the
7 benefit of working in London alongside the Met.

8 A. I did, yes.

9 Q. So that's a very built up and urban area; it's quite
10 different again from Kirkcaldy.

11 A. Yes.

12 Q. And you have talked there about:
13 "Officers cannot afford to alienate themselves
14 because potentially they could have their property
15 damaged."
16 Can I just ask you about that paragraph.

17 A. The point I think I was trying to make there is it's
18 a very different policing style, certainly in Fife
19 Division, when I was there, the officers actually live
20 in the community, so they're actually part of the
21 community, so the approach that I have witnessed down in

TRANSCRIPT OF THE INQUIRY

1 the Metropolitan Police or some of the larger police
2 forces down south was a different style of policing in
3 my opinion.

4 Q. I would imagine -- and you can tell me if I'm wrong
5 about this, that in London you could maybe meet someone
6 one year and not see them again --

7 A. Yes.

8 Q. -- for many years, if at all?

9 A. Yes.

10 Q. But maybe that is less likely to happen in a town like
11 Kirkcaldy?

12 A. Yes.

13 Q. Thank you. And that may also be a factor in how you
14 police the community?

15 A. Yes.

16 Q. And we have heard some evidence about how important it
17 is for the police to have support from the community and
18 engagement with the community --

19 A. Yes.

20 Q. -- in which they are working. Can I ask you about
21 paragraph 48, please. You have been asked a number of

TRANSCRIPT OF THE INQUIRY

1 questions about race and you have said you have never
2 heard any of the officers subject to this Inquiry saying
3 anything with a racial overtone, and I'm interested in
4 whether you have ever seen or heard anything from any of
5 the officers with a racial undertone?

6 A. No.

7 Q. No. So both overtones and under --

8 A. Yes.

9 Q. -- not just blatant things, but maybe more subtle
10 things?

11 A. No, nothing.

12 Q. You have not seen anything like that?

13 A. No.

14 Q. And do you think that officers would tone things down if
15 they're in the presence of an inspector, that's a senior
16 rank in the police?

17 A. Potentially, but when you're walking about the corridors
18 you can overhear conversations you maybe shouldn't
19 overhear.

20 Q. And partly I would imagine as an inspector your job is
21 to be aware of what's happening with your team?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. Now, I think you have said you have -- at 49 you have
3 worked in the alcohol and violence reduction unit?

4 A. Yes.

5 Q. And your role was to engage with all communities?

6 A. Yes.

7 Q. And I'm interested in what engagement over the years you
8 had with the black community, if I can phrase it that
9 way?

10 A. There wasn't a large black community in Kirkcaldy, or
11 actually in Fife, but they were part of the larger
12 ethnic minority, so we went to open days, seminars,
13 mosque visits, engagement with youth, having some of the
14 ethnic minority youths come into the police station, so
15 we actually worked quite closely with them.

16 Q. And can you tell me sort of roughly when was it you were
17 working with all these communities?

18 A. That would be 2000 and -- probably 2014 to 2018, about
19 that time.

20 Q. And when you say you were visiting and having open days
21 and attending those --

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. -- how big a part of your role at that time was visiting
3 with communities and attending events?

4 A. It was quite a large part of that role.

5 Q. Would you be able to assist the Chair and say how
6 regular those visits were? Was it weekly, or was it
7 monthly?

8 A. It actually depended on what events they were actually
9 arranging because we were invited along as guests so it
10 was dictated by the communities when the police were
11 actually invited as guests to that, and then obviously
12 if there were any community messages that were needed to
13 be put out, we also did that. Latterly we had a really
14 good system in Fife where we could actually just send
15 an email. I think there was always this mystique that
16 we always had to go on prayer day on a Friday, but we
17 actually engaged with the community and they said that
18 wasn't appropriate, they felt they were businessmen,
19 they went to prayers, they wanted to get away, so it was
20 hindering them, so we actually listened to the community
21 and we were able to put out this messaging service that

TRANSCRIPT OF THE INQUIRY

- 1 we used quite regularly in Fife.
- 2 Q. So that was through better communication?
- 3 A. Yes, listening to the community.
- 4 Q. And then adapting your approach to suit the messages
- 5 that you were getting from the community?
- 6 A. Yes.
- 7 Q. And you have talked about a community message on
- 8 a Friday. Can you just explain what that is?
- 9 A. Well, for example, if Police Scotland or the wider
- 10 police community wanted to put a message out for
- 11 security, that would be a letter or something from the
- 12 Chief Constable to be delivered, so we would have to do
- 13 that, but that was only if and when it was required.
- 14 Q. Was that a personal visit by you with the message?
- 15 A. No, as I said, they didn't want that personal -- they
- 16 said "Yes, by all means you can come in, you're
- 17 welcome", but they were actually quite happy then to get
- 18 that as a leaflet drop.
- 19 Q. A leaflet drop or emails you mentioned as well?
- 20 A. Yes.
- 21 Q. And you've said you were quite close to the black

TRANSCRIPT OF THE INQUIRY

1 community, small as it was. Can you tell me about your
2 connection with the black community?

3 A. Well, they obviously had what were called Frae Fife and
4 we actually had some of the members of Frae Fife who
5 would actually come in and assist us with some police
6 inputs.

7 Q. We have heard very limited evidence about Frae Fife. It
8 has been mentioned to the Chair. Could you tell us
9 a bit more about it in your -- the experience you had.

10 A. The experience I had was that they were sort of an
11 interface, if you want to call it that, with the ethnic
12 community, so they had the relationship with the police,
13 if they had any issues they could come to us, kind of
14 ask about things like that.

15 Q. Tell me about the organisation itself. Did it have
16 people in charge, or leaders or --

17 A. From my knowledge -- I'm not an expert on Frae Fife,
18 I think it was like trustees and they had, like,
19 a manager and then they had volunteers who worked with
20 them, but I can't give comment on it because I don't
21 exactly know how they were structured.

TRANSCRIPT OF THE INQUIRY

- 1 Q. No, I'm only interested in your impression at the time.
2 But you did have contact with them?
- 3 A. Yes.
- 4 Q. Thank you. And were you aware at that time about any
5 concerns that the black community had or Frae Fife had
6 about policing of black people in Kirkcaldy?
- 7 A. No. The concerns they had were the same as any of the
8 communities in Fife, was the time police took to
9 respond, the lack of communication that we gave them, so
10 that was across all communities in Fife, that wasn't
11 just with our black communities, but they did have
12 concerns but, as I said, there was nothing just
13 specifically to them.
- 14 Q. Can you remember now what the concerns were about
15 communication with Police Scotland? Was there anything
16 specific that you can remember?
- 17 A. No, nothing specific.
- 18 Q. And do you -- you obviously personally had a lot of
19 contact.
- 20 A. Yes.
- 21 Q. What about other officers in Kirkcaldy? Did they have

TRANSCRIPT OF THE INQUIRY

- 1 contact with the black community, or with Frae Fife?
- 2 A. It wouldn't be unless it was their specialism, but a lot
3 of the community officers, as part of their role, if the
4 meeting or the event was -- when they were on duty they
5 would go -- and to their credit a lot of officers
6 actually went to these events actually off-duty.
- 7 Q. And can you explain what is a community officer compared
8 to an ordinary police constable, if I can say,
9 a non-community officer?
- 10 A. I would explain it as a community officer has
11 responsibility for a certain area, so they could build
12 up that rapport, whether it's business or with schools.
13 Whereas a response officer doesn't have that luxury, if
14 you want to call it that, and they have to respond to
15 all the incidents coming in. Whereas a community
16 officer, usually they can put things in their diary, so
17 they have more time to spend on an incident.
- 18 Q. And so that's the distinction there: the response
19 officer and the community officer.
- 20 A. Yes.
- 21 Q. And is a community officer based in a particular

TRANSCRIPT OF THE INQUIRY

1 location for longer to allow them to build a rapport?

2 A. Usually.

3 Q. So a response officer may be moved about?

4 A. Yes.

5 Q. Paragraph 50, please. You have talked about:

6 "Following the tragic incident, there were concerns
7 that there could be a negative and adverse reaction from
8 the ethnic minority community in Fife and a breakdown in
9 our engagement with these communities which could
10 manifest in demonstration and protest. However due to
11 the continued position community engagement and
12 dialogue, this was avoided."

13 A. I think that should read "Positive".

14 Q. "Positive community engagement", thank you. So we can
15 amend that. So:

16 "... due to the continued positive community
17 engagement and dialogue, this was avoided. Meetings
18 took place with community leaders where any concerns
19 could be addressed and discussed."

20 I would like to ask you about this paragraph. So
21 what was the continued positive community engagement

TRANSCRIPT OF THE INQUIRY

- 1 that you're referring to?
- 2 A. Well, after the event there was actually a meeting which
3 was chaired and all the community leaders were invited
4 to come to that meeting to see if they had any concerns
5 that they wanted to raise.
- 6 Q. And do you remember now when that meeting took place?
- 7 A. No, I couldn't give you a date, but it was quite close
8 after the incident.
- 9 Q. So some time after 3 May 2015?
- 10 A. Yes. I would say it would be in May, no later
11 than June, but I couldn't give you a date, sorry.
- 12 Q. Where did that meeting take place?
- 13 A. In -- I think it's still called Dunnikier House Hotel in
14 Kirkcaldy.
- 15 Q. Is that in the centre of Kirkcaldy?
- 16 A. On the outskirts.
- 17 Q. On the outskirts. And then who was it that arranged
18 that meeting?
- 19 A. I don't know who arranged it, but it would be somebody
20 from the management team in police -- in Fife Division.
- 21 Q. So it was Police Scotland that arranged it?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. And were you present at that meeting?

3 A. Yes.

4 Q. And you have talked about community leaders being
5 invited. Tell me who was invited?

6 A. I couldn't give you a list of who was invited, but it
7 would be the Imam, business owners, anyone who had,
8 I would say, influence in the community, so members of
9 Frae Fife, Fife Equality, they would have representation
10 there as well.

11 Q. So someone in Police Scotland -- we may be able to get
12 more information about this --

13 A. Possibly.

14 Q. -- someone in Police Scotland would have selected a list
15 of people to invite?

16 A. The invite would go out and then they would respond who
17 would come.

18 Q. Was it invitation only, or was it a meeting open to all?

19 A. I can't recall.

20 Q. Were there -- was it advertised in any way more
21 publicly?

TRANSCRIPT OF THE INQUIRY

1 A. I don't know.

2 Q. And who was responsible, if you know, or if you don't
3 know, tell me, who was responsible for selecting the
4 invitees?

5 A. I don't know.

6 Q. Right. And do you know anything about how they were
7 identified?

8 A. No.

9 Q. Do you remember what concerns, if any, were addressed or
10 discussed at that meeting?

11 A. No.

12 Q. Not now. And it may be the view that the idea of
13 community leaders, as an amorphous body, if you like, is
14 quite an outdated view of how to engage with a community
15 such as the black community, that there are no longer
16 community leaders as such. Do you have any views on
17 that at all?

18 A. No, I think going back to 2015 you've got to use what
19 communication you have and for the police that was our
20 method of communicating with them, but I do recall there
21 were some very young men at that meeting, so they

TRANSCRIPT OF THE INQUIRY

1 wouldn't be the leaders, so they were obviously there as
2 part of the community because with the age group of
3 them, they couldn't have been the community leaders.

4 Q. So it's not that you excluded all apart from the
5 community leaders?

6 A. No.

7 Q. There were other younger people present as well.

8 A. So I think what I'm trying to get over there, the invite
9 would go to the community leaders and then they would
10 actually publicise this meeting and they would bring
11 along with them who they would bring along.

12 Q. So they would disseminate information more widely --

13 A. Yes, yes.

14 Q. -- amongst the people they knew or the groups they had
15 contact with.

16 Do you remember -- you have said there that concerns
17 could be addressed and discussed. Do you remember if
18 there were -- you know, we hear about action points
19 after meetings where people go and resolve things that
20 have been raised, concerns that have been raised. Do
21 you remember if there were any action points?

TRANSCRIPT OF THE INQUIRY

1 A. No, not after this length of time, sorry.

2 Q. No. You have -- as part of the -- can we go up
3 slightly. Paragraph 51:

4 "I have been asked if I know why there was not any
5 kind of reaction from the community to the Sheku Bayoh
6 incident as I have described. My own perception is
7 because the local community trusted the police. There
8 wasn't the perception of 'a big cover-up' by the police
9 in Kirkcaldy or Police Scotland."

10 And that was your perception at the time?

11 A. That was my perception, yes.

12 Q. And that was based on the contact you had had with the
13 community --

14 A. And the fact there were no demonstrations or protests,
15 bar one that I'm aware of.

16 Q. What was the one you were aware of?

17 A. When the family had come to Kirkcaldy Police Station,
18 but that, for me, was very peaceful, very dignified,
19 more like a vigil as opposed to a demonstration.

20 Q. Right. And that was organised by the family?

21 A. I believe so.

TRANSCRIPT OF THE INQUIRY

1 Q. You say more of a vigil?

2 A. Yes. There was no hostility, it wouldn't be
3 a demonstration -- what I would class as
4 a demonstration.

5 Q. So when we're thinking about any reaction from the
6 community, or in particular from the family, it wasn't
7 any sort of noisy --

8 A. No.

9 Q. -- difficult demonstration --

10 A. No.

11 Q. -- that -- was that at Kirkcaldy Police Office?

12 A. Yes.

13 Q. And you have said the local community trusted
14 the police?

15 A. Yes.

16 Q. Was that the local black community?

17 A. All community.

18 Q. All the community?

19 A. Yes.

20 Q. Can we look at paragraph 52, first of all, and 53. 52:
21 "When I was in the job, I was the type of person, if

TRANSCRIPT OF THE INQUIRY

1 I thought somebody had done something wrong, I would
2 stand up and say it. I was never one of those ones who
3 wouldn't. I said it how it was and wasn't frightened of
4 that. I have challenged senior officers at times. So,
5 if there was something that was wrong, I would say it
6 was wrong. I wasn't frightened of that. I wasn't
7 frightened of my organisation. There was sexism and
8 things like that, but as I say, as far as officers under
9 my command being really racist, no, never saw that.
10 Sexism, homophobia? Yeah, definitely, there was that,
11 there were issues.

12 "53. I have been asked if there was sexism and
13 homophobia, would I be expecting also for there to be
14 racism. I'm not saying I wouldn't expect that. I'm not
15 saying that that didn't exist in Fife Constabulary or
16 Police Scotland officers. I'm not naive enough to say
17 that. Did I witness anybody being treated differently
18 because of race? No. Did I witness somebody different
19 because they were gay or lesbian? Yes, I did witness
20 that. If they were a female, were they treated
21 differently? Yes, I did witness that."

TRANSCRIPT OF THE INQUIRY

1 Can I ask you a couple more questions about this.

2 A. Yes.

3 Q. So paragraph 52, first of all. You're talking about

4 being willing to stand up and say something and

5 challenge. We have heard evidence about the ranks of

6 officers in the hierarchy and I have asked other

7 officers about did they feel uncomfortable maybe

8 challenging a more senior officer, or a more experienced

9 officer and your -- as I understand your statement,

10 you're saying you weren't shy to do that?

11 A. No.

12 Q. It must have taken quite a lot of courage to do that,

13 however.

14 A. If it was the right thing to do, it was the right thing

15 to do.

16 Q. Right, so you had that courage to speak up?

17 A. Yes.

18 Q. And you have said that you had seen issues of racism and

19 homophobia?

20 A. No, not racism.

21 Q. Oh, sorry, sorry, sexism and homophobia and had you had

TRANSCRIPT OF THE INQUIRY

- 1 cause to challenge that type of behaviour?
- 2 A. Yes. You're going back to when I first joined the job,
3 that's the point I'm making, it's a totally different
4 organisation than it was in 1991.
- 5 Q. So that's examples from the early 90s?
- 6 A. Yes.
- 7 Q. Not from 2015?
- 8 A. No. Very few now in 2015.
- 9 Q. Very few?
- 10 A. Yes, we have open officers or openly gay, that would
11 never have happened in 1991.
- 12 Q. I see. And we have heard that there were women working
13 in Kirkcaldy Police Office in 2015?
- 14 A. Yes. A lot now.
- 15 Q. Even more now maybe?
- 16 A. Yes.
- 17 Q. We have heard evidence that there were no black officers
18 in Kirkcaldy in 2015?
- 19 A. Not in Kirkcaldy.
- 20 Q. No. Do you remember them anywhere else?
- 21 A. There was one black officer who worked in the west of

TRANSCRIPT OF THE INQUIRY

1 Fife but I couldn't give you his date of joining.

2 Q. Right. And when you say the west of Fife what --

3 A. Dunfermline. Dunfermline, Cowdenbeath.

4 Q. Dunfermline, right. Do you remember his name?

5 A. Yes. Do I need to --

6 Q. No, no, you don't need to say it out loud if you don't

7 want to. So there was one in Dunfermline; anywhere else

8 in Fife?

9 A. Yes, we've got a senior ranking officer who started her

10 service in Fife as well who is a black officer.

11 Q. And where was she based?

12 A. She moved about so I don't know where she would be in

13 2015.

14 Q. Right, okay. So these examples that you had come across

15 of sexism and homophobia were in the early 90s?

16 A. Yes.

17 Q. But you have said -- you have used the phrase there --

18 let me just see if I can find it "really racist",

19 I think I saw that somewhere. Second bottom line in 52:

20 "There was sexism and things like that but, as

21 I say, as far as officers under my command being really

TRANSCRIPT OF THE INQUIRY

1 racist, no, never saw that."

2 So under your command -- you have said you were an
3 inspector from 2010?

4 A. Yes.

5 Q. So is that when you began to command officers at that
6 stage?

7 A. You could say you started that as a sergeant or even
8 a senior officer but if you're talking about middle
9 management that would be 2010.

10 Q. That would be 2010. So we're looking at a period from
11 2010 and you say:

12 "As far as officers under my command being really
13 racist, no, I never saw that."

14 What do you mean --

15 A. I don't know what I mean by "really racist", I don't
16 know if that's a typing error. "Really racist", I don't
17 know.

18 Q. We can check that, because we've got recordings
19 obviously of all these things. So looking at it now, do
20 you understand what you -- if you did say that --

21 A. No.

TRANSCRIPT OF THE INQUIRY

- 1 Q. -- do you understand what you meant?
- 2 A. No, just racist full stop, being racist.
- 3 Q. And can you remember any examples when you were
- 4 commanding officers of racism, whether overt or
- 5 covert --
- 6 A. No, none.
- 7 Q. Nothing like that?
- 8 A. No.
- 9 Q. But you do say -- you're not suggesting that it didn't
- 10 exist in Fife Constabulary, you're not naive enough to
- 11 say that, so you're not suggesting that Kirkcaldy Police
- 12 Office was a haven of --
- 13 A. No, utopia, no.
- 14 Q. Thank you. Can I ask you about paragraph 55, please.
- 15 You were asked about the media. And you say when it was
- 16 Fife Constabulary -- so this is before it became
- 17 Police Scotland?
- 18 A. Yes.
- 19 Q. "... the local inspector could be expected to speak to
- 20 the local reporter, local radio, but then when we went
- 21 to Police Scotland everything went there you a media

TRANSCRIPT OF THE INQUIRY

1 department."

2 A. Yes.

3 Q. So the handling or the engagement with the media became
4 centralised?

5 A. Yes.

6 Q. After April 2013?

7 A. Yes.

8 Q. And you say:

9 "If a reporter arrived looking for a comment at an
10 incident, the correct procedure would be to direct them
11 to the media department."

12 And you say:

13 "I'd be really surprised if a reporter would phone
14 the station. They would just be directed to the Police
15 Press Office. They would know that."

16 So is that what the centralised department was
17 called, the police press office?

18 A. Media department, yes.

19 Q. The media department.

20 A. Yes.

21 Q. Now, what about people who had obviously worked for Fife

TRANSCRIPT OF THE INQUIRY

1 Constabulary prior to it becoming Police Scotland: they
2 had maybe built up good relationships, professional
3 working relationships with members of the press and
4 would that contact continue even after the media
5 department was put in place?

6 A. No, not to my knowledge.

7 Q. Not to your knowledge. So although you have talked
8 about -- you were obviously an inspector prior to 2013
9 when it became Police Scotland?

10 A. Yes.

11 Q. And you had been expected as part of that role to have
12 that engagement with the media. After April 2013 did
13 you continue to have any engagement with the media
14 yourself?

15 A. I did have engagement with the media but it came through
16 our media department, it was arranged and authorised by
17 them.

18 Q. So it was all done through that media department after
19 that?

20 A. Yes.

21 Q. And was that part of the sort of rules that you were

TRANSCRIPT OF THE INQUIRY

1 supposed to abide by?

2 A. It was just a process. It made it easy for everyone

3 that we knew what the parameters were.

4 Q. And it relieved you of that burden --

5 A. Yes.

6 Q. -- of engaging when you had, no doubt, other duties.

7 Can I ask you to look at paragraph 70, please, and

8 then we move on here to 3 May 2015 and you have been

9 asked if you had a line manager or a senior officer

10 giving you orders on that date and you say:

11 "... I had the authority to deploy my officers where

12 they were required."

13 Now, can I ask you on 3 May where were you based

14 that day?

15 A. Cowdenbeath.

16 Q. And how many officers were under your command or you

17 were in charge of?

18 A. On that day or ...

19 Q. Well, yes, or just in general if --

20 A. My team consisted of two sergeants and 13 officers.

21 Q. Right. So the sergeants would be the more senior --

TRANSCRIPT OF THE INQUIRY

- 1 A. Yes.
- 2 Q. -- members of your team and then the 13 officers -- did
3 they form part of a response team and community
4 officers?
- 5 A. No, no. They were a partnership, working in partnership
6 with other partners, so they didn't fall either in
7 community or response.
- 8 Q. Can you tell me a little bit about their role?
- 9 A. Their role was to look at violence reduction, community
10 engagement and we also did youth diversion and when
11 there was anti-social behaviour we could be deployed for
12 a period of time to try and address those issues.
- 13 Q. So that sounds like your team were involved in some big
14 issues?
- 15 A. Yes, could be.
- 16 Q. Not individual incidents, just bigger, broader issues
17 for Police Scotland?
- 18 A. They could be.
- 19 Q. And can you explain how you became involved with the
20 Sheku Bayoh incident?
- 21 A. Well, I think all inspectors on duty should be aware of

TRANSCRIPT OF THE INQUIRY

1 all incidents that are ongoing so from my
2 recollection -- I wouldn't have been working on the same
3 radio channel, so I have picked it up from the STORM
4 incident.

5 Q. Tell us about that?

6 A. Well, a STORM incident is created when an incident is
7 ongoing and you can look at all the incidents that are
8 happening in the area.

9 Q. And when you were working in May 2015, is that something
10 that you would regularly keep on top of?

11 A. Yes.

12 Q. So you were aware of incidents going on in other police
13 areas?

14 A. Yes.

15 Q. And that's how you became aware of the knife calls --

16 A. Yes.

17 Q. -- regarding Mr Bayoh.

18 And then can we look at paragraph 71, so you
19 specifically say there that you were reading from the
20 STORM call cards. We have heard reference to call
21 cards, so that's sort of a record, if you like?

TRANSCRIPT OF THE INQUIRY

1 A. Yes, an incident report.

2 Q. An incident report. And you became aware of the calls
3 from members of the public at that time and can we then
4 look at 72 and 73. 73:

5 "I have been asked if it was of my own volition that
6 I went to help, and that nobody called and asked for
7 support. Yes. From recollections, my instructions to
8 my staff would be permission to use blue lights and
9 sirens to get there. It was a serious incident. With
10 blue lights and sirens you could get to Kirkcaldy from
11 Cowdenbeath in under 10 minutes and I arrived around
12 8am."

13 A. Yes.

14 Q. So when you say you arrived -- you say later in
15 paragraph 74 "I arrived in Kirkcaldy". Did you arrive
16 to Kirkcaldy Police Office or Hayfield Road?

17 A. Kirkcaldy Police Office.

18 Q. Thank you. So you were asked if you went of your own
19 volition and can you tell us a little bit more about
20 your decision-making process to go and attend.

21 A. Well, I would stand by that, that that was the right

TRANSCRIPT OF THE INQUIRY

1 decision to do. It was a priority, it was a serious
2 call where extra resources would have been needed, so
3 that's where I took my resources. On that day I only
4 had four officers on.

5 Q. All right, so that day you had four officers -- did you
6 have two sergeants as well?

7 A. No, just myself.

8 Q. Just yourself and four officers?

9 A. Yes.

10 Q. Did they all go?

11 A. Yes.

12 Q. So all five of you went?

13 A. Yes.

14 Q. And did you all go to Kirkcaldy Police Office?

15 A. Yes.

16 Q. And you have said it was a serious call, a serious
17 incident; can you tell us what made you view it as
18 a serious incident?

19 A. Well, the nature of the call, that there was a male
20 brandishing a knife at members of the public in a public
21 place.

TRANSCRIPT OF THE INQUIRY

- 1 Q. Right. And your recollection is that he was brandishing
2 a knife at members of the public?
- 3 A. That's my working assumption, yes. That was what was on
4 the call card that I read.
- 5 Q. When you say -- can you look at paragraph 71. You use
6 that phrase about a working assumption and I wonder if
7 you can explain to the Chair what that means in reality
8 in terms of your day-to-day work?
- 9 A. Well, I had no reason to doubt what the members of the
10 public were phoning in about.
- 11 Q. You weren't listening to the calls, were you? You said
12 you got that from the STORM?
- 13 A. No, not at that time, but what I would do, my working
14 practice would be then --
- 15 Q. Sorry, could you stop for a second. Sorry, I missed the
16 first part of that answer.
- 17 A. I can't 100% say that I did on this day, but my working
18 practice would have been if I was going to an incident
19 would be then to put my radio onto the channel where
20 that incident was.
- 21 Q. Right. So it's drawn to your attention --

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. -- through the STORM call cards?

3 A. Yes.

4 Q. You could then from your position --

5 A. Move onto that channel.

6 Q. -- move onto the channel and then listen to what was
7 happening at the time?

8 A. Yes.

9 Q. And we have heard about Airwaves transmissions and the
10 calls coming in, so you could actually listen in to
11 that?

12 A. Yes.

13 Q. And take a view then about whether you were going to
14 assist.

15 A. Yes.

16 Q. So you arrived at Kirkcaldy Police Office at 8.00 am,
17 you said that in paragraph 73, and in paragraph 74 you
18 talk about arriving in Kirkcaldy and speaking to
19 Inspector Stevie Kay in his office:

20 "I would have asked 'where do you want my resources
21 deployed?'. Inspector Kay would have given directions

TRANSCRIPT OF THE INQUIRY

1 where they were to go. It is my recollection that
2 I would deal with all other incidents requiring an
3 inspector's oversight."

4 So you have turned up with your team at about
5 8 o'clock and spoken to Inspector Kay?

6 A. Yes.

7 Q. We have heard mention of Inspector Kay. Was he the
8 person -- a senior officer at Kirkcaldy Police Office
9 that day?

10 A. Yes, he was the same rank as myself. I don't know
11 whether Inspector Kay would have actually been based at
12 Kirkcaldy Police Station at that time or arrived there
13 because as a police incident officer you could start at
14 other stations so I can't comment where he actually
15 started his duty that day.

16 Q. We have not heard from Inspector Kay yet, but we have
17 heard that he may sometimes have been at Dunfermline but
18 on this particular day he was in Kirkcaldy.

19 A. Right. My recollection was I spoke to him in the
20 inspector's office at Kirkcaldy Police Station.

21 Q. In the morning?

TRANSCRIPT OF THE INQUIRY

1 A. In the morning.

2 Q. And you asked him -- you say:

3 "I would have asked 'where do you want my resources
4 deployed?'.
5 That's a reference to you and your team?

6 A. Yes.

7 Q. And do you remember now what his response was? What did
8 he ask you and your officers to do?

9 A. No, I don't remember from the Inquiry statement, but if
10 I go back to my operational statement I have obviously
11 sent my four officers onto locus protection so that
12 would be what happened.

13 Q. Right. Let's look at that for a moment. That's the
14 15 May 2015 statement.

15 A. Yes.

16 Q. PIRC 190, and page 2 at the top you talk about arriving
17 at Kirkcaldy Police Office, contacting the duty police
18 incident officer, Inspector Kay:

19 "... who requested my team carry out locus
20 protection duties. My officers were thereafter duly
21 deployed."

TRANSCRIPT OF THE INQUIRY

1 So you essentially straight away sent your officers
2 who were from your team to Hayfield Road?

3 A. Yes.

4 Q. And just briefly for people listening in, do you mind
5 telling us what locus protection duties are?

6 A. It would be where the incident has actually occurred, so
7 we would have to secure that area.

8 Q. So will they be helping with things like traffic duties
9 and taping off areas and things like that?

10 A. Yes, yes, but once the locus -- the location is secured
11 they shouldn't have to do any traffic duties because it
12 should be a sterile area.

13 Q. How do you secure an area?

14 A. Like just what we just said, with tape or with
15 an officer's presence.

16 Q. All right, thank you.

17 Then if we could go back to the Inquiry statement
18 please, paragraph 77 to 80, and let's -- you see 77 you
19 later learned that sadly Mr Bayoh had died:

20 "Senior officers thereafter started to arrive at
21 Kirkcaldy Police Office. They took control of this

TRANSCRIPT OF THE INQUIRY

1 incident. My role thereafter was minimal, I was
2 requested to act in a support role for Conrad Trickett."

3 And we have heard mention of Conrad Trickett. Was
4 he the post-incident manager?

5 A. He was.

6 Q. And were you -- in mentioning a support role, we may
7 have heard from someone else that you were the deputy
8 post-incident manager?

9 A. No, I wasn't the deputy post-incident manager; I was
10 a liaison officer.

11 Q. Can you explain the difference, please, between a deputy
12 post-incident manager and a liaison officer.

13 A. I've never heard the term deputy post-incident manager,
14 but if you were a deputy manager you would have some
15 degree of taking the notes, of actually -- in carrying
16 out, fulfilling that role of the post-incident manager.
17 My role on that day, and I was very clear about that,
18 was could I act in a support role for Mr Trickett, so
19 basically show him about Kirkcaldy Police Station and
20 getting him anything he needed to fulfil his role.

21 Q. So you were showing him about. You were familiar with

TRANSCRIPT OF THE INQUIRY

1 Kirkcaldy Police Office at that time?

2 A. Yes.

3 Q. Was he not?

4 A. No, he wasn't a Fife officer.

5 Q. So you were able to tell him where things were and that

6 type of thing?

7 A. Yes.

8 Q. So you saw that as a position of support, a liaison

9 officer.

10 A. Yes, that was my role.

11 Q. So if there's any suggestion anywhere that you had

12 a more formal role as deputy post-incident manager, you

13 would not agree with that?

14 A. No, definitely not.

15 Q. And if somebody had been appointed as a deputy

16 post-incident manager, how do you think -- do you have

17 an understanding of how that would be done?

18 A. No.

19 Q. Were you involved in part of your support role in

20 talking to the police officers who had been at

21 Hayfield Road?

TRANSCRIPT OF THE INQUIRY

1 A. No.

2 Q. Can we look at the next paragraph. I think you mention
3 Conrad Trickett there:

4 "He came down and asked would I act as his liaison
5 officer."

6 You have explained that, and then you say in
7 paragraph 79:

8 "I have been referred to my statement ..."

9 This is 15 May 2015, so your operational statement:

10 "... at page 2 ..."

11 And it says:

12 "About 1100 [in the morning] same date, I was
13 requested to act in a support role to the post-incident
14 manager ... who had been appointed, Chief Inspector
15 Conrad Trickett'. I have been asked what happened in
16 the 3 hours in-between arriving and this request.

17 I didn't have any direct supervision of the incident so
18 would have been supervising any other calls requiring
19 a police response."

20 I'm interested in maybe getting a little bit more
21 information about what was happening between you

TRANSCRIPT OF THE INQUIRY

- 1 arriving at 8 o'clock and you being appointed to this
2 liaison officer role or support role to Conrad Trickett
3 at about 11 o'clock in the morning. Can you help the
4 Chair understand what was going on then?
- 5 A. I can't obviously say what calls were coming in at that
6 time without looking back on the STORM command and
7 control system, but this incident was obviously the
8 priority, but the very nature of policing there was also
9 other calls that would come in that the police are
10 required to respond to and that would be what I would be
11 diverting my attention to.
- 12 Q. So that would be calls completely unrelated --
- 13 A. Yes.
- 14 Q. -- to the events at Hayfield Road?
- 15 A. Yes.
- 16 Q. But you would be holding the fort, if you like, keeping
17 an eye on those --
- 18 A. Yes.
- 19 Q. -- while other things are going on?
- 20 A. Yes.
- 21 Q. And did you have any contact with Inspector Kay during

TRANSCRIPT OF THE INQUIRY

- 1 those three hours?
- 2 A. I don't know. I may have been in the same room as him
- 3 because sometimes inspectors would share the phone or
- 4 share the computer systems, but I can't recall.
- 5 Q. And when did you become aware that Mr Bayoh had passed
- 6 away?
- 7 A. I can't give you a time for that. It would be after
- 8 8 o'clock but before 11 o'clock.
- 9 Q. And during that time, do you have any understanding or
- 10 recollection now about who was in charge of what was
- 11 happening at Hayfield Road?
- 12 A. My understanding would be Inspector Stephen Kay until
- 13 the more senior officers arrived.
- 14 Q. And once the officers came back from Hayfield Road --
- 15 A. Yes.
- 16 Q. -- we have heard evidence they came back to the canteen?
- 17 A. They did, yes.
- 18 Q. Did you have an understanding, or even a recollection
- 19 now as to who was in charge once they got back to
- 20 Kirkcaldy Police Office?
- 21 A. That would be Inspector Kay.

TRANSCRIPT OF THE INQUIRY

- 1 Q. So in terms of the involvement of Conrad Trickett, he
2 wasn't in charge at that time?
- 3 A. No, not at that time.
- 4 Q. So his responsibilities began, I think you said, about
5 11.00 in the morning?
- 6 A. Yes.
- 7 Q. Right, thank you. Can I ask you about recovery of some
8 items of clothing, paragraph 81:
- 9 "Later that day, I'm not exactly sure of the time,
10 I was requested if I would corroborate the taking of the
11 female officers' clothing because they had to strip down
12 to their underwear."
- 13 And I would like to ask you about the recovery of
14 clothing, so tell us how you became involved with that
15 aspect of your --
- 16 A. I was approached by one of the senior investigating
17 officers who explained they were struggling to secure
18 the services of another female officer, and they asked
19 would I be willing to stay on duty and assist with that.
- 20 Q. Right, and this was for the female -- recovery of the
21 female officers' clothing?

TRANSCRIPT OF THE INQUIRY

1 A. Yes, yes, primarily. But there were other officers that
2 we took clothing from as well, male officers.

3 Q. Do you remember who the senior investigating officer was
4 that asked you to do that?

5 A. If I look back in my statement I think it is DCI Stuart
6 Houston, that's in my operational statement, second
7 paragraph -- third paragraph.

8 Q. Third paragraph, about 4 o'clock in the afternoon you
9 were asked to do that?

10 A. Yes.

11 Q. And tell us who DCI Stuart Houston was?

12 A. I believe he was part of the MIT team.

13 Q. All right. We have heard some reference to the MIT team
14 and so he approached you. Who was the other female
15 officer that they had secured?

16 A. I don't know this lady, but from my operational
17 statement it is DC Jennifer McAulay.

18 Q. Thank you. And you agreed to carry out that task --

19 A. Yes.

20 Q. -- and be part of that process. Can I ask you first of
21 all before we move on about paragraph 84 and you talk

TRANSCRIPT OF THE INQUIRY

1 about -- you are asked about the canteen and you say:

2 "I attended at the canteen within Kirkcaldy Police
3 Office to ensure the welfare of the officers involved.
4 By the time the officers had all returned to the
5 canteen, I remember Amanda Givan ... being present."

6 We have heard that she was from the SPF:

7 "The first time I went down was for a duration of
8 approximately 5 minutes. I can't recall the exact time
9 I went down there. It was probably mid-morning."

10 So you said the first time you went down was for
11 about five minutes. Was there a second time you went
12 down, or more times that I went down?

13 A. No, if you look down then I went back with
14 Conrad Trickett when he did the first -- the start of
15 his post-incident management so that would be after
16 11 o'clock.

17 Q. So is that paragraph --

18 A. 90.

19 Q. -- 90. Let me just see:

20 "I went back to the canteen later with Mr Trickett.
21 It will be in Mr Trickett's statement because he was

TRANSCRIPT OF THE INQUIRY

1 documenting his actions. He explained his role in my
2 presence because the PIM is usually just for a firearms
3 incident. They actually adapted that to fit this
4 circumstance. So he explained what his role was to the
5 officers. I didn't stay in the canteen with the other
6 officers, I left with Conrad Trickett. Amanda Givan
7 stayed there as the constant person who was with them.
8 That was her role as a Federation rep."

9 So does that mean you were there twice in the
10 canteen?

11 A. Yes.

12 Q. So initially, if we can go back up to the earlier
13 paragraph, 84, you went into the canteen to ensure the
14 welfare of the officers involved and you were there
15 about five minutes?

16 A. For an estimate, give or take.

17 Q. Give or take. And during that time, Amanda Givan was
18 there?

19 A. Yes.

20 Q. What did you do during the time you were first there?

21 A. When I first went down as I say it was a welfare visit

TRANSCRIPT OF THE INQUIRY

1 to make sure that officers had refreshments, had coffee
2 and tea and just to make sure they were all back.

3 Q. So what did you do when you were there, just ask them
4 about that or check?

5 A. I can't remember exactly what I said, but just to make
6 sure are they all back, did they need refreshments but
7 I can't recall my exact wording.

8 Q. Do you remember any specific conversations with any of
9 the officers?

10 A. I have explained this several times. There was no
11 conversation. The only way I can describe it is -- I'm
12 not a doctor, but these officers were in shock. It was
13 very silent, there was no conversations ongoing with
14 them, they just sat there very silently.

15 Q. Okay. Then the second time you went, if we can go back
16 to paragraph 90, so you were present with Mr Trickett?

17 A. Yes.

18 Q. And he was with you at all times then, was he during the
19 time --

20 A. I stood behind him.

21 Q. You stood behind him. And he had a conversation at that

TRANSCRIPT OF THE INQUIRY

- 1 time with the officers who were in the canteen. Did you
2 say anything that time?
- 3 A. Did I say anything?
- 4 Q. Did you say anything?
- 5 A. No.
- 6 Q. No. And those were the only two times you were in the
7 canteen?
- 8 A. Yes.
- 9 Q. And do you remember how long you were in the canteen
10 with Inspector Trickett, Chief Inspector Trickett?
- 11 A. No, but I wouldn't -- again, it wasn't a prolonged
12 period of time. It will be on his notes.
- 13 Q. If we have heard any evidence that Nicole Short had
14 a conversation with you at that time about her vest, do
15 you have any recollection at all about that
16 conversation?
- 17 A. No, none whatsoever.
- 18 Q. Right, thank you. You do know Nicole Short, I think you
19 have said in your statement?
- 20 A. I know who she is, yes.
- 21 Q. And she would recognise you, you would recognise her?

TRANSCRIPT OF THE INQUIRY

1 A. Yes, yes.

2 Q. Can we look at paragraph 94, please, and you were asked
3 about the FME, Dr Norrie, and you have seen -- you say
4 you have seen her:

5 "I think I have observed her at Kirkcaldy Police
6 Station previously but can't recall any dealings with
7 her. I didn't work in the custody suites; it's more the
8 custody sergeants and inspectors who would work more
9 closely with the FME and custody nurses."

10 Now, I think at one point there was a question asked
11 about whether you had been involved with Dr Norrie, or
12 shared information with her and I'm not going to go to
13 that because we heard from Dr Norrie yesterday and she
14 said she had never had any conversations with you at
15 all, that the conversations she had had had been with
16 a nurse who had phoned her to make the arrangements, so
17 you can put to the back of your mind any suggestion now
18 that you had a conversation -- I think you were clear in
19 your recollection you hadn't had a conversation with
20 her.

21 A. No, but PIRC asked what would I have said to Dr Norrie

TRANSCRIPT OF THE INQUIRY

1 and I had no reason to dispute what they had said,
2 I would say the man had a knife.

3 Q. Yes, but Dr Norrie has confirmed that she did not
4 actually have any direct contact with you on that day.

5 Right, can I ask you about the seizing of the
6 clothing and the equipment. Can we look further down,
7 please, at paragraph -- I think it is 99, seizing
8 clothing and equipment. So you have referred back to
9 your previous statement to PIRC and it said:

10 "From my previous statement ..."

11 That will be your operational statement:

12 "... I recall that at about 1808 hours to 1812 hours
13 that day, Sunday 3rd May 2015, I in the presence of
14 Detective Constable Jennifer McAulay seized the clothing
15 and equipment of Police Constable Nicole Short."

16 And you say:

17 "I didn't take any clothing, it was DC McAulay --"

18 We may hear that her name is now DC Bruce:

19 "... in my presence. I was standing at the door to
20 make sure no one else would come in and walk in while
21 she was in her underwear."

TRANSCRIPT OF THE INQUIRY

1 So you were there actually to just stop people
2 interrupting?

3 A. And to corroborate the taking of the clothing.

4 Q. And to see that she had collected the right clothing
5 from the right officer?

6 A. Yes.

7 Q. And you say you had never met Jennifer, Jennifer McAulay
8 before:

9 " She was at Tayside [and] worked in Dundee, I think.
10 I don't know where she came from but she wasn't a Fife
11 CID officer."

12 She wasn't someone that you had had any connection
13 with prior to that?

14 A. No.

15 Q. And then further down you say you also provided
16 reassurance -- officers with reassurance that the
17 Federation were there to support them.

18 Can I ask when was it that you were providing that
19 reassurance: was that at the first meeting in the
20 canteen or later when you were there with Trickett?

21 A. I think this was from a PIRC interview was when the

TRANSCRIPT OF THE INQUIRY

1 seizing of clothing was taking place.

2 Q. All right, so it was reassurance to the officers whose
3 clothing you were seizing?

4 A. Yes.

5 Q. Thank you. Can I ask you to look at the issue about
6 forensic recovery of clothing. Now, there's been some
7 evidence about the difference between seizing items and
8 forensic recovery, and I wonder if you could just help
9 us by explaining what those distinctions are.

10 A. I think the forensic recovery is to make sure there's no
11 cross-contamination between the items that are taken,
12 opposed to just physically seizing the items.

13 Q. Right. And how would officers forensically recover an
14 item?

15 A. Usually we would use a protective white suit.

16 Q. When you were corroborating the recovery of items, were
17 you wearing a protective white suit?

18 A. I can't recall that, but if I go to my operational
19 statement you will actually see that we have actually --
20 each time we have taken them off, we have taken the
21 white suit, so that would infer to me I was wearing

TRANSCRIPT OF THE INQUIRY

1 a white suit, as was DC McAulay, but I can't recall
2 wearing a white suit.

3 Q. But as part of your normal procedures, forensic recovery
4 would be wearing a white suit --

5 A. Yes.

6 Q. -- and then removing that --

7 A. Yes.

8 Q. -- and then putting that in with --

9 A. The items.

10 Q. -- collecting that all together?

11 A. Yes.

12 Q. So that's available for any future forensic analysis?

13 A. Yes.

14 Q. Thank you. But that's not something that's done if
15 you're just seizing an item from a police officer?

16 A. No.

17 Q. Thank you. And as we have talked about you wearing
18 a white suit, would that have been the same for the
19 other female officer, she would also be wearing a white
20 suit recovering items?

21 A. DC McAulay?

TRANSCRIPT OF THE INQUIRY

1 Q. Yes, DC McAulay or DC Bruce.

2 A. Yes, I can't recall her actually wearing it, but from my
3 operational statement, yes, we were both wearing white
4 suits that were put in the bags.

5 Q. Thank you. Can I ask you to look at paragraph 103
6 please and you talk about -- this is your Inquiry
7 statement obviously:

8 "It was 7 years ago. I couldn't remember what was
9 said but there certainly would have been no dialogue
10 with them. By this time, I think the females were
11 getting a wee bit more agitated and upset while their
12 clothes were taken."

13 So this is you talking about the process of
14 recovering the items:

15 "Unfortunately I can't remember any conversations
16 I had with Nicole, either PIRC or Mr Sallens asked me if
17 I remember Nicole saying to me that she had been stamped
18 on. I'm not saying she definitely didn't say that, but
19 I can't remember her saying that to me."

20 So this really reflects your recollection now?

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 Q. And you just don't have any detailed recollection of
2 that?

3 A. No.

4 Q. And that remains the position today, does it?

5 A. It does.

6 Q. Thank you. Then 104:

7 "I have been referred to my statement to PIRC ..."

8 So that's the second statement at page 2 and 3:

9 "I have been asked and I cannot recall if

10 Nicole Short told me if she had been stamped on or
11 kicked. I cannot recall if Nicole Short's equipment,
12 specifically her body armour, had any marks, dirt or
13 footprints on it, or if she pointed these out to me at
14 the time. The clothing was not photographed whilst worn
15 by the officers, nor when removed prior to being bagged
16 as productions. I have been asked if this is still my
17 understanding. To the best of my recollection, yes."

18 So I would like to ask you about this paragraph,
19 please. First of all, the clothing wasn't photographed
20 whilst worn by the officers. When Nicole Short came in
21 to have the recovery of her items, was she wearing all

TRANSCRIPT OF THE INQUIRY

1 of her uniform, or was she carrying some of it?

2 A. I can't recall.

3 Q. No. And do you remember any photographs being taken --

4 A. No.

5 Q. -- obviously not while the examination --

6 A. No.

7 Q. No, not at all?

8 A. Not in my presence.

9 Q. Not in your presence. Would it be normal for

10 photographs to be taken when items are recovered?

11 A. Not usually if you actually have the physical item. You

12 would usually only photograph them initially if you had

13 to hand the item back or it was a large structure you

14 couldn't physically take possession of.

15 Q. All right, thank you. I would like you to look at

16 a vest and this is an actual vest, it's in a package.

17 I won't be asking you to open that, but can you confirm

18 that this is one of the items that you recovered on

19 3 May 2015?

20 A. Yes, that's my signature on the production label.

21 Q. And what item is that?

TRANSCRIPT OF THE INQUIRY

- 1 A. That is Nicole Short's vest.
- 2 Q. So that's the vest that you recovered from Nicole Short
3 after 6 o'clock in the evening on 3 May 2015?
- 4 A. Yes.
- 5 Q. And then we see the photographs on the screen which will
6 just be brought up, that's photographs of the item.
7 Now, can we leave it at that photograph please, the
8 second one on PIRC 01176. Do you see on that photograph
9 that there is a dark coloured mark --
- 10 A. Yes.
- 11 Q. -- on the rear of the police vest?
- 12 A. (Nods).
- 13 Q. Was that mark drawn to your attention by Nicole Short
14 that day?
- 15 A. Oh, I can't recall that.
- 16 Q. Do you remember seeing that mark?
- 17 A. No.
- 18 Q. Had that mark been drawn to your attention by
19 Nicole Short that day what would you have said about it?
20 What would you have done about it?
- 21 A. It depends on the significance of the mark. If I wasn't

TRANSCRIPT OF THE INQUIRY

1 aware she had been stamped or kicked, a dirty mark on
2 a piece of police clothing might not be significant, so
3 it depends on what the significance of that was to me at
4 that time.

5 Q. So it would have been up to the individual officer to
6 draw the significance to your attention if she wanted
7 anything done about that?

8 A. Yes, or for someone else -- I'm not saying the officer
9 had to do that, but if an investigating -- senior
10 investigating officer was aware that was pivotal to his
11 enquiry, yes, we would be looking for that.

12 Q. Thank you. And if an officer drew the attention of an
13 inspector to a mark and said "This is significant for
14 some reason" --

15 A. Yes, yes.

16 Q. -- what would the inspector do about that?

17 A. We would obviously possibly tell the investigating
18 officer to see -- to make sure we didn't lose that
19 evidence, to make sure we took all steps to preserve it.

20 Q. So when you say the investigating officer, would that be
21 the senior investigating officer?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. The SIO?

3 A. Yes, SIO.

4 Q. So that would be information, if it was shared, and the
5 significance of it shared by an officer to an
6 inspector --

7 A. Yes.

8 Q. -- the inspector could share that with the SIO?

9 A. Yes.

10 Q. And that would then be dealt with as part of the overall
11 investigation?

12 A. Yes.

13 Q. But your recollection is -- you have no recollection of
14 that mark and no recollection of anyone saying to you it
15 was significant?

16 A. Yes, no.

17 Q. Thank you. So would it be possible that an inspector
18 such as yourself would just say to somebody "Put that
19 somewhere safe"?

20 A. If you're asking if I personally -- if I knew the
21 significance of that and said "Just go and put that some

TRANSCRIPT OF THE INQUIRY

1 place safe", no, I wouldn't have done that.

2 Q. No?

3 A. No.

4 Q. Why wouldn't you have done that?

5 A. Because it's a significant piece of evidence.

6 Q. And if you had had that drawn to your attention, is it
7 the sort of thing that you might have noted in your
8 operational statement?

9 A. Yes, and sought clarity over.

10 Q. Thank you. Can I ask you about -- I think it is in your
11 Inquiry statement but we can discuss this. Can I ask
12 you about the micro fleece. We hear that
13 PC Nicole Short was wearing clothing underneath her body
14 armour, or her vest and one of the things was called
15 a micro fleece. Can you -- I think you called it -- it
16 is quite thin material and I'm wondering if you can help
17 us understand what a micro fleece is. Is it a standard
18 piece of clothing that's worn by police officers?

19 A. All police officers should wear their standard
20 authorised clothing but some officers, for different
21 reasons, may purchase something themselves that they

TRANSCRIPT OF THE INQUIRY

1 would wear to potentially keep warmer if they needed to,
2 so I don't know whether you're talking about a police
3 standard issue micro fleece or one that the officer has
4 purchased herself to wear on duty.

5 Q. Is a micro fleece something that police officers are
6 issued with?

7 A. Yes.

8 Q. And is it thin material?

9 A. It is quite thin, yes.

10 Q. Can I ask you about your notebook on 3 May and I think
11 it's paragraph 117 of your Inquiry statement.

12 I appreciate you weren't at Hayfield Road but what was
13 your understanding of your obligations in relation to
14 completion of notebook entries in May 2015?

15 A. I have no reason not to complete my notebook, so my
16 notebook was completed as you would expect it to be
17 completed for the duties I undertook.

18 Q. And you have said that:

19 "If I thought the action I had taken would have been
20 pivotal to any subsequent enquiries I would have taken
21 notes. However, as I have stated, I did not deem any

TRANSCRIPT OF THE INQUIRY

1 actions I took were part of the evidential chain."
2 A. Yes.
3 Q. And I just wondered if you could explain what your
4 understanding is of that?
5 A. What I mean by that is you're asking me now seven years
6 later for times, specific times, so if I thought those
7 would have been pivotal, for example, when I walked into
8 the canteen, when I walked out of the canteen, I would
9 have put them in my notebook, but the notes in my
10 notebook are what you would you expect regarding the
11 seizing of productions, what I started duty, when
12 I finished duty.
13 Q. And is it fair to say that your operational statement,
14 which you completed, would have been from your
15 recollection and from entries in your notes?
16 A. And from my notebook, yes.
17 Q. And it dealt with what you considered to be your
18 significant involvement --
19 A. Yes.
20 Q. -- with those events. And then finally you are asked to
21 deal with the PC Alan Paton complaint and you have been

TRANSCRIPT OF THE INQUIRY

1 asked some questions about a complaint that you were
2 involved in. You say:

3 "I think Alan Paton's complaint was about parking."

4 So just to be clear, these paragraphs are about
5 a complaint that had been made about PC Paton and that
6 you had some involvement in and it was limited
7 involvement in and you have made that clear. As we look
8 through these paragraphs -- I think you took a statement
9 so we'll go through those paragraphs --

10 A. I didn't take a statement.

11 Q. Oh, sorry. We will go through the paragraphs. 120
12 next, please:

13 "I was only present, from my [recollection
14 presumably] at one house when the statement of complaint
15 was noted."

16 So you didn't take that statement?

17 A. No.

18 Q. You were present --

19 A. Yes.

20 Q. -- when the statement was taken and that's the extent of
21 your --

TRANSCRIPT OF THE INQUIRY

1 A. Yes, I can't even give you the year or date or anything
2 like that, as you can see from that, but I was asked
3 about that.

4 Q. Right. And you say at 121:

5 "It's very seldom we would go unaccompanied to note
6 a complaint. [some other inspector] had a statement to
7 note, and I would go as his corroborating officer. Only
8 one inspector would note a statement of complaint."

9 And that was not yourself?

10 A. No.

11 Q. And at 122:

12 "I have been asked if I was involved in the
13 decision-making for this complaint. No, that's the
14 investigating officer's decision and on that occasion it
15 was [a different inspector]. I wouldn't be involved in
16 that. I don't remember the outcome of this complaint."

17 So you had a very limited involvement, if I can say
18 it that way, with this aspect that you have been asked
19 about?

20 A. Yes.

21 Q. And your recollection now is very limited as well?

TRANSCRIPT OF THE INQUIRY

1 A. I don't even know when that was.

2 MS GRAHAME: Right, all right.

3 Thank you very much. That completes my examination.

4 LORD BRACADALE: Are there any Rule 9 applications?

5 Ms Mitchell.

6 Ms Combe, would you mind going back to the witness
7 room while I hear a submission.

8 (Pause).

9 Yes, Ms Mitchell.

10 Application by MS MITCHELL

11 MS MITCHELL: Yes, sir. There are two issues. The first of
12 those issues follows paragraph 50 where the witness --
13 paragraph 50 of her Inquiry statement where she said:

14 "Following the tragic incident there were concerns
15 that there could be negative and adverse reaction from
16 the ethnic minority community in Fife and the breakdown
17 in our engagement with these communities which could
18 manifest in demonstration and protest."

19 And she notes -- it is her evidence:

20 "However, due to the continued [I think positive]
21 community engagement and dialogue this was avoided.

TRANSCRIPT OF THE INQUIRY

1 Meetings took place with community leaders where any
2 concerns could be addressed and discussed."

3 The first issue that I want to ask about are
4 questions around the concerns that police had, so the
5 questions that I would like to ask are: how soon after
6 the death of Sheku Bayoh were there concerns that there
7 might be a negative and adverse reaction, whether or not
8 by that she meant demonstration or protest, to ask her
9 whether or not she was one of the people who had those
10 concerns, to find out who else had those concerns and
11 importantly to find out why did they have those
12 concerns, if there was a discussion about that.

13 And finally, would she have expected the concerns,
14 if she was one of these people that held them and other
15 officers did, would she have expected the officers in
16 the canteen to have these same sorts of concerns.

17 The second issue relates to matters of the community
18 and in particular those members of the community being
19 Sheku Bayoh's family and the issue of protest and the
20 following questions would like to be asked in order to
21 assist the Inquiry with a proper understanding of the

TRANSCRIPT OF THE INQUIRY

1 situation. This Inquiry may come to hear in the future
2 that demonstrations and protests did take place, which
3 of course were peaceful and legal, but there was
4 a breakdown with the Bayoh family and what I would like
5 to ask this witness was whether or not she was aware
6 there was a complete breakdown in relationships between
7 family liaison officers and the Bayoh family in the days
8 following Sheku Bayoh's death. I would like to ask
9 about the meeting with community leaders, in particular
10 whether or not she was aware if the family of
11 Sheku Bayoh was invited because she said that it was not
12 all community leaders and others in the community were
13 present.

14 I would like to ask if she can recall what the
15 purpose of the meeting was and if the meetings were
16 in May, which I think she said she thought it was, given
17 the fact that the police officers hadn't yet given any
18 statements, what information or what discussions could
19 she recall about that and, finally, moving on to the
20 Bayoh family themselves and protest: were you aware of
21 demonstrations and rallies that the Bayoh family

TRANSCRIPT OF THE INQUIRY

1 participated in, not just in Kirkcaldy but through
2 Scotland, including 7 June where there was a march of
3 1,000 people outside the police station, a minute's
4 silence and literally a banner which said "we want
5 justice and without truth there can be no justice", two
6 major marches, of other protests and September a meeting
7 in the community centre and October another rally in
8 Kirkcaldy, and also whether or not this witness was
9 aware that the Bayoh family campaigned for some
10 five years for the VRR and for the Public Inquiry, and
11 also whether or not this witness was aware of the name
12 Sheku Bayoh being carried at Black Lives Matter
13 demonstrations throughout Scotland. This is
14 particularly because of her part that she says that she
15 was involved in community relations in Kirkcaldy at that
16 time, so it's against that background I would like to
17 ask these questions.

18 (Pause).

Ruling

20 LORD BRACADALE: In relation to the first issue, I shall
21 allow you to explore the issues in relation to the

TRANSCRIPT OF THE INQUIRY

1 concerns.

2 In relation to the second issue, I would draw
3 a distinction between the immediate aftermath of 3 May
4 and the much broader matters that you mention towards
5 the end, so I would draw the line at the 7 June matter,
6 so you can ask about the aftermath of up to -- the
7 subsequent issues I will not allow you to ask at this
8 stage.

9 MS MITCHELL: Can I just clarify in relation to those
10 matters whether or not that would include asking
11 a question of whether or not they were aware of the name
12 Sheku Bayoh being carried at Black Lives Matter
13 demonstrations.

14 LORD BRACADALE: Yes, that's much later.

15 MS MITCHELL: Well, I'm --

16 LORD BRACADALE: Is it?

17 MS MITCHELL: Well, I'm not sure that it would be. I'm just
18 wondering if that was much later. We know the dates of
19 certain marches on 7 June and we also --

20 LORD BRACADALE: That is 7 June 2015, is it?

21 MS MITCHELL: Yes, indeed. And we also know the meeting

TRANSCRIPT OF THE INQUIRY

1 with the community was in May, so is the Inquiry just
2 suggesting that the questions about the VRR should not
3 be included --

4 LORD BRACADALE: No. I would restrict your questions to
5 matters occurring in May and June 2015.

6 MS MITCHELL: I'm obliged.

7 LORD BRACADALE: And on that basis I shall allow you to ask
8 the questions, so if we can rearrange the seating
9 please.

10 (Pause).

11 Can we bring the witness back, please.

12 Ms Combe, you're going to be asked some questions by
13 Ms Mitchell who is the senior counsel for the Bayoh
14 families.

15 Ms Mitchell.

16 MS JANE COMBE (continued)

17 Questions from MS MITCHELL

18 MS MITCHELL: Thank you.

19 I wonder if we could have on screen the Inquiry
20 statement of Inspector Combe, in particular
21 paragraph 50. Now, you will recall being asked some

TRANSCRIPT OF THE INQUIRY

1 questions by my learned friend about this already.

2 A. Yes.

3 Q. I would like to ask you some more questions, if I may,
4 about that.

5 As we see there it says:

6 "Following the tragic incident, there were concerns
7 that there could be a negative and adverse reaction from
8 the ethnic minority community in Fife and a breakdown in
9 our engagement with these communities which could
10 manifest in demonstration and process sorry protest and
11 protest."

12 Now, what I would like to ask you, first of all, is
13 how soon after the death of Sheku Bayoh were there
14 concerns that there might be an adverse and negative
15 reaction?

16 A. I couldn't give you a timescale on that. I would say
17 quite quickly after that didn't -- any victim of any
18 crime or any incident, very quickly that would be one of
19 the community impact assessments, so it doesn't have to
20 be race, it could be it was a young person, it could be
21 any number of things that we take into consideration

TRANSCRIPT OF THE INQUIRY

1 after an incident.

2 Q. Okay. And when -- you have identified that, you have
3 said "Quite quickly", I'm wondering if we could explore.
4 Do you mean on that day would there have been concerns?

5 A. I would think so, as senior management, yes, it would be
6 part of your Community Impact Assessment.

7 Q. And were you one of the people that had those concerns?
8 Did you have a concern given your --

9 A. I wasn't part of the senior management team, but from
10 the work I have done with the communities, yes, that
11 would be a concern.

12 Q. And you would say that not only you would have that
13 concern but you imagine senior management would have
14 that concern?

15 A. I can't talk for senior management, but I would presume
16 so.

17 Q. Why did you have those concerns?

18 A. As I said, after any incident involving the police,
19 whether as I say it's a young person who has died on the
20 road, whether it's an incident like this, you have to
21 look around and see what impact is that going to have on

TRANSCRIPT OF THE INQUIRY

1 the community.

2 Q. I would like you to look at this particular instance.

3 A. Yes.

4 Q. Why in this particular instance did you have an

5 apprehension that there might be negative and adverse

6 reaction?

7 A. Because of the gentleman's heritage.

8 Q. What do you mean by that?

9 A. He is a black male.

10 Q. And why did that make you think that there would be

11 negative and adverse reaction?

12 A. Well, if I'm being perfectly honest with you, it's after

13 anything -- whether it's worldwide or in the country, if

14 it is to do with an ethnic minority, the media will come

15 on the back of that.

16 Q. And is there a particular resonance with black men in

17 police custody?

18 A. No, no. Not in Fife, no.

19 Q. Well, in general, though, you were talking about --

20 A. In general if you look at the media reporting there's

21 plenty media reporting throughout the years about black

TRANSCRIPT OF THE INQUIRY

1 people being taken into custody, your stop and search
2 down in England.

3 Q. Was it one of your concerns that because Mr Bayoh was
4 black there might be an adverse --

5 A. Potentially, yes.

6 Q. -- reaction.

7 A. Yes.

8 Q. You say that there were concerns that there could be
9 a negative and adverse reaction. You have indicated
10 that you have that concern. Who else had that concern?
11 I'm just -- reflecting upon --

12 A. I couldn't comment on that.

13 Q. Well, you say "There were concerns", so I'm looking to
14 help the Inquiry with where those concerns arise. How
15 did you know about those concerns?

16 A. Because they were my concerns.

17 Q. Okay. And were you the person then that acted to carry
18 out the community engagement and dialogue?

19 A. I was present at some of those, yes.

20 Q. And when you were present at that, did other people
21 express their concerns about the possibility of

TRANSCRIPT OF THE INQUIRY

1 a negative and adverse reaction?

2 A. Are you talking about other persons as in the police
3 community --

4 Q. Yes.

5 A. -- or as in the wider community?

6 Q. In the police community?

7 A. Yes, in the police community, yes.

8 Q. And were those discussions had presumably before you
9 reached out to ethnic minority communities in Kirkcaldy?

10 A. They would have been, yes.

11 Q. Do you remember those discussions?

12 A. No.

13 Q. Do you remember any meetings about them?

14 A. No.

15 Q. Would you have expected the officers who were in the
16 canteen to have the same sorts of concerns?

17 A. Not all of them, because some of them were very new into
18 the organisation and might not have had that exposure
19 previously.

20 Q. We have had evidence that some of the officers, for
21 example, Walker and Paton, were extremely experienced

TRANSCRIPT OF THE INQUIRY

1 officers. Would you have expected them to have those
2 sorts of concerns?

3 A. As I have already said, it depends on their exposure to
4 these kinds of incidents, where it's involving an ethnic
5 minority community. If police officers have never dealt
6 with the ethnic minority community they might not have
7 those concerns, it might not be first and foremost in
8 their mind.

9 Q. Well, would you have expected police officers to be
10 aware of the worldwide media about black men dying in
11 police custody?

12 A. It would be an expectation but, as I have said, I can't
13 speak for every police officer that they do keep
14 up-to-date with current affairs.

15 Q. I would like to move on to another issue.

16 A. Thank you.

17 Q. This issue is in order to assist the Inquiry with
18 a proper understanding of the situation just post the
19 death of Sheku Bayoh. You have indicated already at
20 paragraph 50 that "due to the continued positive
21 community engagement and dialogue this was avoided", and

TRANSCRIPT OF THE INQUIRY

1 by "this" it means demonstration and protest.

2 Now, during the proceeding days after Mr Bayoh's
3 death in police custody, were you aware of large-scale
4 events?

5 A. No.

6 Q. Were you aware of a large-scale event on 7 June?

7 A. And where are you talking about this large-scale event?
8 Is it in Fife or Edinburgh, Glasgow?

9 Q. In Fife.

10 A. In Fife. There was one -- I couldn't give you the date,
11 there was an event in Fife.

12 Q. And if I were to suggest to you that that was a march
13 which stopped outside the police station --

14 A. Yes, that's the one I'm referring to.

15 Q. Do you remember anything about that particular event?

16 A. As I have said, I wouldn't class that as a demonstration
17 or a protest, there was no hostilities that I am aware
18 of, it was very dignified by all those involved, but
19 yes, I'm aware that there was an event.

20 Q. Were you aware that there was a minute's silence outside
21 the police station?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. Can you tell us anything else about that?

3 A. No.

4 Q. No. Now, you say you wouldn't class that as
5 a demonstration or a protest, but of course
6 demonstrations and protests --

7 A. Yes.

8 Q. -- are completely legal?

9 A. Yes.

10 Q. And can be done peacefully?

11 A. Yes.

12 Q. Now, the Inquiry will come to hear that -- there will be
13 evidence that the Bayoh family in fact stood with
14 a banner which said "We want answers" and "Without truth
15 there can be no justice". Do you recall seeing that?

16 A. I don't recall seeing it at Kirkcaldy but I have seen
17 that in the media.

18 Q. And were you present at that --

19 A. No.

20 Q. Okay. Do you have any recollection of any other
21 meetings in Kirkcaldy in the days or weeks preceding

TRANSCRIPT OF THE INQUIRY

1 that --

2 A. No.

3 Q. A rally?

4 A. No.

5 Q. A meeting at a community hall?

6 A. No.

7 Q. You have already explained to us that you didn't

8 consider these demonstrations or protests because what

9 you were thinking of when you meant that was

10 something --

11 A. I will clarify that for you then. What I mean by is

12 a large-scale disturbance -- as I say, yes, I take

13 on board what you're saying, they can be classed as

14 a protest or demonstration, but there was no

15 hostilities, there was no arrests that I am aware of.

16 Q. Were you aware that there was a breakdown in relations

17 between the police and the family liaison officers and

18 the Bayoh family in the days following Sheku Bayoh's

19 death?

20 A. No.

21 Q. Did you have any interaction with the family liaison

TRANSCRIPT OF THE INQUIRY

- 1 officers at all?
- 2 A. Did I personally?
- 3 Q. Yes.
- 4 A. No.
- 5 Q. You spoke also about the meeting with community leaders.
- 6 A. Yes.
- 7 Q. And it would be fair to say you can't remember a huge
- 8 amount about that, is that correct?
- 9 A. That's right.
- 10 Q. Can you remember what the purpose of that meeting was
- 11 for?
- 12 A. From my recollection it was just to have that engagement
- 13 still with the community, so if there was any underlying
- 14 issues, we could try and address them.
- 15 Q. And what underlying issues might those be?
- 16 A. They could be anything, a lack of communication, a lack
- 17 of information-sharing, feeling that they were being
- 18 persecuted, you know, being targeted by other members of
- 19 the community, but there was none of that from my
- 20 recollection.
- 21 Q. At that particular time, if your understanding is

TRANSCRIPT OF THE INQUIRY

- 1 correct and the meeting was in May --
- 2 A. I said I couldn't remember, I said it would be May
3 or June.
- 4 Q. May or June?
- 5 A. Yes.
- 6 Q. If it was May or June. What information could you have
7 given at that stage about the circumstances of
8 Sheku Bayoh's death?
- 9 A. We couldn't have shared anything about the
10 circumstances, but the community impact is to see how
11 the community are feeling about that incident, or any
12 other incidents.
- 13 Q. Were you aware whether or not the Bayoh family were
14 invited to the meeting of community leaders?
- 15 A. The Bayoh family have a member of their family who is
16 part of Frae Fife and they were invited.
- 17 Q. So through Frae Fife?
- 18 A. Yes, and there was a member of Frae Fife there and
19 a member of their family is a quite influential member
20 of Frae Fife.
- 21 Q. Do you have any information that anyone else in the

TRANSCRIPT OF THE INQUIRY

1 family was invited to that meeting?

2 A. I couldn't tell you who the invite list was.

3 Q. Okay. So any invite that was given was given to a body

4 of whom a member is a party of that group, but not the

5 family itself?

6 A. I couldn't tell you.

7 MS MITCHELL: No further questions.

8 LORD BRACADALE: Ms Combe, thank you very much for coming to

9 give evidence to the Inquiry. I'm going to rise now in

10 order that the next witness can be introduced and you

11 will be free to go then.

12 MS MITCHELL: Sorry, my Lord, I did forget to ask a question

13 (mic turned off) the community leaders.

14 LORD BRACADALE: Yes, very well (inaudible overspeaking) --

15 MS MITCHELL: I'm sorry, I'm sorry.

16 A. Not at all.

17 Q. You have indicated to us briefly the make-up of the

18 community leaders and I wonder if I can explore that

19 with you in a little more detail?

20 A. Yes.

21 Q. You described the imam of the mosque?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. Can you tell us who else you thought was there?

3 A. The leader of the Fife Arabic community, Frae Fife,
4 business leaders, anyone who has actually been
5 interactive with the police from any of the communities
6 is what I would say, is somebody who is influential and
7 we could get a message through.

8 Q. And what people of that group were members of the black
9 community?

10 A. Frae Fife.

11 Q. And is the particular person that you're referring to in
12 relation to Frae Fife, that particular person isn't
13 a member of the Bayoh family that was there that day?

14 A. He wasn't -- yes, it was someone else other than the
15 member of the Bayoh family who I have said is a member
16 of Frae Fife.

17 Q. And do you know who that person was?

18 A. I believe it's -- Naeem is his first name, I don't know
19 his surname.

20 MS MITCHELL: I've no further questions.

21 LORD BRACADALE: Thank you.

TRANSCRIPT OF THE INQUIRY

1 (12.39 pm)

2 (Short Break)

3 (12.44 pm)

4 LORD BRACADALE: Now, Ms Grahame, who is the next witness?

5 MS GRAHAME: The next witness is Samantha Davidson.

6 LORD BRACADALE: Ms Davidson, are you a Detective Inspector,
7 is that right?

8 A. Temporary Detective Inspector at the moment.

9 LORD BRACADALE: Would you take the oath, please.

10 TEMPORARY DI SAMANTHA DAVIDSON (sworn)

11 LORD BRACADALE: Ms Grahame.

12 Questions from MS GRAHAME

13 MS GRAHAME: Thank you.

14 You are Samantha Davidson?

15 A. Yes.

16 Q. And what age are you?

17 A. 38.

18 Q. And tell us how many years' service you now have?

19 A. 17.

20 Q. And in 2015?

21 A. 10 years' service.

TRANSCRIPT OF THE INQUIRY

1 Q. And your rank now, you have just told the Chair you're
2 temporary detective inspector?

3 A. Yes, that's correct.

4 Q. And in 2015, were you a DS, a detective sergeant?

5 A. Yes.

6 Q. And we have heard people talk about the CID officers.
7 Is that one -- you're that person?

8 A. Yes.

9 Q. Thank you. And your contact details are all known to us
10 so I'm not going to ask you to say what they are.

11 Have you had the chance to see other aspects of the
12 evidence that we have had in the Inquiry?

13 A. Some, not all.

14 Q. You may have seen me refer officers and witnesses to the
15 black folder in front of you, so have a look in that and
16 that should contain four statements and I'm going to
17 take you through all of them now. So the first one was
18 a self-penned statement dated 4 May 2015. I don't
19 actually know what order they are in in your folder, but
20 it will also come up on the screen as we go through it.

21 A. Mm-hm.

TRANSCRIPT OF THE INQUIRY

- 1 Q. So this is Samantha Davidson and you will see it says
2 4 May 2015, 12.25, done by yourself at Kirkcaldy Police
3 Office.
- 4 A. Yes, that's correct.
- 5 Q. Right. And when you prepared this, this was just the
6 day after the events of 3 May.
- 7 A. Yes.
- 8 Q. Were you doing your best to give -- to give a true and
9 accurate recollection or record of what had happened the
10 day before?
- 11 A. Yes.
- 12 Q. And then can we look at PIRC 184 and we will see that
13 this is a statement by you on 29 May 2015 at 11.10,
14 taken by investigators John McAuley and Kevin Rooney at
15 Kirkcaldy Police Office?
- 16 A. Yes.
- 17 Q. We have heard that these are investigators from PIRC, so
18 they took a statement from you on that date and again,
19 were you doing your best to give a true and accurate
20 record of what had happened?
- 21 A. Yes, I was.

TRANSCRIPT OF THE INQUIRY

1 Q. Thank you. And were you given the chance to change
2 anything?

3 A. Just to clarify from my original self-penned statement,
4 yes.

5 Q. So this was about clarifying your original statement.
6 and then look at number 3, PIRC 185, please.

7 This is a statement of 2 June 2015, 17.20, by
8 John Ferguson, investigating officer, again at Kirkcaldy
9 Police Office, and again, on this date were you doing
10 your best to give a true and accurate record of what had
11 happened?

12 A. Yes, that's correct.

13 Q. And again, were you given the chance to clarify or make
14 any changes if you wished?

15 A. Yes.

16 Q. Thank you. And then finally, can we look at the Inquiry
17 statement. We will see that this is your Inquiry
18 statement taken by a member of the team on 9 March 2022,
19 and if we can look at the last page, you will see
20 there's a paragraph there which says at 39:

21 "I believe the facts stated in this witness

TRANSCRIPT OF THE INQUIRY

1 statement are true. I understand that this statement
2 may form part of the evidence before the Inquiry and be
3 published on the Inquiry's website."

4 Then we should be able to -- we will have a -- yes.
5 So we see that there was a signature there. It has been
6 redacted on the copy that we see on the screen, but on
7 your hard copy you should see your signature on all the
8 pages?

9 A. Yes, that's correct.

10 Q. And that was dated -- signed by you on 26 April 2022.

11 A. (Nods).

12 Q. So when I go through things, I will ask for particular
13 paragraphs or pages to be brought up on the screen, but
14 at all times you're going to have the full hard copy and
15 if you think there's an area you would like to refer to,
16 please just tell us and we can bring that up on the
17 screen as well.

18 A. Okay, no problem.

19 Q. So feel free to use those hard copies in any way. In
20 addition to the folder with your statements in it, you
21 should see a spreadsheet which has been printed off.

TRANSCRIPT OF THE INQUIRY

1 It's a combined audio and video timeline.

2 Now, if you have managed to watch any of the
3 evidence, you may have seen me refer people to this,
4 witnesses to this. You will see on the left there's
5 timings given in the 24-hour clock, so, for example, the
6 first one is 7.09 in the morning, 20 seconds to 33
7 seconds. And then to the left of centre of the
8 spreadsheet, you will see a list of Airwave
9 transmissions that are transcribed, and then to the
10 right of centre, you will see a very brief description
11 of events that are said to be happening in the CCTV or
12 in the footage and on the right-hand side, you will see
13 the source of that -- the video extract.

14 A. Okay.

15 Q. Now, you may have seen in the hearings, or you may have
16 seen on the news that we have also got an evidence video
17 timeline which combines all the footage, and that will
18 be on the screen, and I might ask you questions about
19 that.

20 A. Okay.

21 Q. You might have seen witnesses touch the screen and a red

TRANSCRIPT OF THE INQUIRY

1 circle appears. We might be doing that as part of your
2 evidence as well.

3 A. Okay.

4 Q. But if you're not clear about anything, just tell me and
5 I will explain what we want to do.

6 A. Okay, no problem.

7 Q. Great, thank you very much.

8 So let's start with your Inquiry statement if I may,
9 paragraph 5, and you have said at around 7.15 in the
10 morning you were in the CID office in Kirkcaldy Police
11 Office:

12 "... when I heard a transmission over the radio
13 regarding a black male in possession of a knife in the
14 area of Hendry Road, Kirkcaldy. I understood this was
15 a priority 1 call requiring immediate response.
16 DC Connell and I acknowledged the call, along with
17 uniformed officers. While this was a call for uniformed
18 officers rather than CID, Kirkcaldy Police Office was
19 very short staffed at that time. That, together with
20 the serious nature of the call, made us respond to the
21 call."

TRANSCRIPT OF THE INQUIRY

1 I would like to ask you some general questions about
2 this. Now, we have heard officers talk about the CID
3 officers. Are you quite a distinct group of officers
4 compared to other uniformed officers in a police
5 station?

6 A. Distinct in that we wear different uniform. A CID
7 officer will routinely wear suits as opposed to the
8 normal standard police uniform and the distinction is
9 what crimes we lead on as opposed to what crimes the
10 uniform lead on. So we would lead on serious,
11 protracted crimes, as opposed to maybe your kind of
12 volume crime that response deal with.

13 Q. So things like murders, or serious assaults, that type
14 of thing?

15 A. Mm-hm.

16 Q. And you would be dressed in suits rather than the
17 standard police uniform?

18 A. Yes, that's correct.

19 Q. So you are quite easily distinguished compared to other
20 officers maybe in a scene: you can be seen because of
21 your normal clothing --

TRANSCRIPT OF THE INQUIRY

- 1 A. Yes.
- 2 Q. -- smart clothing.
- 3 A. Mm-hm.
- 4 Q. And do you have a separate office then with CID officers
5 in Kirkcaldy Police Office?
- 6 A. Yes, at the time -- we don't have a CID office there
7 just now, but at the time we had a separate CID office
8 from uniform.
- 9 Q. So do you form a unified group --
- 10 A. Yes.
- 11 Q. -- distinct from the less serious business that other
12 officers conduct and engage in?
- 13 A. Yes.
- 14 Q. And you have mentioned a DC Connell?
- 15 A. Yes.
- 16 Q. Who was he?
- 17 A. He was one of my detectives that was on duty that
18 morning, DC Derek Connell.
- 19 Q. So DC Derek Connell was one of your constables?
- 20 A. Yes.
- 21 Q. And at that time were you a detective sergeant?

TRANSCRIPT OF THE INQUIRY

- 1 A. Yes.
- 2 Q. So you have been promoted on a temporary basis since
3 then.
- 4 A. Yes.
- 5 Q. How long had you been a sergeant in May 2015?
- 6 A. I was promoted in June of 2014, so only just shy of
7 a year.
- 8 Q. Just shy of a year. And how many officers did you have
9 under your command?
- 10 A. In Kirkcaldy I had three or four. In Glenrothes
11 I likewise had three or four, so anything up to about
12 eight DCs.
- 13 Q. So we have heard about other officers, who are maybe
14 senior officers, that their teams were in the one
15 office; you actually spanned two offices with your --
- 16 A. Yes, so Fife is separated into central, east and west,
17 so I would cover the central area which would encompass
18 Kirkcaldy and Glenrothes.
- 19 Q. Right. And you have said that Kirkcaldy Police Office
20 was very short staffed at that time. Now, do you mean
21 in relation to CID officers or in relation to uniformed

TRANSCRIPT OF THE INQUIRY

1 officers?

2 A. Probably across the board.

3 Q. Right. And what do you mean it was very short staffed?

4 A. In terms of the team numbers, essentially with changes

5 to Police Scotland, a lot of changes had occurred, a lot

6 of staffing had moved nationally, so yes, we were going

7 through a big change at that time.

8 Q. And we may hear that it was a time of considerable

9 change in the organisation --

10 A. Yes.

11 Q. -- so still feeling the effects of the change to

12 Police Scotland from the individual regions or areas?

13 A. Yes, that's correct.

14 Q. Would that be fair?

15 A. Yes.

16 Q. And you said that this was a serious call that you heard

17 and so you also acknowledged that call for that reason,

18 and what was it that made you consider it a serious

19 call?

20 A. High risk in terms of safety. So, you know, essentially

21 you hear it's an immediate priority 1 call, and any

TRANSCRIPT OF THE INQUIRY

- 1 officer, regardless of specialism, rank, can go to an
2 immediate 1 call.
- 3 Q. Right. So when there's calls, for example we have
4 called about all units being called for, there's not
5 a small group of CID officers who ignore all of that?
- 6 A. No.
- 7 Q. You're still part of the response --
- 8 A. Yes.
- 9 Q. And if all units are called for, that would include CID
10 officers as well?
- 11 A. Yes, it can include, yes, depending on commitments, but
12 it can include us.
- 13 Q. So if you were involved in some serious investigation at
14 that moment, you wouldn't be available, but if you are
15 available, you would be part of the all units call?
- 16 A. Yes, absolutely.
- 17 Q. And you said it was high risk for safety; whose safety?
- 18 A. Officer safety in terms of the dispatching officers, but
19 predominantly it's the safety of the community and the
20 subject male.
- 21 Q. Right, thank you. If Kirkcaldy Police Office had not

TRANSCRIPT OF THE INQUIRY

1 been very short staffed, would you have responded to
2 this call?
3 A. Absolutely.
4 Q. So the staffing didn't actually matter --
5 A. No.
6 Q. -- to your initial decision to respond?
7 A. It was a consideration but I would have still -- I'm
8 a police officer and that's my core responsibility,
9 I would have still responded to that call.
10 Q. That's still your priority?
11 A. Yes.
12 Q. And DC Connell, did he go with you?
13 A. Yes.
14 Q. And had you attended that type of call, a knife call, or
15 a knife incident, from Kirkcaldy Police Office before?
16 A. Very likely. I would very often back up uniform at
17 immediate calls, or likewise, if we were the closest
18 unit, we would get dispatched to that call ourselves.
19 Q. All right. So you have experience -- or had experience
20 in 2015 of responding to knife incidents and knife
21 calls?

TRANSCRIPT OF THE INQUIRY

- 1 A. I can't think specifically to knife calls, but certainly
2 immediate calls. Whether that involved a knife or not,
3 I'm unsure.
- 4 Q. Can you explain to me the distinction between immediate
5 calls and knife calls?
- 6 A. An immediate call could be a call that's graded grade 1,
7 with immediate threat to, it doesn't mean that there's
8 a knife, it could be a large-scale disturbance, it could
9 be, you know, a domestic incident with a serious nature.
10 It doesn't have to be -- it's just graded that it is
11 life threatening.
- 12 Q. So grade 1, immediate threat to life, but it could be
13 from any means or source --
- 14 A. Circumstance.
- 15 Q. -- or as a result of anything, but if that call came in,
16 you would respond to that?
- 17 A. Yes.
- 18 Q. But it may not be a knife call?
- 19 A. Yes.
- 20 Q. Thank you. Can I ask you to look at paragraph 7,
21 please. You have said that you collected your

TRANSCRIPT OF THE INQUIRY

1 equipment:

2 "... the yard [by that time] was empty of police
3 vehicles as the uniformed officers had already left
4 shortly before to respond to the incident. DC Connell
5 and I left the carpark area of Kirkcaldy Police Station
6 in a marked CID vehicle. This was a silver Vauxhall
7 Corsa ... DC Connell was driving. Driving time from ...
8 and Hayfield Road is approximately 3 to 5 minutes."

9 So it's a very short journey. DC Connell was
10 driving. Are you and he familiar with Hayfield Road and
11 the area?

12 A. Yes. I had worked in Kirkcaldy my full service for
13 10 years, so I was fully aware of Hayfield Road.

14 Q. So we have heard there's hospitals in the area and
15 churches and it's -- and houses. You were fully aware.

16 So as you are driving to Hayfield Road, were you
17 listening to the radio messages coming over the police
18 radio?

19 A. Yes.

20 Q. Thank you. So -- and is that a way of keeping yourself
21 up-to-date on what's happening at the scene?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. Thank you. You have said:

3 "We did not have blue lights or sirens in our car.
4 We responded as quick as we could."

5 So you have said it was a marked police car but --
6 does that mean there were no sirens or lights on it?

7 A. There's no sirens and lights, but at that time there was
8 a Police Scotland emblem kind of taping -- like on the
9 bonnet of the vehicle so it was identifiable as a police
10 vehicle, but it was not kind of fitted with sirens or
11 lights.

12 Q. So not the normal sort of equipment that would be fitted
13 to that car?

14 A. No.

15 Q. And:

16 "During the journey to Hayfield Road we heard the
17 emergency button activation. This indicates that
18 an officer requires assistance. We then heard that
19 PC Short had been injured. At that time there was no
20 exact detail of who was responsible or the extent of her
21 injuries."

TRANSCRIPT OF THE INQUIRY

1 So the first thing you heard was an emergency button
2 activation, and then that an officer was injured,
3 PC Short?

4 A. Yes.

5 Q. We have heard that when the emergency button is
6 activated, the radio vibrates for the officers who are
7 attending; is that what happened?

8 A. Yes, it vibrates and goes red.

9 Q. And the screen goes red?

10 A. Yes.

11 Q. And so at that stage you didn't know -- you told us you
12 knew about the knife, the calls that had come in, but
13 you didn't know what injuries PC Short had or the extent
14 of those injuries?

15 A. No.

16 Q. So what was going through your head at that time as you
17 responded?

18 A. Essentially when we heard the emergency button being
19 pushed we were only just leaving the back yard of
20 Kirkcaldy Police Station. With the context of the call
21 and information known, I immediately -- my gut reaction

TRANSCRIPT OF THE INQUIRY

1 lunch you mentioned that you had become aware that an
2 emergency button had been pressed and you will see at
3 7.21.19, Ashley Tomlinson's emergency button status was
4 turned on, do you see that?

5 A. Yes.

6 Q. And then you also mentioned hearing that the officer had
7 been injured but didn't have serious injuries?

8 A. I believe so. There was an update prior to my arrival.

9 Q. Absolutely. Let's have a look at page 5 at the very top
10 of page 5, and we have heard that at 7.21.38 PC Smith
11 said:

12 "An officer's been punched to the back of the head.
13 No obvious serious injuries. Male secure on the
14 ground."

15 And is that the reference to the Airwaves
16 transmission that you're thinking?

17 A. Yes, I believe so.

18 Q. Thank you. And then I would like you to look at page 6,
19 please, and I'm going to play -- sorry, I should have
20 actually asked you something else about page 5. Could
21 you just go back a second, sorry about that, and I think

TRANSCRIPT OF THE INQUIRY

1 in your statement you also mention that you said over
2 the Airwaves that you were going to give an update and
3 do we see that at 7.21.55 Stephen Kay requests:

4 "PS Maxwell can you arrive there and give me an
5 update please."

6 And then very shortly after that at 7.22.04 you say:

7 "We're just approaching, I'll give you an update."

8 A. Yes, that's correct.

9 Q. So you effectively reply to Stephen Kay to say that you
10 will give him the update, and you're on your way at that
11 time?

12 A. Mm-hm.

13 Q. And then can we look again, sorry, page 6 and I'm going
14 to ask to -- I will show you a part of the evidence
15 video timeline, so that's the footage on the screen,
16 just to let you see, you will see the real time clock in
17 the top left-hand corner and then at the bottom there's
18 the CCTV from Gallaghers pub.

19 A. Yes.

20 Q. And you can see the emergency status buttons on the
21 left, if they're lit up -- Paton's and Tomlinson's are

TRANSCRIPT OF THE INQUIRY

1 lit up at this time, and then in the middle at the top
2 of the screen you will see a reconstruction tile which
3 is a 3D reconstruction bird's eye view of the vehicles
4 and things arriving at the scene, so what I'm going to
5 do is ask that we play from 7.23.10 and if you look at
6 the spreadsheet on page 6 for 7.23.10, you will see that
7 in the description, slightly to the right of halfway on
8 the spreadsheet, you will see:

9 "Two light coloured small vehicles appear
10 approaching the roundabout, one from the south and one
11 from the north, both on Hendry Road. The vehicle
12 approaching from the south turns right at the roundabout
13 into Hayfield Road and then stops just past the exit of
14 the roundabout."

15 And I'm going to play that footage with
16 Ms Wildgoose's assistance, and then I'm going to ask you
17 some questions about it, so let's just watch that for
18 a few seconds, please.

19 (Video played)

20 So did you see that vehicle arriving or do you want
21 to see that footage again?

TRANSCRIPT OF THE INQUIRY

- 1 A. I didn't see a vehicle.
- 2 Q. You didn't see. Right, let's go back to 7.23.10.
- 3 A. Oh, yeah.
- 4 Q. Or just slightly beforehand and ... right, and we will
5 play that.
- 6 (Video played)
- 7 And we will just pause it there. Sorry, I maybe
8 didn't have it rewind far enough to see it. Did you
9 see the vehicle coming up Hendry Road from the
10 right-hand side of the screen?
- 11 A. Yes.
- 12 Q. Turning right into Hayfield Road, round the roundabout
13 and stopping on the left. We can see it behind the tree
14 that is in front of us.
- 15 A. (Nods).
- 16 Q. And there was movement of people exiting the vehicle.
17 Did you recognise the car?
- 18 A. Yes, that's our CID vehicle.
- 19 Q. Is that the Vauxhall Corsa --
- 20 A. Yes.
- 21 Q. -- with the marked police on the front --

TRANSCRIPT OF THE INQUIRY

1 A. Yes, that's correct.

2 Q. -- that you said earlier. And DC Connell was driving?

3 A. Yes.

4 Q. And you were in the front passenger seat?

5 A. Yes.

6 Q. And that's you arriving at Hayfield Road. We have heard
7 evidence you're the sixth car arriving at the scene. So
8 that was prior to your arrival we have heard evidence
9 that Walker and Paton arrived in a Transit van?

10 A. Yes.

11 Q. Tomlinson and Short arrived in what was known as the
12 fish van?

13 A. Yes.

14 Q. I don't know if you knew that. Smith and Good arrived
15 in something akin to the Transit van. Gibson and
16 McDonough have arrived in the diary car?

17 A. Yes.

18 Q. And Maxwell had also arrived in a Corsa?

19 A. Yes.

20 Q. So let's -- we have heard part of the Airwaves
21 transmission that you made after your arrival and

TRANSCRIPT OF THE INQUIRY

1 I would like to listen to that again, so that is 7 --
2 you will see it on the spreadsheet, 7.23.13 on page 6
3 and we have heard snippets of that already and I think
4 we would like to play that in full again, thanks.

5 (Video played)

6 Thanks very much, that's lovely. Were you able to
7 hear that?

8 A. Yes.

9 Q. That's your voice?

10 A. Yes.

11 Q. So how long after you got out of the car did you make
12 that transmission?

13 A. I believe immediately. I did have a short conversation
14 with Craig Walker so it could have been after that, but
15 I believe it was immediate because I came out and made
16 observations.

17 Q. Right, so looking again, the police vehicle arrives
18 between 7.23.02 and 7.23.10, according to the
19 spreadsheet and then this message is 7.23.13, so within
20 seconds?

21 A. Within seconds, yes. So it was immediately when I got

TRANSCRIPT OF THE INQUIRY

1 out of the car, that would make sense.

2 Q. Would that make more sense to you than having stopped
3 for a conversation with someone?

4 A. Yes.

5 Q. And did you immediately go over to the area of the
6 restraint --

7 A. Yes.

8 Q. -- in Hayfield Road.

9 A. Yes.

10 Q. And you have described -- you have made this
11 transmission. Where were you standing when you made
12 that transmission?

13 A. Between my vehicle and the restraint, an area around
14 there.

15 Q. So you have parked on the north side of Hayfield Road
16 and the restraint we have heard was on the south?

17 A. Mm-hm.

18 Q. So a reasonably short distance between. And during the
19 time you're making this transmission, are you on the
20 move to get closer to the restraint, or were you
21 standing still?

TRANSCRIPT OF THE INQUIRY

1 A. I would likely be walking towards them, that would make
2 sense but I don't know for sure.

3 Q. Okay. You have said there that the male's on the ground
4 when you arrive?

5 A. Mm-hm.

6 Q. And several officers have "taken a big restraint". What
7 did you mean by that?

8 A. In terms of resourcing I think, you know --

9 Q. Sorry?

10 A. Resourcing.

11 Q. Resourcing.

12 A. In terms of how many officers were there, it was a big
13 number essentially.

14 Q. How many, do you remember?

15 A. I believe in my statement -- if I may refer back?

16 Q. Yes, please do.

17 A. I knew -- I could name four officers but I believe there
18 were others that I couldn't name but were present so.

19 Q. Right, so more than four officers present?

20 A. Yes.

21 Q. And when you say "They have taken a big restraint", can

TRANSCRIPT OF THE INQUIRY

1 you help me understand whether you meant the restraint
2 was ongoing, or whether it had stopped?

3 A. No, the restraint was ongoing.

4 Q. And when you say:

5 "We're going to need more control with leg
6 restraints."

7 What did you mean by that?

8 A. I could hear them discussing that and I believe I kind
9 of observed that they were in the process of doing or
10 starting to do that.

11 Q. So what position was Mr Bayoh in?

12 A. He was in the prone position, lying down.

13 Q. And was he struggling at that time?

14 A. I believe -- my recollection at the time, and in my
15 statements I have said that his legs were moving.
16 I couldn't tell you now exactly the movement of, but
17 certainly his legs were moving.

18 Q. So you arrive before they have actually applied the leg
19 restraints, although it is being discussed --

20 A. Yes.

21 Q. -- and his legs are still moving at that stage?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. So you were there when the leg restraints were applied?

3 A. No.

4 Q. You had moved away by that stage?

5 A. Yes.

6 Q. All right, thank you.

7 At that time when you first arrived, did you have
8 any concerns at that time as to the manner of restraint
9 or the number of officers that were involved in the
10 restraint?

11 A. I had no concerns. From the short observations that
12 I took at locus at that restraint area, I had no
13 concerns.

14 Q. And if you had had concerns, what would you have done at
15 that time?

16 A. I would have voiced them concerns and interjected.

17 Q. And can you tell me at any stage at that -- sorry, at
18 that stage when you arrived and you saw the restraint
19 and the officers and what was happening, did you
20 consider at that time that it would be important to get
21 the person from the ground upright because they were in

TRANSCRIPT OF THE INQUIRY

1 the prone position.

2 A. I didn't consider it at that time. If you go by the
3 kind of timing of driving to locus, the calls coming in,
4 I knew that due to radio messages that they had not long
5 come to be in that position in terms of the timeline
6 that I was aware of, so I knew that they were still
7 gaining control, they had still to, you know, assert
8 that control by cuffs, et cetera, and then the movement
9 would happen thereafter. I had no concerns because
10 I didn't believe it was a vast amount of time that he
11 had been in the prone position.

12 Q. So when you arrived, the officers were still trying to
13 gain control?

14 A. Yes.

15 Q. Mr Bayoh was prone but still -- his legs were still
16 moving?

17 A. That's correct.

18 Q. No handcuffs were on and no leg restraints?

19 A. Not that I observed, no.

20 Q. Thank you. So no concerns for you at that particular
21 time --

TRANSCRIPT OF THE INQUIRY

1 A. No.

2 Q. -- when you arrived. Now, can you help the Chair
3 understand when you arrived -- you told us about
4 Mr Bayoh's position; can you tell us about the officers
5 who were there and the positions they were in and --

6 A. Can I refer to --

7 Q. You might want to have a look at paragraph 8 of your
8 Inquiry statement and we can get that on the screen, and
9 just so -- I will just read part of this out. So you
10 arrive at 7.20, you say:

11 "... [turned] right [into] Hayfield Road from
12 Hendry Road. DC Connell parked the ... vehicle ... on
13 the left-hand side ... I believed that there was
14 a uniformed car on the same side of the road in front of
15 our vehicle."

16 We have heard mention that was the fish van?

17 A. Yes.

18 Q. "Immediately to the right of the CID vehicle was the
19 officers and a man that I did not know but we later
20 identified to be [Mr] Bayoh. The majority of [his] body
21 was on the pavement; head and body and upper legs. He

TRANSCRIPT OF THE INQUIRY

1 was face down. His lower legs were stretched out into
2 the road and his head was on the pavement and pointing
3 in the direction of the hedge."

4 We have heard that he was -- his head was pointing
5 in the direction of Gallaghers pub, is that a similar
6 description --

7 A. I believe so, yes.

8 Q. -- to what you give there?

9 A. Yes.

10 Q. "His legs were moving at this point but I couldn't tell
11 you exactly what the exact movement was. I don't have
12 any recollection of how the legs were moving for
13 example, whether it was side to side or up and down, but
14 certainly I do recall movement. I also observed four
15 officers in particular at this point, PC Craig Walker,
16 PC Alan Paton, PC Ashley Tomlinson and PC Daniel Gibson.
17 PC Alan Paton being on the deceased's right-hand side.
18 PC Craig Walker being on [his] left-hand side, at his
19 upper shoulder area. PC Walker was on his upper
20 shoulder area. PC Walker was lying on his right-hand
21 side, facing away from Sheku Bayoh. PC Walker was

TRANSCRIPT OF THE INQUIRY

1 restraining him by leaning his weight on Mr Bayoh's
2 shoulder and the arm. I am clear that PC Walker was not
3 leaning his weight on Mr Bayoh's body at that time."

4 So I would quite like to -- then you go on in
5 paragraph 9 to say you don't recall exactly what
6 PC Paton was doing, Ashley Tomlinson was at his feet and
7 likewise, so was Daniel Gibson:

8 "... what they were effectively doing, I don't know.
9 My concentration was on speaking with Craig Walker.
10 From my statement, I can see that I remembered somebody
11 saying 'leg restraints'. I believed somebody was going
12 to put Leg Fast Straps on Mr Bayoh's legs...I [don't]
13 recall seeing this happen."

14 I would quite like to go through that and ask you
15 some further questions if you don't mind?

16 A. Yes, no problem.

17 Q. We have obviously read that description of what
18 PC Walker was doing but I wonder if you could help the
19 Chair understand what you saw when you arrived walking
20 over the road from your vehicle towards the restraint.
21 So you have told us about Mr Bayoh, prone, face towards

TRANSCRIPT OF THE INQUIRY

1 the hedge, and tell us about where PC Walker was and
2 what he was doing?

3 A. So PC Walker was on the left side, so the side furthest
4 away from the Hayfield -- the roundabout --

5 Q. The roundabout.

6 A. -- at Gallaghers. He was on the left side and he was
7 lying on his side, so PC Walker was lying on his right
8 side.

9 Q. On his own side?

10 A. Yes, on the ground and in a restraint, holding
11 Mr Bayoh's kind of top of his arm and -- his shoulder
12 and his arm down.

13 Q. Can I just be clear, you have said PC Walker was on the
14 left side of Mr Bayoh, Mr Bayoh's prone, but he was
15 lying on his right side.

16 A. Mm-hm.

17 Q. Was he faced away from --

18 A. Yes, he had his back to Mr Bayoh and was facing towards
19 the hospital.

20 Q. All right. So he had his back to Mr Bayoh at that time
21 that you arrived?

TRANSCRIPT OF THE INQUIRY

- 1 A. Yes.
- 2 Q. Sitting on his right side --
- 3 A. Lying.
- 4 Q. Lying, sorry, on his right side, facing the direction of
5 Hayfield Road that leads to the hospital,
6 Victoria Hospital?
- 7 A. Yes.
- 8 Q. What was he doing?
- 9 A. He was in a restraint -- he was doing a ground pin at
10 that point.
- 11 Q. Right. And you have mentioned Mr Bayoh's arm. Tell us
12 what he was doing to Mr Bayoh's arm.
- 13 A. (Inaudible overspeaking) --
- 14 Q. You have talked about a ground pin.
- 15 A. He was holding it down and he was looking away, so
16 Mr Bayoh is behind him and he is pinning the top of his
17 arm and looking in the other direction.
- 18 Q. Okay. And when you say he was lying, was he lying
19 parallel to Mr Bayoh's body as he was lying on the
20 ground?
- 21 A. Certainly the top of his body was parallel; I couldn't

TRANSCRIPT OF THE INQUIRY

1 tell you where his legs were, but certainly the top end
2 of his body.

3 Q. But he had pinned Mr Bayoh's left arm?

4 A. Yes.

5 Q. What about PC Paton, where was he?

6 A. He was on the right side but, you know, as said in
7 a couple of statements I can't exactly say what he was
8 doing in terms of restraint, where his hands were,
9 because my focus was -- I asked Craig Walker a couple of
10 questions, he answered them and then I left, so in terms
11 of what Alan Paton was doing exactly, I don't know, and
12 likewise, for Daniel Gibson and Ashley Tomlinson.
13 I knew they were at the feet of Mr Bayoh but exactly
14 what they were doing, I don't know.

15 Q. As you approached the area of the restraint --

16 A. Yes.

17 Q. -- where were those two officers? Was one on the left
18 and one on the right in the (inaudible overspeaking) --

19 A. I believe I have said that, yes, that -- I think it's in
20 my PIRC statement. I don't know if --

21 Q. Okay, let's have a look at your first statement from

TRANSCRIPT OF THE INQUIRY

1 4 May which is PS 000379. That was your first
2 self-penned statement and then we also have PIRC 184,
3 which is your statement of 29 May.
4 A. 185 it's in.
5 Q. It's 185, right. Let's have a look at that. So this is
6 the statement of 2 June 2015. Is this page 4 --
7 A. Yes.
8 Q. -- by any chance? Let's have a look at page 4 and we
9 will see at paragraph 5, let's start with that, it
10 starts:
11 "I saw 4 officers in particular ..."
12 And we can see that on the screen:
13 "... as I got out of the passenger side of the car.
14 These officers were [Walker, Paton, Tomlinson and
15 Gibson].
16 "PC...Paton was on the deceased's right-hand side
17 'controlling' the deceased but I don't know how.
18 PC...Walker was lying on the deceased's left side, his
19 upper shoulder area, he was lying effectively on his
20 right-hand side facing away from the deceased. I cannot
21 remember if the deceased said anything. I do not

TRANSCRIPT OF THE INQUIRY

1 remember if his face was on the left or the right. It
2 was not face down."

3 And then you say:

4 "PC Ashley Tomlinson was at the male's feet on the
5 male's left side."

6 So Tomlinson was on Mr Bayoh's left side, is that
7 correct?

8 A. Yes.

9 Q. "PC Daniel Gibson was also at the feet of the deceased
10 right side at the feet."

11 So he was on Mr Bayoh's right-hand side?

12 A. At the bottom of his legs, yes.

13 Q. "I think Ashley Tomlinson was holding his lower legs,
14 but his legs were moving. I cannot recall what
15 PC Gibson was doing. I remember somebody saying 'leg
16 restraints'. I believed somebody was going to put leg
17 restraining straps on his legs. I do not recall seeing
18 them being put on the deceased Bayoh."

19 And you have said earlier you asked a couple of
20 questions of PC Walker when you arrived.

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 Q. What were you asking?

2 A. I asked him where PC Nicole Short was because she wasn't
3 visible to me and I asked him where the vehicle keys
4 were for the Transit van.

5 Q. Right. And what information did you receive about both
6 those things?

7 A. They're both in the van. So Nicole Short was in the van
8 as well as the keys were in the van.

9 Q. Right. And that was PC Walker's van, the Transit van?

10 A. Yes.

11 Q. Thank you. Can I ask you if we could look at
12 paragraph 11 of your Inquiry statement. You see:

13 "I asked Craig what was taking place and where
14 Nicole was, as I was aware she was injured. He said to
15 me 'he is struggling' referring to Mr Bayoh and told me
16 Nicole was in the van. I asked him where the van keys
17 were as I intended to drive the van closer to the
18 officers as I knew this male was being arrested. The
19 officers would require the police van to convey
20 a custody and this was the only van on scene. Craig
21 said that the keys were in the vehicle. So, I made my

TRANSCRIPT OF THE INQUIRY

1 way towards the van. I was with PC Craig Walker and the
2 other officers for a minute/two minutes at most. I see
3 from my statement that I've checked up on control to
4 give them an update that the male was restrained and
5 officers had control of him."

6 So at this stage the restraint's ongoing?

7 A. Yes.

8 Q. You know they're going to be applying leg restraints.

9 A. Yes.

10 Q. And you take the view you need the custody van because
11 he was going to be taken into custody, "he" being
12 Mr Bayoh?

13 A. Yes.

14 Q. And you then went to get the Transit van that Walker and
15 Paton had arrived in?

16 A. Yes, my focus at that time was Nicole, not the van,
17 but -- that was a secondary.

18 Q. So Nicole Short, the officer who had been injured, was
19 the priority at that time?

20 A. Yes.

21 Q. And when you went over to the van, tell me how she

TRANSCRIPT OF THE INQUIRY

- 1 appeared to you?
- 2 A. So I approached the van and I climbed in the driver's
3 side of the van. She was sitting within the passenger
4 area of the front of the Transit van. I think I have
5 detailed in my statement she was visibly crying,
6 shaking, holding at her head and, you know, looked like
7 she was in total shock, essentially.
- 8 Q. We have heard evidence that she was very distressed in
9 the van?
- 10 A. Yes.
- 11 Q. And that seems to have been your recollection. And you
12 have said she was holding her head. Do you remember
13 where on her head she was holding?
- 14 A. She just kept on gripping the back of her head, like
15 pulling at her hair and holding the back of her head.
- 16 Q. Right. And did she say anything about her head?
- 17 A. I believe she said to me that she had been struck by him
18 and I assumed she meant Mr Bayoh.
- 19 Q. Did she say where she had been struck?
- 20 A. I don't know if I have that recorded. I'm sure she said
21 in the head but ...

TRANSCRIPT OF THE INQUIRY

1 Q. If we look at your PIRC statement, page 6, the one we
2 just looked at a moment ago, 185, and I'm thinking
3 paragraph 6 on this page, it starts:

4 "When I first saw her she was crying, there were
5 tears running down her face. Her hands were shaking,
6 her hands were trembling, she was visibly shaking and in
7 shock. She is very small and of slight build. I think
8 she has only 5 years police service. I queried the
9 injuries she had to her. She said that the back of her
10 head was 'sore'. She had been struck to the back of the
11 dead, she did not say how. She said 'he did it'. I
12 took it this was Sheku Bayoh she referred to. She said
13 something similar to he was going to jump on her head
14 and if it was not for 'Craig' meaning PC Walker, then
15 she broke down more. When I made reference in my
16 earlier statement to 'other officers present protected
17 her' I believe she meant PC Craig Walker."

18 And that's what you told PIRC on 2 June 2015.

19 A. Yes, that's correct.

20 Q. Thank you. Was there anything obvious about her head,
21 or did you notice any obvious injury?

TRANSCRIPT OF THE INQUIRY

1 A. No, so I got out of the van and went round to the
2 passenger side. I comforted her and took her from the
3 van onto the kind of pavement or the road, and I tried
4 to have a look at her head. As you are aware, you have
5 met Nicole, her hair is particularly thick and
6 I couldn't actually get a proper look but what
7 I ascertained was there was no bleeding injury and it
8 was at that point DI Colin Robson turned up and we made
9 the decision that we weren't waiting on an ambulance, we
10 were just going to take her because she was walking
11 wounded.

12 Q. And did he then make arrangements to have her taken to
13 the hospital or did you make those arrangements?

14 A. No, he pulled up behind the van in his vehicle, so
15 I approached the vehicle and just said "Look" -- we
16 could see the hospital from there, it was like 200 yards
17 away, so I put her into the passenger side of the
18 vehicle and DI Colin Robson took her to the hospital,
19 a short journey.

20 Q. And that was a quicker approach than actually waiting
21 for the ambulance?

TRANSCRIPT OF THE INQUIRY

1 A. Yes, she was safe enough to be travelled in a police car
2 as opposed to --

3 Q. And then at paragraph 15 of your Inquiry statement, if
4 we can go back to that, you were asked if you remember
5 any mention being made of her being stamped on:

6 "At that point, I was not aware of any reference to
7 Nicole being stood on or stamped on, from Nicole or even
8 transmissions on the radio, I don't think. Certainly,
9 I didn't overhear that Nicole had been stamped on. It
10 wasn't until later in the media scenario that I've seen
11 that, but at that moment in time, I didn't ask and it
12 was never said to me. I didn't see any marks on
13 Nicole's uniform. But again, I wasn't paying particular
14 attention, but certainly there was nothing obvious."

15 And that remains your position today?

16 A. Yes.

17 Q. Thank you. Then you have told us that you -- how long
18 did you spend with Nicole Short, did I ask that?

19 A. A few minutes at most.

20 Q. And then you have told us you drove the Transit closer
21 to where the restraint was going on?

TRANSCRIPT OF THE INQUIRY

- 1 A. That was correct, yes.
- 2 Q. So DI Robson arrived and you arranged that he would take
3 her to the hospital, Nicole Short.
- 4 A. Mm-hm.
- 5 Q. And then did you get the keys to the Transit van and
6 move it at that point?
- 7 A. Yes.
- 8 Q. And can I ask you to look at some still images too:
9 number 4 in the still images. Actually I think I would
10 rather have -- sorry, it was actually number 6 that
11 I was interested in. Right, so this is an image -- a 3D
12 image of various vehicles at the scene at a later moment
13 in time. Can you -- just for the purposes of clarity,
14 can you identify your vehicle from this image?
- 15 A. Yes, it's the small grey one.
- 16 Q. And the Transit van that you moved that had had
17 Nicole Short in it.
- 18 And for both of those vehicles, are you reasonably
19 content that these are a reasonable indication of the
20 position in the road, Hayfield Road, that they were in?
- 21 A. Yes, reasonable, yes.

TRANSCRIPT OF THE INQUIRY

1 Q. Thank you. So 2 was the Transit van that had been taken
2 from the bus stop area?

3 A. Mm-hm.

4 Q. And then was moved to nearer the island on Hayfield Road
5 that we see on the image.

6 A. Yes.

7 Q. And the restraint that you returned to was going on
8 where?

9 A. In this area here, I believe (indicating).

10 Q. Thank you, that's lovely. That's number 3. Now, can
11 I ask you, prior to leaving the area of the restraint
12 and going to speak to Nicole Short, had anyone at that
13 time been monitoring Mr Bayoh's breathing as far as you
14 were aware?

15 A. I was not aware of that.

16 Q. All right, thank you. Can we look at the spreadsheet,
17 please, and can we look at 7.25.17 and this is on page 7
18 of the spreadsheet. Now, you will see that at this
19 time, 7.25.17, it's a transmission from PC Smith which
20 says:

21 "This male certainly appears to be unconscious,

TRANSCRIPT OF THE INQUIRY

1 breathing, not responsive, get an ambulance for him."

2 Did you remember hearing that transmission?

3 A. I recall hearing a transmission that he was
4 unresponsive. I couldn't tell you if it was from
5 PC Alan Smith or the full context, but I do remember
6 knowing that he was unresponsive.

7 Q. So you realised that he had become unresponsive?

8 A. Mm-hm.

9 Q. Where were you when you heard that transmission?

10 A. I believe I was mid-driving the van back towards the
11 restraint area.

12 Q. So you were in the Transit van, moving it to the
13 position you just demonstrated on the image --

14 A. Yes.

15 Q. -- when you realised that he had become unresponsive.

16 What did you do after you stopped the van? What did
17 you do immediately after that?

18 A. I'm slightly confused as to what came first, but
19 essentially I know I approached the restraint and
20 observed Mr Bayoh for myself. I felt for a pulse.
21 I couldn't feel an external pulse so I asked

TRANSCRIPT OF THE INQUIRY

1 PC Alan Smith to corroborate that because I wasn't sure
2 that that was correct and he did so and then CPR
3 commenced.

4 Q. Right. Let's look at PS 379 again before I ask you some
5 further questions. So this is your self-statement dated
6 4 May, so this is the first statement that we have in
7 the bundle.

8 A. Mm-hm.

9 Q. And can we look at page 3 -- sorry, page 4, I should
10 have said. At the very top of the page it says:

11 "At this point I myself checked the deceased for
12 a pulse; right side of his neck. I could not feel
13 a pulse. I asked PC Alan Smith to confirm or locate
14 a pulse.

15 "I believe PC Smith could not feel a pulse as soon
16 thereafter the officers relayed the deceased had no
17 cardiac output and CPR commenced. I mainly observed
18 PC Walker carry out chest compressions.

19 "An ambulance was requested to attend immediately
20 and the current position of the deceased was transmitted
21 on the radio."

TRANSCRIPT OF THE INQUIRY

1 So you yourself checked by pressing the right side
2 of his neck?

3 A. Mm-hm.

4 Q. Without success in finding a pulse?

5 A. Mm-hm.

6 Q. You got PC Alan Smith to do something similar. Did he
7 touch the same area, or did he touch a different area?

8 A. I believe he did the exact same movement I did.

9 Q. Same thing. And he couldn't feel a pulse and then you
10 have said:

11 "The officers relayed the deceased had no cardiac
12 output and CPR commenced."

13 Does that mean there was a message transmitted?

14 A. I believe so, yes.

15 Q. And do we see in fact on page 7 of the spreadsheet,
16 7.25.17, from PC Smith:

17 "Male now certainly appears to be unconscious,
18 breathing, not responsive, get an ambulance for him."

19 A. I don't believe that would be the message.

20 Q. That was the first message --

21 A. That's the unresponsive message.

TRANSCRIPT OF THE INQUIRY

1 Q. -- and then there's a message later, on page 11 of the
2 spreadsheet at the top, and this is 7.29.30, from
3 Scott Maxwell:

4 "Control can you get a move on with the ambulance.
5 This accused is now not breathing. CPR is commencing.
6 Over."

7 Is that the message that you --

8 A. I believe so, yes.

9 Q. -- remember. So the first message when he was
10 unconscious but breathing, where -- were you --

11 A. I was still driving the van back, so I was aware --

12 Q. You were driving the van back?

13 A. -- but I wasn't at the restraint.

14 Q. You weren't there at that time?

15 A. Yes.

16 Q. But when this second message is made by Scott Maxwell
17 that he is not breathing and CPR is commencing, were you
18 at the restraint at that point?

19 A. Yes, yes.

20 Q. So you had returned to the restraint from there?

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

- 1 Q. The van had been moved by that point?
- 2 A. Yes.
- 3 Q. Thank you. From the point you were at the restraint at
4 that stage, did you see PC Smith do a test to see if he
5 could get a pain response from Mr Bayoh?
- 6 A. I believe I have said in statements that I heard him
7 trying to get a verbal response.
- 8 Q. What do you mean by that?
- 9 A. I believe he was just asking him "Are you" -- "Can you
10 hear me" type scenario, "Are you okay?" I don't remember
11 any kind of pain response. It could have happened, it's
12 something I didn't observe.
- 13 Q. Do you remember at all seeing PC Paton slapping or
14 tapping or patting Mr Bayoh on the face?
- 15 A. No.
- 16 Q. At that time, was there anyone monitoring his breathing?
- 17 A. I don't have any recollection of that because when
18 I arrived, I have pretty much immediately felt for
19 a pulse and it was CPR so I don't know if that was maybe
20 pre my arrival but I didn't observe any of that.
- 21 Q. All right, thank you.

TRANSCRIPT OF THE INQUIRY

1 In relation to how the officers in the area were,
2 can you tell us where they -- how many officers were
3 around at that time and where were they?

4 A. I knew all eight officers from team 4 were on scene.
5 Exactly where they were, I don't know. PS Scott Maxwell
6 was in the area of the restraint also. I was aware of
7 him in my periphery. PC Craig Walker was again
8 remaining on the left side of Mr Bayoh. Alan Paton was
9 in and around the kind of head area on the pavement and
10 I knew Alan Smith was down to my right. He was directly
11 next to me on the right. Where the other officers were
12 positioned -- I suspect nearby, but I don't know.

13 Q. What was PC Walker doing at the time?

14 A. He was just kneeling down to Mr Bayoh's side.

15 Q. What was PC Paton doing, do you remember?

16 A. Likewise, he was just kneeling down on the pavement but
17 exactly I don't know.

18 Q. Do you know what PC Smith was doing?

19 A. When I arrived? He was kneeling down and, as I said, he
20 was trying to get a verbal response. I certainly
21 I think recall that and then I have went over, felt for

TRANSCRIPT OF THE INQUIRY

1 a pulse, he has done similar and then CPR has commenced.

2 Q. And which officers commenced the CPR?

3 A. PC Craig Walker.

4 Q. And we have heard they sometimes work in teams of two.

5 A. Yes.

6 Q. Who was his team -- who was his partner?

7 A. I suspect Alan Smith took over, but I didn't observe

8 that.

9 Q. Did you observe the CPR?

10 A. Yes.

11 Q. By the time CPR was being performed, was Mr Bayoh in

12 handcuffs?

13 A. Yes.

14 Q. Was he in leg restraints?

15 A. I never ever observed leg restraints.

16 Q. You didn't?

17 A. But it is -- they would have been in position but I do

18 not have a recollection of physically seeing them.

19 Q. Did -- can I ask you, by that time, by the time you have

20 arrived, you're a sergeant in the CID --

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

- 1 Q. -- we have heard about Maxwell was an acting police
2 sergeant --
- 3 A. Yes.
- 4 Q. -- when you arrived at the scene, in terms of your rank
5 and seniority, were you in charge at that point?
- 6 A. No, we were -- I wouldn't be in charge initially. That
7 is a response call and we are attending not an
8 investigative matter, we are attending to back up other
9 police officers, so I wouldn't take charge of
10 PS Maxwell's team or the situation, so we can work
11 together, that's not an issue at all, we can work
12 together, I will help him out, he can help me out, but
13 certainly I was going as a support officer for the
14 response.
- 15 Q. So you're not coming onto the scene and taking
16 command --
- 17 A. No.
- 18 Q. -- or taking charge of that?
- 19 A. No. Unless I see I need to do so, I wouldn't do that.
- 20 Q. If you saw the need for you to do that --
- 21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 Q. -- how would you communicate that to the officer who was
2 in charge?

3 A. I would essentially discuss it constructively and pass
4 my guidance on.

5 Q. Okay. But that conversation did not happen?

6 A. No.

7 Q. -- on this occasion?

8 A. No.

9 Q. So as far as you are concerned, who was in charge of
10 this incident?

11 A. PS Scott Maxwell was there in charge of the incident
12 initially and he was in charge of his officers.
13 However, I will be happy to share that responsibility.
14 I was on scene also and I was a sergeant.

15 Q. Okay, right.

16 So during the CPR when you're -- you're in the area
17 and you see that proceeding.

18 A. Yes.

19 Q. And you think it was commenced by PC Walker.

20 A. Yes.

21 Q. At any time did you consider instructing or requesting

TRANSCRIPT OF THE INQUIRY

- 1 that his handcuffs be removed?
- 2 A. No, I didn't consider instructing that. My sole focus
3 was on Mr Bayoh, his upper body, looking at his face,
4 looking at the CPR. If I'm being honest, I didn't even
5 look at the cuffs. The urgency was life-saving kind of
6 intervention so I didn't look at the cuffs, I didn't
7 consider taking them off.
- 8 Q. And are you first aid trained?
- 9 A. Yes.
- 10 Q. You can perform that type of CPR?
- 11 A. Yes.
- 12 Q. Was there anything about the CPR at that time that
13 caused you to have any concerns about its effectiveness
14 or the way it was being performed?
- 15 A. No. I observed Craig Walker completing the CPR. As far
16 as I'm aware, it was very effective, and there was no
17 restriction to the chest area that I observed.
- 18 Q. We have heard that Mr Bayoh had his hands cuffed
19 together at the front.
- 20 A. Yes.
- 21 Q. And that that position can compress the chest.

TRANSCRIPT OF THE INQUIRY

- 1 A. Mm-hm.
- 2 Q. And could interfere with effective CPR.
- 3 A. Yes.
- 4 Q. I'm paraphrasing, obviously, but we have heard evidence
5 about that, and do you -- was there anything that drew
6 your attention or caused you to have concern about the
7 position of the handcuffs or the fact it was to the
8 front?
- 9 A. My observation of CPR gave me no concern, you know, it
10 was effective and it was ongoing, I had no concern and
11 I was not drawn to the cuffs causing any issue. As
12 I say -- and honestly, I didn't even look at the cuffs,
13 my focus was on Mr Bayoh and the CPR and the concern for
14 him.
- 15 Q. Now, you have told us when you first arrived Mr Bayoh
16 was prone; you have told us about CPR.
- 17 A. Yes.
- 18 Q. When CPR was being performed, was he on his back?
- 19 A. Yes.
- 20 Q. Were you present when he moved from his front to his
21 back?

TRANSCRIPT OF THE INQUIRY

- 1 A. No.
- 2 Q. Did you see at any time how he was moved from his front
3 to his back?
- 4 A. When I first arrived he was on his left side. When
5 I came back with the van he was on his left side.
6 I didn't know who moved him from his back to his left
7 side and then obviously Alan Smith and Craig Walker took
8 part in moving him to his back to perform CPR.
- 9 Q. So when you returned from moving the Transit van --
- 10 A. Yes.
- 11 Q. -- he was on his left-hand side by that time?
- 12 A. Yes.
- 13 Q. And then you witnessed him being moved onto his back to
14 start the CPR?
- 15 A. Yes.
- 16 Q. Thank you. Did you see PC Smith bringing a mask to try
17 and provide rescue breaths?
- 18 A. No, I don't -- I didn't observe that. So I have
19 obviously left PS Maxwell, the officers, with Mr Bayoh
20 doing CPR and gone off to do other matters.
- 21 Q. Thank you. Did you see Mr Bayoh being stretchered into

TRANSCRIPT OF THE INQUIRY

1 the ambulance later?

2 A. I did.

3 Q. So you were back by that stage?

4 A. Yes, I was in that vicinity at all times but -- yes.

5 Q. Yes. Can I ask you then about paragraph 19 of your
6 Inquiry statement, please. You say:

7 "Derek Connell was to my right-hand side (as you
8 face Hendry Road), not far away, just across the road.
9 He shouted over that he had recovered a knife. Whether
10 he did that as I approached the officers and Mr Bayoh,
11 or whether this was after I checked for a pulse, I can't
12 remember. The order of that is a bit jumbled and
13 I can't be 100% sure, but it probably happened pretty
14 much all at the same time, because we were only a short
15 distance away from each other and things were happening
16 simultaneously. Somebody was shouting on this side and
17 I was helping out this side. So, it's probably all
18 consecutively happening about the same time."

19 I'm interested in this knife.

20 A. Mm-hm.

21 Q. Can you tell me about DC Connell's involvement with

TRANSCRIPT OF THE INQUIRY

1 that?

2 A. Obviously when I have arrived back with the van after
3 Nicole Short had gone to the hospital, Mr Bayoh is
4 unresponsive but obviously Derek is over to my right
5 which would be the north side of Hayfield Road, the
6 grass area on the corner, and he shouts that he has
7 located the knife. By this point he has already
8 collected the knife from its original position from the
9 grass and walking towards our vehicle, so I have gone to
10 the boot of our vehicle, there's not a big enough knife
11 tube that we had within the boot, so I grabbed a brown
12 evidence bag. We put it within the bag and then secured
13 it and locked our vehicle and secured it within the
14 vehicle.

15 Q. Could I ask you to look at something for me, please, and
16 I'm just going to -- it's in a plastic tube and I'm just
17 going to ask you if you recognise this.

18 A. Yes.

19 Q. And what is that?

20 A. That is the knife.

21 Q. That's the knife that you have just described to us --

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. -- that DC Connell recovered, and actually you will see
3 a photograph on the screen which shows the knife and
4 that's the knife that was recovered from Hayfield Road
5 in the grassy area?

6 A. Yes, and my signature is on that.

7 Q. That's lovely, thank you very much.

8 Then can I ask you just to confirm something,
9 7.31.13, which you will see at the bottom of page 11,
10 and we have heard some evidence at this stage that there
11 had been a request initially for a dog unit to attend
12 and during the course of the events on 3 May that
13 a Gary Wood from the dog unit had been in touch and then
14 you were involved to say Gary Wood at 7.31.02 said:

15 "That's great, thank you. Was there any talk,
16 I dinnae hear the entirety of the job initially came in.
17 Is there anything else that's outstanding that you may
18 require a dog for?"

19 And you made the transmission at 7.31.13 and said
20 "No negative".

21 So it was you that told the dog unit, Gary Wood,

TRANSCRIPT OF THE INQUIRY

1 that he wasn't any longer required?

2 A. I believe so. I have no recollection of that, but yes,
3 it is recorded obviously.

4 Q. Thank you. At paragraph 21 of your Inquiry statement
5 please, if we can have that on the screen:

6 "At the point of Mr Bayoh becoming unresponsive and
7 in cardiac arrest ..."

8 This is the point at which CPR was commenced?

9 A. Yes.

10 Q. "... the situation changed to a far more serious
11 incident and something that CID would lead on. So, it
12 was at that point that the transition is that I'm going
13 to start taking control of this incident. It's no
14 longer a uniformed response incident. I collected
15 barrier tape from one of the police vehicles. I'm not
16 sure which one. We're all in all the vehicles, so it
17 would have been whatever vehicle was nearby to me.
18 I then set parameters for the locus protection, which
19 was at the junction of Hayfield Road with Hendry Road
20 and also Hayfield Road with Poplar Road. As I was
21 setting the barrier tape on Poplar Road, that's when the

TRANSCRIPT OF THE INQUIRY

1 ambulance has arrived. I allowed them in and then set
2 the cordon again and I put officers on locus protection,
3 which was PC Kayleigh Good at the
4 Hayfield Road/Hendry Road junction and PC McDonough at
5 the Hayfield Road/Poplar Road junction with instructions
6 not to allow anybody to enter unless they have
7 permission to do so."

8 If we can go back to the top of that, I will ask you
9 some questions. So I asked you a few moments ago about
10 who was in charge and you explained your understanding
11 of the position initially, but you said in paragraph 21
12 that when Mr Bayoh became unresponsive in cardiac arrest
13 and CPR was commenced, that you realised this was a far
14 more serious incident?

15 A. Yes.

16 Q. So was this the point at which things changed in terms
17 of command and who was in charge?

18 A. Yes, I instinctively took charge at that point, knowing
19 the kind of gravity of the situation, and obviously
20 started completing some priority actions in containing
21 the scene, et cetera.

TRANSCRIPT OF THE INQUIRY

- 1 Q. Right. So because you were on the scene at that time
2 you were able to take that decision --
- 3 A. Yes.
- 4 Q. -- as soon as that happened?
- 5 A. Yes.
- 6 Q. And when you talk about taking priority decisions, can
7 you maybe explain to us what priority decisions were
8 taken by you?
- 9 A. So the initial one was scene management in terms of
10 setting parameters and securing the area, in terms of
11 any further contamination of the area. I would be
12 resourcing persons within the ambulance and also at the
13 hospital, and then we would then follow on to, you know,
14 contacting initial witnesses, et cetera, gathering
15 information to develop the situation.
- 16 Q. So that then becomes a serious investigation that will
17 need witnesses and such-like?
- 18 A. Yes.
- 19 Q. And so in terms of you taking control, is that something
20 that you shared with Acting Police Sergeant Maxwell, or
21 was that something that you just naturally or

TRANSCRIPT OF THE INQUIRY

1 instinctively took control of?

2 A. No, time was not on our side. Essentially

3 I instinctively done that. PS Scott Maxwell did not

4 object to it. We didn't have a big discussion about it,

5 it was just something that happened and he went along

6 with.

7 Q. And would it have been reasonably obvious to Maxwell or

8 other officers that you were now in more of a control --

9 taking control, being more proactive?

10 A. Yes. He was still in control of his own officers,

11 I didn't take full control from him, but I was

12 controlling and containing the scene and the incident.

13 Q. Right. So by the time we looked at that message that

14 you made -- you made a couple of messages on page 11 of

15 the spreadsheet, so we see the entry at 7.29.30 towards

16 the top of the page, Scott Maxwell:

17 "Get a move on with the ambulance. This accused is

18 now not breathing. CPR is commencing. Over."

19 So how long after that call would you say you took

20 command? We see the entry 7.29.51 where you say:

21 "That's me now taping this area off. Did you hear

TRANSCRIPT OF THE INQUIRY

1 the last?"

2 Was it really from that point that you were in
3 charge?

4 A. Yes, in or around that point.

5 Q. In or around. And when you say "Taping the area off" is
6 that -- we have seen some footage with officers taping
7 off one end of Hayfield Road at the roundabout end. Is
8 that the sort of exercise that was being carried out by
9 officers?

10 A. Yes. I would tell them exactly where I want it taped.
11 It's the police barrier tape, essentially, and you just
12 cordon that area and guard it.

13 Q. Thanks. And as one of the actions that you take when
14 you're taking control of what's become a serious
15 incident, do you also prepare a scene log?

16 A. You don't prepare one; they're within the vehicle,
17 they're blank documents or blank books.

18 Q. Can we look at paragraph 22, please:

19 "I am asked about what the usual practice would have
20 been regarding having a scene log. The scene log would
21 generally start as soon as practical, if you have them

TRANSCRIPT OF THE INQUIRY

1 to hand, given the situation. We ... have [them in]
2 vehicles ... they can be produced fairly quickly, and if
3 not, we [could] collect them from the nearest police
4 station."

5 So really as soon as an incident becomes more
6 serious and you're in charge, these are the sorts of
7 documentation that you want to have to hand?

8 A. Yes, the scene log is essentially there to log anybody
9 coming to and from entry from the scene, so it's
10 essentially persons, scenes of crime photographers,
11 et cetera.

12 Q. Anyone entering into your --

13 A. Yes, cordon, yes.

14 Q. -- secure area or leaving the secure area?

15 A. Yes.

16 Q. And the timings of those?

17 A. The timings and rationale for visit and permission.

18 Q. And the purpose of that is to have a record of everyone
19 entering or leaving the scene?

20 A. Yes.

21 Q. Thanks. Then paragraph 23 you say:

TRANSCRIPT OF THE INQUIRY

1 "I told DC Connell to accompany [Mr] Bayoh to the
2 hospital. I see from my statement that DI Robson was
3 back at the scene by that time ..."

4 You told us earlier he had gone to take Nicole Short
5 to the hospital:

6 "... and that we had a discussion about the
7 cordons."

8 What are the cordons?

9 A. That is the police barrier tape.

10 Q. And then you say:

11 "A discussion also took place between PI Kay,
12 Sergeant Maxwell and me regarding replacing the officers
13 at the scene: that the officers involved should return
14 to the Kirkcaldy Police Office and go to the canteen."

15 So do we see that Inspector Kay had arrived by this
16 time?

17 A. Yes.

18 Q. Do you remember when he arrived?

19 A. He gave me a point-to-point. I think he was originally
20 on Victoria Road. There was a confusion initially with
21 a few of the calls, and he had gone to Victoria Road

TRANSCRIPT OF THE INQUIRY

1 point-to-point and I told him to come up to
2 Hayfield Road. I don't -- I think that was after
3 Mr Bayoh went into cardiac arrest. I don't think it was
4 before then.

5 Q. So after he has gone into cardiac arrest, after the
6 ambulance has been called?

7 A. Possibly, I don't know.

8 Q. But before the ambulance has arrived and taken him to
9 hospital?

10 A. I'm not sure.

11 Q. Not sure. So -- but he was there at some point at the
12 scene?

13 A. Mm-hm.

14 Q. And then this discussion took place between you,
15 Inspector Kay and Sergeant Maxwell about the officers
16 involved returning to Kirkcaldy Police Office.

17 A. Yes.

18 Q. Tell us about that.

19 A. Well, essentially we were on scene. All the officers
20 looked, you know, particularly shocked, quiet, I was
21 really worried about their welfare actually. My initial

TRANSCRIPT OF THE INQUIRY

1 concern was this was the full Kirkcaldy resource; what
2 do we do to answer the calls that are still coming in,
3 and my fear was that the controller would dispatch these
4 officers to another call.

5 Q. I see.

6 A. So I made it clear to Inspector Kay that I think we need
7 to quickly resource Kirkcaldy with other officers so
8 these officers would not be sent to another call,
9 because if an immediate 999 call came in there was
10 a potential that they would get pulled away and
11 dispatched, so I knew that they weren't fit to do so,
12 they were in shock and they needed to return and debrief
13 back at the station.

14 Q. Right. So as part of that you needed to resource other
15 officers who could take control of any 999 calls that
16 came in?

17 A. That was Inspector Kay's --

18 Q. So was that was -- but you raised that concern with
19 him --

20 A. I raised that concern with him.

21 Q. -- at that point. And then it goes on to say:

TRANSCRIPT OF THE INQUIRY

1 "At that time PC Good and McDonough remained on
2 scene undertaking locus protection."

3 So did you feel at that stage that PC Good and
4 McDonough were sufficiently well to continue with duties
5 on locus protection?

6 A. More so than the other officers. However, I wanted to
7 replace them as soon as I could as well, but I had no
8 other option. It was essentially use both of them at
9 that time. They appeared okay with that, they agreed to
10 it, and then we quickly obviously resourced and replaced
11 them.

12 Q. Thank you.

13 "My statement notes that I recall PC Paton and
14 Walker were running to the police van. The word running
15 here is incorrect. PC Paton and PC Walker were directly
16 next to the van and would have no requirement or
17 opportunity to run. I recall observing both sitting in
18 the van with the engine running and they left locus
19 thereafter."

20 So PC Walker and PC Paton, had they gone back to the
21 Transit van that they had arrived in originally?

TRANSCRIPT OF THE INQUIRY

1 A. They were now sitting within the Transit van, yes.

2 Q. Walker in the driver seat?

3 A. I believe so, yes.

4 Q. But they weren't running to the van, it was (inaudible -
5 overspeaking) engine running?

6 A. No, I think that's a typo, yes, a typo in the PIRC
7 statement which I corrected. The van was running; they
8 weren't running.

9 Q. Thank you. And paragraph 24, you went back to Kirkcaldy
10 Police Office at 8 o'clock. You say that DC Connell was
11 at Victoria Hospital with Sheku Bayoh. So we may hear
12 that he had gone in the ambulance.

13 A. Yes.

14 Q. You had not spoken to any senior officers on your
15 return. You mention a couple of officers there at
16 Kirkcaldy CID and they were sent to Victoria Hospital to
17 remain with Mr Bayoh and then if we can move up the
18 page, please.

19 You made arrangements in relation to what was
20 happening at the hospital at that time and are those two
21 officers, Balsillie and Brown, was it, sorry?

TRANSCRIPT OF THE INQUIRY

1 A. Mm-hm.

2 Q. Are they part of your -- or were they part of your team
3 at that time?

4 A. Yes, they commenced duty at 8 o'clock, it is a staggered
5 start, so it was myself and Derek Connell at 7.00;
6 Ryan Balsillie and Andrew Brown were starting at
7 8 o'clock.

8 Q. Right. And then:

9 "... Connell returned to Kirkcaldy around quarter
10 past 8. He had a gold mobile phone and a lighter which
11 I understand belonged to Mr Bayoh and these items were
12 placed in the ambulance with DC Connell. It was at this
13 point that DC Connell explained he had taken
14 a photograph of the knife in situ with his mobile phone
15 and he had been instructed by DI Robson to do this."

16 Is that the knife that you identified for me just
17 moments ago?

18 A. Yes, it is.

19 Q. So DC Connell had actually taken a photograph at the
20 scene of the knife, before he picked it up and recovered
21 it?

TRANSCRIPT OF THE INQUIRY

1 A. Yes.

2 Q. And then paragraph 25:

3 "I am asked about an Airwave transmission at 8.18 in
4 which I transmitted to the officers at the locus asking
5 the officer who had taken a statement to point-to-point
6 me."

7 We have heard that that's a direct radio call
8 between one officer and another.

9 A. Mm-hm.

10 Q. And then you require a certain number of the radio you
11 wish to contact in order to do that:

12 "One of the officers involved in locus protection
13 mentioned he had been approached at the cordon.
14 I didn't have the number to phone him. When
15 I transmitted to request that officer to make contact my
16 number would have been visible and able to him to then
17 point-to-point me."

18 So this is really just you're continuing to
19 communicate with an officer at the scene at
20 Hayfield Road but you're back in Kirkcaldy Police Office
21 at this time?

TRANSCRIPT OF THE INQUIRY

1 A. I believe so, yes.

2 Q. Thank you. Can I ask you to look at some photographs
3 now, please, for me. 03374. Am I correct in saying
4 that it was you that added all the names to this
5 photograph?

6 A. I don't believe it's my writing, it was the PIRC
7 officer's writing, but yes, I talked through it and
8 named each officer on scene.

9 Q. And we see DC Connell heading towards the grassy area at
10 the top of the screen.

11 A. Yes.

12 Q. In the blue jacket.

13 A. Mm-hm.

14 Q. And then we can see you, DS Davidson, dressed in dark
15 clothing -- did you have your hair up that day?

16 A. Yes.

17 Q. And that's you standing next to -- or to the right of
18 PC Smith. And again, looking at that picture today, do
19 you still agree with everyone you have identified?

20 A. Yes, I believe so.

21 Q. Now can we look at the next photograph, please, and

TRANSCRIPT OF THE INQUIRY

1 again it may not be your writing but again, did you
2 identify people from this photograph?

3 A. Yes, I believe I did, yes.

4 Q. So again, those are your identifications. Thank you.
5 And you agree with those today?

6 A. Yes.

7 Q. Thank you. Before you left the scene, did you issue any
8 instructions to officers not to confer or discuss the
9 incident with each other?

10 A. I did not instruct them.

11 Q. And is there a reason for that or not?

12 A. It just wasn't priority at the time, I didn't think
13 about it. My concern was scene management, tasking the
14 priority actions and the welfare of the officers. The
15 non-conferring aspect, I didn't even consider it on
16 scene.

17 Q. Okay. And then at some stage were you involved in
18 identifying Mr Bayoh?

19 A. Yes.

20 Q. And I think you have given the Chair information about
21 that in paragraph 31 of your Inquiry statement. And was

TRANSCRIPT OF THE INQUIRY

1 that in relation to, or in comparison to images that you
2 recovered from Facebook?

3 A. I didn't recover them from Facebook; I think it was
4 a family member that had recovered them.

5 Q. And you used that as a comparison?

6 A. Yes.

7 Q. With Mr Bayoh at the hospital?

8 A. Yes.

9 Q. And can I ask you how is it normally done, that you work
10 out the identification of someone who is in hospital?

11 A. In hospital generally when we're in that setting, family
12 are with the person, have probably travelled with or
13 been contacted --

14 Q. But if you don't know the person?

15 A. In a hospital setting, it depends if it's an unexplained
16 death or an expected death. If it's an unexplained
17 death and there's forensic aspects to it, then it will
18 be an SIO's decision how we go about identification.
19 Obviously it's very important that we complete that. On
20 most occasions, for an unexplained death where forensic
21 integrity is a matter, we would convey the deceased to

TRANSCRIPT OF THE INQUIRY

1 the mortuary. There's an area -- a viewing area in the
2 mortuary where it's behind glass, so there's no physical
3 contact at that stage, so we could do the identity with
4 least impact to the forensic integrity. That was how
5 I would normally do it, would be at the mortuary
6 setting.

7 Q. And you have mentioned the SIO, that's the senior
8 investigating officer?

9 A. Yes.

10 Q. So who would that have been on 3 May 2015?

11 A. Initially obviously on scene it was myself was the
12 deputy SIO, Colin Wilson was the SIO, however, that
13 changed dynamically throughout the day because more
14 senior officers arrived. I'm not privy to the structure
15 of command thereafter, so it would be probably something
16 that would have to be asked of someone else.

17 Q. Okay. When you returned to Kirkcaldy Police Office we
18 understand the officers went back to the canteen?

19 A. Yes.

20 Q. And I think you have given some information in your
21 Inquiry statement, paragraphs 63 and 64 --

TRANSCRIPT OF THE INQUIRY

1 A. That doesn't look --

2 Q. Maybe I've got the wrong --

3 A. Wrong numbers.

4 Q. I don't know why I've got those numbers there. Let's
5 forget that, forget I said that. Terrible typo there.

6 Did you have any involvement with speaking to the
7 officers in the canteen about what they should be doing,
8 providing any information, giving any statements?

9 A. No.

10 Q. We may have heard some evidence that one or more officer
11 felt that you and DC Connell were treated differently --

12 A. Mm-hm.

13 Q. -- to the officers who had been at the scene maybe
14 involved in the restraint.

15 A. Mm-hm.

16 Q. Were you aware of that at the time?

17 A. I was aware -- I wasn't aware of post-incident
18 procedures, that's not something I was aware of, I don't
19 believe that was routine for death in -- or serious
20 injury in custody. I believe that that was something
21 that came in later, but at that moment in time, I had no

TRANSCRIPT OF THE INQUIRY

1 awareness of post-incident procedures or the role of
2 a post-incident manager. I don't believe the officers
3 would have done either. My belief was that they were in
4 the canteen for a welfare aspect, nothing other than
5 that.

6 Q. And we may have heard some evidence -- we have heard
7 some evidence that one of the officers felt that perhaps
8 you were getting favourable treatment because you were
9 allowed to leave the canteen and go about your business
10 to some extent --

11 A. Yes.

12 Q. -- as did DC Connell, whereas they were told to remain
13 within the canteen. Can you explain why that would have
14 been?

15 A. To be fair, retrospectively I understand that and
16 I acknowledge that. At the time I wasn't told to go
17 anywhere specific, I wasn't told I was subject to any
18 specific procedures, so I didn't. I continued in my
19 job, I had a job to do, I had other jobs to do and
20 I believe -- you know, I was under the belief they could
21 have left the canteen so no, I didn't question it.

TRANSCRIPT OF THE INQUIRY

- 1 Apologies.
- 2 Q. No, not at all. So you just went about your normal
3 business that day, after you got back to Kirkcaldy
4 Police Office?
- 5 A. Yes, I had other matters to...
- 6 Q. And did you complete your notebook and you obviously
7 completed your self-penned statement and gave
8 a statement to PIRC at an earlier date in May and then
9 again on 2 June.
- 10 A. Yes.
- 11 Q. Thank you. Did you have any involvement with
12 Amanda Givan?
- 13 A. No.
- 14 Q. Can I ask you just one or two questions about race
15 before we complete this section.
- 16 Can I ask you -- you're obviously an inspector.
- 17 A. Yes.
- 18 Q. I have been asking officers about equality and diversity
19 training, and many of them have spoken about training
20 they had at Tulliallan.
- 21 A. Mm-hm.

TRANSCRIPT OF THE INQUIRY

- 1 Q. And it would appear that many of them have said they
2 didn't really receive any additional equality and
3 diversity training. Is that your experience?
- 4 A. My experience is obviously the initial -- we had two
5 weeks when we first joined. I believe I also had
6 diversity and equality training locally in Fife in 2014,
7 which is recorded on my SCoPE, and recently we have had
8 further training online which is to do with the
9 competency and value frameworks. Fundamentally that
10 brings in human rights, et cetera, so within that
11 package, online package and testing, there was also
12 aspects to do with diversity within that.
- 13 Q. And is that training that you have had as part of your
14 role as inspector, or is that just across
15 Police Scotland?
- 16 A. No, that's across Police Scotland.
- 17 Q. For all officers, of any rank?
- 18 A. The competency and value framework?
- 19 Q. Yes.
- 20 A. All officers should complete that.
- 21 Q. Right, thank you. And part of that involves equality

TRANSCRIPT OF THE INQUIRY

- 1 and diversity training?
- 2 A. Yes, within that, yes.
- 3 Q. Was any of that training in relation to race,
- 4 discrimination, bias?
- 5 A. It's about integrity, fairness and respect for all
- 6 cultures within your community, so it doesn't go
- 7 specific, it's that kind of fundamental principles, the
- 8 overarching principles or values, and how you should, as
- 9 a person have them personal values as well, on or
- 10 off-duty, so that's the framework that we as
- 11 police officers should abide by and we should value,
- 12 personally and whilst -- as an officer.
- 13 Q. Right. And was any part of any of the training you have
- 14 had -- did any of it relate to unconscious bias or
- 15 recognising unconscious bias?
- 16 A. I don't believe it was labelled unconscious bias, but
- 17 I don't recall.
- 18 Q. Has any of the training ever asked you to self-reflect
- 19 or consider your own bias, or asked you to recognise any
- 20 unconscious bias or anything like that?
- 21 A. Most of the -- even my detective training you have to be

TRANSCRIPT OF THE INQUIRY

1 self-reflective to learn and develop and evolve, so
2 self-reflection is something that is apparent in most
3 training packages that we do, certainly detective
4 packages, senior investigating officer's training, and
5 the CVF also, to be self-reflective.

6 Q. And have you been taught any tools or skills that would
7 allow you to guard against bias or prejudice or
8 discrimination?

9 A. No tools, there's no specific tools to go by. It's
10 inevitably to be open minded, considerate, and if you're
11 open minded, you will make accurate and informed
12 decisions. If you're not open minded and you're not
13 taking in all accounts, then you will make inaccurate
14 and, you know, poor decisions, essentially, so yes, open
15 mindedness is the main factor for me anyway.

16 Q. All right, thank you. When you were at Hayfield Road
17 were you aware at that time -- so we're
18 talking May 2015. Were you aware at that time about
19 some high profile deaths in the UK and abroad of people,
20 particularly black men, dying after police restraint?

21 A. I have to say I have no recollection. I have tried --

TRANSCRIPT OF THE INQUIRY

1 I knew -- and kind of -- this question had been asked
2 before and honestly, if I'm answering that honestly and
3 uninfluenced, I have no -- I have no recollection.

4 Q. That's not something you had been taught about or had
5 been raised with you in any training courses?

6 A. Possibly, but I can't recall.

7 Q. So you weren't aware of any particular risks associated
8 with restraint in the prone position or statistical
9 information about --

10 A. I was aware about risks in terms of prone position,
11 we're aware about positional asphyxia, et cetera, we're
12 taught that in OST, so I was aware of prone position
13 being a risk.

14 Q. Right. When you saw Mr Bayoh on the ground in
15 Hayfield Road being restrained by officers, you have
16 told us when you arrived he was in the prone position.

17 A. Yes.

18 Q. Did you consider the risks, significant risks of that
19 restraint when Mr Bayoh was in the prone position?

20 A. I did not consider intervening or thinking there was
21 a kind of increased risk at that point. As I have

TRANSCRIPT OF THE INQUIRY

1 detailed that my impression was -- my assessment was
2 that he had just become to be in that position due to
3 the timeline of events and that once cuffs were applied,
4 he would be moved into a safer position. Yes, I didn't
5 observe that movement, however, that was my assessment
6 and I didn't consider any risks at that point.

7 Q. Did you consider at that stage calling for an ambulance
8 straight away?

9 A. No.

10 MS GRAHAME: If you would just give me a moment, please.

11 Thank you very much.

12 LORD BRACADALE: Any Rule 9 applications? Ms Mitchell.

13 Detective Inspector, would you retire to the witness
14 room, please, while I hear a submission.

15 (Pause).

16 Yes, Ms Mitchell, if you come to the table please.

17 (Pause).

18 Application by MS MITCHELL

19 MS MITCHELL: Yes, the first issue is in relation to the
20 taking control of the scene, barrier tape having been
21 placed up, and it was simply to ask after Sheku Bayoh's

TRANSCRIPT OF THE INQUIRY

1 body was removed in the ambulance, did the officer
2 notice batons lying around and did she consider taking
3 any action in relation to them.

4 The next issue is in relation to the sudden death
5 report and we had understood from a section 9
6 application that my learned friend was going to ask
7 questions on this, and I don't think my learned friend
8 highlighted that particular issue so I would like to ask
9 some of the questions that we wanted to in relation to
10 that, namely what was the purpose of the report, what is
11 the content of a sudden death report. The witness
12 indicates that she had sight of and relied upon
13 Zahid Saeed and Collette Bell's statement when she wrote
14 the document for the sudden death report and to ask her
15 what the relevance of those two witnesses were for that
16 report and whether or not she thought to seek any
17 information from the officers that were in attendance
18 and, if not, why not? And the death report itself
19 states:

20 "This resulted in the deceased being restrained to
21 the ground. Handcuff and leg restraints were applied

TRANSCRIPT OF THE INQUIRY

1 (details of officers involved are known to PIRC and are
2 not included in this report)."

3 And to ask why the details of the officers involved
4 were not included in the death report.

5 The next issue is in relation to something
6 my learned friend did touch on, which was the
7 identification and the treatment of Mr Bayoh's body, and
8 it is to ask more questions in relation to paragraph 31
9 of the witness's statement.

10 The witness did give information that this was not
11 an orthodox way of identifying, and she gave some
12 information of what was the orthodox way or
13 straightforward, and she gave an explanation about
14 urgency, and what I want to ask was what had been the
15 delay to that point and then ask her if she was then at
16 11.00 am able to accurately confirm that it was
17 Mr Bayoh, who she confirmed that to, and also given the
18 fact was that the urgency was to let his family know as
19 soon as possible, to explore the fact that despite some
20 four hours passing, Sheku Bayoh's family members, his
21 sister and other family members, had still not been

TRANSCRIPT OF THE INQUIRY

1 informed.

2 Lastly, the Inquiry -- second last, the Inquiry may
3 come to hear that Sheku Bayoh's sister and his
4 brother-in-law were asked to identify Mr Bayoh later on
5 and they asked if that could happen the next day when
6 Mr Sheku Bayoh's mother had arrived in Scotland and to
7 ascertain whether or not it would be orthodox to have
8 a second identification by family members.

9 Finally, to ask this witness whether or not she is
10 aware of the identity of the person who contacted the
11 Sierra Leone Embassy to have Sheku Bayoh's body
12 repatriated.

13 LORD BRACADALE: Ms Grahame, in relation to the sudden death
14 report, is that something that the Inquiry will be
15 looking at a later stage?

16 MS GRAHAME: Yes, and I apologise to Ms Mitchell, I should
17 have explained this to her earlier today and it slipped
18 my mind.

19 There is reference in the witness's Inquiry
20 statement to the sudden death report, paragraphs 34, 35
21 and 36, and I -- initially when I was considering the

TRANSCRIPT OF THE INQUIRY

1 Rule 9 application I said I would be happy to ask
2 further questions. I checked the position and it was
3 confirmed to me this morning that the sudden death
4 report was not cleared for disclosure to core
5 participants, has not ever been disclosed, and it is not
6 at a stage it has been cleared for disclosure publicly,
7 and so it wouldn't be possible to have any of that on
8 the screen, and in relation to the Inquiry witness
9 statement, this witness has indicated already -- and
10 this is evidence before the Chair, that she created
11 a synopsis used to assist DS Moore and DI Wilson to
12 submit the SDR, and we will be exploring this at a later
13 stage, but as at today's hearing, I'm not in a position
14 to put any of the content of that onto the screen or to
15 make it public.

16 LORD BRACADALE: Very well. I think we should leave the
17 sudden death report for later.

18 Is that all the matters?

19 MS MITCHELL: Those were all the matters.

20 LORD BRACADALE: Right.

21 (Pause).

TRANSCRIPT OF THE INQUIRY

1 important matters thoroughly and in a later hearing, so
2 I can allow you to ask the question about the batons,
3 but the other matters seem to me to be all for later --
4 to be addressed at a later stage.

5 So do you wish to ask the question about the batons?

6 MS MITCHELL: Yes, indeed, my Lord.

7 LORD BRACADALE: We will rearrange the seating for that.

8 (Pause).

9 TEMPORARY DI SAMANTHA DAVIDSON (continued)

10 LORD BRACADALE: Detective Inspector, you're going to be
11 asked some questions by Ms Mitchell, counsel for the
12 family.

13 Questions from MS MITCHELL

14 MS MITCHELL: There is just one issue I want to ask you
15 about and that's in relation to the point at the scene
16 at Hayfield Road, where you took control, you have given
17 your evidence to explain that at a point you realised it
18 was more serious and you took over control, and one of
19 the things that you did was to put up barrier tape?

20 A. Yes.

21 Q. And you have given an explanation of why you might want

TRANSCRIPT OF THE INQUIRY

1 to secure that area, and I think you gave evidence to
2 say that one of the initial things you did was scene
3 management in terms of setting parameters and securing
4 the area, and in terms of any further contamination of
5 the area, is that correct?

6 A. Yes.

7 Q. After Sheku Bayoh's body was removed and it was put in
8 the ambulance, did you see police batons lying around?

9 A. Not at that stage, no. I was aware that they were
10 already collected by DC Connell.

11 Q. So having known that they were collected, did you take
12 any action in relation to them as to what should be done
13 with them?

14 A. They were already seized from their original position,
15 we were past that point, so they would be seized as
16 a production. I wouldn't place them back on the ground,
17 that wouldn't be --

18 Q. No, I wasn't suggesting that, but if you knew they had
19 been bagged, were you going to decide to put them
20 somewhere or...?

21 A. They were within my police vehicle and I subsequently

TRANSCRIPT OF THE INQUIRY

1 seized them individually in evidence production bags.

2 Q. Okay. So you split them up?

3 A. Yes.

4 Q. And tagged them, presumably?

5 A. Yes.

6 Q. And then did what?

7 A. They were lodged as a production with the inquiry team.

8 LORD BRACADALE: Thank you.

9 Detective inspector, thank you very much for coming
10 to give evidence to the Inquiry. I'm going to rise
11 briefly to let the next witness to be brought in and you
12 will then be free to go.

13 A. Thank you, sir.

14 (3.25 pm)

15 (Short Break)

16 (3.30 pm)

17 LORD BRACADALE: Now, Ms Grahame, who is the next witness?

18 MS GRAHAME: The next witness is DC Jennifer Bruce.

19 LORD BRACADALE: Good afternoon, Detective Constable. Would
20 you take the oath.

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 DETECTIVE CONSTABLE JENNIFER BRUCE (sworn)

2 LORD BRACADALE: Ms Grahame.

3 Questions from MS GRAHAME

4 MS GRAHAME: Thank you.

5 You are Jennifer Bruce?

6 A. Yes.

7 Q. What age are you?

8 A. 37.

9 Q. How many years' service do you have?

10 A. 14.

11 Q. And you have been a DC since 2014?

12 A. 2012.

13 Q. Oh, sorry, my mistake. Prior to that you had been

14 a police constable?

15 A. Yes.

16 Q. And we have all your contact details, so we don't need

17 to look at those.

18 A. Yes.

19 Q. Have you been able to watch any of the other evidence

20 that we have had?

21 A. Yes.

TRANSCRIPT OF THE INQUIRY

1 Q. Great. You will know there's a black folder in front of
2 you?
3 A. Yes.
4 Q. Let's look at the two things that should be there, the
5 first should be PS 00772, a statement dated 5 May 2015?
6 A. Yes.
7 Q. This was an operational statement, was it?
8 A. Yes, this is a statement I compiled myself.
9 Q. A statement you prepared --
10 A. Yes.
11 Q. -- on 5 May, two days after the events we're here to
12 explore?
13 A. That's correct.
14 Q. And were you doing your best to give a true and accurate
15 record of your involvement with these events in that
16 statement?
17 A. Yes.
18 Q. Thank you. And then can we look at your Inquiry
19 statement, please, SBPI 32. This is a statement you
20 have given to the Inquiry taken by a member of the team
21 on 14 March 2022. Do you have that in your black folder

TRANSCRIPT OF THE INQUIRY

1 as well?

2 A. Yes, I do.

3 Q. And can we look at the last paragraph, 35, and we will
4 see that it says:

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

9 And am I correct in saying you signed every page?

10 A. Yes.

11 Q. And that was on 14 April this year?

12 A. Yes.

13 Q. Lovely. You have hard copies of those. If you want to
14 refer to any part of them at any time, please feel free
15 to do so, and if it's not on the screen, I will make
16 sure it gets on the screen.

17 So paragraph 4, first of all. You were part of
18 a major investigation team and you started as a DC in
19 MIT and you were there in May 2015.

20 A. Yes.

21 Q. And then paragraph 7. Your team -- you say you always

TRANSCRIPT OF THE INQUIRY

1 worked in Dundee, but your team helped cover the Fife
2 area and sometimes worked weekend cover and occasionally
3 be asked to go to Kirkcaldy?

4 A. Yes.

5 Q. And -- but it wasn't your usual base, Kirkcaldy?

6 A. No.

7 Q. You would sometimes work there?

8 A. I worked in Dundee and we generally covered the north so
9 we would go Aberdeen, Inverness way, but just given how
10 close we were at Fife, if need be, we would come to
11 Fife, but not very often.

12 Q. Sometimes?

13 A. Yes.

14 Q. Then paragraphs 14 and 15, you tell us that on
15 3 May 2015 you started at 8 o'clock in the morning in
16 Dundee and that was you and a colleague and you were the
17 only two working in the MIT in Dundee that day. It was
18 a Sunday.

19 A. Yes.

20 Q. And then paragraph 15, you were asked to go and help in
21 Kirkcaldy, so you then travelled to Kirkcaldy.

TRANSCRIPT OF THE INQUIRY

- 1 A. That's right.
- 2 Q. And what time did you arrive in Kirkcaldy?
- 3 A. I think from my first statement it said we were asked to
4 go about 11 o'clock, and then maybe we took 40 minutes
5 to get there, so probably just before lunchtime.
- 6 Q. So was it a senior officer in Dundee asked you and your
7 colleague to travel --
- 8 A. We had a sergeant in Dundee who was dealing with another
9 incident, so he asked us to go to Kirkcaldy.
- 10 Q. And you went there to help in connection with the
11 Sheku Bayoh incident?
- 12 A. Yes.
- 13 Q. And what was your role to be?
- 14 A. Just an enquiry officer, just to assist with any
15 enquiries that were required. Usually it would be
16 noting witness statements.
- 17 Q. So you are really an additional resource at Kirkcaldy to
18 help organise and prepare the investigation?
- 19 A. Yes, generally it would be noting civilian witness
20 statements, I think that was the role that we were
21 tasked with.

TRANSCRIPT OF THE INQUIRY

- 1 Q. And I think you have said in paragraph 17 of your
2 Inquiry statement that you did actually take a witness
3 statement at that time?
- 4 A. Yes.
- 5 Q. Can I ask you about your involvement with
6 Inspector Combe, Jane Combe?
- 7 A. Yes, so later on that day, my colleague that I had been
8 working with finished duty, so I was left without
9 a double up, and I was asked, being a female, if I would
10 pair up with a female inspector to assist in seizing
11 clothing.
- 12 Q. Right. And can we look at paragraph 18, please.
13 I think you say Keith, your colleague, had to finish on
14 time:
15 " ... so I ended up there [on your] own. I was
16 paired up with a uniform Inspector just to seize some
17 clothing. Her name was Inspector Jane Combe. I hadn't
18 worked with her before. I don't remember who asked me
19 to do that."
- 20 A. Yes.
- 21 Q. And were you aware of Inspector Combe at that time?

TRANSCRIPT OF THE INQUIRY

- 1 A. No, I had never met her before.
- 2 Q. You had never previously met her. Can I ask you, did
3 you have any involvement with Conrad Trickett that day,
4 who was the post-incident manager?
- 5 A. I was aware he was there because he had also come from
6 Tayside, but no, I didn't have any --
- 7 Q. No involvement with him?
- 8 A. No.
- 9 Q. Can I look at paragraph 19. You have been asked here
10 about seizing clothing:
- 11 "We seized the clothing of four officers and I wrote
12 up the labels and helped seal up the bags. Seizing the
13 clothing of the officers is to try and preserve the
14 productions forensically."
- 15 And we have heard some evidence today that forensic
16 seizing rather than just normal seizing would involve
17 officers wearing white uniforms?
- 18 A. Yes, a forensic suit.
- 19 Q. Suits, sorry, that's the word, it's Friday afternoon.
20 So did you wear a forensic suit, a white forensic
21 suit that day?

TRANSCRIPT OF THE INQUIRY

1 A. Yes. We wore a different one for each officer and then
2 bagged up those suits.

3 Q. And did Inspector Combe also wear that?

4 A. Yes.

5 Q. And we have already heard that after each item -- each
6 officer has been dealt with, the white suit that you're
7 wearing is then folded up and also seized at that time?

8 A. Yes, and then we put a new one on for the next officer.

9 Q. And what's the reason for that being done?

10 A. Just to avoid any cross-contamination for when they're
11 later examined.

12 Q. So the items you're examining are then sent off to be
13 forensically examined by other scientists and forensic
14 people?

15 A. Yes.

16 Q. And some of the items that you recovered were from
17 Nicole Short?

18 A. Yes.

19 Q. PC Short?

20 A. Yes.

21 Q. It wasn't just only female officers that you seized

TRANSCRIPT OF THE INQUIRY

1 items from that day, but she was one of them?

2 A. Yes. I think initially it was all females and then
3 I think there was one male at the end.

4 Q. All right, thank you. Could we look at paragraph 20,
5 please. It is on the screen:

6 "Specifically on that day, as best as I can
7 remember, we got the officers to stand on a brown paper
8 bag and take each item of their uniform off. We were in
9 forensic suits as well, with gloves on. As they took
10 each item off, they would hand it to me or the
11 Inspector, and we would put it in a production bag and
12 we would give the production a name by writing on the
13 bag or label. We just did that until we had every item
14 that we needed. Then we bagged up our own forensic
15 suits and gloves. You end up with a pile of everything
16 that they were wearing, everything that we were wearing,
17 all bagged and labelled and sealed for each officer."

18 And then if we look at paragraph 21:

19 "Different officers wear their equipment
20 differently. We didn't remove or unclip any of it. So
21 for Samantha Davidson I have written in my statement on

TRANSCRIPT OF THE INQUIRY

1 page 3 'vest (with baton)' which means it is clipped on
2 or in one of the pockets ..."

3 But they have different preferences, let's say.

4 A. Yes.

5 Q. Right. And can we look at paragraph 23, please. You
6 are asked about your previous statement on page 2:

7 "... I wrote that ..."

8 This is your self-penned statement:

9 " ... I wrote that we seized PC Kayleigh Good's
10 clothing between 1647 and 1653 hours and Nicole Short's
11 clothing between 1808 and 1812 hours. I don't know why
12 there was a delay between these two officers having
13 their clothing seized. I don't think the delay would
14 have been on our part."

15 We have heard evidence from Inspector Combe that
16 there were a number of officers. Thinking now, can you
17 think of any reason why there was a delay in recovering
18 Nicole Short's clothing?

19 A. No, I have no idea. We were based in an office and the
20 officers were either brought up to us or came up to the
21 office and when they arrived we seized their clothing,

TRANSCRIPT OF THE INQUIRY

- 1 but what was happening prior to them coming to us,
2 I have no idea.
- 3 Q. So it was other officers organising when the
4 individual --
- 5 A. Yes.
- 6 Q. -- officers would attend with you?
- 7 A. Yes. It was certainly nothing to do with me.
- 8 Q. And you were available, I think you said from about
9 11.00 that day?
- 10 A. I think we were asked in Dundee to go through at 11.00,
11 so we probably arrived just before lunchtime, but then
12 I noted statements after that.
- 13 Q. When were you available that day to forensically recover
14 or preserve productions or items of clothing?
- 15 A. I think I noted a statement at about quarter past 1, so
16 I don't know how long that took, maybe an hour or two,
17 so potentially from between 3.00 and 4.00.
- 18 Q. And certainly you seized Kayleigh Good's clothing at
19 4.47?
- 20 A. Yes.
- 21 Q. And we have heard that there was a room within Kirkcaldy

TRANSCRIPT OF THE INQUIRY

1 Police Office and the officers attended and you were
2 there with Inspector Combe?

3 A. Yes.

4 Q. And I think she described sort of standing at the door
5 making sure nobody was coming in to interrupt, is that
6 correct?

7 A. Yes.

8 Q. What time did you go home that evening? You say at
9 paragraph 25:

10 "I went home after that."

11 So this was after you had gathered in these items.
12 What time was that?

13 A. I don't know what time I finished duty, but we have
14 obviously seized clothes right up to 8.02 that evening,
15 so probably just shortly after that I left and then we
16 would have to travel back to Dundee to go off-duty.

17 Q. Thank you. Can we look at paragraphs 26 and 27. This
18 relates to Nicole Short. 26:

19 "The 4 minutes to seize Nicole Short's clothing was
20 the time for her to take them off and for us to put them
21 in the bags. I don't think I would've spent much longer

TRANSCRIPT OF THE INQUIRY

1 with her before or after that. She would have had to
2 get redressed into something afterwards but that would
3 be about it."

4 Do you remember what she was wearing when she
5 arrived? You have said at paragraph 27:

6 "When she came to us, she had her T-shirt ...
7 microfleece and ... her vest."

8 A. They all arrived to us in uniform, but whether they were
9 carrying some of it or wearing some of it -- I don't
10 know if they had their vests on or not, but the rest of
11 it, they were wearing their uniform.

12 Q. I was going to ask you: was Nicole Short wearing her
13 body armour and her high-visibility vest or carrying it?

14 A. I don't remember.

15 Q. Thank you. When you talk about her micro fleece and her
16 vest, what do you mean by that?

17 A. So by her vest, it's her stab-proof vest.

18 Q. The black body armour?

19 A. Yes, the body armour, yes. And the micro fleece is just
20 a thin, fleecy top that you wear underneath your
21 stab-proof vest.

TRANSCRIPT OF THE INQUIRY

- 1 Q. Is that standard police issue or something --
- 2 A. Yes, you get issued them. They've got "police" on the
3 arm, a small zip and just thin fleece material.
- 4 Q. Right. Could I ask you to look at a vest, please. It's
5 in a bag. Ms Wildgoose will hand this to you and I'm
6 going to ask you if you recognise it.
- 7 A. Yes, that's my writing on the label.
- 8 Q. And is that Nicole Short's vest?
- 9 A. Yes. It's called "Nicole Short's".
- 10 Q. Thank you. And that was the item that you seized from
11 her that day?
- 12 A. Yes.
- 13 Q. And do you remember anything unusual about it at the
14 time?
- 15 A. No.
- 16 Q. Was anything drawn to your attention?
- 17 A. No.
- 18 Q. Did PC Short indicate to you in any way that there was
19 a mark, or something on it that was significant or
20 important?
- 21 A. No.

TRANSCRIPT OF THE INQUIRY

- 1 Q. Would you look at this photograph, please, that we've
2 got on the screen, the second one, and you will see this
3 is a photograph of the rear of Nicole Short's vest and
4 you will see that there's a dark-coloured mark on the
5 back of the yellow hi-vis jacket part?
- 6 A. Yes.
- 7 Q. Was that drawn to your attention at all on the day that
8 you recovered it?
- 9 A. No.
- 10 Q. If it had been drawn to your attention, what would you
11 have done to respond to that?
- 12 A. We would have raised that with a senior investigating
13 officer and let them decide how they wanted to proceed
14 with that.
- 15 Q. Who was the senior investigating officer?
- 16 A. DCI Stuart Houston, I think.
- 17 Q. Right. And was he someone that you could have gone to
18 and spoken about a mark on a vest if that had been drawn
19 to your attention?
- 20 A. If not him, somebody just below him, yes.
- 21 Q. But ideally the senior investigating officer?

TRANSCRIPT OF THE INQUIRY

- 1 A. Yes, or the deputy.
- 2 Q. The deputy, whoever that may have been.
- 3 A. Yes.
- 4 Q. And was there any sort of mechanism or procedure in
5 place where you would have drawn that to the attention
6 of the forensic services in any way? Would you have
7 marked it on the label?
- 8 A. No, I would say that's probably -- no. I would say it's
9 probably more a decision for the SIO to make how they
10 wanted to proceed with that, whether they wanted it
11 photographed or taken straight to the lab, or -- that
12 would be a decision for them.
- 13 Q. So if you have noticed something on an item, or it's
14 drawn to your attention, you can draw that to the
15 attention of the SIO and is there any reason you can
16 think of why if someone has brought something to your
17 attention, or you have noticed something, that you
18 wouldn't mention that to the SIO?
- 19 A. Not if it was flagged up as potentially being relevant.
- 20 Q. Right. So no reason that you -- if that mark had been
21 drawn to your attention, you can't think of any reason

TRANSCRIPT OF THE INQUIRY

1 why you wouldn't have mentioned that to the SIO that
2 day.

3 A. No.

4 Q. Right.

5 Could I ask you about paragraphs 29 and 30 of your
6 Inquiry statement please. It says:

7 "I don't remember if Nicole Short said anything to
8 me about her uniform when she came to us. I didn't have
9 much of a conversation with any of them. I don't think
10 any of them said very much at all, but I can't
11 specifically remember.

12 "I didn't consider photographing any of the
13 clothing. This is not something I would normally do.
14 It's not routinely done."

15 I'm quite interested in the taking of photographs.

16 A. Okay.

17 Q. What's the normal routine with photographs?

18 A. We wouldn't normally photograph items of clothes that we
19 have seized. We would package them, send them for
20 examination and it would be for the scientists, if they
21 find something during examination, to decide to take

TRANSCRIPT OF THE INQUIRY

1 a photo.

2 Q. So more the forensic specialists could take photographs.

3 A. We are not examining them, so it's more during the
4 examination that if anything is found it would be
5 photographed.

6 Q. Right, thank you. So that wasn't part of what you were
7 doing, the process you were following, it wasn't any
8 part of it?

9 A. No, we weren't to examine them. We were just to seize
10 them and bag them.

11 Q. Thank you.

12 If an officer had asked about a photograph, or
13 wished a photograph taken, is that something that you
14 would also have spoken to the SIO about?

15 A. Yes.

16 Q. Thank you. Can we look at paragraph 32:

17 "When I was seizing the officers clothing, it was
18 clear to all parties that bagging and labeling the
19 uniform was our only role at that time. There was
20 a mutual understanding that we would not ask the
21 officers any questions and they would not discuss the

TRANSCRIPT OF THE INQUIRY

1 incident with us. Our role that day was purely to seize
2 their clothing, not to obtain any information from
3 them."

4 And is that -- you weren't having discussions with
5 them or noting down what had happened earlier that day
6 or any of that?

7 A. No, there was no conversation.

8 Q. Do you have any recollection now about how Nicole Short
9 was when you seized her clothing?

10 A. Not specifically Nicole. I remember all the officers
11 seemed upset, but not specifically anything about
12 Nicole.

13 Q. All right, thank you. Can we look at paragraph 33
14 please. You are asked about the media:

15 "I have not really been following the media
16 surrounding this case. I see the headlines
17 occasionally, or if it is on STV news at night. I don't
18 go out of my way to follow it.

19 "I haven't really seen much more other than that,
20 maybe a headline on the news about his family. I really
21 haven't followed it much at all. The family were making

TRANSCRIPT OF THE INQUIRY

1 a complaint about how it was dealt with. That's all
2 I know really. I've maybe seen a family member or their
3 solicitor making comment about complaints that they have
4 made and the processes that they are going through.
5 I have not seen anything outwith that about the incident
6 itself."

7 So you have not really followed this?

8 A. No, I mean other than that -- the day of the incident
9 that I attended, I then went back to Dundee and had
10 nothing at all to do with the inquiry thereafter.

11 Q. So you have not had any ongoing contact really with the
12 officers who were involved?

13 A. I didn't know any of them. I have had no contact with
14 them since and, yeah, because it was a Sunday I helped
15 that day and then had nothing else to do with it.

16 Q. So you had an awareness that the family were
17 concerned --

18 A. Yes, but --

19 Q. -- about certain aspects, but no more than that really?

20 A. No.

21 Q. Thank you very much. I have no further questions.

TRANSCRIPT OF THE INQUIRY

1 LORD BRACADALE: Any Rule 9 applications? No.

2 Detective Constable, thank you very much for coming
3 to give evidence to the Inquiry. I am about to rise for
4 the day and then you will be free to go.

5 A. Thank you.

6 (3.50 pm)

7 (The Inquiry adjourned)

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13

14

15

16

17

18

19

20

INDEX

21

TRANSCRIPT OF THE INQUIRY

1 DR RUDY CRAWFORD (continued)1

2 Questions from MS THOMSON (continued)1

3 Application by MS MITCHELL24

4 Ruling27

5 MS JANE COMBE (sworn)28

6 Questions from MS GRAHAME28

7 Application by MS MITCHELL93

8 Ruling96

9 MS JANE COMBE (continued)98

10 Questions from MS MITCHELL98

11 TEMPORARY DI SAMANTHA DAVIDSON109

12 (sworn)

13

14 Questions from MS GRAHAME109

15

16 Application by MS MITCHELL180

17

18 Ruling184

19

20 TEMPORARY DI SAMANTHA DAVIDSON185

21 (continued)

TRANSCRIPT OF THE INQUIRY

1 Questions from MS MITCHELL185

2 DETECTIVE CONSTABLE JENNIFER BRUCE187

3 (sworn)

4

5 Questions from MS GRAHAME187

6

7

8