

1

2 **TRANSCRIPT OF THE INQUIRY**

3 Tuesday, 24 May 2022

4 (9.34 am)

5 LORD BRACADALE: Good morning.

6 Now, Ms Grahame, the witness today is Nicole Short,
7 is that right?

8 MS GRAHAME: That's correct, yes.

9 LORD BRACADALE: Good morning, Ms Short. You're going to be
10 asked questions by Ms Grahame, whom you have met before.11 If in the course of your evidence you want a break,
12 just tell me and we can easily have a break.

13 A. Okay, thank you.

14 LORD BRACADALE: So I will start by putting you on oath.

15 Would you raise your hand please and say the words after
16 me.

17 MS NICOLE SHORT (sworn)

18 LORD BRACADALE: Thank you.

1 Ms Grahame.

2 Questions from MS GRAHAME

3 MS GRAHAME: Good morning, Ms Short.

4 A. Morning.

5 Q. Do you want to try and pull that microphone a little bit
6 closer so your water doesn't spill, because that's the
7 sort of thing I would do and then the water would be
8 everywhere. We will try and -- you can pull it towards
9 your mouth. We want to be able to hear what you say --

10 A. Okay.

11 Q. -- then I won't have to repeat things and go over them
12 again. I will do the same on my end.

13 Now, your name is Nicole Short?

14 A. Yes.

15 Q. And you are a former police constable?

16 A. Yes. Sorry. I'm sorry.

17 Q. Do you have some hankies there?

18 A. Yes.

19 Q. Yes. That question doesn't normally elicit a response
20 like that, Ms Short.

21 A. Sorry.

22 Q. Are you okay?

1 A. Yes.

2 Q. We will just take our time today; there's absolutely no
3 need to rush.

4 A. Yes. Okay.

5 Q. I'm going to ask you what age you are?

6 A. 36.

7 Q. Thank you. We've got all your contact details, so
8 I don't need to ask you anything about that today.

9 First of all, I want to make sure that you've got
10 everything in front of you that you might need, so let's
11 go through that. I don't know if you have watched other
12 evidence but --

13 A. Yes.

14 Q. You have? Good. So you know the procedure then.

15 There's your Inquiry statement and that should be in
16 front of you in the black folder.

17 A. Yes.

18 Q. And then I'm going to -- when I refer to any particular
19 paragraphs, on the screen in front of you the paragraph
20 will be brought up by Ms Taylor-Smith, and at the same
21 time, if you want to see what's around it, you can just
22 look at the hard copy if that's easier for you.

1 A. Okay.

2 Q. And in the black folder in front of you, there should be
3 some other things. Let's just go through these now. So
4 there should be a PIRC statement 253, so that's
5 a statement from 13 May 2015, so that's ten days after.
6 Have you got that one?

7 A. Yes.

8 Q. They have all got Post-its on them?

9 A. Yes.

10 Q. And that was taken by John Sallens of the Police
11 Federation.

12 A. Yes.

13 Q. Do you see where that was taken on the front page? Do
14 you remember where it was taken?

15 A. I think it was at my house.

16 Q. At your house, okay.

17 A. Yes.

18 Q. And what was the purpose of giving that statement, do
19 you remember? That was the first statement.

20 A. Just to give an account to legal representatives of what
21 happened and -- sorry -- and get it down on paper,
22 you know.

1 Q. And that was Mr Sallens; is that from the Scottish
2 Police Federation?

3 A. Well, yes, he probably came under that, but he worked
4 with Peter Watson.

5 Q. Right. So he actually worked with your solicitor?

6 A. Yes.

7 Q. But it says there John Sallens, Police Federation?

8 A. Yes.

9 Q. So was Mr Sallens from the SPF, or was he working for
10 your lawyer?

11 A. As far as I know anyway he was working for my lawyer.

12 Q. Okay, thank you. Did you spend some time giving that
13 statement?

14 A. Yes.

15 Q. Do you remember how long?

16 A. No, sorry.

17 Q. That's fine, that's absolutely fine. Then the second
18 thing you should have in your black folder is PIRC 254
19 and this is a later statement and you will see it is
20 coming up on the screen, but you should also have it in
21 your folder, and it is dated 4 June 2015.

22 A. Yes.

1 Q. Do you have that one, 13.45 and it was taken by
2 Investigator John Ferguson and DSI
3 Margaret-Ann Headrick.

4 A. Yes.

5 Q. And that was taken on that day and Investigator
6 John Ferguson, was he from PIRC?

7 A. Yes.

8 Q. Right. And again, what was the purpose of giving that
9 statement, do you remember?

10 A. To provide PIRC with the details of what happened that
11 morning.

12 Q. Okay. Then the third statement is 255, and this is
13 dated 9 June 2015, 12.55.

14 A. Yes.

15 Q. So that's just over a month after the events.

16 A. Yes.

17 Q. And it was taken again by Investigator John Ferguson and
18 DSI Margaret-Ann Headrick, but this time at the Police
19 Federation offices in Livingston?

20 A. Yes, that's right.

21 Q. And again, what was the purpose of giving this
22 statement?

1 A. That was a continuation on from the first statement
2 I had given, because I was at the police treatment
3 centre for the first statement and then that took all
4 day, so then we continued it on 9 June, but I wasn't at
5 the police treatment centre, I had finished my stay
6 there, so it was at the Police Federation offices at
7 Livingston for that one.

8 Q. So the statement dated 4 June that you gave to
9 Mr Ferguson and DSI Headrick was taken at the treatment
10 centre?

11 A. Yes.

12 Q. And then you continued to give that statement on
13 9 June --

14 A. Yes.

15 Q. -- but you had left the treatment centre by then?

16 A. Yes, that's right.

17 Q. Okay. And then we've got another one, PIRC 00256, and
18 this is the fourth statement dated 16 June 2015, so this
19 is about six weeks after, and this is taken over the
20 phone and given to Investigator John Ferguson?

21 A. Yes.

22 Q. And this was -- what was the purpose of this one, do you

1 remember that one?

2 A. Yes, he wanted to clarify a couple of points in my
3 statement that I had given.

4 Q. And that was just done over the phone?

5 A. Yes, yes.

6 Q. And then can we look at the fifth statement, PIRC 61,
7 please. This is dated -- this is an affidavit and it is
8 dated 30 August 2018, so it is more than three years
9 after. You will see in the first line:

10 "At Glasgow on 30 ... August 2018 in the presence
11 of ..."

12 Your solicitor and notary public and that was
13 a formal affidavit that was signed?

14 A. Yes.

15 Q. And again, what was the purpose of this being prepared?

16 A. I think that was for -- to be ill-health retired from
17 the police.

18 Q. Okay. And that was signed --

19 A. I think.

20 Q. -- by you in front of a notary public?

21 A. Yes.

22 Q. And then finally you've got the statement that you gave

1 to the Inquiry. Now, I don't know if that will be at
2 the front of your pile or at the back, and you were sent
3 nearly 100 questions by the Inquiry team, weren't you?

4 A. Yes.

5 Q. And asked if you could prepare your own statement that
6 answered all of those questions?

7 A. Yes.

8 Q. And that's what you did. Now, we will see it's headed
9 up on the screen "Response to Rule 8 request", so it was
10 a formal request from the Inquiry team under
11 a particular rule, but can I just call this your Inquiry
12 statement?

13 A. Yes, that's fine.

14 Q. Are you happy with that?

15 A. Yes.

16 Q. Thank you. And how long did you spend preparing that
17 statement?

18 A. Seven hours, roughly.

19 Q. Did you have to have some breaks?

20 A. Yes, a lot of breaks.

21 Q. Okay. Now, can we look at the last page. You were
22 asked to add a paragraph in at the end and it says:

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

5 A. Yes.

6 Q. And that was added in and then in your hard copy in
7 front of you, you had signed that. We have redacted
8 your signature at the moment.

9 A. Okay.

10 Q. And I was assisted last week by a witness who said that
11 was signed on 7 April this year.

12 A. Yes, yes, that's probably right.

13 Q. But with all of the statements and the affidavit that
14 you have given, were you doing your best to tell the
15 truth about the events on 3 May 2015 and doing your best
16 to give an accurate and full recollection of what
17 happened?

18 A. Yes.

19 Q. Thank you. I might refer to some of those statements
20 again, but I will let you know which one when?

21 A. Okay.

22 Q. And then we heard from your QC that on the opening

1 statement day, that you are determined to assist the

2 Inquiry --

3 A. Yes.

4 Q. -- in every way you can and you are here because you
5 want to give evidence to the Inquiry.

6 A. Yes.

7 Q. And does that remain the position today?

8 A. Yes, yes.

9 Q. Thank you very much. So are you happy you've got
10 everything in front of you?

11 A. Yes.

12 Q. I have gone through it all now.

13 A. Yes, that's fine.

14 Q. Okay. So as well as that black folder with all your
15 statements, you should also have in front of you
16 a spreadsheet which is a combined audio and video
17 timeline. Feel free to have a wee look at it at the
18 moment, and you have probably -- if you have watched
19 other evidence --

20 A. Yes.

21 Q. -- on the TV -- you will realise it's a timeline of the
22 events and it goes with some footage that we have.

1 A. Yes.

2 Q. Right, thank you. So you can feel free to dip into that
3 if you wish --

4 A. Okay.

5 Q. -- when we're watching the footage.

6 A. Yes.

7 Q. You can just use that as you want. But with the footage
8 what I will normally do is I will play it through once,
9 let you see it properly on the screen -- although
10 I appreciate you might have watched it on the telly --
11 and then we will go back and I will ask you some
12 questions about it.

13 A. Okay.

14 Q. Okay. So are you ready to go?

15 A. Yes.

16 Q. Thank you. What I'm going to do first of all then is
17 I'm going to play from phase 2 into phase 3 of the
18 enhanced video timeline, and Ms Taylor-Smith will bring
19 that up on the screen and we're going to play footage
20 from 7.16.22 to 7.20.39, and all we're going to do at
21 this stage is listen to some of the Airwaves
22 transmissions that we can hear on the footage before you

1 arrived.

2 A. Okay.

3 Q. And we will just play that right through to 7.20.39.

4 A. Okay.

5 Q. And then when I come back I'm going to ask you some
6 questions.

7 A. Yes.

8 Q. So feel free to listen to it and you can also look at
9 the spreadsheet if you would like.

10 (Video played)

11 We have just run over slightly there. So you have
12 listened to all of those Airwaves messages. Can I just
13 ask you one or two questions about the messages to begin
14 with.

15 A. Okay.

16 Q. So in your Inquiry statement there wasn't any mention by
17 you of knowing that all the units were going to be
18 attending, "all units". Can you explain what was your
19 understanding of that, "All units to attend"?

20 A. That all available units that were within Kirkcaldy
21 police station would attend, and normally that was
22 a reflection of the severity of the call.

1 Q. And how many units did you expect to attend? Did you
2 have any impression that morning of how many people
3 would come?

4 A. If there were, like, three, I would expect my whole team
5 to come along. It went out of my mind that the CID were
6 on that morning, but obviously I now know that they
7 attended too, but in the first instance, my whole team.

8 Q. Who was in your whole team?

9 A. Do you need names and -- no?

10 Q. Yes, you can give me names, if you remember.

11 A. Yes, there was Alan Paton, Craig Walker, Alan Smith,
12 Kayleigh Good, Danny Gibson, James McDonough, myself and
13 Ashley Tomlinson. I think that's --

14 Q. But if they were available, you would expect all of them
15 to come?

16 A. Yes.

17 Q. Thanks. And then in paragraph 13 of your Inquiry
18 statement, so we will get that up on the screen, it's on
19 page 2, and it says:

20 "I have been asked if I felt I had adequate training
21 for dealing with this incident. In my view, I think
22 that I had adequate training, but we didn't have

1 adequate support from specialist units, eg dog unit or
2 firearms unit."

3 Can I ask you a few questions about that paragraph?

4 A. Yes.

5 Q. When you say you didn't have adequate support from
6 specialist units, you have obviously given us an example
7 of the dog unit. You say "dog unit of firearms unit"?

8 A. I think that's meant to say "or".

9 Q. "Or", I thought that. So a dog unit or a firearms unit.

10 We have heard the expression ARV, armed response
11 vehicle.

12 A. Yes.

13 Q. Is that what you mean when you say firearms unit?

14 A. Yes.

15 Q. And why was it you didn't think you had adequate support
16 that day?

17 A. I have just -- I have just got this memory of it never
18 being confirmed actually that, you know, for certain
19 they're on their way and I've got a memory of the dog
20 unit being in Edinburgh and just thinking how far away
21 that was to where we were.

22 Q. Can I ask you to look at your first statement of 13 May,

1 so that's PIRC 253. And on page 2 -- sorry, page 4
2 I think, sorry. Page 4, final paragraph -- no, that's
3 not right. No, sorry. This is my first attempt at
4 giving you a page number and I have written down the
5 wrong number, but it is page 2. I was right the first
6 time. Page 2 and it is paragraph 6 and it starts:

7 "Around halfway there ..."

8 It's towards -- there it is. I can see it on the
9 screen. Can you see it on the screen?

10 A. Yes.

11 Q. "Around halfway there I remember saying to Ash 'I hate
12 calls like this', and then I remember the controller
13 coming back on and saying that the dog was on its way
14 from Edinburgh. My heart sank at this point."

15 Now, "Ash", is that a reference to Ashley Tomlinson?

16 A. Yes.

17 Q. That's who you were with that day?

18 A. Yes.

19 Q. And you say you "hate calls like this". Did you always
20 hate calls where someone -- it was a knife incident?

21 A. Yes, especially a knife.

22 Q. Why was that?

1 A. Just because I felt that because of my build,
2 essentially, if I was to get stabbed it would probably
3 increase the chances of it being fatal and, you know, it
4 only needs to hit one wrong part of your body and that's
5 it.

6 Q. I was going to come on to it later, but you're 5 foot 1,
7 aren't you?

8 A. Yes.

9 Q. And at the time I think you were nearly 8 stone?

10 A. Yes.

11 Q. And is that similar to what you are today?

12 A. I have put on a wee bit of weight today but I'm still
13 the same height.

14 Q. Yes. So when you say your heart sank, how were you
15 feeling?

16 A. I just honestly felt like it was -- I just thought "It's
17 just us, it's just us that have got to face this", and
18 then obviously the more and more calls that came in kind
19 of solidified in my mind that we were -- you know, that
20 there was a male running about with a knife.

21 Q. Would it have been an option for you to wait for the dog
22 unit?

1 A. Personally I didn't feel so at that time. I felt with
2 the number of calls coming in thick and fast, the public
3 were clearly scared and wanting -- wanting us to attend
4 to protect them and make the area safe again. I just
5 remember the urgency to get there so that nobody would
6 be hurt.

7 Q. And you mention the number of calls. What was it about
8 the number of calls that you were thinking?

9 A. What do you mean, sorry?

10 Q. Well, you have talked about the number of calls. We
11 have heard you couldn't actually hear the calls coming
12 in --

13 A. Yes.

14 Q. -- the 999 calls. That's right, is it?

15 A. Yes.

16 Q. But what was it about the number of calls that made this
17 different to a normal knife incident?

18 A. It was -- I just remember the -- well, the controller
19 saying "That's another call coming in, that's another
20 one, that's another one", and normally you would get
21 a call and you would have details passed and then you
22 would attend and see what is presented to you when

1 you're there, but the fact that it was just several
2 independent members of the public made me think this is
3 kind of in progress, if you like, and I had no reason to
4 doubt that due to the volume, the numbers coming in
5 quickly.

6 Q. So you didn't think it was a hoax?

7 A. No, no.

8 Q. Can you tell me who was in charge of attending this
9 incident and getting it organised? Do you remember?

10 A. Well, Ash and I were dispatched initially. In terms of
11 dispatch it could be -- initially the contact centre,
12 but then our supervisor could jump in and, you know, say
13 "Actually, you know, I want you all to go", so yes,
14 a bit of both actually.

15 Q. And who was your supervisor that day?

16 A. Scott Maxwell.

17 Q. He was an acting police sergeant?

18 A. Yes.

19 Q. And did we hear him making an Airwave transmission
20 requesting:

21 "All units attend and is there an ARV and a dog unit
22 as well please"?

- 1 A. Yes.
- 2 Q. Did you remember hearing that?
- 3 A. Yes.
- 4 Q. That's at 7.17.23.
- 5 A. Yes.
- 6 Q. Did you express any of these concerns to Acting Police
7 Sergeant Maxwell?
- 8 A. No.
- 9 Q. Did you express any of those concerns to the control
10 room through your police radio?
- 11 A. No.
- 12 Q. And was there a reason for that?
- 13 A. Just really being sent to that, I would say an update --
14 wait a minute. We really would go along to see what was
15 presented to us when we attended. We would get the
16 initial call, go and attend, see what was there and then
17 feed back the facts of what we saw on the ground.
- 18 Q. And who would you feed that back to?
- 19 A. We would feed that back to the -- I forget what's --
20 I just want to call it the call centre, like, do you
21 know what I mean?
- 22 Q. The control -- we've heard it called the control room?

1 A. Yes, the control room, yes, that's it. But also the
2 knowledge that sergeants and other staff would be
3 listening in to the Kirkcaldy channel, so they would
4 also hear it.

5 Q. So if you used your radio you could make an Airwaves
6 transmission and the feedback would have the dual
7 purpose of communicating that to the area control room,
8 as well as Sergeant Maxwell and other members of the
9 team?

10 A. Yes, yes.

11 Q. Thank you. And what was your understanding on your way
12 to Hayfield Road about the availability of an ARV?

13 A. Well, as I said, it never really -- it was requested but
14 to my knowledge it was never really confirmed. There
15 was no solid, definite Airwave message to say "Right,
16 that's them on the way", and then possible further
17 instructions regarding that. It was never certain.

18 I knew that they had been requested but --

19 Q. Did you consider waiting for an ARV at that time?

20 A. No. No.

21 Q. And why not?

22 A. Because -- because of the number of calls that were

1 coming in from the public, there was a real sense of
2 urgency to get there. Like I say, the number of calls
3 made this feel like "This is really happening", like
4 I say, they're all independent, I have no reason -- or
5 I had no reason to disbelieve that, so given that the
6 public were in such a state of fear and alarm, they were
7 wanting us to go there to make the area safe again, so
8 to hang back would increase in my mind the risk of
9 somebody getting hurt and I didn't want that at all, to
10 happen at all.

11 Q. Okay, thank you. Let me ask you about PC Tomlinson.

12 How -- had you worked with PC Tomlinson previously?

13 A. No, this was actually our first shift on together, but

14 I knew him obviously for being part of the team, but we
15 had never worked together before.

16 Q. So part of the team, but you had never been paired with

17 PC Tomlinson?

18 A. Yes, yes.

19 Q. And can I ask you what difference -- did you know the
20 local area? Did you know Hayfield Road?

21 A. A wee bit. Initially when the call came in I will admit

22 I couldn't think where it was so I grabbed the keys for

1 the vehicle we were driving and I gave them to Ash
2 because he had worked there longer than I had, so I said
3 "You will know where you're going", but obviously when
4 I got there I was like "Right", but yes ...

5 Q. Had you worked in Kirkcaldy for a while?

6 A. Two months.

7 Q. So where had you worked before you moved to Kirkcaldy?

8 A. I had a secondment with traffic, road policing and
9 before that I had -- I worked with the Sheriff Court
10 and -- do you want me to tell you...?

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

12 A. Right, okay.

13 Q. So how well did you actually know Kirkcaldy?

14 A. Not as well as the area I stay. I was still trying to
15 find my feet. I knew some, you know, main places and
16 things like that, but I was getting there, put it that
17 way.

18 Q. But you said PC Tomlinson had been there longer than
19 you.

20 A. Yes.

21 Q. Do you remember how long PC Tomlinson had worked in
22 Kirkcaldy?

1 A. I don't. I know he was in his probation and I know he
2 wasn't just started that, he was kind of maybe halfway
3 through, but I couldn't be certain like.

4 Q. Okay, that's fine. But you believed at that time that
5 he knew Kirkcaldy better than you?

6 A. Yes, yes.

7 Q. Was it the -- it wasn't the first time you had attended
8 a knife incident --

9 A. No.

10 Q. -- in your service?

11 A. No.

12 Q. And you have described how you were feeling on that day
13 and your concerns about danger to the public?

14 A. Yes.

15 Q. Did you feel that way with every knife incident, or was
16 this one different?

17 A. This one was different.

18 Q. And you have mentioned the number of calls; was it the
19 number of calls that made the difference to you?

20 A. Initially, yes.

21 Q. When you say "Initially", what else made the difference
22 to you on the journey to Hayfield Road?

1 A. I don't know, sorry. Could you ask that again? I don't
2 know --

3 Q. You have said initially it was the number of calls.

4 A. Yes.

5 Q. And was that really the main thing on the way to
6 Hayfield Road, or was that anything else that made you
7 feel the way you were feeling?

8 A. A large knife, the description of that. That's probably
9 it, yes, initially in the van on the way there.

10 Q. So the size of the knife was a big factor as well?

11 A. Yes.

12 Q. And how -- can you remember now how many knife calls you
13 had attended before 3 May 2015?

14 A. It's a long time, but for -- the top of my head, two.

15 Q. Two?

16 A. Two, yes.

17 Q. Right. And in either of those two, had you had to use
18 your baton?

19 A. No.

20 Q. Had you had to use your spray?

21 A. No.

22 Q. And how did you avoid using your baton or your spray in

1 those two other calls that you attended?

2 A. Verbal commands, verbal instructions to the person.

3 Q. Could you explain to the Chair what that means?

4 A. Yes. Just basically engaging with them, you know,

5 telling them to drop the knife until they did

6 essentially and you would get some sort of reply

7 usually, sometimes abuse, sometimes you would get a wee

8 snippet of the story of what had happened that night and

9 then it would be like "Right, well, I just need you to

10 drop that now and then we will talk about it, but

11 I really need you to stop waving that about", or

12 something like that, and then, you know, in that case --

13 or in one of the cases two large knives were actually

14 thrown at us, didn't hit us, but, you know, after us

15 saying like to drop it, you know, you got a wee bit of

16 verbal abuse and then that, they were eventually

17 dropped.

18 Q. So two previous incidents?

19 A. Yes.

20 Q. And the knife was visible in both of those when you

21 arrived?

22 A. Yes.

- 1 Q. And were actually thrown at you?
- 2 A. Yes.
- 3 Q. And then -- but you had spoken to them?
- 4 A. Yes.
- 5 Q. To get them to drop the knife?
- 6 A. Yes, yes.
- 7 Q. And had both of those -- in the previous two incidents,
8 had both of those complied with your verbal command?
- 9 A. Yes.
- 10 Q. And was it a command, were you shouting, or was it
11 a request to drop the knife?
- 12 A. I would definitely say there was raised voices, given
13 the fact that we could see -- or I could see the knife,
14 it was definitely a -- sorry, I have lost my words --
15 like a firm command to drop that because it's dangerous,
16 you know, it's aggravated by the fact that they're
17 holding a knife and -- yes, so the instructions would be
18 firmer and your voice would be raised, just to kind of
19 hit it home that that's what you need them to do and
20 right now, type of thing.
- 21 Q. And in your statement you mention that your height --
22 you used your height to your advantage --

1 A. Yes.

2 Q. -- with approaching men and sometimes your stature could
3 allow you to de-escalate a situation.

4 A. Yes.

5 Q. Can you explain that to the Chair?

6 A. Yes. I had been in quite a few kind of situations where
7 maybe a tall male going to speak to another male who was
8 upset or whatever would in some way, shape, or form, and
9 for whatever reason, aggravate the situation, they just
10 would sometimes seem to get more angry, but, you know,
11 on a few occasions I would go in and it would be like
12 for example "I will speak to you, hen, but I'm no F-ing
13 speaking to him", you know, and then it was like: right,
14 that's that line of communication open, right, let's
15 just take it from here a step at a time and find out
16 what's happened.

17 Q. And you could then work with that?

18 A. Yes.

19 Q. And that open communication would allow you to persuade
20 the person to comply?

21 A. Yes, or at least kind of calm down, you know, first and
22 foremost.

1 Q. So de-escalation is all about calming situations down?

2 A. Yes.

3 Q. Thanks. And that's something that you had done
4 previously?

5 A. Yes.

6 Q. On quite a few occasions, or a few occasions?

7 A. A few, yes.

8 Q. And when you were on your way to Hayfield Road, I'm
9 interested in whether it made you feel more confident
10 that you had been officer safety trained and you had
11 equipment with you and you had PC Tomlinson with you and
12 he had his equipment with you. Did that make you feel
13 more confident about dealing with the situation?

14 A. Yes, to a degree, but it didn't take away from the fact
15 that it was still a dangerous situation we were going
16 to.

17 Q. Okay. What difference, if any, did it make that -- you
18 have said in your Inquiry statement, at paragraph 5
19 actually, that PC Walker and PC Paton were in front of
20 you?

21 A. Yes.

22 Q. En route?

1 A. Mm-hm.

2 Q. And what difference did that make to you that you knew
3 that, as you describe them, "two of the most experienced
4 members of our team" were going to be there as well? So
5 that's -- do you see paragraph 5, do you see that?

6 A. Yes.

7 Q. So Walker and Paton were two of the most experienced of
8 your team and they were going to be there; how did that
9 make you feel on the way?

10 A. Reassured, I would say.

11 Q. And what about the fact that all units who were
12 available were going to attend? How did that make you
13 feel?

14 A. Further reassured, yes.

15 Q. Okay. Had you, in the previous two incidents that you
16 had dealt with, the knife incidents, had you ever had to
17 resort to a restraint of the person?

18 A. Yes.

19 Q. Describe that, please?

20 A. The one that I have been telling you about with the two
21 knives, he threw them up in the air like towards us and
22 then he was thereafter placed in cuffs. There was

1 a small struggle and then he was taken into custody.

2 Q. Right. When you say a small struggle --

3 A. Yes.

4 Q. -- can you tell us what you mean?

5 A. He was essentially resisting having the handcuffs
6 applied.

7 Q. And how was he resisting that?

8 A. Trying to break free from our grip, like, holding his
9 arms, kicking, shouting abuse, spitting.

10 Q. But you managed to get the handcuffs on him?

11 A. Yes.

12 Q. And once that happened, you had control of that person,
13 did you?

14 A. Yes.

15 Q. Was that handcuffs to the rear?

16 A. Yes.

17 Q. Yes, thanks. Can I ask you -- before we move on,

18 I would like to ask you about one other Airwave message.

19 It might be easier if you have a look at the spreadsheet

20 for this, and it's the Airwave message shortly prior to

21 your arrival, which is 7.20.13, so it is on -- sorry,

22 it's page 3., I'm giving you the wrong information.

1 Page 3, about a third of the way down, 7.20.13. Do you
2 have that?

3 A. Yes.

4 Q. And it says -- it's an Airwave transmission from ACR
5 Inspector Stewart, so Inspector Stewart, we have heard,
6 was in the control room and I don't think I will need to
7 play this, thank you. He is monitoring this obviously
8 from an ARV perspective:

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

12 Now, you have already mentioned feedback and I'm
13 just interested what you understand feedback to be?
14 Would you rather listen to this on the footage?

15 A. No, no, I see that now. Feedback to be telling them
16 what is going on, what you see.

17 Q. Right. And you have confirmed in your Inquiry statement
18 that you heard this message --

19 A. Yes.

20 Q. -- when you were on the way to Hayfield Road?

21 A. Yes.

22 Q. And you understood what feedback was?

1 A. Yes.

2 Q. And did you understand why the area control room might
3 be looking for that information?

4 A. Just given the details of the call also involving the
5 knife. Obviously they -- they can't see what we face,
6 they only hear the calls that are coming in so ...

7 Q. We have heard that they're in Bilston Glen actually, in
8 a completely different place.

9 A. Yes.

10 Q. And did you consider that that was something that you
11 personally needed to respond to?

12 A. If I got -- well, yes, it would be something that we
13 would do when we got to calls, is provide an update.

14 Q. Right. Now, did you understand that it was possible for
15 the area control room to take charge, or have command of
16 the incident --

17 A. Mm-hm.

18 Q. -- as it developed?

19 A. Yes, yes.

20 Q. So you understood that at some point they could sort of
21 take control?

22 A. Yes.

- 1 Q. Even though they were at a remote location?
- 2 A. Yes.
- 3 Q. Is that something you would have liked them to do?
- 4 A. I think that -- I mean hearing the -- I don't know how
- 5 to answer that because we're already -- there had
- 6 already been a request for an armed response unit and
- 7 a dog unit to attend, so that was kind of as far as we
- 8 could go at that point, but, like I said, nothing was
- 9 confirmed, there was no definite confirmation of them
- 10 definitely attending. Does that answer your question?
- 11 Sorry, I don't know.
- 12 Q. Yes, that's fine. I'm going to move on and I'm going to
- 13 go back to the footage, so I'm going to go back and play
- 14 some of that from 7.20.39, and we will just get that up
- 15 on the screen. I'm going to ask that we play from
- 16 7.20.39 to 7.21.02, so it is just a short period --
- 17 A. Okay.
- 18 Q. -- and we can watch it. So tell me if you need to see
- 19 it again.
- 20 A. Okay.
- 21 Q. And then I will come back and ask some questions about
- 22 that period.

1 A. Yes.

2 Q. And if you want, you can have a look at the spreadsheet
3 in front of you and that starts at page 3. 7.20.39 is
4 towards the bottom of page 3.

5 (Video played)

6 Thank you. Right. Do you want to see that little
7 snippet of footage again, would that help you? We don't
8 have to, I can just go through and ask some questions.

9 A. Yes. If I need to see it again, I will say.

10 Q. You would like to see it again?

11 A. No, just if I do --

12 Q. You're happy for me to ask questions?

13 A. Yes.

14 Q. Okay, thank you. So can you look at 7.20.39 maybe on
15 the spreadsheet.

16 A. Yes.

17 Q. And we can maybe go back to that period and pause it.
18 Do we see that there's a smaller van appeared by this
19 time?

20 A. Yes.

21 Q. And it's parked closer to the roundabout at
22 Hendry Road --

- 1 A. Yes.
- 2 Q. -- than the larger police van that's there, you see
- 3 that?
- 4 A. Yes.
- 5 Q. Tell us, who was in that van?
- 6 A. Myself and PC Tomlinson.
- 7 Q. And you have told us that PC Tomlinson was driving.
- 8 A. Yes.
- 9 Q. And so can you look at the reconstruction tile, please?
- 10 A. Yes.
- 11 Q. Now it is in the middle of the screen at the top. And
- 12 again, I'm going through this quickly because you have
- 13 said you have watched some of it on the screen, but if
- 14 you're not sure, just ask me.
- 15 A. Yes.
- 16 Q. And you will see the roundabout on the left-hand side?
- 17 A. Yes.
- 18 Q. That's a 3D reconstruction of the roundabout we see in
- 19 the CCTV on the left, and then we see a smaller, white
- 20 police van has been recreated on the reconstruction tile
- 21 and that's the van that PC Tomlinson was driving.
- 22 A. Yes.

1 Q. You said in your statement that was called the "fish
2 van"?

3 A. Yes. It was just what it was known as at the station.
4 It would be like the big van and the wee fish van. It
5 was just the name that everybody seemed to call it and
6 everyone knew what you meant as well so ...

7 Q. Yes, yes, because we all remember white fish vans
8 turning up round the streets, a smaller white van with
9 the doors at the back?

10 A. Yes.

11 Q. Okay. Then in front of that there's the larger van. We
12 have heard that's a Transit?

13 A. Yes.

14 Q. And we have also heard evidence that was driven by
15 PC Walker?

16 A. Yes.

17 Q. You accept that. Then just the bus stop there. So it
18 says that the police van stops at 7.20.39 and it
19 certainly appears that way on the screen. Are you happy
20 that's where the police van stopped?

21 A. My van? Well, the van I was in.

22 Q. Your van, the fish van?

- 1 A. Yes, I'm happy with that.
- 2 Q. And Tomlinson would have then got out the driver's side
3 of that?
- 4 A. Mm-hm.
- 5 Q. And you would have got out the passenger side.
- 6 A. That's right.
- 7 Q. And then we see -- and you can see at the bottom of
8 page 3 on the spreadsheet, it says PC Alan Paton's
9 emergency status is turned on.
- 10 A. Yes.
- 11 Q. And that is at 7.20.42. Now, by the time you got out
12 the van, were you aware that an emergency button had
13 been pressed?
- 14 A. No.
- 15 Q. No. So when did you become aware that the emergency
16 button had been pressed by somebody?
- 17 A. I didn't, to be honest. Events unfolded so quickly once
18 I got there that my primary --
- 19 Q. Right.
- 20 A. -- my primary concern was dealing with what was
21 unfolding in front of me.
- 22 Q. Okay. Well, let me just ask you a quick question about

1 that. When an emergency button is pressed --

2 A. Yes.

3 Q. -- what happens to your radio if somebody else presses
4 the emergency button?

5 A. As far as I can remember, I think it vibrates, it beeps
6 and the screen turns red.

7 Q. But you weren't aware of that when you were arriving or
8 getting out of the vehicle?

9 A. No.

10 Q. And what I'm going to do now is I'm going to move on to
11 some other images that have been created by a company
12 called Advanced Laser Imaging, ALI, and they are 3D
13 reconstruction images of the scene. So we will leave
14 this footage for the moment and either Ms Taylor-Smith
15 or Ms Wildgoose will bring those up on the screen. Now,
16 we heard some evidence about these last week, so you may
17 have seen them already on the screen and you will see,
18 however, that the Transit van, the position of the
19 Transit van has been moved from the ones that you saw on
20 the screen last week, if you did see them, and that was
21 in light of some evidence that was given last week.

22 A. Okay.

1 Q. So let's look at image number 5 and you will see there
2 the Transit van is at the bus stop and the fish van is
3 further along Hayfield Road, closer to the roundabout
4 with Hendry Road. So when you got out of the front
5 passenger seat, where did you go?

6 A. I stepped onto the pavement and I was facing towards the
7 big Transit van.

8 Q. And what could you see?

9 A. I could see Alan and Craig standing, and Mr Bayoh was
10 kind of like -- he was in front of them, so it kind of
11 formed a triangle-type thing.

12 Q. Right. Well, first of all is Alan, Alan Paton?

13 A. Yes.

14 Q. And Craig is Craig Walker?

15 A. Yes.

16 Q. Right. And I wonder, either using this image, or if we
17 could look at number 6 you can tell us what you would
18 prefer to use. If we wait a -- right. So you can see
19 on number 6 we get more of an aerial view of the scene
20 in Hayfield Road.

21 A. Yes.

22 Q. Now, do you have a preference? Because what I'm going

1 to ask you to do now is to touch the screen and a small
2 red circle will appear.

3 A. Right.

4 Q. And I will be asking you to say where was PC Walker,
5 where was PC Paton.

6 A. Yes.

7 Q. So would you rather use number 6, or would you rather
8 use the previous one? What would be easier for you?

9 A. Could I see the previous one again just to --

10 Q. Yes, of course. I mean that may be easier for you.

11 A. Yes, I will -- I will just use that one.

12 Q. Will we stick with number 5?

13 A. Yes.

14 Q. We can change it at any time. So we will stick with
15 image 5, please, and what I would like you to do first
16 of all is you can touch the screen and a red circle will
17 appear. If you are not happy with the position you just
18 need to keep your finger on it and move it around.

19 A. Okay.

20 Q. If you completely hate it, you can bring it down to the
21 bottom of the screen, we will ignore it or Ms Wildgoose
22 can remove it completely.

- 1 A. Yes.
- 2 Q. So I would like you to point out when you get out of the
3 fish van where was PC Walker?
- 4 A. He was -- I just want to say as well they were like
5 alongside the van so I might not -- if you can picture
6 where I'm putting it but have them, like, alongside the
7 van kind of, if that makes sense, so he was kind of
8 a bit further in, does that make sense, closer to the
9 van?
- 10 Q. Are you talking about near the front passenger seat door
11 of that Transit van?
- 12 A. Yes, yes.
- 13 Q. So closer to the van than you have been able to show us
14 on the...?
- 15 A. Yes.
- 16 Q. Right. It may be that we will be able to get another
17 image --
- 18 A. No worries.
- 19 Q. -- slightly later, but for the purposes right now it was
20 close to the front passenger seat of the Transit van?
- 21 A. Yes.
- 22 Q. And where was PC Paton?

- 1 A. Roughly ... sorry.
- 2 Q. You can drag it with your finger if you feel more
3 comfortable.
- 4 A. I have just put another one in.
- 5 Q. Will we clear this and start again?
- 6 A. Yes, sorry.
- 7 Q. That's easier, isn't it. And do remember we've got
8 image 6 as well if you prefer to do that. So image 1
9 we're keeping there. Let's try and identify where
10 PC Paton was.
- 11 A. I will just go with that.
- 12 Q. Right. And where was Mr Bayoh?
- 13 A. I'm sure he was just on the grass verge.
- 14 Q. So that's to -- right.
- 15 A. That's like a triangle, if that makes sense.
- 16 Q. So are you content with those areas?
- 17 A. Yes, yes.
- 18 Q. We will be coming back later today -- I don't know if
19 you saw last week we had the benefit of some further
20 images later in the day --
- 21 A. Yes.
- 22 Q. -- and we will be able to adjust them round and

- 1 fine-tune them.
- 2 A. No worries.
- 3 Q. But at the moment you have said you were on the pavement
- 4 at the fish van, passenger side?
- 5 A. Yes.
- 6 Q. And you're looking over in the direction --
- 7 A. Yes.
- 8 Q. -- of the Transit van. So number 1 is where PC Walker
- 9 was, near the front passenger seat of the Transit van?
- 10 A. Yes.
- 11 Q. Number 2 is PC Paton, and number 3 is Mr Bayoh?
- 12 A. Yes.
- 13 Q. What direction was PC Paton facing in?
- 14 A. He was facing towards Mr Bayoh.
- 15 Q. What direction was Mr Bayoh facing in?
- 16 A. He was facing towards the two of them, like, he was
- 17 facing PCs Walker and Paton.
- 18 Q. Right. What was the distance between PC Paton and
- 19 Mr Bayoh? Could you tell from where you were standing?
- 20 A. Sorry.
- 21 (Pause).
- 22 Maybe about -- about 10 or 12 feet, something like

1 that.

2 Q. And what about PC Walker? Was he further away from
3 Mr Bayoh, or closer?

4 A. I would say that both PC Paton and PC Walker, to my
5 memory, looked like they were standing kind of like in
6 a line, but apart, if it that makes sense --

7 Q. Yes.

8 A. -- and then Mr Bayoh was in front of them, so they were
9 both facing him, if that makes sense. Sorry, I forgot
10 what you asked, sorry.

11 Q. No, no, that's absolutely perfect. So Mr Bayoh was --
12 you mentioned a triangle earlier.

13 A. Yes.

14 Q. Was Mr Bayoh the top of the triangle?

15 A. Yes.

16 Q. And PC Walker and PC Paton were the bottom points of the
17 triangle?

18 A. Yes, yes.

19 Q. Right, thank you. Where was PC Tomlinson?

20 A. I mean, I can only -- at this time, you mean?

21 Q. You can show us with the red circle.

22 A. I will be honest, I can't remember seeing him at this

1 kind of snap-shot. I was just aware that he would have
2 been getting out of the van.

3 Q. That's fine. Now, at that point did you consider simply
4 waiting in the van and observing what was happening?

5 A. No.

6 Q. Why not?

7 A. PCs Walker and Paton, like I have mentioned, were two of
8 the most experienced officers on our team and my initial
9 assessment when I arrived was that on watching them and
10 their reaction, I knew and trusted from that that there
11 was an urgency. I knew they wouldn't react like that if
12 they didn't have to, so I immediately got out of the van
13 to assist really.

14 Q. At that time, did you consider updating the control
15 room, or Sergeant Maxwell on the Airwaves transmission
16 about what you could see?

17 A. No.

18 Q. Why not?

19 A. To be honest, I was at that point where I was fearful,
20 I was scared and this all happened so quickly that
21 initially when I got out of the van and they had their
22 sprays drawn, I didn't know what -- I didn't have enough

1 information, but first and foremost it all unfolded so
2 quickly that I felt like my priority was to deal at that
3 moment with what was unfolding in front of me.

4 Q. Right. And I want to ask you about what each --
5 everyone was doing then. So you said "sprays drawn"
6 there, so can you tell us what could you see PC Walker
7 doing at that moment when you got out of the van?

8 A. Well, from memory, I just remember approaching, seeing
9 them both out of the van, initially they had their hands
10 on their spray, which is -- depending if you're right or
11 left-handed it would be on whichever side, but they had
12 it on -- sorry, could you repeat the question again?

13 Sorry.

14 Q. Of course, yes. Let's start with PC Walker. So you
15 were at the front passenger side of the fish van?

16 A. Yes.

17 Q. You're looking over?

18 A. Yes.

19 Q. What could you see PC Walker doing?

20 A. I could see him shouting at Mr Bayoh. He had his hand
21 out, his hand on his spray, and from memory it's
22 a mixture of commands like "Stay back", "Stay where you

1 are", warning of their spray; that's what I remember.

2 Q. Now, you're making some gestures there as you sit there.

3 A. Yes.

4 Q. And could you just stand up where you are and show us
5 what you were doing, so that the Chair and the Assessors
6 can actually see. You said he had his hand out and his
7 hand on his spray.

8 A. So if he was right-handed, his spray would be there and
9 he kind of adopted a kind of side-on stance with your
10 hand out, indicating for them to stay where they are,
11 yes.

12 Q. What I'm going to do then -- because you're talking
13 about your legs as well, I'm going to ask you to come
14 out. There's a little plastic sticky tape, but I'm not
15 sure the audio is as good, so I will just ask you to
16 come out, show the stance that you saw PC Walker in,
17 don't say anything and then I will get you back to your
18 seat. Are you happy to do that?

19 A. Yes, yes.

20 Q. Thank you. Thanks, come round. Have you got the sticky
21 bit? So can you stand behind it. The camera will be
22 over there and just show the Chair what PC Walker was

1 doing. Just show us.

2 MS MITCHELL: (Mic turned off).

3 MS GRAHAME: I was advised that when the demonstrations were
4 being done -- and I can see now that they are clicking
5 on, it is just taking a moment, so that's good. It's on
6 the cameras now.

7 So I will ask you to do that again please, Ms Short,
8 just so that everyone can see it. Thank you.

9 A. (indicating).

10 Q. Thank you. Then I will get you to go back to your
11 chair, thanks. I will ask you to do it -- I will make
12 sure that it's on the screens in the future before I ask
13 you to demonstrate.

14 A. That's fine.

15 Q. That was my fault.

16 A. No, no.

17 Q. So were you able to see that from where you were
18 standing?

19 A. Yes. Yes, they were both -- they were both doing that.

20 Q. And when you say "both"?

21 A. Oh, sorry --

22 Q. I was going to ask you what PC Paton was doing?

1 A. The same. They were both giving the same stance and
2 similar commands.

3 Q. So from your position at the fish van --

4 A. Yes.

5 Q. -- you have said they were sort of the bottom ends of
6 the triangle.

7 A. Yes.

8 Q. Could you see one further forward than the other, or
9 were they in line with each other?

10 A. I think, from memory, they were in line with each other,
11 yes.

12 Q. But you could see what PC Walker was doing behind
13 PC Paton?

14 A. Yes, I mean, like, you know, through training and things
15 like that you come to recognise the stances and -- what
16 are they called again? If you're wanting somebody to
17 stay away from you and to stay where they are, you would
18 always use that stance that I have just demonstrated.

19 Q. We may have heard that that was described as a defensive
20 stance?

21 A. Yes.

22 Q. Is that the word you are talking about?

- 1 A. Yes, yes.
- 2 Q. And then can you tell us what Mr Bayoh was doing?
- 3 A. He was standing in front of them. Do you want me to
- 4 elaborate further?
- 5 Q. Yes, do, yes, please.
- 6 A. He was standing in front of them and when he was given
- 7 these commands, there was just nothing. There was just
- 8 no verbal response whatsoever and then he started to
- 9 walk towards them.
- 10 Q. And you said no verbal -- there was nothing, no verbal
- 11 response. What do you mean by saying there was nothing?
- 12 A. Well, basically when you turn up to a call, you know,
- 13 with this scenario, a van with blue lights stops in
- 14 front of you, two guys get out and are shouting at you
- 15 to stay back and things like that, you know, normally
- 16 what I would expect is, like, some form of response of
- 17 whether it be abuse or "What?" or, you know, something,
- 18 but there was just nothing.
- 19 Q. No reaction?
- 20 A. No reaction, yes.
- 21 Q. Is it possible that you could be mistaken in your
- 22 recollection about what you saw when you got out of the

1 fish van?

2 A. In terms of ..?

3 Q. Where people were standing, what they were doing?

4 A. Perhaps. I mean, I could refer back to my -- do you
5 mean in terms of, like, where they were standing and
6 things like that?

7 Q. Yes.

8 A. No. I mean obviously with the passage of time and
9 things like that, but that's my current memory of it.

10 Q. How clear is your recollection of that?

11 A. Of just that part or the whole thing?

12 Q. That part.

13 A. I would say clear. Yes.

14 Q. Thank you. I'm going to ask you to look at paragraph 5
15 of your Inquiry statement. You say:

16 "When I did arrive and looked at the scene from the
17 vehicle I was in, I saw PCs Walker and Paton who were
18 out of their van and had their CS spray out already.
19 When I saw that and heard them shouting at Sheku Bayoh
20 to stay back, telling him that they had their spray and
21 would use it, I realised that this was two of the most
22 experienced members of our team and they had assessed

1 that Sheku Bayoh was a genuine and serious threat."

2 Can I just be clear: what you have described for us,
3 was that from your view from the van, from inside the
4 van, or your view from the pavement?

5 A. It was -- bear in mind it was all very quickly, but
6 I have arrived and -- both, I would say. I would say --
7 I mean, I looked up, quick snapshot, door, opened the
8 door and out, and then, yeah, what I have described to
9 you has been from when I got out of the van, yes, to
10 answer your question.

11 Q. So what we have on the image that we looked at, that's
12 your view from standing outside the van?

13 A. Yes.

14 Q. Then in paragraph 6 you will see you didn't see a knife
15 at that time but you think it:

16 "... made the situation more serious as it could
17 have been produced at any time from a place of
18 concealment on his person."

19 Now, what was Mr Bayoh wearing when you saw him?

20 A. I think it was a light-coloured T-shirt and I want to
21 say kind of a charcoal-colour type jeans.

22 Q. And in your experience as a police officer, where can

1 people conceal knives?

2 A. In -- you know, the side of the waistband, front, in the
3 back of his waistband, his sock even.

4 Q. So hidden by the jeans or the T-shirt?

5 A. Yes.

6 Q. And then can we look at paragraph 10, please, of your
7 Inquiry statement and you have told us here -- you were
8 asked "... what I did when I arrived at the scene", and
9 you say you would refer to the statements that you have
10 already given:

11 "... but put shortly, I arrived and saw PCs Walker
12 and Paton who were confronting Mr Bayoh at the path at
13 the bus stop with their spray in their hands and
14 shouting verbal instructions to him. They said 'Stay
15 where you are, CS spray, PAVA spray, stay where you
16 are.' They were both shouting at the same time.

17 Mr Bayoh was standing with his arms by his sides, fists
18 clenched and then he moved towards them. That's when
19 they both sprayed him. Mr Bayoh then walked away it to
20 his right, up a path laughing and wiping the spray away
21 from his eyes like it was water, like it had no effect
22 on him at all. Bayoh was cold, almost blank,

1 unresponsive, in a world of his own, disconnected,
2 pumped up. He was on a mission whilst walking up the
3 path. It's worth saying that the knife that was
4 recovered. It was found on the grassy area to the side
5 of the path, in the direction in which he was walking.
6 He then turned violent, shouting at me when I drew my
7 baton, he shouted 'Fucking come on then', before boxing,
8 skipping towards me. That's when the real terror came
9 across me."

10 Now, there's a lot of information in paragraph 10
11 and if it is okay I would like to go through some of
12 that with you in a bit more detail.

13 A. Yes.

14 Q. Are you okay to do that now?

15 A. Could I have a wee break first? Is that okay?

16 LORD BRACADALE: Yes, we'll have a break there.

17 (10.47 am)

18 (Short Break)

19

20 (11.06 am)

21 LORD BRACADALE: Ms Grahame.

22 MS GRAHAME: Thank you. Ms Short, I was just about to move

1 on to paragraph 10. While Ms Wildgoose gets that up on
2 the screen for us can I ask you -- you mentioned two
3 previous knife incidents that you had attended --

4 A. Yes.

5 Q. -- earlier this morning; did either of those involve any
6 black men?

7 A. No.

8 Q. Thank you. Looking at paragraph 10, you will see it's
9 on the screen, but you will have a copy of it in front
10 of you, if you wish to look at that, and the first thing
11 I would like to ask you about -- you have introduced the
12 beginning of it really in your evidence before the
13 break. You have said they were both shouting at the
14 same time.

15 A. Yes.

16 Q. And does that mean they were shouting in unison, or were
17 they shouting different things at the same time?

18 A. Different things at the same time, but they would fall
19 under the same command.

20 Q. Right. And you have said they were saying:

21 "Stay where you are, CS spray, PAVA spray, stay
22 where you are."

1 A. Yes.

2 Q. And that was your recollection when you gave your
3 Inquiry statement?

4 A. Yes.

5 Q. And you have described Mr Bayoh -- you say:

6 "[He] was standing with his arms by his sides, fists
7 clenched and then he moved towards them."

8 When you say standing -- when you describe him, can
9 you show us how he was standing and I wonder if you
10 could again maybe come and give us a demonstration.

11 A. Yes.

12 Q. Thank you. But I'm not going to rush you into it this
13 time, I'm going to wait until it is on the screens. So
14 if you want to come out and stand besides the sticky
15 tape on the floor. It has very quickly moved to the
16 screens so everyone can see. No one should need to
17 stand up.

18 Can you show how he was standing.

19 A. (indicating).

20 Q. Thank you. And if you come back we will get you in
21 front of the microphone again. You say that he moved
22 towards them. When he moved towards them, what did

1 PC Walker and PC Paton do?

2 A. Sorry. They shouted at him more to, you know, "Stay
3 where you are, stay where you are", and then they
4 sprayed him because it wasn't -- he wasn't listening.

5 Q. When you saw them spray him, what happened?

6 A. My next memory is that he was -- he was like -- sorry,
7 Mr Bayoh was wiping it away from his eyes, like -- just
8 like it was water, and in my training I have had CS,
9 when I was a special constable I had it like sprayed at
10 me and it completely, you know, incapacitated me and to
11 see somebody just stand there completely unaffected by
12 it and wipe it -- like I say, it was like it was just
13 water, yes.

14 Q. So both PC Paton and PC Walker sprayed him, and the
15 spray connected --

16 A. Yes.

17 Q. -- with Mr Bayoh?

18 A. Yes.

19 Q. On his face?

20 A. It was -- well, yes, it must have because -- aye, he
21 was -- I just remember seeing it on his face and he was
22 just, like, wiping it away.

- 1 Q. How did he wipe it away? Can you show us?
- 2 A. Yes, it was just like "pff", (indicating), you know
- 3 "pff". When I say in my statement he was laughing it
- 4 was more like "Is that it?" you know, wiping it away and
- 5 he proceeded to begin to walk up the path that's on the
- 6 map.
- 7 Q. Did he use both hands or, if not, what hand did he use?
- 8 A. I can't be sure. I wouldn't like to say with any
- 9 certainty. I can just see him wiping it away from his
- 10 eyes.
- 11 Q. Okay. Now, you then talk in the statement about walking
- 12 away to his right up a path, and I wonder if we could go
- 13 back to the image that we looked at before, so image 5,
- 14 and you previously described where the three of them
- 15 were and can you point out the path, please?
- 16 A. Yes.
- 17 Q. And what direction did Mr Bayoh walk in? Now, at the
- 18 moment -- if you give us a second, you will get a line.
- 19 A. Okay.
- 20 Q. You can use it now to show us the direction he came
- 21 from.
- 22 A. Sorry, me and technology --

1 Q. No, no, don't worry. So the red circle has just moved
2 along that path that we see?

3 A. Yes, yes.

4 Q. And that was the direction that Mr Bayoh walked in after
5 he had been sprayed?

6 A. Yes.

7 Q. And I see the circle there; is that where he -- is that
8 how far he got along the path, or did he get further
9 along?

10 A. I think he got further on, from memory.

11 Q. Could you show us how far he got along that path?

12 A. I want to say, like, kind of in amongst the trees, kind
13 of, maybe a wee bit -- I have done it again, sorry.

14 Q. No, don't worry. Do you want us to take those away and
15 start again?

16 A. Just number 3 away.

17 Q. Just take number 3 away. Now, tell us what the circle
18 number 2 shows?

19 A. That's the point that he kind of, like, stopped in his
20 tracks and turned round, so ...

21 Q. So if we're looking at that path, that's as far along
22 the path as he reached, is it?

- 1 A. Yes, yes.
- 2 Q. In that area?
- 3 A. Yes.
- 4 Q. We will have some more images later and we can fine-tune
- 5 this?
- 6 A. Yes, no worries.
- 7 Q. Thank you. So at this moment, you have described in
- 8 paragraph 10 him walking along the path, but you have
- 9 given a description of Mr Bayoh. I would like to know,
- 10 is this description of Mr Bayoh at the point he was on
- 11 Hayfield Road, or is it at the point he was walking
- 12 along the path? And we can look at that for the
- 13 moment -- you say:
- 14 "Bayoh was cold, almost blank, unresponsive..."
- 15 Do you see that?
- 16 A. What...?
- 17 Q. So it is paragraph 10 of your statement.
- 18 A. Is it...?
- 19 Q. Inquiry statement.
- 20 A. Right.
- 21 Q. We can look at that again, just to remind you, and you
- 22 will see halfway down that paragraph:

1 "Mr Bayoh then walked away to his right, up a path
2 laughing and wiping the spray away from his eyes like it
3 was water, like it had no effect on him at all."

4 Are you with me?

5 A. Yes.

6 Q. "Bayoh was cold, almost blank, unresponsive, in a world
7 of his own, disconnected, pumped up."

8 I would like to go through all of those words with
9 you and just make sure that the Chair understands what
10 you meant.

11 A. Yes.

12 Q. So you have said he was cold; and what did you mean by
13 that?

14 A. Just the lack of response, even, like, facial
15 expression -- there was, I mean, apart from, I know
16 I have said he kind of did the, "pff", like laugh-type
17 thing as I have described it as, but there was just
18 nothing, it was like -- I would probably go on to -- in
19 a world of his own type of thing, but it was like he was
20 in his own wee world and we weren't there, he wasn't
21 hearing it, it was like he wasn't hearing us.

22 Q. Where were you when you could see his face?

1 A. I could see his face from when I came out the passenger
2 side, but obviously when he started to walk up that path
3 I could see him closer.

4 Q. How close was he?

5 A. At one point I want to say maybe a metre and a half away
6 from me.

7 Q. Okay. And you also used the expression "Pumped up"?

8 A. Yes.

9 Q. What do you mean by that?

10 A. Well, when he was walking away, it was like he was on
11 a mission and that's another thing that confused me
12 because I was just thinking "Where are you going?"
13 you know, "Wait there now", and his muscles were
14 massive. They were -- what's the word -- they were,
15 like, bulging out of his top and he just -- along with,
16 you know, his body language, the rate at which he was
17 walking away, it just -- like I say, it was like he was
18 on a mission.

19 Q. Right. And you're describing his muscles?

20 A. Yes.

21 Q. Which particular muscles are you talking about?

22 A. Probably like here and here and shoulders, just this

1 type of area.

2 Q. His arms and his shoulders?

3 A. Yes.

4 Q. And you have said his body language; what was it in
5 particular about his body language?

6 A. When he was walking away, you mean?

7 Q. Yes.

8 A. Yes, it was -- like I say, it's hard to describe any
9 other way apart from "on a mission", like nothing else
10 that was happening around him mattered or was sinking
11 in, or anything like that.

12 Q. And you talked about the rate he was walking away. What
13 did you mean by the rate?

14 A. It wasn't quite a power walk, but it wasn't a leisurely
15 stroll. It was probably more closer to -- if that was
16 a scale, it would be further towards a power walk. It
17 was like "Right, I'm walking here". Does that make
18 sense? Aye.

19 Q. What had -- so as Mr Bayoh is walking along the path,
20 what could you see of PC Paton?

21 A. I just remember him like walking away up the path and
22 then I suppose from where I was standing it was kind of

1 like he walked past me and then I remember looking at

2 him and saying like --

3 Q. Is this PC Paton?

4 A. Oh no, sorry, Mr Bayoh was walking past me and then

5 I tried to engage with him and then I turned around and

6 I just remember both PCs Paton and Walker had their

7 hands up to their face.

8 Q. Where were they?

9 A. Roughly -- I would say from memory the same place as

10 where I originally saw them when they sprayed him.

11 Q. That was at the passenger side of the Transit van?

12 A. The van, yes.

13 Q. And describe how they were positioned.

14 A. Well, they were alongside the van and it was like they

15 were kind of bent, like, over like that, but with their

16 hands like that (indicating), that's all I remember.

17 Q. And you're putting your hands in your -- your head in

18 your hands.

19 A. Yes.

20 Q. Were they both like that?

21 A. Yes. From my memory anyway, yes.

22 Q. So Sheku Bayoh didn't -- you described earlier him

1 moving towards them, but he didn't actually go over to
2 them, he walked up the path?

3 A. Yes.

4 Q. And where were you at the point he starts walking up the
5 path? I wonder if we could go back to image 5, please.

6 So you have told us about Mr Bayoh walking up the path.

7 Could you tell us where you were?

8 A. Yes. At the point he was walking up the path?

9 Q. At the point he walks up the path. Have you moved from
10 where you described earlier?

11 A. It happened so quickly, so initially I probably was just
12 still standing watching this because, like, to let you
13 understand, it was -- it came down to, like, a matter of
14 seconds. Sorry.

15 Q. No, I think what we will do is we will maybe get the
16 arrow, rather than the red circle which makes it harder
17 for you to show the direction, so you should be able to
18 touch the screen now and keep your finger on it and you
19 will be able to draw a line.

20 A. Right.

21 Q. So you can maybe show us where you moved to.

22 A. Right, so me?

- 1 Q. Yes.
- 2 A. So, okay, so I would say I started off at the passenger
3 side and then I kind of mirrored him and I just kind of
4 walked alongside him to a point. Like I say, I was
5 trying to engage with him but nothing was kind of
6 registering or sinking in. Yes.
- 7 Q. And you have said you mirrored him; what do you mean by
8 that?
- 9 A. I just mean, like, I tried to keep a distance, but
10 I kind of walked with him, if that makes sense.
- 11 Q. So using another arrow, do you want to show us where
12 Mr Bayoh was at the point you were walking along there?
- 13 A. Yes, just parallel, kind of by me.
- 14 Q. Right. So you're number 1 and Mr Bayoh is number 2?
- 15 A. Yes.
- 16 Q. And Mr Bayoh is on the path?
- 17 A. Yes.
- 18 Q. And you're near to him, walking alongside him?
- 19 A. Yes.
- 20 Q. And tell us what happened then?
- 21 A. So he was walking -- he kept walking and I was saying,
22 like, something along the lines of, like, "Where are you

1 going? Stay where you are", just repeating that type of
2 thing and nothing was sinking in, so I remember
3 PC Tomlinson being to my left, so --

4 Q. Could you maybe point that out on the image?

5 A. Yes.

6 Q. We will get a red circle this time, I think. Yes, carry
7 on.

8 A. It's hard because like roughly -- roughly kind of there
9 and -- he could have been closer, I don't know, but it
10 was roughly -- he was in my line of sight, I would say.

11 Q. So you're travelling, number 1, in the direction of that
12 arrow?

13 A. Yes.

14 Q. And PC Tomlinson is on your left where number 3 is?

15 A. Yes.

16 Q. So you're speaking to Mr Bayoh; were you speaking or
17 were you shouting?

18 A. I wasn't shouting. I was just like how I have described
19 to you, maybe a wee bit more forceful because I had just
20 seen what was happening, but yes.

21 Q. Okay. And how did he react?

22 A. Nothing, nothing. It was like I wasn't there.

- 1 Q. Right.
- 2 A. He just kept walking, I mean.
- 3 Q. And what did you do when you realised you weren't
4 getting a reaction from him?
- 5 A. I stopped -- I stopped mirroring, like, walking
6 alongside him and at some point I remember hearing --
7 I'm positive it was PC Walker say "Somebody give me
8 their baton", and I took my baton out and out of nowhere
9 I kind of feel as though I recited what we were taught
10 at police college to him, yeah.
- 11 Q. Where was PC Walker?
- 12 A. He was behind me but to the left of me.
- 13 Q. Do you want to point on the image?
- 14 A. Yes, it's hard -- I'm just trying to think.
- 15 Q. Take your time.
- 16 A. Yes. It would be kind of roughly there. I know it's
17 come up on top of the van.
- 18 Q. I don't see the circle -- there it is, right.
- 19 A. I was trying to put it back a wee bit. But it was there
20 or thereabouts, but he was behind me. I don't know if
21 I can put it on the van, if that makes sense.
- 22 Q. Don't worry, because as I say, we will have other images

1 prepared later and we can fine-tune this.

2 A. Okay.

3 Q. And you heard him asking for a baton?

4 A. Yes.

5 Q. And what did you do when you heard that?

6 A. I took my baton out and I extended it.

7 Q. Where do you normally keep your baton, which side?

8 A. My left-hand side because I'm right-handed, so you would

9 kind of go in there and take it out, and then it extends

10 by kind of going like that (indicating) and then it will

11 extend.

12 Q. Did that get any attention? Did that attract any

13 attention from Mr Bayoh?

14 A. When I initially took my baton out, no, but when

15 I started giving the command, you know, and telling

16 him -- I mean, he had his back to me by this point

17 because he had walked in front of me -- where am I?

18 So -- what am I trying to say? Sorry. So when

19 I initially did that, I put it on my shoulder, it wasn't

20 until I had finished speaking to him that I got

21 a reaction.

22 Q. What did you say immediately prior to getting

1 a reaction?

2 A. Could I refer to my statement for exact wording?

3 Q. Yes, please do, please do.

4 A. I could give you the gist of it, but it is probably more
5 accurate in here.

6 Q. Yes.

7 A. I'm trying to think.

8 (Pause).

9 Q. Maybe you could tell us which statement it is that you
10 want to look at and we could get that on the screen.

11 A. I think it is maybe -- maybe it is 254, PIRC 00254.

12 Q. Is it the one on 4 June?

13 A. Yes, I think so.

14 Q. All right. Do you want to look at page 6, perhaps? You
15 will see at paragraph 5 it says:

16 "Craig Walker shouted 'somebody give me
17 a baton' ..."

18 A. Yes.

19 Q. And then the last line is:

20 "I drew my baton in my right hand and presented my
21 open left hand to him."

22 A. Yes.

1 Q. "I rested the baton on my right shoulder."

2 And:

3 "I told him to 'stop where you are', 'go down to
4 your knees', 'put your hands behind your back or I will
5 strike'."

6 A. Yes.

7 Q. Is that what you remember -- and "Go down to your
8 knees" -- is that what you remember saying --

9 A. Yes.

10 Q. -- immediately after you had pulled out your baton?

11 A. Yes.

12 Q. And what was Mr Bayoh's reaction to that?

13 A. Well, he had his back to me and he just kind of -- he
14 just stopped walking and then he went -- he turned his
15 head over his left shoulder and went "What?", like that,
16 and then he turned round to face me and then he looked
17 at -- he looked at PC Tomlinson, so it was like
18 PC Tomlinson, PC Walker, then me, and then he went
19 "Fucking come on then", but it wasn't quite like that,
20 I wasn't wanting to swear there, but it was -- it was
21 much more confrontational, aggressive than that.

22 Q. First of all, don't worry about swearing because we

1 would like to hear what you remember.

2 A. Okay.

3 Q. So was that the furthest point along the path that he
4 reached?

5 A. Yes.

6 Q. And then he turned?

7 A. Yes.

8 Q. And he looked at the other officers and he looked at
9 you?

10 A. Yes.

11 Q. And that was in a confrontational way?

12 A. Yes.

13 Q. And then what did you do?

14 A. Well, when he turned round and went "Fucking come on
15 then", like that, I immediately -- and he immediately
16 started walking -- well, I say walking, it was a mixture
17 of that and kind of like a boxer skip, like how you
18 would see a boxer kind of -- a boxer's footwork, if you
19 like, within a ring, it was kind of like that, so it was
20 a mixture of that, so I immediately was shouting at this
21 point "Get back, get back, get back", I don't think --
22 whilst retreating myself because he was closing the gap

1 really quickly, so then I was kind of skip -- not
2 skipping back. How could you describe it? Shuffling
3 back, shuffling my feet back, I suppose, but quickly to
4 try and attempt to keep that distance because all the
5 time we don't know where this knife is and that's what
6 was in the back of my mind, like, the reason we were
7 called there.

8 Q. Had you, at any point up to then, seen him with a knife?

9 A. No.

10 Q. Had you seen a knife at all at that point?

11 A. No, no.

12 Q. And when you describe him coming towards you, can you
13 tell us how far was he from you when he turned and
14 started doing the boxing skipping?

15 A. From memory, between 10 and 12 feet, something like
16 that.

17 Q. Right.

18 A. I think.

19 Q. And you immediately start shuffling backwards?

20 A. Yes, yes.

21 Q. Where was PC Tomlinson?

22 A. He was still on my left.

1 Q. Where was PC Walker?

2 A. I can't honestly remember. I can't honestly remember,
3 sorry.

4 Q. Let's go back to the image for a moment. You have
5 described this shuffling backwards. How far backwards
6 did you shuffle? Can you point to the area where you
7 stopped shuffling backwards?

8 A. Well, I was on -- eventually -- he kept coming -- he
9 kept -- he kept coming towards me by doing that and he
10 wasn't getting back, wasn't getting back, so I kind
11 of -- is it a circle or an arrow? Circle. So for what
12 I remember I had to go through the -- it was like
13 shrubs, the kind of grassy area and then I ended up --
14 right -- I ended up on the road, roughly there, from
15 memory, because what happened was the gap was getting
16 smaller and smaller and to the point where I would say
17 he was maybe within -- maybe just over a metre from me
18 and I'm still going back, I'm still shouting "Stay back,
19 stay back, get back", and I've got my hand -- it was
20 like that (indicating), like, my baton there, and then
21 my hand out, and then he got within quite a distance --
22 quite close to me and then to create distance I swiped

1 my baton like that (indicating) and then like that
2 (indicating), and then he still didn't stop, and then at
3 that point I would say, like, just instinct kicked in
4 and I was running away from him before I knew it.

5 Q. So let me just go through that a bit more slowly, thank
6 you. So you have described -- you have drawn an arrow
7 at number 1 in the direction that you were going when
8 you mirrored Mr Bayoh.

9 A. Yes.

10 Q. And then you have identified at circle 5 where you were
11 shuffling back to.

12 A. Yes.

13 Q. So did you move along the direction of the number 1 but
14 then from that point then shuffle backwards to number 5?

15 A. What I would -- is it still a circle? Yes. What
16 I would say is that -- right, so I would say that
17 Mr Bayoh maybe got to roughly there (indicating), and
18 then when I shouted at him the gap had -- he had walked
19 ahead of me, like I said, and then I was there
20 (indicating), and then when he kind of turned round and
21 went "Fucking come on then", he kind of -- so then he
22 came back from 6 to 7, and then I made -- I shuffled

1 back, essentially, from 7 to 5, and that's the point
2 where I had to turn and run.

3 Q. Thank you, that's very helpful. And you said that by
4 the point you have stopped shuffling back he was quite
5 close?

6 A. Yes.

7 Q. That was the words you used. Can you give us an
8 indication of how close "Quite close" was?

9 A. Yes, well, I -- like I say, I had kind of swiped my
10 baton without hitting him because I just -- I just
11 wanted him to stop. I didn't actually want to hurt him
12 or anything like that. I just -- I just wanted to find
13 out what was going on, type thing, and then -- so then
14 he didn't -- that had no bearing on anything and I would
15 say he got to about there (indicating) because I just
16 remember seeing his face really close to me so --

17 Q. What's the distance between your hand --

18 A. About -- it was right in my personal space if you
19 would -- so it was, I would say maybe an arm's length,
20 there, that sort of thing.

21 Q. Okay, your arm's length. How many times did you swipe
22 your baton?

1 A. What I did was I went once, twice, and then that was it,
2 and then he came within my personal space, as I say, and
3 that's when I turned and ran.

4 Q. But your baton didn't connect at any point?

5 A. No, no.

6 Q. So from position 5 you have said you turned and ran?

7 A. Yes.

8 Q. Using an arrow, can you show us which direction you ran
9 in?

10 A. Yes. If it makes it any better I know that there's like
11 two houses that face the wee white painted roundabout,
12 kind of facing into the pub.

13 Q. Why don't we look at image 6, maybe, and see if that
14 would give you a better perspective?

15 A. Yes.

16 Q. Does that help?

17 A. Yes. Because I just remember when I turned and ran
18 I just remember the houses seemed to be going so far
19 away from me, it was like -- and then going back to the
20 locus, they're just there type thing, but I was -- so
21 I was -- I remember the houses, so I probably would be
22 facing them, if that makes sense.

1 Q. So from your position, the previous position we saw in
2 the other image, you have run across Hayfield Road,
3 you're behind the fish van, you have run across
4 Hayfield Road to the south side, I think some people
5 have called it.

6 A. Right. I wouldn't know, but yes, towards the houses.

7 Q. That's fine. And that was towards the houses at the end
8 of Hayfield Road really?

9 A. Yes.

10 Q. Okay. Give me a moment. I wonder if we could look at
11 image 4 as well, please, just for completeness.

12 Now, this is another image taken from houses on
13 Hayfield Road?

14 A. Okay.

15 Q. And you will see the fish van there.

16 A. Yes.

17 Q. It wouldn't have been this house, I don't think, from
18 your description; it would be further towards the
19 roundabout?

20 A. Yes, yes.

21 Q. Okay. Thank you. How were you feeling at the time.

22 A. At the time I turned round and ... I would say before

1 that I was completely overcome with fear. I remember my
2 whole body shaking when he was shuffling towards me and
3 boxer skipping and I should add as well he had his fists
4 up like a boxer would as well.

5 Q. Can you show us?

6 A. It was like that (indicating), and then, like, when he
7 kept not listening to me and he kept, like, coming
8 towards me and I was giving him clear commands to stay
9 away from me and to -- I would then say at that point
10 where he came within a kind of arm's width of me I can
11 only describe it as maybe in like -- completely
12 overwhelmed by terror is probably the best way I could
13 describe it.

14 Q. Okay. Can we move to image 6 again, please. Now,
15 that's image 5, and we have also got image 6 and you
16 tell me what's the best image for you explaining this.

17 You have described running across Hayfield Road?

18 A. Yes.

19 Q. And I want you to tell us, please, what happened as you
20 were running across Hayfield Road.

21 A. I was screaming when I was running away and I was
22 screaming "No" what I remember as being like over and

1 over again, and I remember -- I felt his presence behind
2 me, like I just knew he was right behind me and I was
3 running and then I just remember feeling -- I have
4 always described it as this almighty blow to the back of
5 my head, just at my ear, and then I tried to stay on my
6 feet but I just couldn't, I couldn't stay on my feet and
7 I was desperate to stay on my feet because the ground is
8 the most dangerous place you can be, in a way, but
9 I just remember putting my hands out to save -- putting
10 my hands out like that (indicating) to, like, save
11 myself, as you would, you know, when you fall.

12 Q. So you felt one blow to the -- and you have pointed to
13 behind your right ear?

14 A. Yes.

15 Q. Can you show us -- and please either use image 5 or
16 image 6, whatever you prefer -- I would like you to show
17 us where you fell onto the ground.

18 A. I just remember seeing the kerb. I'm not saying I was,
19 like, right at it, but I remember seeing it, so are you
20 asking where I -- where I can recall?

21 Q. Where you fell, please.

22 A. It would be there roughly (indicating).

1 Q. So you're on the other side of Hayfield Road. I wonder
2 if image 8 might be useful. Do you see that this is
3 actually an image -- a sort of aerial view, not down
4 Hayfield Road, but you will understand that on the
5 left-hand side is the roundabout with Hendry Road?

6 A. Yes.

7 Q. And we can see the sort of island in the road there.

8 A. Mm-hm.

9 Q. And the vehicles aren't there at the moment, so I don't
10 know -- this may not assist you, or it may, but we can
11 see the road there, Hayfield Road. Again, can you point
12 out the area where you fell on this image? If you're
13 able.

14 A. Yes, I think it was roughly kind of --

15 Q. You can move -- we will take those away and we will do
16 it again.

17 A. Aye, sorry.

18 Q. Not at all.

19 A. Roughly there (indicating).

20 Q. Right, so that's beyond the row of cars we see on the
21 other side of Hayfield Road?

22 A. Mm-hm.

1 Q. There's a sort of grey silvery car at the front of that
2 row, and it's opposite the end of the houses at
3 Hayfield Road?

4 A. Yes.

5 Q. But not quite as far as the island that we can see
6 there?

7 A. Yes.

8 Q. Are you comfortable with that position?

9 A. Yes, there or thereabouts, like give or take. I can't
10 describe actually how -- like that moment felt like you
11 were running in slow-motion type thing, so give or take,
12 roughly.

13 Q. And you have talked -- you have described your hands --
14 you putting your hands out in front of you.

15 A. Yes.

16 Q. So your head was towards the pavement there.

17 A. Yes.

18 Q. And where were your feet?

19 A. Behind me, so facing the pathway that we had just come
20 from.

21 Q. Yes. And you have described Mr Bayoh behind you?

22 A. Yes.

1 Q. Now, in landing on the ground, describe to us the
2 position you were in.

3 A. I was on my front. Yeah.

4 Q. Did you remain flat on your front?

5 A. The next -- it kind of jumps because I remember being
6 hit, and then, like, knocked flying, for want of
7 a better phrase, and then hitting the ground, and then
8 the next thing I remember is curling up into a ball and
9 grabbing, like, the bun at the back of my head and
10 trying to protect my head, and I was on my right-hand
11 side on the ground.

12 Q. How were you wearing your hair that day?

13 A. I had it in a low bun.

14 Q. So you have curled up into a ball?

15 A. Yes.

16 Q. And you said your right-hand side?

17 A. Yes.

18 Q. Where was Mr Bayoh?

19 A. I can't say with certainty that I saw him, but it was
20 one of those instincts, I could feel -- I can't describe
21 it any better than that, that I could just feel his
22 presence was still there.

1 Q. Did you get a sense of where he was in relation to your
2 body?

3 A. Yes, at my back, so if I'm lying on my side like that,
4 he would have been there (indicating). That's how
5 I felt anyway.

6 Q. He was at your back?

7 A. Yes.

8 Q. And what did you do then?

9 A. I lay there shouting -- like, it's just a kind of --
10 like, at the same time as shouting, like, "No", I'm
11 lying there bracing myself for further blows similar to
12 the punch I got and then I was there and I can't --
13 I just remember it was like -- I just remember seeing
14 a kind of shadow -- don't ask -- I couldn't tell you who
15 it was or anything like that, and then this overwhelming
16 kind of feeling of "Get up, but get up right now" type
17 thing, so I went onto my knees and then I tried to stand
18 up but my legs weren't working, so I fell to my knees in
19 the middle of the road, and then I tried again and then
20 again, but it kept happening and I had absolutely no
21 idea what was going on, I just remember like trying and
22 I was crying and I looked up and I saw PC Alan Paton and

1 his eyes were just, like, bulging out of his -- like
2 just bulging, and obviously for this spray I look that
3 at that time that he was trying to keep his eyes open.
4 He came over to me and I was on my knees and he picked
5 me up from my stab vest, like, on the shoulder bit, and
6 he, like, put me on my feet and he went like that, and
7 he went "Run to the van, run to the van", like that, and
8 then he left and then I remember just, like, holding my
9 side and just -- I wouldn't even say walking, it was,
10 like, just kind of staggering and I got back to the wee
11 fish van that me and Ash were in, PC Tomlinson was in,
12 and then -- do you want me to stop?

13 Q. Okay, no, that's fine. Let's go back to image 6.

14 A. Okay.

15 Q. Actually, let's go back to image 5. So you mentioned
16 you were holding your side and you gestured to your
17 right-hand side.

18 A. Yes.

19 Q. And then you were heading back to the van.

20 A. Yes.

21 Q. So that's the fish van there on that image 5; is that
22 the van you were heading for?

1 A. Yes.

2 Q. And tell us what you did when you got there?

3 A. I got to that van and I turned round and I just remember
4 seeing Mr Bayoh lifting all three male police officers
5 off the ground and I remember just being like -- just
6 thinking "He's going to get up, he's going to get up and
7 finish me off", and I, like -- so I continued staggering
8 to the bigger van because I thought I need to get as far
9 away from this as I can.

10 Q. Right. You have given us a lot of information, so I'm
11 going to go back over some of that with you, if you
12 don't mind.

13 A. Yes.

14 Q. Right. You have described -- can we just go back
15 actually to when you were up close to -- so he was quite
16 close to you, within an arm's length.

17 A. Mm-hm.

18 Q. And when you saw Mr Bayoh that close, what was your view
19 about whether he was under the influence of anything?

20 A. I thought given that the -- it was kind of everything
21 put together, but especially the fact that -- and by
22 that what I mean is, like, his body language, the lack

1 of response or engagement with us to any kind of
2 instruction that we were giving him and -- but most of
3 all it was the fact that the spray -- neither the PAVA
4 spray or the CS seemed to work and -- what was your
5 question again, sorry?

6 Q. I'm asking you about whether he was under the influence?

7 A. Yes, so that spurred me to think that he was under the
8 influence of something.

9 Q. We may have heard evidence that certain conditions can
10 be caused if you're under the influence of drink or
11 drugs, and there's a condition that we have heard
12 reference to called excited delirium, or acute
13 behavioural disorder. Is that something you were aware
14 of?

15 A. Yes.

16 Q. And you have said in paragraph 15 of your statement that
17 he was:

18 "... out of control ... beyond reasoning with ...
19 and determined to fight himself out of the situations he
20 was in."

21 A. Mm-hm.

22 Q. When you said he was out of control and beyond reasoning

1 with, what did you mean?

2 A. Out of control -- well, out of control I would say that

3 he just wasn't engaging to any or -- to any of us and by

4 the time he came within an arm's width, he had had four

5 police officers instructing him to stop and to stay

6 where he was and he just wasn't and what added to that

7 was the fact that the spray didn't work, so that was,

8 you know, it's -- it's used to incapacitate people

9 essentially, and then that's probably the best -- I say

10 the best tool that we have to hand, but that's because

11 it can keep them at a distance and completely stop them

12 in their tracks, so that's what made me think he was out

13 of control. And what was the other one again?

14 Q. No, that's fine. So actually when you saw him being

15 sprayed by Walker and Paton and it having no effect, was

16 that the moment that you realised he may be under the

17 influence of something?

18 A. Yes, yes.

19 Q. Right. And so before you have mirrored him going up the

20 path, you had that information?

21 A. Yes.

22 Q. Had you thought about feeding that back to control room,

1 or to Sergeant Maxwell?

2 A. I will be honest, like I say, it was such a fast-moving
3 situation that we were in and, like I say, all the while
4 we're called there because -- and not just by one
5 witness, by several, that there's reports of a man with
6 a knife so -- sorry.

7 Q. No, that's fine.

8 A. What was your question again, sorry?

9 Q. I can't remember myself.

10 A. I'm getting tired.

11 Q. Are you okay to carry on?

12 A. Yes, I have just lost my train of thought, I just needed
13 to know what you asked me to get hopefully back on it
14 again.

15 Q. All right. Well, let me just check because we've got
16 a transcript and I will double check.

17 (Pause).

18 Right, I'm sure it was my fault. It will be
19 a poorly phrased question.

20 A. No.

21 Q. I had asked you if you had thought about maybe feeding
22 back that information.

1 A. Oh, yes.

2 Q. We were talking about the spray not having any effect
3 and you were aware of that being a red flag --

4 A. Yes.

5 Q. -- that he was under the influence of drink or drugs,
6 and I said had you thought about feeding that back to
7 the control room or to Sergeant Maxwell?

8 A. Yes. No, because there just wasn't enough time. This
9 was unfolding very quickly and as it did so, the risk to
10 the public, ourselves, just seemed to increase.

11 Q. So you have talked about the risks?

12 A. Yes.

13 Q. So how did the information that he may be under the
14 influence of drink or drugs affect that risk assessment
15 that you were doing?

16 A. On the way there or just...?

17 Q. After you realised the spray hadn't had any effect?

18 A. So are you meaning what effect did that have on my risk
19 assessment?

20 Q. That new information that the spray wasn't working --

21 A. Yes.

22 Q. -- so that's new information that you have now digested

1 yourself?

2 A. Yes.

3 Q. Did that have any impact on how you decided to deal with
4 the situation?

5 A. It just made me think that this -- even more so that he
6 needed to be stopped and that he was dangerous because
7 even at the first kind of -- the first kind of verbal
8 commands, they weren't working, so yes, in my mind to
9 that he was more dangerous and out of control and of
10 course we're called there to bring kind of -- I forget
11 the word, sorry, just to essentially make the area safe
12 again for the public.

13 Q. Okay. At any point did you think about treating it as
14 a medical emergency?

15 A. I would say the priority at that point was to get him
16 under control. I mean, that could have been
17 a possibility, absolutely. I mean, it was -- like
18 I say, it was obvious for that time that he was possibly
19 under the influence of something, but with all that in
20 mind, he still needed to be kind of stopped because,
21 like I say, the number of calls the public had made,
22 they were clearly in fear of their safety.

1 Q. So that was the priority for you?

2 A. Yes.

3 Q. Did you consider at any point just containing Mr Bayoh
4 in the path area, or calling for an ambulance for him?

5 A. There was no -- there was no -- there was no way of
6 containing him. As I say, I mirrored him for a period
7 of time and he just kept walking and the only thing that
8 seemed to almost snap him out of it, if you like, was me
9 taking my baton out and shouting the command and, as
10 I say, all the time, where is this knife that we have
11 heard from numerous witnesses that he has -- that they
12 have seen him in possession of, so ... yes.

13 Q. Thank you. So you have described earlier shuffling back
14 and then running on the road.

15 A. Yes.

16 Q. And you pointed that out to us, and feeling the almighty
17 blow at the back of your head.

18 A. Yes.

19 Q. How long would you say you were on the ground?

20 A. If it was just -- you mean from the memories that
21 I have? Because obviously I later found out that I was
22 knocked unconscious and I didn't -- I don't know any

1 details about that, that's still kind of trying to fill
2 in the blanks with that, but I would say -- I have a
3 memory of falling and then ... maybe 10 seconds or
4 something like that. I don't know. I couldn't say for
5 sure but ...

6 Q. So you were told by others later that you had been
7 knocked -- their impression was you had been knocked
8 unconscious?

9 A. Yes.

10 Q. That's not something you were conscious of or aware of?

11 A. Aye, yes.

12 Q. When you were on the ground, can you tell -- could you
13 tell from your position where PC Tomlinson was?

14 A. No.

15 Q. Or PC Walker?

16 A. No.

17 Q. Or PC Paton?

18 A. No.

19 Q. Can I ask you to look at paragraph 17, please:

20 "I had to be lifted by PC Alan Paton. The only
21 person I could see when I got back to my feet was
22 PC Paton."

1 Where was PC Paton when you got back to your feet?

2 A. Well, I didn't get back to my -- right, I will just ...

3 I got onto my knees and I had tried to stand up without

4 success two or three times and then I was on my knees

5 and I just remember looking up and I think he was --

6 I just remember he was like in front of me and then

7 I just remember seeing him and he came over and he was

8 completely in shock, like, grey in colour, and his eyes,

9 and he came over from the bus stop I would say, that

10 sort of area.

11 Q. I would like to go through your position on the ground

12 because you have described to us how you went from flat,

13 curled up and then tried to get up onto your knees.

14 A. Yes.

15 Q. And what I would like to do is to get another

16 demonstration from you.

17 A. Right.

18 Q. So I will bring you out and again, we can't hear

19 anything, so I don't need you to speak, but I would like

20 you to demonstrate to the Chair and the Assessors how

21 you were first of all when you landed and then the

22 position that you moved into.

- 1 A. Right, okay.
- 2 Q. Okay.
- 3 A. Yes.
- 4 Q. Thank you. So I will get you to come out and we can see
5 the cameras are on so no one will need to stand up.
6 Show us how you were when you landed first of all,
7 please. So you described earlier putting your hands
8 out. You don't have to simulate it, I just need you to
9 demonstrate how you were when you landed first of all.
- 10 A. (Inaudible - too far from microphone).
- 11 Q. Yes, please.
- 12 A. (Inaudible - too far from microphone).
- 13 Q. Thank you. And then I want you to show how you curled
14 up, sorry, into the foetal position, please. Take your
15 time.
- 16 A. (Indicating).
- 17 Q. Right. And you are lying on your right-hand side and
18 then can you show us how you managed to get up onto your
19 knees.
- 20 A. (Inaudible - too far from microphone).
- 21 Q. All right, thank you. Please go back, thank you very
22 much, Ms Short.

1 So when you landed, you were flat on the ground?

2 A. Mm-hm.

3 Q. And you had turned your head slightly to the right,
4 I think?

5 A. You see, I did that there but I honestly -- if I'm being
6 honest, I just remember putting my hands out and the
7 ground and then nothing, and then the next thing
8 I remember is the curling up.

9 Q. Okay. So you curled up and you were lying on your
10 right-hand side?

11 A. Yes.

12 Q. And you had your head -- hands, sorry, behind your head?

13 A. Yes.

14 Q. You told us you had your hair in a bun that day?

15 A. Yes.

16 Q. Did you have a hat on?

17 A. No.

18 Q. So you're on your right-hand side. You had told us
19 earlier Mr Bayoh was at your back?

20 A. Yes.

21 Q. And when you turned your body to get up on your knees,
22 am I right in saying you described PC Paton as in front

1 of you?

2 A. Yes, yes.

3 Q. Thanks. So you're on your right side and you then get
4 up on your knees and you get up and then was it at that
5 point that you went over to the fish van?

6 A. Yes, once PC Paton had picked me up and kind of perched
7 me on my feet is -- yes.

8 Q. And describe the equipment you're wearing round your
9 waist or your hips. Tell us what you had on you.

10 A. I would have had my baton holder, my spray in its
11 holder, handcuffs, there was a -- kind of like a pouch
12 that I had at the back of my belt that I would keep like
13 blue gloves in or first aid sort of stuff in, and
14 I think that was it.

15 Q. So you have shown us you're lying on your right side and
16 your -- can you tell us what was on your -- the right
17 side of your belt?

18 A. I know my spray would have been. I can't honestly
19 remember where my handcuffs would have been. My baton
20 holder was on my left side and then the black pouch that
21 I described for first aid things was on the back of my
22 belt, so it would be at my back.

1 Q. Could I ask you to look at a police vest. It's not your
2 police vest but it's a model, a size that --

3 A. Yes.

4 Q. Ms Taylor-Smith will show you that. That's the size,
5 I understand, that you would have worn that day?

6 A. Yes.

7 Q. And we will see that it's the black body armour bit
8 underneath and then the high visibility jacket over it.

9 A. Yes.

10 Q. So is it attached, that hi-vis?

11 A. No, it can come off.

12 Q. It can come off?

13 A. Yes.

14 Q. Oh, right. So seeing that now on the right, can you
15 describe to the Chair where your belt would be kept? Is
16 it over that, or is it under it?

17 A. Under it, so it would kind of be here (indicating) like
18 on your hips, so that would kind of come down to
19 wherever, and then your belt would be on your hips. So
20 it would be underneath that -- I don't mean underneath,
21 I mean here, below.

22 Q. Would you be able to slip that on and show us where the

1 belt would be?

2 A. Yes.

3 Q. Don't worry about touching that or anything, that's just
4 a model.

5 A. Okay. It's just fell off, sorry.

6 (Pause).

7 Q. I realise on the day you wouldn't be wearing a blouse or
8 a shirt.

9 A. Yes.

10 Q. So what were you wearing that day?

11 A. I was wearing my -- it's like a kind of zip-up top kind
12 of made of, like, cycling material, you could say, and
13 then I had a micro fleece it was called. It's just like
14 a thin fleece with "Police" on the arm. It doesn't
15 zip-up now because I have put on a bit of weight I'm
16 afraid.

17 Q. No, no, that's fine. So can you just point to the area
18 on your body that your belt with your equipment would
19 have been?

20 A. So it would be here.

21 Q. Right, so it's underneath that sort of hard part of the
22 vest?

1 A. Yes.

2 Q. And the black part of the vest that is longer, would
3 that go over the belt or would it --

4 A. No, no. You would probably put the belt over it -- no,
5 it would be above it. The vest would be above the belt.

6 Q. The vest would be above the belt?

7 A. Yes.

8 Q. So you wouldn't be pulling the vest over, the belt would
9 be exposed?

10 A. Yes.

11 Q. And on the right-hand side of the belt you said you had
12 your spray. Kay will take that for the moment.

13 Thank you.

14 So you had your spray. Anything else on the
15 right-hand side of the belt?

16 A. I can't remember where my handcuffs were. They might
17 have been on -- they may have been on my right because
18 I'm right-handed, so it would, I suppose, make sense.

19 Q. So the spray and maybe the handcuffs?

20 A. Yes.

21 Q. Anything else on that side?

22 A. No, not that I can recall anyway.

1 Q. And then you mentioned something about first aid.

2 A. Yes.

3 Q. Tell me what that was?

4 A. It's like a -- it was like a black pouch that would
5 slide onto your belt and be held there and within that
6 you could keep any kind of equipment that you might
7 need, like I say, I used the example of blue gloves for
8 use during searching people or going to injured people
9 or ...

10 Q. Anything else? You mentioned first aid, was there any
11 other first aid equipment?

12 A. I can't honestly remember. There was; I couldn't tell
13 you honestly what was --

14 Q. How big was that pouch? Do you remember?

15 A. There was one that was a bit bigger I had, it would be
16 about that (indicating). Like, I say the back of it
17 slotted onto your belt, and I think -- I'm just --
18 I think we had a smaller one too that was maybe about
19 that (indicating) by about that. Once again, it slipped
20 onto your belt.

21 Q. On that day, on 3 May, did you have the bigger one or
22 the smaller one?

- 1 A. I think I had both on the back.
- 2 Q. Both on the back?
- 3 A. Yeah. I would need to see it again but ...
- 4 Q. And were they both full of equipment or items, first aid
5 items that you wanted?
- 6 A. Yes. They weren't full to the brim or anything, but
7 they contained them, yes.
- 8 Q. Did they unzip or did they have a popper?
- 9 A. It was Velcro, so you just kind of ripped open the top
10 of it.
- 11 Q. And on the left of your belt you had your baton?
- 12 A. Yes.
- 13 Q. Anything else?
- 14 A. Not that I can remember. Yes.
- 15 MS GRAHAME: Okay. We were going to move on to -- you said
16 you saw Mr Bayoh lifting officers, so I'm going to move
17 on to that. Would you like a short break now or are you
18 happy to carry on?
- 19 A. Can I have a wee break after that, please.
- 20 LORD BRACADALE: (Mic turned off) we will have a short break
21 at this stage.
- 22 (12.10 pm)

1 (Short Break)

2 (12.25 pm)

3 LORD BRACADALE: Ms Grahame.

4 MS GRAHAME: Thank you.

5 When you were -- you have told us about how you were
6 on the ground and you have given us an estimate of the
7 time; can you recollect how long you were flat out on
8 the ground?

9 A. No, sorry.

10 Q. Do you remember how long you were curled up on the
11 ground?

12 A. I want to say about 7 seconds or something like that.

13 Q. In terms of proportion or percentage, how long were you
14 flat out compared to being curled up?

15 A. My memory of being -- like falling on the ground with my
16 hands ahead of me is like -- it's kind of like a second
17 and then I just go straight to curling up in a ball.

18 Q. Thank you. Can I ask you to look at a couple of things.

19 A. Yes.

20 Q. One should be a CS spray and one should be a baton.

21 I just really want to ask you if you recognise that they
22 were like the ones you had that day. They're models,

- 1 you can touch them.
- 2 A. Okay.
- 3 Q. Could you hold up the CS spray first of all?
- 4 A. Yes.
- 5 Q. And when you talk about the holster?
- 6 A. Sorry, I have just broken it.
- 7 Q. Don't worry, I have done that.
- 8 A. That's basically this black part is the holster and then
- 9 you can kind of see the white tin part of the CS
- 10 canister and --
- 11 Q. So you can remove that from your belt?
- 12 A. Yes. Yes.
- 13 Q. Can you remove it from the holster or is it contained
- 14 within the holster?
- 15 A. No, you can remove it from the holster. Yes.
- 16 Q. Then there's a --
- 17 A. This connects onto your belt so that if, you know,
- 18 you're not using it, you can essentially just drop it
- 19 and then it will still be attached to you, it wouldn't
- 20 then be free for somebody to pick up and --
- 21 Q. Use it on you?
- 22 A. -- use it on you, yes.

- 1 Q. And that's a sort of hard plastic holster?
- 2 A. Yes.
- 3 Q. Thank you. And then looking at the baton, do you
4 recognise the baton?
- 5 A. Yes.
- 6 Q. And would you be comfortable demonstrating how you
7 extend it? Is that something you can do?
- 8 A. Yes.
- 9 Q. If you don't feel comfortable with it, we can ask
10 someone else to do it.
- 11 A. Right.
- 12 Q. Try and avoid Ms Pang at the side. Maybe if you came
13 out into the middle that might be better. Thank you.
14 You will be out of practice.
- 15 A. (Inaudible - too far from microphone).
- 16 Q. There's a technique where you can move it sharply to the
17 side and it will extend automatically. Thank you.
18 Thank you very much.
19 You can come back and we will take those away.
20 Just before I leave this, could we look at
21 paragraph 30, please, of your Inquiry statement. Now,
22 this relates to a later period when you have gone back

1 to the canteen, and I will come back onto this in
2 a while, but it says:

3 "At some point, I had asked PC Ash Tomlinson what
4 happened back there, and he told me, 'Nicole, he was
5 stamping on you'. He told me that he thought I was dead
6 after being hit by Mr Bayoh..."

7 And then he went on to describe the sound.

8 And is that the first time in the canteen that you
9 were told Mr Bayoh had stamped on you?

10 A. Yes, yes, that's the first time I found out I was
11 unconscious as well.

12 Q. Thank you. Right, I would like to move on, as I said
13 I would, and I'm going to ask you about -- you're at the
14 van, you talked about going to the fish van and then you
15 talked about going to the Transit van to be further
16 away.

17 A. Yes.

18 Q. And is that -- the big white van was the Transit van we
19 saw on the previous images?

20 A. Yes.

21 Q. And explain to us where you were in that van, the
22 Transit van?

1 A. So I had managed to get to the passenger side but
2 I was -- I was in front of the van but at the passenger
3 side.

4 Q. Let's have a look at the images, that might make it
5 easier to describe. Maybe we could look at image 5,
6 please. Perfect. So we've got the Transit van there
7 and we've got the fish van. So where did you go in
8 relation to the fish van first?

9 A. I would say I turned round -- I was at the back of it.
10 I can't say with certainty which side, but I maybe got
11 to there.

12 Q. So that red circle number 1 seems to be at the rear
13 driver's -- rear driver's side.

14 A. Yes.

15 Q. What direction were you facing when you got to the fish
16 van?

17 A. Well, I turned round to see what was going on behind me.
18 Do you want me to carry on?

19 Q. Yes. Tell us what you saw when you turned round.

20 A. I turned round and I saw Mr Bayoh lifting the three --
21 my three male colleagues, PCs Tomlinson, Paton and
22 Walker, off the ground and struggling, with them I mean,

1 that he was --

2 Q. Right. I wonder if we could look at another image and
3 you can tell us where they all were.

4 A. Yes.

5 Q. So if we could look, please -- I think we had image 8 on
6 the screen at one point earlier and that might be the
7 best image to start with. What area were they in?

8 A. Just roughly kind of around maybe that sort of area
9 (indicating).

10 Q. Right. And you have talked about Walker, Paton and
11 Tomlinson being there?

12 A. Yes.

13 Q. From where you were at the van, the fish van, describe
14 what position they were in?

15 A. I can't say for certain who was where, but I just
16 remember Mr Bayoh -- I'm positive he was in a kind of
17 press-up position and that's how he was gaining kind
18 of -- he was -- as though he was trying to get up off
19 the ground and I just remember thinking those are
20 three -- three of the biggest guys on the shift and he
21 is managing to lift them up. It was like nothing that
22 I had ever seen before in my life, that level of

1 strength.

2 Q. Right, you have said press-up.

3 A. Yes.

4 Q. Now, there may be some debate about what a press-up is.

5 Could you -- you don't have to do one, but could you
6 come and show us what position Mr Bayoh was in when he
7 did this press-up.

8 A. Yes.

9 Q. Thank you.

10 A. (Indicating).

11 Q. Thank you. Where -- if you can help us, where was
12 PC Walker?

13 A. I can't say with certainty. I just remember turning
14 round and seeing the three guys -- the three officers
15 I mean -- struggling with him, like he was -- he was
16 just about overcoming them, if you know what I mean and
17 I just remember the three but I can't say with
18 certainty -- I just remember being, like, horrified
19 because I genuine -- I had a genuine belief he was going
20 to get up and finish me off. Sorry.

21 Q. So you have demonstrated the position that Mr Bayoh was
22 in.

- 1 A. Mm-hm.
- 2 Q. And a moment ago you have talked about him lifting the
3 three officers --
- 4 A. Yes.
- 5 Q. -- off the ground and struggling.
- 6 A. Yes.
- 7 Q. Where were the three officers at the point that Mr Bayoh
8 was on the ground in that position?
- 9 A. To the side of him. It was kind of like -- again,
10 I can't tell you which was which, but from memory I want
11 to say, like, one at each side at the arm bit, and then
12 maybe one behind, the one of them on the left of
13 Mr Bayoh, if that helps any.
- 14 Q. Yes, let's look at that. So Mr Bayoh's on the ground
15 and you have said one at each side at the arm bit?
- 16 A. Yes, both his arms, sorry.
- 17 Q. So one at each of his arms?
- 18 A. Yes.
- 19 Q. Mr Bayoh's arms?
- 20 A. Yes.
- 21 Q. And if he was trying to lift them off the ground, how
22 were they positioned in relation to Mr Bayoh?

1 A. Well, one was at each arm, they were kind of kneeling
2 down -- sorry, I just remember the struggle essentially,
3 but that's the general way -- the memory of it I have.

4 Q. And you have said one was behind on the left?

5 A. Yes, so if say -- the left, so if one person was getting
6 or trying to get my arm here and then the other was
7 maybe behind and trying -- I can't, like, speculate on
8 what they were trying to do, but I just mean if that
9 person was trying to get my arm, they would be behind
10 them, if that makes sense.

11 Q. Can you -- could you see from your position in the fish
12 van where Mr Bayoh's head was?

13 A. It was like facing the pavement.

14 Q. Facing the pavement?

15 A. Mm-hm.

16 Q. Is that the pavement where the houses were?

17 A. Yes.

18 Q. And was it closer to the roundabout with Hendry Road or
19 further back?

20 A. I couldn't honestly say. I couldn't honestly say,
21 sorry.

22 Q. Was he completely on the pavement, or was he at an

- 1 angle, or was he on the road?
- 2 A. I don't know. It was just --
- 3 Q. You see the red circle that you have drawn is half on
- 4 the pavement, half on the road.
- 5 A. Oh, right, yes.
- 6 Q. Are you comfortable with that position?
- 7 A. Yes, yes, because from my memory anyway it is there or
- 8 thereabouts type of thing.
- 9 Q. And when you say that one was behind on the left, as you
- 10 looked at that event unfolding, did you recognise who
- 11 was behind on the left?
- 12 A. No. I would just, I suppose, like to add as well that
- 13 that was just like a snapshot. Like I say, there
- 14 were -- he was violently struggling with them to the
- 15 point that I think that even -- well, I thought so much
- 16 so he was going to break free from the three officers.
- 17 I have totally forgotten my train of thought, sorry.
- 18 Q. That's okay. So as you're looking from the fish van,
- 19 when you say there was an officer behind on the left,
- 20 are you meaning behind Mr Bayoh on his left, or are you
- 21 meaning as you looked at the events unfolding, he was on
- 22 the left?

1 A. He was on Mr Bayoh's left but behind the officer in
2 front that had, or was trying to gain control of, like,
3 one of Mr Bayoh's arms.

4 Q. Okay, so on Mr Bayoh's left?

5 A. Yes.

6 Q. Okay. And you could see him struggling and what -- at
7 that moment, what did you do?

8 A. I turned back around and immediately thought I need to
9 create as much distance between me and him as possible,
10 so I staggered to the Transit van which was further
11 away.

12 Q. Right. Can we go back, please, to image 5. So you have
13 described how you were at the rear, really on the
14 driver's side of the fish van, and then show us where
15 you went to in relation to the Transit van and if you
16 want an arrow, that would -- we can put that on for you.

17 A. I'm trying to remember. So I think I kind of went
18 from -- round that way (indicating), stopped roughly
19 there.

20 Q. So although that's a straight line, is that you moving
21 round the passenger side of the fish van?

22 A. Yes.

1 Q. Towards the Transit van?

2 A. Yes.

3 Q. When you got to the Transit van, what did you do?

4 A. At that point I was struggling to breathe and I was
5 crying and -- you know, and looking back I had the wind
6 knocked out of me, that's how it kind of felt, and then
7 PCs Good and Smith arrived and PC Smith shouted across
8 "Are you all right?" but I couldn't answer him just
9 because I was -- like between struggling to breathe and
10 crying and then PC Good came over to me and PC Smith ran
11 off in the direction of where the other officers were
12 with Mr Bayoh.

13 Q. Did you actually go into that Transit van?

14 A. Not initially. I kind of -- I stopped when I saw their
15 car and when I saw them and they kind of, like, engaged
16 with me and Kayleigh came over with me -- to me, I mean,
17 I stood there trying to string the words together and
18 then I went into the van.

19 Q. From your position at the Transit van, could you see
20 anything of what was going on?

21 A. No.

22 Q. No. And can I ask you to look at paragraph 19 of your

1 Inquiry statement. This is:

2 "With regard to the restraint, Mr Bayoh's face was
3 towards the ground, but he wasn't flat on the ground.
4 It's best described as a press-up position with the
5 three officers trying to push him fully on to the
6 ground."

7 Do you remember the officers trying to push Mr Bayoh
8 fully onto the ground?

9 A. Yes. Yes.

10 Q. "Sheku Bayoh was incredibly strong in resisting the
11 attempts to put him fully on the ground, to the extent
12 that he lifted all three officers. I can't describe the
13 restraint in any more detail, I was in shock and
14 concussed. I can vividly remember what I've described,
15 but I can't tell you what officer was where in terms of
16 who was on the left or right of Sheku Bayoh."

17 A. Yes.

18 Q. Thank you. And then you have talked about PC Good -- is
19 that PC Kayleigh Good?

20 A. Yes.

21 Q. And PC Alan Smith?

22 A. Yes.

1 Q. Coming to speak to you at the Transit van?

2 A. Yes.

3 Q. Can I ask you to look please at PIRC 253, which was your
4 first statement and I would like to look at page 5,
5 please. So this is PIRC 253, statement 13 May 2015, so
6 ten days after the events, and I would like to look at
7 page 5. It is towards the bottom of that page, it is
8 paragraph 7. You said there:

9 "When I look back on the situation there is nothing
10 else we could have done differently or I could have done
11 differently. The man was deranged with superhuman
12 strength and in my mind intent on killing someone.
13 I have no idea how he died but ... [it] was
14 unavoidable."

15 It's the reference to the man being "deranged with
16 superhuman strength", and what part of the events does
17 that description -- that you're applying to Mr Bayoh?

18 A. I would say initially with the superhuman strength
19 element came with the PAVA and the CS spray having
20 absolutely no effect on him whatsoever. To me, again,
21 as I have mentioned, with the experience I have had of
22 it you have almost no choice to be incapacitated and

1 then the next one was the strength that he showed by
2 lifting those three male officers up off the ground.

3 Q. Right, and as I understand it, CS spray can incapacitate
4 a strong, fully grown man?

5 A. Yes.

6 Q. Is that your experience?

7 A. Yes, yes.

8 Q. So the superhuman strength is more to do with when he
9 was being restrained and lifting the officers, is it?

10 A. Yes, yes.

11 Q. Now, as I understand your statement to the Inquiry, it's
12 been seven years since you were a police officer and you
13 don't have a clear recollection now of all the training
14 and the standard operating procedures?

15 A. No.

16 Q. Right. Well, you said that at paragraph 39. I just
17 wanted to check that that's the position. So I'm not
18 going to go into all the details with you for that
19 reason. But looking back now, could you then describe
20 the sort of level of force that was being used by the
21 three officers to try and restrain Mr Bayoh to the
22 ground?

1 A. I would say that it was completely in line with the
2 level of violence and resistance shown by Mr Bayoh and
3 in actual fact he was -- Mr Bayoh was bordering on
4 overcoming them.

5 Q. Okay. And then you have talked about Smith and Good
6 coming to speak to you. Do you remember
7 Samantha Davidson coming to speak to you?

8 A. I remember when I was in the van I was sat in the
9 passenger side and then she opened the driver side and
10 that's about all the memory I've got.

11 Q. And was that the front passenger side of the Transit
12 van?

13 A. The Transit van, yes.

14 Q. And then was it DI Colin Robson took you to
15 Victoria Hospital?

16 A. Yes.

17 Q. And how were you feeling at that time?

18 A. Well, I remember, like, looking down and I remember my
19 police issue trousers being soaking wet, my belt was all
20 around the wrong way, the front of me was wet because it
21 had been raining that day and I remember my radio was
22 upside down, the ear piece was out and I felt -- sorry,

1 I can't find the words. Physically I felt sore. I had
2 a sore head, knees, hands, side, and emotionally I just
3 felt absolutely broken to be honest. I described when
4 I burst out crying in the van and it was just myself and
5 I would compare it to when like a child really, really
6 cries, like not just -- that's the only way I can
7 describe it. If you hear a child crying and you think
8 "Oh, they have had a sore one", that's how I would
9 describe my crying and I was shaking with fear,
10 adrenaline, I couldn't catch my breath. I was still
11 crying. It took a while, or what felt like a while to
12 tell PC Good that Mr Bayoh had punched me. Yes.

13 Q. And as you were describing that, when you said your
14 side, you gestured to your right side, is that right?

15 A. Yes, yes.

16 Q. Thank you. Do you know how your belt became twisted?

17 A. No.

18 Q. Do you know when that happened?

19 A. No. I mean all I can say is when I took it -- I took my
20 baton out and in the short time that, you know, when he
21 was closing the distance between myself and Mr Bayoh,
22 you know, when I looked down it was straight, it was

1 where everything should be, the buckle at the front --
2 or the clip, I should say, sorry, at the front and then
3 afterwards it just wasn't.

4 Q. So it was in the right place when you were mirroring
5 Mr Bayoh on the path and then when you pulled your baton
6 out?

7 A. Yes.

8 Q. But in the Transit van, you realised it had moved?

9 A. Yes, it was outside. It was before I got into the van,
10 I just looked down and -- yeah.

11 Q. Thank you. I want to make sure I've got all of the
12 evidence from you about the scene. What I would like to
13 do now is maybe go through some of the statements that
14 are in the black folder. So if we could start with the
15 one from 13 May, that's the first statement, PIRC 253,
16 and I'm going to look first of all at page 2. They're
17 very short paragraphs here. It is paragraph 8 -- so you
18 were -- it was there in the screen there, it starts
19 "Craig and Alan's van".

20 A. Yes.

21 Q. And that was just:

22 "Craig and Alan's van was parked near the bus stop

1 and they were both out of the van and both had their
2 sprays out."

3 That's what you told us earlier, isn't it?

4 A. Yes.

5 Q. Right. I would like to just carry on looking at that
6 page just down to the bottom of that page, so if we can
7 move up a little. Thank you, stop please, and just move
8 down a little. That's fine. And you have talked about
9 them screaming at the man and what they said and you
10 say:

11 "Any normal person would have been left in no
12 uncertain terms to get back however the guy paid no
13 attention and kept going towards them aggressively as if
14 he was going to attack them."

15 Do you remember saying that when this statement was
16 taken?

17 A. I mean yeah, words to that effect, yes.

18 Q. Now, correct me if I am wrong, but earlier you talked
19 about him having clenched fists.

20 A. Yes.

21 Q. That's not mentioned there, but was that the sort of --
22 was that how you realised he was aggressive or doing it

1 aggressively? Was it the clenched fists or was it
2 something else?

3 A. It was probably that mixed with the lack of kind of
4 engagement back to us, lack of communication. I just
5 personally found that quite frightening. It's really
6 unusual that you would get somebody make no -- have no
7 communication with you, like none whatsoever.

8 Q. To say nothing at all?

9 A. Yes.

10 Q. Had you ever experienced that before?

11 A. No, never.

12 Q. And then you talk about:

13 "Alan and Craig are both big guys. They are tall
14 and well built but the guy showed no fear and was going
15 towards them. I remember thinking 'shit, this is real'
16 to such an extent that I shouted out 'oh, fuck'. I was
17 absolutely terrified at what I was witnessing."

18 You say "Alan and Craig are both big guys"; were you
19 conscious that they were bigger than the male?

20 A. It's not a thought that went through my mind at the
21 time. I think what I meant by that was they were
22 both -- well, they're both tall, like I say, they're

1 both big guys, and I suppose maybe in -- when I'm
2 sitting here now I look back and I think they were both
3 like -- the experience that they both had as well, but
4 now I know obviously that they are taller, they were
5 taller than Mr Bayoh.

6 Q. We have heard they were 6 foot 4?

7 A. Yes, okay.

8 Q. Then you say:

9 "I have never ever seen a more frightening crazy man
10 in my life and I could see he was completely out of
11 control."

12 Was that your impression at the time?

13 A. Yes.

14 Q. And you said he was -- you have never ever seen a more
15 frightening crazy man in your life. What was it about
16 the way he appeared or his demeanour at that time that
17 caused you to view him in that way?

18 A. The walking on a mission, not listening to a word we
19 were saying, the -- there was -- it was like there was
20 nothing there. His pupils were big and black and there
21 was just -- nothing we were saying was registering --
22 nothing we were saying was registering. He wasn't

1 listening to any direction from us. He was kind of just
2 doing what he wanted and then the more frightening thing
3 for me was seeing the spray not working on him and
4 that -- again, it's something we were taught about, but
5 I had never seen it before and then -- it was just so
6 out of control and -- yeah, I don't know.

7 Q. If -- we have heard that Sheku Bayoh was 12 stone 10 and
8 5 feet 10. If he had been white, would that have made
9 him seem different to you and --

10 A. Absolutely not.

11 Q. Why do you say that?

12 A. Because the actions would have been the same. You know,
13 the walking away, the spray not working. The colour of
14 his skin had absolutely no bearing on how we reacted to
15 that call whatsoever.

16 Q. Okay. And then can I ask Ms Wildgoose to move on to the
17 next page, page 3, please. At the top of this page you
18 say:

19 "Alan and Craig had no option but to spray him and
20 they did so as I jumped out of the van."

21 So was that your recollection on 13 May, that as you
22 jumped out of the van they sprayed Sheku Bayoh?

1 A. I'm trying to remember. Well, yes, that's -- yes, on
2 13 May, yes.

3 Q. Yes. And does that differ from your recollection now?

4 A. I would say when I was asked in kind of broken down --
5 more broken down questions that I could pinpoint it kind
6 of more -- like moment by moment, whereas that's quite
7 a generalised sentence.

8 Q. Yes. I wonder if we could go back to the enhanced video
9 timeline then because this obviously is moment by
10 moment, you know about the real time clock. And if we
11 can look maybe just prior to when your van stops, so
12 just prior to 7.20.39 or just 7.20.39 will be fine.

13 Right so, we're on 7.20.37 at the moment and you will
14 see that the van's come into view, so the Transit van's
15 there and then at 7.20.39 we will see yours, so what I'm
16 going to do is just to ask Ms Wildgoose to play a short
17 segment to, around, say 7.21. That would be fine,
18 thanks.

19 (Video played)

20 That's lovely, thank you. So let's go back to
21 7.20.39, if we can. You will have seen the smaller van
22 arriving at this moment.

1 A. Mm-hm.

2 Q. And do you want to have the spreadsheet in front of you,
3 please.

4 A. Yes.

5 Q. You will see on page 3, towards the bottom of page 3,
6 7.20.39, and it says:

7 "Smaller police van stops at Hayfield Road."

8 Do you see that in the description?

9 A. Yes.

10 Q. "Just before reaching where persons are behind large
11 police van."

12 Do you see that?

13 A. Yes.

14 Q. And then it appears that:

15 "The driver's side door on the smaller police van
16 opens and a person gets out."

17 And that will have been PC Tomlinson?

18 A. Yes.

19 Q. And then it says at 7.20.42:

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

21 And I think you said earlier you weren't conscious
22 of that?

1 A. Yes.

2 Q. And then it says:

3 "Appears person who exited driver's side door on
4 smaller van moves around in front of the smaller van and
5 a person who had been standing at the rear of the larger
6 police van moves and walks behind the smaller police van
7 towards the direction of the roundabout."

8 And so what I would like to do is just look at that
9 again and then maybe ask you to comment on that.

10 A. Okay.

11 Q. So if we start at 7.20.39 -- it's on 38 at the moment --
12 we will just play that and if you look at the CCTV, you
13 will see the movement and then we will get to 7.20.50.

14 Thank you.

15 (Video played)

16 Thank you. If we could just stop there. Can you
17 see the movement of people in the CCTV as we go through
18 it?

19 A. Yes.

20 Q. Is that effectively the events you described when you
21 were getting out of the van? You arrived, you get out
22 of the van and you see the other officers on the scene?

1 A. Yes.

2 Q. Thank you. So when you got out of the van, PC Walker
3 wasn't at the front of his van, hidden from view from
4 you?

5 A. No.

6 Q. No. And did you at any time see PC Walker on the
7 driver's side of his van?

8 A. Not that I remember, no.

9 Q. And when they were touching their eyes after the sprays
10 had been used, that was on the passenger side of the
11 Transit van?

12 A. Yes.

13 Q. Not the other side?

14 A. From my memory, it was the passenger side.

15 Q. Yes. And then I'm going to be moving on to look at the
16 CCTV in relation to the path, but I'm conscious it's
17 1 o'clock.

18 A. Okay.

19 Q. And --

20 LORD BRACADALE: We will take lunch there and sit at
21 2 o'clock.

22 MS GRAHAME: Thank you.

1 (1.01 pm)

2 (The luncheon adjournment)

3 (2.03 pm)

4 LORD BRACADALE: Now, Ms Grahame.

5 MS GRAHAME: Thank you. Sorry, I'm just finding my right
6 page.

7 (Pause).

8 Could I ask you to look please at PIRC 254. So this
9 is the second -- that's the document ID number. This is
10 the statement given on 4 June 2015 --

11 A. Okay.

12 Q. -- at Auchterarder, and I would like to look at the
13 final page, please, and you will see that the
14 penultimate paragraph, or the final paragraph:

15 "On page 9 I would like to make it clear ..."

16 So that's on the screen at the moment and it says:

17 "Also in relation to P16 I wish to add as

18 Sheku Bayoh was walking away from me he was 'out of

19 control', 'too aggressive'. He was not the type of

20 person who you like to allow to walk the streets. I

21 felt he was hell bent on hurting somebody. I mean by

22 this anybody who was coming along and came into contact

1 with him."

2 And that was something you wanted to add to the
3 statement. Can you tell us a little bit more about why
4 you wanted this to be added?

5 A. I just wanted to really put across -- like really how it
6 was from my perspective, in that I really felt that he
7 posed a large risk to members of the public and I didn't
8 want anybody innocently coming around the corner and
9 coming across him, and that goes for what we experienced
10 when we encountered Mr Bayoh, and obviously the calls
11 for the witnesses that dialled 999.

12 Q. And when you said he was not the type of person who you
13 like to allow to walk the streets, what did you mean by
14 that?

15 A. What I mean by that is that -- basically the -- well,
16 for me, the public phoned us because they felt unsafe,
17 they witnessed a man in possession of a knife. They
18 phoned us to respond to that, to then investigate that,
19 I suppose, and make the area safe again. I wasn't
20 content, I suppose, with just simply letting him walk
21 away. We still had to eliminate whether he was a danger
22 or not, but he simply didn't give us the chance to do

1 that.

2 Q. So when you said "The type of person", are you talking
3 about someone who is said to be in possession of
4 a knife?

5 A. Yes, yes.

6 Q. Right. Can I ask you to look at PIRC 255, which is your
7 third statement dated 9 June. This is the one that was
8 given in the Police Federation offices in Livingston on
9 9 June to Investigator John Ferguson and DSI Headrick.

10 Can I ask you to look at page 2 please and
11 paragraph 5, so that's towards the middle of the page:

12 "I have been asked if I can recall the point I spoke
13 earlier of when I was 'curled up on the ground'.

14 I remember having a conscious feeling of 'not being able
15 to get up'. I can say I had a sore body, ie my side and
16 my [hips]. I had the wind knocked out of me. My
17 utility belt had also dug into my hips so my hips were
18 sore. I do not recall 'strikes to my body' whilst I was
19 lying on the ground. I feel that Sheku Bayoh was
20 somehow 'trying to stop me getting up but I can't say
21 how'."

22 Can I ask you, the reference to the utility belt; is

1 that the reference to the belt that we were talking
2 about earlier?

3 A. Yes.

4 Q. And where had it dug into your hips?

5 A. I just kind of felt where my spray and my baton -- just
6 that kind of general area.

7 Q. Just your hip area on both sides?

8 A. Yes.

9 Q. Right. And that was causing your hips to be sore?

10 A. Mm-hm.

11 Q. Both hips?

12 A. (Nods).

13 Q. Thank you. Where they had dug in?

14 A. Yes.

15 Q. Can I ask you to look at paragraph 6, please, so that's
16 just the one down below, just under there.

17 Sorry, page 3. So it's towards the bottom of
18 page 3, paragraph 6, and this is after you have gone
19 back to Kirkcaldy Police Office:

20 "I sat down with my team, they asked me how I was.
21 I explained I was 'sore'. I said 'what happened to me
22 after he punched me?' PC Tomlinson said, 'He was

1 stamping and kicking at you every time you tried to get
2 up'. I knew he meant Sheku Bayoh when he spoke of
3 this."

4 And so it was PC Tomlinson that had that
5 conversation with you?

6 A. Yes.

7 Q. Was that in the canteen?

8 A. It was, yes. I sat down and I just had pain elsewhere
9 in my body that -- along with the pain where I was aware
10 he punched me.

11 Q. And we see there in that final paragraph in quotation
12 marks "He was stamping and kicking at you every time you
13 tried to get up". Is that your recollection when you
14 gave this statement of what PC Tomlinson said?

15 A. Yes.

16 Q. Thank you. Can I ask you to look at page 3 of your
17 affidavit. So the affidavit is from 30 August 2018 and
18 if we're on page 3 I'm interested in paragraph 6. Now,
19 this is quite a long paragraph so I will read out what
20 it is I want to ask you questions about, but you will
21 see this one starts "In response to the escalating
22 situation ..." and then you give some information and

1 I'm interested in the expression that is about eight
2 lines down, or seven lines down:

3 "I've never seen anything like it before, he was
4 like a zombie."

5 I would like to ask you about your use of the word
6 "Zombie" and what it is -- have you found that on the
7 page, sorry --

8 A. Yes.

9 Q. -- it is quite a long paragraph. So I would like to ask
10 you about your use of the word zombie, and why you used
11 that word.

12 A. I think that was just used in a description to the lack
13 of -- you know I said earlier like nothing was going in,
14 nothing of what we were saying seemed to be getting any
15 response whatsoever and by that I mean any kind of
16 facial expressions, any body language, no communication.

17 There was just nothing and, yeah, really that --

18 Q. When you used that word there, zombie, was there any
19 part of that reference to the fact that he was black?

20 A. No.

21 Q. Can we move up please to the final line of paragraph 6
22 in the affidavit and then you will see it says:

1 "I did not feel him hitting me again and am not sure
2 that I was conscious, but I was later told that he
3 stamped on me at least three times."

4 And again, is that a reference to what PC Tomlinson
5 told you, or is that in relation to someone else?

6 A. I can't remember exactly. I just -- I just remember the
7 emphasis being put on when I first tried to get up he
8 stamped on me and then he was continuing to until he was
9 stopped. I don't -- obviously I'm just trying to piece
10 together -- fill in the blanks essentially. Yes.

11 Q. So this is your understanding of what you were told --

12 A. Yes.

13 Q. -- somebody else witnessed?

14 A. Yes.

15 Q. Thank you. Now, do you remember when we talked about
16 the events earlier I said we will be able to come back
17 and fine-tune things?

18 A. Mm-hm.

19 Q. Well, Mr DeGiovanni has been preparing some images that
20 I would really appreciate if you would look at.

21 A. Yes.

22 Q. And we can -- he is going to hopefully be able to do

1 that now. I don't know if he needs a break or -- he is
2 happy to move straight into this. And you will know
3 that we can move things around until you are comfortable
4 with them, but they're still images, they're not moving
5 images, so they're snapshots, if you like, of what you
6 described earlier.

7 A. Yes.

8 Q. Now, there are four I'm going to go through with you and
9 the first one you will see shows the Transit van and the
10 fish van and you will see on the left beside the fish
11 van there's now a character, a blue character there with
12 the name "PC Short", so that's designed to demonstrate
13 yourself.

14 A. Yes.

15 Q. And then you will see there's three other characters;
16 two, PC Paton and PC Walker are also in blue, and then
17 Mr Bayoh in green. Do you see those?

18 A. Yes.

19 Q. So let's just go through everybody so I can make sure
20 you're comfortable that it's a reasonable indication of
21 where people were.

22 Can we start with yourself, please, PC Short. Is

1 that a reasonable indication of where you were standing
2 at the fish van?

3 A. Yes.

4 Q. Or would you like to move that?

5 A. No, that's accurate.

6 Q. You're quite comfortable with that?

7 A. Yes.

8 Q. And in terms of the direction in which you were facing?

9 A. Mm-hm.

10 Q. Are you happy with the --

11 A. Could you zoom out again just to ... yes.

12 Q. Are you happy with that?

13 A. Yes.

14 Q. Okay, great. And then if we can look at PC Paton now,
15 please. Now, again are you -- you will see that he has
16 been positioned -- you will see the bus stop at
17 Hayfield Road?

18 A. Yes.

19 Q. The yellow markings are on there and the van. Can you
20 tell us, are you comfortable with where PC Paton is in
21 relation to your recollection when you were standing on
22 Hayfield Road, or would you like to move that?

- 1 A. I thought he was a wee bit further back.
- 2 Q. We will just do that now. So closer to the van?
- 3 A. Yes, yes, but in front of PC Walker because I could
- 4 still -- yes, so kind of where I'm standing I would
- 5 still see the two of them, type of thing.
- 6 Q. Does that look more realistic?
- 7 A. Yes, yes.
- 8 Q. But you think PC Walker was closer to the van, did you
- 9 say?
- 10 A. No. If you just ... he is fine where he is.
- 11 Q. And then Mr Bayoh, would you like to adjust his
- 12 position?
- 13 A. I have just got a memory of him being on the grass, so
- 14 that's fine.
- 15 Q. If we could maybe have a look at -- there's an
- 16 indication -- a facility on this 3D reconstruction that
- 17 allows us to see an indication of your line of sight?
- 18 A. Yes.
- 19 Q. So let's look at that and then you can further adjust
- 20 things --
- 21 A. Yes, okay.
- 22 Q. -- once you see that. So if we could maybe move to your

1 line of sight. So that's from the character who is
2 positioned beside the fish van.

3 A. Right, I could see Craig more clearly so maybe -- sorry,
4 PC Walker more clearly, so maybe move him back towards
5 the van.

6 Q. Move him a little bit closer to the van.

7 A. Yes.

8 Q. But in terms of PC Paton's position, are you happy with
9 that?

10 A. Yes.

11 Q. So PC Walker a little bit closer to the van. Again,
12 could we maybe have a look at PC Short's line of sight.
13 Does that --

14 A. Yes.

15 Q. And in terms of Mr Bayoh's position?

16 A. Yes, I'm fine with that.

17 Q. So looking at that image 1, are you comfortable with the
18 way that is -- is that a reasonable indication of what
19 you could see when you were at the fish van?

20 A. Yes.

21 Q. Thank you. Let's move on to image 2, please. This
22 should show the path and there's a couple of positions

1 here that you have described so we will go through this
2 slowly. It takes a minute to load all of this up onto
3 the screen, so we will just give this a moment. We can
4 see the different layers building up. And you can
5 already see on the screen that there's -- the fish van
6 is there at the bottom of the screen and your position
7 is there beside the fish van. Now, you will see that
8 Mr DeGiovanni has put in a green character for Mr Bayoh,
9 both towards the beginning of the path and then further
10 on up the path, and I just want to check are you
11 comfortable with the position that Mr Bayoh is at at the
12 end of the path, or the furthest point along the path to
13 which he reached? If we can just see that. You had
14 pointed -- you had drawn an arrow I think --

15 A. Yes.

16 Q. -- in the original image.

17 A. Right. So you're asking if I'm happy with the
18 positioning of Mr Bayoh initially? Yes, I'm --

19 Q. You're happy?

20 A. I'm happy with that, yes.

21 Q. And at the furthest point along the path?

22 A. Yes.

1 Q. Are you happy with that?

2 A. Yes.

3 Q. And then we see that then you are positioned both beside
4 the fish van, where you were before, but then there is
5 also -- I think on the original image earlier today you
6 pointed with an arrow and you said you were between --
7 you had moved into the trees?

8 A. Yes.

9 Q. And during that period you had been mirroring Mr Bayoh
10 walking along the path?

11 A. Yes.

12 Q. Are you content that the PC Short blue character there
13 near the tree is a reasonable indication of the point
14 you reached as you were mirroring Mr Bayoh, or would you
15 like that moved?

16 A. No, that's fine.

17 Q. That's fine. And then I think you also talked about
18 PC Tomlinson, and again, looking at the image of
19 PC Tomlinson there, are you comfortable that that's
20 a reasonable indication?

21 A. Yes.

22 Q. And then you also spoke about PC Walker and you said --

1 in fairness to you I don't think you said you were sure,
2 but you pointed to an area on the screen. Again, are
3 you comfortable that where we see PC Walker there is
4 where you remember PC Walker?

5 A. Yes.

6 Q. Thank you. Thank you very much.

7 Then let's move on to the third image. Now, this
8 should be showing the area where you're talking about
9 using your baton and then the fall when you fell --

10 A. Yes.

11 Q. -- on the ground, and again, it will take a few moments
12 to load everything onto the screen. Again, with this
13 image, image 3, you will see -- you spoke about you
14 being behind the fish van, or to the rear of that,
15 Mr Bayoh being there and you talked about him being an
16 arm's length from you --

17 A. Yes.

18 Q. -- and you pulling your baton.

19 A. Mm-hm.

20 Q. Looking at that image and those two characters there, do
21 you feel they are a reasonable indication of where you
22 were?

1 A. Yes, yes.

2 Q. And then you spoke about moving across Hayfield Road to
3 where the houses were and you pointed to where you were
4 when you were struck, and then when you landed on the
5 ground?

6 A. Yes.

7 Q. Again, you will see that Mr DeGiovanni has created
8 characters of you and there's a "PC Short (run)" and
9 then there's an image of someone lying on the ground.

10 A. Mm-hm.

11 Q. Are those a reasonable indication of your position?

12 A. The "PC Short (run)" is that where I have said, like,
13 I was hit, punched or ... because I pretty much ran from
14 where -- from where the figure is in front of Mr Bayoh
15 in the green.

16 Q. Do you want to indicate on the screen where you were
17 struck -- where you were when you were struck? Do you
18 feel that's --

19 A. That's okay.

20 Q. So the "PC Short (run)", do you feel that's a reasonable
21 indication of where you were when you were struck or do
22 you want to move that?

1 A. It probably is because I remember only getting -- like,
2 running a couple of strides, if you like, if that,
3 before he punched me. I was just wanting to make sure
4 that's what I meant, that's all.

5 Q. But you're quite happy with the position?

6 A. Yes.

7 Q. And the direction that that character is facing, are you
8 happy with that? Do you want to adjust it in any way?

9 A. No, it's just I'm just trying to think -- yes, it's --
10 I'm happy with that.

11 Q. You're happy with that. Do you want to see the line of
12 sight from that character? Would that help?

13 A. Yes. I just pretty much felt like -- so I'm an arm's
14 length away from him and then I turned right around and
15 just ran.

16 Q. Okay.

17 A. So I guess that would make it if the one in the middle
18 of the road was -- I suppose I'm thinking I ran in
19 a straight line which may not have been the case, but
20 it's -- the positionings are fine, I'm just trying to
21 think, like, how did I run.

22 Q. Because if you wanted to move any of these characters,

1 you can do so.

2 A. Yes. From my memory, if we could move the one in the

3 middle of the road just up to behind the one where --

4 Mr Bayoh because that's kind of what I'm --

5 Q. So more in line with --

6 A. Yes --

7 Q. -- Mr Bayoh?

8 A. -- just a bit closer, yes.

9 Q. Mr DeGiovanni will move that closer and you can maybe

10 say stop when you want him to stop.

11 A. Stop. And then up a wee -- keep going.

12 Q. Keep going, please.

13 A. That will do. Yes. That's fine.

14 Q. Is that a better position?

15 A. Yes.

16 Q. And then do you want to move -- you will see the

17 character flat on the ground. Do you want to move that

18 character as well?

19 A. No. No, that's fine.

20 Q. So you were -- you're happy that that's the direction

21 you were running, you were struck and then you landed

22 roughly in that position on the ground?

1 A. Roughly, yes.

2 Q. Right. Was your head sort of towards the pavement and
3 your legs towards the grassy area?

4 A. Yes.

5 Q. Are you reasonably comfortable that you were straight
6 like that, or do you feel you were more at an angle, or
7 do you want to change the position at all?

8 A. No, that's fine.

9 Q. You're happy with that, thank you. Then we will move on
10 to the final image, image 4, and this will show you the
11 fish van.

12 A. Okay.

13 Q. Just to be clear, so the fish van is there. You are
14 positioned to the rear of the fish van near the driver's
15 side. Are you comfortable that that's where you ran to
16 first, or do you feel you want to adjust that?

17 A. Could you adjust it to be just beside the -- at the
18 passenger side but still at the rear of the van, like
19 further to the -- onto the -- yes, yes.

20 Q. And are you comfortable with the direction that's
21 facing?

22 A. Yes.

1 Q. And then you described the position of Mr Bayoh and
2 again Mr DeGiovanni has created a green character on the
3 road and the pavement there. Are you comfortable with
4 that?

5 A. Yes.

6 Q. Do you want to adjust that in any way?

7 A. No.

8 Q. And then you talked about moving from the rear of the
9 fish van over to the Transit van. Again, we see
10 a character, a blue character at the Transit van. Do
11 you want to tell us where you were in relation to the
12 Transit van?

13 A. If I remember -- I seem to remember the Transit van
14 being a wee bit further forward and I was standing next
15 to a tree on the grass, so if I could move that to on
16 the grass area, but just ...

17 Q. We will maybe just look more closely at that. So we can
18 see a tree on the grassy area. Are you more comfortable
19 with that position or --

20 A. Yes, that's fine.

21 Q. And then what direction were you facing?

22 A. Could you zoom out? Because the van was blocking my

- 1 view when I turned around so --
- 2 Q. Would you like to see the line of sight from that
- 3 person?
- 4 A. Yes, because I might be a wee bit further up towards the
- 5 shelter.
- 6 Q. Right.
- 7 A. Yes, if you move me further up -- then again if the van
- 8 was further in.
- 9 Q. Does that help you position yourself?
- 10 A. Yes, because -- could I see the line of sight on that?
- 11 The Transit van was blocking my view. I couldn't see
- 12 across the road.
- 13 Q. Okay. How far were you from the tree?
- 14 A. I remember being near it, feeling like I was under the
- 15 tree, but that's just my memory just now, you know.
- 16 Q. But certainly by the time you got to the Transit van,
- 17 you felt your view was blocked?
- 18 A. Yes, yes.
- 19 Q. Okay. So -- but your recollection now is that you were
- 20 nearer the tree?
- 21 A. Yes, I was aware of the, like, branches being overhead
- 22 type thing, so yes.

1 Q. All right. So closer to the tree than to the van?

2 A. What was that?

3 Q. Closer to the tree than to the van?

4 A. Yes.

5 Q. And then at some point you actually got into the front
6 passenger seat of the van --

7 A. Yes.

8 Q. -- in any event? And your recollection when you were at
9 that stage you couldn't see what was happening further
10 down Hayfield Road?

11 A. That's right, yes.

12 Q. All right. Thank you very much.

13 Right, I would like to move on now, please, and ask
14 you some questions about when you went to the hospital.

15 A. Okay.

16 Q. So in paragraph 22 of your statement to the Inquiry you
17 mention that on arrival at Victoria Hospital, so
18 paragraph 22:

19 "... I saw Nurse Leigh Ann McLaughlin."

20 And you say:

21 "She states that I did not know if I had been

22 knocked out. That is true, I didn't know, my hand was

1 all over the place..."

2 Do you want to make a change to that?

3 A. Yes, I think that's meant to say "My head was all over
4 the place".

5 Q. "Head was all over the place":

6 "... and I only learned from my colleagues that
7 I had been unconscious after being struck by
8 Sheku Bayoh."

9 And that's what you said earlier?

10 A. Yes.

11 Q. Right. So you have told us earlier that you were -- at
12 this point when you have arrived at Victoria Hospital
13 you didn't know what your colleagues subsequently told
14 you about being knocked unconscious or being stamped on?

15 A. No.

16 Q. You didn't know either of those things, so you certainly
17 didn't tell Nurse McLaughlin those things at that point?

18 A. No.

19 Q. Then can I ask you to look at paragraph 23 and you say
20 you were subsequently seen by Dr Mitchell and again,
21 when you saw Dr Mitchell, you didn't know either of
22 those things --

1 A. No.

2 Q. -- at that stage. So can you explain to us --

3 paragraph 23, you say that:

4 "... Dr Mitchell discounting the possibility of my
5 loss of consciousness because of my ability to recall
6 events prior to and after the incident, I would state
7 the following. In actual fact I couldn't remember many
8 of the details of the incidents and because of my mental
9 state I didn't realise it whilst in hospital. I told
10 the doctor at the time that I knew I wasn't speaking
11 [properly] but she discounted that for some reason."

12 Can you explain to the Chair what you meant when you
13 said "I wasn't speaking normally"?

14 A. I felt like I was -- I wasn't saying the right words.

15 I felt that I was slurring a lot. I just knew that that
16 wasn't normal for me and how I had been before and
17 I tried to tell her that, but she said that I sounded
18 fine to her.

19 Q. Right. And then you talk about -- in the next

20 paragraph, 24, you were staying alone and not with
21 someone else and you lived in your own house at that
22 time. Could you just explain what the significance of

1 that was?

2 A. I think she had said in one of her statements that she
3 thought I was going home to stay with my mum and dad,
4 but I wouldn't have been because they were going away on
5 holiday early the next day and I had my own house,
6 so ...

7 Q. So she made an assumption about you?

8 A. Yes.

9 Q. Right. And then can we look at the next paragraph
10 please, paragraph 25. You have looked at Dr Mitchell's
11 statement to the Inquiry and:

12 "... she says she was able to discount the loss of
13 consciousness due to my ability to recall events pre and
14 post event. Her theory is completely discounted as
15 I definitely did lose consciousness, as confirmed by my
16 colleagues who witnessed it and I would otherwise rely
17 on Mr Anderson to explain differences on medical
18 opinion."

19 So you're not a medic?

20 A. No.

21 Q. You're going to rely on other medics to help the Chair
22 with this part?

1 A. Yes.

2 Q. Thank you. Can we have a look at PIRC 255, please, just
3 before we leave this. So this is the statement that you
4 gave on 9 June 2015, and page 3, please. You say you
5 have been shown A&E notes dated 3 May in your name and
6 an entry made on page 1 which makes reference:

7 "... to the doctor's entry of what I said. This was
8 an accurate account of what I said."

9 So you have looked at the A&E notes and maybe we can
10 look at those at the moment, PIRC 01158. This is it and
11 the date you can see is 3/5/15 and it is 8.10 in the
12 morning and it says "Mitchell FY2" and that's
13 a reference to Dr Mitchell. And then it says "29" and
14 "police officer", and that was your age at the time.

15 A. Mm-hm.

16 Q. Then there's a description given there:

17 "Chased by member of the public this morning.
18 Sustained blows to the back of the head. Remembers
19 falling and putting arms out to save herself. Curled up
20 into a ball and was then lifted by one of colleagues and
21 told to sit in police van.

22 "No vomit since incident.

- 1 "Now has occipital headache."
2 And you said that was an accurate account of what
3 was said?
4 A. Mm-hm.
5 Q. Said by you to Dr Mitchell?
6 A. Yes.
7 Q. Thank you. Can we just look down, please, further down
8 that page. You will see at B -- so a few lines above
9 that it says "OE" which we may hear means "On
10 examination". Did Dr Mitchell give you an examination?
11 A. Yes.
12 Q. Was it just you and Dr Mitchell or was there anyone else
13 in the room?
14 A. I think it was just me and the doctor.
15 Q. Did she ask you to remove parts of your uniform for that
16 examination?
17 A. Yes, I was given a gown to put on, a hospital gown to
18 put on.
19 Q. A hospital gown. Are those the ones that tie at the
20 back?
21 A. Yes, yes.
22 Q. And then at B:

1 "No chest pain. No obvious injury to chest."

2 And then:

3 "Percussion resonant throughout."

4 And then can we go further down, please, and then at
5 D, "Abdo SNT", so we may hear that that's a reference to
6 abdominal:

7 "No obvious abdominal injury. No abdominal pain."

8 Do you see that?

9 A. Mm-hm.

10 Q. And do you remember having that examination?

11 A. I can remember bits of it, but the rest -- like, there's
12 blanks in some of it.

13 Q. And then you will see on the next page it says "GCS"
14 which we may hear stands for Glasgow Coma Scale, 15 out
15 of 15.

16 A. Mm-hm.

17 Q. Thank you. Then there are other references there. We
18 will deal with that later and I can leave those now for
19 the moment.

20 So it doesn't appear that there was any reference to
21 you commenting on an injury, or pain, or being sore in
22 your abdomen or your chest.

- 1 A. Mm-hm.
- 2 Q. Okay. So at that time you weren't making those
3 complaints to Dr Mitchell?
- 4 A. I was sure that I did. I told her everything that I was
5 feeling, but I passed on that information but she is the
6 expert, type of thing. If she was saying that there was
7 no obvious injury, I just needed to kind of take that,
8 but I was certainly feeling it, if that makes sense.
- 9 Q. Okay. And when you -- we can leave what for one moment.
10 When you went back to Kirkcaldy Police Office after the
11 hospital, do you remember what time you got back?
- 12 A. No, no.
- 13 Q. If I said to you it was around 11.00, would you agree
14 with that?
- 15 A. Yeah, it was thereabouts, yes.
- 16 Q. So you were in the hospital for a while?
- 17 A. Mm-hm, yes.
- 18 Q. And were you still in uniform?
- 19 A. In the hospital, yes.
- 20 Q. And when you got back to the police office?
- 21 A. Yes, yes.
- 22 Q. And you have told us previously you went to the canteen;

1 did you go straight there?

2 A. No, I went in and then I went up to the sergeant's
3 office and then I was told everybody else was down in
4 the canteen, so I made my way down there.

5 Q. Who was the sergeant?

6 A. There was somebody was brought in to cover for the team
7 because -- so it was a different lady.

8 Q. Right. And by the time you got back to Kirkcaldy Police
9 Office, who was in charge at that stage?

10 A. I saw Chief Inspector Nicola Shepherd, she was the chief
11 inspector for the station at that time I think -- I'm
12 sure. She was there, so she would be the kind of
13 highest ranking officer that I saw there.

14 Q. And when you got to the canteen, who was there when you
15 got there?

16 A. All the team that I had started with that morning and
17 another Federation rep. I can't remember if
18 Amanda Givan was there yet. No, I think -- I think she
19 was there when I arrived.

20 Q. Amanda Givan who is a Federation rep?

21 A. Yes.

22 Q. In paragraph 29 you were asked by the Inquiry team --

1 this is of your Inquiry statement -- asked what advice
2 or instruction was given to you about not speaking to
3 anyone about the events at Hayfield Road and there you
4 said:

5 "I can't remember anyone saying anything of this
6 nature to me or in my hearing."

7 Does that remain the position today?

8 A. Yes.

9 Q. Yes. Did you see Inspector Kay at any time?

10 A. No, I don't remember, I don't remember seeing him.

11 Q. Did you remain in the canteen for the whole day?

12 A. Yes.

13 Q. Where were you sitting?

14 A. When I first went in it there was chairs that were at
15 a dining room table. I just sat down there initially
16 and then I went and sat on -- there was two leather
17 couches and I went and sat on one of them.

18 Q. Who were you sitting beside?

19 A. I remember at one point sitting opposite PC Tomlinson
20 because that's when I asked him what happened and then
21 I got told that I had been getting stamped on and then
22 I can't honestly remember who else was around me.

1 Q. Where did you keep your vest that you were wearing?

2 A. I kept it on for hours afterwards. I was just too sore
3 to move it and I was -- to be honest, it felt like it
4 was giving me a type of -- it was like holding me
5 together in a way.

6 Q. After a few hours and you took it off, where did you put
7 it?

8 A. I went to lean it onto the other people's -- the other
9 officers' vests that had been taken off because
10 basically at the top of my radio here so that would make
11 the front of -- the weight of the front of the vest like
12 heavier, so you just leaned it onto the other vests.

13 Q. And we have heard from -- and there may be other
14 evidence available to the Chair that vests and equipment
15 were left on the floor and some were lying against
16 a wall; is that where you placed yours?

17 A. Well, I went to place mine there but it was at that
18 point when I went to lean the front of it against the
19 others that I saw the -- what I'm sure is a footprint
20 mark on the back of my vest.

21 Q. And that was on the back of your vest?

22 A. Yes.

1 Q. Could you look at that vest again that we looked at
2 earlier and you can point out the area where you saw the
3 mark.

4 A. (Indicating).

5 Q. So you are on the right-hand side on the rear of --

6 A. Yes.

7 Q. And was that on the high visibility, the yellow part?

8 A. Yes.

9 Q. And you're pointing to the right-hand side?

10 A. Yes.

11 Q. Now, you're moving your hand up and down from under your
12 armpit to your waist. Was there a particular area or
13 was it just that general area?

14 A. Just that general area from what I can remember.

15 Q. Thank you. When you noticed the mark, what did you do?

16 A. I turned to PC Tomlinson and I went, I went "Ash" -- I'm
17 pretty sure I said words similar to "Look, that's
18 a footprint", and he said something along the lines of
19 like "Tell somebody", as in tell somebody senior, so
20 I did that.

21 Q. Who did you speak to?

22 A. I'm sure it was Jane Combe that I --

- 1 Q. Do you mind telling the Chair who that is?
- 2 A. Yes. I'm sure she was an inspector -- don't hold me to
3 that now -- and I'm -- she was brought in to be in the
4 canteen with us. That's about all I can remember.
- 5 Q. When did you speak to her?
- 6 A. Immediately after Ash said -- I literally -- after
7 Ash -- PC Tomlinson had said "Show somebody", I turned
8 round and she was the first person that I saw, so I told
9 her.
- 10 Q. She was in the canteen with you?
- 11 A. Yes.
- 12 Q. And where was she when you spoke to her?
- 13 A. Well, she -- when I turned round she was like -- she was
14 the first person I saw so ...
- 15 Q. I think that's the rain.
- 16 A. Yeah.
- 17 Q. What time was this that you spoke to her?
- 18 A. I couldn't tell you. Honestly, I lost track -- all
19 track of time.
- 20 Q. And what did you say to her?
- 21 A. I just said "I have just spotted this. I'm sure it's
22 a footprint", for -- did I say that? I can't say with

1 any great certainty, but I definitely pointed out that

2 I thought that was a footprint.

3 Q. And what was her reply?

4 A. To look after that, put that somewhere safe, along those
5 sorts of lines.

6 Q. So what did you do with your vest?

7 A. I actually can't remember. I did keep it safe. I kept
8 it -- I think I maybe put it on top of one of the tables
9 or something, face -- like the front of the vest down on
10 the table and then -- yes.

11 Q. And how long did it remain there?

12 A. I don't know, but it was never out of my sight and my
13 possession after that.

14 Q. And what happened to your vest after that ultimately?

15 A. It was seized.

16 Q. And when you say "seized", what do you mean?

17 A. It was taken possession of by Jane Combe and another
18 girl, I can't remember her name, placed into brown
19 evidence bags and that was the case with all my uniform.

20 Q. Okay. Are you all right? Do you want a glass of water?

21 A. Yes.

22 Q. I would like to move on to ask you about your status,

1 and I'm really talking about as a witness or as
2 a suspect.

3 A. Yes.

4 Q. So that's what I mean when I talk about that. You were
5 asked by the Inquiry whether you had been informed of
6 your status, your status being as a witness or as
7 a suspect, and do you remember much about being informed
8 about whether you were a witness or a suspect?

9 A. In the canteen?

10 Q. In the canteen?

11 A. I can honestly say that when I got in there I was --
12 I probably went into my own wee world and I was trying
13 to come to terms with what had happened and things, so
14 no, I wasn't aware of much going on around me to be
15 honest.

16 Q. So before you left that day to go home, were you clear
17 about what your status was at that stage?

18 A. Not that I was aware of and it might sound bad, but
19 I just wanted home. I just ... it was like -- I don't
20 know how to describe it. I was still trying to process
21 what had happened and that's where my mind was at that
22 point.

1 Q. Mm-hm. We have looked earlier today at the first
2 statement you gave which I think was on 13 May, if
3 I remember rightly, and before you gave that
4 statement -- sorry, five days after you gave that were
5 you asked to give a statement and did you meet with
6 Detective Chief Inspector Keith Hardie and Detective
7 Inspector Stuart Wilson, so this was on 18 May, so five
8 days after you gave your first statement to Mr Sallens
9 that you have talked about, and during that meeting,
10 were you asked to provide a witness statement? Do you
11 remember?

12 A. Yes, I think they both came out to my house to ask me --
13 if that's what you're speaking about, yes, I remember
14 that. I can't remember dates or anything, no.

15 Q. And you didn't give them a statement that day?

16 A. No.

17 Q. Can you explain why you didn't?

18 A. It was based on the legal advice that I had received and
19 our status I'm sure wasn't known yet.

20 Q. And was that legal advice from your -- you have talked
21 about your solicitor previously --

22 A. Yes.

1 Q. -- Mr Watson --

2 A. Yes.

3 Q. -- giving you advice? Thank you.

4 Going back to your Inquiry statement, can we look at
5 paragraph 38, please. You have been asked a number of
6 questions about what your understanding was about your
7 obligations to complete paperwork, so we're thinking
8 notebook, use of force form, use of spray form and I'm
9 wondering -- you have said that you didn't consider
10 those things at the time; did you ever complete your
11 notebook?

12 A. No.

13 Q. And can you explain why?

14 A. Again, I was trying to process what had happened to me
15 and then further hearing that -- further trying to
16 process that I had been knocked out and stamped out on
17 whilst I had been unconscious and I just -- I was --
18 I was just -- I didn't know whether it was New York or
19 New Year, to use a phrase -- I was -- it was the
20 furthest thing from my mind and in terms of paperwork or
21 further paperwork, there's no computers in the canteen
22 and no hard copies were ever provided to me.

1 Q. Okay. And do we see in paragraph 38 you use the phrase
2 you became "Logged out mentally"?

3 A. Yes, yes.

4 Q. Is that how you have just described yourself as feeling?

5 A. Yes. Mm-hm.

6 Q. And in terms of completing use of force forms or use of
7 spray forms, you never used your spray, as I understand
8 it?

9 A. No.

10 Q. So you wouldn't have had to have filled out that sort of
11 form?

12 A. No.

13 Q. And use of force forms, you have described the striking
14 with your baton. You said it didn't connect. Would you
15 have been obliged to complete a use of force form in
16 those circumstances?

17 A. I honestly can't remember. I would say to err on the
18 side of caution, perhaps, because I did take it out and
19 kind of present it, but, like I say, I was never --
20 I didn't go back to work after 3 May. Essentially that
21 was the last day I worked as a serving police officer,
22 so I was never provided with something to fill out, like

1 a use of force form for that.

2 Q. Is it fair to say that now, seven years down the line,
3 you don't remember whether even taking your baton out
4 might trigger --

5 A. No, no.

6 Q. -- that requirement or it might not?

7 A. Yes.

8 Q. You're not very sure?

9 A. I'm not very sure, no.

10 Q. Then at paragraph 40 of your statement you talk about
11 Amanda Givan and you were asked if she had said anything
12 about the completion of paperwork or providing
13 a statement. Do you remember Amanda Givan saying
14 anything or giving you any advice on 3 May?

15 A. No, no. Like I say, I was -- now know I was concussed
16 and I pretty much -- I sat down and I sank into that
17 couch that we had in the canteen and that was it really.

18 Q. So equally do you remember her saying anything to anyone
19 else about paperwork?

20 A. No, no.

21 Q. Can I ask you about Dr Norrie who we may hear is the
22 force medical examiner.

- 1 A. Okay.
- 2 Q. So she was someone that you saw on 3 May --
- 3 A. Mm-hm.
- 4 Q. -- there for the police, engaged by the police.
- 5 A. Yes.
- 6 Q. And can I ask you to look at some photos, please. We
- 7 don't need to look through all of them, but they are
- 8 SPA 5 and SPA 6. Just look at the first couple so that
- 9 you will recognise -- is that you?
- 10 A. Yes.
- 11 Q. -- on 3 May and is this SPA --
- 12 A. I think that was -- that was on the Wednesday, I think,
- 13 because that's in my house.
- 14 Q. So those photographs are taken on --
- 15 A. The Wednesday, I'm sure it was, following --
- 16 Q. So this happened on Sunday 3rd.
- 17 A. So it would be Wednesday 6th I think but I --
- 18 Q. When --
- 19 A. Oh, sorry.
- 20 Q. Can we look at the other photographs as well, please.
- 21 I don't need to go through all of these photographs, but
- 22 they -- yes, SPA 6. So these are taken on a different

- 1 day. You've got your hair tied back on this day.
- 2 A. Mm-hm.
- 3 Q. What day -- do you remember when these photographs were
4 taken?
- 5 A. That was at the police station on 3 May.
- 6 Q. So these are the -- so SPA 6 were actually the ones
7 taken on 3 May.
- 8 A. Yes.
- 9 Q. And they were taken before or after you saw Dr Norrie?
- 10 A. After -- oh sorry, it was getting mixed up by me there.
11 No, I will stick with after, I'm sure it was afterwards.
- 12 Q. Do you remember the time these were taken?
- 13 A. No.
- 14 Q. So these were taken on the day itself, your hair tied
15 back.
- 16 A. Mm-hm.
- 17 Q. And the ones we saw a moment ago were taken on the
18 Wednesday?
- 19 A. Yes.
- 20 Q. So they were the later ones.
- 21 A. Yes.
- 22 Q. Right. So there's 17 photographs taken on the day and

1 42 I think taken on the Wednesday, so was it the same --
2 oh, sorry, other way around. 42 taken on the day and 17
3 taken on the Wednesday. Was it the same photographer?

4 A. Yes.

5 Q. Right. And how did the photographer decide which parts
6 of your body to photograph?

7 A. I think from memory it was, you know, where I was
8 struck, where I felt pain, I think. I'm not completely
9 sure though.

10 Q. Was that -- was it the same on both days, that she was
11 trying to take photographs of any injuries you had?

12 A. Yes, yes.

13 Q. Or where you had been struck?

14 A. Yes.

15 Q. Or where you felt pain, you said?

16 A. Yes.

17 Q. So was she getting that information from you?

18 A. Yeah, yeah, I believe so.

19 Q. On both days?

20 A. I'm unaware if anybody else had spoken to her. My
21 memory is honestly hazy about this. I remember getting
22 the photos taken, I remember who it was. I can't

1 honestly remember what I have said to her.

2 Q. All right. Can I -- are you okay to carry on, or are
3 you wanting --

4 A. I am yes.

5 Q. Yes?

6 A. Yes.

7 Q. Can I look at PIRC 256, please. So this is the
8 statement you gave to John Ferguson over the phone on
9 16 June.

10 A. Mm-hm.

11 Q. And he was clarifying a few things with you over the
12 phone. And you say that you had not seen:

13 "... nor have I had photographs taken of any
14 such ..."

15 I should start at the beginning:

16 "Today, 16 June, I was contacted by Investigator
17 John Ferguson and asked to confirm if at any time if
18 I have noticed bruising on my chest or torso as
19 a consequence of the assault upon me by Sheku Bayoh on
20 3 May. I have not seen nor have I had photographs taken
21 of any such injury or bruising to my chest area or
22 torso."

1 And so there was no -- we don't have any photographs
2 of bruising or injuries to your torso or your chest; are
3 there any such photographs?

4 A. No.

5 Q. No, all right. Thank you. Can I ask you about 4 May
6 please. So let's turn to paragraphs 44 to 46 of your
7 witness Inquiry statement, and these relate to Dr Smeed.

8 You will see Dr Smeed -- and you were asked to
9 comment on "What I told Dr Smeed on 4 May", so this is
10 the day after, and you have looked at statements and you
11 went back to A&E on Monday 4 May because you felt
12 "almost constantly drunk" and you were in a lot of pain.

13 Can you tell us a little bit about that. So this is the
14 day after?

15 A. Yes. I felt dizzy, not myself, my speech was different,
16 I had developed a stutter which -- I had never had
17 a stutter in my life and none of what I was feeling was
18 by any means normal to me and it worried me considering
19 I did have a knock to the head. Yes, so that's why.

20 I essentially, like, woke up with new symptoms, if that
21 makes sense, and they concerned me.

22 Q. And so you went back to A&E. Was this after a call to

1 NHS 24?

2 A. Yes.

3 Q. And you were given painkillers and information --
4 a leaflet about head injuries.

5 A. Mm-hm.

6 Q. And then can we move on to paragraphs 47 to 48 and you
7 talk about going to your GP, Dr Erica Ellison, on 5 May
8 so that's the next day along, and you spoke to your GP
9 in relation to how you were feeling that day.

10 A. Mm-hm.

11 Q. And then I think you took a photograph on that day?

12 A. Mm-hm.

13 Q. Can we look at PIRC 255, I think it may be, although
14 I might be wrong about that. No. Sorry, PIRC 01300,
15 and it looks like you are sitting in a car?

16 A. Yes.

17 Q. Right. Is this the photograph that you took after your
18 appointment with the GP on 5 May?

19 A. Yes.

20 Q. And that was to -- what were you hoping to show with
21 that photograph? What was your plan?

22 A. I had -- I felt like the right side of my face was

1 swollen. I was beginning to notice, like, a kind of
2 facial droop, it really was the swelling to the right
3 side of my face and, like I said, this was the Tuesday
4 and on that day I woke up with another new symptom
5 again, which again worried me, given that I had been
6 punched to the head and then I had swelling, I just
7 thought "I'm going to" --

8 Q. What was the new symptom that you woke up with?

9 A. The swelling to the right side of my face.

10 Q. That was the symptom?

11 A. Yes, yes.

12 Q. Right, sorry. And then on 10 May, again, did you
13 contact NHS 24?

14 A. Yes.

15 Q. And then go back to speak to a Dr Speakman at the
16 hospital?

17 A. Yes.

18 Q. And if we look at paragraphs 50 to 52 of your statement,
19 you have explained to the Chair about how you were
20 feeling that day and what you said to
21 Dr Christopher Speakman at the hospital and in his
22 statement he says that you told him you had been stamped

1 on your head. Do you want to explain?

2 A. Yes, I can't obviously speak for Dr Speakman, but
3 I mean, that's never been my position, so I don't know
4 if he has picked me up wrong, but it's never been my
5 position that my head was stamped on because that's not
6 information I was told.

7 Q. Okay. Thank you. And then can I ask you to look at
8 PIRC 253, please, so this is the statement of 13 May, so
9 that was the first one, and if we could look at page 5,
10 please, paragraph 3. You're talking about your face
11 didn't feel right for the whole week and then Sunday
12 10 May you were having a conversation with your parents
13 and again you said the right-hand side of your face
14 "didn't feel right" and it looked like it had drooped.

15 A. Mm-hm.

16 Q. And you called NHS 24 and then organised an out of hours
17 emergency appointment and you were admitted to Kirkcaldy
18 Hospital and kept in overnight and given a CT scan.

19 Was that the first scan that you had had?

20 A. Yes.

21 Q. And then the statement in paragraph 4 says:

22 "I asked the wee Pakistani doctor whose surname

1 began with an S that if the scan came back normal what
2 had caused my face to droop?"

3 And I'm really interested in your use of the
4 expression there "Wee Pakistani doctor". Do you want to
5 say anything about your use of language there?

6 A. I can only say that at that point I must have been asked
7 for a description at that point because I was badly
8 concussed, I was struggling with words, and I'm afraid
9 that that has been my best way of describing that
10 gentleman. Would I describe him as that now? No, seven
11 years on in my recovery and I would choose different --
12 a different way to describe him, but at that point in
13 time with a head injury, struggling with words, that's
14 the language I came out with. It wasn't meant to cause
15 any form of offence, I was just trying my best at that
16 time.

17 Q. Thank you. Can I say for paragraphs 53 and 54 of your
18 Inquiry statement you have referred to Dr Siddiqui and
19 this is the name -- Dr Ali Siddiqui. He was the doctor
20 that you saw on 11 May.

21 A. Mm-hm.

22 Q. Thank you. You also refer to seeing

1 a Dr Kathleen Pollock at paragraph 54, on the same day.

2 You have no recollection --

3 A. No.

4 Q. -- of any dealings with Dr Pollock though?

5 A. Not that I can remember.

6 Q. All right. Then can I ask you about 21 May, and you

7 will see paragraph 55 and 56. You then talk about

8 Mr Ian Anderson and is he the consultant --

9 A. Yes.

10 Q. -- that you were later sent to see?

11 A. Yes.

12 Q. Is it fair to say that it was only on 3 May that you saw

13 doctors prior to actually being told anything by

14 PC Tomlinson about being stamped or being unconscious?

15 A. Yes.

16 Q. So all of these other doctors after that date, you had

17 been told things by a colleague?

18 A. Yes.

19 Q. Yes. And again, insofar as there's any difference

20 between your version and the doctors', or medical

21 practitioners, in relation to any medical views, you

22 don't have anything to say about that?

1 A. No, no.

2 Q. Thank you. I would like to ask some questions about
3 race now. Are you able to carry on --

4 A. Yes.

5 Q. -- or do you need a little break?

6 A. No.

7 Q. Can we go back to the early part of your evidence this
8 morning, you talked about the two previous knife
9 incidents. Can I just ask you, was there anything else
10 about -- when you think about those two incidents and
11 you compare it to the incident on 3 May with Mr Bayoh,
12 was there anything else that was different between the
13 previous two incidents and this incident that you --
14 you know, can you explain further the comparison between
15 the two?

16 A. Yes. The first one -- the first comparison I would make
17 is there was absolutely no verbal communication in
18 response to the commands that were given to Mr Bayoh and
19 that's the thing that struck me as most unusual and
20 probably had the alarm bells ringing first of all
21 because, like I have stated before, you have always got
22 some sort of response, whether it was, you know, a rant

1 about what had happened, or abuse, or just simply --
2 aye, just abuse, but with Mr Bayoh, there was just
3 nothing. It was like nothing was kind of going in, if
4 that makes sense. What -- hang on a minute, sorry.

5 Q. I don't want to interrupt you if you're trying to
6 remember something else.

7 A. No, it's okay. No, go for it.

8 Q. Now, you have said with the two previous knife incidents
9 they didn't involve black men.

10 A. Mm-hm.

11 Q. This one obviously did. Was there anything about the
12 fact it involved a black man, Mr Bayoh, that made you
13 more fearful, or feel differently about the incident?

14 A. No, no, his race had absolutely nothing to do with this,
15 with how we handled the call or anything like that.

16 My biggest concern was the numerous calls we had had
17 from members of the public stating that there was a man
18 in possession of a knife and that was reinstated over
19 and over again with each additional phone call, or
20 999 call that came in and then, like I said, the lack of
21 communication, the lack of a spray working and how it
22 unfolded, but no, it had absolutely nothing to do with

1 the colour of his skin.

2 Q. Can you remember now, prior to 3 May 2015, how often you
3 had had to deal with a black man where you had attended
4 an incident and it involved a black man?

5 A. I don't think I had.

6 Q. I think you have probably answered this question, but
7 was there anything about the way you responded to the
8 incident and the options you chose that were altered or
9 different because he was black?

10 A. Not at all.

11 Q. Do you remember now what training, if any, you had
12 received on equality and diversity prior to May 2015?

13 A. Yes. When I was at the police college in my initial
14 training we spent a week at Tulliallan on -- it was
15 diversity training and then throughout my career we were
16 given performance development reviews, whereby if
17 anything -- if you had exhibited any sort of
18 inappropriate behaviour in any way which -- any way,
19 shape, or form, that is when it would be noted and
20 especially in your probation and also throughout your
21 career, working on the shift or wherever you were.

22 Q. And had you ever had that issue raised at these -- at

1 any of these performance development reviews?

2 A. Never.

3 Q. And I understand you were up-to-date on your training --

4 A. Yes.

5 Q. -- by May 2015. I mean at that time, do you -- was

6 there ever a time when someone's physical

7 characteristics, like their skin colour, or their

8 religion, caused you to make any assumptions so that you

9 put them into some sort of category, for example,

10 "A black person is a terrorist"?

11 A. No.

12 Q. On your training courses that you had done, had you --

13 what had you learned about unconscious bias?

14 A. I have to say I can't -- I can't recall word-for-word

15 the training we received at Tulliallan now, but I can

16 tell you that the recruitment process to get into what

17 at that time was Fife Constabulary, there were processes

18 put in place, in fact I can't remember if it was on

19 computers, I'm sure it was, but it was designed to root

20 out and identify anything such as unconscious bias.

21 They would give you scenarios and, you know, give

22 different ethnicities in the same scenario and: well,

1 how would you deal with it, for example, if it was
2 a white man and how would you deal with it if it was
3 somebody from a different ethnic background? And then
4 that was designed, to my knowledge, to root out anybody
5 who did have that unconscious bias.

6 Q. And during that process, were you able to identify any
7 unconscious biases that you had?

8 A. No, no.

9 Q. And when you think about the things you learned on those
10 courses, equality and diversity, how did you implement
11 those learning points into your everyday work?

12 A. Well, I mean as a person anyway I would always treat
13 people as they come type thing, and I would like to
14 think that if I was ever at a call and I maybe didn't
15 know the answer to something, I would take the time to
16 ask the question to the person so that I would get it
17 right, without causing any offence, but ultimately
18 through experience, picking up on different cultures and
19 things like that, you're constantly learning in a job
20 like the police, you're constantly learning and -- yeah.

21 Q. So if you were first on the scene to a knife call and
22 you see a person there, you can't see a knife, is the

1 first thing you would have done was communicate with
2 them --

3 A. Mm-hm.

4 Q. -- and try and find out more about them?

5 A. Yes.

6 Q. What the problem is?

7 A. Mm-hm.

8 Q. Whether they have any sharp implements?

9 A. Yes.

10 Q. That type of thing?

11 A. Yes.

12 Q. So you would have relied on your communication skills?

13 A. Yes.

14 Q. Yes. And you had had training in that?

15 A. Yes.

16 Q. So even if the person was of a different ethnicity, you
17 would have still endeavoured to do that part?

18 A. Yes.

19 Q. Can I ask you about Kirkcaldy Police Office in 2015.

20 Had you ever come across any examples in your working
21 life at that time -- I know you said you had only been
22 there two months -- of any racial discrimination there?

1 A. No.

2 Q. Had you ever heard anyone make racist jokes or comments?

3 A. No.

4 Q. If you had come across something like that, how would
5 you have reacted?

6 A. Well, I would challenge them, plain and simple.

7 Q. And when you say "Challenge them", what would you have
8 done?

9 A. Well, whatever it is that they had, you know, maybe said
10 that was incorrect or something, I would point them in
11 the right direction of what is appropriate.

12 Q. And for the senior officers, or the supervisors in
13 Kirkcaldy Police Office at that time, do you think
14 that's how they would have responded, or -- do you think
15 they would have challenged that type of behaviour,
16 racist comments or --

17 A. Yes.

18 Q. -- jokes. Had you ever seen any of the colleagues on
19 your team exhibit any behaviour of that sort?

20 A. Never, no.

21 Q. Right. Can I ask you about concerns about use of force
22 by the police. At the time of May 2015, what awareness,

1 if any, did you have about public concern about the use
2 of force by police officers, particularly against black
3 men? Were you aware of public concerns at that time?

4 A. The only thing that's coming to my memory is concerns
5 obviously now but I mean I like to -- when I was
6 a serving police officer I made a point of watching the
7 news and things like that, so I would like to think that
8 I was aware about current affairs and things like that.

9 Q. So if there were things happening down south, for
10 example --

11 A. Yes.

12 Q. -- you would have been aware of that --

13 A. Yes.

14 Q. -- from watching news programmes?

15 A. Yes.

16 Q. And from your own experience in Kirkcaldy, was it an
17 issue of concern for Police Scotland and in Kirkcaldy
18 generally, the use of force by officers against black
19 people?

20 A. No, it's not something I can ever say I came across
21 or --

22 Q. We may hear about other quite high profile deaths down

1 in England regarding the use of restraint, particularly
2 if someone is face down, particularly if someone is
3 black, and looking back now, do you remember there being
4 much information-sharing, you know, if learning points
5 existed from cases down south, was there much sharing of
6 that information up here with officers from
7 Police Scotland?

8 A. I honestly can't remember, sorry, I don't know.

9 Q. In 2015, what was your understanding or awareness of the
10 black community in Kirkcaldy?

11 A. I can't remember. I don't know, sorry.

12 Q. Had you at that time been involved in any community
13 relation work with the black community in Kirkcaldy?

14 A. No.

15 Q. Are you aware of any other officers in your team, or
16 more widely in Kirkcaldy, being engaged in community
17 work with the black community?

18 A. No.

19 Q. You have told us earlier that you hadn't dealt with
20 previous incidents where the person who was there when
21 you attend an incident was black. What experience at
22 that time did you have of the black community in

1 Kirkcaldy?

2 A. As I say, I had only been there two months so I --

3 I didn't have -- I didn't attend a call involving

4 a black person until the call on 3 May.

5 Q. Right. Had you come across them in relation to their

6 status as a witness, perhaps --

7 A. No.

8 Q. -- or a victim of crime?

9 A. No.

10 Q. Were you aware at that time of any tensions between

11 members of the black community and the police in

12 Kirkcaldy?

13 A. No.

14 Q. Are you aware of the sort of stereotypes that exist

15 around black people, specifically in the context of

16 criminal justice. For example, are you aware that black

17 men may be perceived as having superhuman strength or

18 size?

19 A. No.

20 Q. Or being more likely to resist and not be compliant?

21 A. No, I didn't.

22 Q. Did you have any assumptions along those lines?

1 A. No.

2 Q. We referred earlier to PIRC 253, your very first
3 statement, and you described Mr Bayoh as:

4 "... deranged with superhuman strength and in my
5 mind intent on killing someone."

6 A. Mm-hm.

7 Q. Was that based on any perceived stereotype of him being
8 a black man with superhuman strength?

9 A. No, not at all. It's an accurate account of what I came
10 across on that morning and those memories will stay with
11 me forever now.

12 Q. And we have heard Mr Bayoh described as being the size
13 of a house -- not by you?

14 A. Yes.

15 Q. Is that the type of view that you held?

16 A. To be honest, he was the most muscular man I have ever
17 seen, like, face-to-face. In the whole time that I was
18 a serving police officer, I don't think I ever came
19 across anybody who was built like him. Yes.

20 Q. So the difference was his physique, his muscles?

21 A. Mm-hm.

22 Q. He is not the tallest man you have seen, he is not the

1 heaviest man you have seen, but he was muscular?

2 A. Yes, and to be honest, I'm 5 foot 1, so anything over
3 that is bigger to me.

4 Q. Okay. And I think earlier I asked you about a phrase in
5 one of your statements that you had "never ever seen
6 a more frightening crazy man in your life".

7 A. Mm-hm.

8 Q. And again, do you think that was based on any
9 stereotype, or any assumption?

10 A. No, not at all, it's how I felt in that situation that
11 presented in front of me.

12 Q. Had you dealt with incidents where you attended and the
13 person was on drink or drugs, under the influence,
14 heavily under the influence?

15 A. Yes. I mean I had attended calls with people under the
16 influence, absolutely, but this was like a whole new
17 level I had never ever dealt, or -- dealt with or seen
18 before in my police career.

19 Q. So of any other incidents where the person was on drugs
20 or drunk, under the influence of drink, you hadn't
21 considered them to be as frightening or as crazy as
22 Mr Bayoh?

1 A. No, because I want to add that they communicated back
2 with us, you know, when we attended -- like, the example
3 I gave you about the two knives, it was a 14-year-old
4 boy and he was using the handles of the knives to smash
5 windows and immediately when we turned up it was the
6 same clear commands, "spray", you know, hands there,
7 clear commands, "Put the knives down" constantly, "Put
8 them down, put them down", and as it stood, he flung
9 them up in the air and towards us, if that makes sense,
10 but that is where it de-escalated. The danger of the
11 knives was out of his possession and then he was brought
12 into police custody and that was what made it more
13 frightening, or the initial -- it's what made it
14 frightening when we turned up and he was just not --
15 there was nothing there, nothing seemed to be kind of
16 sinking in or registering, if you like.

17 Q. If Mr Bayoh had been white when you arrived at the -- at
18 Hayfield Road, even given the scene that you saw when
19 you arrived, would you have attempted to communicate
20 with him and de-escalate the situation?

21 A. It would have been the same approach regardless of his
22 skin colour. I can't emphasise enough how much that

1 wasn't a factor in the way that we approached Mr Bayoh.
2 The thing at the forefront of my mind was that I had no
3 reason to disbelieve that we were going to reports of
4 a man in possession of a knife. I will be honest,
5 I just didn't want to turn up to an innocent member of
6 the public having been hurt and I really -- I really
7 cared about that. When I was serving I used to picture
8 scenarios in my own life -- like I have two younger
9 brothers and I thought that could be one of my brothers
10 walking to work or that could be another one maybe
11 coming back from being out on a Saturday night or
12 staying at his friends, and that's all I could think of
13 was that that equivalent to somebody else's family
14 member coming across that and that is what was at the
15 forefront of my mind is that I didn't want some -- like
16 an innocent person coming across that. I wanted to stop
17 that and preserve life.

18 Q. So looking back now to 3 May 2015, is there anything you
19 would change about the way you acted that day, or the
20 choices you made?

21 A. No.

22 Q. And looking back now, is there anything you can think of

1 that would indicate that Mr Bayoh's race played a role
2 in the choices you made?

3 A. Not at all.

4 Q. Or in the choices that anyone else made?

5 A. No.

6 MS GRAHAME: Could you give me one moment, please.

7 (Pause).

8 Thank you very much. I have completed.

9 LORD BRACADALE: With the exception of the Dean of Faculty,
10 are there any Rule 9 applications at this stage? Now,
11 it is Mr Scullion, Ms Mitchell and Mr Moir.

12 I wonder if the witness could be taken out to the
13 witness room, please.

14 (Pause).

15 Now, Ms Mitchell, would you come to the table
16 please.

17 (Pause).

18 Now, Ms Mitchell, I am concerned this witness does
19 have certain vulnerabilities and I would require to be
20 satisfied in terms of the various provisions of Rule 9
21 before I would allow any questioning, so could you
22 address me on that.

1 Application by MS MITCHELL

2 MS MITCHELL: I can. The first matter, my Lord, is a matter
3 of clarification in terms of Rule 9 and the issue is in
4 relation to the witness indicating that she said she had
5 been -- others had told her that she had been knocked
6 unconscious and then she explained that Dr Mitchell
7 discounted the possibility of being unconscious because
8 she couldn't remember many of the details of the
9 incident and what I would like to ask -- the first part
10 of my question is when these details came back to her.
11 So I would like to know if and when her memory changed
12 to revert to being such that she had more clarity around
13 what happened.

14 LORD BRACADALE: Can you take me to the transcript that
15 deals with this, please?

16 MS MITCHELL: I shall try, my Lord.

17 (Pause).

18 My Lord, it is at 132, point 3, I'm obliged to
19 Ms Pang.

20 LORD BRACADALE: 132 --

21 MS MITCHELL: Point 3. And as we can see from there, it is
22 being read out to her, paragraph 23, and she is

1 confirming that that's her evidence.

2 (Pause).

3 LORD BRACADALE: Where does she say anything about her
4 memory there?

5 MS MITCHELL: So I'm looking at something that starts line 9

6 which is a quote from paragraph 23 of her statement:

7 "... Dr Mitchell discounting the possibility I would
8 state the following. In actual fact I couldn't remember
9 many of the details of the incident and because of my
10 mental state I didn't realise it whilst in hospital."

11 Now, we have very clear examples from her statement
12 of the detail of when she was down on the ground and in
13 particular, I can take the Inquiry to two police
14 statements where she gives a detailed, conscious comment
15 about what was happening on the ground at that time and
16 if she is saying that she can't remember much of the
17 detail of the incident, I would like to know when -- if
18 and when those details came back to her and to show her
19 PIRC statement 254 and 255 where it is very clear that
20 she has significant detail of just post -- or just
21 arriving on the ground and what she was thinking at that
22 time.

1 LORD BRACADALE: Was there anything else you were
2 applying...?

3 MS MITCHELL: So that is the issue around her memory.

4 The second issue is a matter which arose when she
5 gave evidence where she said that when she saw the
6 struggle ongoing with three officers she thought that he
7 was just about overcoming them and she said she was
8 horrified because she had a genuine belief that he was
9 going to get up and finish her off. And of course, she
10 had the opportunity to see what was happening and as
11 a witness who comes to this from a different perspective
12 than those who had hands on Mr Bayoh and were there, and
13 I would wish to ask her:

14 "... and I can see that he had been PAVA sprayed, he
15 had been CS sprayed and he had three men holding him
16 down."

17 LORD BRACADALE: Sorry (inaudible). You wish to ask him --

18 MS MITCHELL: Yes, I wish to ask just to put that in context
19 that Mr Bayoh had been PAVA sprayed, he had been CV
20 sprayed, he had three men holding him down, men
21 described as three of the biggest guys on the shift; do
22 you think he might have been struggling to breathe? So

1 that's the question I would like to ask.

2 LORD BRACADALE: Is there anything else?

3 MS MITCHELL: Yes, my Lord. The last issue is in relation

4 to race and that is a question on -- we heard there was

5 no training on unconscious bias, but I would like to ask

6 whether or not there was any training on racial

7 stereotyping, whether or not she had any training on the

8 use of language in relation to race, for example, how

9 she would describe people and the example that I can

10 give there is the word "coloured". I'm not suggesting

11 that this witness does, but using that as an example of

12 a description which isn't appropriate, and whether or

13 not she has had any training on guarding against

14 unconscious bias or racial stereotyping.

15 Finally in that regard, we can -- we're aware from

16 a PIRC report, that's PIRC -- I think PIRC 3 -- that

17 during a period of time in the Fife division, which

18 I believe is 2014, there was an incident where there

19 were -- people had been sent or received texts of a

20 racial nature and that was in Fife Constabulary, and she

21 had said that she had never heard of racism or -- heard

22 racism herself or heard of it, and I was wanting to ask

1 her whether or not she had heard of that incident.

2 LORD BRACADALE: Does that complete all your matters?

3 MS MITCHELL: It does, my Lord.

4 LORD BRACADALE: If you would perhaps return to your desk
5 then, please, and Mr Scullion, if you would come to the
6 table.

7 Yes, Mr Scullion.

8 Application by MR SCULLION

9 MR SCULLION: It relates to a Rule 9 application and senior
10 counsel asked the witness about a meeting which took
11 place on 18 May 2015 when DCI Hardie and DI Wilson
12 attended at the witness's home address in order to
13 obtain a statement.

14 The witness confirmed that she was asked to provide
15 a statement and refused to provide a statement
16 because -- well, based on legal advice and because at
17 that stage her status was unknown.

18 There are two points that I would wish to clarify.

19 The first is whether she was aware or was informed at
20 that time that DCI Hardie and DI Wilson were there to
21 note a statement on behalf of the PIRC and, secondly,
22 whether DCI Hardie and DI Wilson told her at that time

1 that her status was that of witness.

2 LORD BRACADALE: Very well. That's the only matter, is it?

3 MR SCULLION: It is.

4 LORD BRACADALE: Thank you. If you could return and Mr Moir
5 come to the table. Yes, Mr Moir.

6 Application by MR MOIR

7 MR MOIR: Sir, as you may be aware, CRER provided the
8 Counsel to the Inquiry with an extensive document to
9 assist in asking questions on race, and largely she has
10 been following a large part of that.

11 The issue that I would wish to raise -- there are
12 two issues actually. The first issue follows on from
13 the reference to the "Wee Pakistani doctor" that Counsel
14 to the Inquiry raised. The follow-on question to that
15 reply that I would like to ask is what led her to
16 believe that the doctor was Pakistani in the first
17 place, because what we're dealing with to some extent
18 here, sir, is unconscious racism or unconscious bias,
19 and what we have here is a reference to a doctor being
20 a Pakistani: was it based on his skin colour? Was it
21 based on his accent? Was it based on his name? So
22 that's the first question, sir.

1 The second question I would wish to raise comes from
2 the reference to her attending an incident which
3 involved a knife where I think the youth was said to be
4 using the knife to break windows, the heel-end of the
5 knife. Bearing in mind in this case we have an incident
6 where firearms officers, a dog unit and a large number
7 of officers attended, the question I would like to ask
8 is on that incident, was that an incident that a large
9 number of officers were ordered to attend, or did it
10 simply involve a couple of patrol officers. It may be
11 of course they came across this incident and it
12 wasn't -- it wasn't a knife incident prior to it, but
13 again, I would like to know what the background to that
14 incident was and that's something that's simply been
15 raised today as well, sir, and that is the two questions
16 I would wish to raise.

17 LORD BRACADALE: Thank you. I will rise to consider these
18 submissions.

19 (3.43 pm)

20 (Short Break)

21 (4.11 pm)

22 Ruling

1 LORD BRACADALE: In relation to the first matter raised by
2 Ms Mitchell as to when the details in the witness' PIRC
3 statements came back to her, these statements are
4 available to me as evidence. They have been explored
5 with the witness. In assessing their credibility and
6 reliability I can take into account her evidence that at
7 the hospital she could not remember many of the details
8 of the incident. Against that background, I do not
9 consider that it is necessary, or that it would assist
10 me to revisit the matter at this stage.

11 In relation to the second matter, as to whether
12 Mr Bayoh might have had difficulty breathing, it seems
13 to me that this is a matter of great importance to the
14 Inquiry, but it is a matter which will be a matter of
15 inference from the totality of the evidence in relation
16 to restraint and the evidence of this witness will be
17 part of that. I do not consider that asking this
18 witness further detail in relation to what she has
19 already described would assist the Inquiry.

20 In relation to racial stereotyping, the use of
21 language in relation to race, the witness has already
22 made reference to her training. The Inquiry will have

1 her training record and the Inquiry will in due course
2 be exploring in detail training in this area.

3 In these circumstances, in the light of the
4 extensive examination of this area carried out by Senior
5 Counsel to the Inquiry, I do not consider that it would
6 assist the Inquiry to explore this further with the
7 witness.

8 I shall allow Mr Scullion to ask questions about the
9 points that he wishes.

10 In relation to the points raised by Mr Moir, I shall
11 allow Mr Moir to explore the matter in relation to the
12 doctor, but in relation to the second matter, I do not
13 think that it would assist the Inquiry to explore the
14 details of the earlier incident further.

15 So, Mr Scullion, would you come to the table,
16 please.

17 MS NICOLE SHORT (continued)

18 Questions from MR SCULLION

19 MR SCULLION: I have only got a couple of matters to ask you
20 about.

21 A. Okay.

22 Q. Earlier you were asked about a meeting which took place

1 on 18 May 2015, where DCI Hardie and DI Wilson visited
2 you at your home address. Do you remember being asked
3 about that?

4 A. Yes.

5 Q. And do you remember that meeting?

6 A. I remember them coming to my house, yes.

7 Q. And I think earlier you confirmed that you were asked to
8 provide a statement at that time?

9 A. Mm-hm.

10 Q. And you said that you refused to provide a statement on
11 the basis of legal advice and because at that stage your
12 status wasn't known. Do you remember giving that
13 evidence?

14 A. Yes, yes, I remember.

15 Q. At the meeting on 18 May 2015, do you remember if you
16 were told that DCI Hardie and DI Wilson were there to
17 note a statement on behalf of the PIRC?

18 A. I can't remember.

19 Q. And during the course of that meeting, did they tell you
20 that at that time your status was that of witness?

21 A. I can't remember, sorry.

22 MR SCULLION: Thank you.

1 LORD BRACADALE: Thank you, Mr Scullion.

2 Mr Moir.

3 Questions from MR MOIR

4 MR MOIR: Good afternoon.

5 A. Good afternoon.

6 Q. You will remember the Counsel to the Inquiry asked you
7 a question about a comment you made in your PIRC
8 statement about the "Wee Pakistani doctor"; do you
9 remember that?

10 A. Aye, I remember saying it, yes.

11 Q. And you gave an explanation as to why you had used that
12 terminology and it's something you regretted -- you
13 wouldn't use nowadays.

14 I wanted to ask, what led you to believe that the
15 doctor you were dealing with was of Pakistani heritage
16 at all? Was it based on their accent, their name, their
17 skin colour? What caused you to think that they were of
18 Pakistani heritage?

19 A. Well, for a start I want to expand on that in that that
20 to me looks like I have been asked to provide
21 a description and -- of the man. I don't know if the
22 guy noting my statement asked me that. As I said, at

1 the time, I was suffering from concussion and one of the
2 symptoms, one of the many symptoms of that is struggling
3 to find words. I notice that it is not contained in any
4 other statement that I have given, it only seems to
5 appear in this one. Why that is, as I have said,
6 because of my memory I don't know. The only explanation
7 I can give, if indeed those were the words that I have
8 used, is that at the time I was struggling to find my
9 words because of concussion.

10 Q. That was really the question I was asking. What led you
11 to believe at that time that the doctor was of Pakistani
12 heritage? If you were struggling to find words, why was
13 it you thought to yourself "This doctor is of Pakistani
14 heritage"? If you were asked to describe him, for
15 example, you described him as a "Wee Pakistani doctor".
16 Now, I'm not really interested in that, but I'm
17 interested in why you described him as of Pakistani
18 heritage at all?

19 A. Well, that's what I'm saying: because I was concussed,
20 I can't actually tell you right here, right now, if
21 those were indeed the words that I used, but what I can
22 say is that that sort of language and description and

1 things like that doesn't appear in any more of my
2 evidence, any more of the numerous statements that
3 I have given, so I mean, the person noting that
4 statement, I don't know if that was maybe a term that
5 they had used. I realise I have signed the statement,
6 but can I physically sit here and say to you those words
7 came out of my mouth? No, I can't.

8 Q. So in the PIRC statement, which is PIRC 00253, you're
9 not certain you used the words "The wee Pakistani
10 doctor" at all?

11 A. No, no.

12 LORD BRACADALE: Thank you, Mr Moir. Can you return to your
13 seat please.

14 Dean of Faculty.

15 DEAN OF FACULTY: My Lord, I'm obliged, no clarification
16 required from me.

17 LORD BRACADALE: Thank you.

18 Ms Short, thank you for coming to give evidence to
19 the Inquiry. That's the end of your evidence and you
20 are now free to go.

21 A. Thank you, sir.

22 LORD BRACADALE: Now, Ms Grahame, I think I'm right in

1 saying that tomorrow for administrative reasons we are
2 having a different timetable.

3 MS GRAHAME: That's correct. We will start at 1 o'clock and
4 continue, as I understand it, until 5.00, and I will --
5 intend to call PC Tomlinson.

6 LORD BRACADALE: Yes. Thank you. Well, for administrative
7 reasons a change in the pattern of the day tomorrow. We
8 will start at 1.00 pm and we will sit until 5 o'clock.

9 Thank you.

10 The Inquiry will now adjourn.

11 (4.20 pm)

12 (The Inquiry adjourned until 1.00 pm on
13 Wednesday, 25 May 2022)

14

15

16

17

18

19

20

21

22

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

INDEX

MS NICOLE SHORT (sworn)1

 Questions from MS GRAHAME 1

Application by MS MITCHELL170

Application by MR SCULLION174

Application by MR MOIR175

Ruling176

MS NICOLE SHORT (continued)178

 Questions from MR SCULLION178

 Questions from MR MOIR179

1

2

3

4

5