

1

## 2 TRANSCRIPT OF THE INQUIRY

3 Friday, 27 May 2022

4 (9.59 am)

5 LORD BRACADEL: Good morning. Now, Ms Grahame, today's  
6 witness is Alan Smith, is that right?

7 MS GRAHAME: Yes, that's correct.

8 LORD BRACADEL: Good morning, Constable Smith.

9 THE WITNESS: Good morning, sir.

10 LORD BRACADEL: Would you raise your hand and say the words  
11 of the oath please.

12 PC ALAN SMITH (sworn)

13 LORD BRACADEL: Ms Grahame.

14 Questions from MS GRAHAME

15 MS GRAHAME: Thank you.

16 Good morning, PC Smith. Your full name is  
17 Alan Smith, is that right?

18 A. Yes.

1 Q. And what age are you?

2 A. 45.

3 Q. And how many years' service do you have?

4 A. 17.

5 Q. And we have all your contact details in the Inquiry so

6 I won't be asking you to say those at the outset.

7 First of all, I understand you have watched some of  
8 our proceedings on the channel, so you will understand  
9 that I would like to make sure, first of all, that you  
10 have everything that you need and you should see a black  
11 folder in front of you on the desk.

12 A. Yes.

13 Q. Do you want to have a look inside that. Now, you may be  
14 aware that if I want to refer you to a statement it  
15 will -- the paragraph will come up on the screen in  
16 front of you, but as well as that you've got hard copies  
17 of any statements that you have given and you can refer  
18 to them at any time that you wish to do so.

19 Let me have, first of all, the PIRC statement 278,  
20 and you will see this coming up on the screen, and you  
21 will see it is dated 11 June 2015 at 7.20 in the morning  
22 and it was taken by Investigator James Bonner at

1 Kirkcaldy Police Office, in the presence of Investigator

2 John Ferguson. Do you see that?

3 A. Yes.

4 Q. Do you remember giving that statement?

5 A. Yes, I do.

6 Q. Right. Were you doing your best at that time to give  
7 a true and accurate record of what had happened on  
8 3 May 2015?

9 A. Yes, I was.

10 Q. Thanks. And as part of that, will you also look at  
11 another document, COPFS on 05962, and this should be  
12 a satellite image of an area of Kirkcaldy, a satellite  
13 view of Hayfield Road and Hendry Road. You will see  
14 that on the screen now.

15 A. Yes.

16 Q. And then the next page is a map of the area which has  
17 your name on it in the bottom left and it's dated the  
18 same day as your PIRC statement, 11 June 2015.

19 A. Yes.

20 Q. And that was prepared by you when you gave your PIRC  
21 statement, is that right?

22 A. I can't recall preparing that to be honest, but I'm sure

1 it would be.

2 Q. All right, thank you. Well, we will be moving on from  
3 that anyway.

4 Then in addition to the PIRC statement, you have  
5 also prepared a statement which you have sent in to the  
6 Inquiry team and we would like that on the screen  
7 please, SBPI42, and this is your statement -- do you see  
8 that one?

9 A. Yes, I do.

10 Q. And can we look at the final page. And as Ms Drury is  
11 getting that I will just explain you were sent nearly  
12 100 questions by the Inquiry team and it is formally  
13 called a Rule 8 request, and you then responded to all  
14 of those questions and you prepared a statement assisted  
15 by your solicitors and then you sent it into the Inquiry  
16 team.

17 A. That's correct.

18 Q. And do we see on the final page of your statement  
19 there's a paragraph we asked you to include which says:  
20 "I believe the facts stated in this witness  
21 statement are true. I understand that this statement  
22 may form part of the evidence before the inquiry and be

1 published on the Inquiry's website."

2 Do you see that?

3 A. That's correct, yes.

4 Q. And then further down, if we can, we should see an area  
5 dated 13 April this year and although it is redacted on  
6 the screen, the copy you have you had actually signed  
7 that.

8 A. Yes, I have.

9 Q. That's great. Thank you very much. And again you were  
10 doing your best to give a true and complete record of  
11 what happened on 3 May 2015?

12 A. That's correct.

13 Q. Well, you've got both of those statements in front of  
14 you and if you want to refer to any passages, just let  
15 me know, and we will make sure we can get them up on the  
16 screen as well. All right?

17 A. Yes.

18 Q. In addition, you will see to your left a spreadsheet and  
19 it's a combined audio and video timeline. I don't know  
20 if you have had sight of this previously, or you may  
21 have seen me refer to it in other parts of the hearing.  
22 You will see on the far left there's a column that gives

1           timings and it is -- you will see on page 1 that it's  
2           070920, for example, in the top left-hand corner.

3           A. Yes.

4           Q. And that means it's 9 minutes past 7 in the morning and  
5           20 seconds past that minute and it's in the 24-hour  
6           clock.

7           Then you will see that there are -- just to left of  
8           centre there are timings and mention of Airwaves  
9           transmissions by officers and a description of what the  
10          Airwaves transmission was, what was said on that  
11          transmission. Do you see that?

12          A. Yes, I do.

13          Q. And then to the right of centre it says:

14           "Description of visible events in the video."

15           And that's a sort of thumbnail sketch of what we may  
16          see in the CCTV footage. Have you seen the footage on  
17          the screen when you have watched it before?

18          A. Yes, some of it.

19          Q. So that is a short -- a very short description of what  
20          can be seen. And then on the far right it indicates the  
21          source of that footage and if you have seen it on the  
22          screen you will see that there's different windowpanes,

1 if you like, showing different pieces of footage, all  
2 combined, cross-checked with a real time clock. All  
3 right? Great. So you can also refer to the spreadsheet  
4 when we look at the footage. So normally I will bring  
5 the footage up, play it maybe once or twice if you would  
6 like me to, and you can also refer to the spreadsheet if  
7 you wish.

8 A. Okay.

9 Q. Great. Right. When Mr Jackson, your QC, gave an  
10 opening statement he explained that you are a qualified  
11 officer safety trainer.

12 A. That's correct.

13 Q. And that you went to Hayfield Road with  
14 PC Kayleigh Good.

15 A. Yes.

16 Q. And she was a probationer at the time, is that correct?

17 A. Yes, that's correct.

18 Q. And she had completed her first shift on 6 April 2015,  
19 the month prior to these events?

20 A. That sounds about right.

21 Q. Right. And she was under your supervision on that day.

22 A. Yes.

1 Q. We have heard about probationers having a mentor or  
2 a supervisor and is that the arrangement that you had  
3 with Kayleigh Good?

4 A. Yes, it would be referred to as a tutor constable.

5 Q. All right, a tutor constable. Is that the equivalent of  
6 a supervisor or a mentor?

7 A. Yes.

8 Q. But that's the formal name for it?

9 A. Yes.

10 Q. And do you want to give us a little bit more information  
11 about that role and ...

12 A. Basically --

13 Q. Is that something --

14 A. -- working with someone who has just finished their  
15 police college and they would generally be paired up  
16 with a tutor constable which is usually somebody with  
17 a little bit more service and experience for generally  
18 the first three months of their service, in order to  
19 teach them aspects of the job that maybe aren't covered  
20 at the college, so at the college they will get an awful  
21 lot of theoretical input and it is just literally  
22 teaching them how to do the job.

1 Q. So they're shadowing someone more experienced --

2 A. Yes.

3 Q. -- in the actual day-to-day work?

4 A. Yes, it also gives them the opportunity to have  
5 continuity with who they work with, you've got  
6 continuity of being able to keep an eye on their  
7 workload and how they're doing, rather than move them  
8 between different people.

9 Q. And your role is to help them develop their own  
10 abilities to work independently, is that --

11 A. Yes, yes.

12 Q. So had you been working with PC Good for her first month  
13 of her probation?

14 A. Yes, I think so.

15 Q. And we also understand from paragraph 4 of your Inquiry  
16 statement -- and that will come up on the screen --  
17 that -- there it is -- that you actually were  
18 an authorised firearms officer?

19 A. Not at the time.

20 Q. Oh, right. So the additional training you have had  
21 wasn't in May 2015, but you are now an authorised  
22 firearms officer?

1 A. No, prior to May 2015 I was an authorised firearms  
2 officer and I stopped that role a few years prior to  
3 that.

4 Q. Oh, I see. So you had been trained and been  
5 an authorised firearms officer but had actually stopped  
6 doing that role?

7 A. Yes, that's correct.

8 Q. Right. So you had had -- in your statement in  
9 paragraph 4 you had had the training, you were aware of  
10 that additional training and you had gone through that.  
11 Had you had practice/experience as an authorised  
12 firearms officer prior to 2015?

13 A. Yes. I was a firearms officer for I think maybe two,  
14 two and a half years during which time I worked for  
15 several months as an ARV officer, armed response vehicle  
16 officer, and as a firearms officer within a response  
17 team who would get called away to do firearms operations  
18 if required.

19 Q. Right. So that had been part of your role prior to  
20 2015?

21 A. Yes. It was a number of years prior to that.

22 Q. Sorry, remind me what you just said. How many years?

1 A. I think I probably stopped doing that around 2010.

2 Q. All right. So roughly five years prior.

3 A. Yes.

4 Q. You say there a public order officer, so what was that?

5 A. Public order officers are provided to carry out public  
6 order operations, be it potentially policing of  
7 large-scale disorder all the way down to demonstrations  
8 where there needs to be a police presence, football  
9 matches, those type of large-scale events and it can be  
10 anything from something which is completely peaceful up  
11 to something where, as I said, it has developed into  
12 disorder.

13 They also carry out roles to do with method of entry  
14 on houses so if there's some sort of pre-planned role  
15 where you've forced entry to houses or executing for  
16 example drug search warrants, it would quite often be  
17 public order officers who would force entry in, carry  
18 out the initial actions in a house, or dealing with  
19 potentially very violent and dangerous subjects usually  
20 contained within a building, you would use public order  
21 tactics and enhanced PPE and enhanced protective  
22 equipment to carry out those sort of operations.

1 Q. And that would involve additional training as well?

2 A. Yes, it did.

3 Q. And what was the position then in May 2015?

4 A. I was a qualified public order officer but that wasn't  
5 the role I was employed in --

6 Q. No, no.

7 A. -- at that time. That would be something that would  
8 be -- not quite part-time but you would be pulled away  
9 from your role as a response officer to fulfil a public  
10 order duty, for example if there's a football match or  
11 something, you would be pulled away to carry out that  
12 role.

13 Q. So that's more ad hoc --

14 A. Yes.

15 Q. -- as and when required?

16 A. Yes.

17 Q. But that was something you were involved in?

18 A. Yes, I would have been qualified at that time.

19 Q. At that time, right. And it was also said on your  
20 behalf in the opening statement that you had -- by the  
21 time you arrived, you had heard the emergency wave  
22 button and had heard Nicole Short's voice and it was

1 said on your behalf that it was rare for that button to  
2 be used, and you had heard a further activation and  
3 a voice saying "Officer injured", so by the time you  
4 arrived you had heard those messages?

5 A. Yes. I'm not certain I heard PC Short's voice, but  
6 everything else about that is correct.

7 Q. Okay, that's great. So you weren't at Hayfield Road at  
8 the time -- or if an officer was injured, you weren't  
9 there at that time?

10 A. Yes, that's correct.

11 Q. You arrived later?

12 A. Yes, shortly thereafter but ...

13 Q. Shortly thereafter?

14 A. Yes.

15 Q. Great. Now, the first thing I wanted to do with you was  
16 to look at the Airwaves transmissions that were being  
17 made, or transmitted in the period prior to your arrival  
18 at Hayfield Road, but before I do play those, I noticed  
19 in your Inquiry statement that you said you had actually  
20 reviewed them prior to preparing your statement, so  
21 I suppose my question is would you like to listen to  
22 them again now? In which case I will play the footage

1 and you will hear the Airwaves transmissions, or are you  
2 happy just simply to move straight to your statement?

3 A. Yes, just move straight to the statement.

4 Q. Straight to the statement, right. In that case, can we  
5 look at paragraph 1 please.

6 You say in paragraph 1 you were:

7 "... made aware by PC Good [that's Kayleigh Good]  
8 that there was an ongoing incident involving a male  
9 person with a knife. I am not sure why but I had not  
10 been aware of the initial transmission."

11 Tell us when you became aware of the transmission,  
12 was it just when Kayleigh Good gave you that  
13 information?

14 A. Yes. She didn't specifically say there was  
15 a transmission or anything like that, but she told me  
16 there was an incident we needed to attend in relation to  
17 somebody with a knife.

18 Q. So where were you when she told you that?

19 A. I was within a cleaner's cupboard in Kirkcaldy Police  
20 Station washing a cup.

21 Q. And what did you do as soon as you heard that from  
22 PC Good?

1 A. Stopped what I was doing. Myself and PC Good  
2 immediately made our way down to our vehicle.

3 Q. And was that at Kirkcaldy Police Office?

4 A. That's correct, yes.

5 Q. With a view to travelling to Hayfield Road?

6 A. Yes. I don't know if I was aware of the location yet at  
7 that time, I was still trying to almost catch up with  
8 the information, but it was with a view to leaving the  
9 station and attending to the call.

10 Q. To attend that incident?

11 A. Yes.

12 Q. Wherever that incident was you were on your way to  
13 attend?

14 A. Yes.

15 Q. And at that time were you aware -- at the time you  
16 became aware of that incident, were you aware that there  
17 had been a request for all units to attend?

18 A. I can't recall hearing that.

19 Q. Okay. Is it normal or was it normal at that time for  
20 you to attend all the incidents where there's  
21 an allegation of someone with a knife?

22 A. Not necessarily absolutely all of them, but yes, as

1           a general rule if it's something with a knife you would  
2           want as many resources to attend as possible.

3       Q. Okay. Can we look at paragraph 3 please. And you tell  
4           us in your Inquiry statement about risk assessments and  
5           I think you said:

6           " ... it was only possible to carry out the most  
7           general of risk assessments."

8           Could you maybe explain what you mean by that.

9       A. Just given the limited nature of the information  
10           intelligence we have, that it's simply a person with  
11           a knife in the street -- if you had more specific  
12           information your risk assessment could then be factored  
13           into that. If you had what they were doing, what they  
14           had been doing, if you had some idea of what their  
15           reason for that was, it would allow it to be more  
16           specific, but just due to the limited information and  
17           intelligence, the risk assessment's got to be fairly  
18           broad in what you're thinking about.

19       Q. Do you remember now what limited information you had  
20           available to you when you were en route to  
21           Hayfield Road?

22       A. All I had -- and I can't recall if it's specifically

1 things I have picked up from the radio transmissions, or  
2 by asking PC Good what she has heard, but it was a male  
3 in the street with a knife. I can't recall getting any  
4 other further information than that -- and the location,  
5 possibly Victoria Road. And then further information  
6 developed that there were further calls for  
7 Hayfield Road which led you to believe it's almost  
8 certainly going to be there.

9 Q. And when you say "further calls", was there anything  
10 unusual about the fact there were further calls?

11 A. I wouldn't say unusual as such, but it's something you  
12 can use to then -- it corroborates the fact that  
13 something's happening potentially. If it's just one  
14 call it could be a mistake, it could be a hoax, but  
15 several calls just they add to the information  
16 intelligence that's coming from different sources. It  
17 makes it more credible.

18 Q. Okay, thank you. Then the second paragraph of number 3  
19 you talk about an initial risk assessment and what do  
20 you mean by that?

21 A. Not as any specific process as opposed to any other risk  
22 assessment, but literally just the first risk assessment

1 I carried out in relation to these ongoing  
2 circumstances.

3 Q. Is that the risk assessment you do when you arrive at  
4 the scene? Is that an initial risk assessment?

5 A. No, I would suggest the initial risk assessment is as  
6 soon as you start thinking about the risks, you're  
7 beginning to carry out a risk assessment. That's what  
8 I would mean by that.

9 Q. And when you arrive at a scene, do you call that by  
10 something else, or is that still a risk assessment?

11 A. No, I would just say it's continuing with the risk  
12 assessment.

13 Q. We have heard about the National Decision-Making  
14 Model --

15 A. Yes.

16 Q. -- where additional information or new information  
17 coming in constantly goes into that model and it's  
18 a cycle of review based on whatever the up-to-date  
19 information is. Does that -- is that something you're  
20 aware of and doing?

21 A. Yes, I am --

22 Q. And -- sorry.

1 A. Possibly not -- when something's happening very fast  
2 you're possibly not consciously following every single  
3 step of the National Decision Model. You know, if  
4 you're having to make a decision in one or two seconds,  
5 you're not going to take the time to go through all the  
6 various boxes, but the utility of the National Decision  
7 Model is that your decision-making process will mimic  
8 that, it will follow that general route, and you stop  
9 and think about it. Your decision-making process has  
10 been that general thing you're thinking about, your  
11 information intelligence, your risk, your strategies,  
12 your powers and policies and what's going on and even if  
13 you're not consciously stopping and deliberately putting  
14 it into the NDM format, you will follow that general  
15 process.

16 Q. So it's an unconscious use of that. Is that something  
17 you're using on a daily basis of doing?

18 A. Yes, yes.

19 Q. And by the time you had -- by May 2015 that's something  
20 you had been using as part of your daily --

21 A. Yes, absolutely and if it's something you have time to  
22 do, it's a pre-planned thing or you've got a long time

1 to think about making a decision, absolutely you will  
2 sit down and potentially write it down and use that and  
3 that's all the way up to an absolute split-second  
4 decision where you're not actually consciously going  
5 through all this decision-making process but actually  
6 you are, if that makes sense.

7 Q. You're just going automatically into that unconscious --

8 A. Yes.

9 Q. -- use of that model.

10 And you talk about the risk posed by a subject with  
11 a knife. Would you like to say a little more about  
12 that?

13 A. The risk with a knife is very significant, particularly  
14 when you don't have sort of specific information and  
15 intelligence and you're having to think about what all  
16 the types of things could be, but knives are incredibly  
17 dangerous, knives kill very easily, they can cause  
18 grievous injuries, they're very easy to use, they're  
19 very easy to obtain, they're easy to conceal, they're  
20 reasonably easy to explain away if stopped by the  
21 police, so the risk posed by somebody with a knife is  
22 extremely significant, extremely high.

1 Q. And who is that risk to?

2 A. It could be to themselves, so thinking about  
3 self-harming which I would suggest is the -- is a very  
4 common type of knife call we will attend; it could be  
5 a risk to the public, be that the public in general or  
6 a specific person, which would be driven by the  
7 information intelligence; or a risk to the police,  
8 whereby they want to resist arrest, their aggression for  
9 somebody else is transferred to the police when  
10 the police arrive. Something along those lines.

11 Q. All right. And when you mentioned the public there did  
12 you -- you knew Hayfield Road, did you?

13 A. Yes.

14 Q. And was it an area where members of the public were  
15 likely to be?

16 A. Yes. Given that it's 7 o'clock on Sunday morning or  
17 thereabouts it's going to be quieter than it would be at  
18 other times, but Hayfield Road is a busy thoroughfare,  
19 so it's not thronged with people, it's not a high street  
20 but it's a main route through the town, it's a main  
21 route to the hospital which was approaching a shift  
22 change -- I think it changes shift at 7.45 or

1 something -- there's churches on that road and it's  
2 Sunday morning, so it's not -- yes, there's going to be  
3 people about. At any time of the day or night, there  
4 will be people walking up and down there. Maybe not  
5 lots and lots, but it's not going to be free of public.

6 Q. Thank you. Could we look at paragraphs 7 and 8 please.

7 Now, you say here:

8 "Supporting my recollection and as per the  
9 transcript of the calls."

10 Did you have a transcript of the Airwaves messages?

11 A. I did, yes.

12 Q. And you make some comments:

13 "There was no message that an ARV had been deployed,  
14 but simply a message from a controller that one was  
15 being organised. This is not the same thing. If an ARV  
16 has been deployed to an incident it would be normal  
17 practice that a clear and concise message would be  
18 passed detailing how many ARVs, from where, and for what  
19 purpose (eg a tactical relocation). No such message was  
20 ever passed and I am unaware of ever seeing anything  
21 indicating that an ARV was ever on route to the  
22 incident. Other than another vague message from the ACR

1 inspector that he was monitoring from an ARV point of  
2 view I am not aware of any other mention of ARVs in  
3 relation to the call. Unlike the deployed dog handler  
4 who spoke on the channel several times. Also there was  
5 no message indicating that a deployed ARV had been stood  
6 down - although such a message may have been redundant,  
7 it would still be common practice for this to be  
8 passed."

9 I would like to ask you a few questions about that  
10 paragraph and in particular about the messages in  
11 relation to the ARV. Can I ask you to look, first of  
12 all, at 7.20.13 which is on the spreadsheet at page 3 --  
13 well, actually can I start at the bottom of page 2 and  
14 just to draw them to your attention. There's  
15 a request -- a request made from -- for an ARV or dog  
16 unit and then at 7.19.17 we see Con 1 "I believe a dog  
17 unit is en route" and then 7.19.23 Con 2 "411 be aware  
18 organising an ARV as well, stand by". So there's those  
19 two messages.

20 A. Yes.

21 Q. And then at 7.20.13 on page 3 of the spreadsheet do we  
22 see the message:

1 "ACR Inspector Stewart: Inspector Stewart area  
2 control room to the set attending and monitoring this  
3 obviously from an ARV perspective and if you get  
4 sightings of the male you need to make an initial  
5 assessment yourself and feed back through straight away  
6 and I will listen out on the channel."

7 So in paragraph 7 of your statement which remains on  
8 the screen you have talked about vague messages about  
9 the ARV and you see the messages that I'm referring you  
10 to on the spreadsheet?

11 A. Yes, I do.

12 Q. Could you explain to the Chair a little more about what  
13 you meant there in that paragraph?

14 A. In that the message was vague?

15 Q. Yes. Twice you have said there were vague messages, so  
16 let's go through it.

17 "There was no message that an ARV had been deployed,  
18 but simply a message from a controller that one was  
19 being organised. This is not the same thing. If an ARV  
20 has been deployed to an incident it would be normal  
21 practice that a clear and concise message would be  
22 passed detailing how many ARVs, from where, and for what

1 purpose (eg a tactical relocation). No such message was  
2 ever passed and I am unaware of ever seeing anything  
3 indicating that an ARV was ever on route to the  
4 incident."

5 So that's the first part of paragraph 7.

6 A. Yes, so in respect of the first part where they're  
7 saying an ARV is being organised, that's them stating  
8 an intent as to what they're going to do. It's not  
9 information coming to me that one's coming or one's not  
10 coming. That's -- there's nothing firm in that and  
11 I can't then factor that into any planning I'm making  
12 about how far away that support is going to be. Is it  
13 coming from Glenrothes, is it coming from North  
14 Queensferry, is it coming from Edinburgh, that type of  
15 thing.

16 So it's of no -- it's lovely to know they're  
17 thinking about it, but you need harder information.  
18 "One's coming, one's not coming; one's been deployed,  
19 one's not been deployed yet and we're reviewing it" is  
20 what you really need to know. And again talking about  
21 the vague messages from the ACR inspector, again there's  
22 none of that information. He has not said "I have not

1 deployed an ARV yet", he has not said "I have". He said  
2 "I'm monitoring from an ARV perspective" which could be  
3 applied to one that's en route, it could be applied to  
4 one that's still sitting in the station in Edinburgh or  
5 Glenrothes.

6 Q. I'm going to go through that again. So when those calls  
7 are transmitted on the Airwaves officers are en route?

8 A. Yes.

9 Q. And you have said that in relation to being told that an  
10 ARV is being organised isn't hard information. Is  
11 that -- you're saying that's not information that allows  
12 you to factor that into your -- effectively your risk  
13 assessment process?

14 A. Yes, that's correct.

15 Q. And the sort of information that you would have found  
16 helpful, that you could have factored into that risk  
17 assessment process, would have been the location,  
18 perhaps how far away or how much time it would take for  
19 an ARV to be in place in Hayfield Road?

20 A. Yes.

21 Q. And that's the sort of information you would have wanted  
22 from the control room?

- 1 A. Yes, that would have been more helpful than --
- 2 Q. Than what was sent here.
- 3 A. -- the information that was passed.
- 4 Q. And is that the sort of information that you would have
- 5 expected to be shared with you as an officer travelling
- 6 en route to Hayfield Road?
- 7 A. If they have that information, yes. It certainly
- 8 significantly helps.
- 9 Q. And is that the type of approach that you would expect
- 10 when you're attending a knife incident?
- 11 A. It's the type of approach I would like to get. It's
- 12 certainly -- it's difficult to think back what it was
- 13 generally like then. Certainly these days you would get
- 14 a more formal sort of communication than that.
- 15 Q. Right. Do you think that the practice has evolved and
- 16 maybe improved since 2015?
- 17 A. Yes.
- 18 Q. So although it was the type of approach you said you
- 19 would like to get, in May of 2015 was it the type of
- 20 approach that you would commonly get at that time?
- 21 A. I wouldn't like to say. I'm struggling to think of any
- 22 other specific incidents, so I wouldn't like to guess.

1 Q. Had you been involved in any other incidents by May 2015

2 that the ARVs were even being organised or considered?

3 A. It was -- by 2015? I would imagine I must have.

4 I can't remember any specific ones and it was certainly

5 very rare for ARVs to be deployed in support of

6 officers.

7 Q. And when you say "very rare", would you be able to

8 assist the Chair by understanding the sort of context of

9 that? How rare is rare?

10 A. I was on an ARV for about six months and I deployed six

11 times I think.

12 Q. In six months?

13 A. Yes.

14 Q. And how often are you on shift at that -- were you on

15 shift at that time?

16 A. You're working 40 hours a week.

17 Q. Right, okay, thank you. So it's not a common occurrence

18 to have an ARV being considered to support officers

19 attending a knife incident?

20 A. Not at that time.

21 Q. Not at that time. Coming on to the next part of

22 paragraph 7 -- no, sorry, the same paragraph on the

1 screen, but you say that there was:

2 "... another vague message from the ACR inspector  
3 that he was monitoring from an ARV point of view I am  
4 not aware of any other mention of ARVs in relation to  
5 the call. Unlike the deployed dog handler who spoke on  
6 the channel several times. Also there was no message  
7 indicating that a deployed ARV had been stood  
8 down - although such a message may have been redundant,  
9 it would still be common practice for this to be  
10 passed."

11 So in relation to this message on page 3 of the  
12 spreadsheet from Inspector Stewart, is this the message  
13 that you were referring to at 7.20.13?

14 A. Yes.

15 Q. When you gave that part of your --

16 A. Yes, that's correct.

17 Q. -- paragraph 7. So can you explain a little bit more  
18 about what you mean when you said that was a vague  
19 message?

20 A. Certainly the first part -- as it progresses I think  
21 that's relevant, where he talks about what his  
22 expectations are of the officers --

1 Q. As his message progresses?

2 A. Yes, but the first part again "I'm monitoring from an  
3 ARV point of view" has given me no information about  
4 whether an ARV is coming or it's not, or it's been --  
5 you know, if it's still sitting in Edinburgh waiting to  
6 go, if it's en route, which again it's the same thing.

7 It would have been helpful to know what that means  
8 because "I'm monitoring from an ARV point of view", he  
9 could have deployed them already and we don't know.

10 Q. So you didn't have the information you would have wanted  
11 again about how far away they were, how much time it  
12 might take to get them at Hayfield Road?

13 A. Yes. Again, that said, my recollection of this actual  
14 message is -- it's difficult to say because I have now  
15 read it and heard it several times, but my recollection  
16 on the day -- I can't remember whether I heard that or  
17 not, or in what detail I recollected it or not.

18 Q. And then you talk about as the message continues  
19 Inspector Stewart talks about needing to make an initial  
20 assessment yourself and feed back through straight away  
21 and he will listen out on the channel. You said the  
22 message moved on and continued. What was your

impression of that part of the message?

A. It's sensible. It's a sensible instruction. Ideally when you're dealing with something where there's a very high risk and the situation allows you to do it, then holding back and carrying out observations is a very sensible and useful option to have. Again, it's going to be completely dependent on how the situation plays out when you get there, but that's -- certainly from the safety of officers point of view, that is something that's going to be a useful thing to do.

Q. So sitting back, waiting and observing --

A. Yes.

Q. -- what's happening. And getting more information which can then be factored into that model?

A. Yes, if the situation allows you to do it.

Q. If the situation allows. And what sort of things would allow that situation to develop?

A. In this set of circumstances it's going to be quite difficult, I would imagine, to be able to do that effectively for any period of time. You've got a subject who is outside, they're in -- it's an interesting area because it is built up, it's definitely

1 a residential area, but there is quite a lot of open  
2 space, they've got a lot of freedom of movement as to  
3 where they can go particularly -- well, from where it  
4 actually ended up happening because it's difficult not  
5 to focus on that although we didn't necessarily know  
6 that at the time, but yes, in general it was a built up  
7 area with a lot of space around, there's going to be  
8 lots of freedom of movement, you've got a subject with  
9 a knife, you've got public who are going to be coming  
10 and going, although it's not going to be incredibly  
11 busy, there's definitely going to be public about the  
12 place, there's definitely going to be vehicles about the  
13 place.

14 When you turn up to observe somebody in that  
15 situation and again thinking to that subject's state of  
16 mind, it's not necessarily a mental health issue but  
17 walking about the streets with a knife in your hand  
18 doesn't speak to rational thought at that time, so is it  
19 potentially mental health, or is it potentially somebody  
20 who is in a state of extreme anger, a state of extreme  
21 fear? Just somebody who is not maybe thinking entirely  
22 rationally. The chances are when a police vehicle

1 arrives the subject is going to react to that vehicle in  
2 some way.

3 Now, it may well be they're going to stay where they  
4 are, do nothing, stay in the same area and allow you to  
5 observe it and no other public or anything are going to  
6 go anywhere near them, right, and that's going to allow  
7 observations nice and safely. However, I would suggest  
8 in my experience there's going to be a different  
9 reaction. They're going to run away, they're going to  
10 try and brazenly walk away and get away with it.  
11 They're maybe going to become aggressive towards  
12 the police. The chances of them just standing still --  
13 yes, absolutely it can happen, if it's somebody who's  
14 seeking police intervention, seeking to speak to the  
15 police about their actions, again potentially about  
16 their health or something, it might be somebody who is  
17 quite happy to stand there and let the police engage  
18 with them, let the police watch them. But there's  
19 a very significant chance something else is going to  
20 happen when you turn up and you may have to react to  
21 that to protect the public, to protect the subject, to  
22 keep your observations on the subject.

1           Where are you going to observe from? How close are  
2           you going to be prepared to go? If you have a subject  
3           with a knife and there's a lot of public about, is it  
4           safe for me, is it safe for me in the perspective of the  
5           public to sit back 100 metres and observe them, which  
6           keeps me safe. However, I'm not doing anything there to  
7           mitigate the risk to the public. There's every chance  
8           the public could come in between myself and the person  
9           with the knife. So am I going to have to go closer? If  
10          I go closer is that likely to provoke more of a reaction  
11          from them?

12         So it's an ideal thing -- well, ideal thing to do --  
13         it's going to be a good option if you can possibly do  
14         it, hold off and observe, however it's going to be  
15         dictated by the circumstances and in my experience the  
16         circumstances will probably make that a difficult thing  
17         to do.

18         Q. So what circumstances do you think would be required  
19         before it would allow an officer to take that step, sit  
20         back and observe? What would be the optimum conditions  
21         that would allow that to take place?

22         A. The subject is literally standing still and there are no

1           public anywhere near them, or -- and there's no  
2           potential the public are going to go anywhere near them,  
3           or realistic chance the public are going to go anywhere  
4           near them.

5           Q. Is that ever a possibility in Kirkcaldy?

6           A. Yes, it can happen. I have attended knife incidents  
7           whereby the person is seeking contact from the police.  
8           I have attended, they have had a knife to their throat  
9           and I have stood for hours negotiating with that person,  
10          so yes, it can happen, absolutely. Every set of  
11          circumstances is different from the other.

12          Q. And is that in an area where there's no other members of  
13          the public possible?

14          A. Yes, it was a -- not possible, the circumstances were  
15          slightly different, we had to approach closer than maybe  
16          would have been perfectly safe for us, but you're having  
17          to balance the safety of the officers against like I say  
18          the bigger concern of safety for the public. It was in  
19          the middle of the night so there's less chance of that  
20          type of thing. It was an easier -- it was an easier  
21          area to sort of contain and cordon off so the public  
22          wouldn't approach, but similar.

1 Q. We have heard about containment, you are now mentioning  
2 cordon off.

3 A. Mm-hm.

4 Q. How much support do you need to be able to contain or  
5 cordon off an area?

6 A. Lots. So going back to the example I just gave, the  
7 cordon you're putting in there isn't on the subject,  
8 it's around the area to stop the public coming in.

9 If you want to try and cordon a subject that's not  
10 going to be an ideal thing to do with somebody with  
11 a knife with response officers. That's going to be  
12 a difficult thing to do, given the level of equipment  
13 and things we have. If you want to put officers around  
14 the person, how close are you going to put them? Are  
15 you going to leave them enough of a reaction gap to  
16 protect themselves, is their equipment going to be  
17 sufficient to protect themselves, do they have the  
18 tactics to use? Because when we talk about the training  
19 we do, the CUT principles, that tells somebody to move  
20 out of the way if somebody comes at them with a knife.  
21 So it becomes difficult to cordon if your tactic is to  
22 move back, it's going to be a very difficult thing to do

1 to effectively put a cordon on somebody who is intent on  
2 moving about the place.

3 If they're playing the game and they want to stand  
4 still, it becomes easier.

5 Q. You mentioned there the CUT principles. Can you explain  
6 what that is?

7 A. So the general principles that would be taught to  
8 somebody facing an attack from somebody with a knife, so  
9 the subject is endangering a police officer, CUT being:

10 Create distance. Right, knives are very dangerous,  
11 however you literally have to be a couple of feet away  
12 and they can't harm you with it, that's maybe easier  
13 said than done if the subject is intent on following  
14 that up and closing the distance, that becomes very,  
15 very difficult to do because you're going to be walking  
16 backwards, they're going to be walking forwards.

17 However, the situation may well allow it. If the  
18 subject is in a room and they want to stay in that room  
19 with a knife then creating distance becomes easier. But  
20 again every set of circumstances is different.

21 Using cover. Right, shield yourself in some way.  
22 That's generally going to be some sort of improvisation

1 from a response officer. Is it -- can I lift a bit of  
2 furniture up and protect myself? Can I get myself in  
3 a police vehicle and lock the doors? Can I -- do the  
4 circumstances allow me to close the door of the room the  
5 subject is in and leave them in there, dependent on the  
6 risks to other people and that sort of thing. So using  
7 some sort of cover.

8 And transmit, using the radio, transmit -- pressing  
9 the red button if you can, getting a clear message out  
10 that there is a knife in play. If all you can say is  
11 "Knife", that's fine because radio messages -- long  
12 descriptive messages in these type of situations are  
13 effectively impossible. Radio messages are going to at  
14 best be one or two words to try and get some information  
15 out to try and let people have an idea of what's going  
16 on.

17 We also -- training changes very regularly. I think  
18 the CUT principles now talk about tactical options.  
19 I don't think that was in the training in 2015 but  
20 I can't be certain.

21 Q. So CUT in 2015 was create distance, use cover and  
22 transmit.

1 A. That's correct.

2 Q. And what do you mean by tactical options?

3 A. What can you do. So it's not tactical options that  
4 somebody is going to be able to come, so it's not  
5 sending ARVs, it's not sending public order officers,  
6 it's what can I do to protect myself? What pieces of  
7 equipment can I use? Can I -- do I need to use a baton  
8 strike, do I need to use my spray, do I need to use an  
9 empty hand strike, can I run away.

10 Q. Tactical retreat I have been told that's called.

11 A. Yes.

12 Q. Can I go back to look at your Inquiry statement and you  
13 say -- it will be further down -- that the dog or ARV  
14 played no part in the process you were carrying out,  
15 unless they were very close by, unless there was  
16 a stand-off or cordon situation, where more leeway to  
17 allow specialist units to arrive.

18 So you said that the information you had about the  
19 dog unit or the ARV, none of that played any part in  
20 your process of considering the risk and it wouldn't  
21 have unless they had been very close by?

22 A. Yes, effectively.

1 Q. Yes. And by very close by, what do you mean?

2 A. In Kirkcaldy.

3 Q. Right. So unless the dog and the ARV had been in  
4 Kirkcaldy --

5 A. Yes.

6 Q. -- deployed to Hayfield Road?

7 A. Possibly. Possibly if they were imminently going to get  
8 into Kirkcaldy, so anything more than a few minutes  
9 away.

10 Q. Right, so it's a few minutes until their arrival, beyond  
11 that that isn't really part of the resources you're  
12 considering when you're considering the risk.

13 A. Yes, that's correct. Well, you certainly can't count on  
14 them being there.

15 Q. Right. Can we look at paragraph 8 please. You have  
16 said that your recollection of the exact message was not  
17 exactly accurate, but now that you have reviewed the  
18 transcripts it doesn't -- insofar as it was different  
19 from the reality, it's not made any difference to your  
20 decision-making. So was there anything -- what you have  
21 said there is:

22 "As covered above there was no confirmation that an

1 ARV or dog had been deployed."

2 And:

3 "Both the messages as exactly passed or as I later  
4 recollected them would have led me to the same  
5 conclusion that there would be no immediate or short  
6 term support from specialist resources. As covered  
7 above unless the specialist units were imminently  
8 arriving there was no effect on my immediate risk  
9 assessment."

10 And that's really just confirming what you have said  
11 before.

12 A. Yes.

13 Q. And you're talking about within minutes?

14 A. Yes.

15 Q. So immediate or short-term --

16 A. Yes.

17 Q. -- is within minutes really?

18 A. Yes. If you -- as we talked about, if it's something  
19 that does develop into, and there's potential for that,  
20 into a cordon type situation or a stand-off situation,  
21 that's going to change and it maybe is going to  
22 become -- but for the actual risk that something's going

1 to go wrong and it's going to become a dangerous  
2 situation, if you can't count on them arriving you can't  
3 really factor them into your risk assessment.

4 Q. Thank you. Then you mention the dog unit and you say:

5 "Any inconsistencies are a result of me taking in  
6 a huge amount of information over a short period of  
7 time, from various sources and relation to various risks  
8 while also being put under a significant amount of  
9 physical, mental and emotional stress."

10 So you're talking about your journey to  
11 Hayfield Road?

12 A. Yes.

13 Q. Could you explain your state of mind as you approached  
14 Hayfield Road?

15 A. Yes. Obviously physical stress may not be quite  
16 appropriate for that point, but you're trying to take in  
17 a lot of information, you're trying to do a lot of  
18 things. First and foremost you're concentrating on  
19 response driving which is a risky thing to be doing in  
20 the first place.

21 Q. You were driving?

22 A. Yes. So that takes -- that's something that requires

1           a lot of thought and a lot of concentration as well

2           as --

3       Q. Why is that?

4       A. PC Good wouldn't have been trained to -- I don't know if

5           she would be trained to drive any police vehicles at the

6           time actually but she certainly wouldn't have been

7           trained to drive in a response role under blue lights.

8       Q. So you had your blue lights on?

9       A. Yes.

10      Q. And is that the sort of response driving you're talking

11           about?

12      A. Yes.

13      Q. Where you're using your lights?

14      A. Yes.

15      Q. And what is it about that type of driving that needs

16           more concentration, or --

17      A. You're driving faster.

18      Q. Fast, speed.

19      A. You're driving at speed. You are -- if you were

20           speaking to somebody who was involved in police driver

21           training they would tell you you should be concentrating

22           on nothing but your driving when you're driving to an

1           incident. You're driving at high speeds on residential  
2           streets potentially, you want to be very, very focused  
3           on that.

4       Q. So your driving -- I think you mention later in your  
5           statement -- is causing an increased risk to people  
6           using the streets. But you take that into account --

7       A. Yes, so you're diminishing that by applying a great deal  
8           of thought and concentration to your driving.

9       Q. So your focus was on driving as safely as you possibly  
10           could at the speed you were doing?

11      A. Yes and realistically you are also thinking about the  
12           risk assessment, the call you're going to. I think it's  
13           impossible not to. But a great deal of your  
14           concentration is put on that, that's split between again  
15           trying to monitor what's happening on the radio, I don't  
16           know if you've got it but there's emergency activations  
17           happening, you're trying to plan is it Victoria Road, is  
18           it Hayfield Road, can I take a route that's going to  
19           allow me to get a look at each of them, where do I think  
20           the other units are going to be coming from, can I pick  
21           a route that's going to be suitable to sort of enhance  
22           or maximise our efficiency as we're getting there if we

1 need to start searching for a person, so there's lots  
2 and lots of things you're going to be considering.

3 Q. So that's all going through your head on the way there?

4 A. Yes.

5 Q. Is that the mental and emotional stress that you were  
6 describing in paragraph 8?

7 A. Yes and it's -- I wouldn't say it's terrifying, but if  
8 you're going to somebody with a knife you have a degree  
9 of fear. You have a recognition that there's potential  
10 here that something could go wrong. It's probably not  
11 likely to, but there's always that -- I think it's not  
12 an overwhelming -- it's not your overwhelming emotion,  
13 but there's a little tension there.

14 Q. And what makes it not likely? You have said it wasn't  
15 likely to --

16 A. Statistically.

17 Q. So statistically it's not likely for an officer to be  
18 injured?

19 A. Not at a knife crime -- I wouldn't --

20 Q. In that type of --

21 A. -- quote these statistics, but in my experience I deal  
22 with an awful lot of knife calls, not all with that

1 level of information intelligence, so that would push  
2 the level of -- every situation is different and you  
3 interpret things differently and it will cause  
4 a different level of fear and a different level of risk  
5 assessment. However, the vast, vast number of knife  
6 calls you go to have a good outcome.

7 Q. Okay. Now, we have talked about the risk assessment and  
8 the National Decision-Making Model. In terms of feeding  
9 back, feedback to the control room or on the Airwaves  
10 transmission, you have mentioned the message from  
11 Inspector Stewart in ACR. We may have heard that  
12 there's a responsibility on officers at the scene to  
13 feed back information to the control room when they  
14 arrive to allow the control room to have effectively  
15 eyes on the ground. Is that your understanding?

16 A. Yes, generally. I wouldn't quite say "responsibility".  
17 It's ideally what you're going to do. It's always good  
18 to be able to feed information back. However, the  
19 circumstances can take over. If you have something that  
20 becomes a higher priority than transmitting on the radio  
21 back to the ACR, then you have to do that. If you're  
22 engaged -- like I said before, if you're engaged in

1 something where you have literally got -- you're needing  
2 to use your hands for something else, or you're under  
3 a great deal of duress, it might become difficult to.

4 It might become difficult to pass any message at all.

5 You might only get a couple of words shouted out or  
6 something like that.

7 So yes, if you possibly can, yes, you would be  
8 looking to pass a message back. However, every set of  
9 circumstances is different and the circumstances can  
10 sometimes make that impossible.

11 Q. And did you understand the message about giving feedback  
12 to apply to an officer such as yourself, who wasn't  
13 necessarily first on the scene?

14 A. Yes. As I said, I don't have a great recollection of  
15 receiving that message, but reading it that's what  
16 I would interpret it as.

17 Q. All right. Do you remember who was in charge of this  
18 incident at Hayfield Road?

19 A. Our supervisor at Kirkcaldy Police Station was PS --  
20 Acting PS Scott Maxwell.

21 Q. And so as far as you were aware, was it Acting Police  
22 Sergeant Maxwell that would have been in charge of this

1 call?

2 A. Overall, yes. However, he is not necessarily making

3 every single decision that happens during the call.

4 Being in charge is delegating to people to go and carry

5 out tasks. He is delegating officers to go up there

6 and -- not quite deal with it as they see fit, but carry

7 out the things they need to do. So it's not a case of

8 sort of micro-managing and the sergeant makes every

9 decision that needs to be made --

10 Q. So each individual --

11 A. So he has supervision of it.

12 Q. So each individual officer has a certain amount of

13 autonomy, they can act independently?

14 A. Yes, and that can change dependent upon the call. Some

15 circumstances dictate that it absolutely has to be

16 rigidly dictated from the ACR or from a sergeant, down

17 to again the vast majority of calls I go to, knife or

18 otherwise, yes I have autonomy, I make the decisions and

19 I deal with the call as I see fit. I might run it past

20 my sergeant, I might have to run decisions past my

21 sergeant, or it might be entirely down to my own

22 decision-making, dependent on all the circumstances.

1 Q. And we have heard that the area control room wouldn't  
2 take control unless they declared a firearms incident?

3 A. I believe that to be correct, yes.

4 Q. Right. Now, just to go back, before we move on from  
5 here, as you were leaving -- you have mentioned as you  
6 were leaving Kirkcaldy Police Office --

7 A. Yes.

8 Q. -- I understand from your statement you noticed  
9 PC Daniel Gibson and PC James McDonough were also  
10 leaving in their car?

11 A. I can't recall that, but yes, I believe it to be true.

12 Q. Right. Can I ask you about the knife incidents that you  
13 had attended prior to May 2015. Did any of those  
14 involve a black man?

15 A. Not that I can recall.

16 Q. Had any involved -- it sounds like you did mention  
17 this -- someone suffering from a mental health crisis?

18 A. Yes, a great many. Not all of them by any manner of  
19 means, but yes.

20 Q. When you say "a great many", can you give us an  
21 indication?

22 A. It's rare to deal with -- we deal with an awful lot of

1 knife incidents. Actual knife crime is pretty rare.  
2 I would say the majority of incidents where I'm involved  
3 in some way with somebody with a knife or sharp article  
4 are mental health related. I would say just over half  
5 as a ballpark figure.

6 Q. Can I ask you to explain what the distinction is in your  
7 mind between a knife incident and a knife crime?

8 A. A knife crime being -- to my distinction would be  
9 somebody who has a knife in their person for a purely  
10 criminal end, so that could just be, you know, people  
11 who decide they want to carry knives for self-defence  
12 when they shouldn't be and have a knife in the street,  
13 it could be somebody carrying out a robbery, it could be  
14 somebody using that to assault somebody, to murder  
15 somebody. However, I would distinguish that from where  
16 there's no criminal intent, which would generally be  
17 somebody self-harming, or intending to harm themselves  
18 with a knife.

19 Q. And how many of those incidents that you had attended  
20 involved someone under the influence of drink or drugs?

21 A. A few. It's not -- with an awful lot of the pattern of  
22 behaviour for self-harming, which is an awful lot of

1           these calls, it's not necessarily drink or drugs.

2           I know that can affect mental health issues. Certainly  
3           not all of them. I wouldn't like to guess a figure.

4           You go to plenty where they're drink or drugs and you go  
5           to plenty where it's not a factor at all.

6           Q. Okay. And of those incidents that you had previously  
7           attended prior to May 2015, how many had involved the  
8           use of CS spray or PAVA spray?

9           A. I can recall using CS spray once at a knife incident  
10           like that. Another time at a similar incident where --  
11           okay, they weren't using a knife, but they were  
12           self-harming with another -- a blunt implement, so  
13           a similar sort of level of threaten of risk to them  
14           where CS spray was used. That's by myself.

15           I can't recall any others, but I couldn't say for  
16           definite that there hadn't been.

17           Q. Can you give us a little bit more information about the  
18           PAVA spray with the one knife incident that you  
19           mentioned.

20           A. Yes, sorry, it would be CS spray.

21           Q. Sorry, CS spray.

22           A. I cannot remember the full circumstances. It was

1           a person in the process of harming themselves with  
2           broken glass, which you would count as the same category  
3           as a knife, something that's sharp and dangerous that  
4           can cause you injury. On entering the room that they  
5           were in, I can't remember what the chain of  
6           circumstances were but the glass immediately became  
7           a threat to myself and just due to all the factors there  
8           I determined that use of CS spray was the best option,  
9           so I deployed CS spray.

10          Q. When you say "the glass immediately became a threat to  
11           myself", what do you mean by that?

12          A. I'm struggling to remember. This would have been,  
13           you know, well over ten years ago. Whether the person  
14           has advanced on me or swung for me with the glass, or  
15           something like that, I'm sort of a little bit vague in  
16           my recollection. I remember the person having the glass  
17           in their hands. Parts of the decision-making process  
18           the option is to spray and deploying the spray.

19          Q. Right. And what happened after you used the spray on  
20           that occasion?

21          A. Nothing -- nothing that massively sticks in my mind.  
22           I can remember deploying the spray and immediately going

1           in and taking control of the hand with the glass. The  
2           person was arrested I think. Certainly brought into  
3           some sort of custody by the police.

4           Q. Did the spray have an effect on them?

5           A. Yes, yes.

6           Q. Were they under the influence of drink or drugs at that  
7           time?

8           A. I cannot remember.

9           Q. Or having mental health problems?

10          A. I would suggest a mental health problem.

11          Q. You also mention another one where CS spray was used.  
12          You said it was a similar incident with a blunt  
13          instrument?

14          A. Yes.

15          Q. Tell us about that.

16          A. So a person intent on harming themselves. Again I'm  
17          making a long story short, but all the other tactical  
18          options had failed. I had reached the point in my  
19          decision-making where use of CS spray is appropriate.

20          The action they were taking was they had two terracotta  
21          plant pots, one in each hand. One is held up -- sort of  
22          yon size. One is held up threatening to keep me back so

1 I would be struck if I approached them and the other one  
2 he is smashing himself on the head with. So the only  
3 option being we need to take control of that person,  
4 it's not safe to approach them, deploy CS spray.

5 Q. And were they suffering from a mental health crisis?

6 A. I would assume so.

7 Q. Drink or drugs?

8 A. I don't believe so.

9 Q. And you said all other tactical options had failed. Can  
10 you describe what those tactical options were?

11 A. The other things we would be considering. Police  
12 presence --

13 Q. Just the fact you're there in your uniform?

14 A. Simply the fact you're there can cause people to stop  
15 what they're doing, people to run away, so police  
16 presence can be effective. Communications, be it  
17 starting at the low level and engaging in  
18 a conversational way, or if it's more pressing and  
19 that's starting to fail it could potentially be more  
20 forceful type communications. Again, that's going to be  
21 dependent upon the situation.

22 Thinking about using your control skills or

1 defensive tactics, so going in and taking hold of the  
2 person, putting a strike into a person or something like  
3 that, but when there's a weapon in play that's going to  
4 strike you if you do that, all those options are really  
5 precluded immediately, so you're moving on to the  
6 defensive tactics of doing something you can stand off  
7 with and the only option we had at that time was spray.

8 Q. Can I ask you about empty hand techniques. They can be  
9 used against a person with a knife, can't they?

10 A. Yes, however it would be inadvisable generally -- not  
11 necessarily inadvisable. There's a significant risk  
12 there. Dependent upon what the circumstances are, going  
13 and trying to take hold of somebody with a knife, put  
14 somebody with a knife in an armlock or something, has  
15 obvious risk. You're going close to them, you're going  
16 into a point where that knife can be used against you.

17 Yes, some circumstances are different. Sometimes it is  
18 just the best option.

19 However, you would need to be aware of the very  
20 significant risk to yourself if you were going to go and  
21 try some sort of empty hand technique, which could also  
22 be a strike, it could be a palm heel strike, or a kick,

1 or a knee strike or something, but any of these things  
2 you're going to have to be confident -- you're going to  
3 have to be very aware of the risk that that poses you,  
4 so it's probably not advisable.

5 Q. And does that risk remain even if a knife is not  
6 visible?

7 A. It would depend upon the information intelligence.

8 Q. And if the information or intelligence is that a person  
9 has had a knife and has perhaps chased cars?

10 A. Yes, if you've got -- again, back to this incident,  
11 you've got quite clear evidence from a number of  
12 different sources, all very similar, that a person has  
13 been in possession of a knife. You have no absolute  
14 information that they're no longer in possession of that  
15 knife. Even if you cannot see it, I would -- it's not  
16 about assuming they have it, because you can be well  
17 aware that they might not, but the risk you allocate to  
18 them, as it were, is that they've got that knife  
19 concealed and you take it that they've got that knife  
20 concealed until you have controlled them and searched  
21 them and confirmed that they do not.

22 Q. So it's only once you have confirmed that they do not

1 have the knife that you can remove that risk from your  
2 thought processes?

3 A. Yes.

4 Q. Right.

5 A. That's certainly how I would do it.

6 Q. Now, when you were talking about this similar incident,  
7 you talked about communication with the person with the  
8 terracotta pot.

9 A. Yes.

10 Q. Can you give us some more information about the type of  
11 communication techniques that you adopted or attempted  
12 with that person?

13 A. That specific incident I can't actually remember. I can  
14 remember reaching that point where I'm happy that that's  
15 failed, but in general the ideal, the starting point you  
16 would like to go for if the situation is safe enough and  
17 there is not some other pressing need to use a high  
18 level of force is as we're talking, a conversation. If  
19 that's failing, it could potentially be -- and again  
20 dependent upon the circumstances, it could be loud, more  
21 aggressive type commands. The situation -- you might  
22 read the situation and decide that I am going to be able

1 to effectively exert a degree of dominance here,  
2 shouting, loud verbal commands and get control of the  
3 person, you know, short loud commands. That's not going  
4 to be applicable in every case. It's not quite -- it's  
5 certainly not a guess but you're having to try and judge  
6 whether that's going to be suitable in the circumstances  
7 you're in.

8 It certainly doesn't mean that you're going to move  
9 on from conversational talking to that, it's just  
10 another type of option. I would say it's a higher sort  
11 of level of force option that's available. It's not  
12 going to be applicable in every circumstance but  
13 sometimes if the threat is there, it's an imminent  
14 threat, I'm viewing that, the conversational type  
15 approach is just going to put me at risk, I do not have  
16 time to do it. If the person is advancing on me, if the  
17 person is moving to a place where they're going to risk  
18 the public, risk to themselves, yes it may well be that  
19 you're going to start at that higher level of tactical  
20 communications.

21 Q. To what extent do you need a response or a reaction from  
22 the subject before you can engage in that communication?

1 A. How do you mean? Do you mean you would be looking for  
2 them to engage with you first or ...?

3 Q. You compared it to the conversation we're having. I'm  
4 obviously responding and asking questions. To what  
5 extent do you need that response from a subject in order  
6 to engage in the tactical communication techniques that  
7 you have talked about?

8 A. It would depend entirely upon the circumstances.

9 A response can be non-verbal. It can be -- you can tell  
10 somebody is listening to you potentially as you're  
11 sitting nodding your head and you're not saying  
12 anything, but I can tell you're taking in what I'm  
13 saying, so that's a level of response.

14 Alternatively, if somebody is just absolutely not  
15 responding to you -- it would depend upon the  
16 circumstances. They could be absolutely not responding  
17 to you and yet there's no other threat, the threat is  
18 not increasing, so I could maybe persist with that, or  
19 if they're absolutely not responding to you and there's  
20 some other behaviour or there's other circumstances that  
21 preclude that really quickly, then you might move on to  
22 something else. So it's entirely dependent upon the

1           circumstances.

2       Q. So the response could be non-verbal. Could it be as  
3           simple as them looking at you and listening to you?

4       A. Yes, potentially.

5       Q. We have heard some evidence about perhaps the training  
6           that's given to officers not encompassing a situation  
7           where there's a lack of response, or a verbal response  
8           from the person, or a lack of reaction. Is that  
9           something you're aware of?

10      A. I don't think -- and an issue we talk about in training  
11           is that training has changed and it's not just sort of  
12           changed between then and now, it's changed to some  
13           degree every year between then and now so it's difficult  
14           for me to say with absolute clarity what the training  
15           was at that time.

16           However, my best recollection is at that time we  
17           weren't doing any situational training as part of OST  
18           refreshers. It's talked about, it talked about that  
19           sort of communications, but I don't think there was  
20           practical training in it. I could be wrong about that.

21           There would be practical training I believe at the  
22           Scottish Police College when people are doing their

1 initial training. Again, I wouldn't like to absolutely  
2 say there was no situational training.

3 Q. We may hear other evidence about this in the future.

4 Can I ask you prior to May 2015 how often you had  
5 used your baton in relation to a knife incident?

6 A. I'm fairly certain I never struck anybody with my baton  
7 in relation to a knife incident. I may -- I can't  
8 recall any specific incident. I may well have drawn it  
9 as, again, a tactical option and that in effect is  
10 a piece of tactical communication and potentially going  
11 to use it as use of force. So it wouldn't be unusual to  
12 draw a baton.

13 Q. That's a sort of visible reaction that you're --

14 A. Yes, or draw it and have it down by my side where I'm  
15 not wanting to affect the situation but I want to have  
16 a baton available just due to the significant level of  
17 threat from a knife. I don't believe I have ever  
18 actually struck anybody with a baton at a knife call.

19 Q. How often in the knife incidents you had attended prior  
20 to May 2015 had you even drawn your baton?

21 A. I wouldn't like to say.

22 Q. Can you give any indication?

1 A. It's not regular. It's very, very rare. Again, when  
2 you're doing it as an overt use of force, drawing it and  
3 just having it down in a little low profile sort of  
4 carrier position would be reasonably regular, which is  
5 just a -- what's the word, it's a contingency.

6 Q. So drawing it and having it at your side you say is  
7 regular?

8 A. Reasonably regular. Not a daily occurrence, but ...

9 Q. Can you give a better indication?

10 A. Maybe, I don't know, once every couple of months at any  
11 time -- you know, covering all types of call.

12 Q. Not just knife incidents?

13 A. Yes.

14 Q. And then earlier in your response there you said it was  
15 very, very rare, so you have never struck anyone and you  
16 said it was very, very rare to use the baton. Can you  
17 explain -- can you help me understand the difference  
18 between regularly drawing your baton and having it at  
19 your side in all sorts of incidents and then saying it  
20 was very, very rare. Was that very, very rare in  
21 a knife incident?

22 A. In any incident.

1 Q. Oh, in any incident.

2 A. If you carry a baton at a low profile as a contingency  
3 in case a situation develops, yes that's to me good  
4 decision-making because if it does develop, the  
5 intelligence is there and the situation is there, it can  
6 develop very, very quickly and you're not going to have  
7 time to get it out. However, in the majority of  
8 instances it's resolved in some other way. It's  
9 resolved by communication, it's resolved by the fact  
10 that it was -- the information intelligence was never  
11 correct in the first place and the person is not there  
12 with a knife, or something like that.

13 Q. I'm just trying to understand how something can be  
14 regular on one side and very, very rare and I'm just  
15 wanting to try and understand the distinction and what  
16 it is that's regular and what it is that's very, very  
17 rare, sorry.

18 A. Okay, sorry. It would be more common for me to draw my  
19 baton and have it available for use, so drawn and  
20 extended but not used in any effective way during the  
21 call, not used to affect the behaviour of any other  
22 person and not shown. So --

- 1 Q. And that's for any incident?
- 2 A. Not literally -- if the threat and risk is there.
- 3 Q. Yes.
- 4 A. So not limited to knife incidents.
- 5 Q. No.
- 6 A. Using the baton, as in presenting it as a use of force,
- 7 so having it up on the shoulder, shouting a challenge
- 8 about the baton, letting somebody see it or striking
- 9 somebody with a baton would be very, very rare.
- 10 Q. Okay, thank you. So it's a distinction between having
- 11 it down by your side, having drawn it --
- 12 A. Yes.
- 13 Q. -- or saying that there's a baton you could use, or
- 14 having it on your shoulder in a defensive stance and
- 15 maybe striking it; that element would be very, very
- 16 rare?
- 17 A. Yes.
- 18 Q. And in fact I think you said you had never struck
- 19 anyone?
- 20 A. Not at a knife incident and no, not before 2015
- 21 I wouldn't say either.
- 22 Q. Not before 2015.

1           Then you said avoiding using any of your equipment  
2       in a knife incident would be resolved by communication  
3       and is that the tactical communications that you have  
4       been talking about?

5           A. Yes.

6           Q. Right. I would like to ask a little bit about you  
7       yourself. You have talked about having ten years'  
8       police service at that time, in May 2015. You were OST  
9       trained and you were also an OST trainer.

10          A. Yes.

11          Q. You have talked in your statement that officers had  
12       refresher training once a year?

13          A. Yes.

14          Q. So that's in addition to the training they have at  
15       Tulliallan?

16          A. Yes.

17          Q. You were personally delivering refresher training to  
18       officers about two or three times a month at that point?

19          A. Yes, that sounds right.

20          Q. So your skills, your training was up-to-date and very  
21       sharp at that time?

22          A. Yes. I certainly had a good working knowledge of all

1           the OST source --

2       Q. Techniques and OST training?

3       A. Yes.

4       Q. And we have also heard that there are standard operating  
5           procedures which provide information and guidance to  
6           police officers in their daily work?

7       A. Yes.

8       Q. And that's something that's also trained as part of the  
9           officer safety training?

10      A. How do you mean? Referring to SOPs during the training  
11           or ..?

12      Q. Well, as part of your training in Tulliallan and it's  
13           also available for police officers in their police  
14           office through the computer system?

15      A. Yes, it is.

16      Q. Is that right? And in addition in May 2015 am I right  
17           in thinking you had all your equipment with you?

18      A. Yes.

19      Q. Your spray -- what type of spray was it?

20      A. CS.

21      Q. CS. And handcuffs, baton, stab vest, radio.

22      A. Yes.

1 Q. And what difference did it make, if any, to your state  
2 of mind as you approached Hayfield Road that you had  
3 also had significant experience of dealing with knife  
4 incidents?

5 A. I don't know any as such. You're certainly not thinking  
6 back about your own experience. It's difficult to say.  
7 I don't know what my level of confidence would have been  
8 if I hadn't had any of that experience so I really  
9 couldn't say.

10 Q. Okay. But that did give you a level of confidence as  
11 you approached Hayfield Road?

12 A. Yes, I would say so.

13 Q. And then I understand that you are 5 foot 10?

14 A. Yes.

15 Q. And in May 2015 you were 14 and a half stone.

16 A. Yes.

17 Q. And is that the same as your weight today or --

18 A. Probably about a couple of stone heavier now.

19 Q. Right, okay. Did you know from the Airwaves that PCs  
20 Walker and Paton had arrived at Hayfield Road before  
21 you?

22 A. Not before the emergency activations.

1 Q. Right, okay. Was that the first point at which you  
2 became aware that officers had arrived?

3 A. Yes, yes.

4 Q. We have heard that when an emergency button is pressed  
5 the radio vibrates.

6 A. Yes.

7 Q. Is that something you were conscious of?

8 A. I can recall there being two emergency activations, so  
9 I would assume I was aware the radio was vibrating.

10 I knew it was an emergency activation.

11 Q. Where do you normally keep your radio?

12 A. Attached to my vest, just here (indicating) at my left  
13 shoulder.

14 Q. Just on your left shoulder. Did you at that stage know  
15 PC Paton and PC Walker?

16 A. Yes.

17 Q. They were part of the response team?

18 A. Yes, I worked with them, yes.

19 Q. You worked with them. We have heard that they were very  
20 experienced officers.

21 A. Yes.

22 Q. And what difference, if any, did it make to you to know

1           that experienced officers were attending Hayfield Road?

2       A. I didn't specifically know what officers were going to  
3           get there first. It probably leaves a slight level of  
4           increased confidence. Not so much that it is  
5           experienced officers, if you had two brand new officers  
6           out you maybe potentially would have a concern, but  
7           beyond that, once somebody has a level of experience it  
8           doesn't necessarily affect it up the way, if that makes  
9           sense.

10      Q. When you say brand new, are you thinking probationers or  
11           are you thinking something else?

12      A. Yes, if you had for example somebody with six months  
13           service and somebody with nine months service out  
14           together or something like that, then you might prick  
15           your ears up when you hear they're going to a knife call  
16           and think -- you're going to go and assist anyway but it  
17           might increase the sort of level of concern -- the level  
18           that you're going to keep an eye on it.

19      Q. It's a factor you're going to put into that process with  
20           the National Decision-Making Model, is it?

21      A. Yes, I would say so. Again maybe not necessarily  
22           consciously, but you're going to be aware of it.

1 Q. And what about the fact you were with PC Good, who was  
2 a probationer who had started the month before? What  
3 difference, if any, did that make to you?

4 A. You're aware of a sort of level of responsibility for  
5 her safety, or making sure she's -- not necessarily  
6 delivering correct -- her safety effectively.

7 Q. And that's an added responsibility onto you --

8 A. Yes.

9 Q. -- as you attend Hayfield Road?

10 A. Yes.

11 Q. And what difference, if any, did it make for you to know  
12 that there had been a request for all units to attend?

13 A. I don't know if I did hear a request for all units to  
14 attend. I would expect something like that in that type  
15 of call and I was aware -- I was aware we were going,  
16 I was aware PCs Gibson and McDonough were going, I was  
17 aware another unit was already out so I effectively knew  
18 everybody was attending anyway and you would expect  
19 that.

20 Q. So you don't remember seeing -- hearing the Maxwell  
21 transmission at 7.17.23 which we see on page 2 "I want  
22 all units to attend, there's an ARV and a dog as well"?

1 A. I can't recall him saying that, but I don't know if  
2 I heard it or not.

3 Q. You have described earlier that you didn't hear the  
4 initial transmissions, it was PC Good that brought those  
5 to your attention.

6 A. Yes.

7 Q. So you don't remember exactly when you started listening  
8 in to the Airwaves transmissions, do you?

9 A. No.

10 Q. Right. I would like to turn to the footage now please  
11 and this is phase 3 of the events, so start with page 4  
12 of the spreadsheet and I'm going to ask that we play  
13 from 7.21.28 and if it's just prior to that, that's  
14 absolutely fine. 7.21.28, or thereabouts.

15 Right, what we're going to do now -- if we can pause  
16 it there for a second please and just rewind. We're  
17 going to play a very short clip of footage, 10 seconds  
18 effectively, so from 7.21.26 as it is now, to 7.21.38 to  
19 40. We have heard evidence previously that these  
20 recordings are within an accuracy of one second and I'm  
21 going to ask you if you recognise a vehicle approaching,  
22 so I'm going to ask you to focus first of all on the

1           CCTV that you can see at the bottom of the screen, all  
2           right? And you will see the real time clock is in the  
3           top left. You will see a reconstruction tile in the  
4           middle at the top, but at the moment for these initial  
5           seconds I'm going to ask you to look at the CCTV. Are  
6           you happy to do that?

7           A. Yes.

8           Q. And we will probably play this more than once, so we  
9           will just play the next ...

10           (Video played)

11           That's fine. Then I'm going to ask that it be  
12           played again, the same sort of period of footage, so  
13           that's from 7.21.28, and you will see in the  
14           reconstruction tile that there's already two white  
15           vehicles shown on that 3D reconstruction. Do you see  
16           those?

17           A. Yes, I do.

18           Q. We have heard that the large one near the bus stop is  
19           a Transit van.

20           A. Yes.

21           Q. And that the smaller vehicle behind that was known as  
22           the fish van and you will see that there's another white

1 van comes in from Hayfield Road travelling in the  
2 direction of the roundabout with Hendry Road. Let's  
3 play that part of the ...

4 (Video played)

5 Thank you. So hopefully, Constable Smith, you were  
6 able to see in the CCTV, first of all, the blue lights  
7 of a vehicle travelling on --

8 A. Yes.

9 Q. -- Hayfield Road towards the roundabout and then you  
10 would see in the reconstruction tile a white vehicle  
11 coming in.

12 A. Yes.

13 Q. Did you recognise that vehicle?

14 A. That will be my vehicle. I can't say I recognised it  
15 from the footage, but that will be my vehicle.

16 Q. And the position where it stops in Hayfield Road, is  
17 that effectively the position you were in when you  
18 arrived?

19 A. Yes, it is. My recollection would be that it would be  
20 a little bit further back, but I'm satisfied that's  
21 correct.

22 Q. So you have arrived in that vehicle on Hayfield Road and

1           your van is near the centre of that road, opposite the  
2           bus stop, close to the Transit van.

3           A. Yes.

4           Q. What I would like to do now is just confirm looking at  
5           the spreadsheet -- you will see that by the time that  
6           you arrived -- you have told us that you were aware that  
7           two emergency buttons had been pressed so if you could  
8           look at page 3 of the spreadsheet, we see this at the  
9           bottom, 7.20.42, Alan Paton's emergency status is turned  
10           on, that's the first emergency button, do you see that?

11          A. Yes.

12          Q. And then at 7.21.19 we see PC Ashley Tomlinson's  
13           emergency status is turned to on and that's on page 4 of  
14           the spreadsheet, just beyond halfway down. It's in red.

15          A. Page 4, sorry?

16          Q. Sorry, that's 7.21.19.

17          A. Yes, sorry, yes.

18          Q. So we have already heard evidence that there were two  
19           emergency transmissions, Paton and Tomlinson. You  
20           weren't actually at Hayfield Road when you became aware  
21           of those.

22          A. No.

1 Q. And we have heard and you have confirmed your radio  
2 vibrates, but is it the case that you can't tell who has  
3 pressed the button, you can just tell that a button has  
4 been pressed?

5 A. I don't know if it would display it on the screen of the  
6 radio. I think it might, but you would have to be  
7 looking at the screen.

8 Q. But you were driving --

9 A. Yes.

10 Q. -- en route to Hayfield Road, so that's not something  
11 you were aware of?

12 A. No.

13 Q. So they have been pressed prior to your arriving and the  
14 van that you have confirmed was yours we see on the  
15 spreadsheet that arrives with -- "another police vehicle  
16 with flashing lights arrives", 7.21.28 to 7.21.31, at  
17 the bottom of page 4 of the spreadsheet.

18 A. Yes.

19 Q. And it says:

20 "Another police vehicle with flashing lights arrives  
21 at the scene, approaching from Hayfield Road towards the  
22 roundabout and stops beyond the other police vehicles

1 further up Hayfield Road."

2 A. Yes.

3 Q. And that was you?

4 A. Yes.

5 Q. Right, thank you. Then the next entry is 7.21.35 at the  
6 bottom of page 4:

7 "The light coloured vehicle that had moved from the  
8 roundabout stops at the entrance to Hendry Road."

9 We can actually see that on the screen at the  
10 moment, that there's a light coloured vehicle at the  
11 roundabout at Hendry Road and Hayfield Road.

12 A. The van?

13 Q. We see it on the CCTV footage. Actually they both look  
14 quite light to me.

15 A. Yes.

16 Q. There's a van on the roundabout and there's a pale  
17 coloured car --

18 A. Yes, I see that.

19 Q. -- just beyond that. Then 7.21.38 at the top of page 5,  
20 there's an Airwaves transmission recorded there which  
21 says:

22 "Control Bravo 1 officer's been punched to the back

1 of the head. No obvious serious injuries. Male secure  
2 on the ground."

3 A. Yes.

4 Q. And that was your Airwaves transmission at that time?

5 A. Yes, it was.

6 Q. Right. I'm going to be asking you some further  
7 questions about when you arrived at Hayfield Road.

8 Are you happy for me to move on now, or would you  
9 prefer to --

10 LORD BRACADALE: I think this is a convenient point to take  
11 a break, we will take a break now. So a 15-minute  
12 break.

13 (11.25 am)

14 (Short Break)

15 (11.50 am)

16 LORD BRACADALE: Yes, Ms Grahame.

17 MS GRAHAME: Thank you. I would like to ask you some  
18 questions about what was happening at the time you  
19 arrived at Hayfield Road and what you saw and what  
20 I would like to do, first of all, is just briefly look  
21 at paragraphs 10 and 15 of your Inquiry statement.  
22 I will just read these out:

1 "On my arrival at the locus I could not see  
2 Mr Bayoh, just PC Short. As such my risk assessment had  
3 not changed. Race played no part."

4 And then you say:

5 "There was at least one police vehicle stopped in  
6 the road and I saw PC Short moving across the road in  
7 front of my vehicle fully detailed in paragraphs points  
8 21 to 24."

9 So I'm going to go through those paragraphs in  
10 detail, but what I would like you to do is look at a 3D  
11 image for me. These are still images too and we have  
12 number 4 I think will hopefully be of use. You will see  
13 that this is an image which shows Hayfield Road and it  
14 shows the Transit van in the position at the bus stop,  
15 the fish van behind on Hayfield Road, and then the van  
16 you described as your van sort of in the middle of  
17 Hayfield Road.

18 A. Yes.

19 Q. Facing in the direction of the roundabout with  
20 Hendry Road. We can ignore the other van on the left at  
21 the moment, but when you arrived on Hayfield Road in  
22 your van -- did it have a special name your van --

- 1 A. No.
- 2 Q. -- or a call number or anything you make to it?
- 3 A. It would have had some sort of unique identifier but
- 4 I wouldn't have used it.
- 5 Q. But nothing --
- 6 A. No.
- 7 Q. Right. So when you arrived, you have said in your
- 8 statement you saw PC Short moving across the road in
- 9 front of your vehicle?
- 10 A. Yes.
- 11 Q. So you have told us you're driving, you're on the
- 12 driver's side --
- 13 A. Yes.
- 14 Q. -- of your van, so you're on the far side as we look at
- 15 this picture of the van?
- 16 A. Yes.
- 17 Q. Where was PC Short? Now, you will be able to touch the
- 18 screen. Have you seen that done?
- 19 A. Yes.
- 20 Q. So you can touch the screen and a red circle will
- 21 appear, but we will be able to fine tune these things at
- 22 some point maybe in the future, not today.

1 A. So before I do it, as I have been -- I have initially  
2 seen PC Short literally as I'm on the last sort of bit  
3 of roadway before I arrive, so I have still been driving  
4 straight towards the locus, I have seen her which has  
5 made me brake and that's where the van has ended up.

6 Q. Do you want to point --

7 A. So it's not that I've stopped and seen her.

8 Q. So point where she was when you first saw her in  
9 Hayfield Road?

10 A. I think about here (indicating).

11 Q. That's a big red circle. Maybe delete that and have  
12 something slightly smaller.

13 A. I will try now?

14 Q. If you give Ms Drury a moment.

15 A. Sorry.

16 (Pause).

17 Q. That looks like that's working, right. We've got  
18 slightly smaller red circles now if you want to press --

19 A. Round about there (indicating).

20 Q. So that's quite close to the front of the Transit van?

21 A. Yes, I can't be 100 -- generally in that area.

22 I couldn't say exactly, exactly where.

- 1 Q. So you saw her and you have said that's what caused you  
2 to stop your van --  
3 A. Yes.  
4 Q. -- in the position it was stopped in?  
5 A. Yes.  
6 Q. Tell us how PC Short looked when you saw her.  
7 A. She was staggering, so looking like she was about to  
8 lose her legs from underneath her as she is moving  
9 across the road.  
10 Q. What direction was she moving?  
11 A. Towards the houses.  
12 Q. I wonder, we have these lines, purple lines with arrows.  
13 I wonder if you could indicate the direction in which  
14 she was moving?  
15 A. So, yes, my recollection is that she was moving --  
16 Q. That's maybe in the circle.  
17 A. Drag it?  
18 (Pause).  
19 Q. Well, if you want to use -- oh, try again.  
20 A. There we go.  
21 Q. Oh, right. So you just have to put your finger on the  
22 screen and move it and then it should replicate a line.

1 A. I think it was because it was already touching the thing  
2 that was already there that ...

3 Q. Right. Are you comfortable with that line or do you  
4 want to adjust it?

5 A. Yes. I couldn't say exactly where it was so that's  
6 a good estimation.

7 Q. So she was moving from the Transit van towards that  
8 yellow coloured vehicle?

9 A. Yes.

10 Q. Which I think was a mini. Right. Was she crossing in  
11 front of your van?

12 A. That was the direction she was heading in. I don't know  
13 if she had got to the point of actually crossing in  
14 front of us by the time we stopped, but I think she  
15 probably would have done.

16 Q. And you did what?

17 A. Stopped. Stopped and got straight out, yes.

18 Q. And how long did it take to you get out and exit the  
19 vehicle?

20 A. Very quickly. It was like executing an emergency stop  
21 and then straight out, as quickly as you possibly could.

22 Q. Where did you go?

1 A. Straight to PC Short.

2 Q. Right. Did you say anything to her?

3 A. I had a brief conversation with her. I can't remember  
4 what words I used.

5 Q. Do you remember what she said to you?

6 A. I can't remember the exact wording but she conveyed that  
7 she had been hit to the back of the head and I asked  
8 where the other officers were and she has indicated down  
9 Hayfield Road towards the roundabout. I can't remember  
10 if she pointed as she said, but she got that information  
11 across.

12 Q. Where was PC Good?

13 A. Pretty much with me. She got out of the passenger side  
14 and joined me. I couldn't say exactly where she was  
15 stood in relation to me, but we were both with PC Short.

16 Q. So she had got out of the front passenger side of the  
17 van --

18 A. Yes.

19 Q. -- and come round to join you --

20 A. Yes.

21 Q. -- with PC Short?

22 A. Yes.

1 Q. How long did you spend with PC Short?

2 A. Seconds. As quickly as I could get that information,

3 I had a quick check -- I don't know if I used my hands

4 or just visually to satisfy myself she was -- my concern

5 had been when it was passed that an officer was injured

6 that that meant somebody had been stabbed or injured

7 with the knife, just given the context of the call, so

8 I satisfied myself that that didn't appear to be the

9 case for her and then moved on down the road.

10 Q. So just as you say, to put it into context, if we look

11 at page 4 of the spreadsheet you will see at 7.21.02

12 there's an airwaves transmission from PC Paton, so

13 that's page 4, 7.21.02, "Officers injured PC Short

14 male"?

15 A. Yes.

16 Q. You had heard that transmission?

17 A. Yes.

18 Q. And then you arrived at 7.21.28 to 31 down towards the

19 bottom of page 4 --

20 A. Yes.

21 Q. -- and that's your police vehicle with flashing lights

22 arriving, do you see that?

1 A. Yes.

2 Q. When you say you did a quick check --

3 A. Yes.

4 Q. -- describe to us what you did.

5 A. I really can't remember. It was either just a visual  
6 check or it was maybe even just -- because she was  
7 clutching her right-hand side, so I think possibly  
8 I have just literally put my hand underneath her vest  
9 and pulled it out to see if there was any bleeding or  
10 anything like that and just -- so mostly a visual check  
11 but it has been very, very quick.

12 Q. So you put your -- you're gesturing with your right  
13 hand. You put your right hand underneath her vest?

14 A. I can't remember. It would have been ... yeah, a hand.  
15 I wouldn't like to say.

16 Q. Was she facing you at that time?

17 A. I don't know.

18 Q. But you remember putting your hand under her vest?

19 A. Yes.

20 Q. She may not have described that happening. Are you sure  
21 about -- you have not mentioned that in your statement.  
22 Are you sure that happened?

- 1 A. I'm not positive. I think I have maybe done that.
- 2 Q. But not positive?
- 3 A. Not positive.
- 4 Q. So from that position, once you have done a quick check,
- 5 you realised she is not bleeding --
- 6 A. Yes.
- 7 Q. -- and did you check her head? Because you said she
- 8 mentioned she had been hit at the back of her --
- 9 A. No.
- 10 Q. You didn't check her head?
- 11 A. No.
- 12 Q. Can I ask you, when you made your transmission we looked
- 13 at a moment ago about the male on the ground, 7.21.38,
- 14 where were you when you made that transmission?
- 15 A. Somewhere between where I was then and the point where
- 16 we ended up restraining the male on the ground and
- 17 I think I was running.
- 18 Q. Right. So when you left PC Short, after you had done
- 19 your check --
- 20 A. Yes.
- 21 Q. -- which direction did you run in?
- 22 A. Towards the roundabout generally.

1 Q. Do you want to draw it on the -- again with an arrow if  
2 possible.

3 Right, and when you made the transmission that we  
4 have seen about "Officer's been punched to the back of  
5 the head. No obvious serious injuries. Male secure on  
6 the ground", where on Hayfield Road were you when you  
7 were making that transmission?

8 A. I can't recall exactly. The best of my recollection  
9 it's probably where the tip of the arrow is that I have  
10 just drawn, but obviously I have been moving, so along  
11 that line.

12 Q. You made that transmission as you were running?

13 A. I think so, yes.

14 Q. Could you see the events taking place further down  
15 Hayfield Road by the time you were running in that  
16 direction?

17 A. Not when I initially started. The other people weren't  
18 clear to me. I don't know -- I think they may well have  
19 been obscured by one of the parked vehicles. I also  
20 remember having in my head I was looking for people who  
21 were standing up. I can't necessarily explain why that  
22 was, so maybe my focus wasn't down on the ground, but

1 I certainly wasn't aware of the other people when

2 I started moving down the road.

3 Q. When did you become aware of the people?

4 A. Probably halfway between me and them.

5 Q. Right. And when you say "halfway", can you indicate on  
6 this image what you mean?

7 A. Again I would imagine roughly the same, sort of where  
8 the tip of the arrow would be, I imagine, where  
9 I started to make the radio broadcast.

10 Q. And by the time you have finished the radio broadcast  
11 how far were you from the people?

12 A. I can't remember. I think I was pretty much just  
13 arriving. It's not taken very long at all to run down  
14 the road.

15 Q. So as you have been running along Hayfield Road,  
16 describe to us what you could see.

17 A. There's obviously two police vehicles on the other side  
18 of the road, pointing in the direction from which I had  
19 come, and a number of other officers restraining a male  
20 on the ground further up towards the roundabout.

21 Q. Do you want to point on this image where you saw the  
22 males restraining -- the officers restraining the male?

1 A. Again it's to the best of my recollection, but I think  
2 it was probably around about here (indicating).

3 Q. How many officers were restraining the male?

4 A. Three.

5 Q. Did you -- were you able to identify those?

6 A. Not when I first saw them, only once I had actually got  
7 to them.

8 Q. Tell us who they were?

9 A. It was PCs Paton, Tomlinson and Walker.

10 Q. Tell us how the man on the ground was lying.

11 A. Again initially I couldn't see. The impression I got  
12 when I first saw them was they were just restraining  
13 a person on the ground and I have passed on the radio  
14 that the person has been restrained on the ground --

15 Q. "Male secure on the ground".

16 A. Yes. As I've got there that's become clear that's not  
17 entirely accurate and the male was still struggling with  
18 them. He was moving and trying to basically resist  
19 their restraint, so he was moving sort of between being  
20 face down on the ground and up onto his right-hand side  
21 is my best recollection of it, and moving about quite  
22 a lot.

1 Q. So when the message was transmitted "Male secure on the  
2 ground", at that time you could still see him moving and  
3 struggling at that stage?

4 A. I can't remember if -- what I saw of him when I was  
5 literally passing that message. I think I probably had  
6 the impression more that there was a greater level of  
7 security than there was, so possibly I wasn't aware of  
8 the degree of movement. It was only once I had  
9 literally got there and was standing besides them  
10 looking down at what was happening that it became clear  
11 that he was moving a lot.

12 Q. So as you got closer the information that you had, or  
13 that you were processing became clearer?

14 A. Yes, yes.

15 Q. Where was PC Paton?

16 A. To the best of my recollection he was up towards the  
17 gentleman's head, or the upper part of his body, to say  
18 the rear of him or to the left-hand side if the male was  
19 down in the prone position.

20 Q. Looking at this image can you maybe give us a better  
21 description of how the male was lying?

22 A. He was lying -- I can't remember exactly where --

- 1 Q. Where his head was.
- 2 A. -- in relation to the kerb, but his head was -- he was
- 3 basically at right angles to the line of the hedge with
- 4 his head on the same side as the houses.
- 5 Q. Right. So if we -- could you point to the hedge that
- 6 you're referring to?
- 7 A. There (indicating).
- 8 Q. And he was at right angles to that?
- 9 A. Yes.
- 10 Q. So could you maybe draw an arrow indicating the
- 11 position?
- 12 A. How's that?
- 13 Q. We can take that away if you want to have another
- 14 attempt at it.
- 15 A. Yes.
- 16 Q. So let's take away 6.
- 17 A. So I would say roughly that, probably a little bit more
- 18 of a right angle but --
- 19 Q. So straight on effectively?
- 20 A. Yes.
- 21 Q. Where was his head in relation to the hedge?
- 22 A. Still pretty much -- I think there would have been the

1 whole width of the footpath before you got to it but at  
2 the same end as the arrow.

3 Q. Same end of the arrow?

4 A. Yes.

5 Q. And his legs at the other end of the arrow?

6 A. Yes.

7 Q. Slightly more at a right angle than you have drawn?

8 A. Yes, I think so.

9 Q. So when you said that PC Paton was up to the head was he  
10 closer to the hedge than the other officers?

11 A. Yes.

12 Q. And you have said he was on the left-hand side. Is that  
13 the left-hand side of the male?

14 A. Yes.

15 Q. And then you mentioned he was at the upper body. Can  
16 you describe what you mean by the upper body?

17 A. Near the head.

18 Q. Near the head. What was PC Paton doing?

19 A. To the best of my recollection he was reaching over him  
20 and trying to control the man's arms, so if the man was  
21 on his side, which he was, moving from his side and  
22 prone, PC Paton was almost leaning over and trying to

1 get control of the arms.

2 Q. How was PC Paton positioned himself?

3 A. I think -- again my recollection is not perfect, but

4 I think he was kneeling.

5 Q. Kneeling?

6 A. Kneeling on the ground.

7 Q. Kneeling on the ground?

8 A. Yes.

9 Q. And leaning over the male's upper body?

10 A. I think so, yes.

11 Q. And reaching for his ..?

12 A. Arms.

13 Q. Arms. Where were the male's arms?

14 A. Again, he was moving, so he seemed to be trying to free

15 himself by getting himself in the prone position, maybe

16 pushing himself up, so there at some points and then

17 other points when he was further over onto his side

18 again up to his front with PC Paton trying to get

19 control of them.

20 Q. So as you were approaching, how was the male on the

21 ground positioned? You have described it --

22 A. I couldn't say. He was --

1 Q. You couldn't say.

2 A. No.

3 Q. And as PC Paton was reaching for his arms, were his arms  
4 on the other side as you approached, the other side of  
5 his body from where you were approaching?

6 A. They could well have been. As I said, there was a lot  
7 of movement. It wasn't just sort of one move between,  
8 there was continual movement and struggling, so ...

9 Q. So it wasn't -- it wasn't a static scene?

10 A. No he wasn't being held in a fixed position. He was  
11 moving and PC Paton was trying to adapt I think and  
12 trying to keep control of him.

13 Q. Where was PC Walker?

14 A. Further down, so the -- next to PC Paton effectively.

15 Q. PC Paton at the head?

16 A. PC Paton at the head, PC Walker a little bit further  
17 down so level with the chest area.

18 Q. You're pointing to your right side there?

19 A. Yeah, okay, it would be the right side if he was in the  
20 position where he was leaning up, yes.

21 Q. So you're talking about Mr Bayoh's right side, are you?

22 A. Yes, yes.

1 Q. So PC Paton was in that position. How was PC Paton  
2 positioned when you approached?

3 A. Sorry, PC Walker?

4 Q. Sorry, yes, PC Walker, sorry.

5 A. He was leaning over Mr Bayoh. I can't recall exactly  
6 what he was doing with his hands. I think he was trying  
7 to keep him in position, prevent him from getting onto  
8 his front and lifting himself up.

9 Q. And when you say he was leaning over, over what?

10 A. Over Mr Bayoh.

11 Q. Right. Were you able to tell at that point if he was  
12 putting weight on Mr Bayoh?

13 A. No, it's difficult to tell. He could well have been,  
14 but I couldn't tell. It certainly wasn't a case of he  
15 had all his weight just on top of the man. I would  
16 think he was trying to use his weight to --

17 Q. I don't need you to speculate about that. So you see  
18 PC Walker as you approach. Is it the back of PC Walker  
19 that you can see?

20 A. Yes.

21 Q. And he is leaning over and then where was PC Tomlinson?

22 A. Down at Mr Bayoh's legs.

1 Q. Where at his legs?

2 A. I really can't remember now. I know he was down --

3 that's the end of the body he was at, but my

4 recollection now is I couldn't say whether he was beside

5 him or on him or what have you.

6 Q. So he was furthest right as you approached?

7 A. Yes.

8 Q. And what of PC Tomlinson could you see?

9 A. I really can't remember. I remember being aware that

10 that's where he was, but ...

11 Q. Right. How far were you from this point when you

12 started to recognise the officers?

13 A. I don't know. I suppose I wouldn't have been certain

14 who was who until I got round to the other side and was

15 facing them.

16 Q. We have heard that at one point PC Tomlinson may have

17 been straddling Mr Bayoh's legs, so knee on either side

18 of his legs and his legs underneath, towards

19 PC Tomlinson's bottom. When you saw PC Tomlinson what

20 position was he in?

21 A. I can't recall. I just remember him being down at that

22 end of the body.

1 Q. What did you do?

2 A. I moved round to the front --

3 Q. When you say the front, what do you mean?

4 A. To the side the other officers weren't on.

5 Q. And what did you do?

6 A. Quickly had a look at the situation to try and figure

7 out what's happening, or improve the amount of

8 information I've got because obviously I have come into

9 this really not knowing what's occurred. I have seen

10 the fact he has not been handcuffed so his hands are

11 still free, he is struggling with the other officers,

12 trying to sort of pull his arms away from them, push

13 himself up. It looked very much to me like he was

14 imminently going to break free from their control just

15 because of the difficulty they were having in keeping

16 control of his arms, keeping him from pushing himself up

17 et cetera.

18 At that point again to me the most significant risk

19 there is the fact that there is a knife unaccounted for,

20 so I couldn't see a knife. However, the knife's still

21 unaccounted for. It could be easily within reach and

22 the absolute priority is to get control of the person on

1 the ground, a major risk being that if I go and close in  
2 towards where his hands are, that puts me at very  
3 significant risk if there is a knife produced and it's  
4 not an ideal place for me to be.

5 I have considered the option of use of CS spray at  
6 that point, possibly disengaging from him -- sorry, not  
7 CS spray, PAVA spray -- disengaging from him and  
8 deploying the spray to try and get a level of control.

9 Again, that's not been a firm plan or anything we've got  
10 to the point of doing. I asked any officers if they had  
11 PAVA, that being a more suitable agent to use rather  
12 than CS which is what I had. Somebody said -- I think  
13 PC Walker said he has been PAVAed or PAVA had been used.

14 I can't recall the exact words. He told me PAVA had  
15 been used and it was ineffective.

16 I have then drawn my CS and PC Walker said CS  
17 doesn't work either or words to that effect and he has  
18 pushed my hand back with the spray in it, so that's  
19 effectively stopped that train of thought that that's  
20 a potential option. It's been tried, it's been found  
21 ineffective, that's been precluded so I didn't go down  
22 any further decision-making in respect of potentially

1 doing that.

2 The options then are becoming more limited and  
3 I have decided just to go and try and take control of  
4 his hands and see if we can get a set of handcuffs on  
5 him just through effectively controlling the hands,  
6 getting them into a handcuffing position and applying  
7 the handcuffs, which is what we did.

8 Q. That's a lot of information you have given me, thank  
9 you. But I would like to go back over it that a little  
10 more slowly, if you don't mind.

11 You have described when you came around to the  
12 front.

13 A. Mm-hm.

14 Q. When you came around to that position what position was  
15 the male in on the ground?

16 A. As I have described and moving about, sort of between  
17 a prone position and a position on his side.

18 Q. And that's his left-hand side?

19 A. Yes.

20 Q. And what about the view you had of what the officers  
21 were doing? Can I ask you -- having come round to the  
22 front, what further view did you have of PC Paton first

1           of all?

2       A. I was aware PC Paton was trying to control his hands,  
3           that's my recollection, and again just trying to get  
4           a firm grip on his hands, stop him trying to push  
5           himself up, stop him -- I don't know what he was trying  
6           to do. He was trying to control his hands. I can't  
7           remember exactly what PC Walker was doing and I can't  
8           remember exactly what PC Tomlinson was doing and again  
9           at that point my focus has been on his hands, almost as  
10          a -- not quite tunnel vision but very, very focused on  
11          his hands because that's where the threat is for me.

12       The main threat is a knife. I'm zoned in completely on  
13          his hands.

14       Q. So are you able to help us in any way with the weight  
15          that was on the male on the ground from any of the  
16          officers?

17       A. I'm not sure. As I said, PC Walker was leaning over  
18          him, so he may well have been putting weight on but  
19          I couldn't say for definite how much he was.

20       Q. And Tomlinson?

21       A. Tomlinson is down at the legs and again I can't remember  
22          if he's got his weight on the legs or he is kneeling

1           beside him. I'm aware he is down there, I'm aware  
2           there's a lot of movement in my peripheral vision but  
3           I wouldn't like to say I saw him lying on his legs or  
4           otherwise.

5           Q. And PC Paton?

6           A. I don't think PC Paton had any weight on him. I think  
7           PC Paton was kneeling and just -- there may have been  
8           a little weight if he's trying to lean over him, but I'm  
9           almost starting to speculate there I think.

10          Q. All right. And you have talked about tunnel vision in  
11           relation to trying to secure his hands?

12          A. Yes.

13          Q. How long were you engaged in that process of trying to  
14           secure his hands?

15          A. I don't think very long. I think it was a few seconds.  
16           We have managed to apply a set of handcuffs. I don't  
17           know where they came from. I was under the impression  
18           at that point it was really just myself and I think  
19           PC Paton attempting to do that, so I can't recall any  
20           other officers being there.

21          Q. You don't recall officers being there?

22          A. As in other than the three at the back and myself.

1 Q. Right. So the four of you at that time?

2 A. I wasn't aware of anybody else -- yes, I wasn't aware of  
3 anybody else turning up by that point.

4 Q. When you were trying to secure his hands, what was the  
5 man doing on the ground?

6 A. Trying to move his hands out of the way. Trying to pull  
7 his hands out of our grasp.

8 Q. Right. And then you mentioned a moment ago you asked if  
9 anyone had PAVA spray.

10 A. Yes.

11 Q. And you said that was more suitable than CS.

12 A. Yes.

13 Q. Could you explain what you meant by that?

14 A. There's less cross-contamination risk. So the option  
15 I was potentially considering would be to discharge PAVA  
16 whilst potentially an officer is still in contact with  
17 the subject or very close to the subject, or we're going  
18 to have to go in straight away, otherwise -- so there's  
19 risk to officers of cross-contamination. PAVA has  
20 significantly less cross-contamination than CS, so it  
21 seemed to me to be a better option.

22 Q. How far should you be from someone if you're going to

1           use PAVA spray?

2         A. 3 feet.

3         Q. So when you were considering that as an option would you  
4           have had to have removed yourself from the --

5         A. I don't think so because I don't recall moving right  
6           close into his hands until that point and if it had  
7           been, it would have been -- you can make that distance  
8           quite easily simply by moving your arm back if you have  
9           to, so potentially move back a little way, but I will  
10          suggest I was pretty much in the right position.

11        Q. So when you're talking about the distance you were away  
12          from the man on the ground --

13        A. Yes.

14        Q. -- how far away were you from him?

15        A. I would say 2 or 3 feet, just far enough so I wasn't at  
16           risk if -- the risk was diminished if a knife came into  
17           play.

18        Q. And what position were you adopting?

19        A. I think I was kneeling down or crouching down.

20        Q. Do you remember which?

21        A. No.

22        Q. And then you mentioned that PC Walker had said PAVA had

1           been used?

2       A. Yes.

3       Q. So at that stage you knew PAVA had been used previously,  
4           prior to you --

5       A. Yes.

6       Q. -- suggesting it and it had been ineffective?

7       A. Yes.

8       Q. And once you knew that, that PAVA had been used and was  
9           ineffective, did that -- did you factor that into your  
10          assessment of the situation?

11      A. Only in that we were trying to find an option to get him  
12          secure at that time, so it affected that, but overall,  
13          no, your train of thought is going very, very quickly  
14          and there's an absolute priority there of getting the  
15          subject secured, so that was how I was factoring it in  
16          at that point.

17      Q. And when you heard that PAVA was ineffective, is that  
18          normal that PAVA would be ineffective?

19      A. I had never been around the use of PAVA up to that point  
20          because it was in the process of getting rolled out.

21          This was the first few months.

22      Q. We may have heard that it was being rolled out at around

1           about that time.

2         A. Yes.

3         Q. All right. So had you been trained in PAVA?

4         A. Yes.

5         Q. So you knew that it was more suitable than CS spray?

6         A. Yes.

7         Q. But did you have any PAVA yourself?

8         A. No.

9         Q. And were you aware that it is ineffective with some  
10           people?

11        A. Yes.

12        Q. And what are the circumstances where it's ineffective?

13        A. It's been incorrectly used, so you have not got the  
14           subject directly in the eyes. It could be intoxication  
15           through drink or drugs. State of mind, being very, very  
16           focused and able to work through the fact it produces  
17           a lot of pain. Mental health issues again around your  
18           state of mind to do with dealing with the pain.

19        Q. So any of those --

20        A. Or a natural immunity.

21        Q. Or a natural immunity. So any of those factors could be  
22           the reason why it's ineffective?

1 A. Yes.

2 Q. And is that something you were aware of at the time?

3 A. Yes.

4 Q. And then you suggested, or you -- you took your hand out

5 and said -- and was told, again I think you said by

6 PC Walker, when you took your hand out with your

7 CS spray he said "CS doesn't work either"?

8 A. Words to that effect.

9 Q. Yes. So again, were you under the impression at that

10 time that CS had been tried but it had been ineffective?

11 A. When PC Walker said that, yes.

12 Q. So that was information that was conveyed to you?

13 A. Yes.

14 Q. And once you knew that was ineffective as well, what

15 impact did that have on you?

16 A. It completely stopped that train of thought that that

17 was a viable option.

18 Q. And are you aware of reasons why CS spray may be

19 ineffective?

20 A. The same as with PAVA essentially.

21 Q. So that was also information you knew at the time?

22 A. Yes.

1 Q. So would you have considered those two sort of potential  
2 red flags for possible medical emergency or a mental  
3 health crisis?

4 A. Yes, potentially, if you had had the opportunity to give  
5 that a level of consideration. However, the focus was  
6 on the very serious risk directly in front of me.

7 Q. Right. And then you talked about -- you used the words  
8 "the options were limited", once you were aware of that  
9 information.

10 A. Yes.

11 Q. And you were trying to take control of his hands and  
12 then you mentioned handcuffs.

13 A. Yes.

14 Q. Can you explain what you were -- what your thought  
15 processes were then?

16 A. The very, very pressing need to get control of his  
17 hands. As I have said, to me at that point the greatest  
18 risk factor in that was still the presence of an  
19 unaccounted for knife, in addition to the information we  
20 have already got about him having the knife out in  
21 public and, as I said, not behaving in a normal rational  
22 way prior to arrival, in that he was walking about with

1 a knife plainly in sight.

2 There's then been -- I don't have specific  
3 information as to what's happened before I arrived but  
4 the circumstances are very indicative that there has  
5 been some sort of violent confrontation that the  
6 officers have struggled to contain. That's -- it's  
7 unusual. There's repeated emergency buttons getting  
8 activated, there's items of kit and equipment --  
9 equipment lying on the ground, there's some sort of  
10 violent encounter has happened which --

11 Q. What was lying on the ground?

12 A. I can't remember when I saw what, but during the course  
13 of it I have picked up I think a PAVA spray, irritant  
14 spray, I think I have picked up a radio and I think  
15 there's been a baton lying on the ground. I don't know  
16 if I picked that up or not.

17 Q. So items of officer equipment?

18 A. Yes. I would say I was only aware of one thing at that  
19 point and I couldn't tell you which one it was, but  
20 during the course of it.

21 Q. So tell us how you went about trying to secure the  
22 handcuffs onto the man's hands.

1 A. Literally -- firstly I don't know whose handcuffs,  
2 I don't think it was mine. I'm fairly sure it wasn't  
3 mine. No particular technique as such. It's a case of  
4 getting control of the hands through strength.

5 Q. How did you do that?

6 A. Grabbing the wrist, taking control of the wrist and  
7 moving it to a position where handcuffs can be applied.

8 Q. Was that both wrists?

9 A. Between us, both wrists, yes.

10 Q. Between you and PC Paton?

11 A. I think so, yes.

12 Q. Who secured the handcuffs on?

13 A. I cannot remember. It was effectively a joint effort,  
14 a case of getting the cuff on one wrist. As soon as  
15 you've got the other wrist in a position where you can  
16 get the other cuff applied, getting them on and securing  
17 it.

18 Q. Who got the first cuff on?

19 A. I can't remember.

20 Q. And how long did that process take?

21 A. I don't know. Seconds. Maybe 20, 30 seconds.

22 Q. What was the man doing during the time you were trying

1 to secure the handcuffs?

2 A. Still struggling. Trying to pull his hands away so they  
3 wouldn't be in a handcuffing position.

4 Q. Were they double-locked?

5 A. I can't recall double-locking them at the time but  
6 I believe they were double-locked from a check I did  
7 much later on. The double-locking pins were applied  
8 when I came to take them off later on.

9 Q. So when you checked them later?

10 A. Yes -- well, not checked, when I took them off I became  
11 aware that the double-locking pins were engaged.

12 Q. So you don't know exactly when they were double-locked.  
13 Can you explain how handcuffs are double-locked?

14 A. Okay. So the handcuffs work as basically a ratchet.  
15 There's a single bar with a ratchet on it that will go  
16 round the person's wrist, attach back on to the handcuff  
17 and can be tightened up so that's the level of  
18 restraint, the cuffs secured around the wrist.

19 Q. I wonder if -- I don't know if we have the handcuffs  
20 available but it might --

21 A. That's fine, that's okay.

22 Q. You might find it easier to use these to demonstrate.

1 A. Yes, okay.

2 Q. You will have to hold them up so we can see.

3 A. As I said, the way the handcuff works is, as I said, the  
4      wrist is between there, the cuff comes round and the  
5      wrist is secured in between, and then it's tightened up  
6      until you have the appropriate level of control that you  
7      need.

8 Q. Depending on the size of the wrist?

9 A. Yes, depending -- yes. The problem then is -- well,  
10     obviously then, yes, they can't come back that way so  
11     you've got the level of restraint, however it can  
12     continue to become tighter which obviously if there's an  
13     accident or the person continues to struggle, that can  
14     become an issue because it can become tighter and cause  
15     an injury. So to stop that, when we're satisfied the  
16     level -- the cuff is in the correct place you can engage  
17     a double-locking pin, which is a little pin just in  
18     there which you push in with a little nib on the end of  
19     the cuff key or a pen, and it applies. And what that  
20     does is it stops the cuff tightening up any, still can't  
21     move that way, so the cuffs are locked in place.

22 Q. Can you do that when a person is struggling?

1 A. You would have to have a level of control. It wouldn't  
2 be impossible to do it with somebody struggling.

3 Q. Did you double lock the cuffs?

4 A. I can't recall doing them. It's something I would  
5 naturally -- it's almost a muscle memory sort of thing.  
6 I have applied handcuffs thousands of times and it's  
7 something I would automatically do. I can't -- I don't  
8 have a recollection of doing it.

9 Q. Right, but in any event you later discovered that they  
10 had been double-locked?

11 A. Yes.

12 Q. And once the handcuffs were applied, what was the man  
13 doing?

14 A. Continuing to struggle and try and pull his hands away,  
15 et cetera. My recollection is sort of immediately the  
16 handcuffs were applied -- I think it was PC Paton said  
17 there was a need to apply leg restraints or fast straps  
18 so I have immediately moved down and assisted in doing  
19 that.

20 Q. Tell us how you applied the fast straps.

21 A. It was between myself -- there were other officers had  
22 arrived at this point. Another officer, I think

1 PC McDonough, has taken his fast straps out -- excuse  
2 me.

3 Q. So was he the only other officer that had arrived at  
4 that stage?

5 A. He is the only one I can remember. He was with  
6 PC Gibson so PC Gibson must have arrived, but I don't  
7 recall seeing him.

8 Q. You don't recall seeing him on the ground?

9 A. Yes, immediately there.

10 Q. So tell us about the fast straps.

11 A. Got control of the man's legs, got them --

12 Q. How did you do that?

13 A. Again, I can't recall exactly every single movement  
14 during the course of it but it's moving down the body,  
15 securing the legs, I think somebody put their weight on  
16 his legs which is exactly how we teach to apply leg  
17 restraints.

18 Q. Where was PC Tomlinson?

19 A. Down on his legs at that time.

20 Q. So when you say someone was applying weight to his legs,  
21 was that an additional someone or PC Tomlinson?

22 A. I don't recall. PC Tomlinson was definitely down there

1 so he would have been doing that.

2 Get the legs straightened out into as good  
3 a position as we can to apply them --

4 Q. What's a good position?

5 A. Perfectly straight, but that's -- yes, in training we  
6 aim for that, however in the real world if somebody is  
7 resisting, if somebody is struggling you maybe don't  
8 have that done perfectly if they've got a level of  
9 strength, but as far as I can recall his legs were  
10 fairly straight, toes pointed towards the roundabout.

11 Q. Toes pointed towards the roundabout?

12 A. Yes.

13 Q. How was he lying?

14 A. I'm not sure.

15 Q. At the stage you were applying the fast straps?

16 A. I really can't remember. I can remember PC Paton and  
17 PC Walker still restraining the top half of his body but  
18 again it comes down to being focused on the job I was  
19 doing. My eyes were down at his legs, at his feet where  
20 my hands were getting the straps applied.

21 Q. So when you say his feet were pointing towards the  
22 roundabout --

1 A. Yes.

2 Q. -- is that the roundabout with Hendry Road and  
3 Hayfield Road?

4 A. Yes.

5 Q. And when you say pointing towards, how was the man lying  
6 at that stage?

7 A. I can't remember. That could be either on his side or  
8 prone.

9 Q. Right, so either on his side or prone?

10 A. Yes.

11 Q. And describe the way his legs were at the stage you were  
12 trying to apply the fast straps.

13 A. I can recall some degree of resistance and legs being  
14 bent, et cetera, to try and again move out of our  
15 control. To the best of my recollection we've got them  
16 like straightened out and I think that was due to  
17 downward pressure on his legs, not from myself. Any  
18 pressure from myself has been -- I don't think I've ever  
19 been actually on his legs, there would have been some  
20 coming down through my arms when I've been pushing.

21 Again as we teach, not exactly as per the drill, but  
22 feet are tipped to the side, pointing at right angles to

1 him. I have put some pressure down literally directly  
2 through the side of his foot onto the ground to pin his  
3 feet onto the ground which will prevent him moving his  
4 legs. I don't know if somebody else has taken over from  
5 me at that point but I can remember doing that. It was  
6 very much a collaborative effort between other officers  
7 there to try and get the restraints on.

8 Q. So when you talk about downward pressure, can you give  
9 us a description of how much pressure you were applying?

10 A. It would be me on my knees leaning some of my body  
11 weight forward on his foot. So not all the body weight.  
12 Enough to control them down at the ground.

13 Q. So what part of your body was being used by you to apply  
14 that downward pressure?

15 A. My hand.

16 Q. Your hand. Just one hand?

17 A. I wouldn't like to say. Yeah, I would think so.

18 Q. Your dominant hand or not?

19 A. I don't know. Probably my dominant hand.

20 Q. And you're moving your right hand?

21 A. Yes.

22 Q. Are you right-handed?

- 1 A. Sorry, left-handed, sorry.
- 2 Q. You're left-handed are you?
- 3 A. Yes. So at some point I've got the legs into that
- 4 position and controlled them on the ground.
- 5 Q. And then where on his legs was your left hand?
- 6 A. I can't remember. Sorry, my left hand is what I would
- 7 have been using to control. My right hand would have
- 8 been spare.
- 9 Q. Sorry. Describe how you were using each hand.
- 10 A. My left hand would have been used to apply the pressure
- 11 down on his foot. I don't know what I would have been
- 12 doing with the other one.
- 13 Q. And which foot was it that you were touching with your
- 14 left hand?
- 15 A. It must have been his right foot.
- 16 Q. His right foot?
- 17 A. Yes, must have been.
- 18 Q. And you were using your left hand?
- 19 A. Yes.
- 20 Q. And you say his feet were to be pinned to the ground?
- 21 A. Yes.
- 22 Q. And how would his feet be pinned to the ground?

- 1 A. By doing that.
- 2 Q. With one hand?
- 3 A. That's what I can recall doing, yes. It could be
- 4 somebody -- in training you have a person leaning their
- 5 weight onto the foot, so a person would be in a lying
- 6 position across the feet holding them in that position.
- 7 Q. Is there a special technique that you use to pin feet to
- 8 the ground?
- 9 A. As I said, in training it's that, it would be a person
- 10 lying across the bottom of the person's legs using their
- 11 body weight to pin the feet into the ground.
- 12 Q. So in training it's a body weight --
- 13 A. Yes.
- 14 Q. -- position but in this occasion on 3 May --
- 15 A. In reality you have to be adaptive to the situation.
- 16 Q. And you used your left hand?
- 17 A. Yeah, so it's a -- yes and again I don't know how
- 18 long -- or if somebody else took over that level of
- 19 restraint and they used their body weight. At some
- 20 point I've got his feet over and I have applied pressure
- 21 down through his foot.
- 22 Q. So there were other officers there at the time?

1 A. Yes.

2 Q. So tell us how the fast straps were applied. We've got  
3 some fast straps actually to let you see.

4 A. Thank you.

5 Q. I think they're together.

6 A. Yes, that's fine.

7 Q. So one -- were these, did you say Constable McDonough?

8 A. I think so, yes.

9 Q. So it was his fast straps?

10 A. Yes I believe so.

11 Q. Show us how you used them.

12 A. So basically put around both legs at the ankle, so  
13 you've got both legs in-between, straps go round,  
14 tightened up, and it Velcros on itself, so it's wrapped  
15 tightly around, wrapping both the legs together at the  
16 ankles and the same at just above the knees.

17 Q. So two fast straps applied --

18 A. Yes.

19 Q. -- at different points of the leg --

20 A. Yes.

21 Q. -- of Mr Bayoh?

22 A. Yes.

1 Q. Right. You have described how you were using your left  
2 hand --

3 A. Yes.

4 Q. -- your dominant hand to pin the feet to the ground?

5 A. At one point.

6 Q. So how do you actually apply the fast straps at the same  
7 time that you're using your left hand --

8 A. I didn't apply it at the same time as using my left  
9 hand. I said at one point I have had his feet pinned to  
10 the ground. Other officers have also been assisting and  
11 thereafter I have been able to, with the assistance of  
12 the other officers as well, put the straps round.

13 Q. Right. So what other officers assisted in terms of  
14 applying the fast straps?

15 A. I think it was PC McDonough and PC Gibson.

16 Q. So the three of you were applying them?

17 A. Yes, but again I'm not needing to look up and see who is  
18 there. There's a set of hands coming in and assisting  
19 me in applying these things, so --

20 Q. So two other officers helped?

21 A. Yes, I think so.

22 Q. And how is it they helped apply those straps?

1       A. Again, I wouldn't -- I wouldn't be able to say exactly  
2           every action every single person has taken all the way  
3           through that. You're having to, you know, move these  
4           underneath somebody's legs so it's a case of forcing it  
5           through and another person takes it from the other side  
6           and manages to wrap it over or something like that, so  
7           it's just a team effort to manage to move them into the  
8           correct position, given you've got the person's weight  
9           is on the ground as well.

10      Q. So multiple officers helping?

11      A. Yes.

12      Q. And are the fast straps put underneath the person's legs  
13           and then tied over the top?

14      A. Yes.

15      Q. Right. And are -- so does that require one officer on  
16           one side, one officer on the other?

17      A. Not necessarily. I can't recall if we needed that or  
18           not. Ordinarily when you're training it, one person  
19           will do it themselves.

20      Q. Is that when a person in training is not struggling on  
21           the ground?

22      A. Yes.

- 1 Q. But when a person is struggling --
- 2 A. Yes and again you teach that in training with one
- 3       person, but in reality if you have two people to make it
- 4       easier, there is absolutely nothing to mean you can't do
- 5       that. It's not going to have any effect safety-wise or
- 6       anything like that.
- 7 Q. And we have heard that those can stick to material, so
- 8       stick to maybe trousers or clothing?
- 9 A. Yes.
- 10 Q. And is that something that assists with getting them
- 11       into position?
- 12 A. No, that would hinder you getting them into position
- 13       because you wouldn't be able to move them.
- 14 Q. Right. But as far as you're aware, other officers
- 15       assisted with actually applying those fast straps?
- 16 A. Yes.
- 17 Q. And they were secured with your assistance. And can you
- 18       remind me, what did you say the positions were that they
- 19       were secured on the legs?
- 20 A. So at the ankle, or maybe very slightly above the ankle,
- 21       and slightly above the knee.
- 22 Q. Right. And the process that was followed in terms of

1 applying those straps, was that the same for each of the  
2 straps, or did it change?

3 A. That's the same, yeah. It's going to be broadly the  
4 same. You're doing the same thing.

5 Q. Same thing?

6 A. Yes.

7 Q. And was PC Tomlinson still there lying over the legs?

8 A. He was still there. I can't remember exactly what  
9 degree of force he was using.

10 Q. And --

11 A. There would have been some requirement to move about.

12 If he is lying on the legs there's going to be people  
13 needing to move around to allow us to -- again I can't  
14 remember exactly who was where, when, but people are  
15 having to move around to get the straps on, to get out  
16 of the way.

17 Q. And throughout that time that the fast straps were being  
18 applied, did you remain pinning the feet to the ground  
19 with your left hand?

20 A. No.

21 Q. Tell us what you did.

22 A. At some point during that I've got the feet into the

1 KF(?) position and pinned them to the ground. That's  
2 not been for a prolonged period. Somebody else has also  
3 assisted so maybe they have continued, I can't remember.  
4 I have then -- I can remember assisting getting the  
5 straps correctly applied and things like that.

6 Q. What was the first strap that was applied? What  
7 position was that in?

8 A. I think it was round the ankles.

9 Q. Did that allow more control over the legs?

10 A. I don't think there was any special -- it did -- yes,  
11 having it on allowed more control over the legs but  
12 I don't think there was any particular reason why that  
13 was done first.

14 Q. No.

15 A. If that makes sense.

16 Q. So the ankle area is first?

17 A. Yes.

18 Q. And then above the knees?

19 A. Yes.

20 Q. Right.

21 A. That's certainly the order in which we did it.

22 Q. That's the order you did it?

1 A. Yes.

2 Q. By this time what's the man doing?

3 A. I'm not sure. I have been down at his legs. There's  
4      been some movement in his legs, there's been some  
5      resistance during that but I can't really recall.

6 Again, there's other officers dealing with the upper  
7      half of his body.

8 Q. By the time the second set of leg straps were being  
9      applied what position were you in then?

10 A. I think I was close to him -- as we finished applying  
11      them I was close to him, I can't remember exactly where,  
12      either kneeling -- yes, it would have been kneeling on  
13      the ground.

14 Q. And what -- where in relation to the man were you  
15      kneeling on the ground?

16 A. I'm not sure.

17 Q. Were you still at the legs?

18 A. Yes, that half of the body.

19 Q. So still down at the bottom half?

20 A. Yes.

21 Q. Right. Can I ask you just very briefly to look at your  
22      PIRC statement, 278, page 6. So that's page 6, we will

1 look at paragraphs 4, 5 and 6, and so just below the  
2 paragraph "I cannot recall what was being said", let me  
3 just read that out to you:

4 "PC Paton was closest to the man's head, he was  
5 trying to control his arms leaning across the top of the  
6 man's shoulders and trying to get control of his arms.

7 I do not know how much pressure he was using but he was  
8 over the shoulder of the male and the point of contact  
9 was at the top of the torso, male's right shoulder. He  
10 was not lying on the man's head or neck area."

11 Is that what you have really told us today?

12 A. I would say so, yes.

13 Q. And then:

14 "PC Walker was in the middle of the three officers  
15 at the back of the male, he was leaning across the male  
16 but further down his torso trying to get control of his  
17 arms. He was leaning over him face down. I do not know  
18 what level of pressure he was putting on the male, he  
19 was going from a kneeling position to lying flat."

20 A. Yes.

21 Q. Now, when you say he was leaning over him face down, is  
22 that you referring to PC Walker being face down?

1 A. Yes, that's how I would interpret that.

2 Q. And then you don't know what level of pressure he was  
3 putting on the male but you say he was going from  
4 a kneeling position to lying flat?

5 A. Yes.

6 Q. And how did -- do you recognise that now from your PIRC  
7 statement? When you say "lying flat" what do you mean?

8 A. As in he wasn't -- somewhere between kneeling all the  
9 way up and being all the way down flat, that's -- again  
10 I'm sort of having a --

11 Q. Lying flat over the man who was on the ground?

12 A. Yes.

13 Q. And then:

14 "PC Tomlinson was further down the male's body at  
15 the top of the thighs/hips trying to control the male's  
16 legs. I know PC Tomlinson ..."

17 If we could move the screen up slightly.

18 "I know PC Tomlinson was having to move about a lot  
19 at the bottom of the body but I do not know what exactly  
20 he was doing."

21 And is that again roughly where you recollect, at  
22 least when you gave your PIRC statement --

1 A. Yes.

2 Q. -- where PC Tomlinson was?

3 A. Yes, it would be.

4 Q. And:

5 "I was more forward on the top of the male's body at  
6 his hands because of the knife threat, I had no idea  
7 what had happened to the alleged knife and I was coming  
8 round to the front of him."

9 And that's what you have told us earlier?

10 A. Yes.

11 Q. Thank you. So insofar as there's any differences  
12 between what you have told us today and what appears in  
13 your PIRC statement -- this is the statement from  
14 11 June 2015 -- can you help the Chair, should he prefer  
15 this version or the version you have given today?

16 A. Certainly in respect of what we're talking about at the  
17 moment, this version.

18 Q. That version, thank you.

19 I wonder if I could ask you to do a demonstration of  
20 the various positions that you have described for me  
21 please, so -- and we will go through it in stages. So  
22 I will ask you, first of all, to demonstrate the

1 positions that you have described of the male on the  
2 ground, Mr Bayoh, and then we will go through the  
3 individual officers, if we can. The audio isn't strong  
4 in that area, so I will talk through what I'm seeing as  
5 you're in the middle of the area demonstrating.

6 A. Okay.

7 Q. All right? Thank you very much.

8 (Pause).

9 If you can show us first of all the position the  
10 male was in on the ground.

11 A. So sort of between this sort of position --

12 Q. And that's prone with his arms -- both arms hands palm  
13 to the ground on both sides?

14 A. (Inaudible - too far from microphone).

15 Q. Okay.

16 A. That's as close as I can remember.

17 Q. All right, so that's prone. And you said between that  
18 position and what is the --

19 A. (Inaudible - too far from microphone).

20 Q. And that's left-hand side with the left elbow on the  
21 ground and the right elbow up?

22 A. I couldn't tell you. Or that, something like that

1 (indicating).

2 Q. And your legs are on top of each other?

3 A. (Inaudible - too far from microphone) PC Tomlinson was  
4 down there I don't know (Inaudible - too far from  
5 microphone).

6 Q. All right, thank you. Then if we can turn to PC Paton,  
7 first of all. If you could demonstrate --

8 A. Still in this position, he would be somewhere around  
9 here (indicating), either kneeling or something along  
10 these lines.

11 Q. Let me just get that mentioned because I've got the  
12 audio here. So at the moment you're kneeling?

13 A. Yes.

14 Q. And you would be -- if the person was on their left-hand  
15 side you would be behind them but in the head area?

16 A. Yes.

17 Q. Right and how was he struggling to -- you have talked  
18 about struggling to secure the hands?

19 A. Again reaching over like this.

20 Q. Reaching over touching the hands?

21 A. Yes.

22 Q. And you have moved your left leg round at different

1 points.

2 A. Yes.

3 Q. And then can we turn to PC Walker?

4 A. Yes, so further down.

5 Q. To PC Paton's right?

6 A. Yes.

7 Q. And again can you demonstrate how PC Walker was leaning

8 over the person on the ground.

9 A. Again something along the lines of this. There was a  
10 person in the way as well, so (Inaudible - too far from  
11 microphone).

12 Q. Yes, we will have to imagine a person there, but leaning  
13 over --

14 A. Yes.

15 Q. -- that person and again trying to secure hands?

16 A. I can't remember. I know I said in the PIRC statement,  
17 I can't remember what he was doing with his hands.

18 Q. So you can't remember at the moment. Can you then  
19 demonstrate what PC Tomlinson was doing?

20 A. He has been down here somewhere but I couldn't tell you  
21 the exact position.

22 Q. So PC Tomlinson you have moved to the right of where

1 PC Walker would have been and again bending down,  
2 bending over?

3 A. I wouldn't like to say exactly bending down or bending  
4 over or (Inaudible - too far from microphone).

5 Q. You don't have a clear recollection of that. Thank you  
6 very much. That's great.

7 If you come back to the microphone please.  
8 (Pause).

9 Then if we can maybe go back to your Inquiry  
10 statement for the moment and if we can look at  
11 paragraphs 27 onwards. 27 please. You say:

12 "It became apparent that the officers were  
13 struggling to fully control the subject. He was  
14 struggling with them and they were trying to bring his  
15 arms under control."

16 And you mention your concern about the knife.

17 A. Mm-hm.

18 Q. And moving to his front or right-hand side and knelt on  
19 the ground in front of him and tried to get control of  
20 his hands, and he remained in generally the same  
21 position.

22 A. Yes.

1 Q. And then paragraph 28:

2 "The general circumstances of the restraint were  
3 that on my arrival he was on the ground generally on his  
4 left hand side with the officers at his back. PCs Paton  
5 and Walker trying to get control of his arms.  
6 PC Tomlinson was trying to control his legs. It seemed  
7 that the officers were not being successful in this, he  
8 was managing to free his arms and was trying to push  
9 himself up, he was not as yet successful as the other  
10 officers kept managing to stop him but it looked to me  
11 that there was a significant risk that he would break  
12 free of their control."

13 And at that point you mention considering using the  
14 sprays. So certainly in your Inquiry statement in  
15 paragraph 20 you say that PCs Paton and Walker were  
16 trying to get control of his arms.

17 A. Mm-hm.

18 Q. Was that your recollection when you did this statement?

19 A. Yes, it must have been.

20 Q. And then further down you say:

21 "It seemed to me ... the ... priority was to gain  
22 control of his arms as the knife was not accounted

1 for ..."

2 And you're physically trying to get control of his  
3 hands and you comment on the risk of the knife not being  
4 accounted for.

5 And then can we turn over the page, so we're still  
6 on paragraph 28 but just over the page. And then you  
7 start to talk about handcuffing and fast straps which  
8 you say you will come onto in more detail below. Then  
9 you say:

10 "His position during this did not deviate greatly."

11 And that is a reference to the man on the ground.

12 "At times he moved closer to the prone position and  
13 at times he was fully on his side. This was a result of  
14 him moving in an effort to free himself. The other  
15 officers were at times having to exert some direct  
16 downward force onto his body with theirs as he was in  
17 danger of managing to free himself. I do not think he  
18 was ever close to the prone position for more than a few  
19 seconds. Any such movement was a direct result of his  
20 resistance."

21 Can I ask you about the comment "the other officers  
22 were at times having to exert some direct downwards

1 force onto his body with theirs". So that was a direct  
2 downward force, using their bodies?

3 A. Yes.

4 Q. Not just their hands?

5 A. No.

6 Q. And are you able to give us any assistance with that  
7 level of downward force that was being used?

8 A. Sufficient to stop him pushing himself up and able to  
9 get him back into a safer position, not like a prolonged  
10 level of downward force with some -- as far as I could  
11 tell all of somebody's body weight. It was to stop the  
12 person managing to push himself up and free himself, so  
13 to match the level of force he is pushing back with.

14 Q. So was that downward force being applied when the man  
15 was struggling to push himself up?

16 A. Yes.

17 Q. Right. And then in paragraph 29 you do talk about:

18 "Once the fast straps were applied I can recall  
19 moving away slightly and standing up at one point."

20 A. Yes.

21 Q. That's what you have mentioned previously, moving away  
22 slightly. And then at paragraph 30 you say when you

1           were applying the handcuffs:

2           "I applied no weight directly onto him. Any force  
3           used was taking hold of his arms and using the strength  
4           of my arms against the strength of his to move his  
5           wrists into a position where handcuffs could be applied.

6           When applying fast straps I applied weight to his lower  
7           legs, ankles and feet."

8           And I think that's what you have said already today?

9           A. Yes.

10          Q. Thank you. Can I ask you to look please at some other  
11           footage. So this is the enhanced Snapchat footage and  
12           you may have already seen this on the -- so what -- it's  
13           a short piece of footage. The first piece is Snapchat  
14           footage that's been extracted from earlier footage.

15          A. Mm-hm.

16          Q. And you will see a number of officers and you will see  
17           a close-up and then it will be played again, this time  
18           it is played at 25% speed and 400% zoom.

19          A. Yes.

20          Q. So we will just watch the whole thing through once and  
21           then we can watch it again if that would assist and  
22           I will ask you some questions about who is there, so if

1 we could do that please.

2 (Video played)

3 Now, just to give you some context because

4 I appreciate this might be the first time you have

5 watched this, this is a period after Tomlinson has

6 pressed his emergency button which you have talked about

7 hearing, that was at 7.21.19 -- please feel free to use

8 the spreadsheet if you wish. It is after your Airwaves

9 transmission "Male secure on ground" at 7.21.38, so this

10 is enhanced Snapchat from 7.21.38 to 7.22.17.

11 A. Right.

12 Q. And I would like to go back into it please and look at

13 it again and you may find -- we may find it is actually

14 easier to look at the second footage. Can we stop it

15 there for a moment. Are you -- looking at that now, are

16 you able to identify who is where?

17 A. Some people.

18 Q. Okay. Can you tell us -- so let's look first of all --

19 right-hand side there's an officer standing up with

20 a hi-vis vest.

21 A. I think that's PC Gibson. Again it's quite difficult to

22 identify anybody from this footage.

1 Q. We will play it again and let you see -- because  
2 sometimes it is easier when we see movement.

3 A. Yes.

4 Q. But you think that's PC Gibson standing?

5 A. Yes.

6 Q. And you said earlier today you weren't sure about -- you  
7 mentioned PC McDonough.

8 A. Mm-hm.

9 Q. But you knew that Gibson had arrived with McDonough but  
10 you didn't know where Gibson was?

11 A. Yes, he must have arrived with him, yes.

12 Q. You think that's PC Gibson?

13 A. I think so, yes.

14 Q. See on the far left-hand side as we look at that image,  
15 do you know who that is?

16 A. That's myself.

17 Q. That's you. So that's you -- you've got your glasses on  
18 there, have you?

19 A. No, I wouldn't have done.

20 Q. You've got a black -- you can see part of a high  
21 visibility vest there?

22 A. Yes.

1 Q. And then to your -- so is this at -- where were you when  
2 you were there and what part of the process -- what part  
3 of the restraint was this?

4 A. I think that was around about when we were putting the  
5 handcuffs on, I would think.

6 Q. Where was the male's head?

7 A. Down in the area of where my arms are sort of extending  
8 towards, maybe not exactly there, but that's where his  
9 head would be facing I think.

10 Q. So his head was there, we can see legs on the right-hand  
11 side?

12 A. Yes.

13 Q. So where was -- what direction was his back facing?

14 A. I'm not sure.

15 Q. All right, well, maybe we could play this footage again,  
16 just to let you see it again so you can maybe -- we can  
17 maybe play the whole thing again so that PC Smith can  
18 look at it.

19 (Video played)

20 If we can go back to the beginning of that 25% speed  
21 footage. Right, so what we will do is just come on to  
22 that footage and then pause it when we see it on the

1 screen, so looking at the person on the far left -- so  
2 we're looking at the tile on the right-hand side which  
3 is 400% zoom on the right-hand side.

4 A. Yes.

5 Q. 400% zoom and looking at the officer who is crouched  
6 down or kneeling or sitting on the left-hand side.

7 A. Yes.

8 Q. And you said before you thought that was you?

9 A. Yes.

10 Q. Right. So what are you doing at that moment in time?

11 A. I'm not sure. I think it might be to do with the  
12 handcuffs.

13 Q. But you don't recollect at that stage?

14 A. I couldn't tell you exactly what I was doing at that  
15 point.

16 Q. There seems to be an officer standing to your left with  
17 dark hair.

18 A. I think that's PC McDonough.

19 Q. PC McDonough. And then there's an officer what would be  
20 in front of PC McDonough with their back to the person  
21 with the camera.

22 A. I think that will be PC Paton.

1 Q. PC Paton. And then to the right, immediately to the  
2 right of PC Paton, who was that?

3 A. Standing up?

4 Q. Yes. I think that's the person that walks round to the  
5 legs.

6 A. That's PC Gibson I think.

7 Q. You think that's PC Gibson?

8 A. I think so.

9 Q. Could we move on slightly. And then do we see  
10 an officer facing the camera who has now come into view?

11 A. Yes.

12 Q. Crouched down on the other side of the person.

13 A. Yes.

14 Q. And who do you think that is -- do you recognise that  
15 person?

16 A. I don't. It could be PC Tomlinson but I would be -- no,  
17 I would be guessing.

18 Q. What's going on at this stage?

19 A. I don't know. Some part of that, the restraint of this  
20 guy, but ...

21 Q. Thank you. We will leave that. Can we just play this  
22 to the end, so if Gibson and McDonough are there, was

1           this before or after the leg straps have been applied?

2       A. Before I think.

3       Q. Before?

4       A. I'm not sure.

5       Q. I get the sense you're not --

6       A. I'm not --

7       Q. -- comfortable with recalling what was happening there?

8       A. Yes.

9       Q. We will leave that, thank you.

10      LORD BRACADALE: It is 1 o'clock, Ms Grahame. Would that be

11      a convenient point to stop?

12      MS GRAHAME: Yes, that would be. I'm about to move on.

13      LORD BRACADALE: Very well. We will sit again at 2 o'clock.

14      (1.00 pm)

15           (The luncheon adjournment)

16      (2.00 pm)

17      LORD BRACADALE: Now, Ms Grahame, when you're ready.

18      MS GRAHAME: I'm so sorry.

19      LORD BRACADALE: That's all right.

20      MS GRAHAME: PC Smith, I would like to go back to the

21      evidence video timeline and just show you one minute of

22      that. It incorporates part of the Snapchat footage and

1 we're going to play from 7.21.28, or thereabouts, to  
2 7.22.29, and if you have the spreadsheet in front of you  
3 you will see that 7.21.28 is the time at which your van  
4 arrives, so it's really from the minute your van arrives  
5 at Hayfield Road and then it's for a full minute after  
6 that. And as part of that footage you should see the  
7 Snapchat footage that we have also looked at. So here  
8 we are, 7.21.28, and if we could play that for a minute  
9 please, or just over a minute.

10 (Video played)

11 Thank you. Were you able to see the CCTV initially  
12 and then the Snapchat --

13 A. Yes.

14 Q. -- that comes on? Could you actually see yourself  
15 joining the people on the ground in the CCTV footage?

16 A. Not very well.

17 Q. Not very well. And then looking at the Snapchat  
18 footage -- and perhaps we could get that back on the  
19 screen, so just rewind if possible slightly. You will  
20 see this enhanced Snapchat footage was taken, extracted  
21 from the footage that we have just watched. Can we have  
22 the right-hand tile on the screen please. You will

1 maybe need to rewind slightly. We will just take  
2 a moment there to get it back onto the screen.  
3 (Pause).

4 All right, well ... so it was 7.21 to 22. If you  
5 want to play from there, that's fine. If you play from  
6 there, that's fine, and we can pause it when we reach  
7 the Snapchat.

8 (Video played)

9 Then can we pause it.

10 Do you see the movement of someone running towards  
11 the area of the restraint?

12 A. Yes.

13 Q. Would that be you?

14 A. It would have to be.

15 Q. And then we will play again and we will see that person  
16 coming round to the front of where the officers are on  
17 the ground, so carry on.

18 (Video played)

19 Do you see that person coming round --

20 A. Yes.

21 Q. And he has now got his back to us as we look at the  
22 footage and that was you?

1 A. Yes.

2 Q. Thank you, keep going.

3 (Video played)

4 And then does it appear that other officers appear

5 to be moving around in that area?

6 A. Yes, it does.

7 (Video played)

8 Q. And then pause that please. So now we see the enhanced

9 Snapchat footage -- well, this is the Snapchat footage,

10 it's not the separate footage that I have shown you

11 earlier before lunch, and I think you said you were on

12 the left-hand side?

13 A. Yes.

14 Q. Far left and that was at the head area near the hands?

15 A. Yes.

16 Q. And the person with their back to us -- to your right,

17 I think you said that was PC Paton?

18 A. Yes, I think so.

19 Q. And where was PC Walker?

20 A. He should be next to PC Paton. I can't really make him

21 out, but --

22 Q. Could it be that PC Walker is lying there and part of

- 1           his clothing can be seen?
- 2       A. Yes, possibly.
- 3       Q. Yes.
- 4       A. That would be the general area he was in.
- 5       Q. Is that the general area?
- 6       A. Yes.
- 7       Q. And then the person standing I think before lunch you
- 8           said was PC Gibson?
- 9       A. With his back to us?
- 10      Q. Yes.
- 11      A. Yes.
- 12      Q. So he has joined by this stage?
- 13      A. Yes.
- 14      Q. And then the person opposite where you had pointed out
- 15           PC Paton facing the person with the camera with the dark
- 16           hair, who was that?
- 17      A. PC McDonough.
- 18      Q. So Gibson and McDonough have joined by this stage?
- 19      A. Yes.
- 20      Q. And then the person facing, crouched down on the other
- 21           side of the people on the ground you said was
- 22           PC Tomlinson?

1 A. Yes, it would have to be.

2 Q. So that's who we can see there at that stage?

3 A. Yes.

4 Q. At this moment in time were the handcuffs on?

5 A. They were either on or very, very close to being on.

6 Q. So by the time Gibson and McDonough have arrived were  
7 the handcuffs on or just about to be on?

8 A. I don't know.

9 Q. Right. And then after the handcuffs go on, where did  
10 you move to?

11 A. Down towards his legs.

12 Q. So at the moment we can see PC Gibson down towards his  
13 legs?

14 A. Yes.

15 Q. And that's the area that you then moved to --

16 A. Yes.

17 Q. -- after the handcuffs were on?

18 A. Yes.

19 Q. To assist with putting on the fast straps?

20 A. Yes.

21 Q. Right, thank you. Can I ask you to look at PIRC 278.

22 This is your PIRC statement, page 8 please, and the

1 first three paragraphs. You see:

2 "I moved down to the male's lower body (legs),  
3 that's when I became aware PC McDonough was there, he  
4 had his leg restraints in his hands, I think he was  
5 standing up at that point. PC Tomlinson was attempting  
6 to control the legs, he was lying across the male's  
7 legs, the male's legs were lying in the prone position  
8 flat to the ground, knees to the ground by this time.

9 I wasn't aware of any other officer being present at  
10 that point."

11 So at the point that PC Tomlinson is attempting to  
12 control the male's legs, his legs were lying in the  
13 prone position flat to the ground, knees to the ground  
14 by this time. Is that when PC Tomlinson is over his  
15 legs?

16 A. Yes, I would think so.

17 Q. Do you remember this being part of your PIRC statement?

18 A. No, I can't remember.

19 Q. But your memory was fresher when you gave this?

20 A. Yes, it was.

21 Q. And then:

22 "I then attempted to get the male's legs

1 straightened out to apply the fast straps, in the  
2 confusion I took hold of PC Tomlinson's boot and started  
3 to pull his leg to straighten it out, I immediately  
4 realised it was not the male and let his boot go.  
5 I then took a hold of the subject's ankles and pulled  
6 his legs towards me to straighten the legs and get them  
7 together, all the while the subject resisted this, and  
8 tried to curl his legs up and move them to prevent me  
9 straightening them. I succeeded in keeping both his  
10 ankles together and turning his feet sideways, so they  
11 were facing down towards Hendry Road, preventing him  
12 from bending the legs at the knees and getting more  
13 control."

14 Do you remember saying that to PIRC?

15 A. I don't remember saying it but --

16 Q. That would be right?

17 A. Yes.

18 Q. Do you remember now looking at that paragraph that you  
19 grabbed or took a hold of PC Tomlinson's boot?

20 A. It rings a bell. I can't remember it specifically  
21 but ...

22 Q. Okay, all right. But you said that ultimately you

1 succeeded in keeping his ankles together and you turned  
2 his feet so they were facing down towards Hendry Road  
3 and is that the area near the roundabout?

4 A. Yes.

5 Q. Thank you. In doing so you prevented him, the male,  
6 from bending his legs at the knees?

7 A. Yes.

8 Q. And then can I look at the third paragraph please:

9 "Myself and PC McDonough then succeeded in applying  
10 fast straps round the ankles, subject was still  
11 attempting to move its legs about, causing my hands to  
12 be trapped underneath his feet causing cuts to my  
13 fingers on my right hand."

14 And you then got examined. So it appears from this  
15 paragraph that it was you and PC McDonough that applied  
16 the fast straps round the ankles. Do you remember that?

17 A. Again, not exactly, but if that's what I remembered when  
18 I gave that statement, that will be correct.

19 Q. Your memory was fresher then?

20 A. Yes.

21 Q. Thank you. Can I ask you to look at an SOP, PS10933,  
22 use of force SOP, paragraph 20.5. 20.5, thank you.

1       This says:

2            "Ideally the leg restraints need at least two  
3            Police Officers/Staff working together to correctly  
4            apply them. The subject should be handcuffed to the  
5            rear and placed in the prone (lying face down) position  
6            before the leg restraints are applied."

7            Do you know of that SOP? Do you recognise that?

8       A. Not specifically. I'm aware there's a SOP that covers  
9            these matters.

10      Q. Right. His -- as I understand the position, the man was  
11           not handcuffed to the rear, he was handcuffed to the  
12           front, palm to palm, is that right?

13      A. Yes.

14      Q. That's your recollection as well?

15      A. Yes.

16      Q. So this SOP in -- well, that paragraph of the SOP wasn't  
17           strictly adhered to in the sense he wasn't handcuffed to  
18           the rear, but am I correct in understanding that there  
19           was a lot of movement at the time?

20      A. Yes, it was driven by the circumstances we were facing.  
21           It seemed absolutely appropriate to then move on and  
22           apply the fast straps at that point.

1 Q. Thank you. But once the handcuffs and the fast straps  
2 were applied, effectively the male on the ground was  
3 under control?

4 A. Yes.

5 Q. So I would like to move on to that moment when he was  
6 under control and I would like to look at PIRC 278  
7 please, page 8. I'm interested in paragraph 8, which is  
8 the final paragraph on that page and I will just read  
9 this out:

10 "Once the restraints were applied I stood up ..."

11 And I think that's -- you told us earlier you moved  
12 and stood up?

13 A. Yes.

14 Q. "... and checked the injuries to my hand, and was  
15 satisfied that they were superficial. I had a look at  
16 the male from where I was standing, he was tilted over  
17 to his front, I'm not sure that he was completely  
18 prone."

19 Could you tell us what you meant by that, "I'm not  
20 sure that he was completely prone"?

21 A. I can't recall exactly what I saw but I would interpret  
22 that to be he was lying mostly on his front but slightly

1 over to his side.

2 Q. Right, okay.

3 "PC Walker said that we would have to get the male  
4 onto his side and I think PC Paton ... Tomlinson and ...  
5 Walker moved him onto his side. I didn't hear the male  
6 say anything throughout this but he was moaning. I  
7 would say that from arriving in Hayfield Road, speaking  
8 to PC Short to the point that the male was effectively  
9 under control in handcuffs and fast straps that a period  
10 of 3-4 minutes had elapsed, it was not a long period of  
11 time."

12 And so this is the point at which handcuffs are  
13 applied, leg restraints are in place, you have stood up  
14 and started to move away and PC Walker says you will  
15 have to get the male onto his side. Now, I understand  
16 that he was moved onto his left-hand side. Is that your  
17 recollection?

18 A. Yes.

19 Q. Yes. And you didn't ever hear him say anything, but you  
20 did hear him moaning?

21 A. Yes.

22 Q. And when you say throughout this he was moaning, do you

1 mean during the restraint he was moaning or at any later  
2 time?

3 A. I think during the restraint.

4 Q. During the restraint.

5 A. I'm having difficulty recalling exactly what noises he  
6 was making now but I believe that means during the  
7 restraint.

8 Q. When he was turned onto his left-hand side do you  
9 remember him saying anything or making any noises?

10 A. I don't recall.

11 Q. When did you notice that the male had stopped  
12 struggling?

13 A. I'm not sure. I'm aware that the level of resistance  
14 was much lower, but other officers still had good  
15 control of him so it wasn't really easy for me to see,  
16 not having any physical contact, whether there was any  
17 struggling happening or not. There was certainly no  
18 obvious resistance at that point, or very shortly after  
19 he was turned on his side.

20 Q. So matters had changed from -- you have talked about  
21 struggling and movement --

22 A. Yes.

1 Q. -- prior to that but you say there's no obvious  
2 resistance at that point?

3 A. Not to me from where I was.

4 Q. You have stood up and moved away?

5 A. Yes, moved away and to a small degree turned my  
6 attention elsewhere as well.

7 Q. Right. How long did it take you to turn your attention  
8 elsewhere and move away?

9 A. I'm not sure, maybe 30 seconds to a minute but again  
10 I couldn't -- passage of time is difficult to be sure of  
11 in those circumstances, but that would be my best  
12 estimate.

13 Q. You have said that other officers had good control.  
14 What were the other officers doing?

15 A. Again, my focus wasn't entirely on them, but I believe  
16 there were officers kneeling down close to him,  
17 basically holding him in that position. I don't know  
18 whether that was against resistance or otherwise, or  
19 whether it was just keeping him from moving, as you  
20 would do with someone you were restraining on the  
21 ground.

22 Q. Still putting weight on him?

1 A. No, I don't think so, no.

2 Q. So you were able to see that?

3 A. I don't recall anybody putting weight on him at that  
4 point.

5 Q. You don't recall what they were doing or you don't  
6 recall them putting weight on him?

7 A. I don't recall them putting weight on him. I'm not  
8 entirely sure what they were doing. I know they were  
9 kneeling down with their hands on him, holding him in  
10 position.

11 Q. Had they moved at all? You have told us you stood up.

12 Had they moved?

13 A. I don't think so.

14 Q. Right. Can I ask you to look at your Inquiry statement  
15 please. It's just immediately above paragraph 43, so  
16 it's actually paragraph 42, but that spans three pages,  
17 so it's immediately above paragraph 43. You say:

18 "I then began to consider the subject and was  
19 considering the issue of excited delirium, thus far he  
20 had shown considerable strength and that irritant spray  
21 was not effective although up to this point he has shown  
22 no signs of ill health. I was still unaware of any

1           earlier behaviour. As stated above the training at this  
2           time was fairly limited and I had never been exposed to  
3           excited delirium operationally and as such I did not  
4           immediately come to any conclusion. This thought  
5           process still only lasted a few seconds and prompted me  
6           to have a closer examination of the subject. At this  
7           point he appeared to me to be unconscious. An ambulance  
8           was contacted immediately."

9           So it was at this point where he has been turned to  
10          his left-hand side that you appreciate then that he has  
11          become unconscious, is that correct?

12          A. Yes, when I go to check on him.

13          Q. So when you have checked on him, he is unconscious?

14          A. Yes.

15          Q. And at the moment that he was unconscious, so this is  
16          just after -- is this just after he has been moved onto  
17          his left-hand side, you check and he is unconscious at  
18          that point?

19          A. Quite shortly afterwards, yes.

20          Q. When you say quite shortly afterwards, what do you mean?

21          A. As we said, where we asked how long was my attention  
22          slightly elsewhere, around about that -- within a minute

1 of me standing up, him being turned on his side, around  
2 about that time and me going back to look at him, so ...

3 Q. So you moved away and then went back to look at him?

4 A. Yeah, that's my recollection. Stood up, checked my  
5 hands, started to try and figure out what was going on  
6 basically, started to concern about the excited delirium  
7 thing and then started -- had a close look at him.

8 Q. Did you move back down towards him on the ground?

9 A. To have a closer look at him?

10 Q. From your standing position?

11 A. Yes.

12 Q. So you stood up, checked your hands and moved back down  
13 to the ground?

14 A. Yes. Like I said, I'm not sure quite how quickly that  
15 was.

16 Q. But you didn't move away from the area or anything of  
17 that sort?

18 A. No, I was still very much in the vicinity of him and the  
19 other officers.

20 Q. Right. What were the other officers doing when you  
21 noticed that he had become unconscious?

22 A. I'm not entirely sure. I think they were still kneeling

1 down beside him.

2 Q. Did it appear to you they had moved at all?

3 A. I don't think so, but I couldn't say with any certainty.

4 Q. Okay. Can we look at paragraph 43 now please. It says:

5 "He was lying on his left hand side with his

6 handcuffed hands to the front, other officers had hands

7 on him I am not sure of the level of force being used

8 but I do not recall having any concerns about it. I do

9 not think I was in physical contact with him but was

10 very close. Once I established he was breathing

11 I closely monitored him. I was not restraining him at

12 this time. At this point PC Tomlinson made me aware he

13 had struck the subject to the head with a baton.

14 I checked his head for signs of any serious injury but

15 could not find any."

16 I would like to ask you some questions about this.

17 When you say you checked his head for signs of any

18 serious injury, how did you do that?

19 A. Visually having a look and just running my hands over

20 his head.

21 Q. So you have told us that you had been standing?

22 A. Yes.

- 1 Q. You had been at his feet area?
- 2 A. Yes.
- 3 Q. Where did you move to in order to allow you to check his
- 4 head?
- 5 A. Directly in front of him.
- 6 Q. To his front?
- 7 A. Yes, to his front, so the way he was facing and close to
- 8 his head.
- 9 Q. So we have heard he is on his left-hand side?
- 10 A. Yes.
- 11 Q. And his head is nearer to the hedge on Hayfield Road
- 12 that you pointed out earlier?
- 13 A. Yes.
- 14 Q. So you went to his head. Round the officers or round
- 15 the front?
- 16 A. I can't remember.
- 17 Q. And you have said:
- 18 "Once I established he was breathing I closely
- 19 monitored him."
- 20 What does that mean?
- 21 A. Just kept an eye on him, just watched him.
- 22 Q. What were you looking for?

- 1 A. Changes in his pattern of breathing.
- 2 Q. So you could see he was breathing?
- 3 A. Yes.
- 4 Q. Could you see his chest moving?
- 5 A. Yes.
- 6 Q. Could you see his breath -- his mouth open or closed?
- 7 A. I can't remember if his mouth was open or not.
- 8 Q. And was there at that stage, or at any stage,
- 9 a nominated safety officer to monitor breathing?
- 10 A. I wouldn't say nominated but I had taken on that role.
- 11 Q. Or appointed?
- 12 A. I think it would be clear that I was doing that to any
- 13 person that was there, so I wouldn't say nominated as
- 14 such but ...
- 15 Q. You had adopted that role?
- 16 A. Yes.
- 17 Q. Would you explain what that role is?
- 18 A. I'm not familiar with that phrase, to be honest.
- 19 I would suggest it's somebody whose sole role is to
- 20 monitor somebody's breathing.
- 21 Q. But whatever the title, you were the person there
- 22 monitoring breathing?

1 A. Yes.

2 Q. Thank you. And then paragraph 44, if we can have that  
3 on the screen, of your Inquiry statement:

4 "A few minutes later it appeared to me he had  
5 stopped breathing. I had been continually monitoring  
6 him during this period and nothing else of note had  
7 happened. He was still in the same position, on his  
8 side, and while I was watching it appeared his chest had  
9 stopped moving, prompting me to voice my concern and  
10 look closer."

11 You say "a few minutes later" you noticed this.

12 A. Yes.

13 Q. Can you give us an indication of the duration of that  
14 period?

15 A. Maybe 3 or 4 minutes.

16 Q. And you said you looked closer. Describe what you did.

17 A. Sorry ...

18 Q. That's the last sort of line of paragraph 44:

19 "... prompting me to voice my concern and look  
20 closer."

21 A. So that would have been -- what I did do was say --  
22 I don't know if I said "He stopped breathing" or "Is he

1 breathing?" but I said something along those lines and  
2 I have turned him onto his back and carried out  
3 a thorough check to confirm whether he is breathing or  
4 not.

5 Q. So how long was it that he was on his side before you  
6 turned him on his back?

7 A. Maybe five minutes. Again, it's difficult to gauge time  
8 but that would be my best guess.

9 Q. Okay and then in paragraph 45, which we will have on the  
10 screen just in the next page, you talk about other  
11 officers kneeling and standing close to Mr Bayoh and not  
12 recalling any real level of restraint, but:

13 "... there may have been hands on him there was no  
14 physical force being used. I was closely monitoring him  
15 there was no real requirement for any direct assistance  
16 in this."

17 What do you mean by "direct assistance"?

18 A. As in -- I think that's possibly a response to how the  
19 question has been phrased that I have answered, whether  
20 anybody was helping me or not, but I was satisfied I was  
21 doing it myself and there was nobody else required.

22 Q. You were comfortable doing it yourself?

1 A. Yes.

2 Q. Without any other officer helping?

3 A. Yes.

4 Q. "This said, my main focus was Mr Bayoh and I was not  
5 really aware of what other officers were doing."

6 Other officers remained around at that time, as you  
7 have told us so.

8 "As I became concerned that breathing had stopped  
9 and was going forward check I heard another officer,  
10 I believe it was DS Davidson also voice a concern that  
11 he had stopped breathing, and as such I assume she was  
12 observing him closely in a similar manner to myself."

13 So I'm quite interested, you say -- this sentence:

14 "As I became concerned that breathing had stopped  
15 and was going forward check ..."

16 Was that "going forward to check"?

17 A. Yes.

18 Q. "... I heard another officer, I believe it was  
19 DS Davidson also voice a concern that he had stopped  
20 breathing ..."

21 A. Yes.

22 Q. We have heard about DS Davidson, so she had also arrived

1           on the scene --

2       A. Yes.

3       Q. -- at some point and that's when you heard her also  
4           voicing a concern?

5       A. Yes.

6       Q. And you say you were assuming she was observing Mr Bayoh  
7           closely in a similar manner to yourself?

8       A. Yes.

9       Q. Was she near to you at that point?

10      A. I'm not really aware. She might have been back over my  
11           shoulder or something like that. She sounded close to  
12           me.

13      Q. Leaving your Inquiry statement for a moment, I would  
14           like to go back to your PIRC statement, 278, page 9 this  
15           time. I'm interested in paragraph 7 to 9 and that will  
16           begin "When I went down to the male I saw ...", there we  
17           are:

18           "When I went down to the male I saw that his eyes  
19           were closed. I've initially tried to get a response to  
20           verbal stimulus, saying 'Are you all right, can you hear  
21           me?' I think PC Paton also tried to speak to him. That  
22           produced no response. I then tried physical stimulus,

1 putting my knuckles in the bone in the top of his chest  
2 to see if I got a response but I didn't get a response.  
3 At that point the male appeared to be unconscious.  
4 I checked his breathing by putting my face towards his  
5 mouth and heard and felt breath and could see his chest  
6 move consistent with normal breathing."

7 So at this stage you have gone down -- you see his  
8 eyes are closed, you have tried to speak to him and you  
9 realised that he is breathing at that point?

10 A. And unconscious, yes -- well.

11 Q. But unconscious. This is the point you realise he is  
12 unconscious?

13 A. Yes.

14 Q. His eyes are closed but he is breathing?

15 A. Yes.

16 Q. So this is the initial moment when you realise he is  
17 unconscious. Can I ask you about "PC Paton also tried  
18 to speak to him". Did anyone try and slap his face?

19 A. Not that I recall.

20 Q. Do you recall PC Paton doing anything like that?

21 A. No.

22 Q. Did you try and slap his face at all?

1 A. Not that I recall, I don't --

2 Q. Would you have done that?

3 A. No, I wouldn't.

4 Q. You talk about physical stimulus, putting your knuckles  
5 in the bone in the top of his chest. Is that what you  
6 attempted to do --

7 A. Yes.

8 Q. -- to see if you could get a reaction?

9 A. Yes.

10 Q. And did you get a reaction?

11 A. No.

12 Q. Was there any sort of reaction or movement or sound?

13 A. No, I don't -- no.

14 Q. So you realised he was unconscious but breathing and you  
15 have said he is breathing and PC Paton concurred. You  
16 then say:

17 "I immediately passed a radio message stating that  
18 the male is controlled highlighting the fact that the  
19 male appeared to be unconscious but breathing, and an  
20 ambulance was requested."

21 So as soon as you realise he is unconscious, you  
22 call for an ambulance to be requested.

1 A. Yes.

2 Q. And was that through an Airwaves transmission?

3 A. Yes.

4 Q. And would you look at the Airwaves message 7.25.17.

5 That's on page 7. 7.25.17 and there's an Airwaves  
6 transmission halfway down page 7 of the spreadsheet  
7 saying:

8 "PC Alan Smith: Roger this male now certainly  
9 appears to be unconscious, breathing not responsive, get  
10 an ambulance for him."

11 Do you see that?

12 A. Yes.

13 Q. That's the message that you just referred to?

14 A. Yes, it is.

15 Q. And then can we look at PIRC 278 please again, page 10  
16 this time, and paragraph 2:

17 "I was fully concentrated on the male at this point.

18 I continued to observe him for about 3 minutes, at which  
19 point I became concerned that he wasn't breathing  
20 normally and his chest was not moving."

21 So you have noticed he is unconscious, you have made  
22 your Airwaves transmission and then you concentrate on

1           the male at that point.

2       A. Yes.

3       Q. You continued to observe him for about three minutes:

4           "... concerned that he wasn't breathing normally and  
5           his chest was not moving."

6           How long did it take you to notice that his chest  
7           was not moving?

8       A. From what point, where I became concerned that --

9       Q. After you made the call, the Airwaves transmission.

10      A. About three minutes.

11      Q. Oh, three minutes.

12           "I remember asking someone (I do not recall who) to  
13           take control of the male's head so I could go down and  
14           listen for breathing again."

15           What do you mean "take control of the male's head"?

16      A. Just hold it in position.

17      Q. Right.

18           "I went down to listen for ..."

19           Do you know who that was that took hold of his head?

20      A. No.

21      Q. "I went down to listen for breathing again and there was  
22           nothing obvious. Due to my concern I moved the male

1           onto his back so I could check more thoroughly."

2           So until you have noticed he is not breathing, he  
3           has remained on his left-hand side?

4           A. Yes.

5           Q. It was only after you noticed he wasn't breathing --

6           A. Yes.

7           Q. -- that you move him onto his back?

8           A. Yes.

9           Q. "Due to my concern I moved the male onto his back so  
10           I could check more thoroughly. I put my ear over his  
11           mouth, looking down the line of his chest, and within  
12           a few seconds determined that I couldn't feel, see or  
13           hear breathing."

14           Is that the sort of technique that you used to  
15           determine whether he was breathing?

16           A. Yes.

17           Q. And is that something you have learned in first aid  
18           training?

19           A. Yes.

20           Q. "I immediately said we need to start CPR and PC Walker  
21           immediately started carrying out chest compressions."

22           So PC Walker was the first officer to start the

1           chest compressions?

2         A. Yes.

3         Q. How long after you noticed that he wasn't breathing and  
4           you turned him on his back and -- did PC Walker start  
5           the chest compressions?

6         A. Inside 10 seconds.

7         Q. Is there a reason that when he was unconscious you  
8           hadn't turned him onto his back?

9         A. I was concerned about a head injury -- well --

10        Q. Sorry, I didn't hear you there.

11        A. There's two points. That's the correct position for  
12           someone to be in if they're unconscious, is on their  
13           side, they would normally be in the recovery position  
14           which is very close to that but that's the position you  
15           would have an unconscious casualty. You wouldn't leave  
16           them lying on their back.

17           Further to that I was concerned at the potential for  
18           a head injury as well so I really wasn't wanting to move  
19           him unless I absolutely had to.

20        Q. What sort of head injury you were concerned about?

21        A. I don't know, I'm not an expert but he has been struck  
22           over the head with a baton so ...

1 Q. You were concerned because you had heard from  
2 PC Tomlinson?

3 A. Yes.

4 Q. Right, sorry, I thought you meant an injury could have  
5 occurred then.

6 A. No, I hadn't established one, but that doesn't mean  
7 there's not one.

8 Q. Sorry, that was my mistake. Right. So you knew by that  
9 point about PC Tomlinson having struck him on the head?

10 A. Yes, he told me.

11 Q. So I would like to just look at that timing please. You  
12 have talked about him being on the ground, being turned  
13 onto his left-hand side. You notice then that he is  
14 unconscious and can you remind me how long between you  
15 noticing he is unconscious and you making that Airwaves  
16 transmission that he was unconscious and calling for an  
17 ambulance?

18 A. I think that would be fairly quickly after I have  
19 realised he is unconscious.

20 Q. Can you give us an indication?

21 A. A few seconds.

22 Q. Few seconds. So that Airwave is at 7.25.17 and you call

1           the ambulance and then when you have noticed he is not  
2           breathing and CPR commencing, would you look at 7.29.30.

3           Now, this is on page 11 of the spreadsheet and it is  
4           towards the top and there's an Airwaves -- sorry.

5           So it's the top of page 11 of the spreadsheet. You  
6           see 7.29.30, Acting Police Sergeant Scott Maxwell makes  
7           an Airwaves transmission:

8           "Control can you get a move on with the ambulance.

9           This accused is now not breathing. CPR is commencing.

10           Over."

11           How long after CPR commenced with PC Walker starting  
12           the CPR did Scott Maxwell make that transmission? Do  
13           you know?

14           A. I can't even remember him making it. I'm vaguely aware  
15           that he has made one but --

16           Q. That's not something you can remember?

17           A. No.

18           Q. But by the time Sergeant Maxwell makes the transmission,  
19           the male on the ground, Mr Bayoh, is not breathing?

20           A. Yes, you would have to assume so if he's passed that at  
21           that point.

22           Q. So somehow the information -- the awareness you have

1           that he is no longer breathing --

2       A. Yes.

3       Q. -- and CPR needs to start, that information has been  
4           transmitted somehow to Sergeant Maxwell and he has made  
5           that Airwaves transmission?

6       A. Yes.

7       Q. So that would be the chain of that?

8       A. Yes, I think so, yes.

9       Q. So from the moment he is unconscious but breathing,  
10           which is 7.25.17, there's an Airwave "Unconscious,  
11           breathing, not responsive, get an ambulance" --

12      A. Yes.

13      Q. -- to Sergeant Maxwell and his Airwave transmission,  
14           7.29.30, that he is now not breathing and CPR is  
15           commencing, so that's a period of around -- well, over  
16           four minutes, I would like to know what's happening  
17           during that four minute period. So he is unconscious  
18           but breathing, you have told us you're monitoring, but  
19           for that four minutes what's happening?

20      A. I'm keeping an eye on him and watching his breathing  
21           and, as I said, that -- that's my sole focus, so other  
22           than that I don't know.

1 Q. What's everyone else doing?

2 A. I don't know.

3 Q. Right, okay. We have heard that day that it had been  
4 raining, it's 3 May, he is in a T-shirt. He has been  
5 restrained, he has had PAVA spray and CS spray and  
6 a head strike with a baton and to his body. Was there  
7 any attempt during that period to perform any first aid,  
8 or to make him more comfortable?

9 A. No.

10 Q. Was there any attempt during that period to remove his  
11 handcuffs?

12 A. No.

13 Q. Was there any attempt to remove his leg restraints after  
14 he was unconscious --

15 A. No.

16 Q. -- before he stops breathing?

17 A. No.

18 Q. Why would these leg restraints not be removed at that  
19 point?

20 A. Because somebody is unconscious or apparently  
21 unconscious does not necessarily diminish the risk they  
22 pose, so people can make a sudden recovery and continue

1 with the behaviour they have had before. People -- and  
2 I don't -- no reflection on Mr Bayoh, people can feign  
3 unconsciousness, which absolutely happens, and can  
4 attack police officers when their guard is down, so it's  
5 required to keep that level of restraint.

6 If it is somebody suffering from ABD or some other  
7 medical issue --

8 Q. We have heard that's called acute behavioural disorder.

9 A. Or excited delirium, sorry.

10 Q. Or excited delirium and these are conditions you had  
11 been trained on?

12 A. Yes.

13 Q. I think there may have been -- education may have  
14 improved since 2015 about these conditions. We will no  
15 doubt hear more information in the future, but you're  
16 thinking about ABD at that time?

17 A. Excited delirium at that time, sorry. If they are  
18 suffering from that and you have the situation where  
19 they recover and the behaviour returns, the aggressive  
20 and violent behaviour returns, you have done that person  
21 no favours by removing the restraint because all that's  
22 going to happen is they're going to have to be

1 resecured, re-restrained and subject to another use of  
2 force.

3 The presence of the restraints were not having any  
4 detrimental effects to his health, so they remained on.

5 Q. As far as you were concerned, they weren't having any  
6 detrimental effects?

7 A. Not that I could see, no.

8 Q. Then there was another call for an ambulance at 7.26.41  
9 by Sergeant Maxwell, so that's shortly after. 7.26 --  
10 let me see, 41. I think by this time Sergeant Maxwell  
11 is saying:

12 "I'm just looking to clarify, has an ambulance been  
13 contacted for this accused?"

14 Then ACR confirm they had asked for two ambulances  
15 so by this time I think a number of calls had been made  
16 about Nicole Short and getting an ambulance for her, so  
17 this was the second call to get a call for Mr Bayoh?

18 A. Yes, it appears that way.

19 Q. And was there anything going through your head at that  
20 time during that four-minute period about the impact of  
21 the CS spray or the PAVA spray, or the head strike with  
22 the baton?

1 A. That could affect anything I could do?

2 Q. That could affect anything you could have done at the  
3 time?

4 A. No, there's nothing -- I'm not a paramedic. My first  
5 aid qualification is first aid at work, same as somebody  
6 working in an office who has a first aid qualification  
7 to deal with their workplace. The only treatment -- the  
8 only thing we could do is what we were doing: keeping  
9 him in recovery position, closely monitoring him. There  
10 was no sort of intervention we could do to deal with any  
11 medical issues he may have and there were no obvious  
12 ones -- no obvious injuries or anything apparent.

13 Q. Right, and then after he became unconscious and stopped  
14 breathing, you moved him onto his back at that point?

15 A. Yes.

16 Q. Can I ask you about paragraph 48 of your Inquiry  
17 statement please. And then there's mention in this  
18 paragraph 48 "difficulties administering breaths" and  
19 I would like a little bit more information -- 48 please,  
20 that's it:

21 "There were difficulties in administering breaths to  
22 [Mr] Bayoh. It was initially very difficult to fit the

1 valve into his mouth and once this was done the breaths  
2 did not appear to be going in. PC Walker carried out  
3 further chest compressions while I tried to ensure the  
4 airway was not obstructed and re-fitted the mask.

5 I tried further breaths but these too seemed not to be  
6 working. Air seemed to be escaping around the side of  
7 the mask and the chest was not rising. I made similar  
8 attempts with the same result. It seemed to me that the  
9 breaths were not being effective and were preventing  
10 chest compressions from being carried out. As such  
11 I made the decision that we would continue to carry out  
12 chest compressions only."

13 So if we could go back to the beginning of  
14 paragraph 48. Can you explain to us -- you talk about  
15 a valve and a mask, and explain what was happening at  
16 that point?

17 A. So what we were trying to fit was a face shield that can  
18 be used to safely administer breaths during CPR. That's  
19 a piece of thick see-through plastic around the size of  
20 a handkerchief with a non-return valve in the centre of  
21 it. It can be placed in the mouth of the subject and it  
22 allows you to safely deliver breaths into them through

1           the non-return valve, reducing the risk of contamination  
2           for yourself for anything coming back out of their mouth  
3           into yours.

4       Q. So it allows you to assist the person but protect  
5           yourself at the same time?

6       A. Yes.

7       Q. And is that -- we have heard from other officers that  
8           they had a pouch that attached to their utility belt  
9           with a safety -- first aid kit.

10      A. Yes.

11      Q. Was that contained in that?

12      A. Yes.

13      Q. Right. Is that something that all officers have?

14      A. They're certainly all issued it.

15      Q. Sorry?

16      A. They're all issued one, yes.

17      Q. They're all issued?

18      A. Yes.

19      Q. And you used yours that day?

20      A. I think so.

21      Q. But you seem to be having difficulty trying to apply  
22           the -- administering the breaths?

1 A. Yes, initially fitting the valve and then administering  
2 breaths once we have successfully done that.

3 Q. What caused the difficulty for you trying to do that?

4 A. Initially trying to get into his mouth. His mouth was  
5 clenched shut or tightly shut to the point where I had  
6 to put my fingers into the mouth and open it up and  
7 thereafter the difficulty -- I could feel the valve was  
8 working correctly because there's air escaping out of  
9 the sides, but it didn't seem to be going into his body.

10 You would expect to feel almost -- you can feel the air  
11 going out and expand in the chest and that didn't seem  
12 to be happening.

13 Q. So normally if the valve's working do you feel the chest  
14 rising as the lungs expand?

15 A. Yes, you're aware of the chest rising. You will be  
16 looking down the line of the chest and you will be able  
17 to see the chest --

18 Q. So what position are you in --

19 A. Kneeling down.

20 Q. -- when you were trying to use --

21 A. Kneeling down beside his head.

22 Q. So you're not lying over him at that stage?

- 1 A. Kneeling over him.
- 2 Q. Kneeling over him?
- 3 A. Yes.
- 4 Q. How were you kneeling over him in relation to his --
- 5       were you at the side or --
- 6 A. At the side of his head.
- 7 Q. At the side of his head?
- 8 A. Side of his head and shoulders.
- 9 Q. So he is on his back by this stage?
- 10 A. Yes.
- 11 Q. And is PC Walker applying CPR?
- 12 A. Yes.
- 13 Q. And you're at the side of his head?
- 14 A. Yes, I'm on his right-hand side.
- 15 Q. You were on his right-hand side?
- 16 A. Yes.
- 17 Q. Using the valve?
- 18 A. Yes.
- 19 Q. And the mask?
- 20 A. Yes.
- 21 Q. And you could -- when you felt his jaw clenched --
- 22 A. Yes.

1 Q. -- his jaw clenched shut, was that of any significance  
2 to you in terms of your first aid training?

3 A. It didn't mean anything to me, no.

4 Q. But you were able to open his mouth manually?

5 A. Yes.

6 Q. But the breaths that you were administering through the  
7 valve were escaping?

8 A. Yes.

9 Q. And you didn't notice them going through the chest?

10 A. No.

11 Q. Would you have been able to tell if they were going into  
12 the chest with PC Walker doing CPR?

13 A. He is not doing compressions at the exact moment I'm  
14 trying to administer breaths. So one person would --  
15 the compressions are administered, once you have done 30  
16 of them then you try to deliver two breaths and then you  
17 do the compressions again.

18 Q. So the timing is synchronised --

19 A. Yes.

20 Q. -- with your companion PC Walker --

21 A. Yes.

22 Q. -- in the sense that you're working together --

1 A. Yes.

2 Q. -- to process that. Thank you. Now, I understand  
3 that -- we have looked at the Airwaves where Maxwell  
4 called an ambulance and then can we look at paragraph 54  
5 and I think at that point you're being asked about the  
6 ambulance. You say you didn't see them arrive:

7 "... they initially started some form of more  
8 advanced care for the subject ..."

9 Are you talking about the ambulance crew at that  
10 point?

11 A. Yes.

12 Q. So when they arrived did they take over?

13 A. Yes. I would -- I think I had stepped away at the exact  
14 moment they arrived but ...

15 Q. Right. I think we see on this spreadsheet reference to  
16 when the ambulance arrived and that's on page 13 of the  
17 spreadsheet. I won't take you to the footage at this  
18 stage, but you will see it's 7.33.35 that an ambulance  
19 arrives on Hayfield Road approaching the roundabout and  
20 stops next to the large marked police van?

21 A. Yes.

22 Q. And near the group of people on the pavement area at

1 Hayfield Road and the officers were the group of people  
2 at Hayfield Road?

3 A. Yes. I think I was probably slightly away from them at  
4 that point.

5 Q. So you had maybe moved slightly away?

6 A. Yes.

7 Q. Where had you moved to?

8 A. I had become contaminated with bodily fluids in my  
9 mouth.

10 Q. This is through using the valve --

11 A. Through trying to use the valve and it failing and  
12 material out of his mouth and nose et cetera ended up on  
13 the wrong side and in my mouth and what have you. So  
14 I'd -- when we moved to compressions only, there's  
15 enough people there to carry that out who know what  
16 they're doing, so I stepped away to address that.

17 Q. When you talk about material contamination can you  
18 describe that material?

19 A. Saliva, mucus out of the nose.

20 Q. What colour was it?

21 A. I have no idea. It was in my mouth.

22 Q. All right, okay. When you became contaminated in that

1 way what steps did you take?

2 A. I used -- I had a little tub of liquid hand -- I stepped  
3 away, ensured the CPR was continuing. I had alcohol  
4 hand sanitiser so I washed my mouth out with that and  
5 spat it on the ground, which seemed a reasonably  
6 sensible thing to do. I have then gone to a member of  
7 the public who was in his garden and asked for a glass  
8 of water and rinsed my mouth out and spat that out on  
9 the ground.

10 Q. Can I ask you to look at some footage. We will just  
11 pause it and I'm going to ask you to look at somebody  
12 through venetian blinds in the Snapchat footage so that  
13 would be around 7.21.21 I think. We should see the  
14 Snapchat footage come up.

15 (Video played)

16 Sorry, I'm on the wrong point. It's 7.22, sorry.

17 7.22.10. So you should see the Snapchat footage coming  
18 up shortly.

19 (Video played)

20 And allow that to keep playing please and then at  
21 some point I think you will see it pans round and can we  
22 pause it there. Do you see in the right-hand pane,

- 1           through the venetian blinds --
- 2       A. Yes.
- 3       Q. -- there's somebody standing besides the hedge with
- 4           a grey T-shirt on?
- 5       A. Oh, yes.
- 6       Q. Was that the person that you dealt with?
- 7       A. I can't recognise him. It would be roughly the right
- 8           position.
- 9       Q. So it was somebody from the houses on that side of
- 10           Hayfield Road?
- 11      A. Yes.
- 12      Q. Thank you. That's lovely. How long did the ambulance
- 13           crew spend with the man on the ground?
- 14      A. It would be a general estimate maybe another five
- 15           minutes.
- 16      Q. And then what did you do when they left?
- 17      A. I went with them.
- 18      Q. Why?
- 19      A. I was driving the ambulance.
- 20      Q. And why did you drive the ambulance?
- 21      A. They asked me to. The impression I got was they were
- 22           both wanting to go into the rear of the ambulance to

1 continue the care for the subject.

2 Q. So they continued to work on the man themselves in the  
3 rear of the ambulance --

4 A. Yes, that would --

5 Q. And you drove to the hospital?

6 A. Yes.

7 Q. And we have heard that was Victoria Hospital and that's  
8 quite nearby?

9 A. Yes.

10 Q. How long did it take you to get there?

11 A. Probably three or four minutes.

12 Q. Right. And did you go straight to A&E?

13 A. Yes.

14 Q. And then once you had arrived at the hospital -- you  
15 mentioned earlier that you had removed handcuffs.

16 A. Yes.

17 Q. Can you tell us what you did when you arrived?

18 A. My memory is quite vague. We went quite quickly into  
19 the A&E department --

20 Q. Were you with another officer or were you just on your  
21 own?

22 A. DC Connell was in the back -- I think it was DC Connell,

1 yes, was in the back with the ambulance crew. There was  
2 a request to take the handcuffs off around about that  
3 point.

4 Q. Who made that request?

5 A. I think -- I don't know. It was either the ambulance  
6 crew or a doctor.

7 Q. Right. Did you remove the handcuffs yourself?

8 A. I did, yes.

9 Q. And that's when you noticed they were double-locked?

10 A. Yes.

11 Q. So you removed those. What about the leg straps?

12 A. The same. There was a request for one of the medical  
13 personnel to remove them, so we removed them.

14 Q. A different person or the same person?

15 A. I don't know.

16 Q. Can't remember. So they hadn't been removed in the  
17 ambulance?

18 A. No.

19 Q. You removed them when you were actually in the hospital?

20 A. Yes, definitely removed the handcuffs and I was there  
21 when the restraints were coming off but I can't even  
22 remember whether that was definitely me or not.

1 Q. Prior to leaving Hayfield Road had anybody spoken to you  
2 and said -- given you any advice about maybe not  
3 speaking to anyone about the incident or anything along  
4 those lines?

5 A. No.

6 Q. And can I ask you about when you went back to Kirkcaldy  
7 Police Office. What time did you get back there?

8 A. I have no idea.

9 Q. No idea. Did you go straight from Victoria Hospital to  
10 Kirkcaldy Police Office?

11 A. Yes. I was maybe at the hospital for half an hour and  
12 then directly back to Kirkcaldy Police Station but ...

13 Q. And I think you say in your statement 61, 62, 63, that's  
14 the number of the questions you have been asked by the  
15 Inquiry team:

16 "I went straight to the canteen and sat at a table.  
17 The other non-CID officers who had been at the locus  
18 were there. I think it is DI Robson was either there or  
19 came in a very short time later."

20 A. Yes.

21 Q. So you go straight to the canteen?

22 A. Yes.

1 Q. Thank you. You say at paragraph 80 of your statement:

2 "There were several senior officers through the  
3 canteen area during the day."

4 Do you see that?

5 A. Yes.

6 Q. "The only specific instruction I can recall was from DI  
7 Robson shortly after my arrival that the matter was not  
8 to be discussed."

9 Do you remember when DI Robson gave you that  
10 specific instruction?

11 A. I think it was quite shortly after I arrived. I think  
12 that was when he spoke to us. My recollection back in  
13 the canteen isn't great but --

14 Q. But was the instruction given in the canteen by  
15 DI Robson do you know?

16 A. Yes, that's my recollection.

17 Q. And why was your recollection not great when you got  
18 back?

19 A. Just because I was completely stunned, exhausted,  
20 mentally exhausted, in a state of shock.

21 Q. And then you say you recall "similar instructions from  
22 other senior officers whose identities I am no longer

1           sure of and from Amanda Givan".

2       A. Yes.

3       Q. Do you remember how many other senior officers gave you  
4           those similar instructions?

5       A. I don't know. There was -- during the course of the day  
6           there was various senior officers came and went. They  
7           were all giving roughly the same sort of talk, but  
8           without being very specific on anything at all. I think  
9           there was another time somebody said not to discuss  
10           anything but I don't know who I could attribute what  
11           statement to. It was all very similar and it all sort  
12           of blurred into one and nothing they said was  
13           particularly memorable, in all honesty.

14      Q. And did you comply with that instruction not to talk  
15           with anyone about the incident?

16      A. Yes.

17      Q. We have heard mention of -- I will just give you these  
18           names and see if you recognise them: Conrad Trickett,  
19           Pat Campbell and Stephen Kay?

20      A. I have no idea who Pat Campbell was. Conrad Trickett  
21           was the PIM manager.

22      Q. Post-incident manager?

1 A. Yes.

2 Q. And Stephen Kay?

3 A. Was the duty inspector.

4 Q. For the area?

5 A. Yes.

6 Q. And then you mention Amanda Givan. We have heard she  
7 was a Scottish Police Federation representative.

8 A. Yes.

9 Q. Do you remember any advice or instructions she gave you?

10 A. No. She provided me with, as all officers, contact  
11 details for the SPF's legal advice line or something  
12 similar to that but I can't recall any specific advice  
13 she gave.

14 Q. Okay. And did anyone give you advice in relation to  
15 your status, so -- and when I say that I mean as  
16 a witness or as a suspect?

17 A. No. I think as I -- one of the senior officers coming  
18 in trying to offer reassurance I think said something  
19 about not being suspects but there was never any clear  
20 communication as to what your status was or what that  
21 meant.

22 Q. And in terms of what you would have expected, or what

1 you would have wanted in terms of clear instruction,

2 what would you have been looking for?

3 A. Clear guidance as to exactly what the process was,  
4 exactly what our status was, exactly what that meant --  
5 although we're police officers, however this is a very  
6 confusing situation in itself and you're in a state of  
7 extreme shock and confusion and worry and some of the  
8 other officers were clearly deeply traumatised, so  
9 a clear explanation of exactly what the status is,  
10 exactly what that means, exactly what you're obliged to  
11 do, exactly what you're not obliged to do, but there was  
12 nothing of that sort.

13 Q. And would you have felt it better to have gotten that  
14 clear guidance verbally or orally, or in writing?

15 A. Both would be handy.

16 Q. Both. And in terms of giving statements, operational  
17 statements, do you remember any of the senior officers  
18 giving you advice or guidance or instruction in relation  
19 to that?

20 A. I think something was said at one point about nobody  
21 would be looking for statements that day.

22 Q. Do you remember who said that?

- 1 A. I think it was Chief Inspector Trickett.
- 2 Q. Do you remember when?
- 3 A. No.
- 4 Q. But you think he gave you some advice that day about
- 5 statements?
- 6 A. I think so.
- 7 Q. Right. What about the other senior officers? Do you
- 8 remember any of them discussing statements?
- 9 A. No, I don't, but again I don't -- I don't have
- 10 a complete recall of everything that all of them said,
- 11 so -- but I don't remember it.
- 12 Q. All right. Can I ask you about your equipment that you
- 13 had that day. You mention this in paragraph 74 of your
- 14 Inquiry statement. And you say you remained wearing
- 15 your uniform:
- 16 "... and my vest and cover containing my other PPE
- 17 was I think placed on the floor in the canteen. This
- 18 remained the case for several hours until my equipment
- 19 was recovered from me in a separate room (as per points
- 20 75 and 76). I brought items of PPE and a radio that
- 21 I recovered from the hospital and the locus, I asked
- 22 [Chief Inspector] Trickett and Inspector Combe what

1 I should do with them. I stated that I thought I should  
2 retain them until they were seized, however I was  
3 instructed to leave them on the table in the canteen for  
4 the officers who were issued them to recover."

5 So can you tell us a little bit more about what you  
6 were doing with the equipment please?

7 A. In -- as in how it came to be in my possession?

8 Q. Yes.

9 A. So the handcuffs and the leg restraints which were  
10 removed from Mr Bayoh by myself --

11 Q. In the hospital?

12 A. In the hospital.

13 Q. And you had kept those?

14 A. Yes, where I was at locus --

15 Q. I think you said earlier they weren't actually your  
16 equipment?

17 A. I'm fairly sure they're not. The leg restraints  
18 definitely weren't. I'm reasonably sure the handcuffs  
19 weren't. There were other equipment -- I can't say for  
20 sure now what they were. I know it says a radio there.

21 I think it was maybe a radio, maybe a spray. When -- at  
22 some point when we were either during the restraint or

1           during the CPR I have seen these items of equipment  
2           lying on the ground and just instinctively you pick them  
3           up, you secure them. You can't have police issued  
4           equipment --

5           Q. So you mean on the ground at Hayfield Road?

6           A. Yes. I couldn't tell you exactly where they were. It  
7           would be somewhere where Mr Bayoh was because that's  
8           when I was down on my knees. So I have picked them up,  
9           put them in my pocket or whatever and hung onto them.

10          Q. Was that before you left the scene in the ambulance?

11          A. Yes.

12          Q. You didn't take photographs of them or secure them in  
13           the area?

14          A. No, at the time it wasn't clear that this was going to  
15           be an incident that would have that level of  
16           investigation and it's just an intuitive thing to do  
17           when there's a piece of police equipment and there's  
18           a situation ongoing and it's lying about, you get the  
19           opportunity to secure it so you just secure it.

20          Q. So did you pick those off the ground prior to leaving in  
21           the ambulance?

22          A. Yes.

1 Q. Prior to the ambulance arriving?

2 A. I would think -- yes, yes.

3 Q. And tell us what you had with you. Sorry, you went  
4 through a list but can you --

5 A. In relation to the additional equipment I have ended up  
6 with?

7 Q. Yes.

8 A. It was definitely leg restraints and handcuffs, a radio  
9 and possibly a PAVA spray or a CS spray.

10 Q. So the radio and the PAVA spray were from Hayfield Road?

11 A. Yes.

12 Q. And the handcuffs and the leg straps were from Victoria  
13 Hospital?

14 A. Yes.

15 Q. And that was four items in addition to what you normally  
16 carry yourself?

17 A. Yes, that's what I can definitely remember. There might  
18 have been one more but I wouldn't be able to be specific  
19 about it.

20 Q. Did you mention spray and a baton -- can you have a look  
21 at paragraph 75. I don't want to get this wrong:  
22 "... several hours later all of the items described

1           in point 73 as well as my baton, CS Spray, Handcuffs and  
2           radio were taken possession of ..."

3           So those were actually yours, your items?

4           A. Those ones referred to there, yes.

5           Q. You still had those items?

6           A. Yes.

7           Q. And that was in addition to the other items you have  
8           mentioned?

9           A. Yes.

10          Q. Right. So were the items -- we have heard that some  
11           items of equipment and clothing were on the floor in the  
12           canteen, or leaning up against the wall --

13          A. Yes.

14          Q. -- in the canteen. Do you remember that?

15          A. Yes, I do.

16          Q. And we have also heard that certain people would come  
17           into the canteen who weren't part of the response team.

18           Do you remember anybody coming in and out, other than  
19           the senior officers?

20          A. PC Mark Kay for Glenrothes was there. I have no idea  
21           why or what he was doing there, if he had been given  
22           some sort of role or what have you. PC Barrett was

1 there as SPF representative for a time. I don't think  
2 he was there all day. That's all I can recall.

3 Q. Okay, thank you. You mention in your statement that  
4 there was a distinction made between the way DS Davidson  
5 and DC Connell were treated or handled after the  
6 incident and the way other officers were. Do you want  
7 to give us a little bit more information about that?

8 A. All the uniformed officers present were taken back to  
9 the canteen and --

10 Q. That includes yourself?

11 A. Yes. All the officers of the response team were taken  
12 back to the canteen and at some point told they weren't  
13 allowed to leave and subjected to eventually a medical  
14 examination and seizure of clothing, et cetera. The CID  
15 officers, who as far as I was aware had had a very, very  
16 similar level of involvement in the incident, did not  
17 and as far as I'm aware went back to their own office  
18 and did whatever they did.

19 Q. And who were those CID officers?

20 A. DS Davidson and DC Connell.

21 Q. So they were allowed to move more freely in Kirkcaldy  
22 Police Office?

1 A. As far as I was aware, yes.

2 Q. And was it explained to you why there was a distinction  
3 between the way they were treated and --

4 A. No.

5 Q. -- the way the uniformed officers were? You said no.

6 A. No.

7 Q. Can I ask you to look at the paragraphs 82 to 85. It's  
8 actually one section of your statement, 82/83/84/85. So  
9 this is in response to some questions primarily about  
10 paperwork, if I can put it that way:

11 "In normal circumstances notebook entries would be  
12 made following any incident of note - this is standard  
13 procedure although I am unsure of the exact regulation  
14 requiring this. It is part of the standard operating  
15 procedures relating to use of force that for each  
16 incident where force is used above compliant handcuffing  
17 or taking [I think hold] of a subject's arm ..."

18 Is that right?

19 A. Yes, that would be right.

20 Q. "... one use of force form should be submitted per  
21 incident prior to terminating duty. Where an officer  
22 discharges their PAVA/CS spray a discharge form should

1           be submitted prior to terminating duty. I believe this  
2           is a legal obligation."

3           So you're talking there about a use of force form?

4           A. Yes.

5           Q. One per incident?

6           A. Yes, I think that's incorrect and I have --

7           Q. Oh, right.

8           A. -- applied the standard use of force form that came into  
9           force subsequent to 2015. I think the requirement for  
10           that was lower at that time actually.

11           Q. Lower than one form per incident?

12           A. No, the level of force required.

13           Q. I see. So as your understanding in May 2015, did one  
14           use of force form have to be completed per incident or  
15           was it one use of force form per any officer who had  
16           used the force?

17           A. I can't recall now.

18           Q. And then you think that you have maybe confused how much  
19           force was required --

20           A. Yes.

21           Q. -- before that form -- the requirement to complete that  
22           form was triggered?

1 A. The procedure for it has changed in the interim and ...

2 Q. Right, so this may not be entirely correct for May 2015?

3 A. Yes.

4 Q. Right. And then in relation to discharge of PAVA or

5 CS spray, you mention a form -- a discharge or use of

6 spray form "should be submitted prior to terminating

7 duty" and you thought at the time that was a legal

8 obligation?

9 A. Yes.

10 Q. And that's where you're discharging your spray?

11 A. Yes.

12 Q. Right and that's by the individual officer who has

13 discharged the spray?

14 A. That's correct.

15 Q. Thank you. If we could -- can I ask you about

16 operational statements. You were told I think -- and

17 you said a moment ago no statements were being sought.

18 A. Yes.

19 Q. What was your understanding of the requirement in

20 relation to producing operational statements?

21 A. It would be done -- normally you would be requested to

22 provide a statement for something if an officer

1 investigating something required it from you.

2 Q. Right. We have heard from another officer, or maybe  
3 two, that the forms that you have mentioned were only  
4 capable of being obtained through the computer system --

5 A. Yes.

6 Q. -- that's in place. Do you remember if that's correct  
7 in 2015?

8 A. I believe so, yes.

9 Q. So did you have any access to a computer --

10 A. No.

11 Q. -- in the canteen? No. Were you offered access to  
12 a computer --

13 A. No.

14 Q. -- that day? You say that normally you personally are  
15 proactive in preparing notes and completing paperwork  
16 but you felt mentally stunned that day. Can you tell us  
17 a little bit more about how you were feeling when you  
18 were in the canteen?

19 A. Just absolutely exhausted, completely drained, mentally  
20 drained as far as making decisions, just not capable of  
21 having a reasonable thought process, just ... I don't  
22 know how to describe it other than exhausted, sort of

1           inner fog mentally.

2       Q. And after you left duty that day did you return to work  
3           the next morning?

4       A. Next afternoon I think.

5       Q. Next afternoon. Was that your next shift?

6       A. Yes.

7       Q. Did you at any stage complete your notebook in relation  
8           to this?

9       A. No.

10      Q. And can you explain why?

11      A. Shortly thereafter I was given legal advice to not do  
12           so.

13      Q. Do you remember at all maybe noting the names of the  
14           paramedics in your notebook?

15      A. Yes, I did.

16      Q. So you had limited information --

17      A. Yes.

18      Q. -- in regard to the paramedics and who they were?

19      A. Yes.

20      Q. But nothing about the incident though?

21      A. No.

22      Q. So in relation to the incident you were given legal

1           advice?

2       A. Yes.

3       Q. And when did you receive that advice?

4       A. Oh, I can't remember. Shortly after the incident,  
5           within a day or so.

6       Q. Was that through the route you mentioned a moment ago,  
7           with Amanda Givan and the advice through SPF?

8       A. Yes. It wasn't directly through that.

9       Q. No.

10      A. Through their legal advice line, another --

11      Q. Another firm?

12      A. Yes.

13      Q. Right. And can I ask you about something you mention in  
14           your PIRC statement 278, page 14 please. It is the  
15           penultimate paragraph, so right near the bottom:

16           "I did provide an account of what happened to an  
17           Investigator acting on behalf of Prof Watson."

18           We know that Professor Watson is a solicitor.

19           "That was provided the week following the incident  
20           but I do not know the exact date. It was noted down  
21           from me. I have seen a copy of that electronically.  
22           I still have a copy of that account. I have been asked

1 to provide a copy of that account but wish to seek  
2 advice before providing that to PIRC."

3 So this is what you said in your PIRC statement --

4 A. Yes.

5 Q. -- that you gave on 11 June 2015. Now, do you still  
6 have access to that account of what happened at  
7 Hayfield Road?

8 A. I don't think so. I have not looked for it in a very  
9 long time.

10 Q. Would you be in a position to look for it and to provide  
11 it to the Inquiry?

12 A. I would have to take legal advice on that.

13 Q. So you would rather seek legal advice?

14 A. Yes, it's something I have provided directly to my  
15 solicitor so I would run that by them prior to --

16 Q. So your solicitor may have access to that account?

17 A. They may do.

18 Q. We have heard from another officer who had received  
19 similar advice to you at the time but has provided  
20 a copy of the statement, so would you be willing to ask  
21 your solicitor for that advice and consider providing  
22 that statement to the Inquiry?

- 1 A. Yes, I will certainly ask.
- 2 Q. Thank you. That would be excellent.
- 3 Can I ask you finally some questions about race
- 4 please.
- 5 A. Yes.
- 6 Q. You have obviously had -- you are an OST trainer, you
- 7 have had a lot of training yourself and you have been
- 8 trained to become a trainer.
- 9 A. Yes.
- 10 Q. Have you received training in relation to race yourself?
- 11 A. Under the OST training or ..?
- 12 Q. Yes.
- 13 A. No.
- 14 Q. Not under OST training?
- 15 A. No.
- 16 Q. What about -- but it sounded like you were going to say
- 17 you have had training, just not --
- 18 A. Yes.
- 19 Q. What training -- how did you access that other training?
- 20 A. It's the first week of training at the Scottish Police
- 21 College when you join the Police Service.
- 22 Q. Right, so that's at Tulliallan?

- 1 A. Yes.
- 2 Q. Any other types of training in relation to equality and
- 3 diversity that you have had?
- 4 A. Not that I can recall.
- 5 Q. So the equality and diversity training was when you
- 6 started at Tulliallan?
- 7 A. Yes.
- 8 Q. None since then?
- 9 A. Not that I can recall.
- 10 Q. And was that prior to 2015, or to date?
- 11 A. To date I think.
- 12 Q. To date. Do you remember the training you received at
- 13 Tulliallan?
- 14 A. Not every detail but I can remember receiving it.
- 15 Q. Did you learn much about unconscious bias?
- 16 A. I don't think so.
- 17 Q. Do you know what unconscious bias is?
- 18 A. Vaguely.
- 19 Q. Right. Do you want to tell us what you --
- 20 A. Having opinions about people that affect your treatment
- 21 of them without making conscious decisions. Yes.
- 22 Q. So subconscious --

1 A. Yes.

2 Q. And were you ever able to identify any unconscious bias  
3 in your own perceptions or beliefs?

4 A. No.

5 Q. And in terms of the training you received at Tulliallan  
6 were you able to implement any learning points from that  
7 into your own everyday practice?

8 A. I think broadly in respect of these things you try and  
9 treat everybody fairly and not treat them differently in  
10 respect of any differences they might have from you or  
11 might have from other people, absolutely you implement  
12 that into daily practice, but I would like to think  
13 I was doing that prior to being trained in it at  
14 Tulliallan in any case.

15 Q. Right. And were you aware in Kirkcaldy Police Office in  
16 2015 of any examples of racial discrimination?

17 A. No.

18 Q. Or any racist jokes or racist comments being made at  
19 that time?

20 A. No.

21 Q. And did any of your colleagues exhibit that type of  
22 behaviour as far as you were aware?

1 A. No.

2 Q. If you had seen or heard any behaviour along those  
3 lines, how would you have responded?

4 A. It would depend upon the behaviour, but it would  
5 certainly be addressed, be that having -- giving  
6 somebody some advice or reporting it up the line  
7 management.

8 Q. So if there was any racist behaviour exhibited, there  
9 would be a range of options for you in terms of how you  
10 would respond?

11 A. Yes.

12 Q. And how -- thinking back to 2015 now, how do you think  
13 senior officers would have responded if there had been  
14 any racist comments or behaviour?

15 A. I don't think they would have tolerated it.

16 Q. What do you think their reaction would have been?

17 A. Again, I would imagine it would be along the lines of  
18 what I said. It would depend upon the exact  
19 circumstances of it, but I feel sure they would have  
20 taken disciplinary action if it was required.

21 Q. Were you aware at that time about any public concern  
22 about the use of force by police officers particularly

1           in relation to black men?

2       A. No.

3       Q. Were you aware of any wider concerns, not just in  
4           Scotland or in Kirkcaldy, but down south or abroad?

5       A. Just through keeping up with the news about issues from  
6           parts of England, you know primarily London but that's  
7           the one that seemed to make it to the papers.

8       Q. So was that issue one of concern for officers in  
9           Kirkcaldy or in Police Scotland --

10      A. No.

11      Q. -- more particularly? No. Were you aware at that time  
12           of any high profile cases in the UK where a person had  
13           died as a result of restraint, or a restraint in the  
14           prone position?

15      A. No.

16      Q. No. Was there much information sharing, as far as you  
17           were aware, in 2015 between forces around the UK in  
18           relation to problems arising with restraints or use of  
19           force?

20      A. I really wouldn't know. If there was information  
21           sharing like that it would be done by people who work  
22           separately from me, so --

1 Q. So as a trainer -- you were a trainer at that time.

2 That's not something you were conscious of or aware of?

3 A. No.

4 Q. Okay. What was your understanding in 2015, or awareness  
5 of the black community in Kirkcaldy?

6 A. Very little contact with the black community in  
7 Kirkcaldy.

8 Q. Had you been involved in any community relation work at  
9 all?

10 A. No. That wasn't part of my role.

11 Q. Did you have any concerns about policing of the black  
12 community in terms of the use of force?

13 A. No.

14 Q. And did you have much experience of the black community  
15 either as witnesses, as suspects, or as victims of  
16 crime?

17 A. No, very little.

18 Q. Very little. Were you aware of stereotypes about black  
19 people, specifically in the context of criminal justice,  
20 perhaps being perceived as more likely to resist, to be  
21 less compliant, to be more violent, or to have  
22 superhuman strength or size?

1 A. No.

2 Q. No. Do you have any assumptions along these lines?

3 A. No.

4 Q. We have heard a number of descriptions during the  
5 hearings here, one of which was that Mr Bayoh was the  
6 size of a house. Is that the type of view that you held  
7 in 2015?

8 A. No.

9 Q. Is it possible that any stereotypes or assumptions  
10 influenced your approach to the events in Hayfield Road  
11 in 2015?

12 A. No.

13 Q. Had you been faced with a white man who was 5 foot 10,  
14 I think the same as yourself, 12 stone 10 in weight,  
15 with the suggestion that he had had a knife or had  
16 a knife, although that wasn't visible, and you were  
17 there with a number of officers with the equipment that  
18 you had had, would you have treated that person  
19 differently to the way you treated the events in  
20 Hayfield Road that day?

21 A. No.

22 Q. If he had been white, would you have called for an

1                   ambulance sooner?

2                   A. No.

3                   Q. Would you have done more for him if he had been white  
4                         after he became unconscious?

5                   A. No.

6                   Q. If he had been white would you have been more likely to  
7                         assume he was under the influence of drink or drugs or  
8                         had a mental health crisis, or that excited delirium was  
9                         more of a factor?

10                  A. It wouldn't have made any difference.

11                  Q. You seem quite definite in that?

12                  A. Yes.

13                  Q. Looking back now, do you think his race may have played  
14                         any role in any of your actions --

15                  A. No.

16                  Q. -- or the actions of other officers?

17                  A. No.

18                  Q. If you could just give me a moment please.

19                         Subject to any further issues that you or the  
20                         Assessors may wish me to raise or explore further,  
21                         I have no further questions.

22                  LORD BRACADALE: Thank you, Ms Grahame.

1                   Questions from LORD BRACADALE

2                   Constable Smith, there is one thing I would like to  
3                   clarify with you please. After you realised that  
4                   Mr Bayoh was unconscious, did you start monitoring his  
5                   breathing?

6                   A. Yes.

7                   LORD BRACADALE: And at that stage he was on his side, is  
8                   that right?

9                   A. Yes.

10                  LORD BRACADALE: But before that, while he was in the prone  
11                  position, was anybody monitoring his breathing?

12                  A. I don't know.

13                  LORD BRACADALE: As a general proposition, in a restraint  
14                  involving someone in a prone position would you expect  
15                  one of the officers to monitor the breathing of the  
16                  subject?

17                  A. If it's something where they're going to be in a prone  
18                  position for a prolonged period of time, it would  
19                  certainly be beneficial if you were in a position to do  
20                  that.

21                  LORD BRACADALE: Thank you.

22                  Now, are there any Rule 9 applications at this stage

1 apart from Mr Jackson? No.

2 Mr Jackson, do you have an application?

3 MR JACKSON: I do not, thank you.

4 LORD BRACADALE: Well, thank you very much, Constable Smith,

5 for coming to give evidence at the Inquiry. When the

6 Inquiry rises you will be free to go.

7 Now, we will rise there and sit again on Tuesday at

8 10 o'clock.

9 (3.21 pm)

10 (The Inquiry adjourned until 10.00 am on Tuesday,

11 31 May 2022)

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