

The Sheku Bayoh Public Inquiry

Witness Statement

Mark Hay

Taken by [REDACTED]

By telephone call

On 1 April 2022

Witness Details

1. My name is Mark Hay. My year of birth is 1972. My contact details are known to the Inquiry.

2. I was formerly a police constable with the Police Service of Scotland. My combined service equates to 19 years 6 months, as time spent with the British Forces awarded me 3 years 60 days pension and I served 16 years 4 months in the police service. Fourteen of those years were working with Central Scotland Police prior to the change to Police Scotland.

3. In May 2015 I was stationed at Glenrothes Police Station. I worked in Team 4. While I was stationed in Glenrothes, I worked in Kirkcaldy Police station quite a lot. When Kirkcaldy or Glenrothes Police Offices were short staffed,

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the officers from each station would cover for the other. So we all kind of worked together. I was friendly with the officers in Team 4 in Kirkcaldy including PCs Alan Paton, Craig Walker and Nicole Short. We would socialise occasionally. PC Alan Paton has been a friend since the age of 14.

4. I have had an opportunity to read my police statement dated 23 May 2015.¹ I consider that the statement is accurate. The statement would have been true and accurate to the best of my recollection at the time it was drafted. There is a typo on page 2, in the middle section, where it says "I then moved K19 transit from the middle of the roadway". This should be G19 transit. My memory is not as good as what it used to be. My memory of the events would have been better at the time of drafting my police statement. If there is any discrepancy between what I've said in this statement and my police statement, I would wish my police statement to be preferred.

5. On Sunday, 3 May 2015 I was on a 0700 to 1600 tour of duty. At 0705 hours I was in the custody suite at Kirkcaldy Police Office. I had been asked to come down to relieve the dayshift. There was a person in the police cells who had been under observation all the previous night. He was being observed through a Perspex screen [REDACTED] so they asked me to take over for a couple of hours, which I did. Shortly afterwards, I heard on my radio that officers were being directed to Hayfield Road in Kirkcaldy in relation to reports of a male of African ethnicity who was in possession of a knife.

6. I can't remember who else was working in the custody suite at that time. There would have been a custody sergeant and a civilian custody officer, a PCSO. I was unable to attend at that time as I was responsible for observing the prisoner. However, when I heard that report of the man with a knife, I was

¹ PS-00323

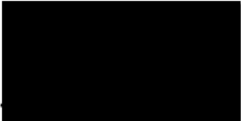
Signature of witness..... [REDACTED]

then listening out to the radio to try to follow what was happening because it was quite a serious situation. It was relatively quiet in the custody suite first thing in the morning. I was ready to respond if I was required, so I remember speaking to someone, I think it was the civilian custody officer, to ask they were in a position to look after this prisoner, so that I could attend the scene and provide assistance as well.

7. I'm asked if I remember speaking to PC Brian Geddes. Off the top of my head, Brian may have been the custody officer, the custody constable. I remember speaking to a custody personnel, it may have been Brian, I'm not 100 per cent sure. I just remember asking someone if they were in a position to look after the prisoner.

8. When I worked in Central Scotland police, any time a grade 1 call came in, we would just put ourselves en route to the incident rather than waiting to be asked to go to the call. Everybody should really go to a grade 1 call, particularly where there is a knife involved. We would advise control when we got the chance to get on the radio. Like in this case, sometimes the live IC button or emergency button, was hit and you have to wait for an opportunity to transmit on the radio. When the emergency button is pressed, it means that you can hear sounds being transmitted from that officer's radio for about 30 seconds as a live transmission. Whatever is going on, you can't transmit at that point.

9. I had to go upstairs, and I spoke to Inspector Kay, who was the station inspector, and made him aware of my plan to go to the incident. Because I was on a specific prisoner watch duty, I said to the Inspector that I was going to head up to the incident, if that was all right, and he said, "Yeah, that's fine". The board for the keys was beside the Inspector's office. So, I grabbed the keys off the board for one of the police vehicles.

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10. I heard the emergency button had been activated, and I heard what I thought was PC Alan Paton's voice shouting "get down" or something similar and then "Nicole", who I suspected was PC Nicole Short. This was followed by a further transmission to the effect that a police officer was injured and for an ambulance to be called. I then at this point left the custody suite. I can't remember whether I heard these transmissions before asking Inspector Kay if I could attend or whether it was afterwards. It all happened very quickly. Certainly, I heard these transmission before I left Kirkcaldy Police Office.

11. Once I had the keys for the police vehicle, I left immediately. I can't remember what time I left Kirkcaldy Police Office. But I was en route within a few minutes of the situation kicking off. I was driving a marked police van with lights and sirens. It was either a Vauxhall Vivaro or a transit van. The emergency lights were activated as I left the car park on the way to Hayfield Road. On the way there, I heard PC Walker on the radio asking for further officers to assist in apprehending the subject who was struggling violently. There was a further transmission after that, possibly from PC Walker, saying the subject was unconscious and requesting an ambulance for him.

12. I came up past the fire station on Dunnikier Road, through the traffic lights, and crossed over Victoria Road. The road takes you up through the traffic lights at Wilson Avenue and I then turn left at the junction onto Hayfield Road. I headed west, and the locus was just opposite a premises known as the White Heather Public House.

13. I can't remember noting the time when I arrived at Hayfield Road, however, from Kirkcaldy Police Station on lights I would have been there in a couple of minutes. It was very quiet that morning and I got a really good run in. I was exceeding the speed limit en route due to the nature of the incident, so within

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two or three minutes I would have been on the scene. I think I would have arrived before 0715 hours.

14. I'm told the first transmission that morning from the Area Control Room regarding a male armed with a knife was at 07:16:31. So having heard that, I must have arrived at Hayfield Road later than 0715 hours. I'm asked whether I remember transmitting to control to advise I was at the locus. I don't remember doing that but that's a normal thing that you do every time you arrive at the scene. I always advised control that I was in attendance at locus or at scene, so that's just a normal thing that you do, so it wouldn't really surprise me that I have done that.

15. I'm told that there was a transmission at 07.29.05, from me with the location of "Hayward Industrial Estate" saying "PC Hay to control over"², then a further transmission from me at 07:29:15 which is unclear, and by 07.29.24 I'm said to have transmitted "Sorry, I'm at the locus as well for information, thanks". So 07:29:05 may have been the time of my arrival or I may have been en route and almost there. Sometimes en route you will just say, "Control", if you can get on the radio to advise 30 seconds off scene, particularly if officers were struggling with somebody like that. By 07:29:24 it sounds like I was at the scene by that point.

16. When I arrived at Hayfield Road, I was travelling west along the road. As I got to the very end of the road, or just prior to the end of the road where Hayfield Road meets Hendry Road, at that junction. Facing that junction, Sheku Bayoh was lying on the pavement to my left hand side. I didn't know that was his name then. I saw the black male on the pavement. He had his top off and was lying on his back. Alan Paton was on the male's right side and Craig

² Source document: [REDACTED] Combine Airwave Call Activity Data (Kirkcaldy 01) and Transcription. At page 8.

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Walker was on the left side, and at that point Alan Paton was administering CPR. I just saw the male, he was lying on the pavement as he was being given what appeared to be really effective CPR by Alan Paton at that point. He was lying with his head to the south and towards the houses and the hedge. His feet were in a north position towards the road. There was a temporary sergeant there as well, Scott Maxwell. He was standing over the top of the man.

17. I'm asked if I remember where the other officers were at this point. No. I know Ashley was there but I can't remember where Ashley was. I have no recollection. When I arrived on scene, Scott was at the head and the Alan and Craig were doing the CPR. I remember Alan taking his vest off at one point. I didn't know at that point where Nicole was. Subsequently on speaking with Scott, I was told she was at accident and emergency, but other than James and Kayleigh, I have no recollection of where anybody else was at that point.

18. James and Kayleigh were police probationers. I can't remember their surnames. When I arrived, James and Kayleigh were on point. Kayleigh was on point on the Hayfield Road junction, and James was on the other side. I had them start notebook crime scene logs. I advised them to record in their notebook if anybody came on the scene, just like a temporary kind of scene log and I had them tape up the lampposts. I have no recollection whether anybody else was there other than them. I had Kayleigh at the White Heather and we put some police incident tape up between lampposts restricting entry to Hayfield Road at the end where Sheku Bayoh was. The other probationer, James, I done the same thing with him, just along the road, the junction at the street at the other end, I can't remember the name. But again, we just taped the road and we had the police vehicles there as well with the flashing lights

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preventing any access to the scene. At the point, I don't remember anyone in plain clothes or from CID being on scene. I was on scene really quickly.

19. At which time I then returned, and I could see that Craig and Alan were taking turns at doing CPR. I saw Alan was taking his vest off, and I believe, at that point, I asked if they wished me to take over, as a fresh pair of hands, but that was declined. They said they were managing.

20. The ambulance hadn't arrived as yet. I moved a couple of police vans out the way, that were just kind of abandoned. I moved the one I had been driving as well. I knew somebody was in cardiac arrest, I just wanted a really clear ingress and egress for an attending ambulance vehicle. Once I moved my vehicle, I parked it, I believe it was the north carriageway. I did not have time to ask anybody if I could move the vehicles. I just made that decision myself. I'm assuming one of these other two vehicles I moved would have been a Golf 1-9 because normally Alan or Craig would have been Golf 1-9 because they are larger built officers. Although I was in a van, it wasn't the Golf 1-9 sign.

21. After that, I spoke with the Sergeant Scott Maxwell I made him aware that James has started a log with his police notebook, and he wasn't to let anybody in and he was to record who was coming in. Kayleigh was on the other side doing exactly the same. I said to him, "Do you want me to do anything else here", and he replied "No, everything is done". He told me at this point that Nicole was at the accident and emergency and would I go and check on her, at which point I attended at the accident and emergency immediately.

22. I'm asked if I remember DS Samantha Davidson, or DI Colin Robson being at the scene. I don't think any inspector was on the scene when I was there. I can't remember seeing another sergeant. The only sergeant that was on

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scene when I was there was Temporary Sergeant Scott Maxwell, and that's who I was speaking to. Scott was standing at the head of Sheku Bayoh whilst the guys were alternately doing CPR.

23. I then left the locus and attended at Victoria Hospital Accident & Emergency Department, which was prior to an ambulance attending at the locus. I can't remember what time I left the locus. I'm advised that I transmitted on the radio at 7.38.51 saying, "PC Hay to control, over", with Control responding "Go ahead". Then at 7.38.59 I'm told I then say, "Just for the log, that's me off locus and I'm at the Victoria Hospital with PC Short for your information" From that, it sounds like I was actually at the hospital at the time of that transmission. If the radio was busy, I possibly couldn't have got on to the police radio at an earlier point. The hospital is only a minute away from the locus. So it's likely that I had left the locus maybe a couple of minutes before that. Sometimes if they are having a conversation, you are not going to cut in, so it will be accurate within a couple of minutes.

24. I went straight to the accident and emergency department and walked into the waiting room. There was nobody in there apart from Nicole. She was sat in a corner, she was shaking. I could see she was trembling. She looked up and saw me, and she stood up and she burst into tears. I think I put my arms round her at that point and I think she put her arms round me and I just comforted her because she was hysterical.

25. I'm asked whether we talked about what happened and what she told me. She told me that he had punched her. When she said he, she was referring to the man we later found out was Sheku Bayoh. She told me that he had punched her head and her neck at the top of her back, and that's all I can remember. She was hysterical. That's all she said to me at the time.

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26. I'm asked whether she mentioned being stamped on or anything similar. That rings a bell, but I don't think she told me that. I think after the incident when we were sat in the canteen, I think someone told me that he stamped on her. It was maybe someone in the canteen that's mentioned that after the fact. Because the only thing I have put in my statement is what Nicole told me at the time, and she told me that she had been punched.

27. I'm asked about my police statement dated 23 May 2015.³ At page 2, my statement says that "she had been punched to the back of her head/neck area, and that her head, neck, and back were sore." That's correct, that's what Nicole told me at the time. I'm asked if Nicole had told me that she had been stamped on, would I have recorded that in my statement. Yes, I would have done. I was very good at retaining and providing accurate information, particularly for the police statements. I'm quite sure that if she had told me that, it would have definitely been put in my statement at the time.

28. In terms of how long I was at the hospital, my statement says that I thought I had been there for around two or so hours, before Nicole and I returned to Kirkcaldy Police Station. I have no idea what time we arrived back at Kirkcaldy Police Station. Certainly before midday but I couldn't give any other information other than that.

29. I have listened to a radio transmission⁴, which I can confirm is me transmitting to the ACR and saying "Just for the log regarding this Hayfield Road thing, it's myself and PC Short, that's us away fae accident and emergency and heading back to Kirkcaldy Station, for information over". I'm told the time of this transmission was 10.01.17.⁵ I don't recollect this transmission as such.

³ PS-00323

⁴ PS01684

⁵ Source document: PS08273 D6086 PC Mark Hay All Calls 20150503 0600 to 2359

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However, it is me that's speaking and it makes sense that I would have updated control.

30. I'm quite good at keeping control updated with things particularly when I know the log is going to be scrutinised, so that must have been us clearing accident and emergency I'm thinking. From that transmission, it sounds to me that we've left accident and emergency and are on our way back to Kirkcaldy Police Station. It just takes a couple of minutes to get from the hospital to the police station so we should have arrived back by around 10.05 or 10.10 hours.

31. I'm asked what I remember about the journey back, whether I remember any conversation between us. Yes, I remember Nicole told me that Sheku Bayoh was standing in front of her at one point and he was smiling at her, he was laughing. She took her baton out and put it over her shoulder as you do when you are in a position as if you are going to strike somebody. At which point, he run at her and she panicked and she had turned and run away. This was just conversation. I don't know why I never put that in my statement. I think she said she couldn't remember much after that.

32. I think she told me as well that Ashley had batoned him, but his baton had bounced off him or something. I think she told me that Craig had bounced off him. I think that's what caused her to take her baton out. I believe Craig who is quite a big lad, he's probably 20-odd stone, but I think she told me that Craig and Alan at one point had bounced off him and had landed on the road or something, and I think that was what led up to her taking her baton out. I should have put that in my statement as well.

33. Once we arrived at Kirkcaldy Police Station, we went straight into the canteen. Everybody who had been involved in the Sheku Bayoh incident were all sat in

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the canteen. I'm asked if we were directed to go to the canteen on return. I can't recollect that but I must have been because I wouldn't have went into the canteen otherwise. I'm asked if I knew the purpose of being in the canteen. I'm not really sure, to be honest with you. I'm asked if we were spoken to by anyone or given any kind of debrief. I remember one of the chief inspectors, Garry McEwan, was in there, but I wasn't really speaking to anybody. I just remember at one point being told to go back upstairs. One of the supervisors, I can't remember which one it was, told me just to leave and go up and see Inspector Kay, or see the Kirkcaldy sergeant. I can't remember who that was at the time. I think they wanted me to go upstairs and help with the calls because the calls were building up. So I did; I went upstairs, spoke to the Kirkcaldy sergeant, they told me there was nothing in Kirkcaldy outstanding but just head back to Glenrothes and pick up the calls there, so I went and spoke to Inspector Kay and I just made him aware of it, that I was going to head back unless he had anything here for me, at which point he told me just to head back to Glenrothes and just do the calls there.

34. I was in the canteen for around an hour or possibly half an hour to an hour. I've not got much recollection of what happened during that time. I think they were waiting for somebody to come and give them a debrief or something like that. So when I left the canteen everybody was still in there, including Garry McEwan. I don't know what was said, I don't know what took place. The people who were in the canteen while I was there included Alan Paton, Craig Walker, Nicole Short, and Ashley Tomlinson. I can't remember if Kayleigh and James were there then. I don't remember what any of the officers were doing while I was in the canteen. I can't remember if they spoke to Nicole when she arrived there.

35. I can't recollect if anybody was speaking. The only thing that I remember is Alan sitting there, he just looked exhausted, upset and he was drained looking

Signature of witness..... 

and he was holding his head in his hands. That's one of the images that I do see quite clearly, actually, but everything else is quite blurry in my memory. I seem to remember that they were waiting for somebody. I think somebody was called out, they were waiting for somebody to come in, I don't know who that was but I remember one of the chief inspectors, Garry McEwan, was there. I think he was speaking to the officers at one point but I don't know for how long and I don't know what he said.

36. When I headed upstairs, I spoke to a temporary sergeant, I think, and she said to me there's nothing needs done, we've got somebody getting the calls, she said, "Head up to Glenrothes", and, "Just do your own calls". I went next door to Inspector Kay and I just said, "Inspector, if you've not got anything for me here, I'm just going to head up, back up to Glenrothes", and he said, "Aye, just crack on, but thanks very much for helping out", and that was it, so I never had any other involvement after that.

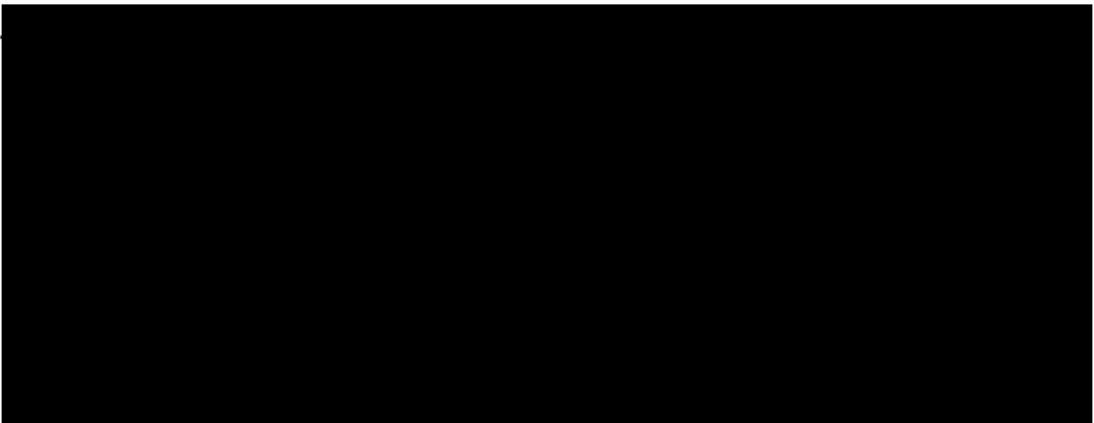
37. I'm asked whether PIRC ever requested a statement from me. No. I have no memory of PIRC attempting to contact me or being aware of them contacting any of my colleagues.

38. Since the incident on Hayfield Road, I've seen both Alan Paton and Nicole Short. However, we didn't really speak about what happened. If we did speak about it, I can't recollect speaking about the incident. Probably it would have been natural for most people to speak about these things, but, for me, I didn't have a lot of involvement and I didn't really want to know anything. Even when I met Alan afterwards, [REDACTED] I don't think it would have been good for him and I don't think it was good for me to speak about it. I wasn't wanting to keep going over that, so when I met them, I honestly don't think that we spoke about the case, and if there was anything – I'm not saying there was – I can't recollect that.

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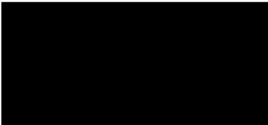
39. I have witnessed a lot of sad & tragic things throughout the years. I lost a Police colleague a couple of years earlier when we were on duty, and that's something I think about quite a lot. I wish to add that I am aware that all Police staff involved received a critical incident debrief by suitably trained Police Scotland personnel, which included a civilian member of staff who was at Kirkcaldy Police Station and had heard the distressing transmissions come across the radio in live time, broadcasted by the officers at scene as the incident unfolded, however at no time was I afforded the opportunity to attend such a debrief by the force.

40



As such I look forward to this enquiry concluding so that I am able to finally close the door on the Police chapter and move forward, so that I'm able to have what is considered a normal family life for a person my age.

41. I was based at Glenrothes but I was in and out of Kirkcaldy police station regularly. I'm asked about the culture at Kirkcaldy Police Station and whether I witnessed discrimination or prejudice on the basis of race, sex or sexual orientation either there or in the police generally. I would say definitely not. In my 16 years' service I have never witnessed racism, sexism or homophobia within the force.



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42. I'm asked if I have been following reports in the media about this case whether the news or social media. No, I haven't. I don't know anything about it. Whenever it's on television, if comes on the news, I just switch over. I don't watch anything like that.

43. I'm asked if I've spoken to any of the other witnesses in this case about the events that happened. No.

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

May 19, 2022 | 6:26 AM PDT
Date Signed.....

Signature of witness... 