

## TRANSCRIPT OF THE INQUIRY

Tuesday, 21 June 2022

(10.01 am)

Statement by LORD BRACADALE

LORD BRACADALE: Good morning. Today the Inquiry will hear the evidence of Alan Paton. Before that happens, I wish to make a short statement in relation to his evidence.

Ordinarily witnesses give evidence to the Inquiry in public, either sitting in the hearing room or remotely by live television link. Their evidence is live-streamed on the Inquiry's YouTube channel and the transcript of the evidence is published on the website.

With the exception of Alan Paton, each of the officers who attended at Hayfield Road on 3 May 2015 has given evidence in person in an open hearing in the hearing room.

In the case of Mr Paton, at an earlier stage I ordered that his evidence should be taken using special measures, namely that his evidence should be recorded in a closed hearing, that he should be accompanied by an appropriate adult and that the recording should subsequently be played in public.

The closed hearing took place in the hearing room on

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1 Monday 13 June 2022. The hearing was attended by the  
2 Chair, the Assessors, Counsel to the Inquiry and such  
3 Inquiry staff as were necessary to conduct the  
4 recording. Mr Paton's wife and his legal  
5 representatives were also in attendance. The recording  
6 of his evidence will be played today.

7 I permitted the taking of the evidence of Mr Paton  
8 in this way because I was satisfied, on the basis of  
9 medical reports, that Mr Paton suffers from mental  
10 illness. I received a report and a supplementary report  
11 prepared by a consultant forensic psychiatrist. Having  
12 considered these, I was satisfied, first, that if  
13 I required Mr Paton to give evidence in person or by  
14 a live television link, there was a real risk that he  
15 would be unable to give evidence at all, leading to the  
16 result that the Inquiry and the members of the families  
17 of Sheku Bayoh would be deprived altogether of hearing  
18 his important evidence.

19 Second, I was satisfied that requiring Mr Paton to  
20 give evidence in person, or by live television link  
21 would be likely to cause harm by having an additional  
22 adverse effect on his mental health.

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1 I concluded, therefore, that the surest and safest  
2 way to obtain his evidence for the Inquiry and to avoid  
3 causing further harm to his mental health, was to record  
4 his evidence in the manner that I have described. In  
5 coming to this conclusion, I was very much aware that  
6 the families of Sheku Bayoh have been waiting for over  
7 seven years for the opportunity to see and hear for  
8 themselves what this important witness has to say.

9 While I recognise that the pre-recorded evidence  
10 falls short of what they would have wished, the risk  
11 that they might not have heard his evidence at all has  
12 been avoided, and they and the public will at least hear  
13 the recorded evidence of Mr Paton today.

14 When the recording is being played, listeners will  
15 notice that at certain parts, the audio has been edited  
16 out. This occurs in that part of his evidence in which  
17 he is being examined about complaints against him made  
18 by members of the public. The editing has been carried  
19 out where he has either named certain persons whom it is  
20 not appropriate or necessary to identify, or has given  
21 evidence that might lead to the identification of such  
22 persons. I am satisfied that the parts that have been

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1 edited out are not necessary for the Inquiry to fulfil  
2 its Terms of Reference.

3 After the recording has been played, I shall invite  
4 oral applications under Rule 9. In the event that  
5 I grant any such applications, I shall constitute  
6 a further closed hearing. Any further permitted  
7 examination will be conducted by Counsel to the Inquiry  
8 and the recording will be played in public later.

9 We're now in a position to begin the playing of the  
10 recorded evidence.

11 (Pre-recorded evidence of ALAN PATON)

12 LORD BRACADALE: Good morning, Mr Paton.

13 A. Morning.

14 LORD BRACADALE: You're going to be asked questions by  
15 Ms Grahame, who you have met already. If you want  
16 a break at any time, just let me know and I'll happily  
17 give you a break.

18 Can you now say the words of the affirmation after  
19 me.

20 MR ALAN PATON (affirmed)

21 LORD BRACADALE: Ms Grahame.

22 Questions from MS GRAHAME

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- 1 MS GRAHAME: Thank you.
- 2 Good morning again, Mr Paton.
- 3 A. Morning.
- 4 Q. You're Alan Paton. What age are you?
- 5 A. 48.
- 6 Q. And in 2015, you had 14 years' police service?
- 7 A. Yes.
- 8 Q. And you were a police constable?
- 9 A. Yes.
- 10 Q. And we have all your contact details, so I'm not going  
11 to ask you so say what those are. And is it correct to  
12 say that you're now retired from the police service?
- 13 A. Yes.
- 14 Q. Could I ask you, first of all, to look at a statement  
15 you gave to PIRC, PIRC 262. It's up on the screen now  
16 you will see and it's got your name and then if we  
17 scroll down the page slightly, you will see it was given  
18 on 4 May 2015 at 11.15 in the morning and that was to  
19 Investigating Officer Alex McGuire in the presence of  
20 Ricky Casey. Do you see that?
- 21 A. Yes.
- 22 Q. Now, you should also have a copy of that in front of you

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1 in the black folder.

2 Now, can I just confirm something about the date.

3 It says on this typed version that the date and time you

4 gave it was 4 May 2015, but my understanding is that all

5 of the police officers gave statements on 4 June 2015.

6 Do you remember if you gave your statement to PIRC on

7 the same day as all the other officers?

8 A. It certainly wasn't 4 May.

9 Q. Right. Well, so if it we have heard that everyone else

10 gave their statements on 4 June, is that more likely to

11 be correct?

12 A. There or thereabouts, aye.

13 Q. Thank you. And am I right in saying that you were --

14 that was maybe read over to you, or you read over this

15 statement before you confirmed you were happy with it?

16 A. Yes.

17 Q. Do you remember which it was? No. Do you remember if

18 you signed it?

19 A. I think so.

20 Q. And is it fair to say that you were doing your best

21 on -- when you gave this statement to PIRC -- to be

22 giving them the true and accurate record of the events

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1           of 3 May 2015?

2           A. Yes.

3           Q. Thank you. We have heard other officers say that the  
4           events of 3 May were much fresher in their minds when  
5           they gave statements to PIRC. Is that the same position  
6           for you?

7           A. Yes.

8           Q. Thank you. So if there's any difference between what  
9           you're able to tell us today and what you told PIRC when  
10          you spoke to them to give this statement, could you help  
11          the Chair -- should he prefer this statement, if there's  
12          any difference?

13          A. More than likely.

14          Q. More than likely, okay. Well, I do intend to go through  
15          this with you, so if there's any difference you don't  
16          agree with, you can let us know.

17                 Then were you also asked to look at a map, COPFS 98,  
18          and mark-up sort of who was involved and you should have  
19          a copy of that in your black folder as well. Is that  
20          the map that you gave to PIRC?

21          A. Yes.

22          Q. Thank you. And then more recently were you sent a lot

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1 of questions by the Inquiry team and you responded to  
2 those questions and I'm going to call this your Inquiry  
3 statement, it's a document that was prepared by you in  
4 conjunction with your lawyers and where you answer all  
5 the questions that the Inquiry team sent you. Do you  
6 see that there?

7 A. Yes.

8 Q. Do you recognise that as your statement?

9 A. Yes.

10 Q. Thanks. And can we look at the last final paragraph,  
11 please. Not at the end of the document. That's it,  
12 thank you. Do you see it starts -- it's a short page,  
13 just before the appendix, I think you have that, and the  
14 second paragraph says:

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

19 And you understand that. And then my copy says it  
20 was signed by you on 5 May this year. I don't know if  
21 your copy has the actual signature on it. I don't have  
22 any copy. Do you remember if you signed this statement?

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1           A. I believe so.

2           Q. Yes. But regardless of whether it is signed or not, are  
3           you happy that this statement is true and you know that  
4           it might form part of the evidence that the Chair  
5           considers?

6           A. Yes.

7           Q. And it might be published on the website?

8           A. Yes.

9           Q. Thank you. Now, on 11 May, Brian McConnachie QC, your  
10          lawyer, your QC, made a statement on your behalf and in  
11          that he said you were hoping that with your assistance  
12          and cooperation that the Chair will discover the truth  
13          about what happened and does that remain the position  
14          today?

15          A. Yes.

16          Q. Thank you. Then he also said in his opening statement  
17          that the events have had a significant impact on you and  
18          your family and he told us that you have PTSD and I just  
19          wanted to say thank you for attending today, but if  
20          you -- as the Chair said to you at the outset, if you  
21          feel you need a break, please let me know and I can help  
22          ask the Chair for a break.

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1           So you've got your hard copies of everything in  
2           front of you. If you want to refer to that at any time,  
3           just let me know, and if I don't have the right bit on  
4           the screen if you tell me what page it is then I can ask  
5           for that to be put on the screen so we can see it.

6           A. Okay.

7           Q. And in addition you will also see a spreadsheet just to  
8           your left and I know that you have watched other  
9           evidence that we have taken in the Inquiry, so you  
10          should be reasonably familiar with what it shows, but  
11          you will see on the left-hand side it has got timings in  
12          the 24-hour clock and then to the left of centre you've  
13          got transcripts of Airwaves transmissions that were made  
14          by officers and just to the right of centre, we've got  
15          a little short description of what is said to be on the  
16          CCTV.

17          Now, if you have watched evidence you will have seen  
18          some of that on the TV channel as we have gone through  
19          it and I will refer you to that, Mr Paton, but also you  
20          can look through that at any time if you wish. Are you  
21          happy with that?

22          A. Yes.

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1 Q. Thank you. I'm going to take my lead today from some of  
2 the comments that your QC gave in his opening statement.  
3 He said there were about five areas where you had  
4 involvement on the day, so I'm going to take my lead  
5 from him and ask you about those five areas and the  
6 first thing I want to talk to you about today is the  
7 initial contact that you had, so let's start by looking  
8 at your original statement, the one you gave to PIRC,  
9 and if we could look at page 2 of that statement and I'm  
10 going to look at paragraph 2. I'm just going to ask you  
11 a quick question about this page. You say you have  
12 previously submitted a statement to John Sallens from  
13 Professor Watson. We have heard that Peter Watson is  
14 a solicitor who represents SPF, and he is in a company  
15 called PBW Law and you said:

16 "I do not have a hard copy ... but I do have an  
17 electronic copy which I have agreed to submit  
18 electronically by email to Investigator McGuire. I have  
19 signed the documentary production backing sheet."

20 You will see that we don't have a copy of that in  
21 the folder, we don't have a copy in the Inquiry. Would  
22 you be willing to give us a copy of that statement?

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1 A. I don't have a copy of the statement.

2 Q. Oh, you don't?

3 A. No.

4 Q. Who has it?

5 A. I don't know who does have it.

6 Q. Oh, right, okay. Well, that's maybe something we can  
7 explore with your solicitors. Thank you.

8 Let's look at page 4 then, paragraph 1. You say  
9 here:

10 "I think it took me about a minute to two minutes to  
11 arrive at Hayfield Road. When I arrived I came up  
12 Hendry Road and turned right at Gallaghers public house  
13 into Hayfield Road."

14 And:

15 "Upon entering Hayfield Road I was the first police  
16 vehicle on the scene."

17 Do you see that at the top of the page? And it is  
18 on the screen as well.

19 A. Yes.

20 Q. So you travelled to Hayfield Road and you are the first  
21 vehicle on the scene, police vehicle. I'm going to ask  
22 you to look at the evidence video timeline and you will

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1 see just for your own use if you look at page 3 of the  
2 spreadsheet -- now, I'm going to be asking Ms Wildgoose  
3 to play some of this footage and I know you will have  
4 seen this already, but do you see on page 3 of the  
5 spreadsheet, first of all, the left-hand column, the  
6 timings, 7.20.13. And there's a reference to ACR, area  
7 control room Inspector Stewart, and then a transmission  
8 that he made:

9 "Inspector Stewart area control room to the set  
10 attending. I am monitoring this obviously from an ARV  
11 perspective. If you get sightings of the male you need  
12 to make an initial assessment yourself and feed back  
13 through straight away and I will listen out on  
14 the channel."

15 And then you will see on the right-hand side of that  
16 column it says:

17 "Large marked police van arrives from south on  
18 Hendry Road and turns right at the roundabout into  
19 Hayfield Road."

20 Have you got that page?

21 A. Yeah.

22 Q. And below that column again on the CCTV column:

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1 "Dark coloured car enters roundabout from  
2 Hendry Road. Turns right, continues south on  
3 Hendry Road. Police van stops on Hayfield Road within  
4 field of vision of CCTV."

5 So I'm going to ask Ms Wildgoose to play about  
6 30 seconds of the footage on the screen. You will see  
7 the time -- real time clock at the top left says 7.20.11  
8 and then at the bottom there's CCTV footage and I will  
9 ask her to play until 7.20.42.

10 (Video played)

11 That's fine, thank you very much. So we have heard  
12 that the real time clock that's shown is to 1 second  
13 accuracy, and I would like to go through and it might be  
14 useful to use page 3 of the spreadsheet as we do that.  
15 I would like to explore with you what was happening at  
16 that point, as we have watched. So if we look at  
17 7.20.13, first of all. Did you hear the transmission  
18 from area control room Inspector Stewart on your radio  
19 that day?

20 A. I can't recall.

21 Q. Looking at it now, what's your understanding of that  
22 message?

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- 1 A. It's a message that's been passed by him with the best  
2 intentions but it's completely unclear what he is  
3 saying.
- 4 Q. Right. In what way is it unclear?
- 5 A. "Monitoring it from an ARV perspective" doesn't really  
6 give much away. We were needing to know then was an ARV  
7 coming or was it no?
- 8 Q. Right. So what type of information would you have liked  
9 to be clear and to provide that clarity?
- 10 A. Was an ARV coming or is it not. If it is, where's it  
11 coming from, ETA. Likewise with a dog, same  
12 information.
- 13 Q. So just a clearer estimate of the time it would take  
14 perhaps to arrive?
- 15 A. Yes.
- 16 Q. And what was your understanding of the words "Initial  
17 assessment"?
- 18 A. I didn't hear the words "Initial assessment". I didn't  
19 hear -- I can't recall any of that. I think I was  
20 actually, if not getting out of the van already out of  
21 the van by the time the message ended.
- 22 Q. And we have heard that people can hear messages from

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1           their radio.

2           A. Yes.

3           Q. Is that not something that you were able to hear that

4           day?

5           A. Not when you're in the heat of the situation.

6           Q. And is that an explanation why you didn't hear that

7           message?

8           A. Yeah.

9           Q. Thank you. Looking at it now, we have heard some

10          evidence about an initial assessment being a risk

11          assessment and feedback being a call to ACR to give them

12          information about what was happening at the scene; is

13          that your understanding, that an initial assessment is

14          a risk assessment effectively?

15          A. Yeah.

16          Q. And feedback would be to put a message, a transmission

17          onto your radio?

18          A. Yes.

19          Q. With information about what was happening?

20          A. Mm-hm.

21          Q. And we have also heard some evidence that that really is

22          just reinforcing to officers what they know anyway, that

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1           they should do a risk assessment, they should feed back;  
2           do you agree with that?

3           A.   Yes.

4           Q.   We have heard -- you have just looked at the CCTV, we  
5           have heard from PC Walker that that was your Transit van  
6           arriving at Hayfield Road. Did you also recognise that  
7           van?

8           A.   Yes.

9           Q.   And we have heard from PC Walker that he stopped the  
10          van -- he was driving, but he stopped the van at the bus  
11          stop and that's where the van is shown on the CCTV.  
12          Do you agree with that?

13          A.   Yes.

14          Q.   Thank you. And I wonder if we could look at some images  
15          please, still images, and I will use these as I go  
16          through the events, so we've got image 4 and we've got  
17          image 5. Image 5 might be quite useful at this stage  
18          and we see on this image -- these are images prepared by  
19          a company called Advanced Laser Imaging, or ALI, you  
20          will see the Transit van on the right-hand side is at  
21          the bus stop area and that's what PC Walker said was  
22          your van. Do you see that one?

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1 A. Mm-hm.

2 Q. And the bus stop is just slightly to the right of the  
3 image that we see here and you can see the yellow  
4 markings on the road.

5 When you arrived in the van with PC Walker, can you  
6 demonstrate from this image where Mr Bayoh was when you  
7 first saw him? Now, you will probably have seen on some  
8 of the previous footage, Mr Paton, that you can touch  
9 the screen and a red circle will appear and so if you  
10 are able to touch the screen and put a red circle, that  
11 would be very helpful, and if this image doesn't show  
12 the area, we can find another image?

13 A. It doesn't show the area.

14 Q. Right, let's find another image. Let's use image 8,  
15 please. So there's no cars or vehicles, police vehicles  
16 on this image and it's a bird's eye view, but image 8  
17 shows the full bus stop area and the shelter, the bus  
18 shelter, and to the left of this is the roundabout with  
19 Hendry Road. Would you be able to use this image to  
20 show where Mr Bayoh was when you first saw him?

21 A. Very roughly, because the van's not there to gauge  
22 distance, but very roughly I'll put there.

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- 1 Q. So you have pointed and created a red circle on the  
2 actual roadway near to the far right of the bus stop as  
3 we look at it on this image?
- 4 A. Aye.
- 5 Q. So was Mr Bayoh on the roadway at that time?
- 6 A. I believe so.
- 7 Q. And what direction was he facing?
- 8 A. Facing towards Gallaghers roundabout.
- 9 Q. We have heard that the roundabout on the left-hand side,  
10 there's a pub nearby called Gallaghers pub. Is that  
11 what you're referring to?
- 12 A. (Nods).
- 13 Q. And how was he -- what was he doing when you first saw  
14 him?
- 15 A. Briskly walking.
- 16 Q. When you say "briskly", what do you mean?
- 17 A. Briskly.
- 18 Q. Right. And that was in the direction of the roundabout?
- 19 A. No, I wouldnae say it was in the direction of the  
20 roundabout, I would say it was in the direction of  
21 Hendry Road.
- 22 Q. Oh, right.

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1 A. I would say if it was direction of the -- the roundabout  
2 it would be slightly further down.

3 Q. You might have seen people drawing lines. Let's --  
4 I will ask if we can get the line function and I will  
5 get you to draw a line which will provide an arrow  
6 showing the correct direction and I think you have --  
7 you have to move the line away from the red circle for  
8 it to work properly. That's it. So -- thank you.

9 So number 2 is the direction in which Mr Bayoh was  
10 driving.

11 A. Walking.

12 Q. Sorry, walking. And as the Transit van approached,  
13 where was he when the Transit van arrived at the bus  
14 stop and stopped?

15 A. 6 feet in front of the Transit van.

16 Q. Can you point with a circle onto the image?

17 (Pause).

18 Thank you. Then if we can go back to image 4, just  
19 so I can be clear, this is the one that shows the  
20 Transit van in position, or let's look at 5, please. So  
21 that's the Transit van in position. Which -- in  
22 relation to that van, in that position, where was

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1           Mr Bayoh when the Transit van stopped?

2           A. A lot further to the right-hand side, off the screen.

3           Q. Off the screen. How far were you from Mr Bayoh when the

4           Transit van stopped in the bus stop?

5           A. 25 feet.

6           Q. Okay. When you first saw him, what was the first thing

7           that went through your mind?

8           A. "That's our man".

9           Q. Right. And what made you think that?

10          A. The description of what he was wearing, just still at

11          the relatively same locus as described by numerous

12          witnesses, black.

13          Q. And what was he wearing?

14          A. T-shirt and jeans.

15          Q. What colour was the T-shirt?

16          A. White or grey.

17          Q. Did you consider anything at that time about terrorism?

18          A. Yes.

19          Q. What?

20          A. As with every knife call, not just this one, as with

21          every knife call I consider terrorism until I get

22          further information to rule it in or rule it out.

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- 1 Q. Right. And why do you do that with every knife call?
- 2 A. Because throughout the station at every turn there's
- 3 terror -- posters highlighting the terrorist level and
- 4 we had also -- I don't know if you've got that there,
- 5 that there was a memo came out by Ruairaidh Nicolson that
- 6 was highlighting the terrorist level, what we were to do
- 7 about it and making reference to Lee Rigby.
- 8 Q. And you may have seen me -- or that being referred to in
- 9 a previous hearing?
- 10 A. Yes.
- 11 Q. And what was the terrorist level at that time,
- 12 in May 2015, as far as you remember?
- 13 A. Severe.
- 14 Q. Would you have had the same concerns about terrorism if
- 15 Mr Bayoh had been white?
- 16 A. Of course I would. Terrorists are not just white -- are
- 17 not just black, should I say.
- 18 Q. Was it of concern to you at that time, on 3 May 2015,
- 19 that all units had been sent to attend Hayfield Road?
- 20 A. Was it of concern?
- 21 Q. Yes.
- 22 A. No, that's what I had come to expect.

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- 1 Q. Right. Was that a normal response for all knife  
2 incidents?
- 3 A. Not just all knife incidents, all incidents  
4 of threatening sort of behaviour or calls that could  
5 quite easily get out of hand, or whatever, certainly if  
6 a weapon -- not just a knife, if a weapon's mentioned  
7 then it's a case of "all units, if you can do, drop  
8 everything and go."
- 9 Q. Was it of concern to you that -- you have obviously got  
10 the terrorist, the threat level in your mind --
- 11 A. Yeah.
- 12 Q. -- was it of concern that you didn't understand there to  
13 be any support from an ARV on its way, or a dog unit?
- 14 A. First things first, we needed to protect the public.  
15 This was a large guy using -- not just carrying, but  
16 using a knife on innocent members of the public and  
17 their property arguably, cars. This needed drawn to  
18 a conclusion as soon as possible, without the attendance  
19 of an ARV or a dog, but more so an ARV, then somebody  
20 had to deal with it. If it hadn't been dealt with it  
21 could have gone completely pear-shaped.
- 22 Q. What do you mean by completely pear-shaped.?

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1       A. Well, I'm sure we will go on to where we were walking,  
2       but it's my firm belief that had I not intervened and  
3       taken that sort of early intervention, he was walking  
4       back to where the knife was and who knows what could  
5       have happened if he had picked it up and started using  
6       it then.

7       Q. So you could --

8       A. Let's face it, he was on a mission on to try -- his sole  
9       purpose in going on the streets with a knife was to try  
10      and find Saeed Zahid, probably with the intention of  
11      killing him.

12     Q. Okay. Can I ask you to focus on what was in your mind  
13     on 3 May. Am I right in thinking you didn't know  
14     anything about Zahid Saeed when you got out of the van  
15     on 3 May 2015?

16     A. Correct. I know that now though.

17     Q. You know it now because I think you have watched the  
18     evidence, but on the day itself, you didn't know  
19     anything about Zahid Saeed?

20     A. No.

21     Q. And could you see Mr Bayoh with a knife when you got out  
22     of the van?

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- 1 A. No.
- 2 Q. So what, on 3 May 2015, if anything, did you know about  
3 the knife?
- 4 A. Just the descriptions.
- 5 Q. And when you say the descriptions, what do you mean by  
6 that?
- 7 A. I'm sure the radio transmissions made mention of a big  
8 knife or words to that effect.
- 9 Q. So you had information from the Airwaves transmissions  
10 but since then you have obviously listened to the  
11 evidence of this Inquiry?
- 12 A. Correct.
- 13 Q. Right. Fair to say you have a lot more information now  
14 than you maybe did on 3 May?
- 15 A. So so.
- 16 Q. Okay. So when you said a moment ago he was walking back  
17 to where the knife was, is that your impression from  
18 having listened to the evidence?
- 19 A. No.
- 20 Q. So what -- why did you say he was walking back to where  
21 the knife was?
- 22 A. Because I knew where the knife was recovered and I knew

**TRANSCRIPT OF THE INQUIRY**

- 1 the direction he was walking and the close proximity.
- 2 It was only 20 feet.
- 3 Q. But on 3 May, when the van arrives, and you get out of
- 4 the Transit van, you didn't know a knife was recovered?
- 5 A. No, not at that stage, no.
- 6 Q. Right. I would quite like, if we can, to focus on what
- 7 you knew at the time that you got out of the van, rather
- 8 than think about things that you learned later. So your
- 9 immediate impressions and your state of knowledge at
- 10 that time, all right?
- 11 We can come back to the other things later perhaps.
- 12 A. Yeah.
- 13 Q. So on 3 May 2015 you get out of the van, you have
- 14 described seeing Mr Bayoh and where he was, and you have
- 15 told us you had heard Airwaves transmissions about
- 16 a man, you think this is -- the man you see on
- 17 Hayfield Road is the man that you have been hearing the
- 18 Airwaves transmissions about?
- 19 A. (Nods).
- 20 Q. So can I ask you, first of all, was there a reason on
- 21 that day why you didn't sit in the van and observe
- 22 Mr Bayoh rather than getting out straight away?

**TRANSCRIPT OF THE INQUIRY**

1 A. Because we didn't know if he had a knife or if he didn't  
2 have a knife and it needed to be drawn to some sort of  
3 controlled -- some sort of conclusion ASAP.

4 Q. What was Mr Bayoh doing that -- what, if anything, was  
5 he doing that would have caused you concern in relation  
6 to the knife?

7 A. He could have taken the knife out of a waistband,  
8 a sock, anywhere.

9 Q. So --

10 A. People could have been walking the streets -- I didnae  
11 know who was behind me on the wee path, cars were going  
12 past, people could have come out of a house. As I say,  
13 it was just too big a risk to sit back and contain.  
14 Perhaps that's what you would get away with at other  
15 incidents, which I have done in my previous service, but  
16 this situation was so pressing to get control, protect  
17 the public, protect other officers, protect Bayoh, that  
18 I felt it was the right decision to do, and I still do  
19 100% feel it was the right decision to do.

20 Q. We have heard some evidence about Hayfield Road, the  
21 sort of area it is. Did you know Hayfield Road that  
22 day?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes. I grew up just across the road from it.

2 Q. Right. And we have heard that there's hospitals in the  
3 area.

4 A. Yes.

5 Q. And houses and churches, is that right?

6 A. Mm-hm.

7 Q. What was it -- you said it was so pressing: what was it  
8 about that situation that made it pressing?

9 A. The fact that -- it had been corroborated that he had  
10 been using the knife.

11 Q. And when you say "corroborated", what do you mean?

12 A. More than one person speaking to the same, giving  
13 an element of credibility to what they're saying.

14 Q. So we have heard some evidence already that there were  
15 multiple calls coming in. Is that what you mean: there  
16 was more than one call --

17 A. Yeah.

18 Q. -- coming in from different sources?

19 A. Yes.

20 Q. And we have heard some evidence from officers saying  
21 that's what allowed them to rule out the idea it was  
22 a hoax call; was that the same for you?

**TRANSCRIPT OF THE INQUIRY**

1       A. To be honest, I didnae really think it was a hoax call,  
2       but you're right, more than one person phoning in tends  
3       to rule out that it was a hoax call.

4       Q. And you have talked about your desire to protect the  
5       public. Tell us a little bit about that.

6       A. In terms of what?

7       Q. What were you concerned about in terms of the public?

8       A. That he stabbed one of them.

9       Q. We have also heard that there weren't really any members  
10       of the public around, so what was your concern at that  
11       stage that he might stab someone?

12       A. Well, you've got houses all along one side. There might  
13       not have been any members of the public at that moment  
14       in time, but it only takes 10 seconds and then you've  
15       got a family of five walking out the front door.

16       There's also the path between Hayfield Road and  
17       Hendry Road, shrubs and such-like. Who knows, there  
18       could have been somebody walking past that. The locus  
19       was unprotected for cars going past. He could have, as  
20       has been suggested, perhaps tried a car door, stabbed  
21       somebody in a car, stabbed somebody through a window of  
22       a car.

## TRANSCRIPT OF THE INQUIRY

- 1 Q. Okay. And then you have also mentioned protection to  
2 officers, so what were your concerns about officer  
3 safety?
- 4 A. Well, a knife is always dangerous, ey, especially when  
5 it's somebody that's high on Flakka that's got  
6 possession of the knife. If he's prepared to use it on  
7 other members of the public and their cars, then he  
8 would be prepared to use it on police officers. I was  
9 also aware that there was a female officer going to  
10 locus. I know two ultimately went but first I knew  
11 there was a female officer going, Nicole Short. There  
12 was a strong rumour going about in Kirkcaldy Police  
13 Station that a female officer was going to get injured  
14 by a lone wolf.
- 15 Q. So you were aware that Nicole Short was going, female  
16 officer, and you have said -- again, focusing on  
17 3 May -- you were aware of a strong rumour that a female  
18 officer was going to be injured by a lone wolf?
- 19 A. Yes.
- 20 Q. What do you mean by that? Where had you heard this  
21 rumour?
- 22 A. It was common knowledge about Kirkcaldy Police Station.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Right.
- 2 A. I raised it -- being the senior sort of member on the  
3 team, I raised it with Inspector Stephen Kay at muster,  
4 asking if he could get in touch with intelligence  
5 department and also perhaps Special Branch to find out  
6 if there was anything in it and nothing came back.  
7 I raised it only days before this.
- 8 Q. Right. So this was a Sunday. Would it have been the  
9 week prior that you raised this with Inspector Kay?
- 10 A. I believe so.
- 11 Q. And we have heard about a muster in the morning from  
12 Acting Police Sergeant Maxwell, that there was a sort of  
13 gathering of the officers in the response team.
- 14 A. Yes.
- 15 Q. So is this something that they would have known about?  
16 Did you raise it in front of other officers in the team?
- 17 A. Yes.
- 18 Q. You didn't raise it with Sergeant Maxwell?
- 19 A. If he was covering on that day, bearing in mind he was  
20 just an acting sergeant, but the sergeant, if it that  
21 was him, would have been present as well, aye.
- 22 Q. But it was raised by you with Inspector Kay anyway?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. Yes, yes.
- 2 Q. We have heard he was the sort of senior officer in  
3 Kirkcaldy --
- 4 A. Yes.
- 5 Q. -- is that correct?
- 6 A. Yes.
- 7 Q. And you asked him to get in touch with the intelligence  
8 department. Who are they? Are they in Kirkcaldy or  
9 based somewhere else?
- 10 A. Based up at headquarters in Glenrothes as far as I was  
11 aware, but with everything being centralised with  
12 Police Scotland, who knows where they're based.
- 13 Q. We have heard that at that time, headquarters were in  
14 Glenrothes for Fife Police, is that correct?
- 15 A. Yes, I think so.
- 16 Q. And then Special Branch, they're more national rather  
17 than Fife-based presumably, are they?
- 18 A. Aye, they deal with mostly sensitive stuff and political  
19 stuff and those things.
- 20 Q. How long after you heard this rumour did you speak to  
21 Inspector Kay at a muster?
- 22 A. Not long. I couldnae give you a day, but it's not long,

**TRANSCRIPT OF THE INQUIRY**

- 1           eh.
- 2           Q. Was it the same day or a few days or -- can you give us
- 3           any indication?
- 4           A. No, I couldnae.
- 5           Q. No. Who told you about this rumour?
- 6           A. It was just common knowledge.
- 7           Q. Was it. So other officers knew about it in Kirkcaldy
- 8           Police Office?
- 9           A. Yeah, I think it was -- I think it sort of came at the
- 10          same time that we were told to travel to and from work
- 11          in plain clothes. Obviously I could be wrong there,
- 12          that could just be in relation to the severe terrorist
- 13          threat level, but it kind of came at about the same sort
- 14          of time as the terrorist level was getting really pushed
- 15          to be aware.
- 16          Q. Do you remember when that happened?
- 17          A. No, I didnae -- no.
- 18          Q. We might have heard evidence that an officer checked
- 19          later and couldn't find anything to do with a threat
- 20          against a female --
- 21          A. That's convenient, eh.
- 22          Q. You think that's just convenient?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. What do you mean by that?

3 A. I don't know.

4 Q. Okay. Right, so you also said earlier when you were  
5 talking about Mr Bayoh in Hayfield Road "Someone high on  
6 Flakka". What does that mean?

7 A. What?

8 Q. You used the words "high on Flakka", "Someone high on  
9 Flakka could go for a knife, take it out of their  
10 waistband or such-like."

11 A. Well, you have only got to Google.

12 Q. Do you know what Flakka is?

13 A. Yes.

14 Q. What is it?

15 A. It's a synthetic drug that sends folk not quite right.

16 Q. And at the time when you saw Mr Bayoh in  
17 Hayfield Road --

18 A. Aye.

19 Q. -- were you aware that he was high on Flakka, or is this  
20 information that's come to --

21 A. I wisnae aware that he was high on Flakka but I was  
22 aware he was high on something.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Right. How were you aware he was high on something?
- 2 A. Because his eyes were bulging out of his head.
- 3 Q. So his eyes were bulging out of his head. And anything
- 4 else you noticed about his eyes or any other things you
- 5 noticed?
- 6 A. Well, quite often on a lot of these synthetic drugs you
- 7 don't feel temperature, not how you should, and it was
- 8 pissing down with rain and blowing a gale, and he's
- 9 wearing a wee T-shirt.
- 10 Q. So the fact he's in a short sleeve T-shirt was an
- 11 indicator to you as well as his eyes?
- 12 A. It could be, aye.
- 13 Q. You have described or told us about arriving in the van;
- 14 when did you first notice his eyes?
- 15 A. When I first saw him.
- 16 Q. When you first saw him. As soon as you saw that and saw
- 17 his eyes bulging out of his head, what did you think
- 18 about the situation?
- 19 A. I still thought this situation needs to be taken control
- 20 of, firmly taken control of as soon as possible and the
- 21 fact that he didn't have the knife in his hands, I could
- 22 see his hands, I thought "I've got to take my

## TRANSCRIPT OF THE INQUIRY

1 opportunity, grasp this opportunity and confront him and  
2 try and engage in conversation with him".

3 Q. Right. You say you could see his hands. What could you  
4 see -- tell us -- describe what you could see of his  
5 hands? How was he holding his hands?

6 A. Palms of his hands like that (indicates).

7 Q. Could you hold that up because the Chair -- there's  
8 a screen in front of you, right. So you're holding out  
9 your hands palm-out, so at that time you could see he  
10 wasn't holding a knife?

11 A. Yes.

12 Q. And you have said that you would engage in conversation  
13 with him; what does that mean?

14 A. Give him a firm command. I mean it wasn't a situation  
15 for asking him what he had for his tea last night. It  
16 was a situation for taking control and I gave him a firm  
17 command to stop, pointing at the ground and saying words  
18 to the effect of "Get down to the ground".

19 Q. And so you have pointed to the ground. Tell me what you  
20 were doing with your hands. You have said you pointed  
21 to the ground, left hand --

22 A. "Get down on the ground", spray in my right-hand.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. So you had your --
- 2 A. My spray canister there to there (indicating).
- 3 Q. Right. So your spray was on your left hand of your
- 4 chest?
- 5 A. I wore a different vest to the majority of the guys.
- 6 I didnae wear a utility belt, so my spray was here, my
- 7 cuffs were -- I think my cuffs were there. My baton was
- 8 there.
- 9 Q. So you're saying your baton and you're pointing to your
- 10 left side?
- 11 A. I think so, aye.
- 12 Q. And your cuffs were to your right-hand side?
- 13 A. Right side, aye. I can't remember exactly where they
- 14 were, but my spray was here (indicating).
- 15 Q. So we have heard one or two people mention you had
- 16 a special vest that you wore, so you didn't wear
- 17 a utility belt at all?
- 18 A. No.
- 19 Q. And what was it about your vest that made it unique or
- 20 different to others? We have heard about yellow hi-vis
- 21 vests over body armour; what was it about your vest that
- 22 made it look different?

**TRANSCRIPT OF THE INQUIRY**

1           A. It was kind of like a string vest. I got mine way  
2           before everybody else got the over-vests. It was  
3           basically I had back surgery and it was to dispel the  
4           forces caused on your hips whilst wearing a utility  
5           belt.

6           Q. Right. So did your vest -- your vest I think you have  
7           said allowed you to keep your equipment but in different  
8           positions from other officers?

9           A. Yes. It was still a police issue vest.

10          Q. And you had your spray in your right hand, you have  
11          said.

12          A. Mm-hm.

13          Q. When did you take your spray out so that you had it in  
14          your right hand?

15          A. Once I was out the van.

16          Q. And when in relation to the commands did you have your  
17          spray in your hand? Was it before or after?

18          A. I couldnae be certain.

19          Q. Okay. So you have told us you wanted to give firm  
20          commands. Can you tell us what the commands were? Do  
21          you remember what you said, what the first thing you  
22          said was?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. "Stop, get down on the ground".
- 2 Q. What was the reaction to that from Mr Bayoh?
- 3 A. Zero.
- 4 Q. No change in behaviour at all?
- 5 A. Just kept walking towards me.
- 6 Q. Did he look at you?
- 7 A. Yes.
- 8 Q. Did he say anything at all?
- 9 A. Not a thing.
- 10 Q. When he looked at you did you get -- what could you see?
- 11 A. Again, his bulging eyes and sort of staring through me,  
12 if you like. I mean, he's fully aware of a police van  
13 coming round the corner at speed, stopping in front of  
14 him, two police officers getting out, you know, giving  
15 him instructions and he's still continuing to ignore  
16 everything.
- 17 Q. What made you realise he was fully aware of the van and  
18 the two police officers?
- 19 A. Well, you would have to be blind not to.
- 20 Q. Right, okay. And after he looked at you, what did he  
21 do?
- 22 A. He just continued to walk towards me.

**TRANSCRIPT OF THE INQUIRY**

1 Q. So was he already walking towards you --

2 A. Yeah.

3 Q. -- when you got out of the van?

4 A. Yeah.

5 Q. So he didn't actually move or divert away from you or

6 anything like that?

7 A. No.

8 Q. And after you gave the command, he looked at you and he

9 carried on walking?

10 A. Mm-hm.

11 Q. What did you do?

12 A. Put my -- emphasised my spray with a straight arm that,

13 you know, there was no question at all that he saw it --

14 he didn't see it. Maybe before my spray could have

15 maybe been in a lower hold, but directly towards him,

16 pointing down on the ground and I says "Get yourself

17 down on the fucking ground", and he just kept walking

18 towards me, same time as I'm walking back.

19 Q. So he is walking towards you, same direction that he was

20 walking in before?

21 A. Yeah.

22 Q. No deviation from that?

**TRANSCRIPT OF THE INQUIRY**

1           A.  No.

2           Q.  And any other reaction from him?

3           A.  No.  No reaction whatsoever.

4           Q.  What did you do?

5           A.  I sprayed him.

6           Q.  How far were you away from him at that time?

7           A.  12 feet.

8           Q.  Was this CS spray or PAVA spray?

9           A.  CS.

10          Q.  What happened after you discharged your spray?

11          A.  Some of it hit him, but some of it -- the majority of it

12                just got caught by the wind, about turned and just --

13                when CS gets distinguished -- extinguished I should say,

14                it goes out and it's kind of -- it's liquid form,

15                isn't it, but it's like that silly string that you get

16                and so it went out, hit him and then curled back round

17                in the wind and came back and hit me.

18          Q.  Can you look again at this image on the screen, 5, and

19                tell us where were you when you discharged your spray?

20          A.  About there (indicating).

21          Q.  That's number 1.  And where was Mr Bayoh?

22                (Pause).

**TRANSCRIPT OF THE INQUIRY**

- 1           And after you discharged the spray and it hit you,  
2           what reaction did you have to that?
- 3           A. I tried to keep my eyes open as long as I could, but --
- 4           Q. How long was that?
- 5           A. Realistically it's probably 5 seconds or something like  
6           that. I couldnae keep my eyes open any longer than  
7           that, so I just went to the back corner of the van and  
8           curled up.
- 9           Q. So point to where on image 5 -- point to where you went  
10          to and curled up. So that's the rear of -- if we  
11          remove 4, please, Ms Wildgoose, and we will see image 3.  
12          That looks like you have put red circle 3 at the rear  
13          passenger side of that Transit van, is that right?
- 14          A. Rear back corner, aye.
- 15          Q. Rear back corner. Which direction were you facing?
- 16          A. My head was towards sort of where the wee number plate  
17          on it is.
- 18          Q. So facing the rear of the Transit van?
- 19          A. Mm-hm.
- 20          Q. And what position were you in at that time?
- 21          A. Like that (indicating).
- 22          Q. And you told us that some of your spray hit Mr Bayoh.

**TRANSCRIPT OF THE INQUIRY**

1 A. (Nods).

2 Q. What reaction, if any, did it have on him?

3 A. He just wiped off, wiped it off his face like it was  
4 water and smiled.

5 Q. And can you show us how he wiped it off his face?

6 A. (indicating).

7 Q. Now, during that time, before the spray has affected  
8 your eyes, can you tell us where was PC Walker?

9 A. At the front of the van.

10 Q. We have heard he was driving and got out the driver's  
11 seat and you -- do you recollect him being at the front  
12 of the van?

13 A. (Nods).

14 Q. Did he move from there prior to you discharging your  
15 spray?

16 A. Probably -- aye, probably he came a bit further round  
17 the front of the van towards the passenger side.

18 Q. Front passenger side?

19 A. Yes.

20 Q. And -- well, I shouldn't say that. You had been at the  
21 front passenger side; was he at the front passenger  
22 side, or was he further along the van by the time you

**TRANSCRIPT OF THE INQUIRY**

- 1 discharged your spray?
- 2 A. I think he was at the front passenger side.
- 3 Q. Right. What direction was he facing?
- 4 A. Towards, er -- towards Bayoh.
- 5 Q. What did PC Walker do?
- 6 A. He sprayed his PAVA spray.
- 7 Q. Was that before or after you?
- 8 A. After.
- 9 Q. So after you have discharged your spray and your eyes  
10 are still open for about five seconds, could you see  
11 what PC Walker did at that point?
- 12 A. Say it again, sorry?
- 13 Q. So you have told us how you discharged your spray and  
14 your eyes were open for about five seconds, you  
15 thought --
- 16 A. Yeah.
- 17 Q. -- and during that period of time, was that when you saw  
18 PC Walker discharge his spray?
- 19 A. I cannae be sure. Around about that time, but I can't  
20 be sure.
- 21 Q. What reaction did Mr Bayoh have?
- 22 A. What, to getting hit by PAVA?

**TRANSCRIPT OF THE INQUIRY**

1 Q. Uh-huh.

2 A. Nothing.

3 Q. Did it hit him?

4 A. Yep.

5 Q. Where did it hit him?

6 A. In his face.

7 Q. Had he turned round towards PC Walker by this time?

8 A. Possibly.

9 Q. Do you have a clear recollection of that?

10 A. (Shakes head).

11 Q. So did you hear anything from PC Walker?

12 A. No, I don't think so.

13 Q. Did you hear anything from Mr Bayoh?

14 A. I never heard anything from Mr Bayoh throughout the

15 entire incident.

16 Q. Right. How long did you remain at the rear of the

17 Transit van?

18 A. It felt to me like maybe 15/20 seconds.

19 Q. Okay. What was going through your mind at that time?

20 A. I thought I was -- I thought I was going to die at that

21 stage. I had visions of the Lee Rigby incident, just

22 blood everywhere. I thought -- I was -- I was curled up

**TRANSCRIPT OF THE INQUIRY**

1           waiting for something to come down on the back of my  
2           neck, or something to get stabbed in my neck.  
3           I thought -- I genuinely thought I was a goner, ey.  
4       Q.   From that position could you see where Mr Bayoh was?  
5       A.   No.  
6       Q.   Could you see where PC Walker was?  
7       A.   No.  
8       Q.   So you remain in that position for perhaps 15 seconds.  
9           What's the first thing then that you notice that  
10          changes? You have talked about being in that position  
11          at the rear of the Transit van; what happened after  
12          that?  
13       A.   I heard Nicole screaming.  
14       Q.   Could you tell where her screaming came from?  
15       A.   Behind me, ish.  
16       Q.   Did you have any impression at the time where behind  
17          you, how far away she was?  
18       A.   No. I was disorientated, completely and utterly  
19          disorientated with the CS spray.  
20       Q.   What -- when you say you heard her screaming, what was  
21          it you heard her scream?  
22       A.   Just screams, just a scream.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. What did you do?
- 2 A. The effects of CS spray were -- well, I certainly  
3 thought at the time were starting to wear off, but just  
4 turned around and saw her on the ground, trying to  
5 get -- she was trying to get up onto her feet but her  
6 feet were -- her legs were like rubber, she just kept  
7 falling back down. So I went across and picked her up  
8 by the lapels of her stab vest and just told her to go  
9 back and -- go back to the van, sit in the van.
- 10 Q. So when you turned round, can you -- using image 5 --  
11 give an indication of where she was when you saw her on  
12 the ground?
- 13 A. Very, very loosely (indicating).
- 14 Q. Thank you.
- 15 A. About there.
- 16 Q. How far away was she from you?
- 17 A. 15, 20 feet.
- 18 Q. Okay. And you have said her legs were like jelly.
- 19 A. Yes.
- 20 Q. Describe -- what position was she in when you saw her?
- 21 A. I cannae be certain.
- 22 Q. And you have said she was trying to get up, is that

**TRANSCRIPT OF THE INQUIRY**

1 right?

2 A. Yes.

3 Q. How was she trying to get up?

4 A. Well, I'm going to -- I'm not wanting to guess but --

5 Q. No, no.

6 A. -- but to get up I would suggest you are sort of on your  
7 knees before you went on to your feet and it was sort of  
8 at the stage of going from being on her knees to going  
9 on her feet that her legs were giving away.

10 Q. And is that how you saw her when you first turned round?

11 A. Yes.

12 Q. She was trying to get up from that position?

13 A. Yes.

14 Q. And you have described pulling her up; tell us how you  
15 did that?

16 A. Just grabbed her lapels there, her vest and lifted her  
17 up.

18 Q. Was that at the front of PC Short?

19 A. Yes.

20 Q. And you have said you told her to go to the van?

21 A. Mm-hm.

22 Q. Was that the Transit van that was behind you?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yeah.

2 Q. How long did that take you, would you say?

3 A. 15 seconds most.

4 Q. Once you had dealt with PC Short, what could you see?

5 A. I could see something going on which we now know is

6 a sort of restraint stage.

7 Q. Where was that happening?

8 A. Um ...

9 Q. We will get another picture on the screen.

10 A. About there (indicating), roughly there.

11 Q. I could show you image 8 even. That might ... there we

12 go. So that's a bird's eye view of a wider area of

13 Hayfield Road. Can you point out where --

14 A. I think about here somewhere (indicating). Oh, no.

15 Maybe about there somewhere.

16 Q. All right, thank you. Right. So you see that happening

17 further down Hayfield Road, closer to the roundabout

18 than you were?

19 A. Yeah.

20 Q. Can you tell me where was PC Walker?

21 A. I don't know. I didnae know who was all involved in

22 that stramash, I don't know.

**TRANSCRIPT OF THE INQUIRY**

1 Q. And is that the word that you would use to describe what  
2 was happening during the restraint, a stramash?

3 A. Yes.

4 Q. We may have heard evidence about PC Walker being at the  
5 van at one point. Do you have any recollection of  
6 PC Walker being at the Transit van with you?

7 A. That's what I mentioned there, no recollection  
8 whatsoever, but disorientated through the contamination  
9 of CS and PAVA.

10 Q. Okay, thank you. So thinking about the stramash, what  
11 was your first reaction when you saw that further down  
12 Hayfield Road?

13 A. To go and assist.

14 Q. And how did you do that?

15 A. I just went across to it.

16 Q. And what was the first thing that you saw when you went  
17 across?

18 A. I can't remember.

19 Q. What was the first thing you did when you went across?

20 A. Tried to -- knelt down I believed on the left-hand side  
21 of Bayoh. Having watched the Inquiry, it might have  
22 been the right-hand side, but I certainly felt it was

**TRANSCRIPT OF THE INQUIRY**

1           the left-hand side and tried to get control of one of  
2           his arms.

3           Q.   Right.  How was Mr Bayoh lying at the time when you went  
4           over?

5           A.   My perception was that he was on his back at all times.  
6           Bearing in mind that I'm disorientated and eyes are  
7           streaming, not thinking straight.

8           Q.   So you could be wrong about that?

9           A.   Certainly.  I think I am wrong.

10          Q.   Having watched all the other evidence?

11          A.   Yes.

12          Q.   But when you say you went over to help, so you have gone  
13          down -- what did you actually do in relation to  
14          Mr Bayoh, regardless of which side you were on?

15          A.   Tried to get hold of his right arm to get control for  
16          somebody to put a cuff on.

17          Q.   Right.  So it was control of his right arm.  Are you  
18          sure about the right arm?

19          A.   Left arm.

20          Q.   His left arm.  So his left arm and where was his left  
21          arm in relation to you?  Was it to your left, or was it  
22          to your right, or ...?

**TRANSCRIPT OF THE INQUIRY**

1 A. Down towards -- down towards my left knee.

2 Q. Beside your left knee?

3 A. Yes.

4 Q. And --

5 A. But it was obviously dynamic so it was getting moved all  
6 over the place.

7 Q. Is it fair to say that you were towards Mr Bayoh's head  
8 area?

9 A. Yes.

10 Q. Rather than his leg area?

11 A. Definitely, yes.

12 Q. So looking at that image there, were you closer to the  
13 hedge on the south of Hayfield Road or further away, in  
14 terms of your position? Were you to the south or to the  
15 north?

16 A. To the south.

17 Q. To the south?

18 A. Aye.

19 Q. And you're -- now, what is it you did in relation to his  
20 left arm to try and get control at that stage?

21 A. There was a baton lying nearby, it wasnae my baton.  
22 I can't remember if I extended it or if it was extended,

**TRANSCRIPT OF THE INQUIRY**

1 but I put the baton across his left bicep thinking if  
2 I can get control of his upper arm then he cannae use  
3 his lower arm to get hold of any knife and it might also  
4 make it easier for handcuffs to be put on.

5 Q. So at that time you still didn't know where the knife  
6 was?

7 A. No.

8 Q. And you have said a baton nearby; do you remember  
9 anything about the baton?

10 A. Yeah. My baton was kind of smooth rubber. This one had  
11 lines on it, sort of like veins, if you like, grooves.

12 Q. Grooves. We have actually got two demonstration batons  
13 and they are different and I wonder if you would look at  
14 both of them for me and tell me if you see the sort of  
15 model that you picked up.

16 A. I don't think it was either of these. I've never seen  
17 a baton with a tip on it like that before, but it was  
18 ribbed like that, ey, whereas my one is smooth like  
19 that.

20 Q. Could you hold those up so the Chair can see. So  
21 there's one in your left hand which is smooth --

22 A. That's the smooth one (indicating).

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. And that's what your baton is like?
- 2 A. That's my baton, but I gave that to Craig.
- 3 Q. And then the other one is more -- it's got ridges or  
4 ribs or something?
- 5 A. Ribbed, aye.
- 6 Q. Yes, ribbed. So it was more like that but not exactly  
7 the same?
- 8 A. I don't think so. I've never seen a baton with this big  
9 blob on the top of it before, ey.
- 10 Q. So where was your baton? You said you had given it to  
11 Craig, is that PC Walker?
- 12 A. Yeah.
- 13 Q. When had you given that to Craig?
- 14 A. I would have to -- I would have to refer to my  
15 statement, but I believe it was around about the time  
16 when I picked up Nicole.
- 17 Q. Was it before you picked up Nicole, or after?
- 18 A. I don't know.
- 19 Q. So where were you when you gave your baton to PC Walker?
- 20 A. I will have to refer to my statement.
- 21 Q. Right. That's your original PIRC statement, 262, and --
- 22 A. "Around the same time that I was lifting or holding

**TRANSCRIPT OF THE INQUIRY**

- 1 Nicole up I remember Craig shouting at me 'I have not  
2 got my baton' or 'give me your baton' ..."
- 3 Q. Can I ask you before you read that to tell us what page  
4 you're on, please?
- 5 A. Page 5.
- 6 Q. Page 5. You see the big paragraph that's sort of in the  
7 middle of the screen at the moment, a couple beneath  
8 that, or three or four beneath that, so you say:  
9 "Around the same time that I was lifting or holding  
10 Nicole up ..."
- 11 Yes? Do you want to read that out, "I remember  
12 Craig shouting at me ..."?
- 13 A. "Around the same time I was lifting or holding Nicole up  
14 I remember Craig shouting at me 'I've not got my baton'  
15 or 'give me your baton'. I removed my baton from my  
16 vest I think I'm not sure and I threw it at him or in  
17 his direction. I cannot remember whether I had extended  
18 the baton or not."
- 19 Q. Thank you. And where were you and PC Walker when that  
20 was going on?
- 21 A. At the point that Nicole was getting picked up at.
- 22 Q. So in the road in Hayfield Road?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. Yes.
- 2 Q. Thank you. And is that why you provided him with your  
3 baton? Do you remember why he said "I have not got my  
4 baton"?
- 5 A. His clip or something was broken.
- 6 Q. Is that something you knew at the time or something that  
7 you have heard evidence about?
- 8 A. No, I had heard him talking about it beforehand, ey, but  
9 on a Sunday -- in fact, Saturday or Sunday, the clothing  
10 store wouldnae be open so you wouldnae get a new clip,  
11 ey.
- 12 Q. Right. So when you say you had heard him talking about  
13 it before, was that prior to 3 May?
- 14 A. Yeah.
- 15 Q. Right. You have been describing using the baton over --  
16 you said you didn't remember if it was extended, but you  
17 put it across Mr Bayoh's left bicep.
- 18 A. By that time it was extended.
- 19 Q. Yes. So by that time it had been extended --
- 20 A. Yeah.
- 21 Q. -- either by you or someone else and you put it over  
22 Mr Bayoh's left bicep?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. And was this a recognised technique to control someone's  
3 upper arm?

4 A. There are all sorts of techniques that batons can be  
5 used for. A lot of them kind of are used for levers  
6 and, you know, things like that. Whether it's an actual  
7 recognised technique, you would have to get an officer  
8 safety expert to speak to that, ey, but bottom line is,  
9 when the shit hits the fan, you use anything that's  
10 available to you.

11 MS GRAHAME: Right.

12 I'm conscious of the time.

13 LORD BRACADALE: Would that be a convenient (inaudible) --

14 MS GRAHAME: It may be, yes.

15 LORD BRACADALE: We will take a break for 20 minutes.

16 MS GRAHAME: Thank you.

17 (End of first session of pre-recorded evidence)

18 LORD BRACADALE: That's the end of the first tape, is that  
19 right? We will take a break now for 15 minutes here in  
20 order to try and make progress through the tapes.

21 (11.21 am)

22 (Short Break)

**TRANSCRIPT OF THE INQUIRY**

1 (11.39 am)

2 LORD BRACADALE: Right, Ms Wildgoose, when you're ready.

3 (Pre-recorded evidence of ALAN PATON continued)

4 LORD BRACADALE: Yes, Ms Grahame.

5 MS GRAHAME: Thank you.

6 Mr Paton, we have found a third baton I would like  
7 you to have a look at. Could we maybe have all three in  
8 front of you. Now, it may be that this is the baton  
9 more like the one you used, I don't know. Can you pick  
10 up the third one, the one I didn't show you before the  
11 break. There's the two ribbed ones -- yes. Does it  
12 look --

13 A. I don't know. One of -- it could be either one, ey, I'm  
14 not sure which one it was.

15 Q. Could be either.

16 A. That's just basically just got a blunt end on it, ey.

17 I don't know.

18 Q. Mm, yes.

19 A. I don't know.

20 Q. And you said it was extended. Can you extend it and  
21 maybe try and show us what it was you were doing with  
22 the baton, try and --

**TRANSCRIPT OF THE INQUIRY**

- 1 A. Just like that (indicating).
- 2 Q. Right. So you have extended that baton. Is that the  
3 smooth one?
- 4 A. Mm-hm.
- 5 Q. That's like your baton and you're holding it -- can you  
6 hold it up so the Chair and the Assessors can see it.  
7 And you said that you put it across his left bicep?
- 8 A. (Nods).
- 9 Q. So is that how you were holding it when you put it  
10 across his left bicep?
- 11 A. Yes.
- 12 Q. Was it on the inside of his arm or was it on the outside  
13 of his arm?
- 14 A. I don't know. Probably both.
- 15 Q. Both?
- 16 A. Because his arm was moving about, so probably both.
- 17 Q. Oh, I see. So you're moving from the elbow, moving your  
18 fist sort of backwards and forwards there?
- 19 A. Mm-hm.
- 20 Q. So is that how he was moving his left arm?
- 21 A. From what I recall, aye.
- 22 Q. Yes. And so did you have the baton held as you just

**TRANSCRIPT OF THE INQUIRY**

- 1           demonstrated above the elbow area?
- 2           A. Across there (indicating). My theory was that if you've  
3           got control from this point then this -- the bottom half  
4           of your arm isnae going anywhere, it's not going to be  
5           able to get a knife, it's not going to be able to punch  
6           out any further because you've got it pinned on the  
7           ground and it allows the other cops to get a secondary  
8           bracelet on.
- 9           Q. So the other officers can put a handcuff on his wrist  
10          because that's -- that's free.
- 11          A. Yeah. What I said at one point is was I says "Link the  
12          cuffs". Is as it turned out they disnae link the cuffs  
13          but quite often for a guy that's muscle-bound, which  
14          Bayoh wasnae far short of, you can put a set of cuffs on  
15          one hand, a set of cuffs on the other hand and then link  
16          the two so you're actually wearing two sets of cuffs.
- 17          Q. And why is that appropriate for someone who is  
18          muscle-bound?
- 19          A. Because it's so that they can -- it's mostly to the back  
20          to be honest, ey, just so that they're -- if you're  
21          muscle-bound it's difficult to get your arms close  
22          enough, ey.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Can that also be the case if you're handcuffed to the  
2 front if you're muscle-bound?
- 3 A. But in situations like that the cuffs just go on any way  
4 you can get the cuffs on. Yes, ideally they would be  
5 stacked or to the rear, palm to palm or -- in fluid  
6 situations like that where somebody's aggressively  
7 fighting out and resisting, the cuffs go on any shape or  
8 form that you can get them on.
- 9 Q. So get them on any way you can, front or back?
- 10 A. Yes.
- 11 Q. But with people who are muscle-bound, some -- does it  
12 make it easier to link the cuffs sometimes?
- 13 A. It can be, or if you're able to -- if you're only able  
14 to get control of one arm to get one cuff on and then  
15 divert your attention to the other one, and then it's  
16 just a case of linking the two.
- 17 Q. And does that make it easier to connect the cuffs?
- 18 A. It can do, aye.
- 19 Q. And if someone's connected or with linked cuffs to the  
20 front, does it give more space for their chest or their  
21 muscles?
- 22 A. Yeah.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. But that wasn't done on this occasion?
- 2 A. No.
- 3 Q. So it was one set of handcuffs?
- 4 A. As far as I'm aware, one set, yes.
- 5 Q. And you have talked about him aggressively fighting and  
6 resisting. Can you describe to us how he was moving  
7 when he was on the ground?
- 8 A. Just wriggling all over the place and his arms were sort  
9 of flailing and his legs were flailing and -- that's the  
10 best I can describe.
- 11 Q. How hard was he resisting?
- 12 A. He was resisting -- considering the size of the guys  
13 that were trying to stop him resisting, he was resisting  
14 a fair bit.
- 15 Q. Who were the guys that were trying to stop him  
16 resisting?
- 17 A. Craig, Ashley, myself. I think the rest of them sort of  
18 came and offered their bit after that.
- 19 Q. So initially you, PC Walker and PC Tomlinson?
- 20 A. Mm-hm.
- 21 Q. And we have heard that you and PC Walker are 6 foot 4?
- 22 A. Yeah.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. And we have heard that PC Walker was 25 stone at the  
2 time and you were 17?
- 3 A. About that, yeah.
- 4 Q. And tell me, when this was going on, where was  
5 PC Walker?
- 6 A. My recollection, as I say, I put myself on the opposite  
7 body -- opposite side of Bayoh as shown in the  
8 photographs. I put myself on his left-hand side where  
9 the photographs put me being on his right-hand side, so  
10 from where I was, Craig was on the opposite side of the  
11 body, therefore on the right-hand side and he was  
12 slightly to my left-hand side. The reason I know that  
13 is because I was wiping my eyes on his T-shirt to try  
14 and get rid of -- to try and get some sight back.
- 15 Q. I will go through that again, if that's okay, so  
16 I completely understand what you're saying. So from  
17 your position you have told us that you were to the top  
18 half of Mr Bayoh?
- 19 A. (Nods).
- 20 Q. And you're using the baton?
- 21 A. (Nods).
- 22 Q. In relation to his arm?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. (Nods).
- 2 Q. So from your position, where was PC Walker?
- 3 A. Across the body from me and slightly to my left-hand  
4 side.
- 5 Q. So across the body, slightly to your left. And you have  
6 said that you were wiping your eyes. Were your eyes  
7 still bothering you?
- 8 A. Yes, I couldnae see, yes.
- 9 Q. So your eyes are still bothering you and you're wiping  
10 your eyes on his T-shirt, did you say?
- 11 A. Yes.
- 12 Q. What part of PC Walker's T-shirt?
- 13 A. His sort of shoulder, back of his arm.
- 14 Q. So you're gesturing there to your left side. Was it  
15 PC Walker's left side or his left arm that you were  
16 using?
- 17 A. I believe so.
- 18 Q. Did that help with your eyes?
- 19 A. Not really. The only thing that really helps with  
20 CS spray is if you force your eyes open into the wind,  
21 but I obviously didn't have that opportunity.
- 22 Q. Right. So PC Walker's on the other side of Mr Bayoh to

**TRANSCRIPT OF THE INQUIRY**

1           you. What was he doing when you were using the baton on  
2           Mr Bayoh's arm?

3           A. I cannae recall.

4           Q. Do you remember what position was PC Walker in?

5           A. He was on his side but I can't be specific about what  
6           position he was in.

7           Q. When you say he was on his side, do you mean PC Walker?

8           A. Yes.

9           Q. Which side was he on?

10          A. You see, I'm wary about saying and committing to what  
11          side any -- what was actually going on here because  
12          I know that my recollection is possibly wrong, ey.  
13          I believe that he was on his -- Craig was on his  
14          left-hand side.

15          Q. Don't you worry about being wrong because the Chair --  
16          you have said that to the Chair now, he can take that  
17          into account, so you think PC Walker was on his  
18          left-hand side?

19          A. (Nods).

20          Q. And where in relation to Mr Bayoh was PC Walker? You  
21          have said he was lying on his left; where was he in  
22          relation to Mr Bayoh?

**TRANSCRIPT OF THE INQUIRY**

1           A. I couldnae say for certain.

2           Q. Right. Do you remember where his legs were, PC Walker's

3           legs?

4           A. Kind of out to the -- out to the side.

5           Q. Right.

6           A. Down -- what would be down Bayoh's right-hand side.

7           Q. Okay. And was he lying on Mr Bayoh?

8           A. No.

9           Q. Where was he lying?

10          A. He was lying alongside him.

11          Q. And how was he positioned then in relation to Mr Bayoh?

12          You have said he wasn't lying on him, but how was he

13          positioned? I'm interested in whether PC Walker, during

14          the restraint, was using some of --

15          A. I know what you're getting at, you're getting to see if

16          he was lying across his chest and that, but he wasnae.

17          Q. Right. Was he using any of his weight on Mr Bayoh?

18          A. Probably a certain degree, yes.

19          Q. Can you give us any assistance by helping -- tell us

20          what -- when you say "a certain degree", what do you

21          mean?

22          A. No.

**TRANSCRIPT OF THE INQUIRY**

1 Q. No. Can you tell us what weight, if any, you were using  
2 to try and restrain Mr Bayoh?  
3 A. I was putting pretty much my full weight on his bicep.  
4 Q. Right. And describe to us what PC Tomlinson was doing?  
5 A. Don't know.  
6 Q. Where was he?  
7 A. I couldn't be certain. I think he was to my left-hand  
8 side.  
9 Q. Right. Doing what?  
10 A. I cannae -- I don't know.  
11 Q. Do you have any recollection now of what position he was  
12 in?  
13 A. No.  
14 Q. No. What sort of force were the other two officers  
15 using, if you remember? Let's start with PC Walker in  
16 trying --  
17 A. I was completely disorientated and out of it. I don't  
18 know if you have had CS spray or that sprayed --  
19 Q. No.  
20 A. -- but it just completely wipes you out of the game, ey.  
21 You cannae hear, you cannae see, you have just  
22 absolutely no sense of your bearings or anything like

**TRANSCRIPT OF THE INQUIRY**

1           that, ey. There's panic going through you because it's  
2           hurting and the more you touch your eyes, the more it  
3           hurts, but your body's telling you to try and get it out  
4           of your eyes, you know, so it's just a complete -- it's  
5           horrible, isn't it. My recollection at that point is  
6           very, very mixed and very, very vague.

7           Q. Can I ask one other question about this point in the  
8           restraint. You have talked about using PC Walker's  
9           T-shirt to wipe your eyes and you have said the left.  
10          You have also talked about your recollection being that  
11          he was on his left side. Can you explain to me what  
12          part of his T-shirt you were using?

13          A. The back, ey, the back of his sleeve. It would be  
14          a T-shirt he was wearing, ey, so the back of his sleeve.

15          Q. Did you lean over?

16          A. I just kind of went like that (indicating).

17          Q. So you lent over Mr Bayoh to get to PC Walker's back of  
18          his sleeve?

19          A. Aye.

20          Q. Thank you. And then you mentioned some others arriving.  
21          Do you remember who the other officers were?

22          A. I don't remember them arriving. I remember others being

**TRANSCRIPT OF THE INQUIRY**

- 1           there. What stage they came, I don't know.
- 2           Q. Who were the others that you remember?
- 3           A. Danny Gibson was there, James McDonough was there,
- 4           Kayleigh Good was there, Scott Maxwell was there,
- 5           Derek Connell I have seen there and Sammy Davidson.
- 6           Q. Do you remember PC Smith?
- 7           A. Aye, oh, aye, Alan Smith was there, aye.
- 8           Q. Alan Smith. When they were there -- let's start with
- 9           PC Smith. Do you remember what he did?
- 10          A. Not really. I didnae really have any knowledge of what
- 11          he was doing or sort of any interaction with him until
- 12          it came to trying to save Bayoh's life and doing the
- 13          CPR.
- 14          Q. I will come on to that. What about PC Gibson?
- 15          A. No. I know now from obviously watching the Inquiry but
- 16          at the time I wasn't aware what Danny was doing.
- 17          Q. PC McDonough?
- 18          A. No.
- 19          Q. What about PC Good?
- 20          A. No.
- 21          Q. Acting Police Sergeant Maxwell?
- 22          A. Acting Police Sergeant Maxwell was kind of over my

**TRANSCRIPT OF THE INQUIRY**

1 right-hand shoulder from what I recall, and he was just  
2 really passing back messages on the Airwave.

3 Q. Could you hear those messages?

4 A. I could, aye, aye.

5 Q. And then you mentioned DS Davidson, Samantha Davidson.

6 A. Mm-hm.

7 Q. What was she doing when you saw her?

8 A. I don't know. I just became aware that she was kind of  
9 floating about for -- at various parts. I think one  
10 part she was kind of near Scott Maxwell but then the  
11 next part she was in the middle of the road. I didnae  
12 know what she was doing, ey.

13 Q. And you mentioned DC Connell?

14 A. Yes.

15 Q. What was DC Connell doing?

16 A. Well, we now know what he was doing, but he was kind of  
17 across at the grassy area.

18 Q. What's your recollection on the day of what his  
19 involvement was? Did you have a recollection?

20 A. I believed he was looking for a knife.

21 Q. Right. We have heard that at one point PC Tomlinson  
22 made a -- pressed his emergency button. Were you aware

**TRANSCRIPT OF THE INQUIRY**

1           of that?

2           A. No.

3           Q. You didn't hear anything like that on the radio?

4           A. No.

5           Q. And we are also aware -- we have heard evidence from

6           PC Smith that at one point he made a transmission saying

7           "One officer's been punched to the back of the head, no

8           obvious serious injuries. Male secure on ground". Do

9           you remember that transmission?

10          A. I think I have a vague recollection of that.

11          Q. What were you doing at that time?

12          A. I don't know.

13          Q. So tell us about the handcuffs. You have mentioned what

14          you were trying to achieve with your --

15          A. I didnae touch any handcuffs.

16          Q. No. Not your -- So you didn't touch your handcuffs at

17          all?

18          A. No.

19          Q. Were you aware whether the handcuffs were applied to

20          Mr Bayoh?

21          A. I knew they were applied to him. At what stage I became

22          aware, I don't know.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Do you know whose handcuffs were used?
- 2 A. No.
- 3 Q. Do you know who managed to secure them?
- 4 A. No.
- 5 Q. And do you have any recollection of when you first  
6 realised they were on?
- 7 A. No, because even when I was doing chest compressions and  
8 as I now know, the handcuffs were on, I was oblivious to  
9 the fact that the handcuffs were on because I had no  
10 reason to -- they weren't impeding the CPR in any shape  
11 or form, so they were kind of negligible and it is good  
12 practice to have handcuffs on obviously for whether  
13 they're feigning it or come back round or whatever.
- 14 Q. And we have also heard some evidence about leg  
15 restraints, or Fast Straps being applied. Do you have  
16 any recollection of them being applied?
- 17 A. No. I was at the opposite end.
- 18 Q. So do you remember who applied them?
- 19 A. No.
- 20 Q. Or how they were applied?
- 21 A. (Shakes head).
- 22 Q. Or even where they were applied?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. (Shakes head).
- 2 Q. And you mentioned a moment ago about feigning. What's  
3 your concern as a police officer about someone feigning,  
4 or pretending or faking something?
- 5 A. Just if -- force you into a false sense of security  
6 thinking that they are unconscious, everybody will back  
7 off and then they will spring up. And whilst there's  
8 a knife unaccounted for, you cannae take that chance, so  
9 the best thing for him is to be in handcuffs, ey.
- 10 Q. Is that something that you have experienced prior  
11 to May 2015?
- 12 A. Feigning?
- 13 Q. Pretending?
- 14 A. Yes.
- 15 Q. And was that something on the day that you were  
16 concerned about, or is it just something you have heard  
17 about since we have been starting our evidence?
- 18 A. [Pause]. No, it was a concern on the day, aye.
- 19 Q. When did that become a concern on the day?
- 20 A. I don't know. I like to have people in handcuffs as  
21 long as they need to be in the handcuffs, ey.
- 22 Q. And how long do you think people need to be in

## TRANSCRIPT OF THE INQUIRY

- 1           handcuffs?
- 2           A. Well, I certainly think that he needed to be in  
3           handcuffs until -- until pretty much the end of CPR, ey.  
4           I don't think the -- I don't think the handcuffs --  
5           the -- I watched a doctor's witness -- a doctor's  
6           evidence the other day there and she kind of implied  
7           that if you're in handcuffs it's making the chest area  
8           a smaller target for doing CPR. That's nonsense, ey.  
9           If you're in handcuffs palm to palm it's actually  
10          forcing a bigger area there. There was no -- him being  
11          handcuffed during CPR -- and I done the compressions --  
12          caused no problem whatsoever to it. I was perfectly  
13          happy that it was effective.
- 14          Q. Right. So why did you think the handcuffs should be on  
15          until the end of CPR?
- 16          A. Because they werenae impacting on the CPR.
- 17          Q. So did you consider taking them off at any time?
- 18          A. No, I didnae. But I didnae put them on, you know.
- 19          Q. Right. And we have heard that there's sort of generic  
20          keys that can be used.
- 21          A. Yes.
- 22          Q. So you did have a key?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. I did have a key.
- 2 Q. But you didn't consider at any point taking them off?
- 3 A. No.
- 4 Q. So, just to go back slightly. We have gone on to CPR but  
5 I'm interested in you have talked about using your baton  
6 and you have talked about the other officers being  
7 involved, did you have an impression at the time of how  
8 long the restraint was going on for?
- 9 A. Everything seems faster in a dynamic situation, it seems  
10 longer, should I say, in a dynamic situation. The  
11 restraint didnae go on for particularly long.
- 12 Q. Okay. When did you first notice that Mr Bayoh had  
13 stopped moving?
- 14 A. I cannae remember.
- 15 Q. Do you remember what you were doing yourself when he  
16 stopped moving?
- 17 A. No, I didnae know.
- 18 Q. Do you have any recollection of what other people were  
19 doing when they first realised that Mr Bayoh had stopped  
20 moving?
- 21 A. No.
- 22 Q. We have heard some evidence that when he was turned on

**TRANSCRIPT OF THE INQUIRY**

1 to his left-hand side, certain officers realised he had  
2 stopped moving at that point. Do you have any comment  
3 about that?

4 A. I don't recall him being on his left-hand side.

5 Q. Right.

6 A. Whether again because I was disorientated and that, my  
7 position is -- it's most likely wrong -- my position is  
8 that he was on his back at all times I was dealing with  
9 him.

10 Q. So am I right in saying you remember him moving when you  
11 were using the baton on his arm?

12 A. Yes.

13 Q. But you don't remember when he stopped moving?

14 A. No.

15 Q. Okay. So let's have a quick look at the spreadsheet  
16 because I want to ask you about a particular period.  
17 The Chair has heard evidence about from 7.25.17 and this  
18 is I think on page 7 of the spreadsheet, so if you go to  
19 page 7 and you will see an entry there at 7.25.17, it's  
20 an Airwaves transmission from PC Alan Smith, it's about  
21 halfway down the page and he says:

22 "This male now certainly appears to be unconscious,

**TRANSCRIPT OF THE INQUIRY**

1 breathing, not responsive, get an ambulance for him."

2 So we have heard that by the time of this Airwaves  
3 transmission that PC Smith was aware that Mr Bayoh was  
4 unconscious but he was breathing at that time. And then  
5 if we look at 7.29.30, so this is at the top of page 11,  
6 and you will see at the top again there's an Airwaves  
7 transmission, 7.29.30, just the second -- third one  
8 down, Acting Police Sergeant Scott Maxwell says:

9 "Control, can you get a move on with the ambulance.  
10 This accused is now not breathing. CPR is commencing."

11 Do you see that one?

12 A. Yes.

13 Q. I'm interested in this period of time between Mr Bayoh  
14 being noticed to be unconscious but [sic] not breathing,  
15 at 7.25.17, and then 7.29.30 not being -- not breathing  
16 and CPR commencing. So that's a period of just over  
17 4 minutes, and it would be very helpful if you could say  
18 what was happening during this time.

19 A. I cannae recall.

20 Q. You don't remember?

21 A. No.

22 Q. Do you remember the message from PC Smith coming over

**TRANSCRIPT OF THE INQUIRY**

1           the Airwaves transmission that Mr Bayoh was unconscious  
2           but breathing?

3           A. I believe so, aye.

4           Q. Where were you when you heard that message?

5           A. Still in the vicinity of where Bayoh was lying.

6           Q. So still in the vicinity; where in the vicinity?

7           A. Don't know.

8           Q. Do you remember who else was around at that time?

9           A. I didnae really move from the head end, but apparently  
10          I stood up at some point but I can't recall that.

11          Q. Right. Do you remember PC Smith being near you at some  
12          point?

13          A. Yeah.

14          Q. What was he doing?

15          A. Alan was pretty much taking control of the situation.

16          Q. How was he taking control?

17          A. Well, obviously you're sort of aware that he's an OST  
18          trainer and he's got a background in military, etc.  
19          He's the most methodical cop I think I have worked with.  
20          He was -- if he says something's needing done, there  
21          will be a good reason for it getting done.

22          Q. So you have talked about you're at the head end,

**TRANSCRIPT OF THE INQUIRY**

1 PC Smith is in the vicinity of you at that stage. What  
2 was he doing when he was at the head end?

3 A. When who was at the head end?

4 Q. PC Smith.

5 A. Well, I -- I don't know if I'm jumping ahead of myself,  
6 but I took a valve, a face valve out, and I was trying  
7 to get the face valve into Bayoh's mouth, but his teeth  
8 were gritted shut, so I tried my best by putting my  
9 fingers in, pulling it open. That probably accounts for  
10 quite a lot of the scratches and what have you around  
11 about the boy's gums and I couldnae get it to go in.  
12 Done the best we could. Alan tried to get a couple of  
13 breaths in, but the -- it was just leaking round the  
14 sides and then he was getting contaminated, so he  
15 decided just to go to compressions without rescue  
16 breaths.

17 Q. Okay. Right, let's think about that for a moment. This  
18 is at the point you're going to be giving CPR.

19 A. (Nods).

20 Q. And there's a -- we have heard about a valve that's  
21 used; was that your valve?

22 A. Yes.

**TRANSCRIPT OF THE INQUIRY**

1 Q. And did you have that in your uniform?

2 A. Yes.

3 Q. And was it at that point that PC Smith came to the head

4 area?

5 A. Yes.

6 Q. Had he been at the head area prior to that point?

7 A. I don't think so. I think he was more down the sort of

8 waist area.

9 Q. Right. And we may have heard some evidence that he was

10 at the legs at one stage?

11 A. Well, aye.

12 Q. And tell us about the difficulties with the use of the

13 valve. You have talked about Mr Bayoh's jaw being

14 gritted shut, I think you said. Tell us about that.

15 A. Teeth were gritted shut. I couldnae get the valve to go

16 in.

17 Q. And did you try to get the valve in?

18 A. Yes.

19 Q. And you mentioned Mr Bayoh's face or his mouth. How did

20 you try to get the valve in?

21 A. Just by putting your fingers in and trying to pull down

22 [Indicating] his jaw, or pull -- just to separate his

**TRANSCRIPT OF THE INQUIRY**

1           two teeth.

2           Q. Right. When you put your fingers in, were you trying to  
3           get them between his teeth or just at the lip area?

4           A. No, I tried to get between his teeth. You've obviously  
5           got to be cautious with that because they could bite  
6           your fingers off, ey, but it was a -- a panic situation,  
7           to do what's required and kind of hope for the best.

8           Q. We have heard from PC Smith that at the -- the point CPR  
9           started, Mr Bayoh wasn't breathing, but did it remain  
10          a concern for you that he could bite your fingers?

11          A. Conscious of it, yes.

12          Q. And how long did you try to get between his teeth?

13          A. 10, 15 seconds.

14          Q. Have you been taught how to do that --

15          A. Yes.

16          Q. -- as part of first aid training?

17          A. Yes.

18          Q. And you have explained you weren't able to do that?

19          A. No.

20          Q. You think it may have caused some issues on Mr Bayoh  
21          around his mouth?

22          A. It could have done.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Could have done. So once you stopped making that  
2 attempt, what did PC Smith do?
- 3 A. Just discarded the bag and the valve.
- 4 Q. Right. Had he tried to use the valve?
- 5 A. Yes.
- 6 Q. So how had you been able to use the valve before it was  
7 discarded?
- 8 A. Just by putting it on -- in the lips but not beyond the  
9 teeth.
- 10 Q. Right.
- 11 A. But you will not get a proper seal around the valve doing  
12 that.
- 13 Q. And is that what actually happened, you couldn't get  
14 a proper seal?
- 15 A. Aye, aye.
- 16 Q. And in not getting a proper seal, what were you -- you  
17 were trying to describe what happened?
- 18 A. You're trying to get breaths in, but the breaths are  
19 just coming out the side.
- 20 Q. Leaking out the side of the mouth. And was there mucus?
- 21 A. Yes.
- 22 Q. And so after PC Smith discarded that, what happened

**TRANSCRIPT OF THE INQUIRY**

- 1           then?
- 2           A. The decision was made just to go -- the decision was  
3           made by Alan Smith just to go to compressions.  
4           Craig Walker identified that he would be doing the  
5           compressions. Just before that actually, just before  
6           that when the breaths -- when we were trying to get the  
7           valve in, I had put my hand under Bayoh's head and just  
8           run my hand round his head to see if there was any  
9           swelling or bleeding or anything like that and there  
10          wasn't, and then, as I say, the breaths werenae  
11          successful, they were going to breaths -- they were  
12          going to compressions only and Craig took over doing the  
13          compressions.
- 14          Q. Why were you looking for swelling or bleeding on his  
15          head, Mr Bayoh's head?
- 16          A. I believe at that point Ashley had said that he had  
17          struck him with a baton.
- 18          Q. So PC Tomlinson made you aware he had struck him to  
19          the head?
- 20          A. Yes.
- 21          Q. And you couldn't find anything --
- 22          A. No.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. -- in relation to bleeding or swelling?
- 2 A. No. Sure there was a wee nick above his ear, but
- 3 neither here nor there, sort of thing.
- 4 Q. And you're pointing to your right -- just above your
- 5 right ear?
- 6 A. It could be left or right.
- 7 Q. Okay. Where was PC Walker when he started the
- 8 compressions?
- 9 A. On the hospital side of the body.
- 10 Q. And we have heard that if we were looking at those
- 11 images again -- do you remember image 5 -- the
- 12 roundabout was on the left and the hospital is on the
- 13 right, we have heard.
- 14 A. So it would be on the right -- the right-hand side of
- 15 the pictures.
- 16 Q. The right-hand side. Okay. And what position was he in
- 17 when he started the compressions: PC Walker?
- 18 A. On his knees.
- 19 Q. On his knees. And where was PC Smith at that point?
- 20 A. I think he was standing up and I think he went and got
- 21 water from Kevin Nelson.
- 22 Q. Okay. Do you remember that, or was that something you

**TRANSCRIPT OF THE INQUIRY**

1           have heard?

2           A. I remember seeing him standing -- getting water from

3           a neighbour.

4           Q. Right. You wouldn't at that time have known it was

5           Kevin Nelson?

6           A. No.

7           Q. Okay. So just before we leave this, can I go back

8           again, you have talked about the CPR and what was going

9           on at that stage. That happened after Mr Bayoh stopped

10          breathing, but in the period between Mr Bayoh stopping

11          moving and PC Smith noting that he was unconscious, but

12          before he noticed that he wasn't breathing, during that

13          period, do you remember what was happening during that

14          point?

15          A. No.

16          Q. No. How long did the CPR go on?

17          A. Four or five minutes, maybe. Craig took a shot, then

18          I took a shot.

19          Q. We have heard that it tends to be pairs: two people

20          will --

21          A. It can be as many people -- the more the better, because

22          it is tiring.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Okay. At some point when Mr Bayoh was on the ground we  
2 have -- you will know, we have heard evidence that you  
3 may have patted or tapped or slapped Mr Bayoh's face.  
4 Do you want to say anything about that?
- 5 A. Aye. What I will say about that is it's not as it was  
6 first portrayed by yourself it was a slap. It was two  
7 parts, like that (indicating), nothing more than that,  
8 so the whole -- maybe I put it down in my statement as  
9 a slap, it was no slap, ey.
- 10 Q. Okay. And you have demonstrated what it was you were  
11 doing?
- 12 A. Aye. It was done with the best intention to get  
13 a reaction from him.
- 14 Q. And was there any reaction?
- 15 A. No.
- 16 Q. And we have also heard that PC Smith used his  
17 knuckles --
- 18 A. I cannae remember him doing that, but that's another  
19 recognised technique.
- 20 Q. And the technique you used, is that a recognised  
21 technique?
- 22 A. I don't believe so, but you only have to watch any

**TRANSCRIPT OF THE INQUIRY**

1           medical programme on the telly and they use it.

2           Q. Do you remember -- you have tapped your right cheek; do

3           you remember which of Mr Bayoh's cheeks you tapped?

4           A. Left cheek, I think.

5           Q. His left cheek?

6           A. Yes.

7           Q. And which of your hands did you use?

8           A. My right-hand.

9           Q. Your right hand. Do you remember one or more people

10          checking Mr Bayoh's pulse?

11          A. No.

12          Q. Did you remain at the sort of top end of Mr Bayoh during

13          the whole time CPR was performed?

14          A. No.

15          Q. What did you do?

16          A. I went round onto the right-hand side to do

17          compressions.

18          Q. Right. So you moved in order to pair up with --

19          A. Craig Walker.

20          Q. -- Craig Walker who was doing compressions. And did

21          that continue until the ambulance arrived?

22          A. Yes.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Once the ambulance arrived, what did you do?
- 2 A. I gave them a brief handover as to what had happened.
- 3 I can't remember what I said to them, and then left it
- 4 in their capable hands and I went back to the police
- 5 van.
- 6 Q. When you gave the ambulance personnel the handover, what
- 7 were you trying to do? What is a handover?
- 8 A. You're telling them what's -- the history, if you like,
- 9 what you have noticed in the way, injuries or response
- 10 or anything like that, what's been done, have you got an
- 11 identity for the person, a knife's not been recovered,
- 12 things like that. But didn't ask me to be specific
- 13 about how I worded it, but it would be information like
- 14 that.
- 15 Q. And why are you giving the ambulance personnel
- 16 a handover?
- 17 A. Because the -- Bayoh would then be getting placed into
- 18 their care and then they would do a handover at the
- 19 hospital end.
- 20 Q. Right. Can I ask you about your PIRC statement. You
- 21 have talked about the first statement you gave to PIRC
- 22 and you have made a couple of references to it, but

## TRANSCRIPT OF THE INQUIRY

1 I would like to go through that with you in a little bit  
2 more detail, so we make sure we haven't missed anything,  
3 and if we could look at, first of all, I think page 4  
4 from paragraph 2, so this is the part of your statement  
5 where -- I took you to this at the beginning, Mr Paton,  
6 where you talk about arriving and being the first police  
7 vehicle at the scene. Do you see that in the second  
8 paragraph?

9 Then it says:

10 "I could clearly see a large black male in the  
11 street in front of me. He was wearing a light-coloured  
12 T-shirt. I remember the T-shirt being tight-fitting  
13 around his shoulders and biceps. He was standing in the  
14 road which takes you to Victoria Hospital. He was near  
15 to the bus stop and the path which leads to  
16 Hendry Road."

17 And I think that's what you have told us already  
18 today. Then you say:

19 "He was facing me. He was walking towards me with  
20 his arms at his sides with his palms facing forwards.  
21 There was no knife in his hands. I did not see any  
22 knife about his body at that point."

**TRANSCRIPT OF THE INQUIRY**

1           And I think you have told us today in fact you  
2           didn't ever see a knife on Mr Bayoh, is that correct?  
3       A.   Yes.  
4       Q.   And then can we go further up, please:  
5           "Craig stopped the vehicle on the road at an angle.  
6           Probably just before the vehicle stopped I was getting  
7           out of the vehicle.  Craig parked the nose of the  
8           vehicle towards the kerbside.  His door would have been  
9           closer to the man."  
10          So just to look at that paragraph briefly.  You  
11          said:  
12          "Probably just before the vehicle stopped I was  
13          getting out of the vehicle".  
14       A.   Yes.  
15       Q.   So you didn't actually wait until the Transit van had  
16          stopped in the bus stop before you were getting out?  
17       A.   Splitting hairs there, ey.  
18       Q.   That was what you said to PIRC originally.  Do you think  
19          that's right or do you want -- is your recollection  
20          different?  
21       A.   No, it would have either stopped or it was immediately  
22          about to stop.

## TRANSCRIPT OF THE INQUIRY

1 Q. Right. So it would have slowed down almost to a stop,  
2 if it wasn't at a stop. Right.

3 Then you say:

4 "Craig parked the nose of the vehicle towards the  
5 kerbside. His door would have been closer to the man."

6 I think you have given us an indication on the 3D  
7 image where Mr Bayoh was at that time. Are you still  
8 happy with that now that you see it?

9 A. Aye.

10 Q. "Straight away I remembered that there had been a rumour  
11 going about Kirkcaldy Police Station that somebody  
12 intended to cause harm to a female cop. Numerous  
13 officers had asked managers to confirm if there was any  
14 known truth in the rumour but this had never been  
15 confirmed to my knowledge. The rumour still remains  
16 strong and it is believed by the officers that this had  
17 contributed to all officers in Kirkcaldy being  
18 double-crewed whilst on patrol. For a number of months  
19 checks have also been getting carried out by officers at  
20 a number of identified locations in Kirkcaldy due to  
21 increased terrorist risk. It also ran through my mind  
22 that this man could be part of a terrorist plot."

**TRANSCRIPT OF THE INQUIRY**

1           And is that really what you have told us already  
2           today?  
3           A. Yes.  
4           Q. Now, earlier you mentioned harm by a lone wolf, so  
5           a threat to a female officer by a lone wolf. There's no  
6           mention of that here, but is that your recollection now,  
7           today, that it was by a lone wolf?  
8           A. Yes.  
9           Q. And you mention there numerous officers had asked  
10          managers to confirm if there was any known truth in the  
11          rumour. Do you remember who any of those officers were?  
12          A. No.  
13          Q. All right, thank you. But it ran through your mind that  
14          this could be part of a terrorist plot. Was that  
15          something that ran through your mind with all knife  
16          incidents?  
17          A. Yes.  
18          Q. Whether the person was black or white?  
19          A. It made no difference whatsoever.  
20          Q. Then looking at:  
21                 "I was straight out of the passenger side door of  
22          the van and I immediately took my CS spray out of my

## TRANSCRIPT OF THE INQUIRY

1 vest. I continued to think that he may still have been  
2 in possession of a knife and I wasn't taking any risks.  
3 As I have already said, I was still conscious of the  
4 fact that just because I could see his palms, he might  
5 still have the knife in his waistband or secreted  
6 somewhere else about his person. With my spray in my  
7 right-hand and pointing in the direction of the man,  
8 I shouted loudly and very clearly 'get down on the  
9 ground'. The guy was walking towards me and completely  
10 ignored me. He kept walking towards me with his palms  
11 out and I remember thinking how crazy he looked and as  
12 if he was on a mission. I was in genuine fear for my  
13 life and at this point I pressed my red emergency button  
14 and shouted loudly and clearly 'get down on the fucking  
15 ground'. My shouting and my pointing of my spray had  
16 absolutely no bearing on him and he kept walking towards  
17 me, ignoring me as if he was in a one-track mind. I was  
18 terrified and thought I was going to get attacked by  
19 him."

20 Now, I would like to ask you some questions about  
21 that paragraph. You have told us today about your spray  
22 and shouting the commands. Now, earlier today you

## TRANSCRIPT OF THE INQUIRY

- 1           talked about communication and I'm interested -- you  
2           also say in your Inquiry statement you had been trained  
3           in de-escalation procedures and I'm quite interested in  
4           finding out -- there's no mention there of communication  
5           in the sense of a conversation, or --
- 6           A. It wasn't the time for a conversation.
- 7           Q. Right. So you felt there wasn't time for that?
- 8           A. It wasn't the time or the situation for a conversation.
- 9           Q. Oh, sorry, it wasn't the time, right.
- 10          A. Yes.
- 11          Q. And that's because of the circumstances you have told us  
12          about earlier?
- 13          A. Yes.
- 14          Q. So you didn't think there was time to ask him any  
15          questions like "Are you okay?" or anything like that?
- 16          A. It's not the situation for asking questions like that.  
17          The man was out of control. The man was drugged up.  
18          The man had a big knife. He was using it, he was  
19          attacking cars. I needed firm control from the word go  
20          and then once he is in cuffs, then ask him if he is  
21          wanting a cup of tea or that, but not at that stage.
- 22          Q. All right. So what sort of situation would you be

## TRANSCRIPT OF THE INQUIRY

1           expecting that would allow you to carry out that type of  
2           communication with someone in advance? What would the  
3           circumstances be that would allow you to engage in that  
4           way with someone?

5           A. I think you've got a copy of a PDR in fairly similar  
6           sort of circumstances.

7           Q. We do, and I will come on to that later actually, or  
8           your QC will do that.

9           A. Right. And that was a situation -- knife, mental health  
10          issue, negotiation, taking control of the situation,  
11          engaging in further conversation and coming to  
12          a resolution, so that's the sort of situation that it  
13          could be used in. Even calls like domestics and things  
14          like that, separating partners and speaking to one,  
15          speaking to another, coming to a resolution, but this  
16          incident in Hayfield Road was completely non-textbook.  
17          It's a situation that you do not train for. It's  
18          a situation that there was not enough resources and it  
19          was only able to be dealt with by a clear, concise  
20          command.

21                 If he chose to ignore that command -- or those  
22          commands, then so be it.

## TRANSCRIPT OF THE INQUIRY

- 1 Q. Right. Let me go through some of that with you. So you  
2 have said it's non-textbook, you're not trained for  
3 this. What was different about this situation that  
4 meant you had not ever been trained to handle that?
- 5 A. CS and PAVA not working, completely -- complete  
6 disengaging with you. At that time, two of yous dealing  
7 with it as well. It's certainly not a scenario that  
8 I have been involved in during officer safety training  
9 in my 14 years.
- 10 Q. Okay. So you have not had officer safety training about  
11 a situation where CS doesn't work on the person?
- 12 A. I don't believe so.
- 13 Q. And you weren't aware that CS spray sometimes doesn't  
14 work on a person?
- 15 A. Yeah, I was aware it sometimes doesn't work, but you  
16 just have to put your faith in it, but I thought between  
17 CS and PAVA that there was a good chance that at least  
18 one of them would have worked, ey.
- 19 Q. And did you know that PC Walker had PAVA?
- 20 A. Yes. It has a red top on it whereas mine has a grey top  
21 on it.
- 22 Q. And you had CS spray?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. But neither worked?

3 A. No.

4 Q. That was a surprise to you?

5 A. Yes.

6 Q. And then complete disengagement, are you talking about  
7 not getting a reaction from Mr Bayoh?

8 A. Yeah.

9 Q. Is that a situation you had ever been trained in?

10 A. Yeah, you do get training to that effect, aye, that they  
11 just continue walking towards you, or what have you.  
12 That's where you're doing things like discharging your  
13 CS, or -- CS is the weapon of choice as far as I'm  
14 concerned, ey.

15 Q. Right. We heard evidence from PC Walker that it was his  
16 go-to.

17 A. Same idea.

18 Q. Same for you?

19 A. Yes.

20 Q. And is that something that you would sort of immediately  
21 reach for?

22 A. I would reach for it before my baton, put it that way.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Right. And how much importance do you place on  
2 communication as a skill, as a tactic to de-escalate  
3 a situation?
- 4 A. Well, I did try and communicate, but you've got to have  
5 it from the other side. If he is not engaging back with  
6 you, if he is not even telling to you "Fuck off" or, you  
7 ken, "It wasn't me boss", or you ken, "I'm just on my  
8 way home" or -- but to just say absolutely nothing at  
9 all, I'm trying to engage with him, he's not engaging  
10 with me. There's only so much you can do.
- 11 Q. And your attempts at communicating with him were the  
12 commands that you talked about earlier?
- 13 A. Yes.
- 14 Q. And there was no response from Mr Bayoh --
- 15 A. No.
- 16 Q. -- in relation to those. And that was either verbal or  
17 in his reaction -- the way he reacted?
- 18 A. Or pointing to the ground. There's -- the police van's  
19 got flashing lights, there's other cars coming with  
20 flashing lights and sirens, more police officers, he  
21 knew or he should have known a situation was going on,  
22 ey, and if he -- more than likely it was because of his

## TRANSCRIPT OF THE INQUIRY

1           conduct for stabbing cars beforehand. He knew  
2           the police were wanting to speak to him for something,  
3           ey, but he chose to continue walking and not just to  
4           avoid my commands, and avoid Nicole's commands and avoid  
5           Ashley's commands. I can only describe him as being  
6           a zombie on that morning.

7           Q. So there were a lot of cues, visually, what he could  
8           see, but also things that he would or should have been  
9           able to hear?

10                     Did you have concerns at that point that he simply  
11           wasn't hearing, or that he had difficulties with  
12           communicating? He may have had difficulties speaking  
13           English? Did you consider any of that as a possibility?

14           A. Somebody that does nae speak a language, the first words  
15           that they learn are swear words. If somebody's pointing  
16           to the ground saying "Get down on the fucking ground",  
17           you know that that's what they're trying to tell you.

18           Q. You have mentioned the word "zombie" there; can you  
19           explain what you mean when you use that word?

20           A. Just on a one-track mind, just staring through people,  
21           goggle-eyed, oblivious to everything else that's going  
22           on around about him, consistent with being on Flakka.

## TRANSCRIPT OF THE INQUIRY

- 1 Q. Is that a word that you would use for white people as  
2 well as black?
- 3 A. Why would I not?
- 4 Q. Did you consider that this could be a mental health  
5 situation, a -- he was having a mental health crisis?
- 6 A. Yes, definitely.
- 7 Q. And if -- when did that thought go through your mind?
- 8 A. The thought went through my mind at the same time that  
9 I thought it could be a terrorism attack. As soon as  
10 I'm going towards that call, it's quarter of a mile away  
11 from Whytemans Brae Hospital, could be somebody escaped  
12 from there. Yeah, I totally considered it to be  
13 a medical matter, but that doesn't change things for  
14 whether somebody's on a medical matter or not, that  
15 doesn't change things when somebody is using a big knife  
16 to stab it at cars, kick cars, things like this. You  
17 have still got to deal with it promptly, with clear and  
18 concise comments.
- 19 Q. So knowing that he had, or he was suspected of having  
20 used a knife prior to your arrival, knowing that, was  
21 that the priority, or was that the main factor for you  
22 when you were deciding what tactic or what option to

**TRANSCRIPT OF THE INQUIRY**

- 1           adopt?
- 2           A. My main priority was to intervene before he ended up  
3           stabbing a member of the public.
- 4           Q. Right. And that was your priority regardless of the  
5           fact he didn't have a knife on him when you arrived?
- 6           A. No, because he could have had a knife, quite easily  
7           could have had a knife, or could have gone to where he  
8           had planted the knife and then caused damage.
- 9           Q. Okay. So on the way you considered it was perhaps  
10          a mental health issue. When you arrived you have talked  
11          about his eyes and thinking he was high on Flakka or on  
12          a substance, under the influence, if we like. At any  
13          point did you consider stepping back and transmitting to  
14          ACR or to the other officers and asking for an ambulance  
15          or medical support?
- 16          A. If somebody's walking towards you, they're walking  
17          faster than what you are walking backwards. I did try  
18          and maintain a gap. If I had walked any further back  
19          I would have been in the bushes.
- 20          Q. Okay. So did you consider calling for an ambulance or  
21          stepping back and keeping out of his way?
- 22          A. No, it happened too fast.

**TRANSCRIPT OF THE INQUIRY**

1 Q. Too fast. You said that -- we have talked about the  
2 training. You didn't feel you had adequate training to  
3 deal with this situation. You also said not resource --  
4 you didn't have the resources.

5 A. Yes.

6 Q. What resources do you think would have helped with this  
7 situation?

8 A. An ARV.

9 Q. And --

10 A. If not in Kirkcaldy, at least at Glenrothes.

11 Q. Right. If you had had confirmation that an ARV was on  
12 its way from Glenrothes, what other options would that  
13 have given you?

14 A. To stand back, to muster somewhere and for them to go  
15 in. What would have also been of benefit and we  
16 wouldn't have been here today, and wouldnae be  
17 £9.5 million down, would be if officers had body-worn  
18 cameras and if there was cameras in the vans.

19 Q. So that, you think, would have assisted with the  
20 situation, if there had been body-worn cameras?

21 A. Well, there was cameras in the vans but for whatever  
22 reason they were taken out.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Right. You say for whatever reason, do you have any  
2 idea?
- 3 A. No.
- 4 Q. Was this before 3 May 2015?
- 5 A. Yeah.
- 6 Q. And you have mentioned the ARV. We have heard that at  
7 that time ARV officers had tasers as well, but that's  
8 not something officers have now -- not something  
9 a constable or a response team had?
- 10 A. It's my -- I'm led to believe that there are certain  
11 officers carry tasers now. Whether they're on duty --  
12 I don't know what ratio they are to being on duty, but  
13 there might have been a taser officer on, there might  
14 not have been.
- 15 Q. But in 2015 you didn't have a taser?
- 16 A. I didn't have one personally, no.
- 17 Q. And PC Walker didn't have a taser?
- 18 A. No.
- 19 Q. And you have talked about an ARV from Glenrothes. How  
20 quickly could an ARV come from Glenrothes?
- 21 A. 10 minutes -- 10 minutes.
- 22 Q. So if you had only had to wait 10 minutes for an ARV and

## TRANSCRIPT OF THE INQUIRY

1           that was an option available to you, is that something  
2           that you would have elected to do?

3           A. Yes.

4           Q. And if you had been waiting for an ARV, you talked about  
5           muster, what would you have done, where would you have  
6           waited?

7           A. Gallaghers car park or something like that.

8           Q. So a distance removed from Mr Bayoh, and during that  
9           time what would you have been doing while you waited for  
10          the ARV?

11          A. Well, if he stayed in the same position, same location,  
12          then I could keep eyes on him. If he walked off, a bit  
13          more difficult trying to do a containment with eight  
14          cops in a housing estate. It would be fluid. My worry  
15          there would be that he went back -- which I firmly  
16          believe he was intending doing -- that he went back and  
17          picked up the knife again and caused chaos.

18          Q. So what would the potential risk to the public have been  
19          if you had waited 10 minutes for an ARV?

20          A. It could have been death.

21          Q. And is that a risk at that time you were prepared -- you  
22          would have been prepared to take if you were waiting for

**TRANSCRIPT OF THE INQUIRY**

- 1 an ARV, in the situation that presented itself?
- 2 A. It would have to be closely monitored. It would have to  
3 be very, very closely monitored.
- 4 Q. Is that something you would have been willing to do?
- 5 A. Yes.
- 6 Q. And when you say "closely monitored", how would that  
7 demonstrate itself? How would you closely monitor  
8 something?
- 9 A. Well, as I say, if you parked up in Gallaghers car park  
10 and just took up a point viewing along Hayfield Road,  
11 you could establish whether he went up into the  
12 industrial estate or down into Poplar Crescent or  
13 anything like that.
- 14 Q. So you could have kept your eyes on him?
- 15 A. Trust me, I have been involved in numerous containment  
16 situations in housing estates and it's not easy, ey, you  
17 ken. You need double the amount of police that are on  
18 a shift to do a proper textbook containment.
- 19 Q. So you need double the amount of officers on a shift; is  
20 that the response unit?
- 21 A. Aye.
- 22 Q. That's what you mean with when you say a shift.

**TRANSCRIPT OF THE INQUIRY**

1           We have heard that there's Hendry Road and there's  
2           a nearby industrial estate and different places around,  
3           is that right?

4           A. (Nods).

5           Q. So if you had been parked and observing, what sort of  
6           feedback could you give to the ACR if you had done  
7           that?

8           A. Example being "The male's on -- at Hayfield Road at its  
9           junction with Poplar Crescent, he is waving a sword  
10          about in the air. There doesn't appear to be any  
11          members of the public close by." Something like that.

12          Q. So that's information you could have shared with ACR?

13          A. Yeah.

14          Q. And we have also heard that the other officers who are  
15          en route can hear transmissions on their radios?

16          A. Yes.

17          Q. Yes. You have talked at the end of the paragraph we  
18          were just looking at that -- you talk there of him  
19          having a one-track mind. What did you mean by that?

20          A. Just fixated on what he was wanting to do.

21          Q. Right. And you also -- just slightly above that you  
22          talk about pressing your red emergency button.

## TRANSCRIPT OF THE INQUIRY

- 1 A. Yes.
- 2 Q. And let me just take you to that in the spreadsheet. So  
3 if you turn to page 3 of the spreadsheet, towards the  
4 bottom, and we will still have the statement on the  
5 screen, but see at the bottom of page 3, at 7.20.39, or  
6 just -- sorry, 7.20.42, it says there:  
7 "PC Alan Paton's emergency status is turned on."  
8 Is that when you pressed your emergency button?
- 9 A. If that's what it says, that's what it says.
- 10 Q. And is that what you are referring to on the paragraph  
11 on the screen, that you were in genuine fear for your  
12 life and you pressed your red emergency button --
- 13 A. Yes.
- 14 Q. -- and shouted loudly?
- 15 A. I genuinely thought -- I genuinely thought I was going  
16 to die, ey. It goes in slow motion. I had -- when  
17 I was curled up, I had visions of -- your sides are  
18 exposed, the back of your neck's exposed. I expected  
19 a meat cleaver or a knife in the side of the neck and  
20 then you start to have the thoughts "Am I going to get  
21 home from my shift tonight? Am I going to see my wife  
22 again? Am I going to see my kids again?" and that's

## TRANSCRIPT OF THE INQUIRY

1           what still causes me problems, ey, that's the main part  
2           of my PTSD is that I just cannae get that out of my  
3           mind.

4           Q. You were thinking the worst?

5           A. I was thinking the worst.

6           Q. Can I ask you something about the order of events. You  
7           will see in this paragraph you talk about shouting "Get  
8           down on the ground", and then "Get down on the fucking  
9           ground", and you have told us about that today, but in  
10          the line above your second command there you say:

11                 "I was in genuine fear for my life and at this point  
12                 I pressed my red emergency button and shouted loudly and  
13                 clearly 'get down on the fucking ground'."

14                 And then in the paragraph under that you then talk  
15                 about spraying the CS spray and I'm just wondering if  
16                 you could help the Chair understand: was it after your  
17                 first command and before your second command and before  
18                 you discharged your spray that you pressed your red  
19                 emergency button?

20          A. I don't know.

21          Q. You don't remember now?

22          A. No.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. All right. The Chair may have heard some evidence from  
2 PC Walker that he thought you had pressed your button  
3 after the spray was discharged but I just wondered if  
4 you had any recollection?
- 5 A. No.
- 6 Q. What do you think --
- 7 A. I think I pressed the red -- I think I pressed the red  
8 button because I was -- I think it probably would have  
9 been after the spray because I pressed the red button to  
10 open up the Airwave channel, ey, because I was  
11 contaminated and struggling to see, or to put out any  
12 clear messages, so I think that was where I pressed the  
13 red button.
- 14 Q. So after you had used the spray and become contaminated?
- 15 A. Yes, I think so.
- 16 Q. And does that make more sense to you now to think that's  
17 when you would have pressed your button?
- 18 A. Aye. I don't think I have actually used the red button  
19 before now, ey, so it was something pretty serious  
20 and -- that I pressed the red button.
- 21 Q. So it was when you became infected with the CS spray, or  
22 contaminated with it?

**TRANSCRIPT OF THE INQUIRY**

1 A. Aye.

2 Q. That's the point at which you have used your button,  
3 that's when you are incapacitated?

4 A. Just to open up the Airwave.

5 Q. And we have heard then that turns it into a sort of  
6 transmitter?

7 A. Yes.

8 Q. So do you think maybe the order of your PIRC statement,  
9 the way it has been noted down, the order, is maybe  
10 slightly incorrect?

11 A. Yes.

12 MS GRAHAME: Thank you.

13 Bearing in mind the time --

14 LORD BRACADALE: Would that be a good time to stop for  
15 lunch?

16 MS GRAHAME: Yes.

17 LORD BRACADALE: We will stop and have lunch at 2 o'clock  
18 and sit again.

19 (End of second session of pre-recorded evidence)

20 (Pre-recorded evidence of ALAN PATON continued)

21 (Pause).

22 LORD BRACADALE: Yes, Ms Grahame.

## TRANSCRIPT OF THE INQUIRY

1 MS GRAHAME: Mr Paton, what I'm planning to do this  
2 afternoon is just go through your statement that you  
3 gave to PIRC, just as we have been doing before lunch,  
4 and we will take you right through that and then I will  
5 come on later to some issues about race which I need to  
6 ask you questions about and that will be me, okay?

7 So if we go back to page 4 of the statement we will  
8 be able to see that on the screen and I think we were  
9 just about to move on to the final paragraph there and  
10 you will see it says:

11 "When he was about 10 feet away from me I sprayed my  
12 CS spray towards the boy's face. Some of the spray hit  
13 him in the face but the wind on that day was blowing on  
14 that day from the direction of the hospital to us. Most  
15 of my spray was blowing back to hit my face. So  
16 I thought there was not much point to carry on  
17 discharging my CS."

18 Now, I think you told us earlier when you were  
19 standing on Hayfield Road you pointed out on the image  
20 where you were standing and where Mr Bayoh was standing  
21 and I think from that image Mr Bayoh was closer to the  
22 hospital area than you.

**TRANSCRIPT OF THE INQUIRY**

1           A. Yes.

2           Q. So if the wind was blowing from the hospital direction,  
3           was it blowing in your face?

4           A. Yes.

5           Q. Right. So most of the spray blew back and hit you in  
6           the face.

7           A. (Nods).

8           Q. You told us that earlier.

9           A. Yes.

10          Q. And then if we move on to page 5:

11                    "At that point Craig [PC Walker] had come out of the  
12                    van and had come round to the front of the van. He  
13                    would be pretty much side on with the boy on the boy's  
14                    left side. Craig also had his spray out. I remember  
15                    seeing it was PAVA, it had the red top on it, and Craig  
16                    also discharged it towards the boy's face. Some of it  
17                    hit the boy but some of it blew into my face.  
18                    I remember Craig shouting something like 'It's no  
19                    fucking working' or 'It's having nae effect'. The boy  
20                    continued to walk towards me with his palms open facing  
21                    me, he was smiling at Craig and wiped the CS spray off  
22                    his face."

**TRANSCRIPT OF THE INQUIRY**

1           First of all, can I ask you about your use of the  
2           word "Boy" there, or "The boy's face". Is that a word  
3           that you use for white people as well as black people,  
4           people being men, or is it just specifically in relation  
5           to Mr Bayoh, the word "Boy"?

6           A. Do I use it for black or white?

7           Q. Yes, does it make any difference to you if it's a white  
8           person that you're referring to or a black person?

9           A. No.

10          Q. So you also in your (video interrupted) sprays and you  
11          say that Craig, PC Walker, had discharged his spray, he  
12          had PAVA:

13                 "Some of it hit the boy but some of it blew into my  
14          face."

15          So not only did you have CS spray in your face, did  
16          you also have PAVA spray in your face?

17          A. Yes.

18          Q. Do you remember that now, seeing that paragraph, that  
19          you also had PAVA?

20          A. Mm-hm.

21          Q. And where were you when the PAVA spray hit you?

22          A. Side of the van.

**TRANSCRIPT OF THE INQUIRY**

1 Q. The same passenger side area of Hayfield Road, thanks.

2 You then say:

3 "As far as I'm aware we were still the only police  
4 vehicle there at that point. At no point hear the boy  
5 say a single thing."

6 So at no point did you hear Mr Bayoh speak?

7 A. (Shakes head).

8 Q. And then looking at the next paragraph:

9 "With the effect of PAVA and CS on me I could not  
10 keep my eyes clear and I was very vulnerable. I went to  
11 the back of the police van. I basically curled up,  
12 braced myself. I was probably rubbing my eyes. I was  
13 expecting to feel pain of some sort. It felt like slow  
14 motion. But I felt that I would get plunged (stabbed),  
15 or struck to the head. That's what was going through my  
16 head. I kept thinking about the Lee Rigby boy, the  
17 soldier who was killed. That's what was in my head.  
18 I must have been at the back of the van for seconds.  
19 I did not actually get touched at all by the guy.  
20 I could not see at this point. I was not aware of  
21 anyone else's arrival. I heard Nicole screaming behind  
22 me. She was between the van and Hendry Road. I [was]

## TRANSCRIPT OF THE INQUIRY

1 not aware of any of the police vehicles arriving. My  
2 eyes were still streaming at that point. I tried to  
3 open my eyes. I could see Nicole trying to get up to  
4 her feet. Every time she tried to get up she fell down.  
5 I went over and lifted her up. She was hysterical. She  
6 was standing up but I was holding her lapels. When she  
7 was able to stand on her own I told her to go and sit in  
8 my van. I think she made her own way over there."

9 And that's what you have been telling us today.

10 Then:

11 "I passed the message over the Airwave that  
12 an officer had been injured and that more units were  
13 required."

14 Can I ask you about that message that you passed  
15 over the Airwave. Now, we see at 7.21.02 -- so if you  
16 look at page 4, please, you will see that there was an  
17 Airwave at 7.21.02, it says "PC Alan Paton", and it  
18 says:

19 "Officer's injured PC Short male."

20 And was that you that said that?

21 A. I think so.

22 Q. You think so. So if you look at the bottom of page 3,

## TRANSCRIPT OF THE INQUIRY

1 so this is just before that message, you will see that  
2 "PC Alan Paton's emergency status is turned on". So  
3 your status is turned on at 7.20.42. There's that  
4 Airwaves transmission at 7.21.02. Did you make any  
5 other transmissions after that? Because you mention on  
6 this statement you passed a message that an officer had  
7 been injured and that more units were required. So  
8 I can see the officer injured bit; I don't see anything  
9 about more units being required?

10 A. Again, the confusion with being incapacitated, you maybe  
11 have nae got your finger fully on the button and so it  
12 would not transmit. It could also -- your mind can tell  
13 you you're saying something, but in reality you have not  
14 said something, so again, it's just all coming down to  
15 the confusion.

16 Q. So it's possible that the "Officer injured PC Short  
17 male" is the only part of that transmission that  
18 actually recorded or transmitted?

19 A. I don't understand the "male". "Male" to me doesnae  
20 really mean anything. I think I have been trying to  
21 transmit a further sentence, perhaps beginning with the  
22 word "Male", but then my finger has come off the button

**TRANSCRIPT OF THE INQUIRY**

1           and so it has not transferred the rest of it.

2           Q.   So it could have cut that off short?

3           A.   Yeah.

4           Q.   Thank you.  You then say on the statement:

5                     "At this point I could not see where the guy was or  
6                     what units had attended.  I was completely  
7                     disorientated."

8                     And is really that what you have been telling us  
9                     earlier today, you were completely disorientated, and  
10                    then:

11                    "As I started to keep my [something] open a bit more  
12                    I became aware of Craig and other officers struggling on  
13                    the ground with the guy on the opposite carriageway."

14                    So is there a word missing from that?  Should it be  
15                    "eyes open"?

16           A.   Where is this?

17           Q.   It's at the bottom of the screen:

18                    "As I started to keep my [something] open a bit more  
19                    I became aware of Craig and other officers struggling on  
20                    the ground with the guy on the opposite carriageway."

21           A.   It must be eyes.

22           Q.   It was your eyes:

## TRANSCRIPT OF THE INQUIRY

1            "... the carriageway in Gallagher's direction. I was  
2 still struggling and I made my way over to Craig and the  
3 other officers on the ground."

4            And again, that's what you have been telling us  
5 today.

6            Let's go down the page, please:

7            "Around the same time that I was lifting or holding  
8 Nicole up I remember Craig shouting at me 'I've no got  
9 my baton' or 'gimme your baton'. I removed my baton  
10 from my vest and I think, I'm not sure, that I threw it  
11 at him or in his direction. I cannot remember whether  
12 [it] had extended the baton or not."

13            So can I ask you, you told us earlier about giving  
14 PC Walker your baton. You said your baton was on your  
15 left side, is that right?

16            A. Yes.

17            Q. And you say you either threw it at him or in his  
18 direction and we may have heard from PC Walker that you  
19 pulled -- drew your baton and handed it to him. Would  
20 you disagree with that?

21            A. No. I gave him it, but whether it be a throw, whether  
22 it be handing -- he got it somehow.

**TRANSCRIPT OF THE INQUIRY**

1 Q. Right. And that was when you were lifting or holding  
2 Nicole up, you have told us, by the lapels?

3 A. (Nods).

4 Q. And that was when you were in Hayfield Road?

5 A. (Nods).

6 Q. Thank you. And you say there:

7 "I cannot remember whether I had extended the baton  
8 or not."

9 You said earlier -- you mentioned the baton being  
10 extended when you were using it in the restraint. Do  
11 you remember now whether you had extended the baton when  
12 you handed it to --

13 A. No.

14 Q. No:

15 "I genuinely don't know how many police officers  
16 were there. I remember Craig at the top end of the  
17 boy's body.

18 "The boy was face up. He was always lying on his  
19 back face up. Craig was lying on his left-hand side  
20 facing the boy's feet. Craig was lying across the chest  
21 of the boy."

22 Do you remember that now, seeing that written there,

**TRANSCRIPT OF THE INQUIRY**

1 "Craig was lying across the chest of the boy"?

2 A. I don't remember it now. If it that's what it says in  
3 that statement, which was obviously closer to the time,  
4 then that's what I must have said.

5 Q. And that would have been the truth -- that would have  
6 been your accurate -- more accurate --

7 (Pre-recorded evidence paused)

8 LORD BRACADALE: Right, we will stop there and sit again at  
9 2 o'clock.

10 (1.01 pm)

11 (The luncheon adjournment)

12

13 (2.01 pm)

14 LORD BRACADALE: Ms Wildgoose, when you're ready.

15 (Pre-recorded evidence of ALAN PATON continued)

16 MS GRAHAME: -- the truth, that would have been your more  
17 accurate recollection then?

18 A. Yes.

19 Q. Thank you. Can we move on to the next page, please:  
20 "I was starting to get my bearings again and  
21 I remember wiping my face or eyes on Craig's T-shirt."  
22 That's what you told us earlier:

## TRANSCRIPT OF THE INQUIRY

1            "I had got down on the ground to help restrain the  
2 boy as he was still struggling. The officers were  
3 struggling to keep him on the ground. There were no  
4 punches from what I could see."

5            So at that time when you get down on the ground  
6 Mr Bayoh was still struggling and the officers are  
7 struggling to keep him on the ground. And then:

8            "Ashley and ..."

9            That's Ashley Tomlinson:

10           "... and Alan Smith, incidentally he was at the  
11 muster, I forgot to mention him; I think it was  
12 Alan Smith, I was still a bit disorientated, they were  
13 at the guy's feet/legs end of his body. The guy was  
14 still struggling at this point."

15           So it would appear that when you gave this statement  
16 you remembered that Tomlinson and Smith were at  
17 Mr Bayoh's feet or legs at that end of the body. Would  
18 that be correct?

19           A. Waist to legs.

20           Q. Waist. So thinking back now, you think it was more at  
21 the waist end but when you gave this statement to PIRC  
22 is it correct to say that you thought he was at his

**TRANSCRIPT OF THE INQUIRY**

1 feet, Mr Bayoh's feet or legs end of the body?

2 A. I don't know.

3 Q. You're not clear now in your recollection?

4 A. Not sure, aye.

5 Q. And then it says:

6 "Ashley, Alan and Craig are big guys and they were  
7 struggling to control him. I remember hearing the guys  
8 talking about trying to get control enough to try and  
9 get handcuffs onto him. I remember saying 'link the  
10 handcuffs' or something like that. I'm still struggling  
11 at this point. My eyes were still streaming and my nose  
12 was running."

13 When you refer to still struggling at this point,  
14 are you referring to the way you are feeling because of  
15 the spray or the --

16 A. Yes.

17 Q. Yes, thank you.

18 "I remember that Craig was still at the top end  
19 (chest) of the guy. I saw Craig get lifted by the guy.  
20 He was lifting Craig with his body weight. Craig is  
21 about 25 stones. I cannot emphasise the strength of  
22 this guy. Alan is an ex-marine. Ashley is a big guy as

**TRANSCRIPT OF THE INQUIRY**

1 well. I'm thinking to myself if he gets back onto his  
2 feet then we've got real problems as well."

3 Do you remember that now that you see it?

4 A. Yes.

5 Q. And what were you thinking at this time, what was going  
6 through your mind?

7 A. That this boy's on something like Flakka.

8 Q. Why do you say that?

9 A. Because it gives -- I have looked at it on YouTube  
10 before this.

11 Q. Before May 2015?

12 A. Aye, and I just -- it does give you super power  
13 strength.

14 Q. Right. And you say "he", Mr Bayoh, "Was lifting Craig  
15 with his body weight". What did that mean? Where it  
16 says Mr Bayoh was lifting Craig with his body weight?

17 A. Basically being able to sort of sit up, get his body --  
18 Bayoh's body off the ground and in turn, lift Craig off  
19 the ground.

20 Q. Right. And you mention Alan Smith and you mention  
21 Ashley Tomlinson and their size as well. Was he also  
22 trying to lift them?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. Off the ground?

3 A. Yes.

4 Q. Mr Bayoh?

5 A. Everybody was struggling to restrain him. It was four  
6 people involved and they were struggling to restrain  
7 him. This is a boy -- this is a boy, let's face it, he  
8 had muscles, ey, he took steroids, his shoulders were  
9 huge, his arms were huge, his chest was huge. He's  
10 obviously good at bench pressing. He was -- the four  
11 guys that were trying to restrain him were struggling to  
12 control him.

13 Q. And you're including yourself in that?

14 A. Aye.

15 Q. And at this point was this when you were using your  
16 baton, or the baton, I should say, not your baton?

17 A. Roundabout that time, aye.

18 Q. "I heard the guys at the legs of the guy talking about  
19 leg restraints. I did not see them apply leg  
20 restraints. At this point I was at the left shoulder of  
21 the body facing towards Craig's back. I was trying to  
22 hold the left area of his body. It was a muscular

**TRANSCRIPT OF THE INQUIRY**

1           bicep. He was still definitely struggling at this point  
2           with me and the other officers."

3                     Can you explain what you meant when you say you were  
4           at the left shoulder of the body facing towards Craig's  
5           back? What was happening then?

6           A. I've explained that already --

7           Q. All right, okay.

8           A. -- haven't I? That's just in relation to my  
9           positioning, whether it be right or wrong, Craig being  
10          opposite me and Craig's back was what I was wiping ...

11          Q. You mentioned earlier it was his left arm at the back of  
12          his arm. Is that what you're referring to?

13          A. Aye.

14          Q. Thank you:

15                     "Then I saw a baton ASP. It had been extended."

16                     What's a baton ASP?

17          A. One of them, an ASP.

18          Q. Oh right, ASP:

19                     "It had been extended. It was not my baton. My  
20          baton has a smooth handle, this had ribs down it."

21                     In fact, that's what you told us earlier and then if  
22          we can come up the page, please:

## TRANSCRIPT OF THE INQUIRY

1           "The baton was lying on the ground at the back of  
2 Craig's legs. I picked up the baton and put it across  
3 the boy's bicep. I had the baton across the boy's  
4 bicep. I was holding both ends of the baton and I was  
5 in a push up position with my whole body weight with the  
6 pressure on the baton over the boy's bicep but he was  
7 still struggling."

8           So can I just say, you -- stop there and say "The  
9 baton was lying on the ground at the back of Craig's  
10 legs" and you picked it up. How did you pick it up from  
11 that position at the back of Craig's legs?

12       A. That's what I said, I said that Craig was lying on his  
13 left-hand side at the sort of upper torso of Bayoh.  
14 Craig's back was to me, Craig's back was towards Bayoh's  
15 face, so his back of his legs would be joined onto  
16 his --

17       Q. Did you lean over to pick that up off the ground?

18       A. Aye.

19       Q. Thank you. And then it says:

20           "I know that this is not a trained method of  
21 restraint but in the circumstances I was trying to bring  
22 him under control to assist with keeping in control and

## TRANSCRIPT OF THE INQUIRY

1 for handcuffs to be put on him."

2 And is that what you said earlier?

3 A. Yes, you will do anything that's required in a situation  
4 like that.

5 Q. "At this point I then became aware of Danny Gibson,  
6 DC Derek Connell, DS Samantha Davidson and Scott Maxwell  
7 being on the scene and other police vehicles being there  
8 as well. I have no idea from what direction they came  
9 from, or who had arrived in that vehicle. I think it  
10 was about 30 seconds to a minute that I was personally  
11 struggling with the guy on the ground. I don't remember  
12 seeing any other officer discharge CS or PAVA at the  
13 man, although I do believe that Ashley did from  
14 a conversation after the event. At no point did  
15 I strike him with a baton. I never saw anyone strike  
16 the guy with a baton."

17 Would you agree with all of that?

18 A. Yeah.

19 Q. Thank you. Then we move on to the next page:

20 "I do not remember seeing any officer place the guy  
21 in leg restraints. I am fairly certain that I saw the  
22 leg restraints being taken off the guy.

**TRANSCRIPT OF THE INQUIRY**

1            "I do not remember seeing any of the officers place  
2            him in handcuffs. I don't remember seeing him in  
3            handcuffs.

4            "It was whilst ..."

5            And just before we move on, "I do not remember  
6            seeing any officer place the guy in leg restraints", you  
7            have told us that already today and then you mention not  
8            remembering seeing him in handcuffs and do you remember  
9            seeing him in handcuffs at any point, or do you not?

10          A. No.

11          Q. No:

12            "It was whilst I was still holding his bicep with  
13            the baton I noticed there was no resistance with regard  
14            him trying to lift up his arm. I am only really  
15            conscious of his arm. I could not really see the rest  
16            of the torso because of Craig's back. The guy did not  
17            speak or scream throughout the incident."

18            So do you remember saying this to PIRC at the time?

19          A. Mm-hm.

20          Q. And so it says:

21            "Whilst I was still holding his bicep with the baton  
22            I noticed there was no resistance with regard him trying

**TRANSCRIPT OF THE INQUIRY**

1 to lift up his arm."

2 So was this the moment -- was this the point at

3 which you noticed no resistance coming from Mr Bayoh?

4 A. Mm-hm.

5 Q. Do you remember now whether he was moving in other parts

6 of his body at that time?

7 A. No.

8 Q. Do you remember what the other officers were doing at

9 this moment in time?

10 A. No.

11 Q. "Alan said at this point ..."

12 Is that PC Smith, Alan?

13 A. Yes.

14 Q. "... he must have stood up at the head end and said 'is

15 he still breathing?'. He was standing at the guy's

16 left-hand side of the head end. He was just in front of

17 me. Alan then said 'aye he is'. I looked at the guy

18 and in my opinion he was still breathing. I said 'aye

19 he is still breathing'. I could see movement in his

20 skin. I just thought that he was still conscious.

21 I did not get down and check for breaths. Craig was

22 still lying on top of the guy at this point. I was

**TRANSCRIPT OF THE INQUIRY**

1 still on the ground with the guy."  
2 So let me just ask you about that paragraph. You  
3 have noticed with the bicep and the baton that there's  
4 no resistance, and at that point, Alan asks the question  
5 "Is he still breathing?" so was that the stage that it  
6 would appear to others he had stopped moving?  
7 A. Possibly.  
8 Q. He was -- and Alan Smith says "He is still breathing":  
9 "I could see movement in his skin."  
10 What does that mean?  
11 A. Chest rises.  
12 Q. Right. So you could see that he was still breathing --  
13 A. Yes.  
14 Q. -- because of the physical movement?  
15 A. (Nods).  
16 Q. And you thought he was --:  
17 "I just thought he was still conscious."  
18 What made you say conscious? You say you thought he  
19 was still conscious.  
20 A. That's maybe a -- that's likely a mistake, ey.  
21 Q. Right. What did you actually mean to say?  
22 A. He was still breathing.

**TRANSCRIPT OF THE INQUIRY**

1 Q. He was still breathing but not conscious?

2 A. Aye.

3 Q. Right:

4 "Craig was still lying on top of the guy at this

5 point. I was still on the ground with the guy."

6 Would that be your recollection at the time?

7 A. Yes.

8 Q. "Alan is an officer safety trainer and qualified in

9 first aid. He did my last refresher course as well. He

10 is very methodical as well. I remember thinking if

11 that's good enough for Alan then that's good enough for

12 me."

13 And what did you mean by that?

14 A. He's just one of the most competent cops I have worked

15 with, ey. He's so methodical and does everything by the

16 book. If it's good enough for him, it's good enough for

17 me.

18 Q. Okay:

19 "I remember something along the lines where Alan

20 said 'I don't think he is breathing' or something to

21 that effect."

22 I looked at that Airwaves transmission from PC Smith

**TRANSCRIPT OF THE INQUIRY**

1 earlier with you where he said he was no longer  
2 breathing. Would that have been around the time that  
3 you remember PC Smith saying what you said there?  
4 A. Probably about that, aye.  
5 Q. "At that point everybody backed off him and he continued  
6 to lie on the ground. He wasn't moving."  
7 So after PC Smith has said "I don't think he is  
8 breathing", you say there "Everyone backed off him";  
9 what do you mean by that?  
10 A. Just maybe some people -- I believe I was one of them,  
11 although I can't remember it, stood up, people took  
12 a step back, even though they were kneeling down, just  
13 backed off, just gave him that bit of space.  
14 Q. Gave him space. And he was definitely not moving at  
15 that stage?  
16 A. No.  
17 Q. And you were looked at a map -- I won't go to the map.  
18 You say:  
19 "I can't remember who or at what point an ambulance  
20 was called. Alan said 'We're going to start CPR'.  
21 I was quite happy that he was taking the lead role as he  
22 is the expert in this."

## TRANSCRIPT OF THE INQUIRY

1           We have heard that he is trained in first aid and  
2           that type of thing and then it says:

3           "Craig identified that he was going to be doing the  
4           chest compressions. Alan identified that he was going  
5           to be putting the breaths in."

6           And you have mentioned earlier PC Smith attempting  
7           to put in rescue breaths; is that what you mean by that?

8           A. (Nods).

9           Q. "I identified that I was going to hold the mask. I am  
10          talking about the mask with the one-way valve thing and  
11          I took out the face mask from my vest."

12          Can I ask you just about this paragraph. It appears  
13          from what you're describing there that everybody had  
14          a role, a role identified. Who was it that was in  
15          charge of that -- of things at that time?

16          A. Alan Smith, closely followed by Craig Walker and myself.

17          Q. Right:

18          "I took out the mask from my vest. These are with  
19          me at all times whilst I'm on duty. I opened the  
20          package and tried to get the valve into the boy's mouth  
21          but I was unable to do so because his teeth were  
22          clenched shut. I remember slapping the guy on the side

## TRANSCRIPT OF THE INQUIRY

1 of the face twice to attempt to rouse him. This had no  
2 reaction at all. I could not get the valve between his  
3 teeth as they were clenched shut."

4 So although you say in this statement, or it says in  
5 this statement you were slapping the guy on the side of  
6 the face twice, that's the demonstration you gave  
7 earlier?

8 A. Caused no injury. Caused very little pain. It was just  
9 to try and get a pain reaction.

10 Q. And did you get that reaction?

11 A. No.

12 Q. And then if we can move up:

13 "I tried to get my fingers between his teeth to get  
14 his mouth open but was unable to do so and also to force  
15 his jaw open. Again, this was unsuccessful."

16 You have told us that earlier:

17 "I was aware at that point that an ambulance had  
18 been called for because I heard someone say 'where the  
19 fuck's the ambulance'. I do not remember who said that.  
20 About the same time I remember hearing Ashley say 'I hit  
21 the boy off the back of the head with my baton.'"

22 I believe he said this for the benefit of Acting

**TRANSCRIPT OF THE INQUIRY**

1 Sergeant Scott Maxwell who was present and was passing  
2 back radio transmissions."

3 Do you remember how long Sergeant Maxwell had been  
4 present by that time?

5 A. I would be guessing: about a minute maybe.

6 Q. Okay:

7 "At this point I was kneeling at the guy's left-hand  
8 side trying to get the mask in. On hearing this I put  
9 my left hand behind the guy's head and felt around the  
10 guy's head. I did not feel any swelling to the head nor  
11 did I see any blood on my hand that felt around his  
12 head. There was a small amount of blood above one of  
13 his ears. I cannot remember which one. It was from  
14 a cut or a graze."

15 I think you mentioned that earlier. And then you  
16 say, "I", presumably:

17 "I could not get the valve in because of his teeth.  
18 I tried to create a seal around his mouth. Alan tried  
19 to get a couple of breaths in but he couldn't. There  
20 was no chest rises that I could see."

21 So at this point in time you can no longer see the  
22 movement in the chest that you mentioned?

## TRANSCRIPT OF THE INQUIRY

1 A. No. There's no air going in so ...

2 Q. Right:

3 "I tried to raise his neck higher with my left hand  
4 and to form a seal around the valve. Alan tried a good  
5 few times go get breaths in via the valve. The mask was  
6 covered in saliva, CS, etc. Alan said he was getting  
7 contaminated and Alan said 'we will just go to  
8 compressions'. Craig started compressions and kept  
9 going until he was tired. This was for a couple of  
10 minutes. I remember Craig saying to Scott Maxwell  
11 'that's a couple of ribs away'. It was repeated  
12 numerous times where the ambulance had got to but  
13 I cannot remember who said that."

14 Can I ask you about this sentence "I remember Craig  
15 saying to Scott Maxwell 'that's a couple of ribs away'".  
16 What do you mean by that? What's that a reference to?

17 A. Well, they say that if you're doing CPR right that  
18 there's a high probability that you will break ribs for  
19 doing compressions. I know that from watching the  
20 evidence that the rib in question, the nurse's opinion  
21 is that that wouldn't be from CPR, but I certainly --  
22 from what I heard when Craig was doing it, to me it did

**TRANSCRIPT OF THE INQUIRY**

1           sound like a rib had been broken.

2           Q. You actually heard the rib -- or heard what you thought

3           was a rib fracturing?

4           A. Yes.

5           Q. And how long had CPR been going on when you heard that?

6           A. 30 seconds.

7           Q. It then says:

8                     "I then took over chest compressions..."

9                     That's from PC Walker: "

10                    "... and I kept going until the ambulance arrived

11                    a couple of minutes later."

12                    So really it's PC Walker first of all doing the

13                    compressions and then you, and you continued until the

14                    ambulance arrived at the scene?

15           A. Yes.

16           Q. "When the ambulance arrived I gave the paramedic

17           technicians an update of what had happened and went back

18           and sat in the van."

19                    Is that your van, the Transit?

20           A. Yes.

21           Q. Then:

22                    "Craig came back to the van moments later. It was

**TRANSCRIPT OF THE INQUIRY**

1           then agreed by everybody that we would muster back at  
2           the station."  
3           When you say "it was agreed by everybody that we  
4           would muster back at the station", what do you mean?  
5           How was that agreement reached?  
6           A. I don't know. Scott Maxwell speaks of speaking to me at  
7           the van. I can't recall that.  
8           Q. You don't remember that conversation?  
9           A. No.  
10          Q. How were you feeling at the time?  
11          A. Completely and utterly in shock.  
12          Q. And was the spray still having an impact?  
13          A. Spray stays with you for your -- your clothes and  
14          everything are contaminated. Spray stays with you until  
15          you change your clothes for at least half an hour  
16          afterwards, ey. I was in complete shock because I had  
17          thought -- I thought I was going to be killed, ey.  
18          I realised how close I had come to being killed, so aye,  
19          I was just in complete and utter panic.  
20          Q. Right. So you have no recollection of that conversation  
21          with sergeant --  
22          A. No, but I have no reason to --

**TRANSCRIPT OF THE INQUIRY**

1 Q. To doubt it?

2 A. -- to doubt that it happened.

3 Q. Thank you.

4 "I do not know who went in the ambulance with the  
5 guy to the hospital. I do not remember if anyone  
6 assisted the ambulance crew. The ambulance stopped  
7 between where I was on the ground and my van. I did not  
8 see anything after that. Craig and I returned to  
9 the police office in the same van we arrived in. Craig  
10 was driving. There is CCTV in the van I was in  
11 I believe. I'm not sure if it was operational or if it  
12 records, what records. It is a hard drive. There's no  
13 need to change tapes etc. CCTV does not form any part  
14 of the vehicle checks."

15 And then:

16 "I do --"

17 You mentioned sort of cameras and things earlier,  
18 you have given us evidence about that:

19 "I do not remember what time I got back to Kirkcaldy  
20 Police Office. I went to the writing room initially and  
21 then once everybody came back we mustered in the  
22 canteen. We were told to go to the canteen but

## TRANSCRIPT OF THE INQUIRY

1 I believe it was Scott Maxwell although I cannot be  
2 certain of that. I forgot to mention that as soon as  
3 I got back to the office as I went in the back door and  
4 spoke to Austin Barrett who is Police Federation  
5 representative. Craig asked him to arrange for  
6 Federation representation as he believed we would  
7 require."

8 So that was a conversation with PC Austin Barrett  
9 who is an SPF rep. And then:

10 "It must have been about ten minutes to eight when  
11 we got back to the office as I remember Austin saying  
12 'I don't start until 8', but he then got involved when  
13 he realised what was happening. Everybody who was on  
14 shift was in the canteen. Everybody involved in the  
15 incident at Hayfield Road. Amanda Givan who is  
16 a Federation representative was there. Austin was there  
17 for a time. Various people popped in from time to time.  
18 There was a Chief Inspector Conrad Trickett there as  
19 well. I cannot be certain of timescales throughout the  
20 day or what was said or by whom."

21 Did you remember being in the canteen for the whole  
22 day?

**TRANSCRIPT OF THE INQUIRY**

1           A. Yes.

2           Q. Did you leave the canteen at any time?

3           A. Other than to go to the toilet which is just through one  
4           set of doors, no. My thoughts on that are that we were  
5           illegally detained, if you like, in the canteen for the  
6           day.

7           Q. Illegally?

8           A. Yes.

9           Q. So you felt you were detained in the canteen?

10          A. Yes.

11          Q. And who had told you to stay in the canteen?

12          A. I don't know. I just kind of switched off when I went  
13          into the canteen and just enjoyed my own company.  
14          I cannae recall virtually anything that was said or done  
15          in the canteen.

16          Q. What did you do with your vest?

17          A. When I first went -- when I went into the police station  
18          I went upstairs into the writing room which is upstairs,  
19          went into the locker room, took my uniform all off  
20          because it was contaminated with CS spray, left it on  
21          the locker room floor and put on my civilian clothes so  
22          whilst I was in the canteen I was in civilian clothes.

**TRANSCRIPT OF THE INQUIRY**

1 Q. Right. We have heard that the officers' equipment was  
2 recovered later.

3 A. Yes.

4 Q. So did that help and assist you to get over the effects  
5 of the CS spray?

6 A. Yes.

7 Q. And you said there that:

8 "Everyone who was involved in the incident was in  
9 the canteen. Amanda Givan was there. Austin Barrett  
10 was there and various people popped in from time to  
11 time."

12 Do you remember now who any of the various people  
13 were?

14 A. Stevie Kay popped in. Colin Robson popped in.  
15 Nicky Shepherd popped in. What they did or said,  
16 I cannae remember, ey, but I knew them from working with  
17 them, that they popped in.

18 Q. Do you remember any of the advice they gave you?

19 A. No.

20 Q. Or instructions?

21 A. No.

22 Q. How were you feeling in the canteen?

## TRANSCRIPT OF THE INQUIRY

- 1       A. Completely and utterly shocked. I was battling with  
2       myself because I was already for just wrapping it and  
3       going home, and I made that known, because we were just  
4       hanging about like headless chickens. The after-care in  
5       the canteen can only be described as absolutely  
6       atrocious.
- 7       Q. What would you have liked to have happened that day when  
8       you got to the canteen?
- 9       A. Somebody to give some definitive guidance.
- 10      Q. What do you mean by definitive guidance? What would you  
11      have wanted to know?
- 12      A. It was getting run by folk that had no clue. You need  
13      a senior officer to come in and to give clear guidance  
14      on where we were going, ey.
- 15      Q. The sort of procedures and what should have been  
16      happening?
- 17      A. Procedures -- nobody had experienced anything like that  
18      before, very few people will experience anything like  
19      that again, but for us to have our liberties taken away  
20      from them just because of their incompetencies wasnae  
21      right.
- 22      Q. And if there was a senior officer that you feel should

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- 1           have been responsible for providing that guidance or  
2           advice, who do you think that should have been?
- 3           A. Well, it was PIRC-led, ey.
- 4           Q. PIRC?
- 5           A. It was PIRC-led, so I would say somebody from PIRC.
- 6           Q. Yes. Rather than one of the senior officers in  
7           Kirkcaldy Police Office?
- 8           A. I would say.
- 9           Q. So from the moment that PIRC became involved, you think  
10          they should have had someone in charge?
- 11          A. I couldnae give you the name of a single person that was  
12          working for PIRC, you know. All they had to do was come  
13          in and say -- introduce themselves and say who they were  
14          and tell you a few things, your status, what's likely to  
15          happen next. It was just a debacle from the time I went  
16          back to the police station to the time I left.
- 17          Q. And did anybody, as far as you remember now, did anybody  
18          come in and give you those clear instructions that you  
19          would have liked?
- 20          A. No, no.
- 21          Q. From any organisation, Police Scotland or PIRC?
- 22          A. (Shakes head).

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1 Q. No. And we have heard some evidence that other people  
2 were coming in and out of the canteen, it wasn't a sort  
3 of sterile area in that sense, that from the back door  
4 people can access the canteen. Is that correct?

5 A. Aye, it's a kind of thoroughfare to the custody area, to  
6 the front offices, the reception and that. Folk  
7 probably just didn't see the signs. The building's not  
8 fit for purpose really.

9 Q. Is it quite old?

10 A. Aye, it's very old and it's been added to over the years  
11 and things like that so ...

12 Q. Okay. You say:

13 "The next thing I remember is being told that my  
14 uniform clothing was being taken. In the canteen ..."

15 And ultimately your clothing was taken, wasn't it,  
16 Mr Paton?

17 A. Aye. I went back upstairs and got it.

18 Q. Did you:

19 "In the canteen we were all talking between  
20 ourselves. It was about the incident. I can't really  
21 be specific about what we were talking about. I was in  
22 shock. I remember talking about Nicole and asking how

**TRANSCRIPT OF THE INQUIRY**

- 1 she was."
- 2 So was this before Nicole came back from the
- 3 hospital?
- 4 A. No, it cannae be because it says that she was brought
- 5 back by Mark Hays and then I say --
- 6 Q. Well, just look at that paragraph I just read:
- 7 "In the canteen we were all talking between
- 8 ourselves. It was about the incident. I cannot really
- 9 be specific about what we were talking about. I was in
- 10 shock. I remember talking about Nicole and asking how
- 11 she was."
- 12 Do you mean asking Nicole how she was or asking
- 13 others how Nicole was?
- 14 A. I think I was just asking others. I mean --
- 15 Q. Because she is the one officer who wasn't back in the
- 16 canteen --
- 17 A. Yes.
- 18 Q. -- at that time. And you say you "can't really be
- 19 specific about what we were talking about". Had anyone
- 20 told you at that time, as far as you remember, not to
- 21 talk about the incident?
- 22 A. No, not that I can remember.

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- 1 Q. Okay.
- 2 A. It's not to say they didnae, but not that I can  
3 remember.
- 4 Q. So during the time you were in the canteen, so the whole  
5 day really, did any of your colleagues raise the issue  
6 of the fact that Mr Bayoh was black?
- 7 A. No.
- 8 Q. No? Did anyone raise concerns about the potential for  
9 there to be allegations of racism levied against the  
10 officers?
- 11 A. No.
- 12 Q. You don't remember any of that?
- 13 A. No.
- 14 Q. Looking then it says:  
15 "I remember Mark Hays popping into the canteen. He  
16 had been at the hospital and told me that Nicole was  
17 okay. Nicole came to the canteen later."  
18 So we have not heard Mark Hays' name mentioned by  
19 you before. Was he another officer at Kirkcaldy Police  
20 Office?  
21 A. He was a good friend of mine and he -- I cannae -- he  
22 was based at Glenrothes. What he was doing at Kirkcaldy

**TRANSCRIPT OF THE INQUIRY**

1 I don't know. He kind of just had a habit of popping up  
2 here, there and everywhere, for whatever reason.

3 Q. Okay.

4 A. Aye, he came up, took Nicole to the hospital. He said  
5 that she was okay.

6 Q. Okay. And then:

7 "I cannot remember if the Federation gave us any  
8 advice. I think I was watching the television. I just  
9 wanted to be left on my own."

10 Is that a TV in the canteen area?

11 A. Yes.

12 Q. Do you remember Amanda Givan giving you any advice in  
13 the canteen?

14 A. Not advice, no.

15 Q. Do you remember speaking to her?

16 A. Aye.

17 Q. What did she say?

18 A. "What do you want at KFC?"

19 Q. Oh, right, okay. So she was talking about getting you a  
20 lunch or something to eat. Did she speak to you at all  
21 about your status or statements or any paperwork?

22 A. Not that I can recall, no.

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1 Q. And you say:

2 "I sat on the settees on my own watching the TV.  
3 I was going over things in my head. I think Craig may  
4 have been sitting as well. From what I recall I think  
5 the rest of the officers were sitting at a table. It  
6 was a bit of strange really. I cannot recall what  
7 happened then."

8 We have heard some evidence that pieces of equipment  
9 were on a table in the canteen. Do you remember that?

10 A. More than likely there would be.

11 Q. Right. Do you remember that happening, that pieces of  
12 equipment were put on a table?

13 A. No, but that was quite common practice.

14 Q. Was it? And then you say:

15 "With regards my baton, I never got my baton back.  
16 I seem to recall Derek Connell picking up batons from  
17 the scene. I did not use my handcuffs at any point. My  
18 CS was still attached to my vest."

19 And that's the CS that you used to spray Mr Bayoh,  
20 is that right?

21 A. Yes.

22 Q. "I did not complete any use of force forms or discharge

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1 of CS spray forms."

2 Did you know at that time, or did you have a clear  
3 understanding of what your obligations were in relation  
4 to completion of -- let's start with the CS spray forms,  
5 use of spray?

6 A. So so. The procedures changed quite frequently, but  
7 either way it didn't really make much difference because  
8 there wasn't a computer in the canteen and it's  
9 a computer-based form.

10 Q. Did you need access to a computer in order to complete  
11 that form?

12 A. You would do, aye.

13 Q. And what about the use of force form?

14 A. It's also on a computer.

15 Q. And did you -- you didn't complete either of those?

16 A. No.

17 Q. Did you understand at that time that one person could  
18 complete a form in relation to the entire incident?

19 A. Yes. And I kind of thought that -- well, I wouldn't  
20 expect Scott Maxwell to do it, but I would maybe expect  
21 either Stevie Kay or maybe even Alan Seath or somebody  
22 like that to complete it, ey. I certainly wasn't in

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1 a fit state to put my mind to completing any forms.

2 Q. Right. But you thought maybe an Inspector in the office  
3 might have been able to do that?

4 A. Aye, but then the problem you've got there is that for  
5 them to accurately complete a form, they've got to get  
6 a recollection of the events from the cops and we  
7 werenae really prepared to give a recollection of events  
8 at that stage.

9 Q. So certainly you don't personally feel you were able to  
10 give a recollection at that stage?

11 A. No.

12 Q. But it may have been possible for an Inspector to seek  
13 out an officer who was able or felt able to give  
14 a recollection?

15 A. Yes.

16 Q. But that wasn't you?

17 A. No.

18 Q. And then:

19 "When I arrived at the office I went upstairs and  
20 changed out of my uniform as it had been contaminated by  
21 CS spray and PAVA spray."

22 And that's what you just told us earlier:

## TRANSCRIPT OF THE INQUIRY

1 "I put my CS spray back into my locker along with my  
2 Airwave radio. I put my uniform in locker room 4  
3 outside my locker. I cannot recall being instructed not  
4 to fill in or out any of the normal forms. I cannot  
5 tell you what the usual procedure is. It changes week  
6 to week. I would rely on my supervisor to remind me."

7 And you then say:

8 "The Federation rep was in the canteen all day."

9 And you can't recall any advice that she gave and is  
10 that -- that remains the position today?

11 A. Yes.

12 Q. And can we just go up slightly. Then:

13 "I remember that Chief Inspector Trickett had been  
14 appointed as a sort of welfare, go-between coordinator.  
15 I can't recall anything he said. He gave me a card.  
16 A Superintendent with a suntan popped in later in the  
17 afternoon but I cannot recall what he said. I do  
18 remember getting advice from one of them, I don't  
19 remember who though, to phone home. I did not phone  
20 home. I believe it was Amanda the Fed Rep had  
21 advised/encouraged us to do this."

22 Do you remember the name of that Superintendent with

**TRANSCRIPT OF THE INQUIRY**

- 1           the suntan?
- 2           A. No. He wouldn't have been a Fife cop.
- 3           Q. Not with a suntan?
- 4           A. No, I know most of them, so I don't think it was a Fife
- 5           cop.
- 6           Q. Okay. It wouldn't have been a Pat Campbell?
- 7           A. That's who I think it could possibly have been but
- 8           I have not seen a photo of him.
- 9           Q. Okay, thank you. Then you have been shown -- you were
- 10          shown a notebook but there were no entries in your
- 11          notebook because you didn't put anything in your
- 12          notebook.
- 13          A. I didnae have my notebook. My notebook was upstairs
- 14          when I took my kit off upstairs in the changing room, my
- 15          notebook was up there and I'm obviously down in the
- 16          canteen, not allowed to leave, so that's why I didnae
- 17          touch my notebook.
- 18          Q. So you were in your civilian clothes?
- 19          A. Yes.
- 20          Q. And your notebook is with your uniform?
- 21          A. Yes.
- 22          Q. And you then say:

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- 1           "CS spray has never been weighed before issue in  
2           legacy Fife area. My CS Spray is current and valid."  
3           Tell me what you mean by about your CS spray being  
4           weighed?
- 5           A. You see I've never done the weighing thing, but I think  
6           it's -- you weigh it at the start of your shift and then  
7           you weigh it either at the end of your shift or maybe  
8           the following shift and if there's a discrepancy in the  
9           weight then that would suggest that you have used it  
10          during that period, but that was never the process in  
11          Fife. The process in Fife was that you just signed it  
12          in and signed it out.
- 13          Q. Right, so that wasn't a procedure that was adopted in  
14          Fife?
- 15          A. No. I think the only reason that -- the only reason  
16          that that statement is there is that I'm guessing that  
17          the PIRC officers that took my statement were  
18          Strathclyde-based and that's maybe the procedure in  
19          Strathclyde.
- 20          Q. So that probably came from a question they prompted?
- 21          A. Aye.
- 22          Q. Thank you. Now, can I ask you a question -- you have

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1           mentioned status in your answers and I have asked -- you  
2           will know I have asked a lot of officers about status as  
3           witness or as suspect, and did you have a clear  
4           recollection, or do you have a clear recollection now of  
5           being given advice about whether you were being treated  
6           as a witness or as a suspect?

7           A. No.

8           Q. And do you remember any of the senior officers talking  
9           to you about being treated as a witness?

10          A. No.

11          Q. Do you remember being asked to give a statement as  
12          a witness?

13          A. I was asked to give a statement but I don't know if it  
14          was as a witness or as a -- I don't know what the  
15          purpose of the statement was. It was two MIT officers.

16          Q. All right, well, we have heard that there was a meeting  
17          after the events on 3 May, some time between 7 and  
18          13 May.

19          A. Aye.

20          Q. That two officers, DI Stuart Wilson and DCI Hardie --

21          A. Aye, that's who it would be.

22          Q. -- had met with officers and advised them that their

## TRANSCRIPT OF THE INQUIRY

- 1 status was that of witness and would they give  
2 statements. Do you remember that?
- 3 A. I remember going into the station. I went into the  
4 station because Stephen House was -- had called  
5 a meeting. Whether that was just an excuse to get  
6 everybody to go, I don't know. I remember speaking to  
7 Alan Seath who was the station Inspector and he had said  
8 that Stuart Houston and the boy Hardie -- what's his  
9 first name?
- 10 Q. DCI Hardie, I think from memory, Keith?
- 11 A. Keith, Keith Hardie were in a wee office, but it was  
12 nothing more than a tick box exercise, if you like, and  
13 thinking about it, it was a tiny wee office, there  
14 wasnae nearly enough staff and it was mid-afternoon.  
15 You're not going to start taking a statement under these  
16 circumstances, so they knew fine well that they wouldnae  
17 get a statement out at that time, ey. Also the fact why  
18 were MIT wanting statements where it was a PIRC-led  
19 inquiry.
- 20 Q. And do you feel that wasn't explained to you?
- 21 A. No.
- 22 Q. And what was your response to the request about asking

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1           you for a statement?

2           A. On legal advice not to give a statement at this time.

3           Q. We have heard from other officers that that was the

4           legal advice they had received at the time?

5           A. Yes.

6           Q. And were you consistent with them?

7           A. Yes.

8           Q. I would like to move on now. If I could just have

9           a moment.

10           (Pause).

11           Thank you. I'm going to move on and ask you about  
12           race and some of the complaints and give you the chance  
13           to say your position on those. So if we could look,  
14           first of all, at a complaint in relation to 2009 and it  
15           is PS 17860A, and we will get that on the screen, but  
16           you will have seen some of these papers already and if  
17           we could just scroll down and what I will do is I'm  
18           going to summarise the sort of background circumstances,  
19           Mr Paton, and then I'm going to ask you to comment on  
20           that.

21           So you will see from some of these references on the  
22           first page that these are -- this is in relation to

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1 a complaint from 2009, and without reading through the  
2 document in significant detail, you can take it from me  
3 that this 2009 complaint relates to you approaching  
4 a woman as she stood in her garden and in the course of  
5 speaking to the complainer in her garden, there was  
6 an allegation that you made an inappropriate and  
7 offensive comment regarding an individual known to her,  
8 namely that he would learn his lesson whilst in jail if  
9 he became someone's wife. And it was alleged that you  
10 commented:

11 "He will maybe learn his lesson and never mind if  
12 he's made into someone's wife he'll maybe learn his  
13 lesson."

14 And that comment was overheard by the complainer and  
15 another witness and that resulted in this formal  
16 complaint being made that you see on the screen.

17 And you denied making that statement and then the  
18 investigating officer considered the matter, found the  
19 complainer to be a very reasonable individual who had  
20 been genuinely upset by the comments with no agenda  
21 against the police and when you interviewed -- and I'm  
22 quoting -- your attitude was "poor" and you were

## TRANSCRIPT OF THE INQUIRY

1 "dismissive of that complaint and somewhat petulant",  
2 and the investigating officer stated that the complainer  
3 and the other witness:

4 "... have in my opinion provided the more credible  
5 narrative of events."

6 And the matter was reported to the chief  
7 superintendent who was of the view that there was  
8 insufficient evidence to substantiate the allegation,  
9 although he was of the opinion that a remark may have  
10 been made, and you were given corrective advice.

11 So that's my summary of these papers, without having  
12 to go through them in a lot of detail for you. Can  
13 you -- would you like to explain the circumstances of  
14 this.

15 A. Yes. In relation to the complaints made against me,  
16 I continue to deny any wrongdoing. Not only did I deny  
17 the spurious complaints, but so did the other officers  
18 that were with me on each of the occasions. While  
19 I maintain my denial, I can advise however that any  
20 corrective advice given was always taken on board.

21 In relation to this specific complaint, no such  
22 incivility took place at all. My colleague, who was

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- 1 [redacted] that day also denied any such incivility.
- 2 The officer dealing with this complaint did not respect
- 3 officers below him. He was nothing far short of a bully
- 4 and didn't like the fact that I stood up to him and he
- 5 was predisposed to disbelieve myself.
- 6 Q. Are you reading from something there, Mr Paton?
- 7 A. Yes, yes.
- 8 Q. And would you mind holding that up so I can have a look
- 9 at it? It's not your Inquiry statement, is it?
- 10 A. It's a statement that I believe you've got already.
- 11 Q. A statement -- is this the supplementary statement that
- 12 I have been sent today?
- 13 A. Yes.
- 14 Q. Does it say at the top "This is a supplementary
- 15 statement of retired officer Alan Paton"?
- 16 A. Yes.
- 17 Q. Right. So just so that the Chair knows -- because I'm
- 18 not sure he will have a copy of this yet -- this -- it's
- 19 a two-page document, you have handed it in -- or your
- 20 lawyers have handed it to us today, and do you wish to
- 21 rely on this supplementary statement --
- 22 A. Yes.

## TRANSCRIPT OF THE INQUIRY

- 1 Q. -- as supplementary to the Inquiry statement that you  
2 gave and we referred you to earlier?
- 3 A. Yes.
- 4 Q. Thank you. And I will be able to to give a copy of that  
5 to the Chair for him to consider, so that's what you  
6 have been reading from.
- 7 A. Yes.
- 8 Q. And in addition to -- the Chair will be able to read all  
9 of this document. In addition to what you have written  
10 here, is there anything else you would like to say about  
11 this 2009 complaint on top of what you have already read  
12 out?
- 13 A. No.
- 14 Q. There was mention in my summary of the circumstances  
15 that there was corrective advice given. Can you tell us  
16 what the corrective advice was and how it was given?
- 17 A. I can't recall.
- 18 Q. You don't remember. How is corrective advice normally  
19 given?
- 20 A. I cannae recall.
- 21 Q. All right. Do you remember how long after the complaint  
22 came in that you were given the corrective advice?

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1 A. No.

2 Q. And you mentioned the investigating officer, or the more  
3 senior officer. Do you remember who that was?

4 A. Yes.

5 Q. Do you want to say what the person's name was?

6 A. [redacted].

7 Q. Was he an inspector or was he more senior than that?

8 A. He was an inspector. He was a bully.

9 Q. Right.

10 A. He liked to pick on people with younger service than  
11 him.

12 Q. Right. And he was trying to bully you?

13 A. Yes.

14 Q. And you have said that you --

15 A. And he didnae like the fact that I stood up for myself  
16 against him.

17 Q. Right. How did you stand up for yourself?

18 A. Basically told him that there was nothing at all in the  
19 complaint and that's probably where I come across as  
20 a petulant attitude.

21 Q. Yes. And you have said that you did take on board any  
22 corrective advice --

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1           A. Yes.

2           Q. -- that you received. Would it have been the same  
3           officer that gave you the corrective advice, or would  
4           that have been a separate officer?

5           A. I can't recall. I don't know.

6           Q. So you said you took it on board. How did you adapt  
7           your behaviour in light of that corrective advice?

8           A. I didn't. I just went about my business as I normally  
9           do, dealing with thousands of warrants and never getting  
10          a complaint, ey.

11          Q. Thank you. Then can we move on to a second complaint  
12          that I want to ask you about from 2010, the following  
13          year. So this is PS 13586A and again, these papers you  
14          will have seen and had a chance to look at, but for  
15          today's purposes I will summarise this for you and then  
16          ask you some questions. So this is a complaint from  
17          2010 and you, accompanied by another officer, attended  
18          a home address to execute an apprehension warrant. The  
19          first complainer was an Asian woman who answered the  
20          door. She did not speak fluent English and did not  
21          understand what was happening so telephoned the second  
22          complainer, an Asian man who was at work. She asked you

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1 to speak to the second complainer on the telephone and  
2 you refused to do so. The complaint which was classed  
3 as an irregularity in procedure was upheld.

4 During the investigative process, "PC Paton stated  
5 that he had no reason to speak to the second complainer"  
6 and did not believe your actions were inappropriate or  
7 unprofessional and the superintendent who dealt with  
8 this expressed concern at your poor communication skills  
9 and "Your clear lack of understanding of cultural issues  
10 in dealing with Muslim women and a basic respect for  
11 diversity-related matters", and again, corrective advice  
12 was provided.

13 So again, would you like to explain the  
14 circumstances of this?

15 A. Yes.

16 Q. And again, are you referring to your supplementary  
17 statement?

18 A. Yes. As with my colleague that day, we were of the  
19 belief [redacted] fully understood English and the  
20 reason we had attended at the locus. We presented  
21 a lawful warrant. Now, there had been previous officers  
22 who had attended to execute the warrant without success

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1 and none of them had used or had noted the opinion that  
2 an interpreter was necessary or required. There is  
3 a running log with warrants so that would have been  
4 clearly stated on it. I had no idea who was on the  
5 telephone and I had no legal requirement to speak to  
6 them. Indeed, if I had it may have hampered my actions  
7 in executing the warrant. I did, however, reflect on  
8 the advice I had been given by my line manager.

9 I would also like to point out that I have arranged  
10 interpreters on several occasions during the course of  
11 my time as an officer and would have been more than  
12 happy to do so on this occasion should I have believed  
13 it was required. I fully explained my position to  
14 management where they considered my actions were  
15 reasonable or not. I did nothing wrong in this case  
16 whatsoever.

17 Q. Thank you. Can I just clear -- question you about a few  
18 things here. You mentioned your colleague. Who was  
19 that?

20 A. I believe it was Danny Gibson.

21 Q. Right. And you say if you had spoken to the person on  
22 the phone that may have hampered any action you took,

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1           what do you mean?

2           A. Well, you don't know who's on the other end of the  
3           phone. Is you speaking to the person on the phone  
4           a delaying tactic to allow somebody to nip out the back  
5           door for the warrant?

6           Q. I see.

7           A. Is it the subject of the warrant and you're giving them  
8           a heads up that there's a warrant and he goes to ground?

9           Q. I see.

10          A. A warrant's for a named person. You only have to give  
11          that information to the named person, ey.

12          Q. And that's the proper procedure?

13          A. That's the proper procedure.

14          Q. And then you talk about your line manager; who was your  
15          line manager?

16          A. I cannae recall.

17          Q. And you have said there were no -- you took the view no  
18          interpreter was necessary or required?

19          A. No. It wouldn't have been any effort whatsoever for me  
20          to get an interpreter. It's a case of dialing it up on  
21          your handset, handing the phone to her and finding what  
22          language she spoke, first of all, handing the phone to

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1 her. It would have taken a couple of minutes. I would  
2 have done it if it was required, but it was not  
3 required.

4 The only reason that this came to complaint -- and  
5 I think you will notice that it's not the actual female  
6 that's made the complaint, it's the male that made the  
7 complaint, ey.

8 Q. That was your understanding of the --

9 A. That was the case. It was the male on the other end of  
10 the phone that made the complaint.

11 Q. Right. I was going to ask you how you would go about  
12 arranging an interpreter in that situation where you  
13 have turned up and someone at the door doesn't appear to  
14 speak good English. You have said you would dial your  
15 handset; is that like a number on your radio?

16 A. Just on your Airwave terminal, you have got a number to  
17 phone. Find out what language it is that they speak,  
18 first of all.

19 Q. And how do you find out what language they're speaking?

20 A. You have the -- most people can say what language they  
21 speak, even if they didn't understand English, ey, but  
22 you also had a laminated card and it had in English

**TRANSCRIPT OF THE INQUIRY**

1 "What language do you speak?" and then alongside it was  
2 maybe Urdu, or "What language do you speak?" alongside  
3 it Polish or -- and you just point to it.

4 Q. Right. And you said you would then be able to get an  
5 interpreter?

6 A. Aye.

7 Q. Was it -- how easy was it to get an interpreter in those  
8 circumstances?

9 A. For the majority of languages, instant.

10 Q. Right.

11 APPROPRIATE ADULT: I can probably help --

12 MS GRAHAME: No, no, you're not giving evidence under oath,  
13 sorry. Thank you for the offer but no, we will just  
14 stick with you, Mr Paton, if that's okay. We can find  
15 out more information about this in due course.

16 So that's how you would have gone about getting an  
17 interpreter but you had concerns about the genuineness  
18 of the person saying they couldn't -- or indicating they  
19 couldn't speak fluent English. What was causing you to  
20 have those concerns?

21 A. Because she was understanding.

22 Q. How did you know that?

## TRANSCRIPT OF THE INQUIRY

- 1 A. Because she was replying back to things that we were  
2 putting -- putting to her.
- 3 Q. And you also mentioned a reference -- previous  
4 references to you had a warrant and there was some other  
5 reference to no interpreter being required?
- 6 A. Yes.
- 7 Q. Tell us about that?
- 8 A. Well, the warrants used to be owned by normally your van  
9 crew, so normally myself. So I've got a lot of  
10 experience executing warrants. However, they kind of  
11 changed and they would be allocated to a team, and so  
12 anybody could actually go in and enforce a warrant and  
13 there's a log attached to them. You would just update  
14 the log with anything that's pertinent, so "Attended.  
15 Attended on set date, spoke to the female within, did  
16 not understand English, interpreter required for next  
17 attendance", or something like that, and there was  
18 nothing like that.
- 19 Q. But that information would normally be available to you  
20 if an interpreter was required?
- 21 A. Yes.
- 22 Q. You could check that before you attend?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. Yes.
- 2 Q. I'm grateful to my learned junior. She has just checked  
3 the paperwork, Mr Paton, and it would appear it wasn't  
4 Daniel Gibson that you were with, it was a PC [redacted]?
- 5 A. [redacted].
- 6 Q. I don't have their first name, no. We don't know the  
7 first name.
- 8 A. He is a retired -- he is retired now.
- 9 Q. So it may have been a different officer, not  
10 Daniel Gibson?
- 11 A. Aye. It was redacted in the copy that I got so I was  
12 just getting to guessing.
- 13 Q. All right, no, that's absolutely fine, thank you.  
14 And you were given corrective advice again in  
15 relation to this complaint. What advice were you given?
- 16 A. I don't know.
- 17 Q. Do you remember who gave it to you?
- 18 A. No.
- 19 Q. And what did you do -- again, you have said that you  
20 responded to any corrective advice. What did you do in  
21 relation to that advice? Did you adapt your behaviour  
22 in any way?

## TRANSCRIPT OF THE INQUIRY

1 A. Not particularly because I was using the interpreter  
2 facilities anyhow, so I didn't have to adapt my working  
3 practices in any way. A lot -- the vast majority of the  
4 warrants that I dealt with in Kirkcaldy were for Polish  
5 and Eastern European, so I was using the interpreter  
6 services all the time.

7 Q. And when you say "All the time", how often were you  
8 using those services?

9 A. Maybe three times a week, something like that. And they  
10 worked well.

11 Q. Oh, good. Can I then move on to another complaint in  
12 2011. Now, we've got a number of different documents  
13 about this complaint. For today's purposes what I will  
14 do again is just summarise the circumstances and then  
15 ask you some questions, but if you do want to look at  
16 any of the papers, you're very welcome to do so.

17 So 2011, you had a neighbour who made a series of  
18 three formal complaints against you and that was noted  
19 in your records. The first was to the effect that when  
20 off-duty you had approached her and shouted "You're a  
21 compulsive liar and attention-seeker, fucking mad", and  
22 that complaint was found to be unsubstantiated but

## TRANSCRIPT OF THE INQUIRY

1           resulted in corrective advice.

2           The second complaint was she then alleged you would  
3           stare, smile, grin and gesticulate at her in order to  
4           intimidate her. The complaint again was found to be  
5           unsubstantiated because there was no corroborating  
6           evidence, but you were reminded of the expected  
7           standards of behaviour for serving police officers and  
8           that a failure to maintain those standards could lead to  
9           misconduct proceedings.

10          Then the third complaint was made to the effect that  
11          you again had approached her and called her an "ugly  
12          sumo", and this resulted in you being charged with  
13          a contravention of section 29 of the Criminal Justice  
14          and Licensing (Scotland) Act 2010 and the case was  
15          marked no proceedings on the grounds of triviality and  
16          the matter was then considered for misconduct  
17          proceedings and the chief inspector who considered these  
18          complaints there were clear grounds for a case of  
19          misconduct, and PC Paton's actions had:

20                 "Brought the force into disrepute. Had he taken  
21                 cognisance of management advice initially he would not  
22                 have found himself in this position."

## TRANSCRIPT OF THE INQUIRY

1           And on this occasion a formal warning was given.

2           Again, would you like to explain the background to this.

3           A. Yes. Before I say anything, this complaint was  
4           completely and utterly handled wrongly by the police.  
5           I'm aware a former neighbour [redacted] her name was  
6           made malicious complaints about me. This follows an  
7           orchestrated campaign by her against my wife and  
8           children. She had significant mental health problems  
9           [redacted].

10           I approached the Scottish Police Federation for  
11           assistance and advice regarding an interdict and I spoke  
12           to senior management about my concerns on several  
13           occasions, particularly around protection.

14           Following this and after several requests by myself  
15           to make a complaint against her and refused, I made  
16           an official complaint to the police about her actions as  
17           a member of the public. I was subsequently pressurised  
18           by a now retired inspector to withdraw it. There were  
19           numerous independent witnesses who could have  
20           corroborated my complaints. One was even discouraged  
21           from giving evidence by a separate senior officer.

22           I also understood, or understand she has made

## TRANSCRIPT OF THE INQUIRY

1 subsequent malicious complaints of a sensitive nature  
2 against other people, including [redacted] and other  
3 police officers and all of them were also unfounded.

4 I believe this complaint to have been seriously  
5 mishandled by police.

6 Q. You have obviously read again from the supplementary  
7 statement which we will provide a copy of to the Chair  
8 and the Assessors. Do you wish to provide us with the  
9 names of any of these retired inspector, senior officers  
10 or anyone else?

11 A. Yes.

12 Q. Do you wish to tell us who the retired inspector was?

13 A. The retired inspector that told me to withdraw the  
14 complaint was [redacted]. The retired -- the  
15 retired inspector who I basically voiced my concerns to  
16 looking for help was [redacted], and the senior --  
17 she was a sergeant, a sergeant from my team that I made  
18 aware of the neighbour's actions was [redacted].

19 Q. Thank you. And were they based in Fife at that time?

20 A. Yes.

21 Q. But your feeling is that the situation was mishandled by  
22 the police?

## TRANSCRIPT OF THE INQUIRY

- 1 A. 100%.
- 2 Q. But you were given a formal warning. Can you explain to  
3 me what's the difference between corrective advice and  
4 a formal warning?
- 5 A. I don't know.
- 6 Q. Right. Do you remember being given a formal warning?
- 7 A. No.
- 8 Q. And in relation to the comments by the chief inspector  
9 that you had brought the force into disrepute and if you  
10 had taken cognisance of management advice initially you  
11 wouldn't have found yourself in this position, do you  
12 have any comment to make about that comment?
- 13 A. Reverse it. If they had taken cognisance of what I was  
14 reporting we wouldnae have found ourselves in this  
15 position. They were -- I believe the charge was also  
16 stalking which was a very new piece of legislation which  
17 the force didnae want to get wrong. It's the usual  
18 story that the police want to protect their image above  
19 the thoughts of the officers and they will always,  
20 always take the side of the civilian complainer.
- 21 Q. Right. And you have mentioned that you sought advice  
22 from the Scottish Police Federation.

## TRANSCRIPT OF THE INQUIRY

1           A. Yes.

2           Q. Can you tell us about that? How did you make contact  
3           with them and what advice did you seek?

4           A. I phoned them asking for -- to discuss the possibilities  
5           of an interdict [redacted] thankfully she has now moved.  
6           My worry is that this getting brought up at the Inquiry  
7           and getting made public is going to kick it all back up  
8           again, but there's nothing I can do about that.

9           Q. Thank you. Can I ask you now finally about a statement  
10          from your grandfather. PIRC 00473 and page 2. Just at  
11          the top of page 2 -- actually can we go back to page 1  
12          and we'll just see what's said here. So you can see  
13          that it's a statement dated 13 January 2016, so it's the  
14          year after the events that I have been asking you about,  
15          at 11.15, at his home address, taken by Investigating  
16          Officer Victoria Karran and it was in the presence of  
17          solicitor Aamer Anwar and if we can just go down that  
18          page, please, and he has given a statement to PIRC about  
19          his grandson, which was yourself, Alan Paton and he  
20          talks about meeting you once in the supermarket and then  
21          speaking to Aamer Anwar at the end of August 2015 and he  
22          said it was a Morrison's supermarket, in the bakery, and

**TRANSCRIPT OF THE INQUIRY**

1 he does say there:

2 "I seen him first so I asked him how he was.

3 I can't remember the conversation exactly my memory  
4 isn't the best."

5 Can I ask you about your grandfather's memory at  
6 this time, so at the time he is giving this statement.  
7 Could you tell the Chair what you remember about his  
8 memory at this time?

9 A. I think dementia was setting in. Certainly that's what  
10 I was getting told by other members of the family, was  
11 that he was acting erratically. They were concerned  
12 about him going missing and things like that.

13 My gran -- when my gran died, my grandad went  
14 downhill quickly and, as I say, I don't know if he was  
15 officially diagnosed with dementia but that was  
16 certainly the opinion.

17 Q. When did your gran die?

18 A. I don't -- I can't remember.

19 Q. Was it prior to May 2015?

20 A. Yes.

21 Q. Right. How much contact did you have with your  
22 grandfather?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. I used to have quite a lot.
- 2 Q. Around about this time, January 2016?
- 3 A. Not that much.
- 4 Q. Can I move on to the next page of this statement and  
5 you -- it says:
- 6 "He [ie you weren't] in uniform. I remember Alan  
7 saying to me that he 'was a total racist and hated all  
8 blacks'."
- 9 So he goes straight into this, there's not really  
10 much context given here. First of all, do you remember  
11 saying that to your grandfather?
- 12 A. No such conversation took place. At no time have I or  
13 indeed would I state that I have a hatred towards  
14 anybody. Anybody suggesting I made such a comment has  
15 an ulterior motive and the fact that the source is Aamer  
16 Anwar kind of suggests that that's the case.
- 17 Q. Okay. So again, do I see you reading out from your  
18 supplementary statement?
- 19 A. Yes.
- 20 Q. And you have said that anyone saying this about you has  
21 an ulterior motive?
- 22 A. Yes.

**TRANSCRIPT OF THE INQUIRY**

1 Q. Can you explain what the ulterior motive would be that  
2 your grandfather would have?

3 A. It's to do with other members of my family and I just  
4 want to leave it at that.

5 Q. All right. So there's other family dynamics in the  
6 background, issues that are going on?

7 A. Yes.

8 Q. And would it -- when you say that might be an ulterior  
9 motive, was your grandfather on the other -- on the side  
10 of the other members of the family?

11 A. Yes.

12 Q. Not on --

13 A. And very much influenced.

14 Q. And very much influenced by other members of the family?

15 A. Yes.

16 Q. And so you deny ever saying that to your grandfather?

17 A. It doesn't even make sense.

18 Q. Right. And then you have also mentioned Mr Aamer Anwar.

19 A. Yes.

20 Q. Obviously he was present when this was given.

21 A. Funny that, ey.

22 Q. And do you have some concerns about that as well?

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. Do you want to explain to the Chair what your concerns  
3 are?

4 A. I don't think it needs explaining.

5 Q. Fine, all right. So is there anything else that you  
6 feel you would like to say about this statement?

7 A. No.

8 Q. No. So the Chair should have a read of your  
9 supplementary statement and consider what you have  
10 already said?

11 A. Yes.

12 Q. Thank you. Now, I know earlier in your evidence you  
13 talked about the performance and development review  
14 papers and you have touched on some good examples of  
15 using interpreters and things like this. My  
16 understanding is that that might be touched on later by  
17 your own QC.

18 A. Yes.

19 Q. But I would like to ask you some other questions about  
20 race, general questions, if you don't mind, before  
21 I finish.

22 Can I talk about your perception of events when you

## TRANSCRIPT OF THE INQUIRY

1 arrived at Hayfield Road. We have heard that Mr Bayoh  
2 was 5 foot 10 and 12 stone 10. You arrived with  
3 PC Walker who is 25 stone. You're 17 stones at the time  
4 and you're both 6 foot 4, so Mr Bayoh was shorter and  
5 lighter than both of you.

6 A. Yes.

7 Q. He doesn't have a knife visible and you're obviously  
8 both there in your full uniform, with your equipment,  
9 with a big Transit van, with flashing lights and you are  
10 trained, you're experienced officers. Can I ask what  
11 were your concerns when you arrived at the time?

12 A. That he did still have a knife and that he was going to  
13 go on to use it again, as he had done a few minutes  
14 beforehand.

15 Q. Arriving as you did, how realistic do you feel those  
16 concerns were at the time?

17 A. Very realistic.

18 Q. Have you been involved with previous incidents which  
19 have gone wrong and officers have been injured or  
20 threatened?

21 A. Yes.

22 Q. Do you want to tell me about any of those knife

**TRANSCRIPT OF THE INQUIRY**

- 1 incidents?
- 2 A. No knife incidents. Dumbbells, bar for dumbbells.
- 3 Q. Right. Have you been involved in any knife incidents  
4 where things have gone wrong and officers have been  
5 injured?
- 6 A. More than likely I have. I worked in the two busiest  
7 towns in Fife, so more than likely I have, but I can't  
8 recall any.
- 9 Q. Right. And have you -- prior to May 2015, 3 May, had  
10 you used your CS spray at knife incidents before?
- 11 A. I can't be specific but probably.
- 12 Q. Do you remember any incidents?
- 13 A. No.
- 14 Q. Had you ever used your baton before?
- 15 A. Once in my service and it was ineffective.
- 16 Q. Right. And when was that?
- 17 A. It was a guy that ended up fighting with my colleague.  
18 I was quite young in service. He was coked out of his  
19 head. I struck him to the legs, didnae bring him to the  
20 ground. He actually thanked me the next day for doing  
21 it, ey.
- 22 Q. You say young in service. You told us earlier you had

**TRANSCRIPT OF THE INQUIRY**

- 1           14 years' service by May 2015.
- 2           A. Yes.
- 3           Q. How young in service were you?
- 4           A. It was my tutor cop that I was with, so it could have
- 5           been as early as six months' service.
- 6           Q. So you were a probationer when that happened?
- 7           A. Could have been, yes.
- 8           Q. And apart from when you were a probationer, had you ever
- 9           used your baton?
- 10          A. That was my baton.
- 11          Q. Yes, had you ever used it apart from when you were
- 12          a probationer and you have told us -- any other
- 13          occasions?
- 14          A. No, just to break into things.
- 15          Q. Had you ever used your spray in a knife incident before
- 16          3 May 2015?
- 17          A. I cannae recall.
- 18          Q. And if Mr Bayoh had been white when you arrived -- when
- 19          you arrived it was a white man that you saw there with
- 20          no knife, would you still have considered the need to
- 21          issue immediate commands and then use your spray?
- 22          A. 100%.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Looking back now you don't think you could have given  
2 him more time or spoken to him or ...?
- 3 A. No, I would have done nothing different.
- 4 Q. Right. And had you attended incidents prior to  
5 3 May 2015 where someone was suffering from a mental  
6 health crisis, or under the influence of drink or drugs,  
7 had you used your communication skills with that person?
- 8 A. Every other day of my working life.
- 9 Q. Right, but not on this occasion?
- 10 A. It wasnae the time or the place.
- 11 Q. Right. And the distinction for this event was what?  
12 Why is it different on this occasion?
- 13 A. Because it was corroborated that he was using the knife,  
14 he was causing -- he was potentially causing harm to  
15 members of the public and their cars, that from my first  
16 sightings of him I formed the opinion that he was on  
17 drugs, that he had the physical capability to continue  
18 causing damage, ey.
- 19 Q. And that's what was the difference for you?
- 20 A. That was the difference, aye.
- 21 Q. Looking back now, what role, if any, do you think his  
22 race played in the way you decided how to handle this

**TRANSCRIPT OF THE INQUIRY**

1 situation?

2 A. Nothing whatsoever.

3 Q. What difference did his race make, if any, about the  
4 choices that you made, tactical choices?

5 A. Nothing whatsoever.

6 Q. Looking back now, do you think he appeared to you to be  
7 a greater potential threat because he was black?

8 A. No, because you get muscly, big guys out their face on  
9 drugs with knives that are white.

10 Q. If he had been white would you have viewed him as  
11 someone potentially less violent or less likely to  
12 resist?

13 A. No.

14 Q. Or more compliant?

15 A. No.

16 Q. If he had been white, would you have been willing to try  
17 speaking to him, communicating?

18 A. I did try and speak to him.

19 Q. Is that the commands that we have talked about earlier?

20 A. Yes.

21 Q. What I'm thinking is if he had been white, would you  
22 have been more inclined to ask him if there was

**TRANSCRIPT OF THE INQUIRY**

1 a problem, or how was he, or had he got any sharp  
2 implements?  
3 A. No. I was taking control of the situation.  
4 Q. Right.  
5 A. I wasnae there to have a conversation with him.  
6 Q. Can I ask you about training. You will know that I have  
7 asked a lot of officers about their training and I have  
8 asked them about equality and diversity training that  
9 they had had and many have given evidence about getting  
10 training at Tulliallan. Is that something that you had?  
11 A. It's 21 years ago. I believe I had it during my times  
12 up at Tulliallan. I also had a diversity training day  
13 up at Fife headquarters, probably around about 2014 or  
14 something like that, you would have to check my SCoPE  
15 records, but yeah, that's the two sort of training  
16 packages I have had.  
17 Q. And the training that you had the year before May 2015,  
18 do you remember if you were taught anything about  
19 unconscious bias?  
20 A. What is unconscious bias?  
21 Q. Were you asked any questions about maybe making  
22 assumptions about people because of the colour of their

**TRANSCRIPT OF THE INQUIRY**

1 skin? You're not even really aware of that, those  
2 assumptions, and you're treating people in a certain way  
3 just unconsciously --

4 A. No.

5 Q. -- were you asked about that?

6 A. No, not that I can recall.

7 Q. Do you remember being asked to identify any biases that  
8 you yourself had?

9 A. I can't remember anything about it in the training.

10 Q. No. So when you came out of your training course in  
11 2014, were there any learning points that you did take  
12 on board that you then used and adapted your own  
13 day-to-day working practices?

14 A. Yes.

15 Q. What were they?

16 A. No necessarily towards black people, but an example  
17 being like towards the travelling fraternity. The  
18 travelling fraternity have a general sort of dislike of  
19 the police and it was trying to -- you go into a camp,  
20 who is best to speak to, you know. There's generally  
21 a top man, speak to them. Just things like that that  
22 I wasn't aware of before. Actually putting that into

**TRANSCRIPT OF THE INQUIRY**

1 practice and again, I think that's in one of my PDRs  
2 that you have got.

3 Q. I'm sure that this can be elaborated on by your own QC.  
4 Do you want to tell us about that yourself now?

5 A. It was a road accident involving members of the  
6 travelling fraternity and I communicated with -- I think  
7 it was a double fatal, and I communicated with the  
8 family members and got praise for it.

9 Q. And did you use the training that you had got in 2014 to  
10 help you deal with that situation?

11 A. Yes.

12 Q. And then did they teach you about bias at all in 2014  
13 and maybe how to guard against that, you know, to avoid  
14 treating people and making assumptions which weren't  
15 correct?

16 A. I'm sure they did but I cannae really recall any  
17 specifics.

18 Q. Okay. Do you make any assumptions, or in 2015 did you  
19 make any assumptions --

20 A. No, I treat everybody the same.

21 Q. And in relation to Mr Bayoh, did you make any  
22 assumptions about him because he was black?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. No, not at all.
- 2 Q. Had you ever come across any examples of discriminatory  
3 behaviour in Kirkcaldy Police Office --
- 4 A. No.
- 5 Q. -- by 2015?
- 6 A. No.
- 7 Q. Had you ever heard any racist jokes or comments?
- 8 A. No.
- 9 Q. By your colleagues?
- 10 A. No.
- 11 Q. So one of the -- we have Inquiry statements that people  
12 have provided to the Chair, as you have provided one to  
13 the Chair, and one of the chief inspectors has given  
14 a statement describing having at some time experienced  
15 inappropriate racist jokes. Had you ever heard any such  
16 jokes in your career in Kirkcaldy?
- 17 A. Racist jokes by me?
- 18 Q. No, no, not by you, no.
- 19 A. No --
- 20 Q. Just that he was aware of that in Kirkcaldy in advance  
21 of May 2015?
- 22 A. No, no.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. You're not aware of that?
- 2 A. No.
- 3 Q. If you had come across any behaviour of that type in  
4 your working and your dealings with other colleagues in  
5 2015, how would you have responded to that?
- 6 A. I would have said to them.
- 7 Q. What would you have said?
- 8 A. It's not appropriate.
- 9 Q. And had any of the colleagues that were with you on  
10 3 May 2015 exhibited any behaviour of that sort to you?
- 11 A. The incident on 3 May 2015 was not in the slightest bit  
12 racist. There was nothing done, nothing said, either at  
13 the locus, back at the canteen, in the days that  
14 followed, in the weeks that followed, in the months that  
15 followed, there was nothing at all racially motivated,  
16 or said with racial connotations.
- 17 Q. So even back in the canteen nothing --
- 18 A. Nothing at all.
- 19 Q. -- discussed about race?
- 20 A. No, nothing at all.
- 21 Q. In 2015 were you aware of concerns about -- public  
22 concerns about the use of force by police officers,

**TRANSCRIPT OF THE INQUIRY**

1           particularly against black men?

2           A. No.

3           Q. Were you not aware of anything of that sort from the

4           news or from internet?

5           A. No, I didnae follow the news.

6           Q. Right. Were you aware of any concerns being discussed

7           within Police Scotland at that time?

8           A. No.

9           Q. Were you aware of any high profile cases in other parts

10          of the UK or abroad --

11          A. No.

12          Q. -- regarding restraint of black men?

13          A. No, I don't follow the news.

14          Q. You have not even heard of George Floyd?

15          A. That's America.

16          Q. Yes. Well, were you aware of any --

17          A. I was aware of the George Floyd situation, yes.

18          Q. Aware of George Floyd in America?

19          A. Yes.

20          Q. Nothing in England?

21          A. No.

22          Q. Nothing in other parts of the UK?

## TRANSCRIPT OF THE INQUIRY

- 1 A. No.
- 2 Q. How confident now -- looking back, how confident were  
3 you in the training that you had received -- you have  
4 made comments earlier today about the training in  
5 relation to handling an incident of this sort; how  
6 confident were you in the training that you had had in  
7 equality and diversity, matters relating to race?
- 8 A. I think it probably could be improved if I'm being  
9 honest, ey. Maybe every two years or something like  
10 that would be handy.
- 11 Q. So maybe more than --
- 12 A. Done for the right purposes and for the right reasons.  
13 I think they probably could do more because -- I mean,  
14 I have heard some people that's given evidence saying  
15 that their last input was when they were up at  
16 Tulliallan. Well, that's not really acceptable in my  
17 opinion, and everybody likes a wee day out course, ey.
- 18 Q. So maybe more regular training?
- 19 A. But not rammed down your throat, not every year,  
20 something like every two years would be more than  
21 enough, I think.
- 22 Q. Because for an officer like yourself and for other

**TRANSCRIPT OF THE INQUIRY**

- 1           officers, you had had 14 years' service and you're  
2           saying you had training in Tulliallan and then the year  
3           before you had a day?
- 4           A. Mm-hm. But to be honest, most of your learning is done  
5           on the job, ey.
- 6           Q. Right. And that's where you can experience real life?
- 7           A. (Nods).
- 8           Q. Did -- can I ask you about your awareness of the black  
9           community in Kirkcaldy round about May 2015. Did you  
10          have a strong awareness of the black community?
- 11          A. I'm aware there were black individuals but there's no  
12          such -- there's no really a big black community in  
13          Kirkcaldy. Kirkcaldy is a very diverse town now, but  
14          black people don't really form that a big part of it.
- 15          Q. Okay. So had you had much contact with black people as  
16          witnesses, as suspects, or as victims of crime?
- 17          A. I dinnae like the specific questions regarding black  
18          people, ey.
- 19          Q. Oh, right.
- 20          A. I prefer the specific questions regarding people of --
- 21          Q. Black and minority ethnic?
- 22          A. Black and minority ethnic.

## TRANSCRIPT OF THE INQUIRY

1 Q. Yes, all right.

2 A. In which case I did have a lot of dealings with it.

3 I was a community officer on two occasions, both in the

4 Templehall area of Kirkcaldy which has its own

5 anti-social issues, also covers -- and I think

6 Scott Maxwell mentioned to you the main mosque is in

7 Templehall, in the north of Kirkcaldy, so although

8 I wasn't the mosque liaison officer, I attended on most

9 of the occasions that Scott Maxwell or others attended.

10 Also, part of the duties on the van was going around

11 the areas of concern, like mosques, like warehouses full

12 of whisky, so to do with terror stuff and things like

13 that. The concern for obviously the checks on the

14 mosques was that they were getting vandalised and

15 graffitied, etc, on the back of things like the

16 Lee Rigby incident and whilst I was doing them I was

17 speaking with the imams and people.

18 I worked in cash and carries which was predominantly

19 people from the Asian minority. I have worked with

20 Chinese people. I have worked with all sorts, aye, so

21 I have had a lot of contact with non-white people.

22 I have not had a great deal, apart from one officer that

**TRANSCRIPT OF THE INQUIRY**

1 I worked with that was black.

2 Q. Who was that one officer?

3 A. Paul Castledine his name was.

4 Q. Where was he based?

5 A. I worked with him when we were at Glenrothes.

6 Q. Right. You mentioned you were a community officer on

7 two occasions.

8 A. Yes.

9 Q. When was that in relation to May 2015, was it before?

10 A. Aye, before, a couple of years before.

11 Q. Couple of years before and how long did you do that?

12 A. Three years or so.

13 Q. And in terms of involvement with the --

14 A. And you're doing things like going out to schools where

15 there's black children and things like that, you know

16 so ...

17 Q. So how -- when you were a community officer, how regular

18 was your contact with the BAME community?

19 A. I held monthly meetings, community engagement meetings

20 which anybody was entitled to come along to and we did

21 have some that came along. Also we would get invited to

22 events. One that springs to mind is -- it's in the

## TRANSCRIPT OF THE INQUIRY

1 local park, in the Beveridge Park, it's called the Peace  
2 Garden, and it was a coming together of Muslims,  
3 Eastern Europeans, Chinese, Indians ... it was a coming  
4 together of everybody, and I attended there in the  
5 capacity as a police officer, just integrated with them  
6 all, so I have done a fair bit. In comparison to  
7 response cops, you know, you do quite a lot as  
8 a community officer.

9 Q. Yes. And are you -- well, having done that role, you  
10 must be aware of stereotypes that are sometimes  
11 applied --

12 A. Aye.

13 Q. -- to people in that community. Can you give us some  
14 examples of the stereotypes you're aware of?

15 A. Well, as I say, there's not a big black community in  
16 Kirkcaldy but I could say stereotypes is that just  
17 youths in general, you know, youths in a gang, youths  
18 are causing trouble, youths are the ones that are  
19 causing the damage and things like that which to be  
20 honest with you nine times out of ten it's not the  
21 youths, ey, or it's one youth that you have just got to  
22 kind of work with.

**TRANSCRIPT OF THE INQUIRY**

1 Q. Mm-hm. Were you aware that sometimes black men may be  
2 perceived as more likely to resist, be more violent,  
3 have superhuman strength or size?  
4 A. No, I wasnae, no.  
5 Q. No? Did you ever have any assumptions along those  
6 lines?  
7 A. (Shakes head).  
8 Q. Now, in your statement, which we have gone through in  
9 detail, you described Mr Bayoh as being a large, black  
10 male --  
11 A. Yes.  
12 Q. -- although he was lighter than you and PC Walker and  
13 smaller. What was it about him that made you describe  
14 him as large?  
15 A. Because he was large, he was black, and he was a male.  
16 Q. When you say he was large, what is it you mean by that?  
17 A. His physique, his muscles, his neck muscles, his biceps,  
18 his chest.  
19 Q. So it was his musculature?  
20 A. He was a steroid user, ey, so he was pumped up.  
21 Q. Right. Can I ask you one question about -- you have  
22 described Mr Bayoh walking towards you with his palms

**TRANSCRIPT OF THE INQUIRY**

1 out and you didn't see a knife and you have talked about  
2 being in fear of your life -- for your life at that  
3 time. Have you ever felt fear for your life on any  
4 other knife calls where you see that the suspect didn't  
5 have a knife in his hands?

6 A. No.

7 Q. No?

8 A. No.

9 Q. So what made this situation different?

10 A. Just that I was -- I had no control. I had no control  
11 at all and I was then -- because I had been  
12 incapacitated, because of having no option but to crouch  
13 down in a vulnerable position, I just thought "My time's  
14 come".

15 Q. So it was at the point you were incapacitated by the  
16 spray that you felt that level of fear?

17 A. Yes.

18 Q. Prior to that how were you feeling?

19 A. The adrenaline's going. I wouldnae say I was in fear of  
20 my life prior to that. Obviously you've got to have  
21 your wits about you because it could go pear-shaped,  
22 but, as I say, I felt confident enough to seize the

**TRANSCRIPT OF THE INQUIRY**

1 opportunity to try and get control of the situation  
2 before it went -- got out of control, before he got to  
3 a knife, before he got to another member of the public,  
4 before he ran off where we didnae know where he was.

5 If he had had a knife, I wouldn't have been out of  
6 the van, ey, but I seized the opportunity.

7 Q. Right, so it was about seizing the opportunity?

8 A. Yes.

9 MS GRAHAME: Could you just give me one moment, please?

10 (Pause).

11 Thank you very much, Mr Paton. That concludes my  
12 examination.

13 LORD BRACADALE: Thank you.

14 (Pre-recorded evidence paused)

15 LORD BRACADALE: Right, we'll take a ten-minute break at  
16 this point.

17 (3.34 pm)

18 (Short Break)

19 (3.50 pm)

20 LORD BRACADALE: Yes, when you're ready, Ms Wildgoose.

21 (Pre-recorded evidence of ALAN PATON continued)

22 Questions from LORD BRACADALE

## TRANSCRIPT OF THE INQUIRY

1 LORD BRACADALE: Mr Paton, could you help me with one thing.

2 Before you discharged your CS spray, did you consider  
3 the direction and the strength of the wind?

4 A. No, but I should have.

5 LORD BRACADALE: Could you expand on that?

6 A. I didn't have many options available to me, left open to  
7 me, so I thought I might be able to spray, and when  
8 you're spraying you spray in short bursts until you get  
9 a feel of where the spray is going to go, so if  
10 I sprayed and it ended up down there, I would adjust my  
11 aim to the side, but I wasn't able to do that because  
12 the wind was so strong, so I basically sprayed it out,  
13 some hit his face, it about-turned, came back and hit me  
14 in the face.

15 LORD BRACADALE: Thank you.

16 Mr McConnachie, do you have an application?

17 MR MCCONNACHIE: I do.

18 LORD BRACADALE: Yes. I think some of it at least has been  
19 flagged up already by Ms Grahame. Are there other  
20 issues in addition to that?

21 MR MCCONNACHIE: There are one or two, yes.

22 LORD BRACADALE: Perhaps if you could come up and just

## TRANSCRIPT OF THE INQUIRY

1           briefly outline to me what the areas are and then I can  
2           deal with the application.

3           MR MCCONNACHIE: I don't know if it is appropriate for  
4           Mr Paton to remain or -- it might be better if he left.

5           LORD BRACADALE: Yes, very well. Mr Paton, I'm going to ask  
6           you to leave the room while I hear from Mr McConnachie.

7                         (Pause).

8                         Yes.

9                                 Application by MR MCCONNACHIE

10          MR MCCONNACHIE: Sir, one of the issues that I think has  
11          occurred in the course of Mr Paton's evidence is the  
12          tendency to, as it were, conflate information that he  
13          knows now with information that he had back on  
14          3 May 2015, and from the point of view of clarification,  
15          I was hoping to go over with him the actual state of his  
16          knowledge as he was getting to the incident on  
17          3 May 2015 from the Airwaves transmissions that are  
18          within the content of this document.

19                         I also wanted to explore in just perhaps the tiniest  
20          amount of detail the position with regards to the  
21          transmission from Acting Sergeant Maxwell and where on  
22          the video footage that we have the vehicle and more

## TRANSCRIPT OF THE INQUIRY

1 particularly Mr Paton was likely to be if the blue dots  
2 are accurate in terms of where he was when that  
3 transmission was taking place and why it might be he  
4 perhaps did not certainly either not hear at all or  
5 wasn't paying attention to it all.

6 I also want to explore with him -- he mentioned one  
7 officer, Paul Castledine, who has in fact provided  
8 a statement which has been sent to the Inquiry along  
9 with another officer, both officers with whom he worked  
10 who were non-white officers, and his relationship with  
11 them.

12 I also want to briefly discuss one of the  
13 complaints, the 2010 warrant complaint, and his  
14 relationship with his grandfather and the circumstances  
15 surrounding that meeting and perhaps why the idea that  
16 he would, as it were, confide in his grandfather to that  
17 extent don't really make that much sense.

18 Those are the areas -- oh, one other thing, my Lord.  
19 He mentioned in evidence that his CS spray was his, as  
20 it were, weapon of choice before his baton. He wasn't  
21 asked why that was and I was going to ask him why that  
22 was.

**TRANSCRIPT OF THE INQUIRY**

1 LORD BRACADALE: Yes, very well. I shall allow you to cover  
2 these areas.

3 (Pause).

4 MS GRAHAME: I understand that Mr Paton may have taken the  
5 opportunity to use the facilities, so he may just be  
6 a moment.

7 LORD BRACADALE: Right.

8 Mr McConnachie, I don't think you mentioned the  
9 issue that had been flagged up for you but are you  
10 intending to look at some of the positive --

11 MR MCCONNACHIE: I was taking that as read, sir.

12 LORD BRACADALE: Taking that as read, all right. Thank you.  
13 If you would like to come to the seat then.

14 (Pause).

15 Now, Mr Paton, Mr McConnachie has some questions for  
16 you.

17 MR ALAN PATON (continued)

18 Questions from MR MCCONNACHIE

19 MR MCCONNACHIE: Mr Paton, have you found it difficult to  
20 give evidence purely in relation to what your knowledge  
21 was as at 3 May 2015, without taking into account  
22 a whole raft of information that you have received since

**TRANSCRIPT OF THE INQUIRY**

- 1           that date, including listening to this Inquiry?
- 2           A. Yes.
- 3           Q. Can I refer you to the timeline, if you have that,
- 4           please. This is with a view to trying to identify what
- 5           information you actually had as you were attending that
- 6           scene. If you look at page 1, there's a call at
- 7           7.16.32, or an Airwave transmission at 7.16.32, from
- 8           control which talks about a "disturbance ongoing, male
- 9           armed with a knife, African-looking male chasing someone
- 10          may be carrying a knife ..." and then there's
- 11          a description given.
- 12          A. Yes.
- 13          Q. At that point in time were you in fact, as it were,
- 14          attending another call supposedly?
- 15          A. Yes.
- 16          Q. And when you heard that, what did you do?
- 17          A. We were about halfway towards the call that we had been
- 18          sent to, it was an alarm call, it was nothing too
- 19          pressing. We about-turned the van, done a U-turn and
- 20          then headed in the direction of this knife call.
- 21          Q. All right. Now, if we go on to page 2, at 7.17.04,
- 22          there's another transmission saying:

**TRANSCRIPT OF THE INQUIRY**

1           "Yeah" and then something that's not picked up:  
2           "That's another grade 1 call coming in for the  
3           Victoria Road Kirkcaldy. Male armed with a knife. Male  
4           in possession of a large knife. A black male wearing  
5           white T-shirt and jacket walking along the street with  
6           a large knife in his right-hand, about a 9-inch blade."  
7           Is that correct?  
8           A. Yes.  
9           Q. Now, without going into detail, am I right in thinking  
10          that because of your local knowledge, you recognised  
11          there was potentially an issue here in the sense of one  
12          of the locus -- or one of the loci was not correct?  
13          A. Yes, it's a mistake that's quite often made.  
14          Q. And we can see -- I don't need to go through it, but we  
15          can see in the course of the transmissions that you  
16          raised that with control?  
17          A. Yeah.  
18          Q. And it's you who effectively eventually identifies when  
19          Gallaghers pub's mentioned exactly where the locus is?  
20          A. Yes.  
21          Q. And then if you go on to page 3 for me, please. At  
22          7.19.54 we see a transmission from yourself saying

**TRANSCRIPT OF THE INQUIRY**

1 "Roger, that's us approaching locus"?

2 A. Yes.

3 Q. And then there's another Airwave transmission from  
4 control:

5 "That's another call saying he was seen walking in  
6 the direction of the hospital in the middle of the  
7 road."

8 A. Yes.

9 Q. So those three, as it were, transmissions, are the  
10 information you have at the time about the man in the  
11 middle of the road with a knife on one view from the  
12 first of these transmissions chasing someone?

13 A. Yes.

14 Q. You told Counsel to the Inquiry that you had attended  
15 knife incidents before?

16 A. Yes.

17 Q. This one you have assessed and you have given your  
18 explanation for it, this one was different?

19 A. Yes.

20 Q. In relation to incidents that you have attended before,  
21 have you attended incidents which involved somebody in  
22 possession of a knife?

**TRANSCRIPT OF THE INQUIRY**

- 1           A.   Yes.
- 2           Q.   And on that occasion, or those occasions, what did you  
3           do?
- 4           A.   Talked them down.
- 5           Q.   Was there in particular an incident which is referred to  
6           in one of your PDRs where someone was in possession of  
7           a knife and was threatening to do harm to themselves?
- 8           A.   That was most often -- that was most often the case of  
9           knife calls was people threatening to do harm to  
10          themselves and there was one particular occasion that  
11          I'm aware of and I think it was at the hospital, a boy  
12          was -- had gone up onto the roof of the hospital with  
13          a knife and I was at the hospital.  Something tells me  
14          that there wasn't any senior officers on duty for  
15          whatever reason that day, so I sort of took control and  
16          command of the incident and ultimately was able to build  
17          a rapport with him and talk him down from the roof.
- 18          Q.   Was that a situation where you considered the  
19          communication, perhaps of the kind that Senior Counsel  
20          to the Inquiry has suggested to you, was more  
21          appropriate than the situation you found yourself in  
22          with Mr Bayoh?

**TRANSCRIPT OF THE INQUIRY**

- 1 A. Oh, it was 100% more appropriate.
- 2 Q. You mentioned in the course of the questions you were  
3 being asked about race and about your involvement with  
4 either black officers or indeed people who were  
5 committing crime, you mentioned somebody called  
6 Paul Castledine?
- 7 A. Yes.
- 8 Q. How did you know him?
- 9 A. I worked in Glenrothes. Paul was on the same shift as  
10 me at Glenrothes. I think I probably had about maybe --  
11 maybe three years' service or something like that. Paul  
12 had God knows how much, he was an experienced -- an  
13 experienced officer and I worked primarily on the van  
14 with him because we couldnae fit into cars.
- 15 Q. Because he was --
- 16 A. He was quite a big chap as well, aye.
- 17 Q. And am I right in saying he was the Chairman of The  
18 Black Police Officers Association?
- 19 A. Yes, he was, aye.
- 20 Q. And are you also aware that he has provided a statement  
21 which has been submitted to the Inquiry?
- 22 A. Yes.

**TRANSCRIPT OF THE INQUIRY**

1 Q. How did you get on with him?

2 A. A legend.

3 Q. He was?

4 A. Yeah.

5 Q. Did you also serve with an officer called  
6 Alan MacDonald?

7 A. Alan MacDonald, yes, I served with him when I first  
8 moved to Kirkcaldy. I was on the same team as him  
9 there.

10 Q. And do you recall what his ethnicity was?

11 A. I believe his father was white Scottish and I believe  
12 his mother was from Sri Lanka and Alan's actual  
13 appearance -- Alan has a sort of Asian appearance.

14 Q. And where did you serve with him?

15 A. Kirkcaldy.

16 Q. And for how long?

17 A. Maybe four years.

18 Q. And how did you get on with him?

19 A. Brilliant, aye. Both inside work and outside work.

20 Q. And again, to your knowledge did he submit  
21 a statement --

22 A. Yeah.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. -- supportive of you to the Inquiry?
- 2 A. Yes.
- 3 Q. You mentioned an incident to Senior Counsel to the  
4 Inquiry about a situation, a road traffic accident  
5 involving the travelling community.
- 6 A. Yes.
- 7 Q. And can you recall what happened in relation to that?
- 8 A. I -- from what I recall it was a mother and son who had  
9 been at an Asdas on the sort of outskirts of Kirkcaldy  
10 and had crossed the dual carriageway going back towards  
11 their home address, knocked over and killed and they  
12 lived -- they lived in the immediate vicinity and the  
13 drums started beating very quickly and it just turned  
14 into chaos, you know, the families all going to the  
15 locus and -- it was just pandemonium, and what I managed  
16 to sort of do was arrange for them to all go back to the  
17 one address. I wasn't the liaison officer but -- as one  
18 hadn't been appointed, but until there was one appointed  
19 I was the liaison officer for that.
- 20 Q. You mean the Family Liaison Officer?
- 21 A. Aye, Family Liaison Officer for that. But it was just  
22 really taking control and showing a bit of empathy and,



**TRANSCRIPT OF THE INQUIRY**

1 transmission I think just at that point, we're at  
2 7.20.27 on the clock, and albeit it's a reconstruction  
3 at the top left-hand corner of the screen, do we see at  
4 that point that it appears, if it that reconstruction is  
5 accurate, that both yourself and what would be  
6 Constable Walker have exited the vehicle before that  
7 transmission is complete?

8 A. Definitely. I think although it's grainy on the main  
9 CCTV screen below that you can actually see movement as  
10 well.

11 Q. Of you leaving the vehicle?

12 A. Yeah.

13 Q. And you left first?

14 A. Yes.

15 Q. Given the circumstances of you arriving at the scene,  
16 what you were -- and presumably you had seen Mr Bayoh by  
17 this point?

18 A. Yes.

19 Q. And what you were dealing with, do you think you either  
20 have any recollection of hearing that transmission, or  
21 can understand perhaps why you didn't hear that  
22 transmission?

**TRANSCRIPT OF THE INQUIRY**

- 1       A. I don't have any recollection of that transmission.  
2       Whether it was because of the rattles and such-like in  
3       the police van, there's a custody cage in the back, it's  
4       very loud inside the vans. Whether it's whilst I have  
5       been sort of taking my seatbelt off and getting out of  
6       the van or whatever, but I didnae have any recollection  
7       of that transmission from Inspector Stewart.
- 8       Q. No. Now, you were asked some questions about -- sorry,  
9       just before we go there. You said to the Chair that  
10      CS spray would be what you would use rather than your  
11      baton.
- 12     A. Yes.
- 13     Q. Why would that be?
- 14     A. CS spray -- the subject could be 12 feet away and it  
15      could be effective. A baton is the length of your arm  
16      and what's a baton, two and a half feet or something  
17      like that, so they've got to get closer to you so  
18      there's the greater risk to you. Just -- the one time  
19      I used the baton, as I say, I got textbook -- textbook  
20      calf strikes and it just didnae have any effect on the  
21      guy, ey. I have seen other people, smaller build than  
22      myself using a baton as well. I have yet to see

**TRANSCRIPT OF THE INQUIRY**

1           somebody drop by getting hit by a baton.

2           Q. You explained to Senior Counsel to the Inquiry the  
3           occasion you used the baton and --

4           MS GRAHAME: May I interrupt, I'm very, very sorry to do so.  
5           I have just received a message that the stenographer is  
6           really in need of a break at the moment and I'm very  
7           sorry, I appreciate that you may be nearing the end, but  
8           she is finding this difficult because she hasn't had  
9           a break.

10          LORD BRACADALE: I can see on the transcript (inaudible)  
11          "fill in later". We will take a ten-minute break just  
12          now. You will still comfortably finish, will you?

13          MR MCCONNACHIE: Oh, yes.

14          LORD BRACADALE: Very well.

15                   (Pause).

16                   Yes, Mr McConnachie.

17          MR MCCONNACHIE: Thank you, sir.

18                   For the benefit of all concerned I don't have very  
19                   long to go at all. You were asked some questions about  
20                   a complaint and the one I'm interested in is the one in  
21                   2010 which involved I think the attempted execution of  
22                   a warrant.

**TRANSCRIPT OF THE INQUIRY**

1 A. Yes.

2 Q. Do you remember what sort of warrant it was, in the  
3 sense of was it a search warrant, an arrest warrant?

4 A. I think it would be an apprehension warrant.

5 Q. An apprehension warrant. And if I understood what you  
6 said previously, other officers, not you, other officers  
7 had attempted to execute that warrant prior to you  
8 attempting to execute it?

9 A. Yes.

10 Q. And insofar as any instructions were concerned, there  
11 was nothing relating to those prior attempts which  
12 alerted you to any suggestion that there was an issue  
13 with regards to understanding?

14 A. That's correct.

15 Q. The last thing I wanted to ask you about is the  
16 suggestion, or the allegation from your grandfather that  
17 you made a particular comment to him.

18 So far as your grandfather is concerned, am I right  
19 in thinking he is now deceased?

20 A. Yes.

21 Q. Do you know when that was?

22 A. A year ago? I don't know.

## TRANSCRIPT OF THE INQUIRY

- 1 Q. At the time he provided a statement he seems to have  
2 been aged 88 at that time. Yes. Now, I don't want to  
3 delve into family disputes, but is it fair to say that  
4 there is something of a schism within the family?
- 5 A. Yeah.
- 6 Q. And in particular that that is between yourself and your  
7 sister?
- 8 A. Yes.
- 9 Q. And your sister's name is Karen Swan?
- 10 A. That's right.
- 11 Q. And her husband's name is Barry Swan?
- 12 A. Yeah.
- 13 Q. And they, I think, provided statements in relation to  
14 various matters?
- 15 A. Yes, and they --
- 16 Q. Which you will have seen?
- 17 A. -- and they orchestrated the BBC media broadcast as  
18 well.
- 19 Q. How long has that dispute been ongoing?
- 20 A. 2005.
- 21 Q. So, as we sit here now, some 17 years?
- 22 A. Yes.

**TRANSCRIPT OF THE INQUIRY**

- 1 Q. Back in 2015, perhaps 10 years?
- 2 A. Yes.
- 3 Q. And so far as that is concerned, am I right in saying  
4 that that has pretty much meant there's no relationship  
5 between yourself and your sister and her husband?
- 6 A. There is no relationship.
- 7 Q. And indeed, there was not in 2015?
- 8 A. No.
- 9 Q. So far as your grandfather is concerned, if one wants to  
10 split it into two sides, as it were, which side was he  
11 on?
- 12 A. Karen and Barry's side.
- 13 Q. And from a remark you made to Senior Counsel to the  
14 Inquiry, did you consider he was influenced by them?
- 15 A. Yes.
- 16 Q. As at August 2015, so I suppose shortly after the  
17 incident that we're interested in, how often were you  
18 seeing your grandfather?
- 19 A. Not very often. That was the first time I see him in  
20 six months maybe.
- 21 Q. On the day that you saw him, do you remember what you  
22 were actually doing?

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1 A. I was in the bakery department of Morrison's and we kind  
2 of struck up a conversation. He was telling me about  
3 a -- he was looking for my sort of -- my police thoughts  
4 on a dispute he was having with a neighbour across the  
5 drive regarding a fence that had been built up the  
6 middle of the drive and I was just -- he was asking how  
7 the kids are going, kids are and such-like, and I was  
8 saying "You will have to come up and see the kids", so  
9 that was -- that was kind of how it left -- it left on  
10 good terms.

11 Q. When you say you said to him "You will have to come up  
12 and see the kids", this is your children you're talking  
13 about?

14 A. Yes.

15 Q. And at that time, how long was it since he had seen the  
16 children?

17 (Pause).

18 Roughly?

19 A. A couple of years, maybe longer.

20 Q. Right, we are talking years?

21 A. Aye.

22 Q. And your suggestion that you should come up and see the

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1 kids, was that some sort of attempt at reconciliation,  
2 as it were?

3 A. Yes, aye. I had nae fallen out with my grandad about  
4 anything so he was more than welcome to come up to the  
5 house to see the kids or that.

6 Q. And was there any discussion between you and him about  
7 your feelings towards black people or any other ethnic  
8 minority?

9 A. No, it's absolute nonsense.

10 MR MCCONNACHIE: Thank you, sir.

11 LORD BRACADALE: Mr Paton, thank you very much for coming to  
12 give evidence to the Inquiry. When I rise, you will be  
13 free to leave.

14 A. Thanks.

15 (End of pre-recorded evidence)

16 Statement by LORD BRACADALE

17 LORD BRACADALE: Before I hear any applications under  
18 Rule 9, I want to pick up on two matters. First, by way  
19 of explanation, when Mr Paton was giving evidence about  
20 obtaining an interpreter, you heard another voice speak.  
21 That was the appropriate adult who was just trying to be  
22 helpful, but as Senior Counsel to the Inquiry explained

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1 to her, she could not give evidence.

2 The second matter is the reference to certain  
3 statements. In the course of his examination of  
4 Mr Paton his senior counsel, Mr McConnachie, made  
5 reference to statements from two officers. These  
6 statements were obtained by the legal representative of  
7 Mr Paton and were provided to the Inquiry on the day  
8 before Mr Paton's evidence was recorded.

9 As I have said before, the Inquiry is  
10 an inquisitorial Inquiry which conducts its own  
11 investigations. I have discouraged core participants  
12 from providing to the Inquiry statements of potential  
13 witnesses. On the other hand, I have encouraged core  
14 participants to suggest lines of investigation.  
15 I propose to treat these statements as a suggested line  
16 of investigation. The statements will not be disclosed  
17 at this stage. I shall take advice and consider whether  
18 further investigation of this matter by the Inquiry  
19 would be likely to assist me in fulfilling the Terms of  
20 Reference.

21 Now, are there any Rule 9 applications? Mr Anwar,  
22 anybody -- Mr Moir. Nobody else. Right.

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1           Mr Anwar, if you would like to come to the table  
2           please, and Mr Moir, there's a seat for you as well.

3           (Pause).

4           Yes, Mr Anwar.

5                           Application by MR ANWAR

6           MR ANWAR: Obligated, sir.

7           Mr Paton had stated in a statement, PIRC statement  
8           I believe, that he stated:

9           "Straight away I remembered that there had been  
10          a rumour going about Kirkcaldy Police Station that  
11          somebody intended to cause harm to a female cop."

12          And he goes on to say that:

13          "For a number of months checks have also been  
14          carried out by officers at a number of identified  
15          locations in Kirkcaldy due to the increased terrorist  
16          risk. It also ran through my mind that this male could  
17          be part of a terrorist plot."

18          We would submit, sir, that evidence suggests that  
19          there was no official warning with regards to a female  
20          officer and we would also wish explored the identified  
21          locations in Kirkcaldy due to increased terrorist risk  
22          that Mr Paton speaks of in his statement and whether

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1 Hayfield Road was one of these locations.

2 We also would request a question to be asked of him  
3 in relation to did he make a link with terrorist plots  
4 when dealing with other knife incidents such as the one  
5 in PDR 2012? In how many knife crimes did Mr Paton  
6 press his emergency button? In how many knife crimes  
7 did he restrain those individuals to the ground? In how  
8 many of those did he deploy CS or PAVA spray? And how  
9 many of those were black, Asian or any other minority  
10 ethnic group?

11 Earlier in his evidence, sir, he stated:

12 "Let's face it, he was on a mission to try -- his  
13 sole purpose on going on the streets with a knife was to  
14 try and find Saeed Zahid, probably with the intention of  
15 killing him".

16 It's important to state, sir, that nothing has been  
17 established about what was going through Sheku Bayoh's  
18 mind that Sunday morning but what we do know from  
19 evidence was that he was undergoing some form of  
20 a mental health crisis. The family wish put to  
21 Alan Paton in the form that there is no evidence  
22 establishing that Sheku Bayoh was returning with

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1 the sole purpose of going on the streets with a knife to  
2 try and find Saeed Zahid probably with the intention of  
3 killing him. This witness has been given wide latitude  
4 and I understand that's because of the claims, or the  
5 evidence that's been provided that he suffers from  
6 post-traumatic stress syndrome, however the family do  
7 not believe that he should be allowed to state widely  
8 speculative statements without it being questioned.

9 In relation to his statement to the Inquiry he  
10 states:

11 "From my statement I was convinced he was breathing.  
12 I believe I saw the rise and fall of his chest. I also  
13 believe this was in keeping with my training."

14 The question we would ask of Mr Paton is how was it  
15 possible to see the rise and fall of his chest if he was  
16 resisting and if he had stopped resisting? What was  
17 done to monitor the breathing? And what was the correct  
18 procedure?

19 Moving on to the issue of racist terminology, this  
20 witness was asked about the use of the term "Boy", which  
21 he has used throughout his statement:

22 "The boy continued to walk towards me with his palms

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1 open. Facing me he was smiling at Craig and wiped the  
2 CS spray off his face, the boy was face up".

3 And he was also asked later on in the evidence  
4 about:

5 "Question: ... how much importance do you place on  
6 communication as a skill, as a tactic to de-escalate  
7 a situation?

8 "Answer: Well, I did try and communicate, but you've  
9 got to have it from the other side. If it he is not  
10 engaging back with you, if he is not even telling you to  
11 'fuck off' or ... you ken, 'it wasn't me boss'..."

12 Can Mr Paton be asked when you consider the use of  
13 "the boy" throughout to describe Mr Bayoh, which he  
14 denies has any racist connotation, combined with the  
15 words "It wasn't me boss", could he be asked whether he  
16 would consider that to be accepted as being racist or  
17 offensive.

18 On the issue of the assessments whilst travelling --  
19 whilst at the locus, he states that he saw Sheku Bayoh  
20 walking towards him with palms facing upwards. In his  
21 PIRC statement 00262 at page 4 he states:

22 "With my spray in my right-hand and pointing in the

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1 direction of the man I shouted loudly and very clearly  
2 'get down on the ground'. The guy was walking towards  
3 me and completely ignored me. He kept walking towards  
4 me with his palms out and I remember thinking how crazy  
5 he looked and if he was on a mission. I was in genuine  
6 fear for my life and this point I pressed my red  
7 emergency button and shouted loudly, clearly 'get down  
8 on the fucking ground'. My shouting and pointing of my  
9 spray had absolutely no bearing on him and he kept  
10 walking towards me ignoring me as if he was in  
11 a one-track mind and I was terrified and thought I was  
12 going to get attacked by him."

13 The question we would wish further asked of Mr Paton  
14 is why did he assess Mr Bayoh who continued to simply  
15 walk as threatening? What exactly was it about this  
16 black man who appeared not to be registering any  
17 response that terrified Mr Paton so much, on the basis  
18 that Mr Paton himself was half a foot taller and some  
19 five stones heavier, armed with weapons that he could  
20 use, with back-up on its way, and also a partner who was  
21 assisting him who was 6 foot 4 and 25 stones,  
22 PC Craig Walker.

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1           With regards to the action at the locus in relation  
2 to CS spray and PAVA spray he states in evidence:

3           "I genuinely thought I was going to die. It goes in  
4 slow motion and I had -- when I was curled up I had  
5 visions of -- your sides are exposed, the back of your  
6 neck's exposed. I expected a meat cleaver or a knife in  
7 the side of the neck. And then you start to have the  
8 thoughts 'Am I going to get home from my shift tonight?,  
9 'Am I going to see my wife again?' 'Am I going to see  
10 my kids again?' and that's what still causes me  
11 problems, ey, that's the main part of my PTSD that  
12 I just cannae get out of my mind. You were thinking the  
13 worst. I was thinking the worst."

14           The question that we would ask -- wish asked of  
15 Mr Paton is Sheku Bayoh take advantage of the  
16 vulnerability of Mr Paton once the spray blew back into  
17 his eyes? It is a matter of fact that Sheku Bayoh did  
18 not attack Mr Paton. When the CS spray blew back into  
19 PC Paton's face, did he feel vulnerable to attack, was  
20 he angry, and could he confirm it is simply the case  
21 that Mr [Bayoh] carried on walking by him.

22           In relation to the issue of restraint in evidence he

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1           stated:

2           "It was whilst I was still holding his bicep with  
3           the baton I noticed there was no resistance with regard  
4           to him trying to lift up his arm. I am only really  
5           conscious of his arm. I could not really see the rest  
6           of the torso because of Craig's back. The guy did not  
7           speak or scream throughout the incident".

8           "Question: So do you remember saying this to the  
9           PIRC at the time?

10          He was asked:

11          "Answer: Mm-hm".

12          And then he goes on in his evidence:

13          "Question: And you have talked about him  
14          aggressively fighting and resisting. Can you describe  
15          to us how he was moving when he was on the ground?"

16          And he answers:

17          "Answer: Just wriggling all over the place and his  
18          arms were sort of ... and his legs were flailing and --  
19          that's the best I can describe."

20          He is asked:

21          "Question:How hard was he resisting?

22          "Answer:He was resisting -- considering the size of

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1 the guys that were trying to stop him resisting, he was  
2 resisting a fair bit."

3 And he is questioned:

4 "Question: Who were the guys that were trying to  
5 stop him resisting?"

6 Mr Paton has said in his he was and in his  
7 statements that Sheku Bayoh was aggressively fighting,  
8 that he was resisting, and the question that the family  
9 wish asked of Mr Paton is did he ever think that  
10 Sheku Bayoh might have been struggling because he could  
11 not breathe? He has already stated that Sheku Bayoh  
12 never said a thing throughout the incidents. We know  
13 from the evidence of Kayleigh Good, the civilian  
14 eye-witness, that she could hear screams that sent  
15 chills through her body and that she could hear loud  
16 screams of "Get off me". We also heard from a police  
17 officer saying that Sheku Bayoh was aggressively  
18 groaning. The family would wish questions asked about  
19 whether Sheku Bayoh was making screaming noises, moaning  
20 noises, groaning noises, that PC Paton -- Mr Paton  
21 stated that he was resisting, was he not saying  
22 anything, would he accept it was possible that he was --

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1 Sheku Bayoh was struggling because he could not breathe?  
2 Did he hear him say the words "Get off me" or "I can't  
3 breathe", and, sir, whilst I appreciate that you have on  
4 a previous occasion talked about the issue of  
5 Sheku Bayoh being important and central to this case and  
6 talked of the totality of the evidence, we would submit  
7 that this is a critical police witness involved in the  
8 restraint of Sheku Bayoh and should be asked these  
9 questions as he gave such vivid explanations in his  
10 statements and in his evidence and various claims that  
11 have been made that as far as the family are concerned  
12 are attempts to smear, to stereotype and to stigmatise  
13 Mr Bayoh.

14 Mr Paton goes on to state that Sheku Bayoh was  
15 making no restraint during -- making no noise during the  
16 restraint. The question that we would wish explored  
17 with Mr Paton was, was that because he was unconscious?

18 If he did not believe he was unconscious then the  
19 question that arises is why did he slap him or pat him  
20 to the side of his face? Did Mr Paton think that  
21 Sheku Bayoh was faking it? The question that we would  
22 wish asked of this witness is that when Sheku Bayoh's

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1 body is placed in the ambulance, why were the restraints  
2 and the handcuffs not removed? What was the correct  
3 method of restraint and was he aware of the dangers of  
4 methods that he had used including the use of his baton  
5 to restrain Sheku Bayoh on the ground?

6 In his Rule 8 statement at paragraph 59 he states:

7 "After giving the attending paramedics an update of  
8 the situation, I returned to my van. I have no  
9 knowledge of what they did thereafter."

10 The question that we would wish explored from this  
11 witness is why did he not tell the paramedics about the  
12 use of CS and PAVA spray.

13 Mr Paton throughout his evidence repeatedly  
14 mentioned the use of Flakka which he knew from his  
15 research on YouTube or Google. If he was so well-versed  
16 in the issue of Flakka, why did he not mention it to the  
17 paramedics who attended as this would have been  
18 a significant concern and significant issue to raise  
19 with the paramedics.

20 Did he not think that -- another question that the  
21 family wish raised is about the covering of  
22 Sheku Bayoh's body before commencing CPR or part of his

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1 body after CPR was commenced to try and keep him warm,  
2 and if he was not covered, why not.

3 In evidence earlier Mr Paton stated when he was  
4 questioned:

5 "Question: Although he was lighter than you and  
6 PC Walker and smaller. What was it about him that made  
7 you describe him as large.

8 "Answer: Because he was large, he was black, and he  
9 was ... male."

10 And he is questioned again:

11 "Question: [When] you say he was large, what do you  
12 mean by that?

13 "Answer: His physique, his muscles, his neck muscles,  
14 his biceps, his chest.

15 "Question: So it was ...

16 "Answer: He was a steroid user, ey, so he was pumped  
17 up."

18 Repeatedly through his evidence Mr Paton has stated  
19 about the use of steroids. He has not been asked the  
20 question that it was impossible for Mr Paton to say if  
21 Sheku Bayoh had ever used steroids and how he would know  
22 of this on 3 May 2015. The family would wish this

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1 witness questioned on who provided him this piece of  
2 information, was it the Scottish Police Federation, was  
3 it the PIRC, was it Police Scotland and if so when?

4 The family want these areas examined on the basis of  
5 there is a need to explore the racist stereotyping here  
6 and the attribution of superhuman strength. Each  
7 officer up until now has denied the stereotypes whilst  
8 maintaining the use of them and it is essential that the  
9 responses of previous witnesses are not used by the  
10 Chair to pre-judge police officers that follow but for  
11 each officer to be tested and explored on such  
12 stereotypes, otherwise how else can the Inquiry  
13 investigate if institutional racist culture is at play.

14 The Angiolini review of deaths and serious incidents  
15 in police custody in 2007 in brief states:

16 "The stereotyping --"

17 LORD BRACADALE: Mr Anwar, I really have to interrupt you  
18 there, I'm sorry. What I'm wanting from you is an  
19 indication of a line of questioning that Counsel to the  
20 Inquiry should ask at any continued hearing. I don't  
21 need justification by way of reference to the Angiolini  
22 report. So you can bear that in mind in anything

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1 further you have to say.

2 MR ANWAR: I'm obliged, sir. I will move on.

3 In relation to exploring the questions -- the return  
4 to the station. As soon as Mr Paton is back at the  
5 station he spoke to Austin Barrett who was a Scottish  
6 Police Federation representative. Craig Walker had  
7 asked him to arrange for a Federation representative as  
8 he believed we would -- as he believed that they would  
9 require it. The question that we wish explored from  
10 Mr Paton is did he or Craig Walker state to  
11 Austin Barrett that they had "killed a man" and what was  
12 meant by this. Why did they need a Federation  
13 representative and what did they think that they could  
14 do to help him?

15 He states:

16 "When I arrived at the office I went upstairs and  
17 changed out of my uniform as it had been contaminated by  
18 CS spray and PAVA spray. I put my CS spray back into my  
19 locker along with my Airwave radio. I put my uniform in  
20 locker room 4 outside my locker."

21 The question we would wish explored from this  
22 witness is: did he not think that these items may be

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1 important as evidence that would require to be preserved  
2 and examined?

3 Mr Paton spoke in his evidence:

4 "Answer: I remember going into the station. I went  
5 into the station because Stephen House was -- had called  
6 a meeting. Whether that was just an excuse to get  
7 everybody to go, I don't know."

8 We are aware from previous evidence and the family  
9 is aware that there was a meeting with Chief Constable  
10 Stephen House and they would wish explored from this  
11 witness when did that happen and -- when did that happen  
12 and what happened at that meeting?

13 Moving on from that, he states:

14 "Answer: I don't remember seeing any other officer  
15 discharge CS or PAVA at the man, although I do believe  
16 that Ashley did from a conversation after the event."

17 We would wish the question asked, "What else was  
18 discussed? When did that conversation take place?"

19 Moving on to the issue of Mr Paton's family, in the  
20 PIRC statement 00468, at page 5 of 8, Karen Swan, his  
21 sister, said that Alan Paton wished to join the British  
22 National Party, a racist Nazi organisation, when he was

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1           16 years old. She also spoke of his racist --

2           LORD BRACADALE: Mr Anwar, I have to interrupt you again  
3           here. These are matters which will -- if they are to be  
4           explored at all, will be explored separately. They may  
5           not -- they may be collateral matters, but this witness  
6           cannot himself comment on something that his sister is  
7           said to have said.

8           MR ANWAR: Well, the basis of that was on -- this witness  
9           has been asked about his grandfather, William Paton, and  
10          the allegations he has made and his sister Karen Swan,  
11          who I understand will be a witness in the future, or  
12          suspect will be a witness in the future, also has made  
13          a statement to the Inquiry -- has made a statement to  
14          the PIRC and it is on that basis that I was wishing that  
15          question asked, but I will move on, sir.

16          His counsel, senior counsel -- or Mr Paton spoke of  
17          the orchestration of the BBC News. Following the BBC  
18          News item, the family would wish asked whether any of  
19          the allegations of racism made against him -- whether he  
20          was contacted by the professional standards at  
21          Police Scotland in relation to that matter.

22          They wish asked of this witness that Mr Paton's wife

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1 Pamela in her statement says that he happily bumped into  
2 his granddad in Morrison's and had invited him to the  
3 house, and the question the family would wish asked, "If  
4 he was on such good terms with Mr Paton senior, why  
5 would he suddenly make up such an allegation?"

6 Again, sir, you may wish to -- you may wish this to  
7 be addressed at a different stage of these proceedings,  
8 however the family wish this raised. They state that  
9 Karen Swan in her statements to the PIRC stated that  
10 there was an Asian family who Mr Paton used to make  
11 racist remarks to when he was a young man and he wanted  
12 to join the BNP and that his mother --

13 LORD BRACADALE: Mr Anwar, you're just repeating the matter  
14 that I suggested you shouldn't explore at this stage.

15 MR ANWAR: I will move on, sir.

16 I will simply close in relation to the matter about  
17 hating all blacks and the terms in the racist  
18 terminology that's been used. We would submit that it  
19 is essential that these matters are explored at length.  
20 This isn't the usual required nuanced and layered  
21 approach that has been adopted in dealing with all the  
22 police officers, but it is direct evidence of overt

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1 racism which Mr Paton is -- his grandfather has given  
2 evidence and also there are statements taken from his  
3 family.

4 I understand that my learned friend may also have  
5 questions that crossover and I will wait to see what he  
6 says.

7 LORD BRACADALE: Yes, thank you, Mr Anwar.

8 Mr Moir.

9 Application by MR MOIR

10 MR MOIR: Sir, I have two points I would wish the Chair to  
11 consider. The first relates to a paragraph in PIRC  
12 statement 00396 at page 9 and I think it's the paragraph  
13 that starts off "Karen and I discussed these events ..."

14 Now, I draw a distinction here between my friend  
15 Mr Anwar's comment about the British National Party and  
16 the comments on that and it doesn't relate to that,  
17 my Lord. What it relates to are direct comments  
18 attributed to Mr Paton by Mr Shaw, his brother-in-law --  
19 this is the statement from him -- where he indicates  
20 that Mr Paton in the early years had made a number of  
21 jovial and humorous jokes. He didn't consider there to  
22 be vindictiveness in them himself but the reference to

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1 the jokes were, and I quote, "that black bastard" or  
2 "the Paki jokes":

3 "I never challenged them because I perceived it as  
4 a laugh. I didn't ever feel that he meant the  
5 comments."

6 These are jokes, however, that I would submit to the  
7 Chair are wholly inappropriate jokes for a police  
8 officer to be making, albeit he wasn't no doubt a police  
9 officer at that time, but they perhaps give some insight  
10 into his mental attitude and they were comments that  
11 were made directly to the witness by Mr Paton, so that's  
12 the first thing I would wish Counsel to the Inquiry to  
13 consider asking and the Chair to consider allowing to be  
14 done.

15 The second matter, sir, relates to the transcript  
16 from today at page 166, bleeding into 167, where Counsel  
17 to the Inquiry asked:

18 "Question: How confident now -- looking back, how  
19 confident were you in the training that you had  
20 received -- you have made comments earlier today about  
21 the training in relation to handling an incident of this  
22 sort; how confident were you in the training that you

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1 had had in equality and diversity, matters relating to  
2 race?"

3 He goes on to say:

4 "Answer: I think it probably could be improved if  
5 I'm being honest, ey. Maybe every two years or  
6 something like that would be handy."

7 And then the question then is:

8 "Question: So maybe more than --"

9 And:

10 "Answer: Done for the right purposes and for the  
11 right reasons. I think they probably could do more  
12 because -- I mean, I have heard some people that's given  
13 evidence saying that their last input was when they were  
14 up at Tulliallan. Well, that's not really acceptable in  
15 my opinion, and everybody likes a wee day out course,  
16 ey."

17 And then it goes on to say:

18 "Answer: Maybe more regular training but not rammed  
19 down your throat, not every year. Something every two  
20 years would be enough."

21 I would ask that this whole passage of evidence is  
22 explored because the implication that's being made there

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1 is that Mr Paton is implying that he may think there may  
 2 be wrong purposes for equality, diversity and race  
 3 training and the reference -- so how much more regular  
 4 training, the reference to "not rammed down your throat"  
 5 perhaps implies a hostility towards ethnicity, diversity  
 6 and race training, my Lord, so I would like that further  
 7 explored and expanded upon if possible, my Lord.

8 LORD BRACADALE: Thank you, Mr Moir.

9 Well, given the time, I will consider these  
 10 submissions overnight and I will give my decision  
 11 tomorrow morning.

12 (4.40 pm)

13 (The Inquiry adjourned until 10.00 am on Wednesday,  
 14 22 June 2022)

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