

1 Friday, 13 May 2022

2 (10.00 am)

3 LORD BRACADALE: Good morning. One of the Assessors,
4 Raju Bhatt, is not present in the building today, but he
5 is following proceedings remotely. There may be times
6 during the hearings when one or other, or both, of the
7 Assessors who are London-based may not be present but
8 they will be following the proceedings remotely.

9 Now, Ms Grahame, who is the witness today?

10 MS GRAHAME: My first witness is Zahid Saeed.

11 LORD BRACADALE: Good morning, Mr Saeed. You're going to be
12 asked questions by Ms Grahame whom I think you met
13 earlier. If at any time you want a break, would you
14 just let us know and we can take a break. I want you to
15 feel as comfortable as possible.

16 Can I ask you first then to say the words of the
17 affirmation after me.

18 MR ZAHID SAEED (affirmed)

19 Questions from MS GRAHAME

20 LORD BRACADALE: Ms Grahame.

21 MS GRAHAME: Thank you very much.

22 Mr Saeed, good morning.

23 A. Good morning.

24 Q. You have a folder in front of you.

25 A. Yes.

1 Q. And it has three statements in it and you can refer to
2 that at any time that you would like to. It is your
3 Inquiry statement, SBPI00071, and then two statements
4 that you gave to PIRC on 3 May and 8 May 2015, so you
5 should have all three of them there.

6 A. Okay.

7 Q. If I want to refer to any part of your Inquiry statement
8 I will ask Ms Wildgoose and she will bring it up on the
9 screen in front of you, that's just right in front of
10 you, but if you wish to look at the hard copy, if that's
11 easier for you, please do so.

12 A. Okay.

13 Q. All right. I would like to begin, first of all, we
14 heard you speak in the video that we listened to and
15 watched on Tuesday and you had some warm comments about
16 your friend, Sheku Bayoh, and I wondered if I could ask
17 you just some questions about your friendship with him.
18 For example, how long had you actually known him?

19 A. I have known Shek since the age of 17/18.

20 Q. How did you meet?

21 A. Through Ade Johnson at Frae Fife youth group.

22 Q. Addy was his brother-in-law?

23 A. That's correct.

24 Q. And Frae Fife, is that an organisation?

25 A. Yes.

1 Q. What do they do?

2 A. It was a youth group for teenagers to get together from
3 different backgrounds. We organised events, going away
4 trips, sports events as well. Yes.

5 Q. Were you similar ages?

6 A. Yes, we were.

7 Q. Did you hit it off straight away?

8 A. We did, we did. We became very close friends, very good
9 friends.

10 Q. Do you mind me asking how old you are now?

11 A. I'm 38.

12 Q. So you knew him a long time?

13 A. I have known him for a very long time.

14 Q. When you spoke about him very warmly on the video you
15 described him as your brother?

16 A. Yes, that's correct.

17 Q. Is that how you felt about him?

18 A. Yes, I did.

19 Q. How often did you see him?

20 A. Quite often. Quite often, yes. Now and again.

21 Q. And did you stay in touch on the phone if you weren't
22 seeing him or any of that?

23 A. Yes. We used to keep in touch quite often, on the
24 phone, by text or by social media.

25 Q. Thanks. Can I ask you a question about his general

1 health. Do you know if he kept good health?

2 A. Fit and well, always at the gym after work, health was
3 good.

4 Q. And do you -- we may hear that he took -- occasionally
5 took steroids as part of going to the gym. Was he on
6 any sort of programme with those?

7 A. That I don't know, I'm sorry.

8 Q. Okay. Can I ask you to look at your Inquiry statement
9 please, so that's in the hard copy, so that's SBPI00071,
10 and Ms Wildgoose will bring that up on the screen and we
11 see on the front page it's your statement and it was
12 taken on 22 March this year. Do you have that in front
13 of you?

14 A. Yes.

15 Q. And for the purposes of today could I ask you to look at
16 the final paragraph. That's on I think page 22,
17 Ms Wildgoose, paragraph 33. You said:

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

22 Do you see that there?

23 A. Yes.

24 Q. And you were given the chance to look over the
25 statement, make sure you were happy with it and then you

1 were asked to sign it?

2 A. Correct.

3 Q. And if we go to the bottom I think you might actually
4 see your signature. Oh, it has been redacted, we don't
5 see it, but you did sign it and it was signed on every
6 page?

7 A. Yes. I was in a rush.

8 Q. But you did sign the statement, you were happy with it
9 at the time?

10 A. I was in a rush.

11 Q. Okay. Do you want to make any changes to your statement
12 today?

13 A. I'm not sure.

14 Q. Okay. I will take you through it and you can let us
15 know.

16 Can I ask you first of all about the Saturday night,
17 so that's 2 May, the night before. There was a family
18 party, is that right?

19 A. (Inaudible overspeaking) --

20 Q. Sheku's family.

21 A. Yes.

22 Q. And were you at that party?

23 A. Yes.

24 Q. How was Sheku on that occasion?

25 A. Happy.

1 Q. And -- I wonder if -- would you mind pulling your
2 microphone forward just ever so slightly and pointing it
3 towards you and that might help. I think the sound is
4 a little bit quiet in here today. I will do the same.

5 You were at the party with him?

6 A. Correct.

7 Q. And who else was there, do you remember?

8 A. His family.

9 Q. Was he drinking at the party?

10 A. I can't remember.

11 Q. Okay. But he seemed happy to you?

12 A. Yes, full of joy.

13 Q. Full of joy. How was he behaving at the party? Was
14 there anything unusual about his behaviour at that time?

15 A. No. He was happy, he was friendly with everyone,
16 talking, offered me food as his family, make me feel
17 welcome. I have known the family for a very long time
18 so I felt comfortable, so ...

19 Q. And was that how he normally behaved?

20 A. All the time, yes.

21 Q. That's the way he was?

22 A. That's how I will always remember him.

23 Q. Can I move on to the 3 May and can I ask you about after
24 the party, so after the family party did you go back to
25 Sheku's house with him?

1 A. Yes.

2 Q. And tell us what you were doing in Sheku's house?

3 A. I can't remember, it has been seven years.

4 Q. Can I ask you to look, please, at a paragraph in your
5 Inquiry statement. Ms Wildgoose will bring it up on the
6 screen and can we start with paragraph 5, please. If
7 you prefer, you can look at the hard copy, but you will
8 see that the statement says:

9 "We arrived after 10 o'clock back at Shek's house.
10 We had a few drinks at the house and listened to some
11 music. We were looking forward to watching the fight."

12 Was that the Merryweather fight?

13 A. Mayweather fight, yes.

14 Q. Sorry, my mistake; Mayweather. Thank you:

15 "The original plan was that we were supposed to go
16 back to Shek's house to watch a boxing match."

17 I should have carried on reading the next line:

18 "I think it was Floyd Mayweather and ..."

19 And please don't ask me to pronounce the other man's
20 name: Pacquiao?

21 A. Pacquiao.

22 Q. Pacquiao, okay, thank you. So you were going to watch
23 that fight that night:

24 "... we were looking forward to watching the fight
25 but Sheku didn't have Sky or the pay-per-view for the

1 fight. We arranged to watch the fight at our friend
2 Martyn Dick's house. I can't remember the address of
3 Martyn's house but Martyn invited us to his house to
4 watch the fight after he finished work at 3.00 in the
5 morning."

6 So does Martyn work shifts?

7 A. Yes.

8 Q. And was that the plan for that evening?

9 A. It was a last-minute plan. I think so. I can't
10 remember honestly. It is seven years ago.

11 Q. But now that you see the statement there, does that
12 remind you?

13 A. Yes.

14 Q. And then can we look at paragraph 6, please. Thank you.
15 You were asked by the Inquiry team, when you gave this
16 statement, in March:

17 "I am asked what we were doing between arriving at
18 Sheku's house and going to Martyn Dick's house. I am
19 asked how Sheku was presenting at that time. Sheku was
20 so happy and full of joy. We had music on and were
21 talking. I am afraid there were drugs used. Sheku had
22 taken MDMA and Ecstasy. We were both taking substances.
23 Sheku had taken drugs before in my company. He would
24 take them just the same as everybody else, when
25 everybody's going on a night out or getting together

1 with friends. Recreational use. I am asked about the
2 quantity Sheku took that night. I don't know to be
3 honest because I wasn't really paying attention or
4 measuring, but Sheku is quite safe with drugs. He would
5 always give drugs in a smaller dose because he had
6 explained to me that he was always worried about someone
7 taking a stroke or the side-effects you can have with
8 drugs. He would not overdo it with drugs. I am asked
9 about the previous occasions in which Sheku has taken
10 drugs and the effect it had on him. Like I said, he
11 would be happy, full of joy, talkative and full of
12 energy and love."

13 And that's paragraph 6 of your statement. I would
14 like to ask you some more questions about that.

15 A. Okay.

16 Q. Can we go up to the top, please, so that we can see it
17 as I go through. Can you tell me what's the difference
18 between MDMA and Ecstasy?

19 A. I don't know, I'm sorry.

20 Q. What's your understanding? Because you have made the
21 distinction there and I'm not sure what the distinction
22 is.

23 A. I really don't know, I'm sorry.

24 Q. Are they different colours?

25 A. I can't remember really, it's seven years ago, I'm

1 sorry.

2 Q. Well, I'm asking about your statement which you gave
3 in March.

4 A. I can't remember honestly, it's seven years ago.

5 Q. Well, can I ask you about paragraph 30 of your
6 statement, Mr Saeed, because this is the statement that
7 you have told us you gave on 22 March this year to
8 a member of the Inquiry team and on 22 March you said:

9 "I am asked about the appearance of MDMA. It was
10 a crystal brow look ..."

11 That might be "brown", I don't know:

12 "It is a brownish white colour. It is crystal like
13 a sugar cube. I am asked whether the white substance in
14 the money bag could have been MDMA. Yes, in my view
15 that was MDMA. I am asked about the purple tablets.
16 They were Ecstasy."

17 So it seems on 22 March you remembered that they
18 were different colours and you gave an explanation. Are
19 you saying now that --

20 A. It has been seven years. I really can't remember
21 anything to be honest.

22 Q. Well, that's very disappointing, Mr Saeed, because I'm
23 struggling to understand why you remembered in March but
24 you're not remembering today. There's no judgment here.
25 We would just really like you to explain what you said

1 in your statement.

2 (Pause)?

3 A. I can't remember. I think maybe.

4 Q. Maybe. Maybe the MDMA is a different colour from the
5 Ecstasy?

6 A. I really don't know anything about drugs, I'm sorry.

7 Q. Well, your statement would suggest that you do know
8 something.

9 A. After Shek was killed, yes, when I did my research
10 online.

11 Q. Okay, well, tell us what you know now about the
12 distinction between MDMA and Ecstasy?

13 A. What I know now -- what I read online or ..?

14 Q. Tell me what you understand the distinction to be now?

15 A. Well, I read online that it makes you happy and --
16 I really don't know, I'm sorry.

17 Q. What is it you don't know? Can you understand that I'm
18 struggling to understand why you have given this
19 statement on 22 March, giving quite a lot of explanation
20 and information and you signed that statement --

21 A. In a rush.

22 Q. Well, in a rush or otherwise, you weren't forced to sign
23 this statement and you did sign it, and now you have
24 come here today for some reason and you're saying you
25 know nothing.

1 A. I didn't ask to be here.

2 Q. I appreciate that.

3 A. And to be honest, I have only given half a statement and
4 the second half of the statement I would like to issue
5 that today, if that's okay.

6 Q. Well, no, it's not okay at the moment.

7 A. How come?

8 Q. Do you understand that we have a recording of your
9 statement, of you speaking, and I understand that you
10 spent around 3 hours with a member of the Inquiry team?
11 I don't really want to have to play that recording, but
12 that is an option open to us.

13 A. Okay.

14 Q. Obviously I would much rather just simply go through
15 your statement and ask you some additional short
16 questions about it than have to go through that process.

17 Would you like to have a think about it?

18 A. Okay. Yes.

19 Q. You would like to have a think about things for
20 a moment?

21 A. Yes.

22 MS GRAHAME: Thank you. I wonder if it would be possible to
23 have just a very brief recess at the moment.

24 LORD BRACADALE: We will adjourn.

25 MS GRAHAME: Thank you.

1 (10.18 am)

2 (Short Break)

3 (10.34 am)

4 LORD BRACADALE: Yes, Ms Grahame.

5 MS GRAHAME: Mr Saeed, during the break I have now been
6 given a copy of -- a hard copy of the original statement
7 from 22 March, and as part of this, I have asked for you
8 to be given a copy, a hard copy of this, and also for
9 the Chair to be given a hard copy. Now, we're the only
10 three people in the room that have this version, which
11 is unredacted. Let me just check that the Chair has the
12 copy?

13 LORD BRACADALE: Yes.

14 MS GRAHAME: Very good, thank you.

15 Would you look, please, at the last page. You will
16 now be able to see your signature on this page at the
17 bottom, is that correct? Can you see that?

18 A. Yes.

19 Q. And do you also see the same signature at the bottom of
20 every page?

21 A. Yes.

22 Q. 14 pages?

23 A. That's correct.

24 Q. All signed at the bottom?

25 A. Yes.

1 Q. By you?

2 A. That's correct.

3 Q. And look at paragraph 33 on the last page, please. Let
4 me just read this out:

5 "I believe the facts stated in this witness
6 statement are true."

7 Do you see that?

8 A. That's correct.

9 Q. And you signed that page with that declaration?

10 A. As I said before, I was in a rush when I signed it.

11 Q. You have signed that page with that declaration. This
12 is a formal Inquiry, set up under statute. You have
13 signed that page of a witness Inquiry statement with
14 that declaration in it.

15 A. Correct.

16 Q. It then goes on to say:

17 "I understand that this statement may form part of
18 the evidence before the Inquiry and be published on the
19 Inquiry's website."

20 So this also says:

21 "... this statement may form part of the
22 evidence..."

23 This statement which has been signed by you is
24 already evidence before this Inquiry. Do you understand
25 that?

1 A. I think so.

2 Q. Right. Even if you leave now and give no more evidence,
3 Mr Saeed, this statement that you have signed, the
4 14 pages that you have signed, is part of the evidence
5 to this Inquiry. It is available to the Chair to
6 consider, it is available to the core participants and
7 it will be published on the website of the Inquiry. Do
8 you understand that?

9 A. I think so.

10 Q. And you also understand that the Inquiry has
11 a recording, a full recording of everything that you
12 said to Ms Pang who is sitting next to you, who is
13 a member of the Inquiry team, she is the deputy
14 solicitor to this Inquiry. Do you understand that that
15 was being recorded and we have that recording?

16 A. Yes.

17 Q. And that's available to me to play in its entirety to
18 this Inquiry if I require to do so.

19 A. Yes.

20 Q. Everything you said is recorded and I can play it if
21 I have to. Is that your phone in your pocket? Would
22 you turn it off, please.

23 A. Sorry.

24 Q. You are under oath in a hearing. Is your phone off?

25 A. Yes.

1 Q. Thank you very much. So you understand that I can play
2 that whole recording if I need to?

3 A. Yes.

4 Q. I do not wish to do that, Mr Saeed.

5 A. You have to understand this is quite traumatising for
6 myself and --

7 Q. I completely understand.

8 A. -- you need to understand that I have -- I went through
9 two major traumas, so please ... I would like to take
10 this opportunity to explain the trauma I have been
11 through for the last 8 years. It's affected my
12 wellbeing.

13 LORD BRACADALE: I think we will take a break at this point
14 and assess the situation.

15 (10.39 am)

16 (Short Break)

17 (10.58 am)

18 LORD BRACADALE: Yes, Ms Grahame.

19 MS GRAHAME: Before the short break you had opened up and
20 told us about the trauma that you have experienced in
21 the past few years.

22 A. The last 8 years. One -- the first one was my son who
23 was killed. Then my friend who was murdered in police
24 custody. That's caused trauma and I don't understand
25 why I'm here to give a statement when Shek was alive,

- 1 walking, the questions you should be asking is of
2 police officers, not me. Not me.
- 3 Q. Well, could I explain to you, Mr Saeed, that the Inquiry
4 is trying to find out the truth about all the events.
- 5 A. If you want to find out the truth, you should ask the
6 officers who were there at the scene.
- 7 Q. And I want to reassure you that we absolutely will be
8 asking the officers at the scene. We will be asking
9 a lot of questions of the officers. The reason we're
10 starting with you is I'm trying to explain the story in
11 a chronological order, so we will be getting onto the
12 officers once events -- we have heard evidence about the
13 initial events and then we will move on to those at
14 Hayfield Road, so please don't feel that you are the
15 only person that is being asked to come here and give
16 evidence, you're not. You're the first of many
17 witnesses and you are an important witness for me. You
18 have given a statement, and I'm wondering are you
19 willing to help me go through your statement today?
- 20 A. I am willing to help, yes, but I'm also willing to give
21 my second half of the statement so I don't have to be
22 here again.
- 23 Q. Well, can we start with first things first, please. It
24 would really help me today if we could go to your
25 statement. I will try and minimise the questions I ask

1 you and we will get through this as quickly as we
2 possibly can.

3 A. I would like to finish this statement today, including
4 my second statement as well, if that's okay, please.

5 I honestly -- I don't want to be here.

6 Q. I realise you don't want to be here.

7 A. If you can understand how trauma feels.

8 Q. Well, what I will do, Mr Saeed -- I don't want to go
9 into that today, but what I will do is we can get a note
10 of this statement for the later parts and I will do my
11 best not to call you. I will look at it, I will see
12 what you have said in your later statement, and I will
13 do my best.

14 A. I prefer to get it over and done today so it is all
15 recorded and I don't have to be here again.

16 Q. I understand you prefer that, but that's the best
17 I could offer today.

18 (Pause).

19 Are you willing to go through the first part?

20 A. I'm willing to go through both parts --

21 Q. I know, but what --

22 A. -- Shek's and the police, how I was assaulted in police
23 custody, how they held me for 11 hours in police custody
24 without offering me any liquid and police -- and food,
25 how I was dehumanised.

1 Q. I want to get all of this evidence out at the right
2 time. I absolutely want to get all the details of that
3 from you. That is a very important part of the Inquiry
4 and you are -- what you've got to tell us is a very
5 important part of the Inquiry, but unfortunately, for
6 the purposes of this hearing, we're looking at the early
7 events, and I will go through those events with you as
8 quickly as I can, and we will focus on what you've got
9 to tell us at a later time in relation to the being at
10 the police station, but I will look at your statement
11 for that part and I will see if I can avoid calling you
12 to give evidence later. So this might be the only time
13 that you're called to give evidence and I will do my
14 absolute best to avoid calling you again.

15 A. I would like to still give my second statement today.

16 Q. It won't be enough for me, unfortunately, Mr Saeed,
17 because I'm not in a position to address that with you.

18 We've got a lot of technology that comes up on the
19 screen. Now, there's a lot of things that I would want
20 to put to you, but we don't have them set up on the
21 screen for today. Ms Wildgoose has to organise things
22 well in advance so we can bring things up on the screen.
23 It's not simple like just opening a document, so we're
24 not in a position to do that today, but we will do our
25 best not to have to call you again.

- 1 A. I'm afraid that's not good enough.
- 2 Q. Well, I'm sorry, Mr Saeed, but you're here under
3 a citation. You have sworn an oath to tell the truth --
- 4 A. I am --
- 5 Q. -- and I have offered --
- 6 A. -- I'm here to tell the truth and nothing but the truth.
- 7 Q. Good. Well, can we start with your statement because
8 I think the quicker we get on to this statement, the
9 more progress we will make and then I can let you go.
10 Are you willing to help me with this?
- 11 A. Yes, I am willing to help.
- 12 Q. Let's start then and we can make a lot of progress with
13 this statement. Let's get through this.
14 Could you have the statement on the screen, please?
15 You have a hard copy, Mr Saeed. You gave an explanation
16 about the drugs in paragraph 6 that were taken late
17 2 May/early 3 May. I will just ask you a few questions
18 about that and let's get this done.
19 Did you take the same type of drugs that evening as
20 Sheku Bayoh?
- 21 A. I can't remember.
- 22 Q. Did you take the same amount as Sheku Bayoh?
- 23 A. I can't remember.
- 24 Q. When did you stop taking drugs that evening?
- 25 A. I didn't know there was any drugs.

- 1 Q. You understand you are under oath, Mr Saeed.
- 2 A. Yes.
- 3 Q. You understand that I can cite you for another day and
4 play the entire recording to you?
- 5 A. Correct, which I was under trauma.
- 6 Q. Well, are you simply intending to answer all my
7 questions now --
- 8 A. Hopefully today.
- 9 Q. -- that you can't remember?
- 10 A. Hopefully yes.
- 11 Q. Well, if that's your intention, Mr Saeed, I'm sorry but
12 I won't be asking you any more questions today and
13 I will have to bring you back another day. If you're
14 not willing to help me go through this statement today,
15 I will have to consider citing you for another day at
16 the convenience of the Inquiry. I would rather not do
17 that, you understand. I would rather just get through
18 the statement now.
- 19 A. Okay, I will do my best.
- 20 Q. All right, thank you. So can I ask you again, did you
21 take the same type of drugs as Sheku that night?
- 22 (Pause).
- 23 A. I think so. It's seven years ago.
- 24 Q. Did you take the same amount as Sheku?
- 25 A. I can't remember, honestly I really can't remember.

- 1 Q. Okay. Do you remember when you stopped taking drugs?
- 2 A. A very long time ago.
- 3 Q. You talk about going to Martyn Dick's house --
- 4 A. Correct.
- 5 Q. -- to watch the fight. Did you stop taking drugs before
- 6 you went to Martyn Dick's house?
- 7 A. Yes.
- 8 Q. Do you remember if Sheku stopped taking drugs before you
- 9 both went to Martyn Dick's?
- 10 A. I can't remember, honestly I can't remember.
- 11 Q. Were you taking drugs from the same supply?
- 12 A. Honestly, I really can't remember. It's seven years
- 13 ago.
- 14 Q. Do you remember anything about the type of drugs that
- 15 you took?
- 16 A. I really can't remember, to be honest. I just ... it
- 17 was seven years ago, to be honest. It was a very long
- 18 time ago.
- 19 Q. You will remember I asked you about the difference
- 20 between MDMA and Ecstasy, and I showed you paragraph 30
- 21 of your statement and you described one as
- 22 brown-coloured, a crystal brown, and one as a tablet,
- 23 which I think was purple. This was paragraph 30.
- 24 Purple tablets, yes? So the purple tablets were Ecstasy
- 25 and the crystal brown sugar cube was MDMA. Does that

1 prompt your memory?

2 A. A little bit, yes.

3 Q. Does that sound about right?

4 A. I think so. Honestly, it's been a long time,
5 seven years ago, I can't really remember.

6 Q. All right. You also mention in your statement -- this
7 is paragraph 7 and 8 -- that there had been an incident
8 earlier that year where Sheku's behaviour had changed
9 and seemed out of character. Do you see a sort of
10 negative experience before taking drugs in the beginning
11 of 2015, that's paragraph 7., at a friend's house at
12 a party. Take a moment to read that, if it helps.

13 (Pause).

14 And then paragraph 8 says:

15 "I am asked what substances he was taking that
16 night."

17 That's earlier in 2015:

18 "It was the same, MDMA and Ecstasy."

19 And then you were asked about the reaction. Do you
20 have any recollection of the events earlier in 2015
21 where his behaviour changed?

22 A. Honestly, I can't remember. It was seven years ago.
23 I wasn't -- I'm not sure if it was alcohol or it was
24 drugs, I really can't remember.

25 Q. It sounds like you helped him that night.

- 1 A. Sorry?
- 2 Q. It sounds like you helped him on that occasion.
- 3 A. Well, that's what friends do.
- 4 Q. So you were -- if he was having a difficulty, you would
- 5 help him out?
- 6 A. I will help anybody who is having a difficult moment.
- 7 Q. Will you help me now?
- 8 A. Yes, of course.
- 9 Q. Thank you. I want to talk about Martyn Dick's house.
- 10 You have described in your statement about the change in
- 11 behaviour and I wonder if you could help the Chair just
- 12 by giving us a little bit more information about how the
- 13 change manifested itself, how it appeared when he was at
- 14 Martyn Dick's.
- 15 A. Okay.
- 16 Q. Could you do that, please? Could you describe how his
- 17 behaviour changed?
- 18 A. His behaviour changed? Gosh ... (Pause) I really can't
- 19 remember.
- 20 Q. Would you look at paragraph 11, please? So you describe
- 21 going to Martyn's house just after 4.00, and there's
- 22 conversation and then at the end of the bottom of that
- 23 screen you will see it says there was a slight
- 24 awkwardness in the room had developed. Then if you
- 25 could carry on and you see, line 4:

1 "... I think he was feeling a bit agitated and he
2 was acting out of character. The mood wasn't the same,
3 he was agitated and I felt like it was uncomfortable."

4 You see:

5 "My concern was that I didn't know if he had used
6 any more substances when I left him earlier in the
7 night. I felt I was still normal. I didn't take any
8 more substances when I left him for that period. When
9 I came back to pick him up I was still the same person
10 and full of joy ..."

11 And you were concerned he had maybe taken more. Do
12 you remember the situation becoming agitated or slightly
13 awkward?

14 A. It was seven years ago, I can't remember.

15 Q. I have a sense, Mr Saeed, that you're becoming more
16 reluctant again to talk about your statement.

17 A. As I said before, last time I seen Shek, he was walking
18 and breathing. He was fine until the police murdered
19 him.

20 Q. The biggest help you could be to your friend, your
21 brother, Shek, right now is to help the Chair understand
22 some of what you said in your statement, and that is the
23 biggest help you personally could be to him and I would
24 like you to help.

25 A. To who? To Shek? Or to the Inquiry?

- 1 Q. The biggest help you could be to Shek right now is to
2 tell the Chair the whole truth about everything that
3 happened so he can consider it all.
- 4 A. Well, the truth is that he was murdered by the police
5 custody. What else is there to tell?
- 6 Q. Well, the questions I'm asking you are about the change
7 in his behaviour and how that -- that is evidence that
8 we would like to have more information about so I can
9 then use that later to ask experts about it and that
10 would be a very big help. I appreciate you might not
11 see the whole picture of the Inquiry, it's going to go
12 on a long time, but if you can provide us with that
13 information, we will use it, it will be very valuable.
- 14 What is not helpful to Shek and is not helpful to
15 the Inquiry is you simply saying you don't remember
16 because it was seven years ago, because I'm sitting here
17 looking at a statement you gave on 22 March.
- 18 A. Which I was in a rush and I was -- like I said -- as
19 I explained before --
- 20 Q. I don't really want to go back over this, Mr Saeed, but
21 are you willing to help?
- 22 A. Of course I'm willing to help.
- 23 Q. Well, can I ask you to answer my questions.
- 24 A. I will try and answer your questions.
- 25 Q. Tell me about the change in Sheku Bayoh when he was at

1 Martyn Dick's house.

2 A. (Pause). That he was fine.

3 Q. When?

4 A. At Martyn's house.

5 Q. For the whole time?

6 A. He was breathing.

7 Q. I'm asking you about his behaviour. I know he was

8 breathing. I'm asking about the change in his

9 behaviour. If you're not willing to answer any of these

10 questions then I think we will have to call it a day,

11 Mr Saeed.

12 A. His behaviour? His behaviour ... (Pause).

13 LORD BRACADALE: Mr Saeed, it has been made clear to you the

14 position, and I would like you to reflect on it and

15 I would like you to start answering the questions

16 because you did at the very beginning --

17 A. Correct, yes.

18 LORD BRACADALE: -- take an oath to tell the truth --

19 A. That's right.

20 LORD BRACADALE: -- and the whole truth and nothing but the

21 truth.

22 A. Okay.

23 LORD BRACADALE: And you gave a statement in March and

24 I would very much like you now to start fully answering

25 the questions because it's obvious by looking at this

1 statement that when you saw Ms Pang in March, you gave
2 her a lot of information, and that information is before
3 me and it is available to me as evidence and that's very
4 helpful, but Ms Grahame wants just to ask some further
5 questions to highlight some of the things that are
6 already in your statement. Do you understand that?

7 A. Yes.

8 LORD BRACADALE: And I would like you to answer these
9 questions, if you would. Are you going to do that now
10 because you're obliged to do so.

11 A. Yes.

12 LORD BRACADALE: Very well.

13 MS GRAHAME: Thank you.

14 So we're talking about the time when he is in
15 Martyn Dick's house and you describe a change in his
16 behaviour. Can you tell me how his behaviour changed.

17 (Pause)

18 A. He wasn't being himself. His character changed.

19 Q. In what way?

20 A. He looked confused and agitated.

21 Q. What was it about him that made you say he looked
22 confused?

23 A. His personality changed.

24 Q. You have told us how he normally was.

25 A. Mm-hm.

- 1 Q. And he had been happy and full of joy previously.
- 2 A. Yes.
- 3 Q. How did it change?
- 4 A. The conversations were different. He was losing track
- 5 of the conversation that me, Martyn and Kirsty were
- 6 having.
- 7 Q. And was that the only difference?
- 8 A. He was losing track of the conversation we were having.
- 9 As I say, there was -- wasn't -- his character changed.
- 10 He felt agitated, looked agitated.
- 11 Q. You have used the word in your statement "Awkwardness".
- 12 Was there an awkwardness?
- 13 A. No.
- 14 Q. No. How did it come about that he left Martyn Dick's
- 15 house? Tell me about that moment.
- 16 A. He got up and left.
- 17 Q. Was that sudden?
- 18 A. No.
- 19 Q. Had the fight finished?
- 20 A. It was on pause.
- 21 Q. Did he say anything before he left?
- 22 A. I can't remember.
- 23 Q. What did you do?
- 24 A. I was concerned about him.
- 25 Q. Why?

- 1 A. Because he is a friend of mine.
- 2 Q. But why were you concerned? I understand he was
3 a friend, but why were you concerned when he left the
4 house?
- 5 A. Because where he goes, I go, and he -- we came together,
6 went together to Martyn's house and I'm assuming that we
7 would leave together.
- 8 Q. So did you follow him out?
- 9 A. Yes.
- 10 Q. And when you followed him out, was he outside the house
11 waiting for you?
- 12 A. I can't remember.
- 13 Q. Well, Mr Saeed, I really don't want to have to go
14 through the statement line by line saying what you said
15 in your statement, but in your statement you say that he
16 left and you followed him and he wasn't there when you
17 went outside, so are you saying that since 22 March you
18 have completely lost your memory of that?
- 19 A. I haven't lost my memory; it's trauma.
- 20 Q. Right. Well, what was it that we did on 22 March that
21 allowed you to get over that trauma that is not allowing
22 you to get over it today?
- 23 A. That I'm here.
- 24 Q. Being in the hearing room?
- 25 A. Yes.

1 Q. Do you think if we could make an arrangement to take
2 your evidence in a different setting that that would
3 allow you to get over the trauma?

4 A. I'm not sure.

5 Q. Is it something you would be willing to try, if we
6 looked into it?

7 (Pause)

8 A. I would like to finish this today if that's okay.

9 Q. Well, I don't think we're going to be able to, I'm
10 sorry, Mr Saeed.

11 I think that I would like to end this examination at
12 the moment today and I think I would like to opportunity
13 to look into maybe an alternative environment, or other
14 arrangements that might permit Mr Saeed to continue more
15 effectively with this examination, if that's possible.

16 LORD BRACADALE: Yes, very well. We will stop there,
17 Mr Saeed, but the Inquiry will keep in touch with you
18 and will require you at some stage to give further
19 evidence. Do you understand that?

20 A. Yes.

21 LORD BRACADALE: And secondly, of course we will want --
22 I shall really want to hear your evidence about what
23 happened at the police station and so forth afterwards.

24 A. Okay.

25 LORD BRACADALE: But we will leave it at that today.

1 I think we will adjourn briefly to allow you to
2 rearrange things.

3 (11.25 am)

4 (Short Break)

5 (11.35 am)

6 LORD BRACADALE: Now, Ms Grahame.

7 MS GRAHAME: Thank you very much.

8 LORD BRACADALE: (Mic turned off).

9 MS GRAHAME: Sorry, I'm a little bit enthusiastic this
10 morning.

11 LORD BRACADALE: And it is Mr Morgan, is it?

12 MS GRAHAME: Yes, it is Neil Morgan.

13 LORD BRACADALE: Neil Morgan.

14 Mr Morgan, before you are asked questions by
15 Ms Grahame, would you raise your right hand and say the
16 words of the oath after me.

17 MR NEIL MORGAN (sworn)

18 Questions from MS GRAHAME

19 LORD BRACADALE: Now, Ms Grahame.

20 MS GRAHAME: Thank you very much.

21 Good morning, Mr Morgan. I'm going to ask you a few
22 questions, primarily in relation to an Inquiry statement
23 that you have very kindly provided to the Inquiry
24 already.

25 Now, you will see the black folder right in front of

1 you. You're going to have a hard copy of that right in
2 front of you. Please feel free to read through it or
3 look through it as you wish, it is there for your use.

4 A. Okay.

5 Q. Now, I will be asking you one or two questions about
6 maybe certain paragraphs. When that happens,
7 Ms Wildgoose there is going to put them up on the screen
8 so you will see the screen right in front of you?

9 A. Yes.

10 Q. So the paragraph will be on that screen as well.

11 A. Okay.

12 Q. But if you prefer the hard copy, that's there for you
13 too.

14 A. That's no problem.

15 Q. Great, thank you so much.

16 Can I just look at that Inquiry statement for
17 a moment, just the front page, please, Ms Wildgoose,
18 SBPI00024. We will see that it was taken by telephone
19 on Tuesday, 18 January this year.

20 A. Yes.

21 Q. Do you recognise that?

22 A. Yes.

23 Q. And it was signed by you on 5 April, so a few months
24 later, and do you remember giving that statement and do
25 you remember signing it?

1 A. I do.

2 Q. And that was on every page?

3 A. Yes.

4 Q. Thank you. And you were given the opportunity to make
5 any changes if you wanted, but you didn't make any?

6 A. No.

7 Q. So you're happy with that statement?

8 A. I am.

9 Q. Thank you. And you will see the final paragraph which
10 Ms Wildgoose will move on to says -- 55:

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

15 A. Yes.

16 Q. And you're happy with that?

17 A. I am.

18 Q. Thank you. So this statement will be available to the
19 Chair to look at in its entirety, but for the purposes
20 of today I won't go through every line with you.

21 A. Okay.

22 Q. Thank you. Right, before I go through some of the
23 paragraphs there, could you just begin by telling
24 everyone a little about how you knew Sheku Bayoh?

25 A. Okay. He lived opposite me and I never knew him great

- 1 as a friend friend but just as a neighbour, but we
2 passed each other often, I mean he was high smile --
3 always smiling, he was nice just generally, nice
4 neighbourly guy.
- 5 Q. And you got on with him?
- 6 A. Yeah, yeah, yeah.
- 7 Q. What did you call him?
- 8 A. Chris. He told me his name was Chris, so I knew him as
9 Chris.
- 10 Q. So when we see references in your statement to Chris,
11 you're actually referring -- you now know that's
12 Sheku Bayoh?
- 13 A. Yes, yes.
- 14 Q. Thank you. And could you describe his personality? You
15 have given us a little bit of information.
- 16 A. He was just a nice, pleasant, friendly, nice guy. Just
17 a really nice guy, never no trouble, nothing, just nice.
- 18 Q. Thank you. What about his physique? Physically what
19 did he look like?
- 20 A. Yes, you could tell he looked after himself, I mean.
- 21 Q. What do you mean by that?
- 22 A. He worked out, you could tell. He wasn't a giant,
23 I mean, like the Hulk, but, you know, nice and trim he
24 kept -- he looked after himself.
- 25 Q. Thank you. I would like to ask you about paragraph 11

1 of your statement, so Ms Wildgoose will bring that up on
2 the screen, and you say your shift ended at 6.00 in the
3 morning and we're talking about 3 May 2015 and you got
4 home about 6.20 or 6.25 and there was boxing on. We
5 have heard there was a fight, a Merryweather fight?

6 A. I'm not sure of the -- I remember there was a boxing
7 fight though on that morning, early hours that morning.
8 I don't know if it was on at the time I come home from
9 work, but I knew it was on the early hours of that
10 morning, yes.

11 Q. Thank you. And then you came in, made yourself no doubt
12 a well earned cup of coffee?

13 A. Yes.

14 Q. And when you were drinking the coffee I think your
15 daughter brought something to your attention?

16 A. Yes.

17 Q. Tell us about that, what happened?

18 A. My daughter came down the stairs and thought that
19 Chris -- saw Chris fighting someone in another
20 neighbour's front garden, and what my daughter said was
21 she thought that perhaps someone was trying -- it was an
22 elderly couple that owned this house, thought that
23 someone was robbing it, so I went out to assist Chris.

24 Q. What made you think someone might have been robbing the
25 house?

1 A. We have had a few robberies in that street and with them
2 being an old couple we thought perhaps they had been
3 a target, Chris might have seen them or something or
4 whatever, I don't know, and I just thought, well, I will
5 go out and help Chris.

6 Q. And did you go out?

7 A. I did go out.

8 Q. And I wonder if you would look at a photograph for me.
9 PIRC18266, Ms Wildgoose. We have a couple of
10 photographs. If we look at photograph 4 first of all
11 perhaps. Sorry, that's the wrong number. Go back to
12 the beginning, thank you. First photograph. Do you
13 recognise that area shown in that photograph?

14 A. Yes.

15 Q. Was this anywhere near where you are describing?

16 A. No.

17 Q. Oh no? Right.

18 A. No, it was the other side.

19 Q. The other side of this street?

20 A. The house -- it was --

21 Q. Oh, the one on the left?

22 A. Yes, Bob and -- the neighbours, Bob and Helen, they
23 lived a few doors along from Chris again, the other way.

24 Q. Would you look -- turn to photograph 10, please.

25 (Pause).

1 Is this a different property or the rear of the
2 property?

3 A. It is about two houses or more to the left, the property
4 is, where my daughter --

5 Q. So it was further down again?

6 A. Yes.

7 Q. All right. Thank you. We will leave those photographs
8 for the moment.

9 Tell us, when you left your property, your house,
10 what did you see?

11 A. When I first came out the house I saw nothing, so
12 I think I went to go down the back where you have to go
13 down the lane and around, and still nothing was
14 happening, so I was making my way back home again and
15 then I saw Chris.

16 Q. Right. I wonder if I could ask you to look at a map.
17 That might help me understand where you were.

18 A. Yes.

19 Q. If Ms Wildgoose could bring up the overview, the scene
20 overview, so this is SBPI00104. If you will bear with
21 us for a moment, this has got a good map on it.

22 A. Okay.

23 Q. Thank you. A little bit closer if it that's okay.
24 That's fine, thank you. If we could pause it there
25 please.

1 We heard evidence about this yesterday. Do you see
2 on the left-hand side you can see in yellow
3 "Templehall Avenue"?

4 A. Yes.

5 Q. And parallel to that, further up, is Arran Crescent?

6 A. Yes.

7 Q. Could you tell us roughly where your house is? Now,
8 I will tell you, Mr Morgan, you can touch the screen of
9 this -- the screen in front of you and a red circle will
10 appear and if you make a mistake, you can touch the red
11 circle again and move it around?

12 A. Okay, no problem.

13 Q. And if you don't like it at all, just move it down to
14 the bottom of the screen and we will just leave it.

15 A. Okay.

16 Q. So the red circle appears, and that's in the middle of
17 where it says Arran Crescent, is that where your house
18 was?

19 A. Yes, centre of the street, more or less.

20 Q. When you talk about going round the lane, round the side
21 of the houses, where was that? Can we see that on this
22 map?

23 A. You can't really. Can I mark it? Can you see it if
24 I put my finger on it.

25 Q. We can do smaller circles, or you can do a line. Would

- 1 you rather do a line?
- 2 A. A line, yes.
- 3 Q. A line, yes. Let's just give Ms Wildgoose a moment.
- 4 That's it, ready to move. You can draw a line where the
- 5 lane was.
- 6 A. Okay. If you go ...
- 7 Q. Try it again.
- 8 A. You go up this here (indicating), there's a row of
- 9 garages, and you can go round the back here.
- 10 Q. I see. So the sort of grey area that sticks up from
- 11 Arran Crescent, is that a lane?
- 12 A. Yes, that's like a garage lot, but then the lane, you
- 13 can't -- the lane is actually not there, but the lane
- 14 runs at the back of the gardens here then.
- 15 Q. Right. So you had a look round the back, you came back
- 16 to the front, and what did you see on the way back to
- 17 the front of your house?
- 18 A. Chris.
- 19 Q. Where was he?
- 20 A. On my side of the street, a few houses down from where
- 21 I live.
- 22 Q. What was he wearing at that point?
- 23 A. I can't actually remember.
- 24 Q. Okay. What was he doing?
- 25 A. Just walking, casual.

- 1 Q. You described the fight a moment ago?
- 2 A. I never saw the fight.
- 3 Q. You never saw?
- 4 A. -- or anything.
- 5 Q. So when you saw him walking, what did you do?
- 6 A. I approached him and asked him if anyone was trying to
- 7 rob Bob and Helen's and he said, "No, nobody's trying to
- 8 rob no one". I said "okay", and that's when I noticed
- 9 then the --
- 10 Q. What did you notice?
- 11 A. That he was carrying a knife.
- 12 Q. What hand was he carrying it in?
- 13 A. The right-hand I think, yes.
- 14 Q. Could you describe the knife for us?
- 15 A. Yes. It was a big kitchen knife, you know, like when
- 16 you get the block of five or six in a block, it would be
- 17 the biggest one out of there.
- 18 Q. Could you describe the length of the blade?
- 19 A. Yes, I would say it would be about (indicating) that,
- 20 8 inches, 6 -- 8 inches.
- 21 Q. Thank you. Do you remember the colour of the handle?
- 22 A. I can't.
- 23 Q. Do you think you would recognise that knife now?
- 24 A. No, no. I would have back then but I've got something
- 25 in my head that I think it was but I don't want to say

- 1 anything just in case I'm wrong.
- 2 Q. Could I ask you to look at something for me, please, and
3 Ms Wildgoose will hand this to you in a moment. She
4 will bring it out of her secret drawer.
- 5 A. Okay.
- 6 Q. Now, this is a label and the number is PIRC995, so you
7 can pick that up and touch it, Mr Morgan, don't worry
8 about -- we won't be opening it or taking it out, and at
9 the same time, Ms Wildgoose has actually put
10 a photograph on the screen which is a photograph of
11 what's contained in that plastic tub.
- 12 A. What I actually thought in my head is what it does look
13 like there.
- 14 Q. Thank you. That's very helpful. Can I ask you about
15 how you approached Chris in the street when you saw him.
16 Did you have any concerns at that point about
17 approaching him?
- 18 A. No, not at all, not at all.
- 19 Q. And when you approached him, was he facing towards you,
20 or was he facing away from you?
- 21 A. Facing away from me then.
- 22 Q. How did you attract his attention if he was facing away
23 from you?
- 24 A. Called him.
- 25 Q. And after you called him, what did he do? What was his

1 response?

2 A. Stopped and turned around. By that time I had caught up
3 with him then.

4 Q. And tell us about the discussion you had with him?

5 A. Well, I asked him if someone was trying to rob Bob and
6 Helen's and he turned round to me and he says "No,
7 no one's robbing anyone". That's when I noticed he was
8 carrying a knife. I said "What you doing with that?"
9 I said "Look, you can't walk around with that, you're
10 going to get done". I said "Look, come back to the
11 house, something's upset you. Come back, have a cup of
12 coffee, a cup of tea, you need to settle down. Just
13 come back." And he said "No, I'm fine, I'm all right,
14 I'm fine."

15 Q. How far away were you from him when you had this
16 conversation?

17 A. A couple a feet, yeah, just right up close.

18 Q. How did he look to you at that time?

19 A. He wasn't himself. I don't know if it was too much
20 drink or anything else, I'm not sure, but he was gazey,
21 if you know what I mean. He wasn't in a rage or
22 anything like that, but just you could -- you could tell
23 if someone's been on something, do you know what I mean,
24 if it's too much drink, I know the boxing was on, so he
25 could have been like that and it was early in the

- 1 morning. Just he wasn't himself.
- 2 Q. When you use the word "gazy"?
3 A. Yes.
- 4 Q. Describe his eyes to me?
5 A. They were starey. How else can I -- just starey really,
6 sort of like (indicating), like that.
- 7 Q. Thanks. Did you have any impression at that time about
8 the sort of mood that he was in?
9 A. Other than he seemed quite calm, like I said. He wasn't
10 in a fit of rage or anything like that. He seemed
11 himself, but with a knife.
- 12 Q. You have told us about the conversation. Was he doing
13 anything in particular with the knife when you were
14 speaking to him?
15 A. Just tapping it on his leg, tapping it on his leg and
16 I said to him -- when I said to him "You can't go round
17 with that knife, you will get done", he did turn round
18 to me and he says "It's not even sharp", and he sort
19 of -- he like "Look, it's not even sharp", poked it at
20 my belly. Not hard or anything, just poke.
- 21 Q. When you say he poked, you are gesturing with your hand
22 there.
23 A. Yes.
- 24 Q. Would you mind standing up and just demonstrating that
25 for the Chair, because there's a panel on the desk and

1 he might not be able to see it completely. Thank you.

2 A. Yes. Okay, he just had the knife and he said "Look,
3 it's not even sharp, look", and just went like that.
4 (indicating).

5 Q. When he did -- you may sit down again, thank you. Did
6 he touch you with the knife when he did that poking?

7 A. Yes, slightly.

8 Q. Slightly.

9 A. Yes.

10 Q. And what was your reaction to that?

11 A. Nothing really. Nothing really, no reaction -- I still
12 didn't feel threatened by him. My biggest concern was
13 I really wanted him to come home and just settle down,
14 whatever he was doing that was -- upset him, so just
15 come in, have a cup of coffee, calm down. That's all
16 I ...

17 Q. Is your recollection of that quite clear?

18 A. Yes, yes.

19 Q. So when you spoke to PIRC on 7 May 2015, you didn't
20 mention the poking with the knife?

21 A. No, no, I didn't.

22 Q. Do you remember why?

23 A. No, I don't think I -- perhaps I never got asked or
24 that. I don't remember -- I can't remember not telling
25 anybody, to be honest with you.

- 1 Q. Was there any reason you wouldn't have told somebody?
- 2 A. Well, I didn't feel threatened. It wasn't something
- 3 I thought someone needed to know or nothing. He never
- 4 done it in a violent way or anything. He was just
- 5 showing me "Look, it's not even sharp", so I didn't
- 6 think it was relevant at the time or ...
- 7 Q. Thank you. You invited him in for a cuppa or a coffee?
- 8 A. Yes.
- 9 Q. And some people might think "Goodness, that's quite
- 10 surprising since he was holding a knife"?
- 11 A. My wife did.
- 12 Q. Your wife felt that?
- 13 A. Mm-hm.
- 14 Q. But you didn't feel wary about --
- 15 A. No.
- 16 Q. -- at that stage?
- 17 A. No, not at all. Perhaps I should have, but I didn't.
- 18 Q. Do you remember what time this was?
- 19 A. I couldn't put a specific time on it. I come home, this
- 20 could have been around about 7ish, past 7ish. It would
- 21 be still quite early-ish in the morning.
- 22 Q. Had you finished your coffee by the time you went out
- 23 the house?
- 24 A. No, I don't think I had finished it.
- 25 Q. Where did Chris or Sheku go after your conversation with

- 1 him?
- 2 A. He walked away then towards Templehall Avenue, Cramond
3 Gardens way.
- 4 Q. Could we look at the map again? Would you mind helping
5 me with that. I wonder, Ms Wildgoose, if we could bring
6 the overview back on. So you showed us earlier,
7 Mr Morgan, the area in Arran Crescent where you were?
- 8 A. Yes.
- 9 Q. And you have mentioned Templehall Avenue; do you see
10 that on the map?
- 11 A. Yes, it was Cramond Gardens. Do you see at the end of
12 our street? He walked towards that way.
- 13 Q. Would you be able to -- I wonder if the line will work
14 this time. I wonder if you could draw a line on the map
15 to show the Chair what area you are going in -- sorry,
16 that he went in after your conversation?
- 17 A. Yes.
- 18 Q. Did you see which direction he went in after he went
19 into Cramond Gardens?
- 20 A. No, I didn't.
- 21 Q. Thank you. As he walked away from you, along
22 Arran Crescent towards Cramond Gardens, did you see what
23 he did with the knife?
- 24 A. No.
- 25 Q. I would like you to look at some footage and I will

1 pause the screen, so Ms Wildgoose is going to get this
2 up on the screen for me now, so if you could just bear
3 with me for a moment. This is the evidence video
4 timeline, SBPI00046, and I would like to have it on the
5 screen closer to 7.09.20.

6 You will see this on the screen, Mr Morgan -- if we
7 could just pause that for a second, thank you. We have
8 heard evidence that this is taken from a dash cam on
9 a vehicle.

10 A. Okay.

11 Q. And you will see on the top left-hand corner there's
12 a grey box that says "Real time"?

13 A. Right.

14 Q. Now, we have also heard evidence about this yesterday
15 that says this is the real time -- the time it was when
16 the footage was taken.

17 A. Okay.

18 Q. And at 7.09 in the morning, it is on 3 May 2015, and it
19 is 20 seconds past that.

20 A. Mm-hm.

21 Q. You can completely ignore the little buttons under that,
22 the sort of coloured boxes, and you will see this on the
23 screen in the left-hand side. It says "PIRC", there's
24 a number and it says "Dash cam footage"?

25 A. Yes.

1 Q. And that's what we're going to look at?

2 A. Okay.

3 Q. I'm literally going to ask Ms Wildgoose in a moment just
4 to play that, just for about 10 seconds or so, and you
5 will see a figure and I'm going to play it once and ask
6 you to watch it and then I will come back to it and
7 I will ask you some questions once we have watched it.

8 A. Okay.

9 Q. Thank you. Ms Wildgoose.

10 (Video played)

11 Thank you. And if we could pause that and go back
12 to just after 7.09.20. Thank you, and just a little bit
13 closer with the figure in sight, if you don't mind.

14 (Video played)

15 If you could pause it there, please. Do you
16 recognise the road by any chance?

17 A. I recognise the road, yes.

18 Q. What road is it?

19 A. That's Templehall Avenue.

20 Q. That's Templehall. And that's the road that we were
21 looking at earlier on the map a moment ago,
22 Templehall Avenue?

23 A. Yes, the one parallel to the street.

24 Q. And do you -- I don't know if you would like another
25 opportunity to see this, but do you recognise the figure

- 1 that we have watched in this?
- 2 A. I think I do. I think I do --
- 3 Q. Who do you think it is?
- 4 A. I think it's Chris.
- 5 Q. Chris. Thank you. How far is this part of
- 6 Templehall Avenue from Arran Crescent?
- 7 A. Maybe 300 metres, something like that.
- 8 Q. Is Cramond Gardens close to this area?
- 9 A. Yes, yes.
- 10 Q. Where is it in relation to what we see on the screen?
- 11 A. That's about maybe 200 metres away from that area.
- 12 Q. Thank you. If -- we can put that off the screen, thank
- 13 you. Could we go back to the map for a second. While
- 14 Ms Wildgoose gets that on, you have talked about
- 15 Arran Crescent, Cramond Gardens and Templehall Avenue?
- 16 A. Yes.
- 17 Q. If you follow along Templehall Avenue and come down
- 18 Hendry Road, is there a pub there called Gallaghers pub?
- 19 A. Yes.
- 20 Q. What's it called now?
- 21 A. The White -- no, I'm not 100% sure, it has changed hands
- 22 a few times. It was the White Heather, then it was the
- 23 Gallaghers and I'm not 100% sure what it's called now.
- 24 Q. You're not a regular there then?
- 25 A. No, no, I'm not no.

1 Q. Okay. Do you have, Mr Morgan, any special skills or
2 experience in approaching someone with a knife or
3 dealing with someone who looks --

4 A. No.

5 Q. No. And I noticed you didn't phone the police after
6 your conversation with Sheku or Chris?

7 A. No, I didn't, no.

8 Q. Why not?

9 A. I think if he was in a rage -- I know he was carrying
10 a knife and perhaps I should have phoned the police, but
11 if he was in a rage and I thought "Oh, he is after
12 someone", then yes, I think I would have done it then
13 but because he was so calm -- okay, not himself, but so
14 calm I thought -- I don't know. I never did and
15 I apologise for that, I'm afraid.

16 MS GRAHAME: No, not at all. Thank you very much.

17 That concludes my questions for this witness.

18 LORD BRACADALE: Thank you, Ms Grahame.

19 I'm now addressing the legal representatives. No
20 application under Rule 9, no written application was
21 placed before me. Do any legal representatives wish to
22 make an application at this stage? No, thank you.

23 Very well, that completes your evidence, Mr Morgan,
24 and thank you very much for coming to the Inquiry and
25 giving your evidence. The secretary will take you out.

1 (Pause).

2 Now, who is the next witness?

3 MS GRAHAME: The next witness is Naomi Rhodes.

4 (Pause).

5 LORD BRACADALE: Good afternoon, Ms Rhodes.

6 A. Good afternoon.

7 LORD BRACADALE: You're going to be asked questions by

8 Ms Grahame who is at the far end of the table. Before

9 that happens, will you take the affirmation and say the

10 words after me.

11 MS NAOMI RHODES (affirmed)

12 Questions from MS GRAHAME

13 LORD BRACADALE: Ms Grahame.

14 MS GRAHAME: Hello --

15 A. Hello.

16 Q. -- Ms Rhodes. You are Naomi Rhodes?

17 A. Yes.

18 Q. And the Inquiry have all your details?

19 A. Yes.

20 Q. Thank you. Do you see that black folder sitting right

21 in front of you?

22 A. I do, yes.

23 Q. Well, let me tell you, inside you're going to see copies

24 of two statements and you can refer to them at any stage

25 if you want to. Please feel free to open it. You will

1 see, first of all, there's an Inquiry statement that you
2 gave to the Inquiry, and there's also a statement that
3 you gave to PIRC.

4 A. Yes.

5 Q. So before I move on to your statements -- because I'm
6 going to ask you some questions about those, and during
7 that I might ask for a particular paragraph to go up on
8 the screen. You will see the screen in front of you and
9 Ms Wildgoose can get things up on the screen, but if you
10 would like to see what's around it in the statement you
11 can just open the folder.

12 A. Right.

13 Q. But before I do that, can I ask you in May 2015 you were
14 living in Arran Crescent?

15 A. Correct, yes.

16 Q. And I would like to ask you a little bit about
17 Sheku Bayoh?

18 A. Yes.

19 Q. How did you know him?

20 A. He stayed about three doors down from where I stayed.
21 He was a good neighbour, friendly-natured, whenever he
22 spoke he had a smile on his face.

23 Q. How did you get on with him?

24 A. Yeah, he was fine, yeah. I didn't know him as a friend,
25 but just as a neighbour, eh, but he spoke to us and

- 1 that, yeah.
- 2 Q. Was he a good neighbour?
- 3 A. Oh, yes, never any hassle with him or anything.
- 4 Q. Thank you. How long had you known him at that point?
- 5 A. Roughly about four years.
- 6 Q. Could I ask you to look at the Inquiry statement, which
- 7 is SBPI00070. You will see a part of the first page of
- 8 that. It's on the screen now and you will see it was
- 9 taken on Wednesday 6 April this year.
- 10 A. Yes.
- 11 Q. Do you remember giving this statement?
- 12 A. I do, yes.
- 13 Q. That's good. Would you look at the final page, please.
- 14 Now, for the purposes of the public hearing, certain
- 15 things have been blacked out, so people's personal
- 16 details aren't always obvious, but you will see that at
- 17 some point you have applied your signature to that page?
- 18 A. Yes.
- 19 Q. And to every page of this statement?
- 20 A. Yes.
- 21 Q. And were you advised that this statement would be
- 22 effectively evidence to the Chair?
- 23 A. I did, yes.
- 24 Q. And that you were -- by signing it you were agreeing
- 25 that what you were saying was true?

- 1 A. Yes.
- 2 Q. Was the truth, and that this would be available to the
3 Chair to consider what you have said?
- 4 A. Yes, I did, yes.
- 5 Q. Thank you. And you are happy that?
- 6 A. Yes, I am.
- 7 Q. And you were happy with the statement?
- 8 A. Yes.
- 9 Q. Thank you. Can I focus on paragraph 6 to paragraph 10.
10 Lovely. And in paragraph 6 you say you were woken up by
11 shouting outside of your bedroom window around 6.00 am
12 on Sunday, 3 May 2015. And when you heard it, you got
13 up to look out of the window --
- 14 A. Yes.
- 15 Q. -- in your bedroom. Can I ask you, when you got up and
16 looked out of the window, tell us what you saw?
- 17 A. I saw two males fighting outside my gate and I realised
18 one of them to be Sheku.
- 19 Q. And when you say outside your gate, was that at the
20 front of your house or the rear of your house?
- 21 A. The front of my house.
- 22 Q. And at that time, when you were living in
23 Arran Crescent, do you remember what the number was?
- 24 A. 26.
- 25 Q. Thank you. And you have said two men, one of them was

- 1 Sheku; what was Sheku wearing?
- 2 A. I can't remember.
- 3 Q. Do you remember anything about the other man?
- 4 A. No, sorry.
- 5 Q. Can you describe Sheku at the time in any way?
- 6 A. He wasn't his normal self anyway.
- 7 Q. Why do you say that?
- 8 A. Just from fighting and shouting and stuff.
- 9 Q. What was he shouting?
- 10 A. I can't remember.
- 11 Q. What about the other man, was he shouting?
- 12 A. I can't remember, sorry.
- 13 Q. Do you remember anything about what you heard?
- 14 A. No, sorry.
- 15 Q. Okay, don't worry. How far would you say -- if you can
- 16 estimate for us, how far were you from your bedroom
- 17 window from where the men were fighting?
- 18 A. A couple of feet.
- 19 Q. Oh, right. It's very difficult to --
- 20 A. Yes.
- 21 Q. -- gauge, isn't it? When you say they were fighting are
- 22 you able to help the Chair by describing what they were
- 23 doing?
- 24 A. Just punching each other.
- 25 Q. And can you remember if Sheku was punching the other

- 1 man, where he was punching him?
- 2 A. Not really, sorry, no.
- 3 Q. And what about the other man? Do you remember anything
4 about what he was doing?
- 5 A. No, sorry.
- 6 Q. How long did you watch the fight?
- 7 A. It was only a few minutes and then they both got up --
8 the other man ran away to the left and Sheku went in his
9 house.
- 10 Q. I wonder if I could ask you to look at a map.
- 11 A. Yes.
- 12 Q. It might be helpful if we look at that now actually.
13 I would like to go to the scene overview, please,
14 Ms Wildgoose.
- 15 If you could just bear with us for a moment while we
16 zoom in on this. That's lovely, thank you. So you will
17 see on the screen that a map has appeared. Do you see
18 the red rectangle in the left-hand --
- 19 A. I do, yes.
- 20 Q. And that's around Arran Crescent?
- 21 A. Yes.
- 22 Q. We heard evidence about this yesterday and that's where
23 your bedroom window was?
- 24 A. Yes.
- 25 Q. Can I tell you that as you look at that screen, it's

- 1 possible for you to touch the screen --
- 2 A. Right, yes.
- 3 Q. -- and a red circle will appear and it will show us
- 4 where your house was effectively.
- 5 A. Yes.
- 6 Q. Would you be able to do that?
- 7 A. Yes, about there.
- 8 Q. So that's really around the word "Crescent"?
- 9 A. Yes.
- 10 Q. Now if you didn't like the position of that you can move
- 11 it around if you want just by putting your finger back
- 12 on the screen.
- 13 A. No, that's fine.
- 14 Q. Are you happy with that?
- 15 A. Yes.
- 16 Q. Thank you. You told us earlier that your window looked
- 17 to the front of the property?
- 18 A. Yes.
- 19 Q. And could you point out where you saw Sheku fighting
- 20 with the other man?
- 21 A. Do I just touch the screen?
- 22 Q. Yes. We can do smaller circles as well if that's better
- 23 for you?
- 24 A. About there (indicating).
- 25 Q. We have also got a function that allows you to draw

1 a line if you would prefer to do that. So the same sort
2 of area?

3 A. Yes.

4 Q. After the fight, you described Sheku getting up?

5 A. Yes.

6 Q. Where did he go?

7 A. He went to his house.

8 Q. What direction was that in?

9 A. To the left.

10 Q. Now, when you say to the left, can I ask you to draw
11 a line on this map so that the Chair can understand what
12 left means?

13 A. Yes.

14 Q. So as you were looking out your bedroom window, was he
15 travelling to your left, which would be in the direction
16 of Cramond Gardens?

17 A. That's correct, yes.

18 Q. Thank you. Did you notice anything about him at that
19 time?

20 A. No.

21 Q. Did you see where he went once he went to the left?

22 A. He just went into his house.

23 Q. Did you see anything -- did you see him again after
24 that?

25 A. No, I just went back to bed after that.

1 Q. Can I ask you to look at the other statement in front of
2 you, please, and this is PIRC statement 00110 and that
3 will come up on the screen but you have got the hard
4 copy remember.

5 You will see that this is a slightly different
6 layout. It's got your name and your date of -- your
7 year of birth and then if we could just come down
8 slightly, Ms Wildgoose -- stop. Go up a little bit so
9 I can see -- we see in the middle it says "by" and
10 that's Investigator Ross Stewart and place is "Home
11 address" and you see above it date and time 12 May 2015
12 at 15.45.

13 A. Right.

14 Q. And this statement says that he was taken at your house
15 on 12 May 2015 at 15.45. Do you remember giving this
16 statement?

17 A. No.

18 Q. You have no reason to doubt that it is correct though,
19 that you did give this statement?

20 A. I did give a -- I have a slight memory but it's a long
21 time ago.

22 Q. And were you asked to sign it or confirm that it was
23 correct at the time?

24 A. I can't remember.

25 Q. All right. Can I ask you to look at the -- I'm

1 wondering now if the signature has been redacted as
2 well, Ms Wildgoose. Right, don't look at that, there's
3 no need.

4 If I tell you that the original version has
5 a signature which is yours, would that be correct?

6 A. Yes.

7 Q. Thank you. And you understood that they were trying to
8 get a note of your evidence on that day, 12 May.

9 A. Yes.

10 Q. Thank you. And did you try to tell them, to the best of
11 your knowledge, the truth of what you remembered at that
12 time?

13 A. Yes, I did, yes.

14 Q. Thank you. Was your memory better then than it is now,
15 would you say?

16 A. Yes, probably, yes.

17 Q. Could you look at paragraph 2, please, sorry, on page 2.
18 You will see that it starts:

19 "I think it was about half six, quarter to seven [in
20 the morning] ..."

21 And you were in your bedroom and you say:

22 "I heard banging as well, as if something was
23 hitting against my next door neighbour's fence ... I am
24 quite nosey so I got up out of the bed. Our bedroom is
25 upstairs and the window looks out onto Arran Crescent.

1 Andrew stayed in bed at this time. I looked out and
2 initially saw nothing, nobody about. I stood at the
3 window for about a minute, I could still hear shouting.
4 I could hear a man shouting 'please stop I'm sorry'."

5 Do you remember saying that at the time?

6 A. Yes, now that I am looking at it I can remember, yes.

7 Q. Is it coming back to you?

8 A. Yes.

9 Q. And is that an accurate statement of what you saw?

10 A. Yes, it is, yes.

11 Q. And then underneath that, the next paragraph you say:

12 "Two men appeared to my right on the pavement
13 outside -- they must have been on the ground on the
14 pavement and I couldn't see them because there is
15 a fence there."

16 Do you remember that?

17 A. Yes, yes.

18 Q. Is that correct as well?

19 A. Yes, it is, yes.

20 Q. "When they stood up I saw two men. One of the men ran
21 to my left down Arran Crescent and out of sight.

22 I would describe the man as being early 30s, maybe about
23 6 foot tall, slim build, tanned complexion, not white
24 but not black, thick black hair, dark clothing."

25 Do you remember saying that?

1 A. No, not --

2 Q. Have you any reason to doubt that that is what you said
3 on 12 May 2015?

4 A. No, I just can't remember.

5 Q. Yes, okay. If we can go on looking at that, thank you.
6 Then:

7 "It was daylight outside and I think it had been
8 raining.

9 "I then recognised my neighbour, Shek ... he was
10 wearing a dark coloured top, navy blue or black top with
11 a yellow or green stripe down both arms.

12 "[He then] then kind of walked fast and followed the
13 boy up the street."

14 Do you remember that?

15 A. Yes, yes.

16 Q. Is that correct?

17 A. That's correct, yes.

18 Q. Thank you:

19 "There was no more shouting and I didn't see any of
20 the two of them with anything in their hands, no weapons
21 or anything."

22 Is that correct?

23 A. That's correct, yes.

24 Q. And then I would like to look at the next couple of
25 paragraphs, please. Maybe Ms Wildgoose can -- thank

1 you. So this paragraph reads:

2 "When I was looking out my window and just before
3 they both stood up, Shek was actually on top of the
4 other boy and Shek was punching the other boy. He
5 punched him 5 or 6 times. I couldn't see where the
6 punches landed. This was at the end of the gate ...
7 just at the hedge. They were on the ground for a couple
8 of minutes. I forgot to say this at the start of my
9 statement."

10 Is that correct?

11 A. That's correct, yes.

12 Q. Do you remember anything more about that part of your
13 statement?

14 A. No, sorry, no.

15 Q. And then the final paragraph we can see on the screen
16 says:

17 "When I first seen the men fighting on the ground,
18 my husband got out of his bed as well and stood behind
19 me ..."

20 Then you go on to talk about what happens there, and
21 towards the end of that paragraph, line 5, you say:

22 "The two men were still fighting for maybe
23 30 seconds after that. When I say fighting it was Shek
24 that was doing all the punching. I didn't see the other
25 boy punching back or fighting back. I only heard this

1 man shouting at the start of this fight 'stop, please
2 stop, I'm sorry'."

3 Do you remember that?

4 A. Yes, yes.

5 Q. Is that correct?

6 A. That's correct, yes.

7 Q. Thank you. Can I ask you just to leave that for the
8 moment now, Ms Wildgoose, and look for me at a still
9 piece of footage which will come from the evidence video
10 timeline, if that's possible, Ms Wildgoose. It will be
11 7.09.20.

12 So what we're going to do now is I'm going to get
13 a piece of footage shown to you, but let me explain what
14 you will see on the screen first. So as we watch
15 through it you will see on the top left-hand corner
16 there's a grey rectangle that says "Real time". We have
17 heard evidence about this yesterday from experts saying
18 that the real time, the actual time was 7.09 in the
19 morning and 21 seconds.

20 A. Yes.

21 Q. You can ignore the coloured things underneath that and
22 then you will see the window there on the left-hand side
23 it says "Dash cam footage", so this is footage from the
24 dash cam on someone's car.

25 A. Yes.

1 Q. And it was taken on 3 May 2015. I'm going to play about
 2 10 seconds of this to you and you will see a figure
 3 appearing on the screen and I would like to ask you some
 4 questions, once the footage is finished playing.

5 A. Yes.

6 Q. So we will play it through once, we will go back and
 7 I will ask you some questions. Is that okay?

8 A. That's fine, yes.

9 Q. Thank you. So I will ask Ms Wildgoose to do that.

10 (Video played)

11 Thank you. So as Ms Wildgoose rewinds that, do you
 12 recognise that street actually?

13 A. Yes, it's Templehall Avenue.

14 Q. Templehall Avenue, thank you.

15 A. Yes.

16 Q. And how far from that street is Arran Crescent, would
 17 you say?

18 A. A few minutes' walk.

19 Q. Thanks. Right, thank you. We have now got the footage
 20 showing at 7.09 in the morning and 30 seconds. Do you
 21 see the figure that's there --

22 A. Yes.

23 Q. -- on the roadway.

24 A. Yes.

25 Q. Do you recognise that figure?

1 A. Yes, it looks like Sheku.

2 Q. Right. That's the man you have been telling us about?

3 A. Yes.

4 MS GRAHAME: Thank you very much.

5 Thank you very much, I have no further questions for
6 this witness.

7 LORD BRACADALE: Again, no applications were placed before
8 me in writing. Are there any applications at this
9 stage? No, thank you.

10 Ms Rhodes, thank you very much for coming and giving
11 evidence. That's your evidence complete now.

12 A. Right, thank you.

13 (Pause).

14 LORD BRACADALE: Ms Grahame, I think according to the
15 schedule the next witness is for 2 o'clock, is that
16 right?

17 MS GRAHAME: That's absolutely right. I had scheduled the
18 next witness, Harry Kolberg, for 2 o'clock. Events of
19 this morning have taken me out of my order --

20 LORD BRACADALE: We will just have a slightly longer
21 lunchtime. We will sit again at 2 o'clock.

22 MS GRAHAME: Thank you.

23 (12.22 pm)

24 (The luncheon adjournment)

25 (2.00 pm)

1 LORD BRACADALE: Now, Ms Grahame, the next witness is
2 Mr Kolberg, is that right?

3 MS GRAHAME: That's correct.

4 LORD BRACADALE: Good afternoon, Mr Kolberg.

5 A. Good afternoon.

6 LORD BRACADALE: You're going to be asked questions by
7 Ms Grahame who is sitting at the end of the table.
8 Before that will you say the words of the affirmation
9 after me.

10 MR HARRY KOLBERG (affirmed)

11 Questions from MS GRAHAME

12 LORD BRACADALE: Thank you.

13 Ms Grahame.

14 MS GRAHAME: Thank you.

15 Good afternoon, Mr Kolberg. I'm going to ask you
16 a few questions today. Can I confirm that the Inquiry
17 have all your contact details already?

18 A. Yes.

19 Q. Thank you. You have given a witness statement to the
20 Inquiry and you have signed it, is that correct?

21 A. Yes.

22 Q. Do you see the black folder in front of you?

23 A. Yes.

24 Q. Just for your benefit as we go through things this
25 afternoon, we have made sure that there are copies of

1 that statement for you, so if at any time you want to
2 have a look through that statement for any reason, it's
3 there and you should just feel free to use it.

4 A. Okay.

5 Q. And in addition, we have another statement, probably at
6 the back of that folder, which is a statement that you
7 gave to PIRC on 3 May 2015. Hopefully you can see that
8 as well?

9 A. Yes.

10 Q. Great, that's lovely. So feel free, you can look at
11 those paper copies at any time.

12 Now, when I'm going to ask you about the statement
13 that you gave to the Inquiry you will see this screen in
14 front of you --

15 A. Yes.

16 Q. Sorry. And Ms Wildgoose is going to bring those up.
17 Any paragraphs or anything I specifically want to ask
18 you to look at, she will have that on the screen.

19 A. Okay.

20 Q. And we will take you through it and I will let you see
21 what it is I'm talking about.

22 A. Yes.

23 Q. Thank you. Right, can I, Ms Wildgoose, bring up the
24 Inquiry statement first of all, please, which is
25 SBPI00048. So you will see on the screen, Mr Kolberg,

1 that it was taken on 9 December last year and 3 February
2 this year.

3 A. Yes.

4 Q. And would you look at the last page, please. I think on
5 the copy you have, you will see that your signature is
6 actually on the last page. For the purposes of things
7 being displayed publicly, your signature has been
8 redacted on the one on the screen, but you will see that
9 you have a copy -- or you may just remember it,
10 Mr Kolberg, signing.

11 A. Yes.

12 Q. And you signed every page of this statement so --

13 A. Mm-hm.

14 Q. -- that's lovely, thank you. And the last paragraph
15 says:

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

20 And you were aware of that?

21 A. Yes.

22 Q. And you're happy with that arrangement?

23 A. Yes.

24 Q. And I think they also told you that you could make
25 changes to this statement if you wished, and you made

1 one or two changes.

2 A. Yes.

3 Q. Are you happy that the copy -- the version we have now
4 is correct?

5 A. It is quite close to what actually happened, yes.

6 Q. And it was just one or two little...

7 A. Yes.

8 Q. Thank you. What I would like to do is take you back to
9 3 May 2015 and talk about -- if we could begin with
10 paragraph 5. You talk about going to pick up your son,
11 so you mentioned the boxing match that was going on in
12 America and you talk about driving a wee black Peugeot
13 107 and then you say in paragraph 7 you picked your son
14 up about 6.30 to 7 o'clock in the morning?

15 A. Yes.

16 Q. And at some point you turned onto Templehall Road?

17 A. Yes.

18 Q. What I would like to do is show you a map on the screen,
19 it's quite a nice clear map, and it's from something
20 we're calling the scene overview, which is SBPI00104.

21 A. Okay.

22 Q. I believe I said Templehall Road there, that was my
23 mistake.

24 You see in the red box on the screen that it says
25 Arran Crescent?

- 1 A. I can see that, yes.
- 2 Q. And just below that in yellow there's Templehall Avenue?
- 3 A. Yes.
- 4 Q. Right. Now, you have mentioned turning into
5 Templehall Avenue that morning, on 3 May, in your car.
6 Would you be able to point to the screen and show us
7 what area of Templehall Avenue you're talking about as
8 having turned into. You know you can touch the screen.
- 9 A. I need to move it to the right.
- 10 Q. Do you know, those red circles, you can touch them again
11 and they will move about as you wish.
- 12 A. No, no, I need to go further on, because I come down
13 Glamis Road where it turns onto Templehall Avenue. We
14 need to go to the left.
- 15 Q. All right, can you move the map to the left slightly,
16 please.
- 17 A. That's better.
- 18 Q. Is that better there?
- 19 A. It is actually -- at the top there is Glamis Road, it
20 ends up being, as you see, Brodick Road.
- 21 Q. Do you want to have it pulled out slightly, a little bit
22 more. I can see Brodick Road on the left-hand side --
- 23 A. Yes.
- 24 Q. -- a yellow road, and I can see Glamis Road leading on
25 from that.

- 1 A. Yes. I picked up my son on Glamis road, turned around
2 and come back down the road which comes on to, well,
3 Dunearn Drive, which I turned left, and followed on
4 round to Templehall Avenue and headed towards
5 Hendry Road.
- 6 Q. So let's go straight to Templehall Avenue and tell me
7 where you joined Templehall Avenue?
- 8 A. At the bottom of Brodick Road which is --
- 9 Q. Do you want to touch the -- I don't know how you did
10 that, Mr Kolberg -- it probably wasn't you.
- 11 A. It done that before I touched it.
- 12 Q. You can touch the screen and move your red circle about.
- 13 A. Oh, right.
- 14 Q. That's probably easier. You see that? It will move
15 wherever you want. So that's Dunearn Drive, I think, is
16 it?
- 17 A. Yes.
- 18 Q. Dunearn Drive, is it, the yellow road? And that where
19 you -- you joined that road there and then drove round
20 to Templehall Avenue?
- 21 A. Yes.
- 22 Q. So we can see Templehall Avenue on the screen and are
23 you saying you drove along that street?
- 24 A. Yes.
- 25 Q. Thank you. When you were in Templehall Avenue, was your

- 1 dash cam footage working on your car?
- 2 A. Yes.
- 3 Q. And recording footage?
- 4 A. Yes.
- 5 Q. Do you know where your dash cam is positioned?
- 6 A. It was actually sitting just below my rear-view mirror.
- 7 Q. Oh. So you could see it from the driver's seat?
- 8 A. Yes.
- 9 Q. And does the dash cam take a recording of what you can
10 see out of the windscreen of the car?
- 11 A. Yes.
- 12 Q. What did you notice as you were driving along
13 Templehall Avenue?
- 14 A. Initially it was just a normal day, very little traffic,
15 hardly anybody walking about and then just as I headed
16 towards the end of Templehall Avenue, I seen a gentleman
17 cross over the grass, come out over and walk down the
18 road and then started walking directly towards me.
- 19 Q. Describe him for me, please?
- 20 A. A coloured guy, well -- he was actually well dressed,
21 smart actually. Other than that I would say he was
22 maybe about the same height as me, roughly 6 footish.
- 23 Q. Are you 6-footish?
- 24 A. I'm around about 6-foot, aye.
- 25 Q. Describe his build or his --

- 1 A. Athletic, certainly muscly.
- 2 Q. What was he wearing on the top half?
- 3 A. If I remember me right, it was a white T-shirt with
- 4 I thought -- which was a like an eagle logo.
- 5 Q. What about his bottom half?
- 6 A. It could have been jeans. I never -- I was not
- 7 really -- I was paying attention more to driving around
- 8 than actually what he was wearing.
- 9 Q. Thank you. Where was he when you first saw him?
- 10 A. Quite close to where Cheviot Road joins
- 11 Templehall Avenue.
- 12 Q. Can you point to that on the map for us, please? So
- 13 that's where the number 2 in the red circle has
- 14 appeared, that sort of area.
- 15 A. Yes.
- 16 Q. Which direction were you going along Templehall Avenue?
- 17 A. I was heading towards Hendry Road.
- 18 Q. Which direction was he going?
- 19 A. He was actually walking towards me so he would have been
- 20 heading back as if he was heading towards the shops.
- 21 Q. The shops?
- 22 A. It's just at the corner, where Templehall Avenue joins
- 23 Dunearn Drive, there's actually a small shopping centre.
- 24 I don't think anything was open at that time.
- 25 Q. Okay. What was he doing?

- 1 A. Walking.
- 2 Q. Just walking towards your car?
- 3 A. Initially when I first seen him he was actually walking
4 along the path.
- 5 Q. What speed were you doing at the time?
- 6 A. About 25/30.
- 7 Q. Did you adjust your speed at any point?
- 8 A. Not until he actually walked onto the road and then
9 I slowed down slightly.
- 10 Q. Why was that?
- 11 A. He was walking towards me and I wanted to see what was
12 happening.
- 13 Q. Why do you say that?
- 14 A. Well, he might have actually just realised the car was
15 there and then walked across, but he didn't, he just
16 continued to walk straight at the car.
- 17 Q. Okay. What distance was he from your car when you
18 actually passed him?
- 19 A. I would say about an arm's length.
- 20 Q. Was he on the road at that point?
- 21 A. Yes.
- 22 Q. Was there anything at that stage that you could see
23 other than you have told us about his clothing?
- 24 A. I noticed his hand was in a fist, but other than that,
25 not really. I couldn't tell you if he -- if there was

1 any facial expressions or whatever because I was paying
2 attention more to the road and going around him.

3 Q. Which hand was in a fist?

4 A. The right-hand.

5 Q. His right-hand?

6 A. Yes.

7 Q. As you passed him in your car what did he do?

8 A. He thumped the car. I'm not sure if that was with,
9 like, a hammered fist or an open hand or something, but
10 he hit the car.

11 Q. What was it that made you realise he had thumped the
12 car?

13 A. The noise.

14 Q. Could you tell where he thumped the car?

15 A. It was at the back, back on the roof.

16 Q. What did your son say to you?

17 A. After we had passed him he said "Dad, he is chasing the
18 car and it looks like he's got a knife in his hand".

19 Q. Were you able to see the man after you drove past him?

20 A. I looked in the mirror, but I was coming up to the
21 junction so I quickly looked in the mirror and he was
22 chasing the car. I turned up to the left and headed up
23 the hill.

24 Q. When you say "chasing the car", can you just give us
25 a bit more of a description of that?

- 1 A. I just done a quick glance because I was coming up to
2 the junction. The person who would be able to answer
3 that better is my son.
- 4 Q. Is your son called Robson Kolberg?
- 5 A. Yes.
- 6 Q. Thank you. You have said you were coming up to the
7 junction. If we look at the map again on the screen, is
8 that the junction with Hendry Road?
- 9 A. Yes.
- 10 Q. Where did you go when you reached the junction?
- 11 A. Because he was chasing I turned up and I actually
12 stopped -- sorry. I turned left onto Hendry Road,
13 I went up the road a bit. I seen in my mirror that he
14 had actually run across to the other side of the road,
15 on Hendry Road.
- 16 Q. The other side of Hendry Road?
- 17 A. Yes, towards Hayfield Industrial Estate.
- 18 Q. Right. Can you show us on this map where Hayfield
19 Industrial Estate is. Right. So he had come from
20 Templehall Avenue and crossed Hendry Road?
- 21 A. Yes.
- 22 Q. Were you watching this in the rear-view mirror?
- 23 A. I only seen him crossing over. You only get to see it
24 so far because there's like trees and a bit, sort of
25 grassy area. My first initial thought was that he went

1 "Oh, he's phoning the police", or something like that,
2 and maybe thought "I'd better disappear", but so we
3 never really thought about -- because I had stopped the
4 car and we did phone the police because of what actually
5 happened.

6 Q. Where were you when you stopped the car? Can you point
7 to the map?

8 A. I think about there.

9 Q. So you have drawn a circle 4 on Hendry Road?

10 A. Yes, because what I done is went up and I done a U-turn
11 just to see if I could still see him because when I was
12 actually driving I just had a quick glance in the
13 mirror, went up a bit, little bit near the Shell
14 station, done a U-turn, just come back down just so
15 I wasn't blocking the Shell station off and stopped
16 there.

17 Q. Point to where the Shell station is on this map.

18 A. It's roughly where 4 is.

19 Q. Where the 4 is. Which side of the road is it on?

20 A. Well, as you're looking at this mirror, it's on the
21 right-hand side -- sorry, the map.

22 Q. The map. So you had turned left from Templehall Avenue
23 into Hendry Road?

24 A. Yes.

25 Q. And then you had done a U-turn to the other side of the

1 road beside the Shell garage?

2 A. Yes.

3 Q. Thank you. So you were facing in your car, facing down
4 Hendry Road as we look at this map?

5 A. Yes.

6 Q. Thank you. And you have said you made a phone call?

7 A. Yes.

8 Q. Was that your first call to the police?

9 A. Yes.

10 Q. And was that to 999?

11 A. I think so. It was my son actually dialled it on his
12 phone.

13 Q. What I would like to do is play an audio tape, so you
14 will hear it in the room playing. I'm going to play the
15 whole thing.

16 A. Yes.

17 Q. It's a recording. But just to help you, Mr Kolberg, in
18 your folder in front of you, you will also see
19 a transcript in front of you of that call, and I believe
20 there's a copy for yourself if it is needed, although
21 there are copies on the system.

22 So the transcript we looked at yesterday was
23 SBPI00082, which is transcripts of 999 calls, and we
24 also have individual transcripts of the calls which are
25 PIRC01385 for anyone who wishes to access that today.

1 If we could have the audio played. What I'm going
2 to do now, Mr Kolberg, is just play the audio completely
3 and then we will stop and we will come back and I will
4 ask you a couple of questions. Is that all right?

5 A. Yes.

6 Q. Thank you.

7 (Audio played)

8 You will understand, Mr Kolberg, that for privacy
9 reasons we have blanked out the personal details --

10 A. Yes, I gathered that.

11 Q. -- because this is being recorded.

12 Tell me about this call. So this is the first time
13 you call the police and am I right in thinking there's
14 two voices I can hear --

15 A. Yes.

16 Q. -- not just the lady?

17 A. You're initially hearing Robson's voice.

18 Q. That's your son?

19 A. Yes. And then I actually answered the -- it's there.

20 It's when I said it's junction of Hendry Road and
21 Templehall Avenue.

22 Q. Right. So I will tell you I'm interested in the
23 response which has -- which I think was your voice:

24 "Just as I passed him he thumped my car."

25 Do you see that in the middle of the page?

- 1 A. Yes.
- 2 Q. "It looked as if he was actually carrying a knife and he
3 started chasing the car."
- 4 A. Robson actually said he saw him carrying -- he seen him
5 carrying a knife.
- 6 Q. So it was Robson that saw him carrying the knife but you
7 shared that?
- 8 A. That's what he saw. But all I could see and say is that
9 it was in a fist; if he was carrying something or
10 nothing, I don't know.
- 11 Q. But it was your voice that spoke to the lady and the
12 police.
- 13 A. Yes, I took over at that point.
- 14 Q. Thank you. After you made that call -- so that was the
15 first 999 call. After you made that call, can you tell
16 us where you went?
- 17 A. We actually went back to our original -- my original
18 route back home, which would be going along
19 Hayfield Road, past the hospital and heading back to
20 Dysart.
- 21 Q. I think what we will do -- if you're comfortable -- we
22 will put the map back on and I will ask you to talk us
23 through that.
- 24 A. Right.
- 25 Q. So I can see Templehall Avenue there and Hendry Road, so

- 1 you have explained to us a moment ago you were on
2 Hendry Road facing down as we look at this map and tell
3 us, if you can, where you went from there?
- 4 A. We come back down Hendry Road and turned left onto
5 Hayfield Road and we stopped about -- about there.
- 6 Q. So you travelled down Hendry Road and turned left into
7 Hayfield Road?
- 8 A. Yes.
- 9 Q. Quite near the start of Hayfield Road and you parked
10 there. Was that on the left-hand side of Hayfield Road?
- 11 A. Left-hand side, yes.
- 12 Q. What did you do there?
- 13 A. Just as I turned -- because that's a mini roundabout,
14 just as I turned left into Hayfield Road, I noticed the
15 gentleman is actually facing off vans, cars and various
16 other vehicles.
- 17 Q. When you say "facing off", can you explain that, please?
- 18 A. Standing in front of them.
- 19 Q. Where was he when you turned into Hayfield Road?
- 20 A. He was roughly at the junction of Hayfield Place and
21 Hayfield Road.
- 22 Q. Could you point to that on the map? Thank you. And
23 that's quite near Poplar Crescent as well on the other
24 side of the road I can see.
- 25 A. Yes.

- 1 Q. So that's the junction of Hayfield Place and
2 Hayfield Road and it has number 2 round that red circle.
3 Tell us what you did. You have told us you were
4 parked where we see number 1. Tell us what you did when
5 you saw the man?
- 6 A. I actually phoned again to say that I have seen the
7 gentleman again and where he was.
- 8 Q. And when you say you phoned again, was that the police?
- 9 A. Yes.
- 10 Q. Right. Can I ask you, when you were sitting parked in
11 Hayfield Road if you can describe how the man looked at
12 that time?
- 13 A. It was a bit of a distance away so I couldn't tell you
14 if he was -- what facial expressions or anything.
- 15 Q. You're going to have to explain that expression to me,
16 sorry?
- 17 A. My sight is good, but it's not that good.
- 18 Q. Right, okay.
- 19 A. All I could see is he was standing -- as the vehicles
20 were heading towards the hospital he was actually
21 deliberately standing in front of them and they were
22 having to turn around and come back the way.
- 23 Q. Could you point out to the Chair where the hospital is
24 on this map?
- 25 A. That's it, there.

- 1 Q. And you're saying vehicles were going to the hospital --
- 2 A. I don't know if they were actually going to the
- 3 hospital; they were going in the general direction of
- 4 the hospital.
- 5 Q. So if you were coming from Hendry Road and driving along
- 6 Hayfield Road, the further along Hayfield Road you get,
- 7 you get to the hospital?
- 8 A. Yes, that's the route, yes.
- 9 Q. That's Victoria?
- 10 A. Yes.
- 11 Q. Was he -- where in the road was he?
- 12 A. He was standing in the middle of the -- that particular
- 13 lane, the left-hand -- well, the left-hand lane as we
- 14 were actually looking at the gentleman, in front of cars
- 15 so they couldn't get past.
- 16 Q. And other than standing in front of the cars, or
- 17 standing them off, was he doing anything else that you
- 18 noticed?
- 19 A. He just kept walking towards them.
- 20 Q. Walking towards the direction where you were parked?
- 21 A. Yes.
- 22 Q. Thank you. I would like now to play you a bit of
- 23 footage. So Ms Wildgoose will get that set up. It's
- 24 the evidence video timeline, SBPI00046. We're going to
- 25 play a section of phase 1 of the footage. For

1 Ms Wildgoose's benefit, that will be 07.09.20 to
2 07.13.15.

3 Now, just to explain what you will see on the screen
4 here, Mr Kolberg, you see in the top left-hand corner
5 there's a grey button called "Real time" and there's
6 a clock underneath that? Do you see that grey button?

7 A. Yes.

8 Q. And we heard evidence yesterday that that's the actual
9 time on 3 May 2015 and then you can ignore the 101 call
10 but you will see there's a rectangle that says "999
11 calls"?

12 A. Mm-hm.

13 Q. You will see at some points that will light up. That's
14 to let everyone who is watching know that what you can
15 hear is someone has made a 999 call. Then there's
16 a green button you can completely ignore and then under
17 that it says a number plus "Dash cam footage".

18 A. Mm-hm.

19 Q. And that's from 3 May 2015. Now, even just from this
20 screen do you recognise that footage that we're showing
21 there?

22 A. Yes, that's footage from me going along
23 Templehall Avenue.

24 Q. Right. So what I'm going to do is I'm going to ask
25 Ms Wildgoose to play this and we're going to see the

1 footage and then we're going to hear some audio as part
2 of the footage and then we will stop it and then I will
3 ask you some questions.

4 A. Okay.

5 Q. And we will play it to 7.13.15 please.

6 (Video played)

7 Thank you very much. Did you recognise that
8 footage, Mr Kolberg?

9 A. The footage bit, but no all the speaking in the
10 background.

11 Q. No, no, don't worry about the audio, I should have said
12 that to you. Can we go back to the early part of that
13 please, Ms Wildgoose, thank you.

14 So the first thing that you will have noticed,
15 Mr Kolberg, was the figure at 7.09.20 to 33. And if we
16 just play that, is that the man that you saw and you
17 have described earlier for us today?

18 (Video played)

19 A. Yes, that's the gentleman, but as I say, it was the
20 first time I had ever seen the guy.

21 Q. Yes. And do we hear the thump that you have described
22 earlier?

23 A. Yes, if you listen, you do hear the thump.

24 Q. Can we play that and we will listen to it, and you can
25 identify for us when we hear it.

1 A. Okay.

2 Q. Thank you. If you're able. We can do this more than
3 once if we miss it.

4 (Video played)

5 A. There it is -- it's just -- it's only picked up a slight
6 bump -- there's a slight thump but when you're in the
7 car it actually sounds a bit more intense.

8 Q. We can hear your radio that's on.

9 A. Aye, that's not helping.

10 Q. No, okay. And as we go round -- so this is you, you
11 have approached -- you have come along
12 Templehall Avenue, you told us?

13 A. Yes.

14 Q. And you described turning left into Hendry Road, so is
15 this the dash cam showing us you turning left into
16 Hendry Road?

17 A. Yes.

18 Q. And then if we just carry on playing that, please.

19 (Video played)

20 Then we see the Shell garage that you mentioned
21 earlier?

22 A. Yes.

23 Q. And at that point, you do a U-turn and you park outside,
24 so this is you on Hendry Road, as you earlier said?

25 A. Yes. My son actually -- as we were going up, my son

1 started to phone the police and I went up to the first
2 junction, turned round and then stopped just this side
3 of the garage itself.

4 Q. Right. And then you described -- if we could just play
5 that on please.

6 (Video played)

7 And you described making the call. Now, this
8 footage combines a number of calls that were made at the
9 same time and that's why you won't have heard yours
10 distinctly, that's why I went through it with you as an
11 audio tape, but if we can just fast-forward slightly.
12 You see where it says "footage not available". We have
13 heard that your dash cam would stop recording on
14 a regular basis. Do you know why that was?

15 A. I had never seen that until it was shown to me. Again,
16 it's only when Euan come to the house and then we
17 actually noticed there was a few jumps of like
18 10 seconds, I think.

19 Q. But it's not something you were doing manually to your
20 dash cam?

21 A. Heaven's no. I've even got a copy of the original
22 footage. I just can't find the original player.
23 I can't even look at it myself.

24 Q. Yes, okay. Thank you. We will fast-forward to
25 beyond -- so you have parked outside the Shell garage

1 and then you move on down what is Hendry Road?

2 A. Yes.

3 Q. And you told us earlier you turned left into
4 Hayfield Road?

5 A. Yes.

6 Q. I would like to see you do that.

7 (Video played)

8 Now, you will see, Mr Kolberg, that on the
9 right-hand side there is CCTV footage of what's going on
10 at the same time. This is from Gallaghers pub so it
11 shows a different view, but if we can keep with the dash
12 cam footage we see you approaching a roundabout and then
13 you turn left. That's you continuing on to --

14 A. That's now Hendry Road.

15 Q. -- Hendry Road and then we see Gallaghers pub in the
16 distance, is that right?

17 A. Well, I used to -- we called the White Heather but --

18 Q. Right. Then you turn left here. This is the
19 roundabout. If we can pause here, please. That's a
20 roundabout on Hendry Road near the White Heather pub and
21 you have turned left into Hayfield Road?

22 A. Yes.

23 Q. And you're in a black Peugeot?

24 A. Yes.

25 Q. I would like you now to look at the CCTV footage that we

1 see on the right-hand side and I want you to look, in
 2 the distance on that footage you will see the
 3 roundabout. Do you see that at the top?

4 A. Yes, yes.

5 Q. And we will see a car coming round there. Now, we heard
 6 evidence yesterday that this is your car and it parks
 7 near the bus stop, all right? So don't just look at the
 8 dash cam, look at the Gallaghers' CCTV footage.

9 A. Yes.

10 Q. Would you please play that, Ms Wildgoose, thank you.

11 (Video played)

12 Do you see the car coming into the CCTV there?

13 A. Yes.

14 Q. And did you see the brake lights of the car?

15 A. Yes.

16 Q. And you see your dash cam, you seem to be stopping just
 17 besides the -- well, just before you reach the bus stop.

18 A. Yes.

19 Q. So you're on Hayfield Road and you appear to have parked
 20 the car again?

21 A. Yes.

22 Q. Thank you. Just pause that for a moment. Is this where
 23 you make your second call?

24 A. Yes.

25 Q. Right. What I would like to do is for ease of

1 convenience for Ms Wildgoose's benefit we will just play
2 the remainder of this tape and then I would like to play
3 the audio footage separately, so we will just carry on
4 watching this for a moment.

5 (Video played)

6 You will see that Robson's mobile phone footage
7 appears on the screen as well. If we can pause it there
8 for a moment, please, and if we could go back to
9 7.13.48, please. Was that the man you described being
10 in the middle of the road, or in the road?

11 A. Yes.

12 Q. And the car, the van -- we saw the white van turning to
13 do a U-turn and come back along Hayfield Road?

14 A. Yes.

15 Q. You said the cars were turning to avoid the man?

16 A. Yes.

17 Q. So again, on the left is your dash cam footage and in
18 the middle, is that footage from Robson's iPhone?

19 A. It is.

20 Q. Thank you. We also see that in the top right-hand
21 corner, CCTV footage remains there. That's from
22 Gallaghers pub.

23 I wonder if we could continue playing this,
24 Ms Wildgoose. The voices we hear as this plays, is that
25 you and your son speaking in the car?

1 A. Yes.

2 (Video played)

3 Q. Is that your voice, Mr Kolberg?

4 A. It is.

5 Q. When you say "Go that way", who were you talking to?

6 A. There was a gentlemen had actually stopped the car.

7 That's why I couldn't move. There was a car stopped
8 right beside me.

9 Q. So that prevented you from turning?

10 A. From turning, and my son was getting irate with me.

11 Q. And then we see you do turn there?

12 A. Yes.

13 Q. And you're behind the white van now and both of you
14 appear to be travelling back in the direction -- if you
15 could pause that there for a moment, please. So you're
16 travelling back in the direction of the roundabout?

17 A. Yes.

18 Q. And opposite there we see the pub, the White Heather as
19 you know it?

20 A. Yes.

21 Q. And that is the roundabout at the end of Hayfield Road?

22 A. Yes.

23 Q. Thank you. So if you turned left or right you would be
24 on Hendry Road?

25 A. Yes.

1 Q. Thank you. And if we can carry on playing that.

2 (Video played)

3 If we could pause slightly. Do we see a car in the
4 CCTV, in the top right, going round the roundabout now?

5 A. Yes.

6 Q. I don't know if you can tell, is that your car?

7 A. I can tell it's black.

8 Q. Okay, and your car was black?

9 A. It's a black Peugeot 107.

10 Q. All right, thank you. And just carry on please,
11 Ms Wildgoose.

12 (Video played)

13 A. Now I can see it's a Peugeot 107.

14 Q. So that's the same as your car?

15 A. It was, yes.

16 Q. And it has just gone round the roundabout. Then the
17 dash cam has come back on at 7.14.53. If we could pause
18 it there, and you appear to have turned left into
19 Hendry Road and then you're coming along to another
20 roundabout, is that right?

21 A. No, I turned right.

22 Q. Oh, sorry, turned right. I'm getting confused now as
23 well. So you turned right along Hendry Road and you're
24 coming up to the next roundabout along on Hendry Road?

25 A. Yes.

1 Q. Thank you.

2 I would like to now play the second 999 call and you
3 have told us a moment ago you made this from
4 Hayfield Road.

5 A. Yes, when we were -- we were actually stopped.

6 Q. When you were parked just in front of the bus stop on
7 Hayfield Road?

8 A. Yes.

9 Q. I would like to play this. This is an audio tape PS5
10 and what we will do again, Mr Kolberg, is just listen to
11 it once through. You will see the transcript on the
12 table in front of you and we will come back and I will
13 ask you some questions once it is finished. Thank you.

14 (Audio played)

15 Is that your voice that we hear, Mr Kolberg?

16 A. It is.

17 Q. Right, and having listened to it, was it you that said
18 "He is jumping out trying to hit other cars"?

19 A. He was actually going in front of the other cars, yes.

20 Q. And "He is stopping vehicles"?

21 A. Yes.

22 Q. And you didn't know what was wrong with him?

23 A. I didn't -- don't know what was making him unhappy or
24 whatever. That's what I meant by I don't know what was
25 wrong with him.

1 Q. What was your impression of him at that time?

2 A. Impression? Other than, as I said, on the phone I said
3 a pain in the arse, pardon the expression, but I don't
4 know. I couldn't tell, I didn't ken what he was like or
5 whatever, so I couldn't make an evaluation on the type
6 of person.

7 Q. No, no, not at all. I'm saying you said to the police
8 that you didn't know what was wrong with him, you
9 thought there was something wrong with him?

10 A. I didn't -- I don't know what was making him unhappy to
11 do what he was doing.

12 Q. What was your reaction to the way he was acting? How
13 did you react yourself?

14 A. I wasn't exactly happy, but I wouldn't have liked to see
15 anybody get hurt.

16 MS GRAHAME: If I can just check my notes. If you could
17 give me just a moment, thank you.

18 (Pause).

19 Mr Kolberg, I'm very grateful to you for your time
20 today, thank you. That's been very helpful. I don't
21 have any further questions, but there may be some more.

22 A. Okay.

23 LORD BRACADALE: Do any legal representatives have
24 applications at this stage? No. Thank you.

25 Thank you very much for coming and giving your

1 evidence, and you are now free to go.

2 A. Okay, right, thank you.

3 (Pause).

4 LORD BRACADALE: Yes, who is the next witness?

5 MS GRAHAME: The final witness for today is David Grey.

6 LORD BRACADALE: Good afternoon, Mr Grey. You're going to
7 be asked questions by Ms Grahame at the end of the
8 table, but before that I think you will take the oath so
9 will you raise your hand and say the words after me.

10 MR DAVID GREY (sworn)

11 Questions from MS GRAHAME

12 LORD BRACADALE: Ms Grahame.

13 MS GRAHAME: You are David Grey?

14 A. That's correct, yes.

15 Q. And the Inquiry team have all of your contact details?

16 A. That's correct, yes.

17 Q. And you very kindly provided a witness statement to the
18 Inquiry?

19 A. Yes.

20 Q. Can I just say, do you see the black folder in front of
21 you?

22 A. Yes, I do.

23 Q. Now, there's a copy of your Inquiry statement in that
24 folder, and if you're more comfortable with hard copies,
25 please feel free to refer to that if you wish.

1 A. Yes.

2 Q. I'm going to ask you a few extra questions about your
3 statement. When I do so, I will identify a paragraph
4 perhaps, and Ms Wildgoose will put it on the screen in
5 front of you.

6 A. Yes.

7 Q. So if you prefer the screen, it will -- the paragraph
8 will be on the screen.

9 A. That's fine, yes.

10 Q. Thank you. So let's begin by looking at your Inquiry
11 statement, if I may. We see that that was taken on
12 16 December 2021.

13 A. Yes, that's correct.

14 Q. And you gave this to a member of the Inquiry team.

15 A. Yes.

16 Q. And as I understand it, you were asked to sign every
17 page?

18 A. That's correct, yes.

19 Q. Thank you. And you did so?

20 A. I did.

21 Q. Could we look at the final page. Now, just to explain,
22 Mr Grey, the certain -- because this is being recorded
23 and made public, certain things are redacted from the
24 screen.

25 A. Yes, yes.

- 1 Q. But on the original copy that's where your signature
2 would appear?
- 3 A. That's correct, yes.
- 4 Q. And we see the final paragraph, it says:
5 "I believe the facts stated in this witness
6 statement are true. I understand that this statement
7 may form part of the evidence before the Inquiry and be
8 published on the Inquiry's website."
- 9 A. I understand that, yes.
- 10 Q. Excellent. And you are content that your statement, as
11 provided, is accurate and you don't want to make any
12 more changes or --
- 13 A. No, I'm happy with my statement, thank you.
- 14 Q. Thank you very much. Well, can I take you perhaps to
15 paragraph 2 first of all. We will just set the scene.
16 You were a driver --
- 17 A. That's correct, yes.
- 18 Q. -- on 3 May 2015, and I understand for many years before
19 that you were actually a police officer?
- 20 A. Yes, I was, yes, that's correct.
- 21 Q. For 30 years?
- 22 A. Yes, correct.
- 23 Q. So you retired and then became a driver?
- 24 A. That's correct, yes.
- 25 Q. Thank you. And on 3 May 2015, would you mind telling us

- 1 who you were working with, please?
- 2 A. I was working with one of my colleagues called
- 3 Geoff Levy and we were working in the Fife area that
- 4 day.
- 5 Q. What vehicle were you driving?
- 6 A. I was using a white -- what was it, Mercedes Sprinter
- 7 van, the registration number I couldn't recall at the
- 8 time.
- 9 Q. There's no need for that. Did it have dash cam?
- 10 A. It did, yes.
- 11 Q. Thank you. And who was driving, who was in the
- 12 passenger seat?
- 13 A. I was driving, Geoff was in the passage seat.
- 14 Q. Thank you. Can I ask you to look at paragraph 4 of your
- 15 statement. So you were asked some questions about the
- 16 journey that day.
- 17 A. Yes, yes.
- 18 Q. And somebody -- you describe a small hatchback-style
- 19 car, you're not sure whether it was a Fiesta or a Corsa:
- 20 "... flashed his lights and flagged us down. The
- 21 driver tried to get me to open the window..."
- 22 You couldn't do that in your van?
- 23 A. That's correct, yes.
- 24 Q. But he shouted to you:
- 25 "There's a guy up there with a knife"?

- 1 A. That's correct, yes.
- 2 Q. Was your dash cam recording at that time?
- 3 A. As far as I'm aware, these cameras are recording the
4 whole time the vehicle is out.
- 5 Q. Do you actually remember what road you were on at that
6 point?
- 7 A. I can't honestly recall. I was heading towards the
8 Cooperative, I remember now in Kirkcaldy, but no,
9 I can't remember the name of the road.
- 10 Q. Thank you. Tell us what the man looked like.
- 11 A. Which man? The man in the --
- 12 Q. The man who spoke to you, sorry, I should have been
13 clear.
- 14 A. A young chap, probably in his late 20s, early 30s,
15 trying to communicate obviously through a closed window
16 and basically all he said to me was "There's a man up
17 there with a knife, turn round", so I waved and thanked
18 him, and did that, went up to the junction to turn.
- 19 Q. So you turned your white van?
- 20 A. Yes.
- 21 Q. And went back to a junction?
- 22 A. Yes, that's correct.
- 23 Q. To avoid anything?
- 24 A. Yes.
- 25 Q. Did you actually at that stage see the man?

- 1 A. I did, yes.
- 2 Q. Tell us what he looked like.
- 3 A. He was tall, he was in excess of 6-foot in height. He
4 was wearing a white top and dark-coloured trousers.
5 What I did remember about him was his eyes were very,
6 very wide open and as he walked towards me, it was more
7 like a march, like he was intent on going somewhere, on
8 a mission-type thing. He also, as he walked, he had his
9 hands palms open and in his left hand I saw what
10 appeared to be a blade, a knife blade. So obviously at
11 that point I'm still concentrating on what I'm doing
12 with the van and turning the van to get out the road of
13 everything.
- 14 Q. Thank you. So can you help the Chair by describing the
15 distance that was between you in the van and the man
16 when you first saw him?
- 17 A. Probably somewhere in the region of 30, 40 yards, if
18 I recall rightly.
- 19 Q. And where was he positioned on the road?
- 20 A. I thought he was to my left-hand side perhaps, nearer
21 the footpath or on the footpath.
- 22 Q. And when you say the left-hand side, do you mean the
23 side you were driving on?
- 24 A. On my left side, yes, that's correct.
- 25 Q. And you have described his eyes as being wide open. Can

- 1 you tell us a little bit more about that?
- 2 A. Obviously when I see someone like that, the first thing
- 3 I'm going to think is are they on drink or drugs that
- 4 have caused their eyes to be so dilated and so open and
- 5 fixed -- you know, a fixed stare looking straight ahead.
- 6 That's what I thought.
- 7 Q. And you have described him marching, I think you used
- 8 the phrase "on a mission"?
- 9 A. Yes, that's what it looked like to me.
- 10 Q. What did you mean by that?
- 11 A. He was very purposeful in his walk. It was obvious just
- 12 watching him coming down the road that he had his
- 13 intention set by the manner of his walking, by the way
- 14 he was marching and marching down the road that he was
- 15 going to do something, or take revenge, I don't know, on
- 16 someone further down the road.
- 17 Q. Where you were driving the white van --
- 18 A. Yes.
- 19 Q. -- what direction was he walking in?
- 20 A. He was walking towards me.
- 21 Q. Thank you. And you have described his palms open?
- 22 A. Yes.
- 23 Q. And in his left I think you said it was a knife?
- 24 A. Left hand, yes.
- 25 Q. Can you describe the knife?

1 A. All I saw really was a blade, perhaps 6 or 7 inches
2 long. Obviously it all happened very, very quickly and
3 as well as looking at him, I also had to concentrate
4 where I was putting the van and that there was no danger
5 as I turned the van.

6 Q. Did you see the handle of the knife?

7 A. I didn't, no.

8 Q. Would you recognise that knife?

9 A. I don't honestly think so. I don't know.

10 Q. I would like to show you something, if I may --

11 A. Yes.

12 Q. -- and Ms Wildgoose will hand you something, and at the
13 same time she is going to put a picture onto the screen,
14 and as a former officer you know you're free to hold
15 that and touch it and we won't be taking it out of the
16 plastic container.

17 A. No, no.

18 Q. And on the screen we see a picture --

19 A. Yes.

20 Q. -- of what you have in the plastic container in front of
21 you?

22 A. Yes.

23 Q. Do you recognise that item?

24 A. It's -- I can't say it's for definite the knife he had
25 that morning, but the blade is very, very similar to the

- 1 one I saw.
- 2 Q. Thank you. Was he doing anything with the knife?
- 3 A. No, he was just carrying it, he was just holding it in
- 4 his left hand.
- 5 Q. And how far away from you was he when you saw the knife?
- 6 A. Probably about the 25-yard mark, something around about
- 7 that. I had to drive forward to get up to the junction
- 8 to turn and come away from the area.
- 9 Q. Thank you. Did you have any impression at that time
- 10 about his mood?
- 11 A. Not really, other than to say he just -- he was set on
- 12 doing something or going somewhere, and he had to be
- 13 there fairly quickly. That's all I could really take
- 14 from what I saw that morning.
- 15 Q. Thank you. Having done a U-turn, where did you go?
- 16 A. The road curves slightly round to the right, so
- 17 I obviously kept watching in my mirror until obviously
- 18 I lost sight of the man, but he continued to walk down
- 19 the road in the same direction that I was now driving
- 20 in.
- 21 Q. When you say the mirror, are you talking about the
- 22 rear-view mirror or on the side?
- 23 A. Driver's door mirror.
- 24 Q. Driver's door. And you could see him from your mirror?
- 25 A. Yes.

1 Q. Did you see him doing anything else from the mirror --

2 A. No.

3 Q. -- other than you have described?

4 A. No, that's all.

5 Q. Did you call the police?

6 A. We were going to and then we heard sirens, so obviously
7 somebody had beaten us to that, so I didn't call
8 the police, no.

9 Q. And did you head off on your --

10 A. Yes.

11 Q. -- normal daily business after that?

12 A. I did, yes, that's correct.

13 Q. Thank you. Could I ask you to look at some footage for
14 me, please.

15 A. Yes.

16 Q. What we're doing is we will play it through and then
17 I will ask you some additional questions, if I may.

18 A. No problem.

19 Q. Thank you. So this will be the evidence video timeline,
20 please, and I would like it to start at the 7.13.
21 7.13.48 or thereabouts.

22 (Video played)

23 Can we pause the camera for a moment, please. Thank
24 you. So I will just explain to you, first of all, what
25 you see on the screen here.

1 A. Yes.

2 Q. If you don't mind, Mr Grey. So the top left-hand corner
3 is a real time clock and that is 7.13 and 58 seconds.

4 A. Right.

5 Q. And then there are a number of rectangles underneath
6 that, we're calling them buttons, that will light up, so
7 as we play this, you will hear audio recordings of calls
8 that have been made, and you will see either the 101 or
9 the 999. They're being played at the time they were
10 made, so they overlap. You will hear that. On the
11 bottom left we see dash cam footage and we have just
12 heard from a gentleman whose car recorded this.

13 At the same time we have some iPhone, mobile phone
14 footage in the middle on the bottom, which is from
15 someone's mobile phone and then on the bottom right-hand
16 corner we see a number and it says "Van driven by
17 witness Grey"?

18 A. Yes.

19 Q. And that's you, as I understand it?

20 A. That's correct, yes.

21 Q. So is the bottom right-hand corner the dash cam from
22 your white Mercedes?

23 A. That is the camera, yes.

24 Q. And then on the top right we see footage from a nearby
25 pub, Gallaghers, or White Heather, CCTV.

1 A. Right.

2 Q. I'm going to take you to look at your footage, if you
3 don't mind, and I would like you to talk us through what
4 we can see here. It's quite pixilated and I would like
5 you to talk us through it, if you don't mind?

6 A. No problem.

7 Q. And we will play this for a short period and feel free
8 to just speak into the microphone as we do so.

9 (Video played)

10 Can we go back slightly, please, Ms Wildgoose, just
11 to the beginning of where the footage is. Is it fair to
12 say that we can see windscreen wipers on your van?

13 A. Yes, yes, that's correct.

14 Q. What was the weather like that day?

15 A. I thought at the time it was dry, that was my
16 recollection, but that's, I mean, seven years ago and
17 obviously the wipers are working, but I wouldn't say it
18 was terribly heavy rain.

19 Q. Okay. Sorry, we will just play that again. Sorry,
20 Ms Wildgoose.

21 (Video played)

22 Can we stop there, please?

23 A. Yes, the wipers are working definitely.

24 Q. So the wipers are working. Do you see in the middle on
25 the bottom there the Robson Kolberg's iPhone. Do you

- 1 see the white van with its brake lights on?
- 2 A. Yes.
- 3 Q. Do you recognise that?
- 4 A. That would be the van I was driving that day, yes.
- 5 Q. So that's you driving that white Mercedes --
- 6 A. Yes.
- 7 Q. -- in front of the person whose dash cam, the mobile
- 8 phone?
- 9 A. Yes.
- 10 Q. And we will just watch as this carries on.
- 11 (Video played)
- 12 A. That's where the driver of that car had flagged us down
- 13 to tell us about the man with the knife ahead.
- 14 Q. So on the iPhone footage, the car that we saw next to
- 15 yours, parked in the road?
- 16 A. Yes.
- 17 Q. And do you see the figure that we see in the road
- 18 there --
- 19 A. Yes.
- 20 Q. Can we pause there, please?
- 21 A. Yes.
- 22 Q. That's the man you have been telling us about?
- 23 A. That's correct, yes.
- 24 Q. And now do we see that your van has done a U-turn?
- 25 A. Yes.

1 Q. And we can see the front of your van?

2 A. That's correct, yes.

3 Q. So you're the person driving that van?

4 A. I am indeed, yes.

5 Q. Let's carry on watching, please.

6 (Video played)

7 Do you see the dash cam footage? Your van appears
8 to be passing --

9 A. Yes.

10 Q. -- the person who is stationary. And as we watch this,
11 Mr Grey, you will probably see this driver who has the
12 dash cam, turning round as well and then I think we will
13 see -- is that your van again?

14 A. That's our van again, yes.

15 Q. And you're approaching the roundabout.

16 A. Yes.

17 Q. And then we see that you're turning left.

18 A. Yes, that's correct.

19 Q. Can we pause it there? We have heard that the building,
20 the cream building with the black roof in front is the
21 Gallaghers pub or White Heather.

22 A. Right.

23 Q. Can I ask you just as we look at the screen to look at
24 the top right-hand corner and we see Gallaghers' CCTV
25 footage and you see a white van that's --

- 1 A. Yes.
- 2 Q. -- turned from the roundabout; is that also your van?
- 3 A. That would be our van, yes, yes.
- 4 Q. So you have done a U-turn in that road?
- 5 A. Mm-hm.
- 6 Q. Come to the roundabout, turned left?
- 7 A. Yes.
- 8 Q. We see that on the dash cam?
- 9 A. Yes.
- 10 Q. We see your van in the mobile phone footage, and we also
11 now see you in this CCTV footage?
- 12 A. That's correct, yes.
- 13 Q. Lovely. Can I move on to your earlier statement, so we
14 can leave that behind for the moment, thank you.
- 15 A. Yes.
- 16 Q. And again, it's PIRC00199, Ms Wildgoose. You have
17 a hard copy of this in your black folder, Mr Grey.
- 18 A. Right, yes.
- 19 Q. If we can move down the screen slightly, we see your
20 name, David Grey -- stop, please -- and it says
21 statement was taken 20 May 2015 at 15.55?
- 22 A. That's correct, yes.
- 23 Q. And it was taken by a Ross Stewart in the presence of
24 a Victoria Karran?
- 25 A. Yes.

1 Q. And again, do you recognise the look of this? You might
2 actually recognise it better from the hard copy that you
3 have in front of you. This is a statement that you gave
4 to PIRC?

5 A. Yes, yes.

6 Q. On 20 May 2015?

7 A. Mm-hm.

8 Q. Do you remember giving them a statement --

9 A. Yes, I do, yes.

10 Q. -- on that day?

11 A. I do.

12 Q. Were you asked to sign it?

13 A. I think I was, yes. I think I was.

14 Q. And you were happy that the information you gave them at
15 that time was correct?

16 A. Yes, I was, yes.

17 Q. Was your memory better then?

18 A. Obviously it was fresher, yes, it would have been.

19 Q. Yes. Can we look at paragraph 8 of -- sorry, no, that's
20 the wrong thing. Can we look at the final page of that
21 statement, please. So it's the second paragraph of the
22 final statement. You say:

23 "I would describe the knife ..."

24 This is the part of the statement where you're
25 talking about the knife:

1 "I would describe the knife as being a bayonet-style
2 knife. Long, thin, black maybe, about 8 inches long and
3 1-inch wide, quite thin."

4 A. Yes.

5 Q. Is that similar to the description you have given us
6 today?

7 A. It's quite similar, yes.

8 Q. Thank you. And when it says black, is that a reference
9 to the handle?

10 A. I don't think so. I think that was a reference to the
11 blade. I don't know whether maybe it was the light
12 conditions that day or not, I don't know, but it looked
13 darker colour to me when I saw it that day.

14 MS GRAHAME: All right, thank you very much. Well, thank
15 you very much, Mr Grey, that's been very helpful. Thank
16 you.

17 A. Thank you.

18 LORD BRACADALE: Are there any applications in respect of
19 this witness? No, thank you.

20 Well, thank you very much, Mr Grey. That's your
21 evidence completed, you are free to go.

22 A. Lovely, sir. Thank you very much.

23 LORD BRACADALE: Now, that completes the evidence for today,
24 Ms Grahame.

25 MS GRAHAME: (Mic turned off) I have made good progress this

1 afternoon, so I have no other witnesses to call.

2 LORD BRACADALE: Well, the Inquiry will now adjourn until

3 Tuesday at 10.00 am.

4 (3.07 pm)

5 (The Inquiry adjourned until 10.00 am on

6 Tuesday, 17 May 2022)

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