

Thursday, 19 May 2022

(10.01 am)

LORD BRACADALE: Well, good morning. Now, Ms Mitchell,  
you're going to ask a question.

INSPECTOR STEVEN STEWART (continued)

Questions from MS MITCHELL

MS MITCHELL: Yes, sir.

Inspector Stewart, we heard you giving evidence  
earlier in the week, and in that you said, in response  
to some questions about training, you said:

"Answer: I actually run an equality and diversity  
team just now in my current role, so I have done  
equality and diversity and inclusion training."

And then you were asked:

"Question: What training are you giving officers in  
relation to black stereotypes, or you have mentioned  
situations down in England? Tell us a little bit about  
that?"

And if I might just give you your response, you say:

"Answer: I mean in terms of hate crime, I review  
hate crime on a daily basis. In terms of -- it's about  
officers -- I suppose it's about officers being aware  
and members of the public being aware of prejudices that  
they might hold, what discrimination is, what a hate  
crime is, what a hate incident is."

1           Now, what you said there, you responded -- and you  
2           responded in relation to those who have hate crimes  
3           perpetrated against them. What I'm interested in -- and  
4           if you can help the Inquiry with this -- is can you tell  
5           the Inquiry what, if any, training is being given to  
6           police officers in relation to black stereotyping for  
7           suspects?

8       A. So I mean that's -- that's really the sort of national  
9       training team that would maybe be able to help you with  
10      that. I feel I -- I don't deliver any specific training  
11      on that side of things. I know that diversity awareness  
12      training is given to all new probationary officers at  
13      the police college, they spend two days doing it, and it  
14      continues throughout their time there, so that's an  
15      indication to me of the importance that diversity  
16      awareness and training is given to new police officers.  
17      And my view is that police officers continue to --  
18      through their engagement with different communities,  
19      protected characteristic groups, build upon their  
20      experience and awareness of different communities and  
21      groups, but in terms of specific training, I have not  
22      had any specifically in relation to dealing with black  
23      suspects, and I don't know what the organisation is  
24      currently doing in relation to that. That's my personal  
25      knowledge, but I know the organisation has a programme

1           called "Policing Together" which is being led by the  
2           Chief Constable, so I imagine training going forward in  
3           terms of inclusion may cover that, but I don't --  
4           I can't really answer that question for you. I'm so  
5           sorry.

6       Q.   So at present you don't understand there to be any  
7           training given to police officers in relation to black  
8           stereotyping for suspects?

9       A.   I don't know that. I can't answer that question for  
10          you.

11      Q.   And can I also just ask, when did the training in  
12          diversity -- when did that start, that training? Are  
13          you aware of when that was?

14      A.   What training?

15      Q.   The training in diversity that you mentioned, that you  
16          were doing in relation -- when did that begin?

17      A.   I received equality and diversity training with probably  
18          about three or four years' service, is my recollection,  
19          but the training for probationers starts as soon as they  
20          go to the college, within the first few weeks, in terms  
21          of that diversity training, and it's continued  
22          throughout their time at college to give them that  
23          understanding.

24      Q.   And is it continued throughout your career or just that  
25          period of time when you start?

1       A. Yes, so I -- obviously the training that happens at the  
2       college, I have not had any formal training, sort of  
3       refresher training going forward, specific training  
4       going forward. For me it's stuff that I have learned  
5       through my engagement with communities. I do a slightly  
6       different role, the equality and diversity team is just  
7       one of the teams that I run, but I've got a bit more of  
8       an enhanced awareness about hate crime, how to support  
9       communities, how to support victims and my team is about  
10      engagement and supporting different communities and  
11      groups across the country.

12      Q. And do we hear that that's rather self-taught as opposed  
13      to any other training that you have actually been given  
14      since you were a probationer?

15      A. Yes. I mean I have learned as a response officer, as  
16      a response sergeant, as a community sergeant, every role  
17      that I have undertaken I have learned on the job and  
18      mixed with different groups, engaged with a whole  
19      variety of communities, but inclusion is fundamentally  
20      important to policing and, you know, I know that going  
21      forward Police Scotland, through this Policing Together  
22      programme, is placing it at the heart of the  
23      organisation, so I feel confident that training will  
24      continue going forward but the training I have had is my  
25      initial training and some additional training about hate

1 crime championing, hate crime tactical advisor training  
2 that's given, but that's delivered nationally,  
3 specifically.

4 Q. But again, no training in relation to black stereotyping  
5 of suspects?

6 A. No, no.

7 LORD BRACADALE: Thank you, Ms Mitchell.

8 Ms McCall.

9 Questions from MS MCCALL

10 MS MCCALL: Thank you, sir.

11 Inspector Stewart, the other day you were telling us  
12 about communications between the control room at  
13 Bilston Glen and officers on the ground.

14 A. Yes.

15 Q. I wanted to ask you about communications between the  
16 control room at Bilston Glen and the Ambulance Service.  
17 What role does the area control room play in  
18 transmitting information received from officers on the  
19 ground to the Scottish Ambulance Service?

20 A. So if officers are on the ground and required an  
21 ambulance for an injured person or a casualty they would  
22 ask the control room to make that call for them, so  
23 within -- my understanding -- I have not worked in  
24 a control room for six years or so, but my understanding  
25 at the time was that each controller had a screen,

1 a NIC(?) screen which is almost like a telephone pad,  
2 and there were different numbers on it, so you could  
3 call the ambulance either slow time or through a direct  
4 prioritised route, so if you went that way, which is  
5 what they -- that was the working practice that they  
6 had, if it was an urgent call, it would put you straight  
7 through to ambulance control and they would recognise it  
8 was police, so they would say "Hello police, how can  
9 I help you", and then the information would be passed  
10 that you needed an ambulance and the ambulance  
11 call-taker at their end would have a list of questions  
12 that they would have, standard questions that they would  
13 ask about whether a casualty was conscious, breathing,  
14 suffering from chest pains, serious bleeding, or any  
15 other significant concerns that they had and that would  
16 be relayed to the call taker -- they would have --  
17 ambulance call-taker -- they would have their set  
18 standard of questions and then they would then sort of  
19 assess that or triage that and presumably dispatch an  
20 ambulance with staff to the location of where the  
21 officers were.

22 Q. So what I'm understanding from that is that the police  
23 area control room doesn't communicate directly with  
24 paramedics; it communicates through the ambulance  
25 control centre?

1 A. Yes.

2 Q. What procedures, whether standard operating procedures,  
3 protocols, MOUs, anything of that nature, are in place  
4 to provide guidance on when and what information from  
5 officers in the field should be passed to the  
6 Ambulance Service?

7 A. So I mean, so there are current sort of protocols, new  
8 protocols --

9 Q. Can we focus on 2015, please.

10 A. Okay. So in 2015 I'm not aware of any specific SOPs.  
11 It would be phoning the ambulance and it would be a case  
12 of providing the information as a member of the public  
13 would probably, and then the questions that that  
14 ambulance control room required would be asked and  
15 responded to.

16 Q. I'm interested in how the information is transmitted.  
17 So you have told us, I think, that the controller at  
18 Bilston Glen can essentially phone the ambulance control  
19 room --

20 A. Yes.

21 Q. -- so make an audio call to the ambulance control room;  
22 is that right?

23 A. Yes.

24 Q. Where that happens, where contact is made between  
25 Bilston Glen and the ambulance control, is that

1 communication recorded in any way?

2 A. I would imagine it is. All the communications within  
3 the control room are recorded. As soon as you pick up  
4 a phone and even start to dial a number, the information  
5 records, so a call to the Ambulance Service, as best as  
6 I can tell you, would be recorded and the details of the  
7 call and the information contained within I think would  
8 be recorded.

9 Q. Do you mean audio recorded, or recorded in some other  
10 way?

11 A. Audio recorded it should be, voice.

12 Q. I think on Tuesday you said something in a different  
13 context about -- you were asked about police officers  
14 using the phrase "Just for the log" and I think you  
15 described it as "police speak", but it refers to  
16 recording something on the incident log?

17 A. Yes.

18 Q. The STORM log, is that right?

19 A. Yes.

20 Q. Would contacts between the control room at Bilston Glen  
21 and the Ambulance Service be recorded on the STORM log  
22 by the police end of that?

23 A. Yes, I mean, the controller might put a line on to say  
24 "Ambulance contacted, reference number", and there might  
25 be a reference number that they were given from the



1 ambulance control room and that might be on, but I would  
2 expect a line to say "Ambulance contacted, aware and  
3 attending", so that everybody was aware of what was  
4 happening.

5 Q. Right. And you were asked the other day about  
6 a transmission made by Acting Sergeant Scott Maxwell and  
7 I wonder if you could just have a look again please at  
8 the audio-visual timeline that you had in front of you  
9 and I think it's on page 8 of that.

10 You will see in the second column from the left at  
11 the time 07.26.52, there's an entry for Acting  
12 Sergeant Maxwell. I will just read that just to refresh  
13 your memory:

14 "Just for the log the initial on attendance this  
15 male has attacked PC Short quite violently. As a result  
16 he was sprayed with CS and PAVA and batoned. There may  
17 be a suggestion that he has been batoned to the head  
18 area."

19 And then he says "41 over" which I think is his  
20 number.

21 The Inquiry has evidence from Sergeant Maxwell that  
22 there were two purposes to that transmission, the first  
23 being for the log, so to put it on the STORM record, and  
24 the second being to make the Ambulance Service aware  
25 that Mr Bayoh had been sprayed and may have a head

1 injury as a result of being batoned so that that was  
2 passed to paramedics.

3 The Inquiry may hear that the paramedics never got  
4 that information. Should the controller at  
5 Bilston Glen, the police controller, have passed  
6 Sergeant Maxwell's transmission in some form to the  
7 Ambulance Service to alert them to the possibility of  
8 a head injury?

9 A. I would imagine that they would -- the police controller  
10 would have gone through and answered the standard  
11 questions that had been asked and that if there was any  
12 other information that was pertinent or relevant that  
13 that would have been passed at the time. I mean someone  
14 sprayed with spray or injured or had a head injury, that  
15 information I would like to think would be passed to the  
16 ambulance control. Whether they received that, I can't  
17 comment on and whether they passed that information to  
18 the paramedic who was attending I can't comment on  
19 because that would be through ambulance processes.

20 Q. You understand I'm trying to work out where it is that  
21 the communication broke down, if indeed it did break  
22 down?

23 A. Yes.

24 Q. So that's something you would expect your controllers at  
25 Bilston Glen to pass on to the Ambulance Service?

1       A. Yes, but it depends what the Ambulance Service actually  
2       records. They may ask these questions, the information  
3       might be passed, it might not be necessarily recorded by  
4       them. I don't know, I would have to see the ambulance  
5       control record to understand what was happening or hear  
6       the transmission, and it's not necessarily a guarantee  
7       that they would then pass that information out to the  
8       paramedics.

9       Q. And in relation to this incident at Hayfield Road that  
10      you have told us you were having an overview of and you  
11      were the duty officer that day, do you know if that  
12      information was passed by your controller at  
13      Bilston Glen to the Ambulance Service?

14     A. I don't know if that specific information was passed  
15     because I didn't make that telephone call, I didn't  
16     speak to the controller to specifically ask "What did  
17     you tell the Ambulance Service?" so I don't know the  
18     answer to that, I'm sorry.

19     Q. All right. I wonder if you would just look at the STORM  
20     log please and the number is PS 00232. It will come up  
21     on the screen. We can just see -- if you just go  
22     slightly down, Ms Wildgoose, that would be very helpful.  
23     That's perfect, thank you. Just so we can orientate  
24     ourselves, Inspector Stewart, you recognise that, I take  
25     it, as the layout of a STORM incident log?

1 A. Yes.

2 Q. And if you just look at the boxes on the page at the top  
3 left-hand box you see the date, 3 May 2015?

4 A. Yes.

5 Q. And we're just at 7.15 in the morning this log is  
6 generated and you will see the address we're concerned  
7 with here is Hayfield Road in Kirkcaldy, do you see  
8 that?

9 A. Yes.

10 Q. I wonder, Ms Wildgoose, if you could just go down to the  
11 bottom of page 2, thank you. I'm afraid the typing is  
12 a little bit faint, Inspector Stewart, but do you see in  
13 the second line up from the bottom --

14 A. Yes.

15 Q. -- you will see:

16 "4345 Scottish Ambulance Service contacted and two  
17 ambulances attending."

18 Do you see that?

19 A. Yes.

20 Q. And then under that "S411", that's Sergeant Maxwell:

21 "Male attacked PC Short violently. Suspect has been  
22 sprayed and batoned."

23 So it appears that control logged that in the STORM  
24 log?

25 A. Yes.

1 Q. Then Ms Wildgoose, if you just go to the next page, just  
2 the top please. Do you see the next entry there that's  
3 put in is:

4 "Ambulance updated for the new location."

5 A. Yes.

6 Q. And do you see there's no record there of the ambulance  
7 being updated for the information about Mr Bayoh's  
8 condition and what may have happened?

9 A. Yes, I see that there's no update, but I don't know if  
10 that information has been passed, but just not  
11 necessarily put on the log.

12 Q. Is it the sort of thing that ought to be on the log?

13 A. The --

14 Q. If the information was passed, is it the sort of thing  
15 that ought to be recorded?

16 A. You know, it's a -- that was obviously a fast-moving  
17 incident. If -- I think the -- on the previous page it  
18 does say that the ambulance -- so the ambulance have  
19 been made aware -- can you go back just slightly? Would  
20 that be okay?

21 Q. Certainly. Thank you.

22 A. So it says:

23 "Ambulance contacted. Requiring two ambulances for  
24 officer and accused".

25 And then they have put:

1 "SAS contacted, two ambulances attending".

2 Yes, so they have put on it they have been in  
3 contact, that they are attending. I wouldn't  
4 necessarily expect them to put down that the information  
5 they had passed was that the person had been sprayed and  
6 struck with a baton to the head. I wouldn't necessarily  
7 expect a controller to do that, but that information may  
8 have been passed to the ambulance our side, I don't  
9 know. I would have to understand what they had on their  
10 records. I think that would be the only way to clarify.

11 Q. All right. So from your perspective, if the Inquiry  
12 hears that the paramedics were never given the  
13 information that Sergeant Maxwell is recorded passing on  
14 there at the bottom of page 2, you can't help us with  
15 whether that's a failure in your control room, or  
16 a failure on the ambulance side of things?

17 A. No, but -- because I would have to understand what  
18 the police controller who phoned for the ambulance  
19 actually said to the ambulance controller and then what  
20 that ambulance controller recorded and passed out to the  
21 paramedics who were attending.

22 Q. Thank you. Just give me one moment, if you would.

23 (Pause).

24 I will just clarify one matter if I can with you,  
25 Inspector Stewart, just so that we all understand what

1           you're saying about it. If you see at the bottom of  
2           that, page 2 of the STORM log, the S411 transmission,  
3           "The suspect has been sprayed and batoned", that's been  
4           recorded by the controller in your control room on the  
5           STORM record at the police end of things, is that right?

6           A. Yes.

7           Q. And you haven't seen, I think you said to us, the  
8           ambulance equivalent --

9           A. Yes.

10          Q. -- incident log, so you can't tell us what's recorded on  
11          that side?

12          A. No.

13          Q. All right, thank you very much. Thank you, sir.

14                               Questions from LORD BRACADALE

15          LORD BRACADALE: Inspector Stewart, I would like to make  
16          sure that I correctly understand your evidence in  
17          relation to the issue of command. You said on Tuesday  
18          at page 199 of the transcript:

19                 "I'm not controlling what happens on the ground,  
20                 unless it becomes a firearms incident, in which case  
21                 I take charge of the incident in its entirety."

22                 Do you recall saying that?

23          A. Yes, sir.

24          LORD BRACADALE: Now, am I correct in understanding from  
25          your evidence on Tuesday that you did not take command

1 of the incident as it developed in Hayfield Road on the  
2 day?

3 A. Yes, sir. The command of the incident was with local  
4 policing at that time.

5 LORD BRACADALE: So if you didn't take command of it, the  
6 command is with the local policing?

7 A. Local policing inspector, local policing sergeant who  
8 were responsible for that area at the time.

9 LORD BRACADALE: And did you know who that was?

10 A. I didn't know the name, I don't know these people  
11 specifically, but it would have been obviously  
12 Stephen -- I can't remember his name, if it was Kay, was  
13 the inspector, and obviously the sergeant is  
14 Scott Maxwell.

15 LORD BRACADALE: Well, thank you very much for your  
16 evidence, inspector. You will understand that an  
17 Inquiry of this nature is such that we sometimes have to  
18 go back and look at things again as we go along and  
19 there may be some issues arising from your evidence that  
20 I would like to have another look at, so it may be that  
21 we will revert to you at some point, but mean time,  
22 that's the end of your evidence. Thank you.

23 A. Thank you, sir.

24 LORD BRACADALE: Now, I will adjourn so that the next  
25 witness can be put in place.



1 (10.23 am)

2 (Short Break)

3 (10.28 am)

4 LORD BRACADALE: Now, Ms Grahame, the next witness is

5 Mr Walker, is it?

6 MS GRAHAME: Yes, PC Craig Walker.

7 LORD BRACADALE: Thank you.

8 Good morning, Mr Walker. Would you raise your right  
9 hand and say the words of the oath after me.

10 PC CRAIG WALKER (sworn)

11 LORD BRACADALE: You're now going to be asked questions by  
12 Ms Grahame.

13 Ms Grahame.

14 Questions from MS GRAHAME

15 MS GRAHAME: Thank you. Good morning, PC Walker. Your full  
16 name is Craig Walker?

17 A. It is, yes.

18 Q. And what age are you?

19 A. 41.

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

21 A. 17.

22 Q. And your contact details are known to the Inquiry so we  
23 won't be saying those out loud today.

24 We have a number of documents from you and I would  
25 like to go through those first to make sure I've got the

1 right things.

2 A. Yes.

3 Q. So the first thing I would like you to look at is the  
4 statement you have produced to the Inquiry. Now,  
5 when -- you may have seen from other evidence in the  
6 hearing that as I refer to statements, Ms Wildgoose will  
7 bring them up on the screen, and I will maybe refer to  
8 particular paragraphs and she will display those on the  
9 screen in front of you.

10 A. Yes.

11 Q. But in addition I can see you have looked at the black  
12 folder and we have given you hard copies, so if at any  
13 time you want to refer to the hard copy or see what's  
14 around the passage on the screen, please feel free to do  
15 so. That's there for your use.

16 So the -- can we look at the first page. This was  
17 a document prepared by you, or you and your solicitors,  
18 and it says it is a response to Rule 8 request. Just to  
19 explain to people, that was a written request from the  
20 Inquiry with almost 100 questions in it which you have  
21 then responded to and you have provided us with what's  
22 effectively a written statement?

23 A. Yes.

24 Q. And can we go to the last page of that? Do we see --  
25 now on the screen you will see that there is

1 a signature -- a place for a signature, but it's been  
2 redacted for the purposes of displaying it on the  
3 screen, but the version you should have in your copy,  
4 can I say that's been signed -- the statement has been  
5 signed by you?

6 A. Yes, that's correct.

7 Q. And you will see at the top of the page on the screen it  
8 says:

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

13 And in light of that, you have signed the statement?

14 A. I have, yes.

15 Q. And that was a paragraph, or a sentence that -- two  
16 sentences that the Inquiry asked you to insert into your  
17 statement?

18 A. Yes, that's correct.

19 Q. Thank you. Now, could we go down slightly. The  
20 redactions cover the signature, but you will see the  
21 date is given as 4 July 2022. Now, although I might  
22 forget the date, I know it's not July?

23 A. Yes.

24 Q. So was that more likely to be April or May?

25 A. It was signed electronically so I would have to assume

1           that that's American format for 7 April.

2       Q.   So it was 7 April?

3       A.   Yes.

4       Q.   Thank you.   That's that mystery solved then, thank you  
5           very much.   So you signed that on 7 April and sent it  
6           into the Inquiry after that.

7       A.   Yes.

8       Q.   Thank you.   Now, can I ask you to look at -- I will come  
9           back to that in a moment, but I would like to go through  
10          the other documents we have first, if I may.

11                So there's a statement which is PIRC 00265 and you  
12          will see that this is a statement -- we can see it on  
13          the screen -- a witness statement with your name, and  
14          could we go up slightly, or down, thank you, and it says  
15          "Statement taken" and it says "By: self".   Could you  
16          explain what this statement is?

17       A.   Yes, shortly after the incident I prepared a statement  
18          myself just so -- whilst the things were fresh in my  
19          mind.   I prepared that statement just so that I would  
20          have one ready to hand over.

21       Q.   And do you remember the date that you prepared that  
22          statement?

23       A.   No.   I was off work at the time, so, no, no  
24          recollection.

25       Q.   Other than the exact date, can you give us an indication

1           of how long after the events you prepared it?

2       A.   Probably I would say a week after the event, but, aye,  
3           certainly -- a week.

4       Q.   So within that week --

5       A.   Yes.

6       Q.   -- or a week after the --

7       A.   Yes, whilst it was still really fresh in my mind  
8           I committed it to paper.

9       Q.   Thank you.   And what was the purpose of preparing this  
10          statement?

11      A.   Just so, like I say, so things would be fresh in my mind  
12          at the time, just so I had a statement ready to go that  
13          I could refer to and just have notes basically.

14      Q.   So when you were preparing it, were you trying to be as  
15          thorough and as truthful as you could be in your  
16          recollection?

17      A.   Yes, because I would need to rely back on it at some  
18          point.

19      Q.   Thank you.   And what did you do with that statement?

20      A.   When I was asked to give a statement to the PIRC I took  
21          it along with me and I handed it over to them to say  
22          that I had a statement prepared so if nothing else,  
23          I could give them a starter for 10 for their statement.

24      Q.   Thank you.   Can we turn to PIRC 00264, please, and you  
25          will see this is another statement and again, by

1           yourself and if we can go down the screen. This says it  
2           was taken on 4 June 2015 at 11.55 hours and it was taken  
3           by DSI Keith Harrower at the Scottish Police College in  
4           Tulliallan?

5       A. Yes, that's correct.

6       Q. So this is the date and time that you gave your  
7           statement to PIRC?

8       A. Yes.

9       Q. Thank you. And did you sign that statement, do you  
10          remember?

11      A. I did, yes.

12      Q. And were you given an opportunity to read over it or  
13          have it read to you and make any changes that you  
14          wished?

15      A. I was, yes.

16      Q. And did you make any, as far as you can recall?

17      A. Not that I could recall, no. I just signed the bottom  
18          of every page.

19      Q. So you're happy with this statement as well?

20      A. Yes.

21      Q. Thank you. Then finally, can I ask you to look at  
22          a map. I think this may be a COPFS number, 05965. Do  
23          you recognise this map?

24      A. Yes.

25      Q. And you see at the bottom it's got your name on it?

1 A. Yes.

2 Q. And there's markings on it as well. Who drew those  
3 markings?

4 A. I did. I was asked to do so.

5 Q. And who were you asked to do so by?

6 A. By the PIRC investigators.

7 Q. Was this given at the time that you gave your statement  
8 to them?

9 A. It was, yes.

10 Q. Thank you. And again, was that provided along with the  
11 statement to PIRC to give as true and accurate a record  
12 of events as you were able to recall?

13 A. Yes, that's correct.

14 Q. And -- thank you very much, that's fine, Ms Wildgoose.

15 Then last week your legal representative, the Dean  
16 of Faculty, indicated in his opening statement that you  
17 are determined to assist the Inquiry in every way you  
18 can and to provide your evidence to assist the Inquiry  
19 and that's why you're here today.

20 A. That's correct, yes.

21 Q. Thank you. And does that remain the position?

22 A. It does, yes.

23 Q. Thank you. So you have your hard copies. Please feel  
24 free to look at them. I will also be showing you some  
25 footage and that will come up on the screen as we go

1 through the questions today, but it is my intention  
2 today to go through the paragraphs from your Inquiry  
3 statement and to ask you some further detail.

4 First of all, I would like to ask you about hearing  
5 the Airwaves messages on 3 May 2015. So you have said  
6 in your statement you were driving a marked white Ford  
7 Transit van with lights?

8 A. Yes.

9 Q. And if we could have up actually on the screen  
10 PIRC 00265, page 3, paragraph 2. You will see that this  
11 is the self-penned statement that you handed to PIRC.

12 A. Yes.

13 Q. And I will read this out to you for the moment:

14 "En route to the call blue lights were utilised  
15 throughout the whole journey. However, at no point did  
16 I utilise the police siren. Due to the time of day and  
17 day of the week traffic was light. Also the van's  
18 sirens are located on the roof which is poorly insulated  
19 and would have resulted in radio messages being misheard  
20 or missed completely which would have caused further  
21 confusion regarding the actual locus and context of the  
22 calls received being missed."

23 Can you provide to the Chair a little bit more  
24 information about what you have said there about you  
25 have not used sirens, but you have said there's poor



1 insulation in the vehicle?

2 A. Yes, the sirens and lights are located on the roof.

3 When the sirens are activated you could hear it quite  
4 loud inside the van. I mean, the van is just a big  
5 metal container, sound echoes round and about and is  
6 actually quite loud, because you're basically sat right  
7 underneath the sirens so it could make things difficult  
8 to hear. And the van itself in general is loud because  
9 it has obviously the cell in the back as well and  
10 everything kind of rattles about so.

11 Q. But you weren't using sirens that day?

12 A. No.

13 Q. Now, we have heard that there's a radio in the van; was  
14 that the position on the day?

15 A. Yes.

16 Q. And we have heard that officers have radios sort of on  
17 their shoulder?

18 A. Yes.

19 Q. Can you show us where you were wearing your radio that  
20 day?

21 A. Mine was on the top clip on the left-hand side.

22 Q. So your left-hand shoulder?

23 A. Yes.

24 Q. Thank you. What channel was it tuned into?

25 A. The Kirkcaldy channel, Kirkcaldy 1.

1 Q. Thank you. And apart from the sirens, which you didn't  
2 have on, were there any other issues with the van or  
3 your radio that caused you to potentially mishear  
4 messages?

5 A. I wouldn't say so, no, just other than the general  
6 background noise of the van going along the roadway,  
7 there was nothing else.

8 Q. So just normal noises of the vehicle driving along the  
9 road?

10 A. Yes, aye.

11 Q. In relation to the van you were driving, is that  
12 a common problem with all vans, or was it only with the  
13 Ford Transit van that you were driving, with the noise  
14 of the sirens?

15 A. I think it was mainly the transit, if I mind right -- as  
16 I say, the sirens were located on the roof and I think  
17 the rest of them have them sort of in the front bumper.

18 Q. So the officers in other vans, smaller vans perhaps,  
19 aren't sitting right underneath the sirens?

20 A. Yes.

21 Q. Okay. Is that something that people were aware of  
22 generally in the Police Force, or -- Police Service, or  
23 was it something that had been raised?

24 A. No, it was just from experience, just that -- aye, the  
25 sirens could be a bit overpowering sometimes, so you

1           didn't need them then.

2           Q.   Okay.   Right.   And then can I ask you, staying with this  
3               statement, if that's possible, please, I would like to  
4               look at page 2, paragraph 2.   So again, this is your  
5               self-penned statement and it says, at paragraph 2,  
6               that -- if I can just find it.   Can I look up slightly.  
7               Yes, right, the paragraphs aren't clearly defined but  
8               you will see the start of the second paragraph is "About  
9               0720 hours", you have that one?

10          A.   Yes.

11          Q.   And if you go down seven lines from the top and it says:  
12               "At this time APS [Acting Police Sergeant] Maxwell  
13               came on to the radio to instruct all available units to  
14               start making their way to locus.   He also requested that  
15               the armed support unit, the ARV, and the dog unit be  
16               instructed to attend.   I was aware that he was informed  
17               that there was no ARV available and that control would  
18               need to check on the availability of a dog."

19               Do you see that there?

20          A.   Yes.

21          Q.   And then could I ask you to look at your other statement  
22               as well, please.   This is the PIRC 264 that you gave on  
23               4 June, and it is page 3 on this statement that I would  
24               like to look at and it is the final paragraph on page 3  
25               and it -- the passage that I'm interested in asking you

1           about is:

2                 "... I heard a radio broadcast from  
3           Sergeant Maxwell ..."

4                 So it's the second last line on that page, do you  
5           have that?

6           A. Yes.

7           Q. So this is the PIRC statement that you gave to PIRC on  
8           4 June and it is page 3 and it is the final paragraph.

9           A. Mm-hm.

10          Q. And it is also on the screen and the last two lines are:

11                 "... I heard a radio broadcast from Sergeant Maxwell  
12           requesting all units to attend this call. He then asked  
13           the control room about the availability of an ARV, which  
14           is an armed response vehicle with firearms officers, and  
15           also a dog vehicle. The control responded by saying  
16           there was no ARV and they would check for a dog vehicle  
17           but they thought the dog was through west. I think  
18           PC Paton acknowledged we were en route."

19                 Do you see that?

20          A. Yes.

21          Q. So again, it was your understanding at that stage that  
22           all units were -- had been requested to attend the call?

23          A. Yes.

24          Q. And there was no ARV available?

25          A. Correct.

1 Q. And they were checking whether a dog unit was available?

2 A. Yes.

3 Q. Can you explain what your understanding was when it says

4 "All units attending"?

5 A. Basically anybody that's not committed with an

6 ongoing -- or who can free themselves up, to start

7 making their way to that incident.

8 Q. How many people would that have been? How many officers

9 would that have been?

10 A. On that day?

11 Q. On that day?

12 A. On the response it would be eight, I think, eight or

13 nine.

14 Q. And would you have expected about eight people to turn

15 up that day?

16 A. Yes, if they're requesting for all units to attend, then

17 yes.

18 Q. And then I understand that you have said in your

19 statement you and PC Paton re-routed from other work?

20 A. Yes.

21 Q. Can you give us a little bit of an explanation about how

22 that came about?

23 A. We were heading down to an alarm activation at

24 a property that was on the Esplanade that had come in

25 earlier that day and was being monitored by the town

1 CCTV. We were just going to go down and do a quick  
2 check of the front doors and make sure it was secure,  
3 and that was the reason that we were out and about and  
4 mobile at that time, and then obviously when this call  
5 came in, it was of a more severe call grading and so we  
6 decided obviously because we've got the big custody van  
7 as well, that we would stand down for that call and head  
8 towards the locus for this one.

9 Q. So you stood down from the less important -- less  
10 serious --

11 A. Yes.

12 Q. -- call and rerouted to Hayfield Road?

13 A. Yes.

14 Q. I would like to now play a part of the enhanced video  
15 timeline, please. I don't know if you have seen or  
16 watched any of this before?

17 A. I have, yes.

18 Q. You have been watching some of it. You will also see in  
19 front of you there's a spreadsheet that I have been  
20 referring to, that's it. And just to explain to you,  
21 you will have seen other people look at it, but it's  
22 a spreadsheet, it's on A3 paper, and on the left-hand  
23 side on the column there are timings given. You have  
24 maybe watched me referring to that, so the video -- the  
25 first row in the spreadsheet on page 1 is 07.09.20 and

1           that's the real time on 3 May 2015 and you will see on  
2           the left that there's a number of timings given as the  
3           spreadsheet goes down and then you will see just to the  
4           right of centre, a description of visible events and  
5           a video, which is just a thumbnail sketch of what's seen  
6           on the footage, and to the left of centre, you will see  
7           there's a transcription of the Airwaves messages. Do  
8           you see that?

9           A. Yes.

10          Q. So as we go through the footage, I want you to know that  
11          you will see on the screen that we've got the footage  
12          itself. Let me tell you what we see here: the real time  
13          clock in the top left-hand corner and that will -- the  
14          time on that real time clock corresponds to a timing in  
15          the spreadsheet, so you can look at that, you can look  
16          at the spreadsheet.

17                 And you will see that underneath the real time clock  
18          there's a couple of buttons: 101 calls and 999 calls.

19          A. Mm-hm.

20          Q. And if you hear them playing in the footage, the red  
21          button will light up. Then there's a green button that  
22          says "Airwave" and again if you can hear an Airwave  
23          message on the footage, that green button will be  
24          turning on. You will probably recognise those messages  
25          anyway.

1 A. Yes.

2 Q. The bottom left you have probably heard us talk about  
3 the dash cam footage, that was from Harry Kolberg's car,  
4 he gave evidence last week, and on the bottom right at  
5 the moment we can see CCTV footage from Gallaghers pub  
6 and in the distance you can see the roundabout and  
7 beyond that is Hayfield Road.

8 A. Yes.

9 Q. You maybe recognise that scene?

10 A. I do, yes.

11 Q. And then in the top, in the middle of the screen, you  
12 will see a tile with the name "Reconstruction" written  
13 on it. Now, I don't know if you have listened to any of  
14 the evidence from Advanced Laser Imaging --

15 A. I did, yes.

16 Q. That's great. You will see that there's the roundabout  
17 there at Hayfield Road -- the junction of Hayfield Road  
18 and Hendry Road, and you can see along Hayfield Road.  
19 And actually at the moment on the screen the real time  
20 is 7.16.22 and you will see in that reconstruction a bus  
21 stop on Hayfield Road and at the moment there's a small  
22 blue dot, and you will remember when Mr DeGiovanni gave  
23 evidence for ALI he talked about when they could see  
24 movement on the CCTV they put a blue dot or a blue  
25 cylinder into the reconstruction.



1           So sometimes those blue dots will be there and  
2           sometimes they won't --

3           A.    Yes.

4 Q. -- it depends whether anything could be seen on the  
5 CCTV. Are you comfortable with the screen?

6 A. Yes.

7 Q. Thank you. So what I would like to do now is to play  
8 a section and I think the best way to do this,  
9 Constable Walker, is we will play a slightly longer  
10 section from 7.16.22, and we will play it up to 7.20.06  
11 to give you the chance to see it for yourself and look  
12 at it and listen to what's being said, and then I will  
13 come back and ask you some questions about that, all  
14 right? So we will play from 7.16.22 to 7.20.06. Thank  
15 you very much.

16 (Video played)

17           So you have -- that's a recording of all the  
18           messages, the Airwaves transmissions at the time, prior  
19           to you arriving.

20           A.    Yes.

21 Q. And we -- the spreadsheet indicates that PC Paton was  
22 one of those voices?

23           A.    Yes.

24 Q. Did you hear PC Paton's voice?

25           A.    I did, yes.

1 Q. And that's the man who was with you that day in the van?

2 A. Yes.

3 Q. And were you actually -- I think you have told us in  
4 your statement you were doing the driving and PC Paton  
5 was the passenger?

6 A. That's correct, yes.

7 Q. Front passenger seat?

8 A. Yes.

9 Q. And if it's a custody van, presumably there's not any  
10 rear seats other than for custodies, is that right?

11 A. The way that -- the vans have changed, but if I mind  
12 right, there is one -- on their(?) vans I think there  
13 was one rearward-facing seat, so when they've got  
14 somebody in the custody cage you could sit in there and  
15 keep an eye on them for their health and wellbeing.

16 Q. So the van actually has a custody cage in it for people  
17 that you take into custody?

18 A. Yes, aye.

19 Q. Thank you. So apart from those transmissions, at any  
20 point were you making point-to-point calls or  
21 transmissions individually?

22 A. No.

23 Q. No. If you could look, please, at -- it might be easier  
24 to look at the spreadsheet at 7.19.12. So you will see  
25 at the bottom of page 2 that the Con 1, who we have

1 heard are the control room operators in ACR in  
2 Bilston Glen, say, in response to Maxwell at 7.19.12:

3 "Is there an update from ARV or dogs unit?"

4 And at 7.19.17 Con 1 says:

5 "I believe a dog unit is en route."

6 And then at 7.19.23 Con 2 says:

7 "Be aware, organising ARV as well, stand by."

8 Could you explain, in your self-penned statement and  
9 your PIRC statement you were under the impression that  
10 an ARV wasn't available --

11 A. Mm-hm.

12 Q. -- and they were checking on a dog, but from these  
13 transmissions that we have listened to now it appears  
14 that a dog unit is en route is a message that was  
15 transmitted at 7.19.17, and they were organising an ARV,  
16 a few seconds later.

17 A. Yes.

18 Q. Are you able to explain why your recollection at that  
19 time was different from what we can hear on the footage?

20 A. My recollection was that there was -- they would check  
21 for a dog unit and they were basically saying that they  
22 believe a dog unit is en route but that hadn't been  
23 confirmed, therefore -- there's a big difference between  
24 believing something is getting organised and they're  
25 actually coming, and as for the ARV, I think I would

1           have been aware of that, that on a Sunday morning we  
2           wouldn't have had a local firearms unit.

3       Q.   We have heard from Inspector Stewart that the ARVs on  
4           unit that day, the nearest one was Edinburgh?

5       A.   Yes.

6       Q.   Thank you.   So can I now look at your PIRC statement,  
7           page 4, not the self-penned one, the PIRC statement,  
8           264.   And it is page 4, paragraph 2, please.   You will  
9           see the second line of the paragraph that begins:

10                "I immediately carried out ..."

11                And it says:

12                "As I drove into Abbotshall Road a second call came  
13           over the radio from the control room.   They said another  
14           motorist was reporting a male with a knife in  
15           Victoria Road.   It could have been at this point he was  
16           described as being in possession of a sword, or slightly  
17           later, before we arrived."

18                And then can I look at the self-penned statement  
19           please, which is 265, and it is page 2, please, at the  
20           bottom of the page.   And again, the paragraphs aren't  
21           really clearly defined, but you will see one that  
22           begins:

23                "Whilst travelling north on Bennoch Road ..."

24                Can you see that?

25       A.   Yes.

1 Q. And it says at the end of that line:

2 "... I was aware of further information being passed  
3 via police radio. I was aware that five separate calls  
4 had been received about the male and that a description  
5 of a large, muscular, black man wearing white T-shirt  
6 and black jeans had been passed. I'm also aware that  
7 the weapon he was carrying had been described as both  
8 a large knife and sword. It was also stated that the  
9 male appeared to be under the influence of a substance  
10 and was attacking passing cars, running out into the  
11 street at the vehicles."

12 Now, please feel free to look again at the  
13 spreadsheet, but it doesn't appear in the Airwaves  
14 transmissions that we have listened to on the footage  
15 that there's any mention of the word "sword" and again,  
16 can you explain to the Chair why your recollection was  
17 different in your PIRC statements and your self-penned  
18 statement? Were there any calls going on behind the  
19 scenes, or anything along those lines?

20 A. No, no other calls were going on and I can't explain.

21 That was my recollection at the time for both  
22 statements. That's what I had heard.

23 Q. You're not able to hear the 999 calls coming in to ACR?

24 A. No.

25 Q. There was one mention of the word "sword" at that time,

1 a female operator used the word "sword". We have heard  
2 that in relation to evidence given by Simon Rowe earlier  
3 in the hearing, although his response to that was "No,  
4 it was a big kitchen knife", so that's the one reference  
5 I can find to "sword"?

6 A. Right.

7 Q. But you're not aware of any other calls that you had  
8 heard?

9 A. No.

10 Q. Thank you. So you have just misremembered that?

11 A. Yes.

12 Q. Then I would like to ask you what was in your mind and  
13 what thought processes you were going through en route  
14 and you have answered questions about this in your  
15 statement so let's look at that first of all, answers 8  
16 to 10 in your Inquiry statement, so please have that in  
17 front of you if that makes life easier, and paragraph 8  
18 is on the screen now. You are talking about "During the  
19 journey to the locus", and you had a brief discussion  
20 with PC Paton on tactics and worst case scenarios:

21 "I was very concerned about the nature of the  
22 incident and the number of calls being made by the  
23 public and the nature of the reports being made, being  
24 that he was attacking passing vehicles and he might be  
25 prepared to attack us when we arrived. PC Paton and

1 I both considered the near to locus mental health  
2 hospital at Whytemans Brae and the main hospital, the  
3 Victoria Infirmary, and the fact that he may be  
4 a patient from either. Due to the overt nature of his  
5 actions, I also considered that he was doing this to get  
6 the police to attend to either target officers or to  
7 elicit a suicide-by-cop scenario."

8 Then if we could look further down, you will see:

9 "The only factors considered when assessing the risk  
10 were the words 'big', 'muscular' and 'carrying a knife'.  
11 Race did not play a part in my risk assessment."

12 Then 10:

13 "I have been asked about the Airwaves calls made at  
14 07.20.13 ..."

15 And I will come on to that later. And then again,  
16 you refer to this at paragraphs 23 to 25 and so we will  
17 see 23 on the screen. Again, you talk about the journey  
18 to Hayfield Road and discussing matters with PC Paton  
19 and you said:

20 "... if the male was as described, being in  
21 possession of a knife, and attacking vehicles, I would  
22 consider using the police vehicle to strike the male  
23 should I deem the risk to the public and officers to be  
24 too high."

25 And then 24 you say:

1           "I have been asked about what I was thinking and  
2           feeling whilst en route. As I was driving the police  
3           vehicle in a response style I was unable to dwell on the  
4           call itself. I was aware, however, of the number of  
5           calls being received from different independent and  
6           credible witnesses who were all stating the same thing:  
7           a male in possession of a knife striking out at anything  
8           that comes near him."

9           And 25:

10          "I was aware that this was a high risk situation and  
11          that the male's behaviour was drawing the attention of  
12          many witnesses. I was of the opinion that this was  
13          a serious incident and the male was posing a real risk  
14          to the public and himself. I was concerned for my own  
15          safety given the level of threat being described over  
16          the radio and the number of calls being received by  
17          the police."

18          So I have read all those quickly just to focus that  
19          those are the areas I'm going to be asking you questions  
20          about now, the journey there. Before I go into the  
21          detail of those paragraphs, can I ask you, when you were  
22          on the way to the scene, as far as you were concerned,  
23          who was in charge and had taken control or command of  
24          the attendance at the incident?

25          A. At that point for oversight of the incident it would



1           have been the local sergeant, Scott Maxwell.

2       Q.   Scott Maxwell?

3       A.   Yes.

4       Q.   The local sergeant.  We have heard he was an acting  
5           police sergeant at that time?

6       A.   That's correct, yes.

7       Q.   Now it may have been suggested that Stephen Kay had some  
8           involvement at that stage; are you aware of that?

9       A.   He is the overview inspector, but I don't think he had  
10          been on the radio or anything at that point so yes, it  
11          was in the hands --

12      Q.   So it was Sergeant Maxwell?

13      A.   -- the hands of Sergeant Maxwell at that point, yes.

14      Q.   Thank you.  When you were en route, did Sergeant Maxwell  
15          give you any specific instructions or guidance about how  
16          to approach the incident?

17      A.   No.

18      Q.   Can I go back to paragraph 8 of your statement to the  
19          Inquiry?  So this was the first paragraph that I looked  
20          at with you during the journey.  Looking at the content  
21          of that paragraph, can I ask you what was it about the  
22          nature of the incident that made you concerned?

23      A.   The fact that it had been passed as an ongoing  
24          disturbance, that there was a male in possession of  
25          a knife and the word "chasing" was used in the call that

1           was passed over, and the fact that it was, like I say,  
2           quite an overt thing about -- normally when you get  
3           a call, it's like two people fighting and somebody might  
4           be in possession of a knife, but this gentleman is  
5           clearly chasing somebody, or it was passed as chasing  
6           somebody and was in possession of a 9-inch -- or I --  
7           described as a large knife.

8       Q.   So that elevated your concern levels?

9       A.   Yes.

10      Q.   And what was it about the number of the calls that were  
11           being made by the public that caused you concern?

12      A.   Let's say the fact it was overt, his actions were being  
13           noticed by so many different people to the point that  
14           they felt the need to phone the police about his  
15           actions, and if nothing else, it corroborates that it is  
16           actually happening, it's not just somebody that has got  
17           a vendetta against someone who is phoning in. You know  
18           this is credible members of the public, numerous  
19           credible members of the public all phoning in to report  
20           exactly the same thing.

21      Q.   And we have heard discussion about attacking vehicles  
22           and you mention that specifically in paragraph 8. Was  
23           it of note to you that he wasn't said to be attacking  
24           people? Did you distinguish between him attacking cars  
25           or vehicles and attacking -- not attacking people?

1 A. No, because --

2 Q. Did that matter to you?

3 A. Well, it showed that -- or certainly in my mind it  
4 showed that he was not just carrying the weapon for  
5 intimidation, he was using the weapon, he had an intent  
6 to strike out, so yes that's certainly something. If  
7 someone has possession of a knife it could be to harm  
8 themselves, but if they're using it to strike out at  
9 other things, then you have to go on the assumption that  
10 they're looking to harm other people, so yes, you have  
11 to take that into consideration before approaching them.

12 Q. When you say other people, what were you thinking about  
13 you and PC Paton?

14 A. Just come back to officer safety. Obviously knives are  
15 dangerous. You only need one wound and that could be  
16 fatal, so aye, you've got to be careful with knives.

17 Q. How common is it or was it in your experience at that  
18 time for officers to be attacked by someone with  
19 a knife?

20 A. It's not unusual, it's something that you've got to be  
21 careful of, certainly I'm always keen to get handcuffs  
22 on somebody as soon as possible if they're being  
23 violent, don't give them the opportunity, but yes, it's  
24 a constant, ongoing risk. You only need to be attacked  
25 once and then you don't go home that night, so it's

1 something that you have to be acutely aware of.

2 Q. When you use the words "not unusual", can you help the  
3 Chair understand what that meant to you at that time in  
4 terms of your everyday practice?

5 A. In that I was -- I mean it's always at the back of your  
6 mind that the next person that you deal with could  
7 produce a knife. It didn't need to be a knife, they  
8 could just lash you enough to cause serious injuries to  
9 you that requires hospitalisation. It has happened to  
10 colleagues that I know who now have metal plates in  
11 their faces, et cetera. So yes, I mean, officer safety  
12 is always at the forefront of what you do because at the  
13 end of the day I want to go home to my family at the end  
14 of the day also, so it's something that we have to be  
15 acutely aware of.

16 Q. And are those officers who have been injured in the  
17 past, are they in Kirkcaldy Police Office or have they  
18 worked with you in that area?

19 A. Yes, there are officers in Kirkcaldy who I'm aware of  
20 have been injured in the line of duty, both before the  
21 incident and since.

22 Q. Also in paragraph 8 you mention the hospital, the  
23 psychiatric hospital, Whytemans Brae, and you say that's  
24 near to the locus.

25 A. Yes.

1 Q. Near to Hayfield Road. Could we have a look at the  
2 scene overview, please, and Ms Wildgoose will bring this  
3 up on the screen, it's a map that we have been using.  
4 You may recognise this as well if you have been watching  
5 evidence.

6 Now, we have heard that -- it's Hendry Road, north  
7 to south in the middle of the map, Templehall Avenue is  
8 on the left, and the big yellow road on the right going  
9 towards the east is Hayfield Road.

10 A. Yes.

11 Q. Do you recognise that area?

12 A. I do, yes.

13 Q. Would you be able to point out to the Chair where the  
14 psychiatric hospital is, Whytemans Brae?

15 A. That's about there.

16 Q. Thank you. That's where number 1 is. And then also to  
17 Victoria Hospital, where is that?

18 A. That's the big large building to the south of that.

19 Q. So there's two hospitals reasonably close to  
20 Hayfield Road?

21 A. Yes.

22 Q. How far is Whytemans Brae from Hayfield Road, would you  
23 say? Can you give an indication?

24 A. It's on --

25 Q. Basically on the same --

1       A. Yeah, I mean that's the junction, Whytemans Brae and  
2       Hayfield Road is at that junction.

3       Q. Oh, so you would access the hospital from the junction  
4       on Hayfield Road to Whytemans -- oh, I see  
5       Whytemans Brae is the name of the street as well as the  
6       name of the hospital?

7       A. Yes, yes.

8       Q. Sorry, I was confused.

9               So tell me, you obviously considered that; what  
10       impact did the location of those hospitals have as you  
11       were approaching the incident? What was going through  
12       your mind?

13       A. Just that's something to bear in mind, that they could  
14       be from there, it could be related to that. It's  
15       just -- I mean at the -- when you're travelling to it,  
16       you're just trying to put some context around about the  
17       call. This comes back to the decision-making model,  
18       just thinking about as much intelligence as you could  
19       get, what's round about, what we're likely to be dealing  
20       with, but ultimately you have just got to deal with  
21       what's presented with you when you get there.

22       Q. So to what extent did you consider that the person you  
23       were looking for that was in the vicinity of  
24       Hayfield Road may have been a patient at one of the  
25       hospitals, or have absconded from one of the hospitals?

1 A. It was a possibility.

2 Q. And whose -- was there any obligation or responsibility  
3 on your part to raise that issue with the control room?

4 A. No.

5 Q. Did you raise that with Sergeant Maxwell to check if  
6 anyone had absconded or ...?

7 A. No, because at that point it was just a possibility for  
8 consideration.

9 Q. So something that you had in mind but not something that  
10 you were aware of in terms of -- you hadn't heard that  
11 anyone had absconded or any of that?

12 A. No, that's correct.

13 Q. And we have heard evidence about the control room in  
14 Bilston Glen and how they don't have the same local  
15 knowledge of areas as officers on the scene --

16 A. Mm-hm.

17 Q. -- or that work in the area, and that the control room  
18 would have depended on information being fed back to  
19 them about that type of thing. Were you aware of that,  
20 that they didn't have that information, that type of  
21 information?

22 A. No, they have got access to the same sort of maps as  
23 here, that would pinpoint the location and let them see  
24 what's round about it, and like I say, the hospital was  
25 right in the middle of Kirkcaldy, so any call that's

1           in -- you know, a quarter of Kirkcaldy could be tied  
2           back to -- or possibly could be from the hospital, so it  
3           would be for every call you went to, you just wouldn't  
4           pass that back until you had sort of a definite  
5           confirmation.

6           Q.   So it's always something you've got in mind because the  
7           hospitals in Kirkcaldy are always close to places?

8           A.   Yes.

9           Q.   Now, to go back to your statement, if you don't mind,  
10          you refer to the expression -- paragraph 8 I think we  
11          were on, please. You refer to -- in the final line of  
12          paragraph 8 "suicide-by-cop scenario". Can you explain  
13          what you mean by that?

14          A.   That was just to give it a name to try and describe it,  
15          but basically somebody who wants the police there to --  
16          to pick a fight with the police almost, or just --  
17          somebody who might be wanting to harm themselves but do  
18          it in the presence of the police. Basically, as I say,  
19          it's kind of an American term, but aye, to get  
20          the police there in the hope that they maybe get shot by  
21          the police, by armed response or something like that,  
22          you know, that's just -- that he was wanting the police  
23          present for whatever. Again, it's just tying back to  
24          the fact that he was maybe from the hospital and it was  
25          make a psychiatric issue. It was just something to --



1 Q. And how common is that type of scenario, that  
2 suicide-by-cop, in Kirkcaldy or in Scotland?

3 A. Not very.

4 Q. Not very.

5 A. No.

6 Q. Okay. So was there anything in particular about the  
7 incident that you were going to attend that made you  
8 think that it could be a suicide-by-cop scenario?

9 A. Just the overt nature. As I say, he was running about  
10 with the big knife and that it was generating a lot of  
11 calls. That was just the only thing, that he is wanting  
12 police presence there.

13 Q. Did it have anything to do with the fact that the man  
14 was black?

15 A. No.

16 Q. And if the man had been white, who had been attacking  
17 vehicles with the knife, would you still have had that  
18 thought pass through your mind about suicide-by-cop?

19 A. Anybody could suffer from a psychiatric episode.

20 Q. Can I ask you, what importance did you place on the fact  
21 that it was early on a Sunday morning?

22 A. Just that it made it -- it was an unusual call for that  
23 time of morning. Like I say, if you get people fighting  
24 and that, it's usually nighttime and drinking time for  
25 want of a better word, so I -- just it was -- the nature

1           of the call was just out of timing for what you would  
2           normally see, you know, a disturbance with a knife you  
3           would always put that sort of at nighttime.

4       Q.   How common is it to have disturbances with a knife on  
5           a Sunday morning, after 7.00 in the morning?

6       A.   Unusual, I would say.  It's no --

7       Q.   When you say "unusual", can you help the Chair  
8           understand what you mean by that?

9       A.   I mean, I have not got access to the systems to sort of  
10          provide numbers or anything like that, but like I say,  
11          if somebody was to say to me "When would you expect  
12          a disturbance call with a knife?" you would say "Outside  
13          the pubs, drinking time", certainly not 7 o'clock on  
14          a Sunday morning.  I think that's reflected by  
15          traditionally -- not so much now, but traditionally  
16          Sunday morning was quiet time when you got to wash the  
17          vans and catch up on paperwork and -- you know, Sunday  
18          morning was downtime, for want of a better word.

19      Q.   So because that was unusual, to have that type of call,  
20          did that make you consider it more likely that it was  
21          maybe something psychiatric or a mental health issue,  
22          or ...?

23      A.   You have just got to keep options open until you get  
24          there.  The worst thing you could do is basically make  
25          your mind up before you get there, and then you can't

1           react to what you're dealt with, because you have  
2           already made your mind up so ...

3       Q.   And we have heard that there was a big boxing fight  
4           going on in the early hours, I think it was in America,  
5           but people were watching it in the early hours of the  
6           Sunday morning. Was that something you were aware of?

7       A.   No, I don't think it was.

8       Q.   You don't think it was going on or --

9       A.   I don't think I was aware of it.

10      Q.   You weren't aware of it?

11      A.   No.

12      Q.   So you had not factored that into your understanding of  
13           the circumstances or anything along those lines?

14      A.   Yes, I hadn't factored that.

15      Q.   Thank you. Sorry, that's poorly phrased by me.

16           And what consideration, if any, did you give to the  
17           actual location in Hayfield Road? Did you -- were you  
18           aware of that area?

19      A.   Yes, I know -- I know the locus, yes.

20      Q.   And is it -- how would you describe that street and that  
21           area?

22      A.   Hayfield Road is very long and it varies from -- there's  
23           an industrial estate at one end, there's a section of  
24           the street that's got houses on both sides, there's a  
25           section of the street that's got hospitals on both

1 sides, and then there's a section of the street that's  
2 quite open. Where the eventual locus is, that's quite  
3 an open area with grass to the north and west.

4 Q. So other than maybe ambulances or traffic, is it  
5 a reasonably quiet residential area, or am  
6 I misrepresenting it?

7 A. No, it's one of the main routes through Kirkcaldy,  
8 certainly Templehall and Hayfield is the main routes  
9 through, so I would expect it to be fairly busy with --  
10 one of the busier roads in Kirkcaldy. I wouldn't say  
11 busy by the time of day but --

12 Q. And other than traffic, can you give an indication of  
13 how busy it is in terms of the number of people that  
14 might be in the area, not in cars?

15 A. It wouldn't be unusual to see people out walking dogs or  
16 walking to and from the hospital, from Templehall into  
17 the hospital area, it's not -- it wouldn't be unusual to  
18 see somebody out walking about.

19 Q. And that would be the position at shortly after 7.00 in  
20 the morning on a Sunday as well as other times?

21 A. Yes, to and from work, going for papers, et cetera, to  
22 the shops.

23 Q. Can I ask you how often had you worked with PC Paton  
24 previously? I don't need a specific number.

25 A. I honestly can't remember as to when -- we move teams

1           about -- people get moved within teams. I would say at  
2           that time we were pretty set, that was me and Alan were  
3           the van crew for that shift. As to how long that had  
4           been for, I honestly can't remember.

5       Q.   So that's Alan Paton?

6       A.   Yes, yes.

7       Q.   Thank you. And did it make any difference to you as you  
8           were travelling towards the area that you knew the local  
9           area and you were aware of it, or was that just  
10          something you took for granted?

11      A.   In what way, do you mean?

12      Q.   Well, you were aware of the area, you were aware of the  
13          hospitals, the open area at one end, the industrial  
14          estate at the other?

15      A.   Yes, well, I had worked in Kirkcaldy for ten years at  
16          that point, I knew every nook and cranny of Kirkcaldy.

17      Q.   Thank you. So by then you had been ten years in service  
18          in that area?

19      A.   Yes.

20      Q.   Thank you. So it won't have been the first time you  
21          attended incidents where there was an allegation of  
22          someone with a knife?

23      A.   Yes.

24      Q.   It wasn't?

25      A.   Yes, it wasn't.

1 Q. And you had ten years' experience at that time and we  
2 have heard that all officers are trained with officer  
3 safety training.

4 A. Yes.

5 Q. I'm sorry, I'm being passed a message that you are too  
6 quietly spoken and you're going to have to speak up.  
7 Could you pull the microphone just towards you slightly.  
8 Thank you. They're not complaining about me in that  
9 way, I have to say.

10 Had the -- you had police equipment with you at that  
11 time?

12 A. (Nods).

13 Q. Now, tell me what equipment you had with you on the  
14 journey to Hayfield Road.

15 A. On the journey there I had my handcuffs, police radio  
16 and PAVA spray. I didn't have my baton, as was covered  
17 in my statement.

18 Q. And you have explained in the statement that there had  
19 been an issue with how -- the baton fitting on to your  
20 uniform?

21 A. Yes, it had broken from the clip.

22 Q. Could you explain to the Chair the background to that,  
23 please?

24 A. Yes, the baton basically goes into a baton holder that  
25 has a plastic clip. The clip then fits into a plastic

1 clip that's on your vest.

2 Q. Could you stand up and then just point to the area where  
3 you normally hold...

4 A. I would normally have my baton on that side for the  
5 cross body draw (indicating).

6 Q. So that's on the left-hand side of your body?

7 A. Yes, yes, and basically at some point the week before  
8 I've got out of the van, the seatbelt has wrapped round  
9 my baton holder, and as I have walked away, it's twisted  
10 it up and it's cracked the plastic mounting on the back,  
11 so I have not been able to mount it on the vest.

12 Q. And so the baton remained in Kirkcaldy police office  
13 that day?

14 A. Yes.

15 Q. You didn't have it on your uniform?

16 A. No.

17 Q. But as I understand your statement, you had never used  
18 the baton in a knife incident before?

19 A. I had never used the baton full stop.

20 Q. Right. So did it make any difference to you that you  
21 didn't have the baton that day? Were you concerned  
22 about it, or conscious of the fact you didn't have it  
23 with you?

24 A. No.

25 Q. And we could see -- because you stood up -- you're

1           actually 6 foot 4, is that right?

2           A.   Yes.

3           Q.   And in 2015, you were 25 stone?

4           A.   Yes.

5           Q.   And I won't ask you what weight you are today, but are  
6           you less than that today or --

7           A.   I'm heavier than that now.

8           Q.   I think that's probably lockdown, isn't it?

9           A.   Yes.

10          Q.   Right, so you -- physically you're a tall man, strong.

11          Is that something that you use to your advantage as  
12          a police officer when you're attending incidents?

13          A.   I wouldn't say I use it to my advantage, but it does  
14          come in handy. I prefer not to have to fight with  
15          people if I don't have to. It reduces the risk to  
16          myself, because like I say, all I'm interested in is  
17          getting home to my family at the end of the day, so aye,  
18          I'm no -- but aye, some people do sort of look at me and  
19          maybe think twice.

20          Q.   So that physical presence that you have when you turn up  
21          at an incident, full uniform, with equipment, that can  
22          have an impact on the people that see you?

23          A.   Yes.

24          Q.   And PC Paton, we have not seen him yet, he at that time  
25          was an experienced officer of 14 years?



1 A. Yes.

2 Q. And he had also been trained, officer safety training?

3 A. He would have been, yes.

4 Q. And he had all his equipment with him as far as I'm

5 aware?

6 A. Yes, as far as I'm aware, yes.

7 Q. He is also 6 foot 4? Is he taller than you or shorter

8 than you?

9 A. He's about -- aye, about the same as me, but I couldn't

10 say if it he was exactly 6 foot 4 or not but yes, he's

11 tall.

12 Q. Okay, but he is tall like yourself?

13 A. Yes.

14 Q. And he was 17 stone?

15 A. He was proportionate build.

16 Q. So a bit lighter than you?

17 A. Yes.

18 Q. And what difference did it make to you and your approach

19 to know that the two of you were going and attending

20 together, all units were attending and there was the

21 possibility of an ARV and a dog unit being discussed on

22 the Airwaves? How did that make you feel as you were

23 approaching the incident? Did that reassure you, did it

24 make you feel confident, or did you remain concerned?

25 A. I remained concerned at the nature of what was being

1           passed, but it's never really anything I have taken into  
2           consideration. Like I say, until you get there, you  
3           cannot really make your mind up what you're doing  
4           anyway, so it's probably something that I've never  
5           really considered en route.

6       Q. And then can I ask you about the normal response to  
7           knife incidents. Are all units ordinarily instructed to  
8           attend knife incidents?

9       A. I think in this instance it was more a case of the fact  
10          that it was an ongoing disturbance, it had been passed  
11          as an ongoing disturbance. As I say, a lot of the times  
12          you maybe get a fight where somebody thinks somebody  
13          might have a weapon, but, as I say, because it was  
14          confirmed that -- by multiple sources -- that this  
15          gentleman was in possession of a knife and was believed  
16          to be chasing people, I don't think there was anything  
17          wrong with it on this occasion.

18      Q. So if it was a fight where people are actually in  
19          a physical fight you would expect all units to go there  
20          if it was an ongoing disturbance?

21      A. Yes, you would be looking for a -- aye, you would be  
22          looking for numbers to turn up.

23      Q. Were you going to say back up or something there, or  
24          reinforcements?

25      A. Yes, numbers to turn up so that you have back up when

1           you get there because sometimes when you've got a fight  
2           ongoing like that, it's not just the two people that are  
3           fighting, there's also the round about who you need to  
4           try and keep an eye on as well so, aye, the more people  
5           you've got there, the better.

6           Q.   And do these incidents where a knife call has been made  
7           and all officers are attending, do they normally involve  
8           the use of CS or PAVA spray?

9           A.   Depending on the actions of the people once you get  
10          there, yes, but for a situation like that, PAVA or CS  
11          is -- or certainly for myself -- the go-to piece of PPE  
12          that I would use. For a baton -- I mean for a baton you  
13          have to be within striking distance, whereas with PAVA  
14          and CS you can be -- it's effective from something like  
15          15 feet away, so it allows you to keep a greater  
16          distance, whilst still having that bit of protection as  
17          well.

18          Q.   When you say that your spray is your go-to piece of  
19          equipment, what do you mean by that?

20          A.   For the likes of a knife crime -- when you need to try  
21          and keep a distance from somebody but still have some  
22          way of -- option of defending yourself, like I say it  
23          all becomes -- you have to keep distance from a knife.  
24          If they can't reach you with a knife, they can't stab  
25          you with a knife, so keep distance with them and the

1           longest-range piece of defensive equipment that we have  
2           is PAVA. That's the only one we could use from like  
3           15 feet away, so, aye, for the likes of knife crime PAVA  
4           (inaudible overspeaking) --

5       Q. And we have heard there is a difference between CS and  
6       PAVA spray?

7       A. Yes.

8       Q. Can you explain that to the Chair briefly?

9       A. CS spray was what we were initially given with there  
10       when we first started, or certainly when I first  
11       started, and I think basically just through development  
12       it's now being getting replaced with PAVA spray. At  
13       that point they were getting replaced as and when your  
14       CV spray expired, they have a shelf life. It reaches  
15       the expiry, you get issued with a new one. Instead of  
16       getting a CS, I was issued with PAVA as part of the  
17       roll-out programme.

18           The main difference with the CS spray is -- they're  
19       both in a liquid form inside the canister. When you  
20       spray them it comes out as a stream. With CS spray you  
21       could hit basically any part of the body but the CS  
22       would then go up into a cloud, sort of vaporise into  
23       a cloud and then it would get into people's eyes,  
24       causing them to force their eyes closed, drop to their  
25       knees and basically incapacitate them. PAVA was

1           slightly different in that it doesn't vaporise into  
2           a cloud, and as a result you have to get direct contact  
3           with the eyes with the spray, but the advantage to that  
4           is with CS when it goes up into the cloud, anybody that  
5           was in the room could be affected and then worst case  
6           scenario was the person that you sprayed wasn't affected  
7           and you were, so that's why it sort of progressed onto  
8           PAVA with the hope that cross-contamination would be  
9           less and that if you got a good contact with the person  
10          that you sprayed, they would be incapacitated and  
11          everybody else in the room would be fine.

12        Q.   And just to complete this, in the cases where you have  
13              attended knife incidents, how often had you used your  
14              spray at that time?

15        A.   I think in my --

16        Q.   Up to 2015?

17        A.   I think I had only ever used spray on two or three  
18              occasions, and I can't recall which ones would be knife  
19              incidents or which ones were just violence, when you're  
20              struggling to get control of somebody.

21        Q.   So in your entire ten years, you had used spray two or  
22              three times?

23        A.   In my entire 18 or 17 years I've used spray two or three  
24              times.

25        Q.   And one of them was Hayfield Road?

1 A. Yes.

2 Q. Do you remember the other two?

3 A. We had -- we were arresting someone. We were arresting  
4 somebody and they were in their bedroom. We were aware  
5 before we went that he had firearms markers, which means  
6 he might have access to a gun.

7 Q. A weapon, okay.

8 A. As I say, we went to arrest him, we went into the  
9 bedroom where there was lots of cupboards and drawers  
10 and whatever and then he basically just started to fight  
11 with us at that point. He made a lunge towards one of  
12 the drawers and he was sprayed to incapacitate him.

13 Q. And the other?

14 A. It was a fight outside a nightclub in Kirkcaldy where it  
15 was myself and a colleague and we were quite  
16 outnumbered. We had a gentleman who was being violent  
17 towards us, really quite violent, and he was sprayed to  
18 bring the situation under control quite quickly, to stop  
19 it escalating to the point where other people would then  
20 get involved and from an officer safety point he was  
21 sprayed for that one.

22 Q. Can you describe the violence: you said it was really  
23 quite violent. What does that mean?

24 A. Just that we were struggling -- we couldn't get control  
25 of him. Every time you put hands on him he was lashing

1 out and getting away from you. I can't remember the  
2 exact ins or outs of it, but the decision I made to  
3 spray at that point was because we were struggling to  
4 get control of him, he was being violent towards us and  
5 that we were -- there was no back up available and  
6 obviously the numbers -- the crowds that were there as  
7 well, we had to get that situation under control  
8 quickly.

9 Q. Was he physically assaulting you?

10 A. Yes, aye, yes.

11 Q. Can I ask you one last question before I speak to the  
12 Chair. What do you do in the cases where you're  
13 attending a knife incident but you don't use your spray?  
14 How do you deal with those? What makes you avoid using  
15 the spray in those situations?

16 A. Communication. When you turn up and somebody's -- like  
17 I say, you can't pre-judge a situation, so a lot of the  
18 times you were getting fights where people are saying  
19 "We might have a seen a knife", "he might have  
20 something", so you turn up and if somebody is calm and  
21 communicating with you, you can say "Look, somebody said  
22 that you have a knife on you, is that the case?" "Aye",  
23 or "no", or "Aye, I've got this". "Go and just put that  
24 down there then, keep your hands where I can see them  
25 and there will be a quick search to make sure you've got

1 nothing else on you that's likely to harm me and my  
2 colleagues".

3 MS GRAHAME: I will come on to other questions in a moment.

4 Would it be your wish to have a break?

5 LORD BRACADALE: Yes, very well, thank you. We'll have  
6 a 15-minute break, please.

7 (11.34 am)

8 (Short Break)

9 (11.53 am)

10 LORD BRACADALE: Ms Grahame.

11 MS GRAHAME: Thank you.

12 Constable Walker, when we were discussing the baton  
13 and the broken clip, you said that it happened the week  
14 before and then you went out that day without your  
15 baton, and there's a question about whether you would be  
16 considered operationally deployable without a baton. Do  
17 you want to say anything about that?

18 A. Just that I -- I wasn't aware -- or I'm not aware of any  
19 reason why that wouldn't be the case.

20 Q. So if that's the case, you weren't aware of any issue  
21 with going out that day without your baton?

22 A. No.

23 Q. And can I ask you in relation to paragraph 3 of this  
24 statement -- so this is the statement that we looked at  
25 before and if I can have paragraph 23, sorry, 23, on the



1 screen. This is the one where you said you had  
2 considered using the vehicle to strike the male should  
3 you deem the risk to the public and officers to be too  
4 high. Do you want to say anything about that paragraph?

5 A. That was a --

6 Q. Is that an option that you're taught, that you can  
7 strike someone with a vehicle?

8 A. If there's an immediate risk to life then basically  
9 anything to preserve life is possible.

10 Q. So it's your understanding that including hitting  
11 a person with a police van would be acceptable if  
12 there's an immediate risk to life?

13 A. Yes.

14 Q. And what would an immediate risk to life be, in your  
15 mind?

16 A. If we turned up and he was directly behind someone  
17 brandishing the knife, about to stab them. In order to  
18 save someone's life -- I mean I'm not talking about if  
19 we're in the van and striking him at 60 miles an hour,  
20 you know; enough to move him away.

21 Q. So self-defence really, or the defence of another  
22 person?

23 A. The defence of another person, yes.

24 Q. Is that something that you were scared might happen,  
25 that you might be put in that situation?

1       A. Yes, it was just another one of the options that --  
2       considered on the route up. Obviously just given the  
3       nature of the call, the large knife, the fact that it  
4       was passed that he was chasing people, aye.

5       Q. But in all your years' service have you ever been put in  
6       that position where you would need to consider this as  
7       an option?

8       A. I haven't had to resort to that, no.

9       Q. Can I look at, again, PIRC 264, which is the statement  
10      you gave to the PIRC on 4 June, and I would like to look  
11      at page 4 and paragraph 4. Sorry, I can't see which one  
12      is the fourth paragraph. Give me a second. Right. The  
13      fourth paragraph is the one starting:

14             "As we were passing the old Forth Park Hospital ..."

15             So that's in the middle of the screen. Is that  
16      another hospital nearby? Is that closed now?

17      A. That's closed now, yes. It was the maternity hospital.

18      Q. And:

19             "While still on Hendry Road I remember getting  
20      a fuller description of this male, either I heard it  
21      over the radio or PC Paton reiterated what he heard on  
22      the radio. The description was a black male, muscular  
23      build, white T-shirt, blue jeans, in possession of  
24      a knife, appeared to be under the influence of  
25      a substance and was running out into the roadway

1           attacking passing vehicles."

2           Now, it's the reference to "appeared to be under the  
3           influence of a substance". We looked at the Airwaves  
4           transmissions earlier and there didn't seem to be any  
5           reference to him being under the influence of  
6           a substance. Could you just have misremembered that  
7           information?

8           A. Yes, the statement was prepared after the event, so it's  
9           possible that I have merged memories.

10          Q. Right. Can I ask you about 264, page 4, so it's the  
11          same statement, page 4, paragraph 7, which is the second  
12          last statement on that page and it begins "During the  
13          journey to Hayfield Road ..." and then towards the end  
14          of that, halfway through it really:

15                 "It did cross my mind that he was doing this to get  
16          the police there. Bearing in mind we are on a 'severe  
17          threat level' for an attack on the police."

18                 And then you go on to mention the Whytemans Brae.  
19          Tell me what you meant when you wrote that "We're on  
20          a 'severe threat level' for an attack on the police"?

21          A. That's the --

22          Q. Sorry, you didn't write that, that's the PIRC statement.

23          A. Yes. There is -- at the time the terror threat to  
24          the police was severe and that an attack on the police  
25          was highly likely and, like I say, my initial concern

1           was the overt nature of what he was doing, maybe he was  
2           looking for the police to get there, so I just was  
3           joining the dots for possibilities as to what we might  
4           be dealing with, but I had to bear in mind that there  
5           was intelligence that some person or group of people  
6           were looking to cause harm to the police.

7       Q.   And what impact did that awareness and that knowledge  
8           have on your state of mind as you were travelling to  
9           Hayfield Road?

10      A.   Again, it was just another scenario to be mindful of,  
11           but ultimately you can't -- you can only deal with what  
12           you get when you get there, but it was something to be  
13           aware of.

14      Q.   And would you have had the same concern if the man had  
15           been white?

16      A.   Yes.   The -- I mean the threat was -- it was an attack  
17           on the police, so that was just something to be aware  
18           of.

19      Q.   And the severe threat level, is that also something  
20           that's connected to potential terrorist incidents?

21      A.   Yes.

22      Q.   And is that something that you had in mind en route to  
23           Hayfield Road?

24      A.   It was on my mind that there was intelligence that there  
25           was harm going -- or there was potentially someone

1 looking to cause harm to the police and that was highly  
2 likely.

3 Q. And in that knowledge, was it a -- was that something  
4 that was of concern to you, knowing that all units had  
5 been requested to attend and there may be some need for  
6 an ARV or a dog unit?

7 A. No, again, I think that was -- the all units, that came  
8 back to the initial that there's a male in possession of  
9 a knife who is chasing members of the public. It was  
10 the risk -- the risk to life at that point.

11 Q. So your impression was that he was chasing members of  
12 the public at that time?

13 A. Yes. That's certainly -- that was my belief at the time  
14 that he was chasing someone and that it was an active  
15 ongoing disturbance.

16 Q. Did you at any time contact the ACR or make  
17 a transmission on the Airwaves in relation to your  
18 concerns about the severe threat level and the risk to  
19 harm to the police?

20 A. No, that's something that everybody in the police is  
21 aware of.

22 Q. Right. And then could we look at PIRC 265, please, this  
23 is your self-penned statement, and if we could look at  
24 page 2, paragraph 2. Now I'm going to ask you about  
25 line 16, but really it's in connection with a comment

1           you make about it being a possible hoax, and I just  
2           wondered -- you have not mentioned that to us  
3           previously. Could you explain what you meant when you  
4           said it was a possible hoax?

5       A. Just because of the severity of the incident when the  
6       first one was passed, and then it was followed up by  
7       a second call with a different locus, which is on  
8       a different part of Kirkcaldy, it did cross your mind  
9       for a second that someone just wanted the force to be  
10      driving all around Kirkcaldy at this point.

11     Q. So that's what you mean by a hoax or a hoax call?

12     A. Aye, aye.

13     Q. Thank you. So was it possible, had it been a hoax call,  
14      you would have turned up to the Hayfield Road, to the  
15      area and not seen anything there?

16     A. Yes.

17     Q. Can we go on to paragraph 10, please, for a moment, of  
18      your Inquiry statement, and I would like to ask you now  
19      about an Airwave transmission when you arrived at the  
20      scene. So paragraph 10 you have said you have been  
21      asked about the Airwaves call made at 7.20.13 on the day  
22      and:

23                "I was not aware of this radio transmission and have  
24      no recollection of hearing it. Going by the radio logs  
25      and timings thereon, Inspector Stewart makes his

1 broadcast after we arrived at the scene and were dealing  
2 with the situation."

3 I would like to ask you about this. You will see  
4 the transcript in the spreadsheet at 7.20.13. That is  
5 on page 3 of the spreadsheet, about a third of the way  
6 down. We could play this footage, so it's from  
7 7.20.13 -- Ms Wildgoose will play it, but she may have  
8 to go slightly earlier just to make sure that we get the  
9 full thing in. So the real time clock says 7.20.11 so  
10 it is two seconds before it starts, so it should be  
11 pretty quickly on and then we will just stop after that,  
12 thank you. But you can read it on page 3 of the  
13 spreadsheet as well.

14 (Video played)

15 Thank you. Now, you said in your statement you  
16 didn't hear that transmission. Hearing it now, what is  
17 your understanding of that transmission? So he is  
18 saying he is:

19 "... monitoring it from an ARV perspective. If you  
20 get sightings of the male you need to make an initial  
21 assessment yourself and feedback through straight away."

22 And he will listen out on the channel. So that's  
23 what he says.

24 A. Mm-hm.

25 Q. What's your understanding of that transmission? Do you

1           understand that he was expecting you to make an initial  
2           assessment yourself?

3       A.   Yes.

4       Q.   And to feedback to control room straight away?

5       A.   He is requesting for -- in respect to an ARV he is  
6           requesting for that to be passed back, yes.

7       Q.   Yes.   And that he is going to listen out on  
8           the channel --

9       A.   Yes.

10      Q.   -- for that information.   And can you explain what your  
11         understanding is of an initial assessment?

12      A.   It's like I said before, you can't pre-judge  
13         a situation, so when you get there what are you  
14         presented with and make an assessment based on that: is  
15         it safe, is there immediate threat to anybody else.   And  
16         then use the tools that are available to you.

17      Q.   And we have heard the expression "Dynamic risk  
18         assessment"; would that be the sort of thing that you  
19         would understand as well?

20      A.   Yes.

21      Q.   So an initial assessment is really a risk assessment or  
22         a dynamic risk assessment?

23      A.   Yes.

24      Q.   And when he said "Feedback through straight away", what  
25         was your -- what's your understanding of what feedback



1 is?

2 A. Again, that would be what are you presented with. He  
3 would be looking for that to be passed back but, as  
4 I say, I think that would be more in relation to an ARV,  
5 if he was still in possession of the knife, if he was  
6 still brandishing the knife, "We need an ARV here and  
7 this is the reasons why". That would be my  
8 understanding of that.

9 Q. So feedback would be you contacting the control room to  
10 let them know what the position was in terms of your  
11 initial assessment?

12 A. Yes, for additional resources. I don't think I have  
13 ever went on the radio to confirm that something's not  
14 required, if that makes sense, because the ARV wasn't  
15 coming at that point, as far as I was aware, so  
16 I wouldn't go back on the radio to confirm that the ARV  
17 wasn't required and that it wasn't coming.

18 Q. So it would only be if you wanted the ARV to come that  
19 you would have fed back?

20 A. Yes. I have turned up, there's immediate -- we have not  
21 gone near him, the situation is too dangerous, we need  
22 an ARV, we need a dog.

23 Q. Right. And we have heard that the inspector in the  
24 control room was the one with the authority to deploy or  
25 send out the ARV?

1 A. Mm-hm.

2 Q. But others wouldn't have that authority in the police to  
3 do that, so he was the one that would need to be  
4 authorising it?

5 A. He would have the final say, yes.

6 Q. Sorry, I spoke over you there.

7 A. No, sorry, that he would have the final say.

8 Q. He would have the final say.

9 A. Yes.

10 Q. And it was within his authority to tell ARV to come to  
11 Hayfield Road?

12 A. Yes.

13 Q. So I would now like to replay what we can see on the  
14 screen from 7.20.13, so Ms Wildgoose will go back to  
15 that, and I'm just going to ask Ms Wildgoose to  
16 basically play a 10-second segment. It might not be  
17 exactly 10 seconds, but you will see in fact at  
18 the moment that the real time clock says 7.20.12, and  
19 I would like to play basically from 7.20.13 to 7.20.23,  
20 so it's a very short period of time, and that's --  
21 7.20.13 is when the call from Inspector Stewart, or the  
22 Airwaves transmission from Inspector Stewart is being  
23 made, or being given over the Airwaves, and that's what  
24 we have just listened to, and you will see on the  
25 spreadsheet that that's there and then to the right of

1           that column there are some descriptions of what's also  
2           going on at the same time on the CCTV.

3           So you're going to have to multi-task here,  
4           Constable. As you watch the screen we will play that  
5           10-second clip but I would like you to focus your  
6           attention first of all -- sorry, I'm giving you the  
7           wrong times here.

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8           Let's play this, first of all, from 7.20.13 to
9           7.20.23, and we will play that first, if that's okay.
10          Thank you.

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11 (Video played)

12           Let's pause that. So we have just gone over  
13           a couple of seconds. Did you see the van coming into  
14           the CCTV there?

15           A. I did, yes.

16 Q. And was that your van?

17 A. It is, yes.

18 Q. So that's your van that we have just watched driving up  
19 Hendry Road and turning right at the roundabout into  
20 Hayfield Road?

21           A.    Yes.

22 Q. You were driving?

23           A. I was.

24 Q. And PC Paton is in the front passenger seat?

25           A.   Correct.

1 Q. And you presumably secure the handbrake when you arrive  
2 and stop the vehicle?

3 A. Yes.

4 Q. And then, as I understand your statement, PC Paton is  
5 the first to get out, and then you get out a few seconds  
6 later?

7 A. Yes.

8 Q. You have told us that you had a radio in the van and  
9 a radio on your shoulder, there's no siren and it's  
10 a Sunday morning, you have talked about that.

11 Can you explain, or would you like to try to explain  
12 to the Chair, why you wouldn't hear that transmission  
13 from Inspector Stewart? So in fairness to you, his  
14 transmission begins at 7.20.13, but it doesn't end until  
15 7.20.30, so it takes -- we have heard the accuracy of  
16 this is to within one second, but it takes around  
17 7 seconds for that entire message to be completed over  
18 the Airwaves.

19 A. Mm-hm.

20 Q. Sorry, 17, my arithmetic is failing me today.

21 So that is from 7.20.13 to 7.20.30. 17 seconds.

22 Can you explain to the Chair why you didn't hear it?

23 A. Just before that PC Paton passes on the radio that  
24 that's us approaching Hayfield Road and I could remember  
25 us discussing, or at that point trying to work out where

1 the male was "Can you see him? Where is he about? Is  
2 he at Gallaghers? Where was the last sighting",  
3 because, as I say, Hayfield Road is quite long, we were  
4 told -- I can't remember exactly what was passed but  
5 there was mention obviously of the public house as well,  
6 so checking both sides of the road, speaking to each  
7 other, communicating, and then as we approached, I can't  
8 remember exactly where it was, coming up Hendry Road, we  
9 got sight of him across the hedge and we were like  
10 "There, there he is over there", and that's why we  
11 turned the corner and drove towards him, so we were  
12 having discussions in the van at that point to try and  
13 locate this male, so, yeah, that's why the radio was  
14 missed.

15 Q. So we saw your van coming up on the CCTV at the bottom  
16 of the screen, from the right-hand side on Hendry Road.

17 A. Mm-hm.

18 Q. Driving up and turning right into Hayfield. Can you see  
19 the hedge that you have just mentioned on the CCTV?

20 A. Yes.

21 Q. Would you point to that, please?

22 A. That's the hedge where it runs along there.

23 Q. Right, so that's just between the houses that we can see  
24 on the right-hand side and the road, Hendry Road?

25 A. Yes.

1 Q. And you could see the man over that hedge in  
2 Hayfield Road, is that what you just said?

3 A. Yes, you've got a raised seating position in the van  
4 that we were able to see -- I can't remember if we could  
5 see the full gentleman or how much of him but we could  
6 see, but we were aware that there's somebody over there,  
7 that must be him.

8 Q. And there was a discussion going on in the van between  
9 you and PC Paton?

10 A. Yes, just basically trying to look for him: "he was last  
11 seen there", "Is he heading up there?", "Is he up  
12 Templehall Avenue?", "Has he crossed over that bit or  
13 not?", "Maybe he is round there."

14 Q. Okay. But in any event, when you got out of the van --  
15 so you parked the van and you get out and, first of all,  
16 maybe we should look also at the reconstruction tile on  
17 this screen. You will see that at this moment in time,  
18 7.20.25, on the reconstruction tile there's a white van  
19 displaying on the reconstruction tile and is that  
20 roughly where you were parking in Hayfield Road on that  
21 day?

22 A. In my statement that I drew I think I put it a bit  
23 closer to the pavement, but if that's been taken from  
24 the CCTV, I have no reason to argue about what's been  
25 presented here.

1 Q. These -- we did hear in fairness to you from ALI that  
2 these are indicative positions. They indicate where --  
3 what they have gathered from the CCTV, so you think you  
4 were a little bit closer?

5 A. I'm happy to be corrected on that because like the  
6 Snapchat footage shows the exact location where the  
7 vehicle stopped which I believe this has been taken  
8 from.

9 Q. Maybe we could -- just to be clear, maybe we should just  
10 rewind slightly, Ms Wildgoose, and play the entire part  
11 of that.

12 (Video played)

13 Thank you. Do you think that your vehicle was  
14 actually closer to the bus stop, or inside the bus stop  
15 yellow lines?

16 A. Just from memory and what I provided in relation to the  
17 statement, the original photo you showed this morning,  
18 I've got pretty much against the pavement, so like I've  
19 sort of driven forward another couple of hundred --  
20 well --

21 Q. So within the actual bus stop area?

22 A. Within the -- yes, yes, but like I said, that was just  
23 recollection without seeing footage, et cetera, so I'm  
24 happy to go with this as being more accurate.

25 Q. Thank you. In the normal course of events though, you

1           understood that when you arrived you were to carry out  
2           an initial assessment?

3       A.   Yes.

4       Q.   Or a dynamic risk assessment, yes?  And did you  
5           understand that that was information that you should  
6           feed back to the control room.

7       A.   Like I say, that would only be -- we never heard that  
8           message, so as far as I'm concerned like the ACR  
9           inspector wasn't aware of the call, he had no  
10          involvement in the call at that point.

11      Q.   So if we could go back slightly on the spreadsheet to  
12          page 2, we know that Control 1 and Control 2 had been on  
13          the Airwaves transmissions at 7.19.17 and 7.19.23, but  
14          are you making a distinction between them being on the  
15          Airwaves and the duty officer --

16      A.   Yes.

17      Q.   -- who was in charge.  You are?

18      A.   Yes, yes.

19      Q.   What distinction does that make to you?  What difference  
20          does that make to you, if the contact from the control  
21          room is not from the duty officer?

22      A.   That's ... just that the inspector is not -- I'm not  
23          sure what you mean.

24      Q.   Well, we can see that there's been contact and  
25          communication from the control room because of the



1 contact with Con 1 and Con 2, so both of them have been  
2 on Airwaves transmitting.

3 A. Yes.

4 Q. But what difference did it make to you that the duty  
5 officer, Inspector Stewart, hadn't been on? You have  
6 obviously said you didn't hear him coming on at 7.20.13,  
7 but what difference did it make that the duty officer  
8 wasn't actually making transmissions on the Airwaves?  
9 Did it make any difference to you?

10 A. Not that I could -- no, I wouldn't say so.

11 Q. Does it make any difference who speaks to you from the  
12 control room on the Airwaves transmission?

13 A. I mean ultimately it's an expectation for us to turn up  
14 and deal with the call, so we deal with it as we can.  
15 If we need something else there, then we will request  
16 it. Although it's up to him to authorise, it would be  
17 up to us to request also, saying "We have turned up  
18 here, we can't deal with this". Like I say, you could  
19 spend all day passing back updates that are of no use.

20 Q. So did you have any understanding at that time that  
21 there was any obligation on you to contact the control  
22 room, or did you feel that was a sort of for your own  
23 discretion?

24 A. No, I would say the obligation on me at that point was  
25 to protect life and to enforce the law, which is we

1           turned up, assessed the situation and tried to deal with  
2           it.

3       Q.   So you didn't understand that there was any obligation  
4           for you to be in touch with the control room and tell  
5           them what was happening?

6       A.   Not unless like it was for -- to direct to other units,  
7           ie if we turned up and he had seen our van and  
8           immediately started running off in a different  
9           direction, there would be an update passed that: he is  
10          making off from us, he is in this direction, can we get  
11          other units to attend, but to coordinate our response to  
12          it.

13      Q.   Or if you wanted an ARV or you wanted a dog?

14      A.   Aye: it's beyond our capabilities, we can't deal with  
15          this, we're not confident in dealing with this, we're  
16          needing additional specialist resources here.

17      Q.   So you would contact control if you wanted an ARV, a dog  
18          unit, or you wanted other units maybe to locate somebody  
19          if he had run off?

20      A.   You would pass that over, not necessarily through  
21          control, you would just come on the radio and just say  
22          to units attending "He is making off in this direction",  
23          and coordinate units -- you don't have to pass  
24          everything via control. They are monitoring, they will  
25          be updating things as you go. They will be updating the

1 log, as we have heard, with radio transmissions and  
2 that, but on the whole, you turn up to deal with it as  
3 best you can and anything that needs to be passed over  
4 the radio will be passed over the radio.

5 Q. So by sharing things on the Airwaves through the radio,  
6 that's also going to all your other colleagues who may  
7 be attending?

8 A. Yes.

9 Q. And they're more of a priority, as far as you're  
10 concerned, than speaking to the control?

11 A. It's more of a priority to pass, like I say, what you  
12 need as opposed to passing what you don't need.

13 Q. Can I ask you to look -- we will leave this for one  
14 moment, but we will come back to it. I would like you  
15 to look at paragraph 11 of your statement. This is your  
16 Inquiry statement. You say there:

17 "As soon as we got out of the vehicle, the situation  
18 developed so quickly, there was no time to step back and  
19 pass back a situation report to the control room. In  
20 any event, there was no new information to pass which  
21 would have added to what was already broadcast."

22 I would like to ask you some questions about where  
23 you say there was no time. So you have described  
24 arriving and the area. Were there any members of the  
25 public in the area at that time, other than the man you

1           were looking for?

2           A.   On foot, no, not that I'm aware of.

3           Q.   And when you arrived he -- am I correct in saying from  
4           your statement he wasn't striking cars at that time with  
5           his knife?

6           A.   No, that's correct.

7           Q.   And he wasn't acting aggressively at that stage?

8           A.   Correct.

9           Q.   And you couldn't see the knife at that time?

10          A.   Correct.

11          Q.   And I wonder if you could help the Chair understand what  
12          you mean then when you say there was no time to step  
13          back and pass back a situation report to the control  
14          room? What meant there was no time to step back?

15          A.   That we'd arrived, we had got around the corner, he was  
16          there in front of us, and the situation we were  
17          presented with we felt that we could deal with, take  
18          advantage of the fact that he didn't appear to be  
19          visibly in possession of the knife and get control of  
20          the male as soon as possible.

21          Q.   So your priority was to get control of the male?

22          A.   Yes.

23          Q.   And was there anything stopping you at that stage from  
24          observing from a distance, so parking the van somewhere  
25          else, observing what was happening and reporting back to

1 control or making messages on the Airwaves?

2 A. I don't see what the advantage would have been to that.

3 Q. Well, we may have some evidence that suggests good

4 communication helps officers to avoid escalating

5 situations and ending up restraining someone.

6 A. Mm-hm.

7 Q. So I suppose we may hear evidence that the advantage is

8 if you take time is it allows you to communicate more

9 effectively with the person that you're talking to?

10 A. Mm-hm.

11 Q. And I'm just wondering what would have stopped you at

12 that stage from parking a little bit further away and

13 observing matters for a few seconds, ten seconds, or

14 a few minutes?

15 A. The risk to the public that had been passed. I mean

16 there's nothing -- although there's nobody present at

17 the time when we arrived, there's a row of houses on one

18 side, there's passing vehicles, I mean just -- just

19 because he wasn't doing nothing there I don't think it

20 would reflect too well on the police if we just parked

21 up and watched him and somebody came out of their house

22 and he attacked that person whilst we were parked up

23 watching that harm. It makes much more sense to take

24 advantage of the fact that he doesn't appear to be in

25 possession of the knife at that point, approach him, try

1           and communicate with him and then bring him into  
2           custody.

3       Q.   So the approach you took was partly as a pre-emptive act  
4           to avoid a situation developing where a member of the  
5           public came into the area and maybe the situation got  
6           worse?

7       A.   Yes.

8       Q.   So it was in anticipation of something going wrong,  
9           rather than something at the scene at that moment?  It  
10          was concern for the risk becoming greater?

11      A.   Yes, because the scene could change at any moment.  Just  
12          because we never seen anybody doesn't mean to say there  
13          wasn't somebody walking through the path behind the  
14          trees or -- ultimately because the report was passed  
15          that he was brandishing -- well, in possession of  
16          a knife, chasing after people, so he has to be brought  
17          under control.

18      Q.   But at that time, could you see anybody moving around  
19          other than the man?

20      A.   I was just aware of him being there.

21      Q.   So in terms of assessing that risk of a member of the  
22          public emerging from somewhere and being at risk, did  
23          you consider waiting to see whether that was a real  
24          risk, or just a hypothetical risk?

25      A.   Well, again, you could wait until it becomes a risk and

1           by that point it's too late. That's a dangerous game to  
2           play.

3       Q.   Okay. And is that your experience, that you don't want  
4           to wait for things?

5       A.   If you could get somebody under control then, aye,  
6           I don't see why you would put other people at risk just  
7           so you could observe. People are phoning the police  
8           because they're looking for this danger to be removed.

9       Q.   And if the control room, or Sergeant Maxwell, had come  
10          onto the Airwaves transmission at that time saying  
11          "Provide feedback, give me an update", or something  
12          along those lines, is that something that you would have  
13          waited to give, or were you keen to take control  
14          straight away?

15      A.   I would say that I was happy to go in and try and take  
16          control in the situation and neutralise any risk.

17      Q.   Thank you. Now, we may have heard some evidence -- you  
18          have maybe listened to it -- that for officers who are  
19          attending a scene where there has been calls and someone  
20          is said to have a knife, that it is an option for  
21          officers to pause and assess the circumstances and  
22          observe the person, see if they are in possession of  
23          a knife, see if members of the public are around, and  
24          then provide updated or new information about the events  
25          on the transmission -- on the Airwaves which the control

1 room could hear, so when you saw the man, you didn't see  
2 a knife, he wasn't attacking cars, did you consider at  
3 that point it was appropriate to share that information  
4 with the control room or on the Airwaves transmission,  
5 because that was new information about him not having  
6 a knife visible and he wasn't attacking cars?

7 A. No. I decided that it would be a good opportunity to  
8 approach him and try and communicate with him and bring  
9 him under control.

10 Q. Can we look at your self-penned statement, please, 265,  
11 and page 3, please, Ms Wildgoose, and it is about  
12 halfway down page 3.

13 There's a sentence -- it's again the paragraphs  
14 aren't very clearly defined, but it is around halfway  
15 down the page on the screen:

16 "As the vehicle came to a stop ..."

17 Do you see that?

18 A. Mm-hm.

19 Q. "... PC Paton drew his CS spray and exited the vehicle.  
20 A few seconds later, after securing the handbrake,  
21 I drew my PAVA spray and also exited the vehicle."

22 So Paton, before he exited the vehicle, had his  
23 spray and you had your spray in your hand before you  
24 exited the vehicle.

25 A. Yes.



1 Q. And that was a few seconds after PC Paton --

2 A. Yes, aye.

3 Q. -- that you exited? So you were actually in the vehicle  
4 a few seconds longer than PC Paton?

5 A. Yes, to secure the handbrake, turn the ignition off,  
6 secure the keys.

7 Q. Because you were driving?

8 A. Yes.

9 Q. Do you wear your seatbelts in police vans?

10 A. Yes.

11 Q. Yes.

12 A. Hence the recent broken baton.

13 Q. Oh, of course, yes, sorry, you did say that.

14 I would like to go back to the -- sorry. We have  
15 heard some evidence about something called the National  
16 Decision-Making Model and I would like to ask you  
17 a little bit more about that. Have you heard of that?

18 A. Yes.

19 Q. As I understand it, all police officers are trained in  
20 that, is that correct?

21 A. Yes.

22 Q. Could we maybe have a look at PS 13182, please. We have  
23 a diagram on page 3 and this might assist you to explain  
24 it. Could you tell the Chair how you understand the  
25 National Decision-Making Model works.

1       A. It's just a way -- basically a way of describing the  
2       thought processes that you go through when you're  
3       dealing with an incident, so like as I say, as we're  
4       approaching, gathering information and intelligence is  
5       covering the facts that there's hospitals nearby, all  
6       the possible scenarios that there could be. Assess the  
7       threat, you know, he's got a knife, there's a threat to  
8       us, there's a threat to members of the public. Powers  
9       and policies, he has to come -- he has committed crimes  
10      at this point, he needs to come into police custody and  
11      we have also got a duty to protect members of the  
12      public, so the options we've got -- I mean I covered  
13      them earlier where we were talking to him, up to as  
14      severe as striking him with the vehicle if need be, and  
15      then again, you have -- because it's cyclical you then  
16      go back into that, so at that point we hadn't taken any  
17      action or reviewed, but that's more if you try something  
18      that doesn't work. For instance, if you strike somebody  
19      with a baton or use PAVA spray, that's ineffective, you  
20      then go back into the circle again and you could run  
21      through that circle many, many, many times in an  
22      incident where the information again changes and ...

23      Q. So on the journey there you're gathering information  
24      from the Airwaves transmission and also you're adding  
25      into that your local knowledge and we have talked about

1           that this morning, and then you are assessing the threat  
2           and developing a strategy, talking about options with  
3           PC Paton. You're considering what powers you have and  
4           identifying options, but when you get to the scene, is  
5           that an opportunity for you to then go back to the top  
6           there and gather more information and intelligence and  
7           see what's happening at the scene?

8           A. Yes, which is what we did -- what we done. The male  
9           wasn't in possession of the knife, he appeared to be  
10          reasonably calm on the pavement, so we then assessed the  
11          threat and decided to go and speak with him.

12         Q. And the cycle starts again?

13         A. And the cycle starts again. That's a never-ending cycle  
14          when you're dealing with a call.

15         Q. And is why it is dynamic, because as new information  
16          comes in, that then triggers that process again?

17         A. Yes.

18         Q. So it's not something that you start and finish; it's  
19          ongoing?

20         A. Yes, yes.

21         Q. Constantly evolving?

22         A. Yes.

23         Q. Depending on whether you've got new information coming  
24          in, you factor that in and review your approach?

25         A. For us, yes.

1 Q. Thank you. And when you arrived at the scene in  
2 Hayfield Road, did you carry out that dynamic risk  
3 assessment at the scene?

4 A. When we were presented with eyes on the male, yes.

5 Q. Eyes on the male. So you have described what you saw  
6 when you first arrived and he has not got a weapon, he  
7 is not acting aggressively or striking vehicles at that  
8 stage, so can you explain what risk you considered he  
9 posed to you and Officer Paton at that time?

10 A. He is still a high risk individual. We have no reason  
11 to doubt that he has had or still has possession of  
12 a knife, just because we can't see it, and then  
13 obviously we're looking at the fact that his body  
14 language, et cetera, is he aggressive, is he fighting  
15 with people and so the intelligence -- the information  
16 that we got at that point was he wasn't actively in  
17 possession of a knife, for want of a better word, it  
18 wasn't in his hand, so that increases the reaction time  
19 for dealing with him, if he does have a knife he needs  
20 to retrieve it from somewhere first, and he appeared to  
21 be walking along the road in a calm-ish manner. He was  
22 walking with purpose, a bit of speed and determination.  
23 He wasn't shouting, raised voices, he wasn't -- he  
24 didn't appear to be overly angry with the world.

25 Q. Right. You have given me a lot of information there;

1           can I ask you some questions about that.

2           A. Yes.

3           Q. So you can't see a knife at that stage, but --

4           A. He doesn't have one in his hand, yes.

5           Q. He didn't have one in his hand. You couldn't see it as  
6           you approached him?

7           A. Mm-hm.

8           Q. But he could have had that hidden somewhere, or  
9           concealed somewhere?

10          A. Yes, in his belt loops at the back or in his jeans.

11          Q. So as a police officer, you're still aware of that  
12          possibility?

13          A. Yes, again, just because of the number of calls that  
14          came in all reporting the same thing, there was no  
15          reason to doubt that he had a knife, or had access to  
16          a knife at that point.

17          Q. And you're looking at his body language?

18          A. (Nods).

19          Q. And it's not aggressive at that time, you have said?

20          A. No.

21          Q. And you then mentioned something about an increased  
22          reaction time. Can you explain what that means?

23          A. Basically it's to do with the distances, so if -- as  
24          I say, if somebody has possession of a knife and they  
25          decide to stab you, or lash out at you --

1 Q. That's in their hand?

2 A. In their hand, yes -- it's obviously a lot quicker to go  
3 and stab you than it is to retrieve it from behind their  
4 back, that's when you know to back away, so you've got  
5 an extra --

6 Q. This is a warning for you?

7 A. Yes, aye. So if they have not actually got it in their  
8 hands, then there is that -- it increases your reaction  
9 time.

10 Q. So it increases the time you have available to react to  
11 any threat?

12 A. Yes, yes.

13 Q. So because it's not in the person's hand, you've got  
14 a little bit of extra time?

15 A. Yes.

16 Q. And then you said he was walking in a calm way but with  
17 purpose?

18 A. Yes.

19 Q. Describe what you mean by that?

20 A. The best way to describe it would be if he was running  
21 late for a bus and he was trying to get there, had some  
22 place to go and needed to be there for a certain time  
23 and he was running short on time. He was walking with  
24 purpose and a bit of speed.

25 Q. So he was walking, not running?

1 A. Yes.

2 Q. But he wasn't dawdling?

3 A. No, he wasn't out for a Sunday morning stroll.

4 Q. Right. And then you say no shouting, no raised voices,  
5 so he wasn't saying anything at that time or shouting  
6 anything?

7 A. No.

8 Q. And you thought he was not overly angry?

9 A. Yes, because he wasn't shouting or pointing in anybody's  
10 direction or arms weren't up in the air which are all  
11 sort of warning signs when somebody is at a level of  
12 aggression.

13 Q. So was there anything at that point when you first saw  
14 him that indicated to you he was angry or in a bad mood?

15 A. No, nothing that would -- nothing that raised our  
16 concerns about approaching him at that point.

17 Q. So again, when you're thinking about the gathering  
18 information and intelligence and the National Decision  
19 Model and you're talking about risk to you, what  
20 particular risks at that stage do you think Sheku Bayoh  
21 posed for you and PC Paton?

22 A. The main one was being in possession of the knife, or --  
23 and the fact that we didn't know where the knife was  
24 increases -- I mean there's already a risk to us because  
25 we know or believe that he's got a knife.

1 Q. And at that point, what risk, if any, did you think  
2 there was to the public, or was it what you have  
3 mentioned just a short time ago?

4 A. Just what I mentioned previously, the fact that going by  
5 the description and the calls that had been coming  
6 across, I didn't know what his intentions were.

7 Q. So there was no member of the public visible at that  
8 time, but there was the potential risk?

9 A. There was the potential, yes.

10 Q. Right. And did you consider that he was a potential  
11 risk to himself at that time?

12 A. Yes, there was always that possibility. I think one of  
13 the last updates was he was walking down the middle of  
14 the road on Hayfield Road which, aye, it is a -- there's  
15 a risk of injury from doing that obviously as well.

16 Q. So when we come on to the second part of the National  
17 Decision-Making Model, "Assess threat and develop  
18 a working strategy", how did you -- when you factored in  
19 this information about how he looks at Hayfield Road,  
20 how did that affect your working strategy?

21 A. That's when we decided to approach him. That would be  
22 safe, or an option, a safe option for us to approach him  
23 and speak to him.

24 Q. You have still got your spray in your hand?

25 A. Yes.



1 Q. And you have said that was your go-to --

2 A. Yes.

3 Q. -- piece of equipment. But the way he looked at the  
4 scene in Hayfield Road, did that cause you to adapt or  
5 develop your working strategy in any way, or were you  
6 still content with the working strategy that you had?

7 A. I think we obviously had to keep in mind the fact that  
8 he could still possibly have a knife and, like I say,  
9 for a knife, CS spray is the best option, or PAVA spray  
10 in my instance is the best option, because you can  
11 administer that from 15 feet away and I think what needs  
12 to be appreciated is just because we have the spray  
13 drawn it's not -- it might not be visible. You could  
14 take the spray into your hand and then keep it down by  
15 your side, so although you're approaching somebody, it's  
16 not immediately in the shown position.

17 Q. I'm going to come back to that and I'm going to ask you  
18 more about that in due course. Before I do that, could  
19 I ask you to look at a use of force SOP, PS 10933,  
20 I think it is. So we have heard about these SOPs,  
21 standard operating procedures, and we have heard that  
22 officers are trained in them and understand them and  
23 have access to them.

24 A. Yes.

25 Q. And this is one relating to use of force, and I'm going

1 to ask you to look at paragraph 5.3.2 and it talks about  
2 levels of resistance and it talks about psychological  
3 intimidation or presence, verbal resistance, passive  
4 resistance -- it is on the screen. Can you see that?

5 A. I can, yes.

6 Q. Can you -- well, I will read the beginning:

7 "The resistance that a person offers can be  
8 expressed on a sliding scale from low to high. The  
9 levels of resistance below show how a relatively passive  
10 subject can still exert some force on a police officer  
11 and try to take over control. If this is successful  
12 then instead of controlling the subject, the officer is  
13 merely responding to them."

14 And then there are six items there, so the first  
15 one:

16 "Psychological intimidation or presence. A look,  
17 a type of dress or gesture that conveys a hostile  
18 message to the officer."

19 What do you understand that to be?

20 A. In relation to ...?

21 Q. Levels of resistance. Is this the way someone looks,  
22 but they're not really doing anything or ...?

23 Psychological intimidation?

24 A. He is not resisting us at this point, no. This is  
25 a risk assessment as we're approaching him. It's

1 a different thing.

2 Q. So it's a different thing?

3 A. Yes, that's when you're actually trying to engage with  
4 somebody and you're telling them "Right, you're under  
5 arrest", then that would be whatever level of resistance  
6 they're putting against you at that point. This would  
7 be still at the risk assessment phase when we were  
8 driving towards him.

9 Q. Okay. Let's look at paragraph 7.1 then, and this is  
10 headed up "Dynamic risk assessment", and it says, 7.1:  
11 "In addition to any role-specific risk assessment,  
12 police officers and police staff should conduct an  
13 assessment of any actions they are undertaking or being  
14 tasked to undertake. This is sometimes referred to as  
15 a dynamic risk assessment."

16 And then 7.2 is the eight guidelines for conducting  
17 dynamic risk assessments. I would like to go through  
18 these with you.

19 A. Mm-hm.

20 Q. So number 1:

21 "Remember your duty to protect/preserve human life;  
22 that includes your own."

23 And is that something that you did on the day in  
24 Hayfield Road?

25 A. Yes.

1 Q. And you have talked to us about being concerned for  
2 members of the public and also for the officers --

3 A. Yes.

4 Q. -- yourself? And then:

5 "To be aware of your physical limits and never take  
6 unnecessary risks."

7 Can you explain to what extent you think you have  
8 physical limits and what those might be?

9 A. I'm not a long distance runner.

10 Q. So if someone tries to run away from you, you're not  
11 chasing after them very quickly?

12 A. I could maybe catch them in a sprint, but aye, if  
13 they're making good down the street then aye, that's  
14 back to the radio: "He is heading off in that direction,  
15 get other units to attend".

16 Q. So that's where an officer might be aware of physical  
17 limits but that -- and that may be one of yours, but in  
18 terms of other physical limits, do you have any?

19 A. I wouldn't have thought -- nothing that springs to mind.

20 Q. And 3:

21 "Tell someone what you are doing (or going to do)  
22 and try to get support before you do it."

23 So did you do that at Hayfield Road?

24 A. Well, that had already been done. That was the "Can we  
25 get all units to attend".

1 Q. So that was done effectively by Acting Sergeant Maxwell?

2 A. Maxwell, yes.

3 Q. Asking for all units to attend and requesting support  
4 from the control room?

5 A. Yes.

6 Q. Did you think that that was something that you should  
7 also be doing and taking responsibility for as an  
8 individual, that you should be telling someone what  
9 you're doing or going to do and trying to get support  
10 for yourself?

11 A. But I knew support was coming. All units were en route,  
12 they weren't far away, we weren't far from the station.  
13 That's probably -- that probably applies more if you're  
14 in a rural station where you didn't have back up that  
15 might be close by.

16 Q. So you felt comfortable at that stage that you were  
17 going to get the support you needed?

18 A. That they wouldn't be far away, yes.

19 Q. And then 4:

20 "Heed information and advice. It will help you make  
21 a judgment."

22 So who was providing you with information and advice  
23 at that stage?

24 A. That was just from my own experience about how to deal  
25 with it in previous training.

1 Q. So there wasn't anyone providing you with information  
2 and advice at that time?

3 A. Other than what was coming across the radio, yes.  
4 I mean going back prior to actually arriving at the  
5 scene I -- the information was coming from the radio,  
6 from the members of the public that were getting passed  
7 on.

8 Q. And that was getting shared over the Airwaves?

9 A. Yes.

10 Q. Could we move on to the next page. So number 5:

11 "Apply correct procedures in every situation."

12 And do you feel that was something that you did at  
13 Hayfield Road?

14 A. Yes.

15 Q. And 6:

16 "Record your decision-making process either at the  
17 scene or soon afterwards in official notebook or other  
18 recognised journal."

19 And in 2015 you would have had an official notebook?

20 A. Yes.

21 Q. And when it says "Other recognised journal", what does  
22 that mean?

23 A. I think that's in relation to, like, decision books  
24 I think. It's not something I have had any sort of  
25 dealings with, but I know CID officers and that can have

1           day books which become official documents that they use  
2           to take notes, but it's not something I have ever used  
3           though.

4       Q.   We may hear about day books at a later stage.   And when  
5           it says:

6                 "Record your decision-making process either at the  
7                 scene or soon afterwards."

8                 Do you feel that's something that you did?

9       A.   In relation to this incident, no, there was no entries  
10           in my notebook afterwards.

11      Q.   Okay, I will come back to that later.   Then 7:

12                 "Your supervisors and managers are there to help  
13                 you."

14                 Did you feel that your supervisors and managers were  
15                 there to help you that day?

16      A.   Yes, they -- yes, the sergeant on the shift was there,  
17           he had requested all units to go, he had asked about the  
18           availability of the dog unit and ARV and I don't think  
19           there's much else he could have done.

20      Q.   And that's Sergeant Maxwell?

21      A.   Sergeant Maxwell, yes.

22      Q.   And then number 8:

23                 "Making a proper judgment in good faith will not be  
24                 criticised."

25                 And that's what you had been told?

1 A. Yes.

2 Q. And do you feel your judgments were in good faith that  
3 day?

4 A. Yes.

5 Q. Thank you. I would like you to look at another SOP  
6 please, PS 10985, "Armed policing operations SOP", and  
7 we will look at paragraph 9.10.1. You will see that  
8 coming up on the screen. And we have heard that the  
9 armed policing operations actually deals with not just  
10 firearms but also edged weapons which could be lethal  
11 weapons: a knife.

12 So 9.10.1:

13 "In many situations the first officers on scene at  
14 a spontaneous firearms incident will be unarmed."

15 Is it your understanding that what that means is  
16 they won't have weapons themselves, that the officers  
17 are not carrying firearms --

18 A. Yes.

19 Q. -- or that type of thing:

20 "... and in these situations the officers should in  
21 accordance with the standard operating procedure and the  
22 content of the College of Policing stay safe at firearms  
23 incidents follow the See, Tell, Act Guide."

24 Have you heard of this? See, Tell, Act?

25 A. Yes, I think it's part of the OST training.



1 Q. So "stay safe", it says:

2 "Think about your own and the public's safety."

3 And you have told us about that?

4 A. Mm-hm.

5 Q. And we have also heard mention of a "Stay Safe" message.

6 Is that often a priority that officers are reminded to

7 stay safe?

8 A. Yes, it's normal whenever there is any call in relation

9 to any knife or any sort of weapon, that gets passed

10 over the Airwave.

11 Q. And then it says:

12 "See what is happening and where."

13 So you have to observe what is happening and where

14 it is happening?

15 A. Mm-hm.

16 Q. And then:

17 "Tell: communicate, describe incident, type of

18 weapon."

19 And again, when it says "Communicate", can you

20 explain what your understanding of that part of this

21 process is, so:

22 "Communicate: describe incident, type of weapon."

23 A. So that would be if you were there and it was an ongoing

24 incident where you could see the weapon, pass as much

25 details as you can about it.

1 Q. Over the Airwaves?

2 A. Over the Airwaves.

3 Q. And then "Act to stay safe". Again:

4 "Update, observe and contain."

5 A. Mm-hm.

6 Q. And is that something that you feel that you were  
7 conscious of at Hayfield Road: staying safe, updating,  
8 observing and containing?

9 A. Yes, but this wasn't a firearms incident.

10 Q. We have heard that this SOP applies to incidents where  
11 there's a lethal weapon involved, including a knife.  
12 Did you know that?

13 A. No, I -- well, no, my understanding would be that it  
14 would need to be declared a firearms incident for this  
15 all to kick in. As I say, if every time somebody  
16 mentioned a knife, "They might have a knife, they've got  
17 a knife", it became a firearms incident then that would  
18 be -- we wouldn't get round all the calls in a day.

19 Q. All right. Can I ask you to look at another SOP,  
20 please. PS 11014, which is "The care and welfare of  
21 persons in police custody", at paragraph 8.1.1, which  
22 will come up on the screen. 8.1.1, this says "Risk  
23 assessment and management", and it says:

24 "The risk assessment of a custody starts as soon as  
25 the arresting officers are in contact with the person.

1           The arresting officers have a responsibility to impart  
2           all information they have gained about the custody  
3           during their enquiry and interaction with them. They  
4           should also be mindful of the advantage of gaining  
5           information from family and friends if possible and  
6           obtaining any medication required if the apprehension is  
7           made at the home address."

8           So were you conscious at that time that an arresting  
9           officer has responsibility to impart all the information  
10          they have gained and we may have heard that the control  
11          room will also be looking for information about whether  
12          the person is known to them, whether they have a phone  
13          number for that person, whether they can contact that  
14          person? Were you aware of that?

15       A. In relation to somebody coming into custody.

16       Q. So you think this relates to a completely separate  
17          scenario?

18       A. Aye, completely different.

19       Q. Okay, thank you. Well, can I ask you now to look at  
20          something else for me, please. It's a PowerPoint slide  
21          but we're going to use a picture contained within it to  
22          ask you some questions, PS 17208, please. There's 33  
23          slides in this PDF, but it's slide 22 I think that I'm  
24          looking for and it is called "CUT", and you will see the  
25          picture "Edged weapons", "Anything which can be used to

1           stab or slash", so a knife and the reference is to CUT:  
2           create distance, use cover and transmit. Are you aware  
3           of this acronym?

4       A. Yes.

5       Q. Can you explain to the Chair what your understanding of  
6           CUT is?

7       A. That's if you're dealing with somebody who then produces  
8           a knife. You create distance from them, you try and  
9           find cover, if you've got (inaudible) you transmit to  
10          let all your colleagues know that they've got a knife.

11      Q. What does it mean create distance?

12      A. That's the reaction gap that I was talking about. For  
13          me this is one where you're going from a situation when  
14          you're maybe standing next to somebody noting their  
15          details and they suddenly decide they don't want to  
16          speak to the police anymore and produce a weapon, so you  
17          create the distance back to ideally something like  
18          15 feet.

19      Q. Is that like a tactical retreat?

20      A. Yes, to move out of their -- their fighting arc, I think  
21          it is referred to in OST.

22      Q. Right, so it's not about creating distance if you  
23          suspect someone to have a knife; it's only if they  
24          produce the knife? Is that your understanding?

25      A. For that, yes. That's certainly the scenario they run

1 through in OST is you're speaking to somebody and they  
2 produce a knife out of their pocket you create the  
3 distance and then obviously you transmit that point  
4 because it is new information where there's a higher  
5 risk to officers who are attending that this boy has now  
6 got a knife.

7 Q. And what's your understanding of the "Use cover"?

8 A. Get behind a door, just anything -- put something that's  
9 in-between you and the knife, so if he does lunge at  
10 you, the chances are they will hopefully miss you.

11 Q. I would like to go back to your Inquiry statement,  
12 paragraph 26, please. And you're talking about when you  
13 arrived you turned up and saw a muscular male who fitted  
14 the description of the suspect:

15 "He was very broad about the chest and had a strong  
16 build. This was what informed my initial thoughts on  
17 the level of threat and potential resistance I would  
18 face. It was for this reason, combined with the  
19 information I had received on my PPR ..."

20 Is that your police radio?

21 A. Yes.

22 Q. "... that I made the decision to deploy PAVA spray  
23 straight away. I thought that this would incapacitate  
24 him immediately without having to get into a physical  
25 battle with him and would also allow me to keep a safe

1 distance from a male who was thought to be armed with  
2 a knife. Had he complied with our verbal instructions,  
3 the PAVA spray would not even have been used.  
4 Mr Bayoh's race did not impact on my views."

5 So I would like to ask you a little bit more about  
6 this. So you have listed a number of factors there that  
7 you took into account when you immediately arrived, and  
8 there are a number of other factors that we have heard  
9 other people talk about and we've got statements about,  
10 and I would like to go through these other factors with  
11 you to see whether you maybe did take them into account  
12 but you have just not written it down here, or if you  
13 didn't take them into account, why you didn't take them  
14 into account.

15 So the first thing is, I suppose, distance. You  
16 have talked about parking the police van, and in your  
17 PIRC statement -- I won't go to this at the moment, but  
18 you said you were just in front of him, "nose into the  
19 pavement", and I think that's what you mentioned  
20 earlier, you thought you were nose into the pavement,  
21 that's where you parked the van?

22 A. Yes, a 45-degree angle, because I think you see from the  
23 original map, the bus stop's got a lay-by and then we  
24 came in at a 45-degree angle.

25 Q. Would it help if we actually bring the reconstruction

1 tile back up, so this is from the evidence video  
2 timeline. If we just pause that, please. You will see  
3 the reconstruction tile and we will probably see your  
4 van appear just in a moment.

5 So your PIRC statement says you were just in front  
6 of him, nose to the pavement, and you're saying it was  
7 at a 45-degree angle?

8 A. Yes, from my recollection initially, so the van was  
9 probably still at the same kind of angle that it is at  
10 the moment but further forward, so if I just ... sorry.  
11 So that bit there where you see the pavement goes back  
12 at a 45-degree angle, so I went in sort of perpendicular  
13 to that. That was my recollection.

14 Q. So you thought you were further up the bus stop?

15 A. I thought the van was further forward, yes, but that  
16 could just be from line of sight from within the  
17 vehicle.

18 Q. And when you parked the car just in front, can you  
19 explain to the Chair how far away from the man were you  
20 at that time?

21 A. He was on the -- he had made his way around the pavement  
22 so he was on the passenger side of the vehicle, so I had  
23 the full width of the vehicle between me and him, which  
24 would be -- it must have been about -- at an estimate 30  
25 to 40 feet from him, but as I say, the whole width of

1           the van was between me and him.

2       Q.   Could I ask you, please, to look at your PIRC statement,  
3           page 5. While Ms Wildgoose is getting that on the  
4           screen, do you see the blue dot on the reconstruction  
5           tile?

6       A.   Yes.

7       Q.   And that, we have heard, is indicative of a person seen  
8           on the CCTV moving about.

9       A.   Mm-hm.

10      Q.   Who would that have been?

11      A.   Don't know.

12      Q.   You don't know?

13      A.   No.

14      Q.   Can we look at your statement then for a moment, please,  
15           just before we leave this section and we're looking at  
16           page 5, please, and it starts paragraph 3, paragraph 4  
17           of page 5, and you see it is in the centre of the  
18           screen:

19                "I placed the handbrake on and turned off the  
20           engine. I took my PAVA spray off my vest and held it in  
21           my right hand before getting out. PC Paton got out of  
22           the passenger door first and stood on the road and moved  
23           towards the pavement. At this point the man ... was  
24           still walking west on the pavement and was roughly in  
25           line with the front of the van, about 8 feet away."



1           So this is the statement that was given on 4 June to  
2           PIRC and you seem to be saying there that he was about  
3           8 feet away, he was walking west on the pavement and was  
4           roughly in line with the front of the van.

5       A.   Mm-hm.

6       Q.   So that was your recollection on 4 June --

7       A.   8 feet away from the front corner of the van.

8       Q.   -- 8 feet away?

9       A.   Not from me.

10      Q.   No, no, but from the front of the van?

11      A.   Front of the van, yes.

12      Q.   And would that be to your right or to your left?

13      A.   That would be to my left.

14      Q.   To your left. And he was walking in the direction that  
15           would have crossed the front of your van to turn to your  
16           right, to walk to your right?

17      A.   No. No. He was continuing along the pavement past the  
18           bus stop, heading back towards Templehall.

19      Q.   So you parked in Hayfield Road at the bus stop. As  
20           you're looking, you're looking to your left?

21      A.   Yes.

22      Q.   And he is about 8 feet away from the front of the van?

23      A.   The front corner of the van, yes.

24      Q.   You're gesturing there with your left hand. So is that  
25           the side that PC Paton was sitting at?

1 A. Paton got out of, yes.

2 Q. So he is closer to the side of PC Paton?

3 A. Yes.

4 Q. And he is walking away from the van?

5 A. Walking down the side of the van, yes.

6 Q. Can you describe what you mean by the side of the van?

7 A. We have turned up, pulled in --

8 Q. Would it help if we have the map on the screen?

9 A. Yes, yes.

10 Q. Put the reconstruction back on please.

11 (Video played)

12 Thank you. You see some blue dots have arrived, but  
13 ignore the blue dots for the moment. You have told us  
14 that your recollection is the van was at the bus stop,  
15 which we can see on the reconstruction tile and the man  
16 was at the side of the van. Can you point out maybe --  
17 now, we've got red circles, but they're quite big --

18 A. Yes.

19 Q. -- so if you could point to the area where you first saw  
20 the man.

21 A. As we approached, like in my statement I said I drove  
22 the van sort of directly at the gentleman, so I had seen  
23 him at that point and then he was walking -- by the time  
24 we parked the van, opened doors, got out, he was --

25 Q. Do you see the letters "Bus stop"?

1 A. Yes, he was walking past the top of them, on that  
2 pavement to the left.

3 Q. So he remained on the pavement?

4 A. Yes.

5 Q. Walking to the left as we look at that screen?

6 A. Mm-hm.

7 Q. Near or past the letters "Bus stop"?

8 A. Yes. That was my recollection of where he was, but as  
9 I say...

10 Q. It's all right.

11 A. But that was certainly the mechanics of the movement, as  
12 far as I'm aware.

13 MS GRAHAME: Thank you.

14 I'm conscious of the time now, sorry.

15 LORD BRACADALE: We will stop for lunch and we will sit  
16 again at 2.05.

17 (1.05 pm)

18 (The luncheon adjournment)

19 (2.07 pm)

20 LORD BRACADALE: Yes, Ms Grahame.

21 MS GRAHAME: Constable Walker, before lunch I had asked you  
22 about paragraph 26 of your statement and we were talking  
23 about the different factors that you had been thinking  
24 about, and I had a number of factors that I wanted to  
25 speak to you about before we move on to the scene and

1 I will return to that now, if I may.

2 A. Yes.

3 Q. So we were talking about things that we might hear other  
4 evidence about and I wonder if you can help me  
5 understand if you took account of them and can we look,  
6 first of all, at PS 17208 and this is a PowerPoint,  
7 a series of slides, a demonstration that apparently is  
8 part of the Police Scotland officer training -- or was  
9 part of the Police Scotland officer safety training at  
10 the time, and I would like to look at slide 11, please.

11 This is, you will see, called "Warning signs", it  
12 appears on the screen, and:

13 "Warning signs are attack gestures known as  
14 'ritualised combat'."

15 And there is a number given there: direct eye  
16 contact, subject stands tall to maximise height, head  
17 back, kicking the ground, large movements, breathing  
18 rate accelerates and stop/start behaviour.

19 Now, I think we can understand what direct eye  
20 contact is. What's "subject stands tall to maximise  
21 height"? Do you understand what that is?

22 A. Yes, so basically straight back, shoulders back, just to  
23 try and make yourself appear as big as possible. That  
24 would be height and sort of width as well and, as I say,  
25 as tall as you could possibly be just to give an

1           imposing stance.

2       Q.   And "head back"?

3       A.   Again, that's partly, when you put your head back it  
4           gives you a lot more height.

5       Q.   And are these gestures that someone can adopt if you're  
6           attending an incident?

7       A.   Yes, that's normally something you would watch for, once  
8           you had actually engaged with somebody to judge how they  
9           were going to be with you.

10      Q.   So a warning sign for an attack?

11      A.   Yes, just the fact, like I say, that's when somebody  
12           comes across -- as I say, he didn't appear to be overly  
13           angry when we were observing him; that's somebody that's  
14           up strong, and ready for a fight.

15      Q.   And then "kicking the ground"?

16      A.   I must admit, I don't -- I've never actually seen that  
17           in action so I'm not sure what that would look like but  
18           pretty much as it would suggest.

19      Q.   "Large movements", what are they?

20      A.   Again, like I alluded to earlier, the hands in the air,  
21           the big gestures, "Who are you shouting at? What's this  
22           going on?"

23      Q.   "Breathing rate accelerates"?

24      A.   Again, you need to be close to somebody to judge that,  
25           but if you're getting ready for a fight, your body

1           breathes quicker to get more oxygen in.

2       Q.   What's "Stop/start behaviour"?

3       A.   That's -- I would take that to be somebody who is calm  
4           with you one moment and erratic the next, so you really  
5           can't judge whether they're friend or foe, just to be  
6           wary of them because they could change in an instant.

7       Q.   But there were no signs of these types of behaviours or  
8           gestures when you arrived at Hayfield Road?

9       A.   Like I say, that would be more once you're actually  
10          speaking with someone, so you could get a better eye.  
11          I mean, obviously we're too far away to see if he's got  
12          direct eye contact or anything like that, but he had  
13          none of the -- from a distance, the raised hands, the --  
14          he didn't appear to be angry at that point.

15      Q.   And then before -- let's move on to the next slide,  
16          which is slide 12, so these -- this is a "Danger signs"  
17          slide:

18               "Danger signs are more significant than warning  
19          signs and are indicative of an imminent attack."

20               So is this something that you had in your  
21          consciousness that you had been trained on?

22      A.   Again, that's part of the OST for when you're dealing  
23          with somebody, but aye, if they were to immediately  
24          change, clench their fists, bring them up into  
25          a fighting stance and you're standing 6 feet from them,

1           aye, you're going to end up in a physical altercation.

2       Q. "Lips tighten over teeth"?

3       A. Yeah.

4       Q. What's that?

5       A. Probably when you speak through gritted teeth, probably,  
6       that's probably how I would take that if somebody was --

7       Q. And "eyebrows drop to protect eyes"?

8       A. Again, if you just sort of do the stereotypical look of  
9       somebody who wants to fight, they do that (indicating),  
10      everything comes down for protection.

11      Q. Your brow is moving down.

12      A. Yes.

13      Q. "Hands raised above waist"?

14      A. To get ready to fight, to strike out.

15      Q. Stance changes from square to side-way?

16      A. We would describe that as -- on OST we use that as  
17      a defensive stance, but it protects the body, so if  
18      you're going to fight with somebody you turn side-on, or  
19      if somebody was going to fight you would turn side-on  
20      and it just protects the front of the body because  
21      you're side-on to them.

22      Q. So it minimises the area that that person can reach?

23      A. Yes, so again, these are all sort of natural reactions.

24      They all happen, sorry, subconsciously, somebody who is  
25      going to fight will automatically go into that sort of

1 stance.

2 Q. If there's an imminent attack?

3 A. Yes.

4 Q. "Aggressor breaks their stare and looks for intended  
5 targets"?

6 A. Sorry, to be honest, if I was dealing with a situation  
7 like that and somebody had all the sort of danger signs,  
8 unless they were fighting with a colleague -- they would  
9 tend not to start looking for a target, they would be  
10 speaking to you and not happy with you and you are the  
11 focus of their attention, you are their target, so  
12 I wouldn't really see what's -- that's not one that  
13 I have experienced, where they would suddenly be  
14 engaging with me and then change their mind and start  
15 fighting with somebody else.

16 Q. And then if they're out of breath the final signal would  
17 be lowering of the entire body before moving forward?

18 A. I don't know what the mechanics are behind that one  
19 but ...

20 Q. Something that you're aware of?

21 A. Yeah, yeah. The final lunge towards you.

22 Q. And then the last thing I want to ask you about in  
23 relation to this PowerPoint is in relation to acute  
24 behavioural disorder.

25 A. Mm-hm.



1 Q. So can we turn to slides 23 to 27. We will start  
2 with -- is that 27? We will start with positional  
3 asphyxia then. 23, is that? I can't see the number on  
4 the screen. Let's start with positional asphyxia. So  
5 there are slides about this. It is:

6 "... likely to occur when a subject is in a position  
7 that interferes with inhalation and/or exhalation and  
8 cannot escape that position."

9 Now, this is something that you had had training on?

10 A. Yes.

11 Q. And something you were aware of before you went to  
12 Hayfield Road?

13 A. Yes.

14 Q. And it says:

15 "Death can occur rapidly."

16 And:

17 "Restraints can increase the risk."

18 So you were aware of all of that?

19 A. Yes.

20 Q. And then can we move on to the next slide, please. And  
21 then it talks about risk factors that contribute or may  
22 contribute to the condition, and the factors listed  
23 there are:

24 "Body position which restricts/blocks airway."

25 What does that mean to you?

- 1 A. Lying in the prone position.
- 2 Q. Prone?
- 3 A. So their own body weight.
- 4 Q. "Alcohol or drug intoxication", that speaks for itself
- 5 I think.
- 6 A. Yes.
- 7 Q. "Inability to escape position"; what does that mean?
- 8 A. For me I would probably suggest that means if you put
- 9 somebody in the cell area at the back of a vehicle, if
- 10 it they're face down on the floor then they cannot get
- 11 away from that position, they're not able to move away
- 12 just because of the shape of it -- the actual shape of
- 13 the cell, they're just unable to move from the position
- 14 that they have been put in.
- 15 Q. And then "Subject is prone", so on their front "or
- 16 pinned against a surface or slumped forward"?
- 17 A. Yes.
- 18 Q. So it could be any of those?
- 19 A. Yes.
- 20 Q. "Obesity", speaks for itself. "Restraint" is that the
- 21 restraint by officers in a --
- 22 A. Yes.
- 23 Q. -- particular position. "Stress", what is -- it says it
- 24 is a risk factor; to what extent is stress a risk
- 25 factor?

1 A. I would take that to mean that it probably falls onto  
2 the other one, the respiratory muscle fatigue, the fact  
3 that they're stressed, they're breathing harder and  
4 heavier, the oxygen demand on the body is higher, so if  
5 their breath can't keep up with the requirements of the  
6 body.

7 Q. And then "Respiratory muscle fatigue"?

8 A. Having to breathe too hard.

9 Q. And then can we move on to the next slide. So "Signs  
10 and symptoms", "Active to passive/loud to quiet". Is  
11 that what you were saying a moment ago about someone  
12 changing, their demeanour changing when they're talking  
13 to you or is that something else?

14 A. No, that would be something else. That's somebody who  
15 has been loud, shouting -- for instance, if you had  
16 somebody in the cell of the vehicle who was objecting to  
17 being locked up and then they suddenly go quiet or start  
18 to get quiet, then that could be because they're not  
19 getting enough air into their body to continue shouting.

20 Q. So that can be a sign of positional asphyxia?

21 A. It could be a sign of many things but yes, it could be  
22 of positional asphyxia as well.

23 Q. "Gurgling, gasping sounds"?

24 A. Probably, aye, exactly as it says, you hear somebody  
25 starting to gasp for air.

1 Q. "Cyanosis"?

2 A. Blueness of the lips and extremities. Normally of the  
3 lip area I think is usually the first one to show signs  
4 of going blue through lack of oxygen in the blood  
5 supply.

6 Q. So any sign of that could be a sign of positional  
7 asphyxia?

8 A. Yes, amongst other things, but yes.

9 Q. And what does it mean "verbals"?

10 A. That would be, again, somebody shouting out the actual  
11 fact they cannot breathe, they're not comfy, aye, just  
12 basically being told that they're having difficulty.

13 Q. Thank you. The next slide, please. Then we're onto  
14 slide 4 "Excited delirium" and this is -- this  
15 describes:

16 "A person exhibits violent behaviour in a bizarre  
17 and manic way; constant, purposeless, often violent  
18 activity; meaningless speech and hallucinations with  
19 paranoid delusions; abnormally strength and pain  
20 tolerance; CS may not work."

21 So the violent behaviour speaks for itself. Do you  
22 understand what manic -- what someone acting in a manic  
23 way is?

24 A. Frantic and constant, just constant motion activity.

25 Q. And then it says underneath that "Constant purposeless,

1           often violent activity"; what's that describing?

2           A. The example I could give of that for it would be in  
3           excited delirium is I think people are drawn to  
4           reflective surfaces so they will go about smashing  
5           windows for no apparent reason.

6           Q. Then "Meaningless speech and hallucinations with  
7           paranoid delusions". What does that mean to you?

8           A. Again, I had a case of it recently where somebody was  
9           shouting out that everybody was here to kill them, we  
10          were all aliens and just ...

11          Q. And then the next bullet point is that "Abnormal  
12          strength" or "abnormally strong and pain tolerance"?

13          A. Certainly the pain tolerance -- a lot of the open hand  
14          controls that we do as well relies on what they call  
15          pain compliance, so pressure points in the body, bending  
16          joints in certain directions, and if they don't work,  
17          then it could be a result of -- it could be a result of  
18          lot of things, but they are normally related to drugs  
19          which obviously leads on to excited delirium.

20          Q. So if you're performing a technique, an empty hand  
21          technique on a person, and they're not responding, and  
22          often pain is used to control people in those  
23          techniques, so they're not responding to that, that can  
24          be a sign of excited delirium?

25          A. That could be a sign of a lot of things but yes, one of

1           them is excited delirium.

2       Q.   And then it says "CS may not work"?

3       A.   Yes.

4       Q.   Is that CS spray?

5       A.   Yes.

6       Q.   So it may not work on a person if they're suffering from  
7           excited delirium?

8       A.   Yes.

9       Q.   That's the sort --

10      A.   And again, that CS spray doesn't work on a lot of  
11          people.   Some people have natural immunity to it.   Some  
12          people are trained to be able to fight through it,  
13          namely, like, Armed Forces.   Again, just drug  
14          intoxication and also into excited delirium, so it could  
15          be -- it's not exclusively to excited delirium.

16      Q.   Not exclusively but one of the red flags?

17      A.   Yes.

18      Q.   Right.   I think that's us looked through all of those.  
19          Can I just see the next slide, please.   No, sorry, this  
20          is the final one "Excited delirium", causes:

21                "Drug and/or alcohol intoxication."

22          You have mentioned that already, "Psychiatric  
23          illness", "or a combination of the above".   So those are  
24          potential causes of excited delirium and then underneath  
25          that it says "Medical emergency", "Expect a sudden

1 collapse; acute exhaustive mania can be fatal."

2 What do you understand by that reference to medical  
3 emergency?

4 A. That -- as soon as it's identified as being ABD or  
5 possibly ABD or excited delirium as it was called at the  
6 time, that an ambulance should be contacted as soon as  
7 possible.

8 Q. Do you think that's as soon as you diagnose it or as  
9 soon as you think that might be a potential diagnosis?

10 A. As soon as you think that it could be ABD, certainly now  
11 it needs to be classed as a medical emergency and the  
12 ambulance need to be contacted as soon as you suspect it  
13 may be.

14 Q. And in 2015?

15 A. It would be a medical emergency probably as soon as  
16 you -- I mean they're pretty much the same. As soon as  
17 you think it might be and as soon as you diagnose it to  
18 be it's probably one and the same, but as soon as you  
19 think that's the case then certainly you would be  
20 requesting an ambulance.

21 Q. And that's you calling and requesting the ambulance?

22 A. Yes.

23 Q. When you think that that might be the cause?

24 A. That may be the case.

25 Q. Because this says "Expect a sudden collapse" and it can

1 be fatal.

2 A. (Nods).

3 Q. Yes. Could you look, please, at -- could you look at  
4 a SOP briefly for me. PS 11014, "The care and welfare  
5 of persons in police custody", it's a SOP, and I will  
6 just quickly take you to a section at 5.1.3 on excited  
7 delirium. Keep going, sorry, it will be further down  
8 the page. It might -- there should be a section with  
9 "Excited delirium" as the first letters. Well, let's  
10 leave that. I obviously don't have the right number.

11 This says:

12 "People who appear to have this condition should  
13 only be restrained in an emergency and they should be  
14 taken by ambulance to hospital immediately the diagnosis  
15 is considered."

16 Would that be consistent with what you have told us?

17 A. Yes.

18 Q. Okay. Did you -- on 3 May in Hayfield Road, did you  
19 consider seeking medical assistance for the man that you  
20 saw when you first arrived?

21 A. When we first arrived?

22 Q. Yes.

23 A. No.

24 Q. Did you consider the possibility of drugs or alcohol,  
25 intoxication with excited delirium or psychiatric



1 illness?

2 A. Not initially because you need to contact him and speak  
3 to him and try -- and that's not something you could  
4 diagnose from 100/200 metres away.

5 Q. How would you diagnose that? How would you go about  
6 doing that?

7 A. Extremely erratic behaviour would be the only thing that  
8 you could maybe call out early from a distance.

9 Q. But that's not what you had here?

10 A. That's not what we had here.

11 Q. So how would you go about assessing whether that is  
12 a factor?

13 A. You would need to try and engage with the male first of  
14 all. There's only so much you could do from within  
15 a van.

16 Q. Absolutely, so your engagement would be communicating  
17 with the person?

18 A. Yes.

19 Q. Observing what you see?

20 A. The reaction that you get from him, yes.

21 Q. And their reaction to any communication?

22 A. Mm-hm.

23 Q. And do you have any -- of your experience how long would  
24 you say that that process takes to communicate and  
25 observe the person?

1 A. It's an ongoing thing. You get to them, you try and  
2 speak to them, do they speak back to you, do they make  
3 eye contact with you, do they acknowledge your  
4 existence. There's many factors that you do throughout,  
5 so it's not just a case of turning up, run through  
6 a tick box and then come to a decision. You've got to  
7 judge it as you go.

8 Q. So it would take time and you would spend some time with  
9 them to make that assessment?

10 A. To see what sort of reaction, yes.

11 Q. Thank you. I would like to go back to the -- we were  
12 discussing before lunch the position of the van in  
13 Hayfield Road and I think what I would like to do first  
14 of all is go to the footage, an enhanced video timeline,  
15 and play part of that from around 7.22. This might help  
16 refresh your memory on this.

17 (Video played)

18 We can see that at the moment we're 7.21 coming up  
19 to 7.22, and if we watch this through first.

20 (Video played)

21 Thanks. Can we stop it there for a moment? Did you  
22 see just at the end there on the footage on the  
23 right-hand side of the screen, the Snapchat footage?

24 A. The Snapchat, yes.

25 Q. And did you see your van there?

1 A. Yes.

2 Q. I wonder if we could go back to that and have that on  
3 the screen, please, and does that refresh your memory  
4 about where the van was that day?

5 A. Yes.

6 (Video played)

7 Q. Keep going, please, until we see the van at the bus  
8 stop. Keep going, please. So can we see on the  
9 right-hand side, the Snapchat footage that we actually  
10 see the bus shelter there and the van is parked to the  
11 left of the bus shelter?

12 A. Yes.

13 Q. And can you see on the road there that there's some --  
14 you can see some of the yellow markings on the road  
15 opposite the bus shelter?

16 A. Yes.

17 Q. And the van parked at an angle, as you said?

18 A. Yes.

19 Q. But it's not in front of the bus shelter or at that  
20 section?

21 A. Yes, correct, aye.

22 Q. And do you see in the reconstruction tile that the bus  
23 shelter -- we can see the roof of the bus shelter with  
24 the bus stop markings on the road?

25 A. Yes.

- 1 Q. And that the van is positioned at an angle, but not  
2 right up against the lettering of the bus stop, that is  
3 on the road. Do you see that?
- 4 A. Yes.
- 5 Q. So are you content looking at that picture of the  
6 Snapchat footage and the reconstruction tile that the  
7 position of the van was slightly further away from the  
8 bus stop, at a slight angle?
- 9 A. I would have to say the reconstruction tile is slightly  
10 different from the Snapchat footage.
- 11 Q. So you think that's slightly different?
- 12 A. Yes, the rear offside tyre is sitting on the dotted  
13 yellow line; on the reconstruction tile at the top, it's  
14 not.
- 15 Q. Right, so you think -- did you say the nearside is on  
16 the dotted line or did you say the offside?
- 17 A. The nearside -- the nearside rear tyre.
- 18 Q. Right. So the nearside rear tyre you think is on the  
19 dotted line and the rear-side tyre on the reconstruction  
20 image you don't think is close enough to the dotted  
21 line?
- 22 A. According to the reconstruction it's the front wheel  
23 nearside that's on the yellow dotted line.
- 24 Q. But you think it's actually the rear?
- 25 A. You can see from the Snapchat footage that it's the rear

1           tyre that's on -- so the position of the vehicle was  
2           different from the reconstruction tile.

3       Q.   Okay.  Are you content with the reconstruction  
4           insofar as it is positioned within the bus stop area not  
5           at the far end of the bus stop area, which I think is  
6           what you had indicated with the red circle?

7       A.   Yes, on initial drawing I thought it I was closer to the  
8           pavement, the pavement on the left-hand side -- sorry,  
9           the right-hand side.

10      Q.   Yes, the pavement on the right-hand side, towards the  
11          right-hand side of the bus stop.

12      A.   Yes.

13      Q.   Thank you.  And then I would like to look at some  
14          stills, if I may.  So we will -- these are stills from  
15          the 3D reconstruction, and we will look at number 2  
16          first of all, I think.  You will see that the bus stop  
17          is created there with the yellow markings on the road,  
18          on Hayfield Road, do you see that?

19      A.   Yes.

20      Q.   And then the white transit van is positioned there.  You  
21          think it is slightly closer to the pavement --

22      A.   Yes.

23      Q.   -- than the reconstruction.  And then can we look at --

24      A.   I was going to say, or the markings on the  
25          reconstruction are different.  The van position might be

1 right but the yellow lines are different but aye,  
2 there's an inconsistency there.

3 Q. You feel there's an inconsistency there?

4 A. Yes.

5 Q. And then we can look at slide 5, please, and again, you  
6 will see the white transit van on the right-hand side,  
7 and so the rear tyre on the nearside is closer to the  
8 yellow lines, but it's the rear far side tyre that you  
9 think should be closer to the yellow lines?

10 A. No, the rear -- the rear nearside tyre is not on the  
11 yellow lines, where in the Snapchat footage it is on the  
12 yellow lines, so it's a couple of feet -- it needs to be  
13 a couple of feet that way (indicating).

14 Q. It needs to be closer to the yellow line --

15 A. Yes.

16 Q. -- on the yellow line?

17 A. If you're comparing the two photos I would say, yes.

18 Q. So would you be comfortable if that nearside rear tyre  
19 of the van was on the yellow dashed line, broken line,  
20 you would be more comfortable with the position of your  
21 van?

22 A. Or the yellow lines need to be further out underneath  
23 the van, it depends what's wrong.

24 Q. Okay, right. We will address that. Thank you.

25 Now, could we go back to still 2, please, and before

1 lunch you were talking about when you arrived you were  
2 driving --

3 A. Yes.

4 Q. -- and could you point on this screen to where you first  
5 saw the man when you arrived and parked the car --  
6 parked the van, sorry?

7 A. When we arrived, like I say, when we drove or drove sort  
8 of straight towards his direction, so just going to  
9 that -- through line of sight through the windscreen, he  
10 must have been close to there (indicating).

11 Q. Right. And what distance did you think that was?

12 A. The distance I gave was the distance when Alan Paton got  
13 out of the van and engaged with him which he was -- as  
14 I say, I could see through the van, so at that point he  
15 has obviously walked around a bit further and I would  
16 say it was about 40 feet at this point.

17 Q. I wonder if you could use a facility that we have on  
18 this screen that allows you to draw a line. So you have  
19 given us the red circle with the number 1. Can you  
20 indicate with your finger by dragging along the screen  
21 what direction the man was walking in.

22 Thank you. So he was on the pavement?

23 A. Yes.

24 Q. And that would be facing you in the van?

25 A. Yes.

1 Q. And when he -- when you got out of the van, what  
2 position was he in on the road, on the pavement, sorry?

3 A. Probably close to where the arrow head is at the moment.

4 Q. Right, thank you. And he was still facing in the  
5 direction of the roundabout?

6 A. Yes, he was still walking in that general direction.

7 Q. Now, I would like to hold that thought in our minds, but  
8 I would like to play you the footage again now, so this  
9 is from the enhanced video timeline, and I would like to  
10 play from 7.20.23, when your van stopped at the bus  
11 stop, to 7.20.39, which is a period of around  
12 16 seconds, so we will start at 7.20.23. You will see  
13 your van just coming onto the screen at the moment.

14 So first play through I'm going to ask you to look  
15 at the CCTV. Second play through I'm going to ask you  
16 to look at the reconstruction tile and then the third  
17 time I'm going to ask you some questions.

18 A. Okie doke.

19 Q. So let's play, first of all, from 7.20.23 and just watch  
20 the CCTV, please.

21 (Video played)

22 Thank you. And then we will go back to 7.20.23 and  
23 then we will -- the second time through we will look at  
24 the reconstruction tile.

25 (Video played)



1           Thank you. And then we can go back to 7.20.23 and  
2           what I'm going to do is ask Ms Wildgoose to play it for  
3           a second or two and then we will pause it and I will ask  
4           you to do that, thank you.

5                               (Video played)

6           Pause it, please. Right, we see here that on the  
7           reconstruction tile, one blue dot has appeared besides  
8           the white van and we have heard evidence that when some  
9           movement is visible on the CCTV, that ALI have put  
10          a blue dot to signify that someone is there, so that's  
11          on the nearside of the van.

12       A. Yes.

13       Q. And you have already told us that PC Paton got out  
14       first.

15       A. Yes.

16       Q. So that blue dot, is that likely to be PC Paton?

17       A. Yes.

18       Q. And then can we play another second or two, please,  
19       Ms Wildgoose.

20                               (Video played)

21          Pause, please. That second blue dot has now  
22          appeared, do you see that?

23       A. Yes.

24       Q. And that appeared to come from the driver's side of that  
25       van.

1 A. Yes.

2 Q. So is that likely to be you?

3 A. Yes.

4 Q. Thank you. And you have talked in your statement about  
5 walking to the front of the van; so does that appear --  
6 that blue dot appear to be consistent with the movement  
7 that you took when you got out of the van?

8 A. Yes.

9 Q. Thank you. Then we will play it just a moment or two  
10 further -- sorry, can you stop that. Sorry, I wasn't  
11 quick enough to stop there. Is it possible to rewind?  
12 At one point we see three dots.

13 (Video played)

14 Stop. Right, so as the second blue dot that you  
15 said was you disappears, there now appear to be two blue  
16 dots on the nearside of the van.

17 A. Yes.

18 Q. Who would they be?

19 A. They are PC Paton and Mr Bayoh.

20 Q. So the blue dot that's closest to the van, who would  
21 that be?

22 A. I don't agree with the positioning from them on that but  
23 that would be Mr Bayoh.

24 Q. So you think closest to the van is Mr Bayoh?

25 A. Yes.

1 Q. And further away is PC Paton?

2 A. Yes.

3 Q. You don't think PC Paton would be closer to the van?

4 A. No, I think Mr Bayoh would be on the pavement with  
5 PC Paton in front of him. I don't know where they've  
6 got the distance from the camera to position that blue  
7 dot.

8 Q. Well, let's just go back -- so there's two blue dots  
9 there. One blue dot is closer to the passenger side of  
10 the van and one blue dot is closer to the pavement side?

11 A. Yes.

12 Q. The blue dot that is closer to the passenger side, who  
13 do you think that is?

14 A. Closer to the passenger side would be Mr Bayoh.

15 Q. You think?

16 A. Yes.

17 Q. So at some point you think PC Paton and the man changed  
18 positions?

19 A. No. PC Paton has got out of the van in front of the  
20 gentleman, so PC Paton would be on Mr Bayoh's -- or  
21 looking at it, he would be on the left, Mr Bayoh would  
22 be on the right and I'm at the front of the van.

23 Q. Right, so at this moment in time, you're at the front of  
24 the van?

25 A. Yes.

1 Q. You can't be seen, so there's no blue dot?

2 A. There's no blue dot.

3 Q. And Mr Bayoh has been walking along the pavement --

4 A. Yes.

5 Q. -- at the bus stop, which you showed us in the previous

6 slide.

7 A. Mm-hm.

8 Q. And he has now, according to this reconstruction, walked

9 onto the bus stop area; is that your understanding?

10 A. No, I don't think the two of them are ever that close

11 together at that point.

12 Q. Okay.

13 A. I mean, I don't know how they have derived from the CCTV

14 footage the distance from the camera, but if that blue

15 dot was -- if you take a line from the camera, through

16 that blue dot and put it back onto the pavement and then

17 that might be a better and more realistic spacing.

18 Q. So at the point you're at the front of the van in

19 Hayfield Road --

20 A. Yes.

21 Q. -- can you see PC Paton and Sheku Bayoh?

22 A. Yes.

23 Q. And when you were at the front of the van describe to me

24 where PC Paton was?

25 A. Directly in front of --

1 Q. In front of what?

2 A. Directly in front of Sheku Bayoh.

3 Q. Right, and who was closest to the van?

4 A. They were both on the pavement.

5 Q. They were both on the pavement?

6 A. Yes.

7 Q. And so PC Paton was closer to the van, did you say? No,

8 I'm obviously getting myself confused.

9 A. Yes.

10 Q. Just describe for me when you were at the front of the

11 van where the two men were standing.

12 A. So I was at the front of the van. On the pavement

13 directly in front of me would be Mr Bayoh and then

14 further along the pavement in front of him was Mr Paton,

15 Constable Paton.

16 Q. Right, okay. I see, I see. So the man is closer to the

17 van and PC Paton is -- was he facing you at that stage

18 then? Could you see the front of PC Paton --

19 A. Yes.

20 Q. -- or the back?

21 A. The front.

22 Q. So he was facing towards you?

23 A. He was facing towards Mr Bayoh.

24 Q. Towards Mr Bayoh.

25 A. Yes.

1 Q. And which direction was Mr Bayoh facing?

2 A. Towards Mr Paton.

3 Q. So they were facing each other?

4 A. Yes.

5 Q. And when you were standing at the front of the van you  
6 could see the man slightly to the left and PC Paton  
7 slightly to the right, or were they completely in line  
8 with each other?

9 A. No, I could see them clearly -- both left and right.

10 Q. So the man, Sheku Bayoh, to the left and --

11 A. No.

12 Q. No, sorry, him to the right and PC Paton to the left?

13 A. Aye. Are you able to bring up the reconstruction tile  
14 bigger and I will be able to --

15 Q. Yes, yes, that would be good. Let's look at the still,  
16 please, that we just looked at. Right, so this is --  
17 let me see. Could we go to the previous still, please.  
18 So this is still 5. You will see on the right-hand side  
19 your van is there.

20 A. Mm-hm.

21 Q. And we can see the yellow markings from the bus stop and  
22 we can see part of the pavement. So could you point  
23 out, please, where Mr Bayoh was. And can you point out  
24 where PC Paton was. And it may be that it is not  
25 possible on this still for you to show us where you

1           were, but if we went on to the sixth one, or the second  
2           one maybe -- let's go back to the second one, and could  
3           you point out where you were?

4       A.   Yes, so I would be coming round from the front, from the  
5           driver's side to the front, so I would be about there at  
6           the front of the vehicle.

7       Q.   And again, on this screen, can you show us where  
8           Mr Bayoh was?

9       A.   It's a slightly different angle, but roughly there on  
10          the pavement.

11      Q.   And he had walked there from the previous -- in the  
12          previous still you put him nearly to the bus stop --

13      A.   Yes, by the time we've arrived --

14      Q.   -- the shelter, and he had walked to that position?

15      A.   -- and got out of the vehicle he has walked down to that  
16          point, yes.

17      Q.   And can you point where PC Paton is, if possible? So  
18          PC Paton is further along Hayfield Road towards the  
19          roundabout and he is facing Mr Bayoh?

20      A.   Yes.

21      Q.   Blocking his path?

22      A.   Yes.

23      Q.   And Mr Bayoh is continuing along Hayfield Road towards  
24          the roundabout, but now he has PC Paton in front of him?

25      A.   Yes.

1 Q. And they are facing each other?

2 A. Yes.

3 Q. And you are besides red circle 1?

4 A. Yes.

5 Q. Looking at the scene from that position?

6 A. Yes.

7 Q. Right. Thank you. Sorry, I got myself a bit tied up in  
8 knots there.

9 Right, when you gave us your Inquiry statement --  
10 and I won't move away from this still at the moment --  
11 you said in paragraph 28 -- you can look at it if you  
12 wish:

13 "... Paton got out of the van first."

14 And you got out a few seconds later and you say at  
15 paragraph 28:

16 "Paton verbally engaged with Sheku Bayoh."

17 Can you explain what you mean when you say he  
18 verbally engaged?

19 A. Basically got out in front of him, asked him to stay  
20 where he was, "let me see your hands", et cetera, but,  
21 like I say, there was -- at that point there was a lack  
22 of non-verbal communication from him, he still continued  
23 to walk and no real engagement with the fact that we  
24 were there.

25 Q. Was he effectively ignoring you?



1 A. Yes.

2 Q. And you say in paragraph 31 that PC Paton shouted -- or  
3 shouts a command at Sheku Bayoh as you get out of the  
4 van?

5 A. Yes.

6 Q. And he said "Stay where you are, don't move"?

7 A. Words to that effect, yes.

8 Q. Or words to that effect. When he shouted that command,  
9 was he effectively in the position that you have circled  
10 at number 3?

11 A. Yes. They were both sort of dynamically moving along  
12 the pavement towards Hendry Road, but yes, they were  
13 sort of -- that was the position relative to each other.

14 Q. Is that the first thing that he says to Sheku Bayoh?

15 A. That's the first thing I'm aware of.

16 Q. That's the first thing you heard?

17 A. Yes.

18 Q. Were you aware of him attempting to communicate with  
19 Sheku Bayoh in any other way verbally?

20 A. Verbally, no, just the clear commands to stay where he  
21 was and ...

22 Q. Did he warn him, or did he ask him if he had any sharp  
23 instruments on him?

24 A. I can't recall. I think it was "Let's see your hands"  
25 or something like that, rather than a straightforward

1 question but --

2 Q. So he did say something -- was that before the command  
3 or was it after the command?

4 A. At the moment I don't recall.

5 Q. So paragraph 28 you say:

6 "He's got out of the van, he said 'Stay where you  
7 are, don't move'."

8 A. Mm-hm.

9 Q. There's no mention there of any other comments. I am  
10 just wondering was it before he said that, "Stay where  
11 you are, don't move", or after?

12 A. I don't recall. I could just be aware -- I'm engaging  
13 with the male, but I don't recall.

14 Q. Right. Did he ask him if he had any sharp implements  
15 and ask him to remove them from a pocket?

16 A. Not that I heard, no.

17 Q. Did he warn him at that stage or provide a warning that  
18 he might use his spray?

19 A. He was standing in the defensive pose with the spray  
20 drawn, but I can't recall if he actually made  
21 a statement at that point.

22 Q. PC Paton has given -- gave a statement to PIRC on 4 June  
23 and he seems to be saying that he shouted "Get down on  
24 the fucking ground". There doesn't seem to be any other  
25 suggestion that he engaged him with any other

1 conversation.

2 A. Right.

3 Q. Do you disagree with what PC Paton's recollection was?

4 A. I have no reason to, no.

5 Q. Could you be mistaken that he had any other verbal  
6 engagement with him?

7 A. Yes. I mean a lot of what you say in that sort of  
8 situation is generic. That's what you get taught in  
9 OST, "Get back, stay back, stay where you are, show us  
10 your hands", it just it rolls off the tongue, it's  
11 drilled into you so, aye, you don't even pay  
12 attention -- you're expecting that you know what he is  
13 going to be saying so you're not really paying attention  
14 to what he is saying.

15 Q. So is it common for police officers to use swear words  
16 when they're issuing commands?

17 A. It's not uncommon if somebody's not listening to you to  
18 try and stress the point. Do I swear at people? Yes.  
19 It's the local lingo, I suppose.

20 Q. Is it common for it to be the first thing that someone  
21 says, where the first conversation is using bad  
22 language?

23 A. Again, that would need to be -- depend on, like I say,  
24 I maybe missed part of what he was saying or whether  
25 that was his first or what he said, I don't know. That

1           would be his perception at the time.

2           Q.   Certainly I'm simply reading out what PC Paton's PIRC  
3               statement says. We have not heard from PC Paton so far,  
4               but his recollection on 4 June in 2015 was that he  
5               shouted "Get down on the fucking ground". Do you think  
6               that would come across as quite aggressive?

7           A.   Depends in what manner he said it, but --

8           Q.   Well, you were there; how did he say that?

9           A.   As a verbal -- a shouted verbal command so it would be  
10              heard.

11          Q.   All right. Let's leave that there.

12               Then you have told us in paragraph 33 in your  
13              statement that PC Paton sprayed him with his CS spray.

14          A.   Mm-hm.

15          Q.   When he sprayed him -- we're looking at this image on  
16               the screen now -- was he still in that position in  
17               Hayfield Road?

18          A.   No. Mr Bayoh never stopped walking towards PC Paton.  
19               PC Paton was back-stepping whilst engaging with the  
20               male, so he held a constant distance from him, but the  
21               male was always constantly walking towards him, which is  
22               probably why the urgency -- it probably explains the  
23               urgency and the fact that he swore when he tried to make  
24               the male stop where he is. It wasn't a case of he got  
25               out, stood in front of him and he stopped to talk to us;

1           he just continued walking down the street and, as I say,  
2           PC Paton has tried to engage with him and Mr Bayoh has  
3           constantly closed down the gap towards him, so he has  
4           had to work to try to keep that reaction gap. So  
5           although I've got it marked as 2 and 3, that was  
6           dynamically walking down the pavement at that distance  
7           from each other -- sorry -- from each other.

8       Q. I think there is water there if you would like a glass.

9           So number 2, Mr Bayoh, he is continuing to walk  
10          along; was he walking along the pavement towards the  
11          roundabout at Hendry Road?

12       A. I believe so, yes.

13       Q. And can you then -- maybe we will look at another still,  
14          maybe look at the next one. Well, actually, number 6,  
15          please, I think I would prefer. So you will see that  
16          this is from a slightly different angle. Can we bring  
17          that down slightly so I can see the page. You will see  
18          the transit van there in the bus stop markings and then  
19          you will see the pavement you were describing that  
20          Mr Bayoh was walking along.

21          Can you indicate on this image where Mr Bayoh was  
22          when PC Paton sprayed him, and where was PC Paton?

23       A. Again, he had moved back and back and back trying to  
24          keep the reaction gap, but I think it was probably about  
25          that point.

1 Q. So he is in the area where we can see a path actually  
2 leading through the trees in that sort of area?

3 A. Mm-hm.

4 Q. And the pavement then curves out slightly past the trees  
5 and goes towards the roundabout at Hendry Road?

6 A. Yes.

7 Q. Where were you at this point?

8 A. I could mind actually coming round to the front of the  
9 vehicle, being next to the head lamp.

10 Q. How far were you from -- well, we see the red circle  
11 there, number 1, which indicates where Mr Bayoh was.  
12 How far were you from Mr Bayoh?

13 A. 20 feet?

14 Q. You could see his back; was he still facing PC Paton?

15 A. Yes, he was still making his way towards PC Paton.

16 Q. Tell us how PC Paton used his spray, describe that for  
17 me?

18 A. Like I say, when he engaged with him he had it in what  
19 we call the spray drawn position, which is with the  
20 spray up on -- with a defensive hand out, telling him to  
21 keep back, moving back from him, and then when he  
22 sprayed it he just as normal, thumb on the top of the  
23 canister and that deploys the spray at that point.

24 Q. And how far was PC Paton from Mr Bayoh at that time?

25 A. 10 feet, certainly close enough for the spray to be

1           deployed.

2           Q.   So that's within the sort of range of the CS spray?

3           A.   Yes.   They say it's effective up to about 15 feet.

4           Q.   I wonder if you would mind helping the Chair by coming  
5           out from the chair and demonstrating that stance that  
6           you have been talking about.   We will be able to provide  
7           you with a model CS spray, so this would be to describe  
8           how PC Paton stood and when you come out, if you don't  
9           mind, you will see that there's a small bit of plastic  
10          sticky tape on the ground and just for your own  
11          information, Constable, that camera over there behind,  
12          that's the camera that's going to record what you  
13          demonstrate.   That is the CS spray model that you have  
14          in your hand and it has got water in it, so whatever you  
15          do, don't spray that at me.   So that's the camera that  
16          we're going to have and I would just like you to  
17          demonstrate to the Chair and the Assessors how PC Paton  
18          was standing.

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

20          Q.   So Mr Bayoh would have been further away from PC Paton  
21          about -- what was the distance you said, sorry?

22          A.   (Inaudible - too far from microphone) here to the desk.

23          Q.   Here to the desk.

24          A.   Yes -- (inaudible - too far from microphone).

25          Q.   Right.   So is he standing like that when he shouted "Get

1 down on the ground"?

2 A. Yes.

3 Q. Yes. But there was no reaction from Mr Bayoh?

4 A. None whatsoever.

5 Q. All right. Please, thank you so much, sit down again.

6 Has Mr Bayoh actually said anything by this point?

7 A. Not that I'm aware of, no.

8 Q. And you said in your statement, paragraph 33, that he  
9 continued to be a threat to PC Paton?

10 A. Yes, that's what I'm saying by constantly walking  
11 towards him, bearing in mind that we were still under  
12 the impression that he could have a knife concealed  
13 within him, or concealed on him.

14 Q. So the big factor for you is he could have a knife  
15 concealed?

16 A. It's trying to keep that reaction gap which this  
17 gentleman is constantly trying to close down by walking  
18 towards him.

19 Q. Right. So PC Paton is at the front?

20 A. Yes.

21 Q. And you are towards the rear of Mr Bayoh?

22 A. Yes, aye.

23 Q. So you're at position 3?

24 A. Yes.

25 Q. So you can see the back of Mr Bayoh and couldn't see any



1 knife?

2 A. Not at that point, no.

3 Q. No. If you had seen a knife, is that the sort of thing  
4 that you would have transmitted to PC Paton by  
5 shouting --

6 A. Yes.

7 Q. So that would be using the CUT sort of approach, CUT, T  
8 being transmit to those around you, is that the type  
9 of --

10 A. Yes.

11 Q. -- process that you would have followed?

12 A. Yes.

13 Q. But you couldn't see any knife there?

14 A. No, nothing (inaudible).

15 Q. Not on you?

16 A. No. That doesn't mean to say it's not under his  
17 clothing or whatever, but yes, there was nothing  
18 visible.

19 Q. Nothing visible at that stage. We have heard he is in  
20 a white T-shirt?

21 A. Yes.

22 Q. Then if PC Paton had said anything from the front, would  
23 you have expected him to transmit that information to  
24 you?

25 A. If the male was to suddenly produce a knife, yes, it

- 1           would be like -- that he's got a knife --
- 2       Q.   So if he could see a knife --
- 3       A.   -- if a knife was to be (inaudible overspeaking) --
- 4       Q.   -- or if the male produced one, you would expect him to
- 5           shout that to you?
- 6       A.   Yes.
- 7       Q.   And is that in accordance with the CUT sort of approach
- 8           that's taken?
- 9       A.   Yes, just generally looking out for your colleagues as
- 10           well, but yes.
- 11      Q.   So when the spray is used, at that point you have heard
- 12           nothing from Mr Bayoh, he is not acting aggressively,
- 13           there's no sign of a knife, he is not attacking
- 14           PC Paton, he is walking in that direction. Effectively
- 15           he is just simply ignoring the commands from PC Paton;
- 16           is that right?
- 17      A.   He is not following -- he is not choosing to follow
- 18           instructions, yes.
- 19      Q.   So he is not complying --
- 20      A.   Yes, he's not complying --
- 21      Q.   -- with PC Paton's command?
- 22      A.   Yes, that's the word I was going to -- not complying.
- 23      Q.   So he is just ignoring it completely?
- 24      A.   Yes.
- 25      Q.   Is that the normal sort of response you get from someone

1           when two police officers attend in a van, one of them  
2           shouts a command, swearing perhaps, and has a spray?  
3           Did that strike you as odd, or do you often get people  
4           ignoring you?

5       A.   Anything's a possibility so, aye, just ignore you, try  
6           and walk past you, keep going, does not stop, try and  
7           make good his escape, he was just trying maybe to get  
8           round PC Paton to get to the path to run off. Aye,  
9           anything's a possibility at that.

10      Q.   What difference did Mr Bayoh's lack of verbal  
11           communication and lack of reaction -- how did that  
12           impact into your assessment of the risk and the threat?

13      A.   At that point it didn't, I would have to say, it was  
14           just all about the fact that he may still be in  
15           possession of a knife. That's the overriding safety  
16           to -- the preservation of life, first of all, to get him  
17           under control and find any weapons.

18      Q.   Thinking about what PC Paton did at the scene, he  
19           shouted a command, it's been ignored, he has used his  
20           spray.

21      A.   Yes.

22      Q.   What could he have done to try and de-escalate that  
23           situation?

24      A.   Bearing in mind the officer safety part of it and the  
25           fact that that male was needing to come into custody,

1           that he was maybe possibly still in possession of  
2           a knife, that the roadway was still open for members of  
3           the public to arrive there, he has given a clear and  
4           verbal instruction for the male to stop and to comply  
5           and the male has failed to do so. I think he has done  
6           what would be expected of him.

7       Q.   So he has used the spray. How did Mr Bayoh react to the  
8           use of that spray?

9       A.   I -- he had no reaction to it but I'm not convinced how  
10          much of it actually reached him due to the wind that  
11          day. It was blowing -- well, straight up from this  
12          image, but east to west.

13      Q.   Towards PC Paton?

14      A.   Towards PC Paton, yes.

15      Q.   So he discharged his spray with the wind blowing towards  
16          him?

17      A.   Yes.

18      Q.   Is it possible then that the spray didn't actually reach  
19          Mr Bayoh?

20      A.   And that it didn't have an effect? Yes, that's  
21          possible.

22      Q.   Well, it actually didn't even connect with him if the  
23          wind was blowing in the direction of PC Paton?

24      A.   Yes, because, like I explained earlier, the CS spray  
25          atomises into a cloud, so that gets picked up on the

1 wind and blown away which is another reason that we  
2 moved on to PAVA.

3 Q. Okay. From where you were, do you think the spray  
4 connected -- the droplets connected with Mr Bayoh?

5 A. That's impossible to say because it wasn't a cloud,  
6 it's -- aye, you couldn't tell.

7 Q. Okay. So paragraph 34 of your statement you say:

8 "PC Paton ducked away and crouched down towards the  
9 van with his hands to his face."

10 A. Yes.

11 Q. So can you see the area on this slide -- if not we've  
12 got others, but can you see the area where PC Paton then  
13 ducked away and crouched down towards the van?

14 A. That would be at point number 2, where he has sprayed  
15 and then it has blown back on him.

16 Q. So he ducked down in the -- he didn't move from that  
17 position?

18 A. At that -- he has folded over, ducked down and turned  
19 towards the van as opposed to move --

20 Q. He didn't move towards the van?

21 A. No, no, no, not at that point. He ducked.

22 Q. He ducked down in the position he was in --

23 A. Yes.

24 Q. -- on Hayfield Road?

25 A. Yes.

1 Q. I see. So he has crouched down in that where area where  
2 the red circle is, hands to his face?

3 A. Yes.

4 Q. What did Mr Bayoh do?

5 A. Continued walking towards him.

6 Q. And when you say towards him, you mean towards where he  
7 was crouched down?

8 A. Yes, yes.

9 Q. Or -- right, thank you. Again, any verbal communication  
10 at that point?

11 A. None that I'm aware of.

12 Q. None. Did he demonstrate any reaction to having been  
13 sprayed?

14 A. None.

15 Q. Had he changed direction -- you have told us how he is  
16 walking along Hayfield Road; had he actually changed  
17 direction in any way?

18 A. He didn't appear to have.

19 Q. I would like to go back to yourself now. You're the red  
20 circle number 3, and in your statement at paragraphs 37  
21 and 44 you told us that you shouted a command.

22 A. Yes.

23 Q. "Stay there, drop your weapon". Was that in the  
24 direction of Mr Bayoh?

25 A. Yes. I actually think I might have shouted "Oi", or

1 something like that first to get his attention.

2 Q. Did you get his attention?

3 A. Yes. He immediately turned round and started walking  
4 towards myself.

5 Q. Right. Did you ask him if he had any -- did you attempt  
6 to communicate with him, ask him whether he had any  
7 sharp implements or what was wrong?

8 A. I told him to stay there, told him to -- well, it's in  
9 the statement, "Drop any weapons that you've got", and  
10 no reply, just walked -- kept walking straight towards  
11 me.

12 Q. So no reaction at all?

13 A. None.

14 Q. But he did change direction at that point?

15 A. Yes, aye.

16 Q. Did you issue a warning that you may discharge your  
17 spray?

18 A. I don't think I did, no.

19 Q. Was there a reason for that?

20 A. Because the situation changed that quickly that he was  
21 now walking towards me, he wasn't following commands,  
22 closing down the gap again, and, as I say, that's --  
23 it's a standard drill for OST, if somebody is walking  
24 towards you, posing a threat, it's "Get back, stay back,  
25 stay where you are, I'll spray", and you shout "spray"

1 as it is being sprayed as opposed to giving a verbal  
2 warning.

3 Q. That's what you're taught in OST?

4 A. That's the standard drill, yes.

5 Q. You said he was posing a threat. Do you want to say  
6 a little bit more about how threatened you felt?

7 A. Again, it's going back over the fact that we have  
8 numerous credible witnesses stating that he is in  
9 possession of a knife, a big knife. He is coming  
10 towards us, he is not engaging with us, we covered it a  
11 wee bit earlier on, but he has got a stare about him  
12 that's -- aye, it just felt like a dangerous situation  
13 and he was closing the gap on me rapidly so the spray  
14 was deployed.

15 Q. Were you afraid about any threat to your life at that  
16 stage?

17 A. At that point, yes. For injury, definitely.

18 Q. Afraid of being injured?

19 A. Yes.

20 Q. So you had a PAVA spray?

21 A. Yes.

22 Q. You have told us and you have explained the difference.  
23 I wonder if you would look at something for me, please,  
24 which is a PAVA spray. I think it is PIRC 00816  
25 actually. This should be in a container. Do you



1 recognise that as your PAVA spray?

2 A. That is a PAVA spray. There's a serial number on the  
3 bottom that would relate back it being mine, but it's  
4 got my signature on it so that would be the one that  
5 I handed over so again, no reason to doubt that that is.

6 Q. So that was yours. I wonder if again you would mind  
7 demonstrating for the Chair and the Assessors the way  
8 that you held the spray when you were in Hayfield Road?

9 A. It would be exactly the same.

10 Q. Oh, exactly the same?

11 A. Exactly the same. Again, that's a thing you get shown  
12 at OST, the hand in front to fend off, the hand back for  
13 the spray.

14 Q. Right. So can we look at paragraph 36, please.

15 (Pause).

16 Sorry. So paragraph 36 you said you noted that  
17 PC Paton was in a vulnerable position:

18 "... I called out to the male which caused him to  
19 turn and face me."

20 That's what you have just said?

21 A. Yes.

22 Q. "He then looked directly at me with what I would  
23 describe as a vacant or thousand yard stare."

24 So tell me when you use the words "Vacant or  
25 thousand yard stare", what did you mean by that?

1       A. Like he wasn't focusing on me, he was looking through  
2       me, and it was a stare, it was a constant stare.

3       Q. He wasn't blinking?

4       A. No, just an open-eyed stare and like I say, it wasn't  
5       like he was -- he wasn't looking at the spray that was  
6       in my hand or my hand -- he didn't seem to be -- aye, it  
7       was just a -- it was quite an imposing sort of intense  
8       stare.

9       Q. And when you saw him look that way, how did you factor  
10      that into your assessment of the situation? Because as  
11      I understand it, that's the first time you have really  
12      seen his face?

13      A. Mm-hm. Probably at that point it would be the fact that  
14      communication was going to be an issue. He wasn't  
15      communicating with us non-verbally as well as verbally  
16      in that -- it was hard to judge because to say that he  
17      wasn't in control of his actions because he was, he was  
18      able to walk along, he was able to, you know, turn when  
19      I shouted at him, he was able to walk towards me, so it  
20      was just really hard I would say to judge like what was  
21      going on with him, but at the same time there was -- he  
22      was still coming towards me.

23      Q. What did it make you think? When you saw him looking  
24      that way, what did it make you think about his state of  
25      health?

1 A. Again, that's a hard thing to judge. It could be drink,  
2 could be drugs, could be a mental health, it's one of  
3 these things that yes, it's a symptom of one thing, but  
4 it's also a symptom of many, so it's not just a case of  
5 "This is what we're dealing with", it's ...

6 Q. So you think -- it goes through your mind it could be  
7 drugs, it could be alcohol --

8 A. It could be anything.

9 Q. -- it could be mental health?

10 A. Aye, there's no point of jumping to any sort of  
11 conclusion because it could be one, it could be many.

12 Q. And you know that he has not been engaging with you  
13 verbally?

14 A. Yes.

15 Q. And he is effectively ignoring you and he is looking  
16 through you now?

17 A. Yes.

18 Q. How did you factor that into your assessment of the  
19 situation?

20 A. That -- I mean it was basically if you can't communicate  
21 with somebody then you're not going to ask them to stay  
22 where they are, stay back, you know, it's -- I don't ken  
23 what I'm trying to describe, but -- the communication  
24 part of it's not going to happen, so we're going to have  
25 to move on to the next part, which would be getting

1 hands on the male.

2 Q. Did you consider stepping back and moving away from him,  
3 making a sort of tactical retreat, if you like?

4 A. Again, like PC Paton, as he was approaching me I was  
5 taking a couple of steps back just to try and keep that  
6 gap from him, but getting back in the van and driving  
7 off wouldn't have been an option I wouldn't have  
8 thought.

9 Q. But could you consider moving back, moving away from the  
10 man, giving him more space?

11 A. I tried to do that, but obviously I was walking  
12 backwards and he is walking forwards, he is closing the  
13 gap quicker than I can make the gap.

14 Q. Sorry, I thought you were walking back to retain that  
15 reaction gap?

16 A. Yes.

17 Q. I'm talking about could you have walked away further  
18 back to give him more space larger than the reaction  
19 gap?

20 A. But I have still got to step backwards from him to do  
21 that. I'm not going to turn my back on somebody that  
22 I think might be in potential possession of a knife, so  
23 I have still got to keep eyes on him and I'm taking  
24 steps backwards as I do so, and obviously I can only go  
25 back at a certain pace and walking forwards is always

1           quicker than going backwards.

2       Q.   You --

3       A.   His focus is on me and he is coming towards me.

4       Q.   -- I thought his focus was on a thousand yard stare  
5           through you?

6       A.   Well, coming through me, yes.

7       Q.   Could you have stepped round towards the van, behind the  
8           van?

9       A.   That was the direction I was going to the headlight back  
10          round and he was still coming towards me.  I'm not  
11          consciously being aware of doing that, but aye, I was  
12          keeping to the van as I was going round.

13      Q.   Could you have walked back round to the driver's side?

14      A.   I mean, I was taking steps back and he closed the gap as  
15          far as I was comfortable with allowing him to close the  
16          gap.

17      Q.   So you didn't feel comfortable going further away or  
18          turning your back on him?

19      A.   I certainly wasn't going to be turning my back on him  
20          and as I say, he is walking with purpose quicker than  
21          I could step backwards.  He's the one that's actively  
22          closing the gap on me so I'm not taking any chances.

23      Q.   Right.  Did you consider at that stage transmitting on  
24          the Airwaves and saying "This guy needs an ambulance"?

25      A.   No, not at that point.

1 Q. Why not?

2 A. Because I didn't know what was the cause of what was  
3 going on. Like I say, we had just turned up, he wasn't  
4 talking to us, we still thought he had possession of the  
5 knife. That takes concentration to transmit on the  
6 radio and pass a message, where my focus is solely on  
7 him and keeping myself and the public safe.

8 Q. And during this time, PC Paton is still crouched down?

9 A. At this point I had lost sight of PC Paton. My focus  
10 was purely on Mr Bayoh. As long as Mr Bayoh was coming  
11 towards me, he wasn't going towards PC Paton so ...

12 Q. Can we look at paragraph 38, please. You say:

13 "At this point I formed the opinion that he was  
14 physically capable of causing serious injury to someone,  
15 and was clearly in some sort of 'rage' or zombie state."

16 And I just wonder if we could look at those words,  
17 "rage" and "zombie state". What does "rage" mean to  
18 you?

19 A. When I was saying something like that it would be,  
20 you know, where you could get yourself so worked up and  
21 so angry that you lose control of your surroundings,  
22 awareness of your surroundings, would be my take on  
23 that, or, sorry, what I would mean, just somebody who  
24 has lost his senses, got that angry, got that irate that  
25 he has lost his senses and --

1 Q. And then you also mention a "zombie state"?

2 A. That was coming back to the thousand yard stare and the  
3 fact that he was not speaking to us or talking to us.

4 Q. So the "zombie state" reference was to the fact he  
5 wasn't communicating?

6 A. Yes.

7 Q. And he had this thousand yard stare?

8 A. Yes.

9 Q. And the rage -- it wasn't that he was demonstrating  
10 signs of anger, but he had got himself so worked up or  
11 angry --

12 A. A possibility, yes, that (inaudible overspeaking).

13 Q. Yes, okay. You didn't feed any of that information back  
14 to the control room?

15 A. Mm-hm.

16 Q. Was there a reason for that? Because this is the first  
17 time that you have seen him from the front?

18 A. Yes.

19 Q. Was there a reason that you didn't factor that back to  
20 the control room, or on the Airwaves transmission?

21 A. Like I said, it was officer safety at that point. He  
22 was coming towards me, there was an immediate risk to  
23 myself and you need a hand to transmit on the radio,  
24 whereas if you're in that sort of stance you didn't have  
25 a hand, so it's not just a case -- it's not the first

1           thing that comes into your mind when somebody is within  
2           striking distance of you to pass that back on the radio.  
3           There's other priorities at that time.

4       Q.   Was there any way or any place that you could go to to  
5           escape from Mr Bayoh walking towards you?

6       A.   Again, that would involve turning my back on somebody  
7           who has possession of a knife which is just something  
8           that you would never do.

9       Q.   Okay.  Then can we look at paragraph 37 -- sorry, just  
10          go back slightly.  You say you shouted at him "Stay  
11          there", do you see that paragraph?

12      A.   Yes.

13      Q.   And then you again -- so you shouted "Stay there" or  
14          words to that effect, you had your PAVA spray, you're in  
15          the defensive position and you say:

16                "I again shouted 'drop your weapon' or something  
17                like that, but there was no response."

18                So that was the sort of second thing that you said  
19          to him there?

20      A.   Yes.

21      Q.   "Drop your weapon".  Where could he have concealed  
22          a weapon?

23      A.   In the belt loop of his jeans, in the waistband of his  
24          jeans.

25      Q.   Underneath the --



1 A. Underneath clothing.

2 Q. Underneath the T-shirt?

3 A. Yes. Or in his pocket. Bear in mind that we hadn't  
4 seen the knife at that time, we just had the description  
5 a large knife, but he could have numerous pockets on his  
6 jeans, or as I say down his waistband or -- there are  
7 places it could be quite easily hidden on the person.  
8 It could have been a folding blade as well for all we  
9 knew, so it could have been folded up into a pocket  
10 knife or anything so we weren't taking any chances.

11 Q. And then after you had shouted those commands you  
12 sprayed him with your PAVA spray?

13 A. I did, yes.

14 Q. And can I ask you with other incidents -- you talked  
15 about that this morning -- with other incidents where  
16 you have been called out and someone is said to maybe  
17 have a knife, have you often used your spray if someone  
18 is not complying with your commands?

19 A. That would be the first scenario of that type. I mean  
20 I have been to other calls like that, it was pretty soon  
21 after this, a gentleman believed to be in possession of  
22 a knife, we turned up, didn't have a knife visible when  
23 we approached him with the spray drawn, gave them --  
24 "stay where you are, let me see -- there's an allegation  
25 been made, have you got a knife on you", and he's

1           went -- well, no, it was actually one of the first sort  
2           of electronic cigarettes that came out that had been  
3           misidentified but no, it's not unusual to approach  
4           somebody with your spray. Like I say, maybe not in that  
5           stance, but certainly in your hand and down by the side  
6           or something like that.

7       Q.   So with the other one you're describing, you had your  
8           spray down at the side?

9       A.   Yes.

10      Q.   Beside your leg?

11      A.   Yes.

12      Q.   With Mr Bayoh you had -- you were in a defensive  
13           position with your spray drawn?

14      A.   Yes, I got out the van with it down by my side but when  
15           he turned and started walking towards me the spray went  
16           up into the defensive position at that point.

17      Q.   So that was the point at which it's in the defensive  
18           stance?

19      A.   Yes.

20      Q.   I think I asked you this morning about the use of spray,  
21           I don't need to go back over that.

22           Can I ask you about some alternative tactics that we  
23           have heard about and we may hear more about.

24      A.   Mm-hm.

25      Q.   Can we look, first of all, at your statement. You have

1 already answered some questions about this,  
2 paragraphs 42 and 43, and you were asked some questions  
3 about calming situations down, de-escalating, or  
4 defusing situations, and you have given us some  
5 information here, so you have already answered in  
6 relation to PC Paton. Did you ask Mr Bayoh any  
7 questions designed to calm the situation down,  
8 de-escalate or defuse the situation?

9 A. I mean the first instruction was to stay there and if  
10 somebody is wanting to engage with you, they will stop  
11 and talk to you at that point, but if it's a one-sided  
12 communication with both non-verbal or lack of verbal  
13 also coming back from them, then it's hard to  
14 de-escalate through communication when it's one-sided  
15 communication.

16 Q. And is that your expectation even if the person is under  
17 the influence of drink or drugs or suffering from some  
18 sort of psychiatric episode?

19 A. You would expect some sort of acknowledgement in fact  
20 that the police were there, yes, or in my experience, if  
21 people want to speak to you, then they will start  
22 communicating back with you.

23 Q. Right. Can I ask you if you know about something called  
24 the 5-Step Positive Style. Have you heard of that?  
25 I won't ask you to remember it off the top of your head.

1 Let me ask you --

2 A. Is that the my actions read(?) to your actions?

3 Q. Let me show you a slide regarding tactical  
4 communication, PS 17208. We're looking for the one that  
5 says "tactical communications". Yes, we have looked at  
6 a number -- sorry, it's carry on -- I have not got the  
7 number here, sorry, Ms Wildgoose.

8 (Pause).

9 I seem to have lost this. Could you give me one  
10 second and I will just check the slide number.

11 Number 7, I think it might be, sorry. Yes. "The  
12 5-step 'positive style' of tactical communications", and  
13 you will see there are five listed: ethical appeal,  
14 reasonable appeal and explain, personal appeal and  
15 options, practical appeal and confirmation and number 5  
16 is action. Do you recognise that description, 5-Step  
17 Positive Style?

18 A. (Pause).

19 Q. This is part of an officer safety training presentation?

20 A. Yes.

21 Q. It's taken -- key elements taken from the manual, OST  
22 manual. Well, let me --

23 A. No, I just can't recall ever being -- anybody running  
24 through them or anything like that, I'm being honest.

25 Q. Let me give you some examples and it might refresh your

1 memory. So ethical appeal, this would, as I understand  
2 it -- and there's evidence before the Chair about this  
3 in a statement, that this would be a direct request such  
4 as "Could you stand over there, please". Did anybody  
5 say that to Mr Bayoh?

6 A. Just "Stay there".

7 Q. Just "Stay there", and "Reasonable appeal and explain"  
8 would be something like "This is why I'm asking because  
9 you're causing a disturbance or you're breaking the  
10 law", so the communication approach would be "This is  
11 why I'm asking you to stand over there because you're  
12 causing a disturbance or breaking the law". Did anyone  
13 say anything like that to him?

14 A. Again, I think that would be in relation to a different  
15 type of incident. This has gone straight into the other  
16 drill that I was saying where someone is closing down on  
17 you for the reactive arc is "Get back, stay back or you  
18 will get sprayed". It doesn't apply in this instance.

19 Q. You didn't think it applied here?

20 A. No, this is for somebody who is, like I say, happy to  
21 communicate, who might be in possession of a knife, who  
22 are wanting to self-harm or something like that. You  
23 would say, talk to them "Come on, what's wrong with you,  
24 what's going on today", somebody who is wanting to talk  
25 to the police, who is calm, who is no threat to anybody

1 straight away. It's a completely different scenario  
2 to -- for in relation to Mr Bayoh who was an immediate  
3 threat and as I say, it relies on OST training which  
4 is: "get back, stay where you are", clear verbal  
5 commands. If they fail to follow the verbal commands  
6 and close you down, then the spray gets deployed.

7 Q. Okay. Let me just finish this for completeness then.

8 "Personal appeal and options" would be something along  
9 the lines of, "If you continue to ignore my request, you  
10 may end up being arrested and if so, you could lose your  
11 job". There was nothing like that said here?

12 A. No, there was no time for anything like that to be  
13 passed.

14 Q. And then number 4 would be something like "Is there  
15 anything I can do as a police officer or say that would  
16 make you cooperate". There was nothing like that said  
17 here?

18 A. No.

19 Q. No. So there was no attempt to ask Mr Bayoh, for  
20 example, "What's wrong", or "Are you not feeling well?"  
21 "Are you okay?"

22 A. (shakes head).

23 Q. No attempt to do that. No attempt to ask him if he had  
24 a knife or to ask him "Tell me what's been happening to  
25 you"?

1 A. I asked him to drop any weapons that he had.

2 Q. Right. And we have heard some evidence about officers  
3 giving people some space, some time, some distance to  
4 allow them to start communicating with officers. Did  
5 you consider that that was appropriate in this  
6 situation?

7 A. No because we have still got a male who is in possession  
8 of a knife, or potentially in possession of a knife who  
9 we believed to be in possession of a knife on an open  
10 road with potential for vehicles or members of the  
11 public to exit their houses and that's all. Time has to  
12 be balanced with the risk.

13 Q. At any time did you consider walking alongside Mr Bayoh  
14 instead of blocking his path in any way?

15 A. No, in relation to the OST training, I wasn't going to  
16 get that close to him. He was walking straight for me.  
17 I didn't kind of want to get alongside him without  
18 getting close enough that I would be within his fighting  
19 arc which --

20 Q. And that's not something that PC Paton did when he first  
21 got out of the van, walking --

22 A. He's got out onto the pavement which is where Mr Bayoh  
23 was and tried to engage with him and that's not happened  
24 and, as I say, Mr Bayoh has been closing down the  
25 reaction gap at that point.

1 Q. Okay. After PC Paton sprayed him and after you sprayed  
2 him, did you consider that the use of a spray could make  
3 a person have increased aggression?

4 A. No. I mean the idea of spraying the spray is to  
5 incapacitate the person, which, as far as I'm aware  
6 is -- the only thing you are told to spray is you don't  
7 spray somebody who has a gun in case they start firing  
8 off in random directions when they can't see, but aye,  
9 on that point there you would always spray somebody.

10 Q. Did you consider when you were reviewing the situation  
11 as it evolved, did you consider that the act of spraying  
12 someone could cause them to become more aggressive?

13 A. Not really, no, it's not something that I think we have  
14 even covered in training. If you're at a point where  
15 you need to spray someone, the fact that that might make  
16 them a wee bit more angry is kind of by the by. The  
17 spray needs to be deployed, there's an imminent risk to  
18 myself, the spray is being deployed at that point.

19 Q. Okay. We know Mr Bayoh was black. At any stage at that  
20 point did you have any concerns or perceive any risk of  
21 communication difficulties with him?

22 A. No, because even if there's a language barrier, you  
23 would have the non-verbal communication and the fact  
24 that I'm standing there with my hand up in the stop  
25 position, the fact that a police van has turned up with



1 blue lights, et cetera, if it was just a clear case of  
2 a language barrier he would have turned, he would have  
3 talked to us and you know, he could overcome that  
4 communications barrier through language quite easy, or  
5 with certain tools.

6 Q. So even if someone doesn't actually speak English  
7 there's those non-verbal means of communication?

8 A. Yes.

9 Q. And your body language, effectively?

10 A. Yes.

11 Q. And is that normally an effective way of communicating  
12 that you want someone to stop?

13 A. You could certainly get a reaction from somebody if you  
14 jump out of -- if the police van turned up with blue  
15 lights and sirens, or with blue lights in this instance,  
16 you would expect somebody to turn round and go "Oh,  
17 what's going on?" even if they didn't speak English,  
18 they would be -- there would be a reaction from them.

19 Q. So even if English isn't their first language, or they  
20 don't speak English at all, if they're of sound mind  
21 they would usually have a reaction?

22 A. You would expect, yes.

23 Q. And would that be the case even if they couldn't hear  
24 you, if the person was deaf, for example?

25 A. Yes, which is why you would get out with a (indicating),

1           everybody knows that's the stop sign.

2           Q.   It's the visual behaviour?

3           A.   Yes.

4           Q.   Did you perceive at that time a risk of any cultural  
5           differences because Mr Bayoh was black, or any sort of  
6           misinterpretation by him of your approach to him?

7           A.   I'm not aware of anything that would --

8           Q.   Okay.  If he had been white, would you have attempted  
9           first to engage him in conversation?

10          A.   No, it's like I gave that other example where it  
11          happened recently after it.  It was somebody is in  
12          possession of a knife, so we go towards him and give the  
13          clear verbal instructions to stay where they are, and  
14          depending on what sort of reaction you get back is the  
15          next step.

16          Q.   Am I right in thinking that that incident that you  
17          described, the person did communicate with you?

18          A.   Yes.

19          Q.   Yes.

20          A.   But we still approached him in the same way, with the  
21          spray drawn, and still with the (inaudible) "Stay where  
22          you are, show me your hands", then once I feel safe,  
23          then we will start communicating.

24          Q.   Thank you.  Can we look at paragraph 45 of your  
25          statement, please.  This is where you talk about

1 Tomlinson and Short arriving. Do you see that?

2 "At some point PC Tomlinson and PC Short arrived.

3 I was not aware of their arrival at the locus and cannot  
4 comment on when they arrived, nor where I was positioned  
5 when they arrived."

6 A. Yes.

7 Q. So you couldn't see them at that point?

8 A. It's not so much I didn't see them, it's just I wasn't  
9 aware of them arriving, but yes.

10 Q. Okay. Let's have a look at the footage, please, the  
11 enhanced video timeline, and we will play from further  
12 on, please, 7.20.23 or thereabouts and we will play  
13 this -- and while you are looking at this first of  
14 all -- I think we will look at the CCTV footage, and  
15 then we will play it again and we will focus on the  
16 reconstruction tile if that's okay, so we will play it  
17 twice, so it's a short period: 7.20.23 to 7.20.39.

18 (Video played)

19 So do you see now you have watched the CCTV, so  
20 I think the second time we will play it we will look at  
21 the reconstruction tile.

22 A. Mm-hm.

23 Q. Thank you. So for the same times, please.

24 (Video played)

25 Thank you. Were you able to watch the

1 reconstruction?

2 A. Yes.

3 Q. And do we see another white van arriving at this point?

4 A. Yes.

5 Q. And stopping. So that's 7.20, and the time on the  
6 real time clock at the moment is 7.20.40. Would it be  
7 possible to rewind slightly to 32 seconds, please, or as  
8 near to that timing as we can. That's perfect, thank  
9 you.

10 So at this stage, do you see on the reconstruction  
11 tile that there is another vehicle approaching the  
12 roundabout, or actually entering the roundabout?

13 A. Yes.

14 Q. And we can see on the CCTV below it, the vehicle itself?

15 A. Yes.

16 Q. And then if we can just move on slightly, there's two  
17 blue dots near the van, we spoke about those before and  
18 then just stop that there, so that's the second van  
19 coming through the roundabout?

20 A. Yes.

21 Q. And at this point we see a blue dot behind -- at the  
22 rear of the large police van.

23 A. Yes.

24 Q. Who do you think that was?

25 A. My guess would be that's PC Paton having been sprayed --

1 well, having -- the after-effects of his spray -- making  
2 his way round to the other side of the van.

3 Q. We may hear from him at some point so ...

4 A. Yes.

5 Q. And then carry on please, Ms Wildgoose.

6 (Video played)

7 Thank you. So we see this second police van has now  
8 arrived on Hayfield Road and is parked on Hayfield Road.

9 A. Yes.

10 Q. And it has reached a stage to the rear of your van, to  
11 the rear of where the people have been. Do you know who  
12 was in this van?

13 A. I do now, yes.

14 Q. You do now, but you couldn't see them at the time?

15 A. No, I had no idea who turned up.

16 Q. Were you towards the front of your van at the time they  
17 arrived?

18 A. At that point was the point where I was suffering the  
19 effects of the PAVA spray that had been flicked back at  
20 me, so aye, I was blinking and trying to get my  
21 orientation. I can't remember much of what happened at  
22 that point other than I ducked away and then when -- the  
23 next thing I was aware of was that both me and PC Paton  
24 were on the driver's side of the van and then at that  
25 point -- I'm kind of jumping on ahead a wee bit, but

1           that's the next thing I was aware of was Constable Short  
2           being chased.

3       Q.   Can I ask you about this moment when you ducked away.

4           Where did you duck away to?

5       A.   Down the side of the van, on the driver's side.

6       Q.   Would it help if we went back to the stills and we could  
7           maybe see where you ducked away to.   So this is number  
8           6, I think.   Yes.

9           So you have described earlier how you were walking  
10          backwards in a defensive stance with your spray, your  
11          PAVA spray up?

12       A.   Yes.

13       Q.   And you couldn't turn your back on Mr Bayoh at that  
14          point, so you told us that you ducked away.   Where did  
15          you duck away to?

16       A.   I think that was a reaction to the spray taking effect  
17          and the -- I don't know exactly but I know the positions  
18          that we ended up I think I was there and PC Paton had  
19          managed to come round the back of the van, crossed over  
20          me at some point and he was there.

21       Q.   So he was closer to the front of the van then?

22       A.   Yes, we had managed to crossover at some point but  
23          I don't know how.   As I say, that would be just as the  
24          effect of the PAVA spray on my eyes.

25       Q.   I would like to try and get an explanation from you

1           about how you moved from the nearside of the van walking  
2           backwards holding the spray to being on the other side  
3           of the van.

4       A.   Yes.  It's like I -- I thought I explained that I was at  
5           the front headlight cluster which would be --

6       Q.   Do you want to point to that?

7       A.   Yes, number 3.  And then as Mr Bayoh's -- I've got his  
8           attention, he has been walking back towards me.

9       Q.   Do you want to use the line, that might be useful to see  
10          that.  Maybe even to use a red circle first actually to  
11          point out where Mr Bayoh was, and then you can draw the  
12          line.  So if you point to where Mr Bayoh was.

13      A.   So he has started walking --

14      Q.   So he is there.  The spray with Paton is over --

15      A.   Yes, he was trying to (inaudible overspeaking)  
16          direction.

17      Q.   -- and he was attracted -- his direction, and then  
18          I think we're going to give you a line and you can --

19      A.   Right.  I will stop touching it.

20      Q.   Just use the screen and show us.  So he is walking  
21          towards you --

22      A.   Yes.

23      Q.   -- where you're standing, and you're walking back and  
24          you have told us that there wasn't really an escape  
25          route, you couldn't turn your back on him, so how was it

1           that you moved from position 3 to position 1?

2           A. Because I was trying to create the space so I was coming  
3           back round the front of the van to try and get -- to  
4           create the space and he has followed me round the front  
5           of the van.

6           Q. Right.

7           A. And then at which point I have sprayed my PAVA into his  
8           eyes and made quite good contact with it, and it's had  
9           no reaction. He has wiped his face with the PAVA spray  
10          and just -- I wouldn't say flicked it in my direction  
11          but wiped his face and flicked into the air and I felt  
12          mild effects of the PAVA in my eyes at that point and  
13          just instinctively more than anything I have just turned  
14          and tried to -- just a reaction to turn and get away  
15          and, as I said, the next thing I'm aware as my vision  
16          was coming back to me was I was in position 1 and  
17          PC Paton was at position 2 and --

18          Q. So let's go through that. Did you just say a moment ago  
19          you were at the front of the van when you discharged  
20          your PAVA spray?

21          A. Yes.

22          Q. And was that near to the circle with 3 in it, or closer  
23          to the front of the vehicle?

24          A. I was probably closer -- I had been forward round the  
25          front of the vehicle and I was back towards -- if not



1 past it, the other front headlight, if that makes sense.

2 Q. So when you discharged your spray, do you want to use  
3 a red circle to identify where you were?

4 A. I don't know exactly but it would be somewhere in the  
5 region of around the front of the van as we were coming  
6 round the front of the van.

7 Q. So right round the front near the driver's side?

8 A. Yes.

9 Q. And where was Mr Bayoh when you discharged the spray?

10 A. Probably somewhere about here (indicates).

11 Q. Okay. Are you happy with that position?

12 A. Aye. It's hard to say exactly but, aye.

13 Q. You can move them around if you touch them again, but  
14 that's an indication of where he was?

15 A. Roughly, yes.

16 Q. And then describe again his reaction to your use of this  
17 spray?

18 A. Like I said earlier, with PAVA spray you have to get  
19 a direct contact with the eyes because it doesn't go  
20 into a cloud, so I sprayed, got a good contact with his  
21 eyes, his face and his eyes, it appeared to have no  
22 reaction at all and then he just wiped the spray that  
23 was on his face and just sort of flicked it away off his  
24 hand.

25 Q. What was the distance between you and Mr Bayoh when you

1 discharged your spray?

2 A. It would be somewhere in the region of 12 to 15 feet.

3 Q. And is that sort of within the range of a PAVA spray?

4 A. Yes.

5 Q. And when you saw that -- did he still have that thousand  
6 yard stare on?

7 A. Yes, that never changed.

8 Q. And when you saw him wipe the PAVA spray off his face  
9 and flick it away, how did you factor that into this  
10 review, this risk assessment issue that you're doing?

11 A. It concerned me that it had no effect on him because  
12 like I say that was one of my go-to tools so it  
13 concerned me that it had no effect on him but that was  
14 immediately replaced by the fact that I was then  
15 incapacitated by the PAVA which was one of the points  
16 that PAVA is not meant to have cross-contamination and  
17 it had an effect on me at that point, so aye, I went  
18 from probably pre-planning into -- I would probably say  
19 my reaction at that point was survival, just get away,  
20 turn my -- try and get myself to a place of safety as  
21 opposed to a risk assessment or anything like that.

22 Q. Explain to the Chair how the PAVA spray affected you,  
23 what impact that had?

24 A. It immediately makes you close your eyes and as part of  
25 that I -- I don't know the biology behind it but you do

1 sort of immediately try and -- supposed to try and get  
2 away from the pain, you duck away and turn away and your  
3 hands come up to your face and as I say, I think that's  
4 just an automatic reaction, that's something you don't  
5 have control over.

6 Q. So having been someone who had very few physical  
7 limitations, you then become quite incapacitated; is  
8 that fair to say?

9 A. Yes, aye, aye, to a certain extent, I mean it wasn't  
10 a full dose of PAVA spray that I had but yes, that  
11 severely affected -- for the seconds that I was  
12 incapacitated from it, aye, I couldn't see,  
13 I couldn't --

14 Q. I was going to ask you, how long did you have your eyes  
15 closed?

16 A. I only got, like I say, it was a few droplets, but aye,  
17 a couple of seconds, enough for us to -- or to not know  
18 how I got towards the sort of back-end of the van.  
19 I opened my eyes and that was the situation I was  
20 presented with at that point.

21 Q. So you closed your eyes because of the PAVA spray?

22 A. Yes.

23 Q. After you had been in -- we see circle 6 there?

24 A. Roughly, yes.

25 Q. And then by the time you open them, you're in position 1

1 at the rear wheel?

2 A. Yes, near enough.

3 Q. And you have had your eyes closed for that -- the length  
4 of the vehicle really?

5 A. Yeah, pretty -- I mean --

6 Q. Is that a reasonable indication?

7 A. That's reasonable, yes. I don't know exactly where I was  
8 in relation to the van, I had my back to the van but  
9 I was aware of the fact that the van was behind me when  
10 I opened my eyes again and PC Paton was off to my left.

11 Q. So the van was at your back and you were facing out from  
12 the van?

13 A. Out from the van, yes.

14 Q. Out from the van. Towards the other side of  
15 Hayfield Road?

16 A. Yes.

17 Q. Right. And PC Paton at that time, as you stood there,  
18 would have been on your left?

19 A. Yes.

20 Q. And he is -- we have not heard from him, but he has come  
21 from the corner in Hayfield Road round to behind the van  
22 as well.

23 A. Yes.

24 Q. Where at that point was Sheku Bayoh?

25 A. At that point, or the next thing I was aware of is him

1 appearing in my line of vision coming from behind our  
2 van chasing after PC Short.

3 Q. So can you point out with another circle where he was  
4 when you first saw him, when you were in position 1, or  
5 give us an indication if you can?

6 A. He must -- I mean he is coming from behind the van into  
7 my line of vision. I don't know exactly how far away he  
8 was from the van, but he would be somewhere in the  
9 region of number 8.

10 Q. So he has been in position 7, he has been sprayed by  
11 you, and somehow he's got to position 8?

12 A. Yes.

13 Q. But your eyes have been closed up until then --

14 A. Yes, blinking furiously, yes.

15 Q. Or blinking furiously. What direction is he facing when  
16 you see him at position 8?

17 A. He is actively running diagonally from 8 across the  
18 road.

19 Q. Could you show -- draw us a line?

20 A. So that was the sort of direction of travel.

21 Q. Right, all right.

22 Well, I want to come back to this but I would like  
23 to go back to the footage, if you don't mind. Is that  
24 possible to do that now, thank you. So we're going to  
25 play it from 7.20.16. It is a very short period so

1           although we can see your van again, we might as well  
2           just carry on and then I will ask Ms Wildgoose to play  
3           that now.

4                               (Video played)

5           Could you stop it there please. Can we go back  
6           slightly? Let's just play it from there and I will tell  
7           you when to pause please.

8                               (Video played)

9           Can we pause it there. So at the moment there's no  
10          blue dots there, but a second or two back from that  
11          there were a couple of blue dots.

12          Can you give any indication of -- so there's two  
13          blue dots there at the rear of your big van, between  
14          your van and the smaller van that's arrived on the  
15          scene. At that stage do you know where you were? You  
16          have said that you were at the driver's side of your big  
17          van.

18       A. Yes.

19       Q. With PC Paton?

20       A. Yes.

21       Q. And the blue dots, do you know who they would indicate?

22       A. No.

23       Q. No. Not at all, right. Carry on please.

24                               (Video played)

25          Stop please. And then we see another blue dot

1           there. Do you think you and PC Paton were on the other  
2           side of the van at this stage, or are you not sure?

3       A. I was always at the van until --

4       Q. Always at the van until later.

5       A. Yes, until we witnessed the chase.

6       Q. Then can we just show the next part please, very  
7           briefly.

8                               (Video played)

9           Right, stop. We see that blue dot and that appears  
10          to be somebody travelling between the vans, between the  
11          rear of the big police van, your van, towards the front  
12          of the smaller police van.

13       A. Yes.

14       Q. Do you have any idea who that might have been?

15       A. That could be either or both Mr Bayoh and PC Short from  
16          that position, that would be my guess.

17       Q. All right. We will hear other evidence about that.

18                 Right, I would like to move on to -- you have  
19          mentioned Nicole Short.

20       A. Yes.

21       Q. PC Short.

22       A. Yes.

23       Q. We may hear that in fact she was in that smaller of the  
24          two vans, that she arrived at the scene with  
25          PC Tomlinson. I think you probably --

1 A. I believe that to be the case now, yes.

2 Q. You believe that to be the case now.

3 And I will be coming on to this in a bit of detail,  
4 but can I look finally at paragraph 46 of your statement  
5 and do you see:

6 "The first I saw PC Short was her running away from  
7 Sheku Bayoh and he was chasing after her. It was clear  
8 to see that PC Short was in a state of panic as she ran  
9 away from Sheku Bayoh. He was about 4 feet behind her.  
10 I turned away briefly to communicate with PC Paton and  
11 as I looked back to PC Short again, I saw she was  
12 falling to the ground with the male right behind her.  
13 Both of her feet were off the ground and he had his  
14 hands raised. I formed the opinion that she had been  
15 pushed to the upper part of her body."

16 So this part of your statement, this is your  
17 perspective when you're behind the van, at the driver's  
18 side of your van, is that right?

19 A. Yes.

20 Q. And this is the moment when you see Sheku Bayoh again --

21 A. Yes.

22 Q. -- after you have cleared your eyes from the spray and  
23 you see she is running away from Mr Bayoh and he is  
24 chasing her at that point.

25 A. Yes.



1 Q. So that's going on on Hayfield Road behind -- the area  
2 behind your van?

3 A. Yes, between -- between the two vans, as far as I'm  
4 aware.

5 Q. Between the two vans. He is about 4 feet behind her and  
6 you say:

7 "I turned away briefly to communicate with  
8 PC Paton ..."

9 Can you tell the Chair how long would you estimate  
10 that you turned away for?

11 A. Long enough to say "Alan, give me your baton".

12 Q. Right, and so you say that to him. Where is PC Paton at  
13 this point?

14 A. He's to my left-hand side at the front of the van. Aye,  
15 so I have looked that way -- being aware of the chase  
16 and the movement, I have looked, seen the chase, looked  
17 at Alan and said "Give me your baton", and I looked back  
18 to see what was going on.

19 Q. So brief -- a brief turning away?

20 A. Yes, aye.

21 Q. And PC Paton is on your left at that point?

22 A. Yes.

23 Q. Is he still incapacitated by the spray?

24 A. Yes.

25 Q. Is he still crouched down?

1 A. Yes.

2 Q. Are his hands still at his face?

3 A. Yes, aye. He is still fully under the influence of the  
4 incapacitant spray.

5 Q. Because he had CS spray; you had PAVA?

6 A. Yes, yes.

7 Q. When you turned to him and asked for his baton, what did  
8 he do?

9 A. At that -- I'm not sure, because I turned back to see  
10 what was happening, but I just assumed that he would be  
11 getting his baton for me.

12 Q. And when you turned back -- do you want to look at  
13 paragraph 47 of your statement. You will see:

14 "I turned back to PC Paton briefly as she was in  
15 mid-fall and obtained PC Paton's baton from him."

16 A. That's a typo, that should be "I turned back in the  
17 direction of PC Short".

18 Q. PC Short, I thought that might be the case. So you  
19 turned back looking to your right to PC Short and she  
20 was in mid-fall?

21 A. Yes.

22 Q. Can you describe what that mid-fall looked like?

23 A. Both feet were off the ground. It's hard to explain it  
24 but yes, somebody who is -- you know, the top part of  
25 her body was further forward than her feet, there was no

1 way she could keep her balance and she had been running  
2 at the time so both her feet were off the ground and she  
3 was clearly going to fall at that point.

4 Q. What direction was she going to fall in?

5 A. Forward. She was running forward.

6 Q. Sorry, I wasn't clear. Towards Hendry Road or towards  
7 the other side of Hayfield Road?

8 A. Towards the other side of Hayfield Road. They started  
9 to run diagonally so she was just continuing the path  
10 that she had been running on.

11 Q. So she is also running diagonally at that point?

12 A. Yes. Well, I think -- yes. They were going from one  
13 side of the road to the other. Maybe it was not  
14 45 degrees, but they were crossing diagonally, yes.

15 Q. Thank you. I think just to finish off this passage,  
16 when you turned back to PC Paton did he give you his  
17 baton?

18 A. No, he didn't have it at that point.

19 Q. He didn't have it, or he wasn't giving it to you?

20 A. He didn't have it, he hadn't produced it at that point.

21 Q. He hadn't produced it?

22 A. Yes.

23 Q. So what did you then do?

24 A. At that point, I turned back to him -- I was already  
25 facing him and says to him "Alan, give me your fucking

1           baton".

2           Q.   And what did he do when you said that?

3           A.   I think he started to get his baton at that point.

4                I see him starting to go down to his belt to remove his  
5           baton from its carrier.

6           Q.   To hand to you?

7           A.   Yes, I believe so.

8           Q.   How long did that take?

9           A.   A couple of seconds for him to draw the baton.   He drew  
10           the baton, he extended it and then he passed it -- or  
11           held it up to me to take from him, so literally that  
12           long, 2 or 3 seconds.

13          MS GRAHAME:   Okay.   I'm conscious of the time.

14          LORD BRACADALE:   Yes, would that be a convenient point to  
15           stop then?

16          MS GRAHAME:   Yes, it would actually.   We can return to this  
17           in the morning.

18          LORD BRACADALE:   Very well.   We will adjourn now until  
19           10 o'clock in the morning.

20          (4.01 pm)

21                       (The Inquiry adjourned until 10.00 am on  
22                       Friday, 20 May 2022)

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