

1 Wednesday, 25 May 2022

2 (1.18 pm)

3 LORD BRACADALE: Now, Ms Grahame, who is the witness today?

4 MS GRAHAME: The witness today is PC Ashley Tomlinson.

5 LORD BRACADALE: Good morning, constable. Could you say the
6 words of the affirmation after me, please.

7 PC ASHLEY TOMLINSON (affirmed)

8 LORD BRACADALE: Ms Grahame.

9 Questions from MS GRAHAME

10 MS GRAHAME: Thank you.

11 Good afternoon. You are Constable Ashley Tomlinson?

12 A. Yes, that's correct.

13 Q. What age are you?

14 A. Currently 30.

15 Q. And how many years' service do you have at the moment?

16 A. 8 and a half.

17 Q. Now, all of your contact details are known to the
18 Inquiry, so I won't repeat those here now.

19 I would like to first of all make sure that you've
20 got everything that you need in front of you for this.
21 When you are referred to your statement, the Inquiry
22 statement, that will come up on the screen in front of
23 you, but as well as that you should have a black folder
24 on the desk and please feel free to open it. There's
25 copies of that statement in there, so you have a hard

1 copy, so on the screen we might just see one or two
2 paragraphs shown but you will have access to everything
3 that's around it, if you need it.

4 A. Okay.

5 Q. So feel free to rely on that. And if you would like to
6 have something up on the screen yourself from your
7 statement, we can arrange that as well.

8 A. Yes.

9 Q. Then in addition can I ask you to look at -- it is
10 called PIRC 263. This is a statement from 4 June 2015
11 and you should have a hard copy of that in your black
12 folder. Do you see that?

13 A. Yes, that's the one I'm looking at.

14 Q. We also have that on the screen. So that was
15 a statement taken by DSI Brian Dodd at Scottish Police
16 College, Kincardine. When you gave that statement were
17 you doing your best to give a true and accurate record
18 of what had happened on 3 May 2015?

19 A. I was, yes.

20 Q. Thank you. And then in addition to that I think you
21 should also have a copy in your black folder of a map
22 that was attached to that PIRC statement, that's
23 COPFS 05956 and I think you will see -- if we can move
24 up slightly on that page you will see your name is given
25 there, Ashley Tomlinson.

1 A. That's probably the one thing that I'm missing from the
2 folder.

3 Q. All right. Well, I'm not going to spend a lot of time
4 on that anyway.

5 A. Okay.

6 Q. But can you see it on the screen? Does that look
7 familiar to you?

8 A. Yes, I can see it, yes.

9 Q. That's lovely. Let's go back for a moment to your
10 Inquiry statement, so that's SBPI 43, and this is dated
11 13 April 2022. Just to explain the circumstances, you
12 will see on the last page the date is 13 April.

13 A. Yes.

14 Q. And just to explain the circumstances, you were sent
15 almost 100 questions by the Inquiry team and it was --
16 formally it's known as a Rule 8 request, and you were
17 asked to answer those questions and set it out as
18 a statement and you presumably discussed that with your
19 solicitors and they typed that up for you. So basically
20 what we see here is your own statement to the Inquiry;
21 is that right?

22 A. Yes, that's correct.

23 Q. I'm going to call that your Inquiry statement, although
24 technically it's called a Rule 8 request and a Rule 8
25 response.

1 A. Okay.

2 Q. Great, thank you. And then you have signed it on the
3 last page and do we see just above that there's
4 a paragraph that the Inquiry asked you to insert and it
5 says:

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

10 And you were happy with that?

11 A. Yes, I was, yes.

12 Q. Thank you. So again, doing your best to give a true and
13 accurate record --

14 A. Yes.

15 Q. -- of the events in Hayfield Road. And you sent that
16 in. So are you happy that -- subject to the map that
17 isn't there, are you happy you've got everything in
18 front of you that you have provided and you might need?

19 A. Yes, I'm happy I've got everything in front of me, yes.

20 Q. Great, thank you very much.

21 So in addition to that, you will also see to your
22 left that there's a spreadsheet. It's a combined audio
23 and visual timeline. Now, I understand you have
24 probably watched some evidence already that's been given
25 by other officers on the website, and you may have seen

1 me refer to that spreadsheet, but looking at it now,
2 just so that you can see it, there's times given on the
3 left-hand side and there's Airwaves transmissions
4 transcribed just to the left of centre, and then just to
5 the right of centre there's a brief sort of thumbnail
6 description of what can be seen in the CCTV. Do you see
7 that?

8 A. Yes, I see that, yes.

9 Q. So as we go through things, please feel free to refer to
10 that as well and have a look at it. There will be
11 times, as you know, I will probably play some footage
12 and you will also have the spreadsheet in front of you.

13 A. Yes, that's all right.

14 Q. Normally I will ask for it to be played once and I might
15 ask you some questions, but if you feel you need to see
16 things more than once, just let me know.

17 A. Okay.

18 Q. Now, before I go on to play some footage, first of all,
19 we have heard some evidence that you had worked in
20 Kirkcaldy longer than your colleague, PC Short?

21 A. Yes.

22 Q. Could you tell us how long had you actually worked in
23 Kirkcaldy by May 2015?

24 A. I don't know in exactly months. Probably around about
25 17/18 months, something like that.

1 Q. Had you been based at Kirkcaldy Police Office during
2 that time?

3 A. Yes, so from basically finishing my training at the
4 Scottish Police College that was my first deployment
5 station, was Kirkcaldy Police Office.

6 Q. We heard somebody mention the term probationer?

7 A. Mm.

8 Q. Can you explain what that is?

9 A. So I was a probationer for -- for effectively two years
10 you're a probationer, you kind of -- you get assessed at
11 regular points. During your probationary period you
12 obviously undergo the initial training phase at the
13 Scottish Police College, which I think has now maybe
14 changed but it's around about 12 weeks. From that kind
15 of training you then get deployed. You have a tutor
16 constable and you will go to different incidents and
17 obviously learn the craft, how to be a police officer,
18 and there will be, at points in that period, reviews
19 with whatever sergeant or inspector would take that
20 review on and just give you kind of pointers maybe, or
21 kind of praise, you know, about your performance and
22 things that you can maybe try and focus on for your --
23 to aid your development and at the end of that two-year
24 period you -- or towards the end of that two-year
25 period, sorry, you do an oral exam which is definitions

1 and covers kind of various aspects that you have learned
2 and then you get a confirmation letter to confirm you're
3 substantive in rank.

4 Q. So that lasts for two years?

5 A. Yes, that does, yes.

6 Q. And you are monitored more closely then during that
7 period?

8 A. Yes, more closely probably initially, but certainly
9 throughout that two-year period you are monitored by
10 your supervising officers as well as your -- initially
11 the three months, I think it is, tutor period with
12 an officer from the shift that would kind of show you
13 how to apply what you have learned at the college into
14 a more practical setting.

15 Q. And who was your monitor or supervisor, do you remember?

16 A. Throughout my time at Kirkcaldy it changed more
17 regularly. I kind of probably lost track of the amount
18 of supervisors I had but latterly I know that it was
19 Scott Maxwell who is an acting sergeant, but I couldn't
20 give you an exact figure on how many sergeants I had
21 during my probationary period.

22 Q. Was that the norm to have a number of different people
23 taking that role?

24 A. I think it's -- it was more that sergeants were applying
25 for different jobs and moving around. It wasn't

1 necessarily the norm that there would be so much
2 movement, but certainly the sergeants that I had then
3 applied for different jobs and subsequently moved on to
4 do new things, so I don't know if it's the norm for
5 every station, but certainly it was normal for me.

6 Q. When did your two-year period come to an end?

7 A. So I joined in September 2013, so it would have been
8 around about September 2015.

9 Q. So in May 2015, was Sergeant Maxwell monitoring you or
10 supervising you at that time?

11 A. He would have been -- yes, he would have been my
12 sergeant in or around that time. I don't know if he was
13 necessarily the shift sergeant, but certainly he was
14 acting obviously at the time of the incident.

15 Q. And was he your supervisor in terms of your probationary
16 period?

17 A. That would just depend on who my shift sergeant would
18 be, but if he was covering the shift then, aye, he would
19 more than likely adopt that role.

20 Q. Right, thank you. So by May 2015 you hadn't quite
21 completed your probationary period?

22 A. No.

23 Q. So you hadn't sat your oral exam by then?

24 A. No, no, I hadn't, no.

25 Q. Right, thank you. Right, I would like first of all to

1 play some footage from the evidence video timeline.
2 We're just going to play the whole thing, 7.16.22 to
3 7.20.39, and this will play -- you will hear all the
4 Airwaves transmissions that were played prior to your
5 arrival and then I will come back and ask you one or two
6 questions about that.

7 A. Okay.

8 Q. So you can listen to the footage as we watch this on the
9 screen and Ms Taylor-Smith will play that.

10 And you have also got the -- we will just pause it
11 there for a second, please. You've got the spreadsheet
12 as well if you want to look at what's written. Thank
13 you very much.

14 (Video played)

15 Thank you. Did you manage to hear all those audio
16 Airwaves transmissions?

17 A. I did, yes.

18 Q. Good, thank you. At 7.16.59 -- sorry, that's not
19 correct. 7.17 -- let's look at 7.17.23. So you will
20 see on page 2 of the spreadsheet, you will see at the
21 very top, 7.16.59, PC Ashley Tomlinson and it says:

22 "That's received control. Is there other units that
23 can assist us?"

24 Was that your voice?

25 A. Yes, it was, yes.

- 1 Q. And that was you asking:
- 2 "Is there other units that can assist us?"
- 3 A. Yes.
- 4 Q. So at that moment in time am I correct in saying you and
5 PC Short are on your way?
- 6 A. Yeah, we would have been dispatched. I don't think we
7 had left the station at that point but certainly we were
8 going to make our way there.
- 9 Q. So you have not left Kirkcaldy Police Office at that
10 time, but you have made the Airwave transmission --
- 11 A. Yeah.
- 12 Q. -- which we see at the top of page 2. And I would like
13 to ask you why you asked if there were other units that
14 could assist?
- 15 A. Yes, just with the nature of the call being possibly
16 a person in possession of a knife, kind of having other
17 units there, more than just two people would allow for
18 the use of different tactics if we needed that, and also
19 Hayfield Road is quite a large road, so to kind of
20 search that in a realistic timeframe with one set might
21 take some time, so other units to assist in that search
22 to locate the male would have actually sped things up
23 for us as well.
- 24 Q. So a combination of things then: the timeframe of
25 searching Hayfield Road, which is the length of it would

1 be difficult just with the two of you?

2 A. Yes.

3 Q. And also the fact that, you said, it was a person with
4 a knife. What was it about that, the fact the person is
5 said to have a knife?

6 A. It obviously increases the danger to officers. A knife
7 is in effect a deadly weapon, so to have more units
8 there would allow us to maybe look at different options
9 and use different tactics, which I will come on to later
10 on, but things like, for example, containment and things
11 like that, without going in that situation with a kind
12 of pre-judgment, it was just to give us the best kind of
13 tactical options and to go in there with, kind of,
14 almost everything really available to us.

15 Q. And you're talking about different options and different
16 tactics. Do you want to briefly explain what was going
17 through your mind?

18 A. Yeah, I mean one of them obviously -- there's a range of
19 different options you could use. You could simply drive
20 up and park and monitor, you could try a containment, so
21 getting out of your cars. You could -- you might find
22 that actually an individual doesn't respond well to
23 a particular officer, not for any specific reason, but,
24 you know, they might take a shine to a different
25 officer, so that's always something we can use to our

1 advantage in effective communications with an
2 individual -- so actually having kind of other units
3 there isn't necessarily a show of force, it sometimes
4 can be simply, you know, another officer might have
5 a better time engaging with the individual, so they're
6 kind of the options I was thinking of when I was asking
7 for additional units and obviously the other thing to
8 consider obviously we're dealing with potentially
9 someone with a knife so if we do get an officer injured
10 then you have still got sufficient resources to try and
11 remain in control of the situation.

12 Q. Right. You have given us quite a lot of information
13 there. Can I ask you for a little bit more detail. You
14 just said the words "park and monitor". What's park and
15 monitor?

16 A. Well, you could -- for example, if you turned up and,
17 you know, the person's got a knife, you probably
18 wouldn't get out of the car, you would relay that
19 message back to the control room, so you could
20 effectively observe from your vehicle. That's what
21 I mean by that.

22 Q. So that's sitting and observing in the car?

23 A. Yes.

24 Q. Waiting and relaying information --

25 A. Yes.

- 1 Q. -- to ACR on your police radio?
- 2 A. Yes, so it would be an Airwave terminal.
- 3 Q. And we have heard that other officers who are logged
4 into, say, Kirkcaldy 1, can also hear all of those
5 messages?
- 6 A. Mm-hm.
- 7 Q. So that's one option. You also mentioned containment;
8 what's that?
- 9 A. So you would try and keep an individual in a specific
10 area, which is sometimes quite difficult, but to try and
11 almost surround -- not surround as such, but
12 strategically place yourself to stop the individual
13 walking away and that could be through the use of "Stay
14 here with me, just go and stop what you're doing until
15 we figure out what's going on", so it's trying to keep
16 the individual in place in the event that we do need
17 more specialist resources.
- 18 Q. If you're thinking about the option of containment, are
19 there a minimum number of officers you need to do that?
- 20 A. More than two, which would be why I had asked for
21 additional units to support. I say more than two
22 because it would be very difficult to try and have
23 containment, especially in a built-up residential area
24 like Kirkcaldy, specifically Hayfield Road as well.
- 25 Q. So you considered Hayfield Road to be a built-up area?

- 1 A. Yes.
- 2 Q. And that would mean limitations on containment?
- 3 A. Yes, it would, because there would be a number of
- 4 different paths or places that an individual could seek
- 5 to go to avoid police and that would actually increase
- 6 the risk to the public and it would be very difficult to
- 7 put the containment on.
- 8 Q. So when you are considering the options and tactics that
- 9 are open to you, are you considering things like the
- 10 area, the locus --
- 11 A. Yes.
- 12 Q. -- escape routes, exit points, that type of thing?
- 13 A. Yes.
- 14 Q. And you were familiar with Hayfield Road?
- 15 A. I was, yes.
- 16 Q. And then you have said that some people -- in terms of
- 17 communication, some people can take a shine to
- 18 a particular officer.
- 19 A. Yes. There's not really a specific reason for it but,
- 20 you know, you would go to a call and maybe the person
- 21 wanted to speak to a female officer or vice versa,
- 22 a male officer, so having that -- they might want to
- 23 speak to an older officer, a younger officer, it's
- 24 really just personal preference so actually, again, as
- 25 I say, having additional units there might open those

1 effective lines of communication with that individual as
2 well.

3 Q. And could you give us some examples of what you mean
4 when you say "Effective lines of communication"?

5 A. So what I mean is you obviously want to speak to an
6 individual to find out what's going on and it's
7 effective obviously if you can get that individual to
8 speak to you and, you know, we've got, as I say,
9 changing individual officers, that would be one way of
10 maybe utilising the tools we have available by swapping
11 out officers, but it's really just to open the lines of
12 conversation between us and an individual and then get
13 them talking and then figure out what's going on,
14 you know, how can we help, what's -- effectively build
15 a picture on what's going on, why have we been called
16 out, in essence.

17 Q. What sort of tone would you use if you were adopting
18 that type of line of communication?

19 A. Probably just kind of how I'm speaking to you now,
20 you know. It ultimately depends on what you're faced
21 with, but I would always look to make sure that the
22 person understood me but, aye, if I'm going to start off
23 I would start off with a conversational tone.

24 Q. And that's the sort of tone that you're using with me
25 now?

- 1 A. Yes, yes.
- 2 Q. And you used the word "Understood" there, you said you
3 wanted to make sure the person understood you; what do
4 you mean by that?
- 5 A. So sometimes you can speak to an individual and they
6 might not understand maybe the words you have used, or
7 the language you have used, or it could simply be that
8 the person maybe is hard of hearing, they maybe don't
9 quite understand what you're saying, it could be things
10 like accents, it could be the person doesn't speak
11 English and maybe speaks a different language, so it's
12 trying to figure out what you've got in front of you and
13 by kind of engaging with the person, you would get
14 a kind of flavour of that.
- 15 Q. When you're en route to an incident like this you
16 wouldn't necessarily know the answer to --
- 17 A. No.
- 18 Q. -- the questions that you're just posing there, so is
19 that information that you would try and gather when you
20 arrive?
- 21 A. Yes, it's things that you need to try and establish when
22 you arrive at locus, and by locus I mean the place that
23 you're called to.
- 24 Q. And once you have arrived and maybe gathered that
25 information, what would you do with that information?

- 1 A. I would use it to try and figure out what's gone on but,
2 you know, if I'm gathering information, I'm kind of
3 speaking to the individual, I'm figuring out why we're
4 here, what's going on, that's things that I can then use
5 to kind of feed back to control or other officers and
6 just say: look, this is what the situation we've got
7 just now.
- 8 Q. We have heard that a lot of it is about gathering in
9 more information.
- 10 A. Yes.
- 11 Q. And we have heard reference to the National
12 Decision-Making Model.
- 13 A. Yes.
- 14 Q. Is that the type of model that you would be using?
- 15 A. Yes, that's a model that is taught at the police college
16 and that's the model that I would use.
- 17 Q. So attending a scene, gathering in information --
- 18 A. Mm-hm.
- 19 Q. -- and then deciding what the best option or the best
20 tactics were from there?
- 21 A. Yes.
- 22 Q. And we have heard that the more information you get, you
23 go back to the beginning and you keep reviewing --
- 24 A. Yes.
- 25 Q. -- as you go along?

1 A. It's not something that you would need to just do once
2 and stop, it's something that naturally you would
3 continue to, in effect, spin and by "spin" I mean
4 continually feeding that information in and working
5 round because it's -- when you see the diagram it's
6 almost a --

7 Q. It's a cycle?

8 A. -- circle.

9 Q. A circle.

10 A. Aye.

11 Q. And we have heard that, for example, the area control
12 room is at a remote location in Bilston Glen?

13 A. Yes.

14 Q. So they don't have eyes on the ground. Do you
15 understand that to be the case?

16 A. Yes, I understand that, yes.

17 Q. So effectively you were, as an operational officer, you
18 were the eyes on the ground?

19 A. Yes.

20 Q. In the absence of CCTV in the area.

21 A. Yes, yes.

22 Q. We have heard that there wasn't any CCTV, open air CCTV
23 in Hayfield Road. Do you know if that's right?

24 A. To my knowledge, yes, I think that's correct.

25 Q. Right. And can I ask you when you attended other knife

1 incidents, or incidents where someone is said to have
2 had a knife, was that your practice, to request further
3 units?

4 A. Yeah, it would be, yeah.

5 Q. So in any other knife incident you have been sent to
6 attend, that would be your practice?

7 A. It's not just knife incidents, disturbance calls, things
8 that there's a potential for, you know, disorder often
9 my go-to practice would be to see what other units are
10 available to assist us as well. It might be the case
11 that when we arrive we don't need those units and they
12 can get stood down but, aye, as a matter of course,
13 I would ask for them.

14 Q. And does requesting those additional units give you more
15 options and more tactical choices?

16 A. Yes.

17 Q. Thank you. In relation to that response there was then
18 at 7.17.23 an Airwaves transmission said to be by Acting
19 Police Sergeant Scott Maxwell, you have mentioned him
20 already today and he said:

21 "I want all units to attend that. Bearing in mind
22 officer safety is there an ARV and a dog as well
23 please."

24 Did you understand that to be in response to your
25 request?

1 A. Not necessarily, no. I don't think it was in response
2 to my request. I think it was an instruction from
3 Sergeant Maxwell to any other units again to assist us
4 because it would allow us obviously more control and
5 more tactical options.

6 Q. And what was your understanding of the words "Bearing in
7 mind officer safety"?

8 A. The mention of a knife, so going into it shouldn't be
9 complacent that just because we can't see a knife
10 doesn't mean there isn't one. It has obviously been
11 reported that there is a male with a knife so that's
12 what I would take that to mean, just be cautious of our
13 own safety when we're attending the call because there's
14 a weapon.

15 Q. And as well you have talked about you requesting other
16 units, but Sergeant Maxwell appears to say here "Is
17 there an ARV and a dog as well please", and what was
18 your understanding of that?

19 A. It's -- he has asked the control room if those resources
20 are available. Again, it gives us more tactical options
21 so that was just a question to the control room.

22 Q. And are these specialist resources?

23 A. Yes, I believe they would be classed as specialist
24 resources.

25 Q. And do you know who had the authority to allocate those

- 1 resources to any particular incident?
- 2 A. My understanding is I think it's the control room
3 inspector, or certainly somebody sitting within the
4 control room that would have an oversight of those
5 resources.
- 6 Q. Someone more senior?
- 7 A. Yes.
- 8 Q. And had you been on any calls by May 2015 where there
9 had been an ARV in attendance?
- 10 A. It would be a guess to -- I don't --
- 11 Q. I don't want you to guess, no.
- 12 A. Aye. No, I'm not able to remember, no.
- 13 Q. You have no recollection of that today. And had you
14 been involved in any where a dog unit had attended?
- 15 A. Again, I can't recall anything specific but, you know,
16 a dog unit attending calls can be for a variety of
17 reasons. You know, it can be for disorder or it can be
18 to help looking for missing people, so I can't recall
19 anything specific, but more than likely, yes.
- 20 Q. Had you been involved in previous incidents prior
21 to May 2015 where there had been a request from a police
22 sergeant or someone along those lines for an ARV and
23 a dog unit?
- 24 A. Again, I can't recall anything specific but it's likely.
- 25 Q. Okay. At that moment when you are travelling on your

1 way to Hayfield Road, were you aware of who was in
2 charge of the incident?

3 A. So in the first instance it would have been
4 Sergeant Maxwell.

5 Q. When you say "In the first instance", what do you mean
6 by that?

7 A. So if it was to change in -- you know, later on I think
8 we hear that the control room inspector says he is
9 monitoring from an ARV perspective. Obviously if it
10 became a firearms incident then command would transfer
11 from Sergeant Maxwell to the control room inspector.

12 Q. So we may have heard that if it was declared a firearms
13 incident the area control room would take charge of that
14 situation.

15 A. Yes.

16 Q. You understood that to be the case?

17 A. Yes.

18 Q. But this wasn't declared to be a firearms incident?

19 A. No, so at that time it was Scott Maxwell.

20 Q. Thank you. Did you understand where Scott Maxwell was
21 at that time as you were travelling to Hayfield Road?

22 A. My understanding was he was in the Kirkcaldy Police
23 Station because I had left from the police station and
24 Scott Maxwell was -- I think I was maybe in his office
25 when the call came in.

1 Q. Right. So you had left him to travel to Hayfield Road?

2 A. Yes.

3 Q. And did you have any awareness at that time if the dog
4 unit was available in Edinburgh, or whether there was
5 anything --

6 A. No, I don't think anything was passed as to where the
7 dog was maybe coming from.

8 Q. You didn't know -- you don't remember anything along
9 those lines?

10 A. No, I don't remember anything, no.

11 Q. And did you have any awareness at that time of how long
12 it would take an ARV to come if one was deployed?

13 A. No.

14 Q. No, okay, thank you. We have heard that you hadn't been
15 paired to work with PC Short previously; is that
16 correct?

17 A. Yes, that's correct.

18 Q. So this was your first time with PC Short?

19 A. I don't know if it was necessarily my first time working
20 with her, but certainly as far as I recall I hadn't
21 worked with her very much.

22 Q. But you were -- I think you were part of the same team?

23 A. We were part of the same team, yes.

24 Q. Can I ask you, as you were travelling to Hayfield Road,
25 I would like to ask you about what sort of things you

1 were conscious of and aware of and thinking of. Did it
2 make any difference to you that you were aware of
3 Hayfield Road and knew the area?

4 A. I know Hayfield Road's quite a busy road. I know it's
5 Sunday morning, but certainly at that time in the
6 morning you've got like the hospital is quite a large
7 employer in the area so you've got the passing traffic
8 and shift changeover, so that's probably one of the
9 things I would have considered but I knew that area was
10 also quite well built-up as well and you've got
11 a variety of houses and footpaths, so they would have
12 been the things that I would consider kind of going to
13 the locus.

14 Q. We may have heard that there were a couple of hospitals
15 in the area; did you know about both of those hospitals?

16 A. Yeah, I maybe should say I would probably class them as
17 just the one hospital. I know it is on two different
18 sites, but certainly, like, they're a stone's throwaway
19 from each other, as it were. One is on the other side
20 of the road and the other's on -- you cross a road and
21 that's you at the next hospital.

22 Q. We have heard one is called Victoria Infirmary and one
23 is called Whytemans Brae?

24 A. Yes, so the Whytemans Brae is sort of the mental health
25 side of the hospital.

- 1 Q. Was that something that you were conscious of, that
2 there was a psychiatric hospital in the area?
- 3 A. It's something I had an awareness of, yes.
- 4 Q. You have told us that this wasn't the first time you had
5 ever attended an incident where someone was said to have
6 had a knife.
- 7 Can you give us some indication of the regularity
8 with which you had attended knife incidents, if I can
9 call them that, prior to May 2015?
- 10 A. Yeah. I couldn't put an exact number on it but,
11 you know, they're quite common. Even if I wasn't
12 dispatched, you know, you would maybe have an awareness
13 that there was a knife incident, or a call relating to
14 a knife, but I couldn't put a specific number on it for
15 you.
- 16 Q. When you say quite common, how regularly would you hear
17 of knife incidents or be involved with them?
- 18 A. I would say probably at least one per set of shifts and
19 a set of shifts is two days, two backs, two nights, so
20 in, like, a six-day period you would probably expect at
21 least one call.
- 22 Q. Right. At least one and perhaps more?
- 23 A. Perhaps more, yes. Perhaps none, you know, but on
24 a regular basis perhaps at least one.
- 25 Q. Okay. In those previous knife incidents that you have

1 attended, tell us about the equipment you had used?

2 A. I mean I would -- I would class my voice or
3 communication as part of my equipment as well so I can't
4 recall anything specific, but probably my voice and my
5 handcuffs.

6 Q. How would you use your voice?

7 A. You know, just to open that line of communication with
8 the individual and ask what's going on, figure out
9 what's going on. Maybe that's even speaking to
10 witnesses that are nearby if you can't get anything from
11 the individual themselves, but certainly I would be
12 looking to try and open that line of communication so
13 I could understand and try and figure out how best to
14 help.

15 Q. How would you use your handcuffs?

16 A. That would be if you've got a call whereby an
17 individual's said to be in possession of a knife I would
18 never be complacent even if I couldn't see the knife so
19 the handcuffs may be applied basically to allow me to
20 search the individual safely, for my safety and for the
21 individual's safety, as well as my colleagues and
22 members of the public, or if a person needed to be
23 arrested obviously you would use the handcuffs to arrest
24 the individual if they were found to be in possession of
25 a knife.

- 1 Q. How would you normally handcuff a person? Which
2 position would they be in?
- 3 A. It can vary depending on the situation, but my
4 preference to handcuffing would -- for specifically
5 knives would be a rear handcuff and that prevents people
6 as easily from reaching areas of concealment on the
7 body.
- 8 Q. Okay. Had -- in any previous knife incidents had you
9 ever used your baton?
- 10 A. Not that I recall, no.
- 11 Q. In any previous knife incidents had you used your spray?
- 12 A. No, not that I recall.
- 13 Q. Do you remember if you had a CS or a PAVA spray?
- 14 A. I think it would have been CS at the time. It was
15 certainly a grey canister.
- 16 Q. Right. In using your voice and perhaps your handcuffs,
17 had you always successfully managed to calm a situation
18 down and avoid using the spray or the batons?
- 19 A. Yes, normally when you go, you can engage with somebody
20 quite effectively and yes, you could de-escalate the
21 situation quite effectively.
- 22 Q. In those previous knife incidents had you been one of
23 the first officers on the scene?
- 24 A. I wouldn't be able to say that.
- 25 Q. You can't remember, thank you.

1 So you have talked, for example in paragraph 6 of
2 your Inquiry statement -- so this is on page 2. Now,
3 paragraph 6 covers two pages. At the beginning you go
4 through the risk to officers, so you considered risk
5 factors at Hayfield Road to be under three broad
6 categories?

7 A. Yes.

8 Q. In this paragraph you split that into the risk to
9 officers, and then if we can move on to the next page
10 you will see that it is also the risk to the public and
11 the risk to Sheku Bayoh. So are these the large sort of
12 broad areas that you were considering --

13 A. Yes.

14 Q. -- were areas of risk?

15 A. Yes.

16 Q. And you took those into account. I wonder if you could
17 just briefly explain those three broad areas to the
18 Chair.

19 A. Yes, so the risk to officers, obviously we're going to
20 a call whereby a male has been described by a number of
21 callers as having possession of a knife, so for me the
22 risk is -- do you know --

23 Q. Can I stop you there. I wonder if we could have the
24 previous part of this paragraph on the screen as you go
25 through it. Thank you, that's very helpful. Sorry,

1 continue.

2 A. So the risk to officers is obviously we get the -- when
3 there's a concealed bladed article or a knife, we don't
4 know where that is, so the risk for us is obviously
5 injury with a knife depending on how big it is, it could
6 be -- you know, a knife should be treated with a healthy
7 respect and knives can kill people so that would be the
8 significant risk.

9 The risk is obviously we don't know necessarily also
10 anything about the individual, or about why the police
11 had been phoned, other than there's a male potentially
12 seen with a knife so it's trying to get an understanding
13 of what has gone on and that obviously takes time which
14 can increase the risk to officers as well.

15 I have mentioned here a lack of resources for any
16 meaningful containment, so again, if a person is going
17 to break free and maybe charge at you or get close to
18 you, you know, you're putting yourself within danger of
19 striking distance from a bladed article.

20 Q. And that's something that you would want to avoid?

21 A. I would want to avoid getting anywhere within a fighting
22 arc of a person who may or may not have a knife if it
23 has been deemed by, you know, the controller as a knife
24 incident because we've got members of the public phoning
25 in, I wouldn't be complacent about that, I would treat

1 the situation as if a knife is potentially present until
2 I can secure the individual or locate the knife.

3 Q. Thank you. You have talked -- you have mentioned there
4 the term "fighting arc"; would you explain that to the
5 Chair, please?

6 A. So a fighting arc, it's something you're taught in OST
7 and it's basically kind of this (indicating) would be a
8 fighting arc for a person, the reach of a person, and if
9 you get within that distance of a person, you're at risk
10 of being injured, so it's always best to avoid this kind
11 of arm's length of a person or just -- well, you need to
12 try and keep more than just an arm's length to avoid
13 potentially exposing yourself to an increase of risk.

14 Q. And we have heard that some officers were wearing body
15 armour, black --

16 A. Yes.

17 Q. -- vests with high visibility jackets. Is that the sort
18 of thing that you were wearing that day?

19 A. Yes, I would have been wearing my stab vest, yes.

20 Q. And you're calling that a stab vest; how does that
21 protect you?

22 A. I call it a stab vest, it's just probably the way
23 I would refer to it. It's firstly body armour. We were
24 told when we got issued it that it protects your vital
25 organs from obviously potentially knife attacks,

1 however, that's all it does protect. My body armour
2 stops above my belly button, so you've got a large
3 portion of your stomach available to be stabbed and you
4 have also got holes under the arms and also around the
5 neck area, so really the coverage is very kind of
6 limited to your heart, your lungs and anything major in
7 your internal sort of ribcage area, but it should
8 protect you if somebody was to stab you in the vest area
9 against a knife.

10 Q. But anywhere else, there wouldn't be that protection?

11 A. Anywhere else, no, you would have no protection.

12 Q. Thank you. Then can we look at the risk to the public
13 that you mention. Again, would you like to add to this
14 section? What were you thinking about in relation to
15 risk to the public on the journey to Hayfield Road?

16 A. So the risk to the public is when you've got people
17 going about their daily business that aren't kind of --
18 maybe don't know about this individual that's been
19 reported with a knife, they could come across this
20 individual and suffer serious or fatal injuries with
21 a knife. What was also probably going through my head
22 as well is it might not have been reported yet but there
23 may be a casualty there as well and again that would be
24 a risk to a member of the public that we have maybe just
25 not had that report yet that because nobody is

1 physically aware that somebody has maybe been injured.
2 It's obviously described as a disturbance, so
3 a disturbance normally would indicate there's some sort
4 of contact with people, especially if you're getting
5 numerous calls, and the need to contain the person
6 obviously. We're in a residential area so you've got
7 people in their houses that might leave their doors
8 unlocked and things like that, so you've got all these
9 things -- well, all the things going through my head
10 about the dangers to members of the public, and
11 obviously a member of the public doesn't have the luxury
12 of a stab vest.

13 Q. And you have mentioned it was a residential area. We
14 may have heard that there weren't really any people
15 around at that time in the morning.

16 A. Mm-hm.

17 Q. But the fact it was a residential area gave you cause
18 for concern about risk to the public?

19 A. Yeah, I mean -- you know, I would argue there were
20 people there because police officers are people as well
21 and obviously when police officers deploy to the scene
22 we're still effectively skin and bones, do you know,
23 we're in uniform, but we are still people, but, aye,
24 largely residents could -- probably on hearing, you
25 know, the sirens, maybe come to the windows, or be

1 curious, natural curiosity and come out into the streets
2 so you've got that ongoing risk to members of the public
3 that, through their natural curiosity, maybe leave their
4 houses to come out and have a look.

5 Q. And if that natural curiosity causes them to come out of
6 their houses, does that then increase the potential risk
7 to the public?

8 A. It does, yes.

9 Q. And then you come on to the risk to Sheku Bayoh.

10 A. Mm-hm.

11 Q. So were you also considering the risk to him as an
12 individual?

13 A. I was, yes.

14 Q. Tell us about that.

15 A. So the risk to Mr Bayoh is obviously the risk of
16 self-harm. We don't know why the police have been
17 called, we don't know what this disturbance is. He
18 could already be injured. He could be in possession of
19 a knife. He could be throwing himself in front of
20 vehicles or, you know, under the control -- sorry, not
21 under the control -- under the influence of a substance
22 so obviously that impacts his safety and his welfare so
23 that's obviously one of my concerns as well.

24 Officers trying to safely restrain Mr Bayoh, that
25 could cause, you know, injuries as well from being taken

1 to the floor, so these are all things that I would be
2 considering when I was going there.

3 Q. And you have mentioned possibly under the influence of
4 a substance. That was in your mind on the way to
5 Hayfield Road and you also mention in that paragraph
6 mental health problems?

7 A. Yes.

8 Q. Was that something else that was in your mind?

9 A. Just the proximity to the hospital, the kind of almost
10 erratic behaviour. You would probably naturally
11 consider that as a potential risk as well. I wouldn't
12 necessarily hone in on that, but certainly it's there in
13 my mind as something that I need to consider.

14 Q. So these are things that are in your mind and again,
15 you're conscious of that National Decision-Making Model
16 of --

17 A. Yeah.

18 Q. -- adding in information and processing what options you
19 have open to you.

20 A. Yes.

21 Q. As you're considering the resources you have, can you
22 tell us what difference, if any, did it make that you
23 were with a colleague, PC Short, so there were two of
24 you at least going to attend that incident?

25 A. I mean with two people you can use contact and cover,

1 which is something that's taught in officer safety
2 training, and by that what I mean is contact, one
3 officer would try and open up lines of communication
4 with the individual and the cover officer would be there
5 to monitor from a little bit kind of more of
6 a triangular position, so you've got the individual, one
7 officer for contact, one officer for cover, it doesn't
8 necessarily need to be in that order but then the cover
9 officer looks at maybe intervening if, you know, things
10 escalate and we're no longer on sort of speaking terms.

11 Q. And what's contact, what's the contact officer doing?

12 A. Trying to speak with the male.

13 Q. The communicator?

14 A. Yes, so sorry, contact would be like trying to speak and
15 use your communication skills to get an understanding of
16 what's going on.

17 Q. Would either of those officers be communicating
18 information on Airwaves to the control room?

19 A. It again depends on the circumstances, but if you've got
20 an update that's relevant to the control room I would
21 say, aye, there's no set rule as to which officer it is.
22 If you feel that there's a significant update then you
23 can pass that, if it's safe to do so.

24 Q. Thank you. But you say "If it's safe to do so"?

25 A. Yes.

- 1 Q. And what difference, if any, did it make to you knowing
2 that both you and PC Short had been, as you said
3 earlier, OST trained, so officer safety training had
4 been given to both of you?
- 5 A. It just means that you're up-to-date with current
6 practices and it kind of gives you that confidence that
7 you have been trained in techniques to keep you safe.
- 8 Q. And did you feel confident in the training you had had
9 in those techniques?
- 10 A. Yes, to use, like, CS communication, kind of restraints,
11 baton, yes, aye, everything I would feel confident with.
- 12 Q. Thank you. And as far as you are aware, both of you had
13 your equipment with you on your utility belts?
- 14 A. Yes, that's correct.
- 15 Q. And that included spray, handcuffs, baton, your vest and
16 your radio?
- 17 A. Yes, yes.
- 18 Q. Anything else that I have missed out?
- 19 A. No, I was just trying to think. Maybe just a pouch with
20 first aid equipment in.
- 21 Q. Did you have one of those?
- 22 A. Yes, I think all officers get issued -- I don't know,
23 sorry, if you covered leg restraints as well.
- 24 Q. Did you have leg restraints?
- 25 A. Leg restraints, yes.

- 1 Q. Where did you keep those?
- 2 A. So I ran out of space on my belt to access them easily,
3 but leg restraints -- there's basically on the body
4 armour, I don't know if you want me to stand up.
- 5 Q. Yes, please do.
- 6 A. So on the body armour there's a variety of different
7 docks. So you've got docks that I would -- Airwave
8 terminal, torch, for me leg restraints are docked here
9 (indicating) just because it is easy access for both
10 hands.
- 11 Q. Right, thank you. So they're attached to your uniform
12 in some way?
- 13 A. Yes, it's like a plastic clip that just, you kind of
14 slotted in and it stays on.
- 15 Q. Thank you. And then you have told us about your
16 previous experience. Did that previous experience also
17 make you more confident, the experience of dealing with
18 knife incidents?
- 19 A. I wouldn't say you should rest on your laurels.
20 Certainly I would take each individual incident on its
21 own merits and I wouldn't go in with a pre-judgment of
22 how this is going to play out, so as much as I've got my
23 experience, I wouldn't say I rested on that experience.
- 24 Q. You were still a probationer at the time?
- 25 A. Yes.

- 1 Q. Now, on that day, am I right in saying you were
2 5 foot 11 tall and you weighed 13 and a half stone?
- 3 A. I did, yes.
- 4 Q. And that's when you were examined later that day I think
5 those are the figures that were given.
- 6 A. Yes.
- 7 Q. Can I ask you something about your PIRC statement 263.
8 This is the one given on 4 June at 11.55, and on page 1,
9 if we go further down, you will see at the bottom you
10 say you were 5'11 and a half and you say you were 14 and
11 a half stones and your appearance has not changed since
12 3 May.
- 13 Did you put a stone on in a month? And I'm not
14 saying that's difficult, I'm just saying did you?
- 15 A. No, I don't think I did. It's maybe -- I maybe just
16 thought that's what I weighed. Like, I don't own a set
17 of scales at home, so I think that's probably what
18 I assumed I weighed.
- 19 Q. So you have given that figure in June, a month later --
- 20 A. Yeah --
- 21 Q. -- but you didn't weigh yourself when you gave that?
- 22 A. I would have weighed myself at the scales in the gym,
23 but, aye, that would probably be from the best of my
24 recollection.
- 25 Q. All right. And today, are you a similar weight today to

- 1 either 13 and a half or 14 and a half?
- 2 A. Probably more close to 14 and a half.
- 3 Q. Okay, thank you. Right. We have heard from former
- 4 PC Short that she is only 5 foot 1 and she wasn't more
- 5 than 8 stone. What did you think about that? Did you
- 6 bear that into consideration when you were on the
- 7 journey?
- 8 A. No, I wouldn't -- that wouldn't -- like, I wouldn't look
- 9 at an officer and think "You're tall" or "You're short".
- 10 You know an officer has been trained to the same
- 11 standard as I have, so that wouldn't really feature in
- 12 my risk.
- 13 Q. We have also heard that PC Walker and PC Paton who
- 14 arrived before you were very experienced officers. Was
- 15 that something you were aware of prior to arriving at
- 16 Hayfield Road, either that they had arrived before you,
- 17 or that they were very experienced officers?
- 18 A. I knew that both Craig and Alan were just kind of
- 19 experienced -- I knew they had more service than me but
- 20 I didn't know how much service.
- 21 Q. All right. When -- before you arrived at Hayfield Road,
- 22 were you aware if all units were attending?
- 23 A. I think that -- aye, the message from Sergeant Maxwell
- 24 was that all units should attend if they're kind of free
- 25 to do so.

1 Q. Did you assume then that that instruction would be
2 followed by all units?

3 A. Yes, all units that certainly were either listening to
4 the radio or free from kind of a call or a commitment
5 that they had.

6 Q. Did you have any expectations as to how many would turn
7 up?

8 A. No.

9 Q. Okay. Can I ask you about an Airwaves transmission from
10 Inspector Stewart, which is 7.20.13, I think. 7.20.13,
11 it's on page 3 of the spreadsheet. We heard evidence
12 before that this was the first time that
13 Inspector Stewart came onto the Airwaves transmission,
14 onto the group, and he says he is monitoring obviously
15 from an ARV perspective:

16 "If you get sightings of the male you need to make
17 an initial assessment yourself and feed back through
18 straight away and I will listen out on the channel."

19 What was your understanding of that -- did you hear
20 that message?

21 A. Look, I couldn't answer whether or not I remember
22 hearing that message looking back on it, so I would have
23 to rely on my kind of original statement, whether or not
24 it is contained in that.

25 Q. Looking at it now what's your understanding of what he

1 is requesting?

2 A. So what he is requesting is the units that are going to
3 pass back some sort of update so he can figure out,
4 probably using the National Decision Model, whether or
5 not it meets the criteria for armed response to attend.

6 Q. And when he refers to initial assessment, is that
7 effectively a risk assessment to assess the situation
8 and gain more information?

9 A. Yes, aye, so you would go over saying -- say what you
10 see, kind of again if it's safe to do so, but he is
11 referring to us needing to make that initial assessment
12 so obviously we would need to establish what's going on
13 and that would take a little bit of time as well to do
14 that.

15 Q. How much time?

16 A. I mean there's nothing set in stone. It could --
17 you know, it could be instantly you would turn up and
18 there's someone brandishing a knife at you or a gun and
19 you would know kind of instantly "This is a firearms
20 incident, I will pass that message back", but other
21 incidents, you know, that might not be instantaneously
22 obvious, you need to get a steer on what's going on
23 and -- aye, so that's what would take the time to try
24 and understand what situation you've got in front of
25 you.

1 Q. Okay. Looking at that message now, do you understand
2 that it would be something you would need to respond to,
3 that you would need to provide feedback if you gained
4 information about what was going on?

5 A. Yes.

6 Q. Yes. At any time did you feed back to ACR about what
7 was happening?

8 A. Not throughout the incident because 1, it happened so
9 fast, and 2, it wasn't safe to do so because to actually
10 broadcast on the Airwave takes up a hand and that hand
11 could be used to either defend myself or use equipment.

12 Q. Thank you. At that stage when you first arrived, did
13 you consider at that point pressing your emergency
14 button?

15 A. When I very first arrived, sorry?

16 Q. When you arrived?

17 A. I wouldn't press my emergency button when I first
18 arrived, just because that then commands the Airwave and
19 I wouldn't know what update to press.

20 Q. Okay. Is pressing the emergency button an option with a
21 sort of hands-free option?

22 A. It is, yes.

23 Q. So you wouldn't need a hand to --

24 A. No, sorry, aye, you would need a hand to press the
25 button.

1 Q. You would need a hand to press the button?

2 A. Yes.

3 Q. You wouldn't need to keep the button pressed down to
4 speak into that?

5 A. No. So I think it is 3 seconds, you press a little
6 orange --

7 UNKNOWN SPEAKER: (Mic turned off).

8 MS GRAHAME: Could I have a moment, please? Would that be
9 possible?

10 LORD BRACADALE: (Mic turned off).

11 (Pause)

12 MS GRAHAME: Sorry about that. I'm going to move on from
13 this, thank you.

14 Can I ask you about when you were travelling to this
15 incident at Hayfield Road. Do you have a recollection
16 now of how, if at all, this differed from previous knife
17 incidents that you had attended?

18 A. The volume of calls coming in, you know, it's not just
19 one call, it's more than one call.

20 Q. And when you say the volume of calls, what are you
21 referring to?

22 A. So, like, members of the public phoning in to report
23 there's a male brandishing a knife, or along those
24 lines.

25 Q. What -- was that unusual?

- 1 A. For -- I would say for a Sunday morning, yeah, and that
2 specific time, unusual. You would maybe get a knife
3 call, one call and you would go and it's a hoax, so to
4 have more than one member of the public phoning in
5 certainly increases the risk significantly because it
6 corroborates a single source of, effectively, evidence.
- 7 Q. We have heard that you couldn't hear the number -- the
8 calls from the public, that's not on the Airwaves
9 transmission, but you were aware that there were more
10 than one call --
- 11 A. Yes.
- 12 Q. -- there was more than one call coming in? And you have
13 said that was unusual. Had you been to any knife
14 incidents before where there had been more than one call
15 coming in, or multiple calls?
- 16 A. I'm not sure, like, I couldn't remember that.
- 17 Q. How were you feeling on the way to Hayfield Road about
18 attending this incident?
- 19 A. Nobody likes to go to a knife call. Like -- there's
20 a significant danger there so obviously there's
21 a natural, probably, fear, I suppose, in the back of
22 your mind, but obviously you remain professional and you
23 still go, but aye, other than probably -- that would be
24 my natural response anyway so I can't specifically
25 remember what I would be feeling at the time, but

1 certainly as a natural response that would be something
2 that would sit in the back of your mind.

3 Q. And what difference, if any, did it make that the man
4 said to have had the knife was black?

5 A. It made no difference at all.

6 Q. Was that a factor in relation to your assessment of the
7 situation on the route to Hayfield Road?

8 A. No.

9 Q. I would like to move on to your arrival at
10 Hayfield Road, and what I'm going to do, first of all,
11 is ask Ms Taylor-Smith to play some footage and I think,
12 first of all, we will play footage from 7.20.39, or just
13 prior to that, to 7.21.02, or just around those sorts of
14 times, please, and you will see -- if we can pause it
15 for a second, please. You will see that this spans
16 pages 3 and 4 on the spreadsheet.

17 So we're going to start at 7.20 -- around about
18 7.20.39.

19 (Video played)

20 Thank you. I think if we could go back to 7.20.39
21 or thereabouts, I am going to ask you some questions.
22 Did you get an opportunity to watch that on the screen?

23 A. Yes, I kind of flitted between the reconstruction and
24 the Gallaghers CCTV.

25 Q. Would you like to see that again for a second time

1 before I ask you some questions? Would that help, or
2 are you happy to carry on?

3 A. I should be all right, I think, unless you want me
4 specifically to look at --

5 Q. No, no, that's fine. So we're now at 7.20.35, and
6 that's quite a convenient time. We have heard by this
7 time that a Transit van has arrived and parked on
8 Hayfield Road towards the bus stop there. You may see
9 that actually in the distance on the CCTV.

10 A. Yes.

11 Q. And then you will see on the reconstruction that there
12 is a van there and then on the roundabout at the real
13 time, 7.20.35 there, we see a smaller van going round
14 the roundabout and if we watch that just for a few
15 seconds, please.

16 (Video played)

17 That's fine, thank you. Pause it there. Do you
18 recognise that van?

19 A. The small one --

20 Q. Yes.

21 A. -- yes, the fish van.

22 Q. The fish van. We have heard it called the fish van; is
23 that the van that you were driving?

24 A. Yes, it was, yes.

25 Q. And PC Short was in the front passenger seat?

- 1 A. Yes, she was.
- 2 Q. And is that where you parked in Hayfield Road?
- 3 A. Yes, yes.
- 4 Q. And then you will see from the spreadsheet at 7.20.42 --
- 5 it's on the bottom of page 3 -- there is an entry that
- 6 says "PC Alan Paton's emergency status is turned on".
- 7 Do you see that?
- 8 A. Yes, I do.
- 9 Q. Were you conscious that an emergency button had been
- 10 pressed?
- 11 A. No, I wasn't.
- 12 Q. No. We have heard that this causes the radio to
- 13 vibrate?
- 14 A. Yes.
- 15 Q. But that wasn't something you were conscious of at that
- 16 time?
- 17 A. No, if I had been moving around, I might not have
- 18 necessarily felt the vibration.
- 19 Q. So if your van stopped at 7.20.39, what was the first
- 20 thing that you did at that point once you had stopped
- 21 the van?
- 22 A. I had to put the handbrake on and turn the ignition off
- 23 and then undo my seatbelt and get out.
- 24 Q. How long would that take you?
- 25 A. It depends if I get myself tangled in the seatbelt

1 because it can catch on your belt and your equipment,
 2 so, I don't know, 3 or 4 seconds, I don't -- maybe not
 3 as long as that, I don't know.

4 Q. And during that period of time that could -- if the
 5 radio vibrated, you may not be conscious of that?

6 A. No, and I think I would have -- I think I had the sirens
 7 on as well so I would have had to turn the sirens off.

8 Q. Right. And if we could just play -- just for a couple
 9 of seconds, please.

10 (Video played)

11 Thank you. Would you stop it there, please. So you
 12 have told us you stopped the car, took your seatbelt
 13 off, got out the driver's side of the fish van?

14 A. Yes.

15 Q. And where did you go?

16 A. My recollection is I went around the front of the
 17 vehicle, like -- not like around it, but like I would
 18 have had the vehicle on my left side and walked kind of
 19 off --

20 Q. Straight ahead?

21 A. Straight ahead, yes.

22 Q. Right. Where was PC Short?

23 A. She was somewhere behind me, I think.

24 Q. Right. I'm going to be asking you questions about this
 25 period of time, your initial arrival at the scene. You

1 will see in your statement that this covers paragraphs 7
2 to 23, so there's -- I think there's about five or more
3 pages of description from you in your statement, and I'm
4 going to go through this with you, and as I go through
5 this, I would like to look at an image from -- it's a 3D
6 reconstruction and you may have watched this yesterday
7 with PC Short or last week with PC Walker, and I'm going
8 to ask you to look at either image 5 or 6. And can we
9 have a look at 6 as well, please. So it's just so you
10 see what 5 and 6 are. So 6 is taken from a sort of
11 aerial shot of Hayfield Road. You will see the
12 roundabout at the top of the screen which is the
13 roundabout with Hendry Road and Hayfield Road, and you
14 will see the Transit van near the bus stop and the fish
15 van behind.

16 A. Yes.

17 Q. And if we could go back to number 5 and you will see
18 this from the other side of Hayfield Road to the vans.
19 Again, you will see the Transit van and the fish van,
20 the Transit van is in the bus stop area. And happy to
21 use either of these at any time, but as you have
22 probably seen with other witnesses, I'm going to ask you
23 to describe where you were and where others were.

24 A. Yes, okay.

25 Q. And we will get you to touch the screen. There will be

1 red circles available or lines, purple lines. So could
2 we maybe start with number 5? Would you be happy to use
3 number 5 at the moment?

4 A. Yes, I think either/or.

5 Q. Would either be okay?

6 A. Yes.

7 Q. Let's start with number 5. Can you show us on this
8 screen where you were when you got out of the fish van
9 and you stood at the front?

10 A. Just tap it?

11 Q. You just tap it and, please, you can -- if you don't
12 like where you have positioned it we can either remove
13 it, or you can keep your finger on it and it will move
14 about, or you can drop it down to the bottom of the
15 screen and we will do something else. So you have put
16 that on the van at the driver's side?

17 A. Yes.

18 Q. So quite close to the front of the van but still with
19 the van on your left-hand side?

20 A. Yes, so when I immediately got out.

21 Q. And then where was PC Short?

22 A. She would have been on the passenger side.

23 Q. The other side. And would that be on the pavement area?

24 A. I don't know how -- I think maybe the van was touching
25 the pavement, so I assume it must have been. It wasn't

1 in the bushes like I have --

2 Q. No, no, that's fine.

3 A. -- put, but no, it was on the pavement.

4 Q. You probably realise we're going to be able to refine
5 these positions later, so Mr DeGiovanni will prepare
6 further images and I will ask you to refine them later
7 on, either today or whenever.

8 So when you got out and you're at the front of the
9 van, can you tell us what could you see?

10 A. The first thing that I could see when I got out of the
11 van -- do you want me to touch the screen?

12 Q. Yes, please do.

13 A. Was PC Walker and he was stood somewhere in that area
14 towards the front of the 19 van.

15 Q. Is that the Transit van?

16 A. Yes, the Transit van, sorry.

17 Q. Was that its call number or something, Alpha 19?

18 A. Yes, so Alpha 19 would normally be the call sign for the
19 crew using the big van, so I just always referred to it
20 as the 19 van.

21 Q. All right. So he is towards the front on the passenger
22 side of that van?

23 A. Yes.

24 Q. Was he on the pavement?

25 A. I can't remember now whether or not he was on the

1 pavement or the road, but certainly in that general area
2 towards, like, the front passenger door of the van,
3 like, going towards, like, the, I think the front --
4 I don't know how you would call it -- panel that goes
5 over the wheel, if that makes sense.

6 Q. Wheel arch?

7 A. Aye, the wheel arch, yes, just near the front wheel arch
8 of the passenger side of the van.

9 Q. What was he doing?

10 A. When I got out of my van and the first thing I seen --
11 seen him do was that (indicating), so he put his hands
12 to his face.

13 Q. Had you seen what had happened?

14 A. No, that's -- so me exiting the vehicle, that's the
15 first thing that I'm confronted with was basically that.

16 Q. What did you think?

17 A. Mr Bayoh was, I would say, within arm's reach of
18 PC Walker, so my initial thought, given the number of
19 the calls in relation to a knife was that PC Walker had
20 been slashed to the face, or injured to the face, hence
21 the reason he has put his hands up.

22 Q. Could you point out on the screen where Mr Bayoh was.
23 And circle 4, does that appear on the pavement area of
24 Hayfield Road?

25 A. Aye, I don't know whether it's on the pavement or kind

1 of close to the pavement or kerb line, as you would
2 probably call it, but certainly it was within, I would
3 say, arm's reach.

4 Q. What direction was PC Walker facing? You can't point it
5 out on this screen, we will be able to refine that
6 later.

7 A. Right, sorry. He was facing, like, towards the
8 direction of Gallaghers which -- if you look at this
9 picture would be to the left of the picture, if that
10 makes sense, like the direction of the fish van.

11 Q. The footage we watched a moment ago was from a CCTV on
12 Gallaghers pub?

13 A. Yes.

14 Q. So that was past the roundabout with Hendry Road and
15 Hayfield Road that we have seen?

16 A. Yes.

17 Q. And what direction was Mr Bayoh facing?

18 A. The opposite way, so he was like facing PC Walker,
19 looking in the direction of obviously like the hospital
20 direction.

21 Q. So they were facing each other?

22 A. Facing each other, yes.

23 Q. Can you describe Mr Bayoh when you first saw him?

24 A. I didn't see -- obviously I seen the back of him,
25 I didn't see the front of him, but, aye, he was close

- 1 to -- as I say, within arm's reach of PC Walker.
- 2 Q. Could you tell anything about his position, or his
3 demeanour from the back?
- 4 A. No, because I couldn't see his face or kind of what he
5 had in his hands or anything like that.
- 6 Q. Could you hear anything at that point?
- 7 A. I never heard anything, no.
- 8 Q. Where was PC Paton?
- 9 A. I never actually saw PC Paton.
- 10 Q. Right. How far were you from Mr Bayoh and PC Walker?
- 11 A. So I was probably -- see when I've got in my van, see
12 where 1 is, if I click again -- I don't necessarily know
13 if I've got as far as 5, but obviously as I have seen
14 what's unfolding in front of me I have moved probably
15 towards position number 5, so I don't know distance-wise
16 what that would be.
- 17 Q. That's just before the pavement on Hayfield Road appears
18 to curve round slightly to the left?
- 19 A. Yes, I don't think I ever got as far as the bus stop.
- 20 Q. Right. When you were in position number 5, where was
21 PC Short?
- 22 A. I thought she was somewhere behind me, but I don't know
23 where exactly behind me. I don't know if it was to my
24 left or my right, but I had an awareness she was there.
- 25 Q. When you were in position number 5, could you see

- 1 PC Paton?
- 2 A. No.
- 3 Q. How long did it take you to get from position 1 to
4 position 5?
- 5 A. Not long.
- 6 Q. What did you do when you were at position 5?
- 7 A. When I got obviously as far as position number 5
8 Mr Bayoh started to then walk away from PC Walker and
9 I started to shout like "Get down", like "Stop what
10 you're doing", to try and gain some sort of control.
- 11 Q. What direction did Mr Bayoh walk in? Do you want to use
12 an arrow for this?
- 13 A. Aye, please.
- 14 Q. We will get that on the screen if you give us a moment.
15 Thank you. You can use the arrow now. Thank you.
- 16 So Mr Bayoh has turned round at that point and
17 walked away from PC Walker?
- 18 A. Yes.
- 19 Q. And you have drawn that arrow, number 6, towards we have
20 heard what is a path between the trees?
- 21 A. Mm-hm.
- 22 Q. When you saw that, can you describe Mr Bayoh?
- 23 A. Aye, he was walking with purpose.
- 24 Q. What do you mean by that?
- 25 A. It's hard to describe. It's like a -- like, I don't

1 know, a bounce, sort of like -- not a skip in his step,
2 that would be wrong, but like a -- I don't know if you
3 would really call it swagger, but more of a kind of
4 meaningful movement, like, larger strides and like --
5 it's hard to put into words.

6 Q. Would you be able to demonstrate it?

7 A. I could demonstrate easier than I could describe it,
8 yes.

9 Q. Lovely, thank you. Now, as I have said to other
10 witnesses, there's a bit of sticky tape on the floor and
11 if you can stand in that general area but give us
12 a moment because it will become obvious on the screens,
13 and then everyone in the room can see what you're
14 demonstrating.

15 A. Yes.

16 Q. We won't have audio necessarily so I may not be able to
17 hear what you're saying, but I will bring you back to
18 the microphone. Thank you, so if you come out, please,
19 and demonstrate what you have been describing.

20 A. So if I was to demonstrate it would be kind of like that
21 (indicating).

22 Q. Thank you. If you want to come back to your microphone.
23 As you did that, you clenched your fists. Was that how
24 Mr Bayoh was walking?

25 A. Aye.

- 1 Q. Yes. Thank you. In the direction of the path?
- 2 A. Yeah.
- 3 Q. Where was PC Walker?
- 4 A. PC Walker never followed. I don't know where he went,
5 I just remember him raising his hands to his face so
6 I don't know whether he stayed where he was or whether
7 he took cover or -- I don't know.
- 8 Q. At that point, had you seen PC Paton?
- 9 A. No.
- 10 Q. When Sheku Bayoh walked towards the path, as you have
11 demonstrated, was there anything you noticed about him
12 at that stage, other than obviously the manner in which
13 he was walking?
- 14 A. He wasn't like -- we were obviously shouting, like,
15 stop, or kind of words to that effect. I don't know
16 specifically what I shouted, but it would have been to
17 try and get some sort of response or control, but he
18 wasn't, like, responding, like, he wasn't showing any
19 sign of what I was shouting across to be sinking in or,
20 like, there was nothing that would have indicated that
21 he either wanted to listen or understood what I was
22 saying.
- 23 Q. Were you getting any reaction from Mr Bayoh?
- 24 A. No.
- 25 Q. Could you see his face at that point?

- 1 A. Aye, I would have been able to see his face but
2 I couldn't tell you what kind of facial expression he
3 had.
- 4 Q. Was there anything you noticed about him other than the
5 manner in which he was walking along, anything you
6 noticed about his mood or his demeanour?
- 7 A. I mean in that short time that I had been in his
8 presence, I don't think I could accurately describe
9 a kind of mood other than he looked like he was on
10 a mission.
- 11 Q. Are you able to describe his physique at that time?
- 12 A. Aye, he was like well built, muscular, looked like
13 somebody who enjoyed going to the gym.
- 14 Q. So at that stage, what was your assessment of the
15 situation?
- 16 A. My assessment was obviously that there remains to be
17 kind of -- obviously the concern of a knife. My
18 assessment now is I think I've got an officer
19 incapacitated because of the way that PC Walker has
20 raised his hands to his face and the male's, you know,
21 significantly well-built, you know, they're all kind of
22 things that I would consider in trying to approach the
23 male would probably do me serious harm with what I had
24 just seen, as I say, PC Walker raised his hands to his
25 face, the fact that I couldn't see Alan -- PC Paton was

1 also a concern because I had no idea where he was and
2 I knew they had arrived as a crew, they were paired
3 together, so his absence from my field of vision gave me
4 concern as well that something might have happened to
5 him.

6 Q. Why did you not feed back that information to the ACR at
7 that time?

8 A. Because it was all happening too quickly. Like it
9 wouldn't have been safe for me to get on the radio and
10 also try and give commands, verbal commands.
11 I couldn't -- it wasn't possible.

12 Q. What did you do after -- you have described Mr Bayoh
13 walking towards the path. What did you do at that
14 stage?

15 A. So what I will do is I will just draw a line on. So
16 Mr Bayoh obviously kept walking along the path.

17 Q. Before you move on there, you have drawn a line which
18 has a number 7 on it?

19 A. Yes.

20 Q. Is the end of that line where he reached in the path?

21 A. I don't necessarily know where he reached but I don't
22 think he got any further than that. I will kind of be
23 able to come on to that shortly because --

24 Q. Sorry, I interrupted.

25 A. No, it's all right. So basically from my position at

1 number 5, I have then mirrored kind of the movement in
2 terms of walking along to be kind of walking parallel
3 with him, so that I could continue to shout commands,
4 you know, along the lines of "get on the floor, stop
5 what you're doing", like, but nothing was working and by
6 walking along with him it would have allowed me to keep
7 up with him and to avoid him maybe not understanding
8 that, kind of, I was directing my requests at him, I was
9 shouting at the top of my voice, so that even if he
10 didn't -- you know, hear me with the level of volume I'm
11 speaking just now, there was no doubt that I was
12 shouting something at least, I would have expected some
13 sort of response from that.

14 Q. Do you want to demonstrate the level of shouting that
15 you were adopting?

16 A. I don't know if it will -- is it all right to shout in
17 here, aye?

18 Q. I would appreciate if you would demonstrate?

19 A. Aye. So obviously we're speaking just now, but if I was
20 out on the street it would be "Get back, stay back, stay
21 where you are", to avoid any, basically, (inaudible) of
22 the -- you know, I'm shouting something, I would have
23 expected a response back from that. A normal member of
24 the public -- I seen a few people jump and I apologise
25 for that, but a normal member of the public, hearing

1 that on the street, I would have expected some sort of
2 response.

3 Q. And looking at the arrow you have drawn on the screen,
4 obviously these arrows are straight lines, but arrow 8
5 you would have been going round the fish van walking
6 parallel; were you?

7 A. I don't know necessarily if I went round, like, this
8 side -- like --

9 Q. The driver's side?

10 A. The driver's side, I don't know if I went round that or
11 the passenger side, but certainly that's the general
12 area of movement that I was going in.

13 Q. Thinking back now, do you have any recollection of which
14 side it was?

15 A. No. I would have to rely on my statement, or the CCTV.

16 Q. I will go back to the CCTV in a moment actually, that
17 might assist you. Where was PC Short?

18 A. Again, I had an awareness that she was somewhere but
19 behind me.

20 Q. Do you want to point on the screen to where you think
21 she was?

22 A. So kind of as I was moving along like -- say, for
23 example, if I'm here --

24 Q. Do you want the red circles?

25 A. Please, yes.

- 1 Q. If we can have those back, please.
- 2 A. So if I was there, I thought that PC Short was somewhere
3 like either there or there (indicating).
- 4 Q. So your position for number 8 is yourself, and
5 PC Short's position is either 9 or 10?
- 6 A. Yes, somewhere along that kind of --
- 7 Q. Behind you --
- 8 A. Yes.
- 9 Q. -- in some direction? Were you conscious at that time
10 of what she was doing?
- 11 A. No.
- 12 Q. Was there anyone else in that area at that time?
- 13 A. Not that I'm aware of.
- 14 Q. When you shouted to Sheku Bayoh, what was the reaction?
- 15 A. I didn't get a reaction.
- 16 Q. Nothing at all?
- 17 A. (shakes head).
- 18 Q. Did he turn round?
- 19 A. No.
- 20 Q. What did you do?
- 21 A. As he was walking off, I would have drawn my CS spray
22 and issued, again, commands "Stop, stay where you are,
23 get back", and shouted that I had CS spray and for him
24 to stop.
- 25 Q. Right. At that moment, had you seen a knife in the

- 1 possession of Mr Bayoh?
- 2 A. But I couldn't assume there wasn't one because of the
3 number of calls. He could have had it concealed at any
4 point on his person.
- 5 Q. So you hadn't seen one?
- 6 A. No.
- 7 Q. You're shaking your head, right. So you have taken out
8 your CS spray. Before we move on to this, can I ask you
9 to look -- no, actually I won't leave this screen in
10 case we lose any of the circles on it. You have taken
11 out your spray. What stance did you adopt at that
12 stage?
- 13 A. It would have been -- I would call it a bladed stance or
14 a defensive stance where you stand with, like, your weak
15 foot in front of you and your strong foot behind you.
- 16 Q. Would you mind coming out and demonstrating that again.
- 17 A. So it would be a bladed stance or a defensive stance.
- 18 Q. Can you demonstrate to the Chair and the Assessors how
19 you would hold your spray?
- 20 A. Like that (indicating).
- 21 Q. Thank you. If you come back to the microphone. So you
22 had your left hand up and your right hand is at your
23 side holding your spray?
- 24 A. Yes.
- 25 Q. With your left foot forward?

1 A. Yes.

2 Q. In holding your left hand up, was that a means of
3 communicating?

4 A. It can really be almost like -- well, that in case the
5 person gets too close and you can fend them back and by
6 that I mean push them back. It's also not a rangefinder
7 as such, but you can use it to kind of like aim, as it
8 were, and obviously you can point as well when you've
9 got your hand in that position to make kind of -- show
10 that the individual, obviously Mr Bayoh knew that I was
11 meaning him, "you", by that kind of movement.

12 MS GRAHAME: Right. I'm going to move on and go back to
13 some of your statements and ask you more questions about
14 this incident, but I think -- I'm conscious of the time
15 and I wonder whether now would be an appropriate time to
16 have a --

17 LORD BRACADALE: Yes, this would be a good time for a break,
18 so we will stop for 25 minutes.

19 MS GRAHAME: Thank you.

20 (2.46 pm)

21 (Short Break)

22

23 (3.13 pm)

24 LORD BRACADALE: Ms Grahame.

25 MS GRAHAME: Thank you.

1 We were talking about you having drawn your CS spray
2 and having adopted a defensive stance, and I would like
3 to move on to get you to describe what you did with your
4 CS spray. Now, just to let you know, paragraph 22 of
5 your Inquiry statement deals with CS spray in the top
6 half of that paragraph, just so you can see that. So
7 you have already provided the Chair with some
8 information about that, and you have described using
9 your spray twice, and I wonder if you could help us
10 understand a little bit more about how you used your
11 spray.

12 Now, on the screen we had been using the screen to
13 see where you were, and I would quite like a clean
14 sheet, if that's all right. Thank you, perfect. So
15 this is number 5. Now, can you again point to the
16 screen and tell us where you were when you adopted your
17 defensive stance with the spray?

18 A. Yes.

19 Q. These are indicative marks; we will be able to refine
20 them in due course.

21 A. I just remember there being an opening in the trees and
22 there being no, like, shrubbery in front of me, so when
23 I drew the line on earlier on I think it was number 7
24 and I kind of said I think it was either -- that was the
25 furthest point so the point I think I was at was there

1 because of the opening in the trees, but equally,
2 I could have been there, because it's an opening in the
3 trees.

4 Q. All right. So you were in an opening of the trees.

5 A. Yes.

6 Q. Now it may be that we will be able to narrow those
7 options down in due course, we will be able to see lines
8 of sight and things when Mr DeGiovanni is here, but if
9 we -- could we hear your description -- assuming
10 number 1, that was your first choice, assuming you're
11 there, you have adopted the stance, you have taken your
12 CS spray out, tell us what you did?

13 A. I drew it and I would continue -- I continued to shout
14 obviously "Stop, stop what you're doing, stay where you
15 are", and when that has not had any effect I issued --
16 I would have issued a warning which is "If you don't
17 stop what you're doing, I will use my spray", and again,
18 nothing.

19 So I sprayed initially and the reason I sprayed
20 twice is one, when I did my initial burst because you're
21 shown to use initial, like, bursts of CS or PAVA, so
22 that if you miss, you have then got the option to kind
23 of spray again, and when I sprayed my initial burst,
24 like, it's a case of on/off, like, it's no longer than
25 on/off, and it fires out, obviously, a jet of

1 incapacitant spray, and the wind that day just blew it
2 away, so the next time I -- the way I kind of overcame
3 that was I just kept my finger on the trigger -- I say
4 the trigger, the button, and then I guided the spray in,
5 so the wind was basically blowing it and I could
6 physically see that the spray was bending, so rather
7 than it keep missing, I just basically went like that
8 into the wind so I would stay still and I would
9 basically guide the stream onto, obviously, Mr Bayoh.

10 Q. Right. I will go back over that with you, if you don't
11 mind. So you have -- we're working with number 1 at the
12 moment, we can refine that later. How far was Mr Bayoh
13 from you at that stage?

14 A. He was within, I would say, probably 12 to 15 feet,
15 something like that. Whatever the distance is from that
16 pavement to the path.

17 Q. Point to the area on the path where he was? What
18 direction was he facing?

19 A. Like -- that's not much use, is it? Towards the
20 Gallaghers.

21 Q. So towards the left of -- as we look at the screen?

22 A. Towards the left if you look at it, yes.

23 Q. And what direction were you facing?

24 A. Like, directly at Mr Bayoh, so he is facing obviously
25 left, I'm facing, like, in a north-ward direction kind

- 1 of towards him.
- 2 Q. Thank you. And you have described the short burst of
3 spray. How long does that last?
- 4 A. Like, you would just keep your finger on and then just
5 take it off, just as quick as you could do that, but
6 that would be enough, like, in training when you do
7 that, that's enough to give you enough, like, spray to
8 travel and hit the intended target.
- 9 Q. But your recollection today is that that did not
10 connect?
- 11 A. No, the wind -- basically when I have sprayed, the wind
12 just took it, so it actually just totally missed.
13 I don't know where it went, but I just know it blew it
14 off into basically nowhere.
- 15 Q. Which direction was the wind coming from?
- 16 A. Sort of from -- if you look at this picture, from left
17 to right, so blowing towards the big van.
- 18 Q. Thank you. And so you have then described that you made
19 a second attempt with your spray?
- 20 A. Yes.
- 21 Q. And you kept your thumb on the button?
- 22 A. Yes.
- 23 Q. And how long did you keep your thumb on the button?
- 24 A. I don't know if I took my thumb off, or whether or not
25 the can just finished, but it was until nothing came

- 1 out.
- 2 Q. How long does it take for a CS spray to reach empty?
- 3 A. I don't know because we never -- in training, because of
- 4 the way you do the scenarios repeatedly you just -- you
- 5 always do short bursts because -- to fill the training
- 6 aids is, I think probably quite expensive, I think, from
- 7 what I have been told, so you always just train with
- 8 short bursts so that you can increase the longevity of
- 9 the training aids, but I don't know how long it would
- 10 take from start to finish.
- 11 Q. Do you actually use CS spray in training?
- 12 A. No, you use water, so, like, a training CS or PAVA
- 13 I think has got a blue lid, whereas a live, or one
- 14 that's filled with PAVA or CS, PAVA now has got a red
- 15 lid, so you can distinguish between the two and you
- 16 would never spray a red, live PAVA in just your OST
- 17 refresher. You get exposed at the college, but you
- 18 wouldn't spray colleagues with PAVA.
- 19 Q. And you have talked about directing the spray of the CS.
- 20 Does it come out as a spray, or does it come out as
- 21 a jet?
- 22 A. It comes out as a jet, so if you imagine the easiest way
- 23 to describe it for somebody who has maybe never seen
- 24 that is like a water pistol. Like, can you imagine the
- 25 jet of water that comes out of a water pistol, it's like

1 that but under more pressure.

2 Q. And you described as you were gesturing sitting there
3 that you moved your hand towards the direction of the
4 wind?

5 A. Yes. Just instinctively, if the wind is going to blow
6 it away, I can move the, like, stream of CS and I know
7 that obviously it will then curve in. It's maybe not as
8 accurate but it does the same job.

9 Q. Did that second attempt connect with Mr Bayoh?

10 A. It did.

11 Q. Where on Mr Bayoh did it connect?

12 A. I would need to go back to my statement because I know
13 it connected somewhere in this kind of region
14 (indicating).

15 Q. Please feel free to look at paragraph 22 of your
16 statement. I will read this out actually, rather than
17 remove the image from the screen. It says:

18 "I attempted to spray Mr Bayoh using a short burst,
19 but this had no effect. I readjusted my aim and again
20 sprayed Mr Bayoh to no effect. My second attempt at
21 spraying Mr Bayoh used an extended spray due to the
22 prevailing wind conditions and the need for me to try
23 and continually readjust my aim to guide the jet of
24 incapacitating spray towards the intended target, his
25 face and eyes."

1 A. Yes.

2 Q. So where did it connect with Mr Bayoh?

3 A. Am I able to look at my original statement?

4 Q. Yes, please, feel free. So this is PIRC 00265. I think
5 on page 3 you will see that there's reference in
6 paragraph 2 to you getting your CS spray out and
7 describing the wind was strong, and you say -- have you
8 got page 3:

9 "The first spray missed him due to the wind so
10 I adjusted my aim and sprayed again. The spray curved
11 in the wind but again missed his face and hit the top of
12 his left neck or shoulder area. He had stopped walking
13 when I sprayed him. I shouted for him to get on the
14 floor. I emptied my full CS spray on him and kept my
15 finger on it until it was empty. The CS spray had no
16 effect, there was no reaction from him and it was almost
17 as if I had squirted him with water."

18 A. Yes.

19 Q. So your recollection when you gave your statement to
20 PIRC on 4 June 2015 to DSI Brian Dodd was that it hit
21 the top of Sheku Bayoh's left neck or shoulder area.

22 A. Yes, so that would have been the closest point to me.

23 Q. If CS spray hits someone in that area, is that
24 sufficient to incapacitate them?

25 A. You would normally expect it to have some effect. Each

1 individual person is obviously different as to how they
2 would be affected by it, but CS spray is different from
3 PAVA in the fact that it kind of, like, disperses in the
4 kind of immediate area and it would normally just have
5 that reaction with your eyes and kind of your airways,
6 and the fact that it will either make you cough or you
7 would put your hands up to your face.

8 Q. So it's not necessary to have it sprayed onto your face
9 or your eyes?

10 A. No, I mean that's probably close enough to have probably
11 a full dose, if -- I don't know if "dose" is necessarily
12 the correct way of saying it, but certainly to feel the
13 effects of basically CS from being hit there or kind of
14 that area should normally be enough.

15 Q. What reaction did Mr Bayoh have?

16 A. None.

17 Q. Were you still shouting at the time you were spraying?

18 A. Yes, I would have been shouting continually. I don't
19 know exactly what words, but kind of, it's drilled into
20 you when you do your OST, it's "Get back, get back, stay
21 back", or "Stop, stop what you're doing, get on the
22 floor, get on the floor", and it would just have been
23 a reiteration of kind of those, having issued already
24 the command that "If you don't stop what you're doing
25 I will spray".

- 1 Q. So you're shouting and getting no reaction. You have
2 sprayed and got no reaction.
- 3 A. Yes.
- 4 Q. Was there any reaction from Mr Bayoh to any of the
5 things you were doing?
- 6 A. No, but I -- he did eventually turn and basically face
7 me (inaudible overspeaking) --
- 8 Q. What caused him to turn?
- 9 A. I don't know if it was the shouting or the -- maybe the
10 feeling. I don't know what caused him to turn, but
11 I kind of thought at that point I had his attention at
12 least.
- 13 Q. And you have said he turned to you and PC Short?
- 14 A. Yeah, I don't necessarily again know where exactly she
15 was, but I had an awareness that she was close by behind
16 me, so in turning to look at me it was also -- would
17 have been facing PC Short as well.
- 18 Q. When he turned to face you, tell us what you could see,
19 describe him for us?
- 20 A. He was basically just -- I think I have described it in
21 my original statement as a ... a dirty look, or
22 certainly that's the best way to describe it. Just kind
23 of like -- I don't even know if I could reproduce it
24 with my own face to give you an idea but kind of -- he
25 just looked at us and my kind of fear at that point was

1 that he was maybe sizing us up or -- because I had
2 sprayed him, you know, he was looking at me and his
3 attention was solely focused on me, but aye, that gave
4 me a -- obviously I had achieved what I wanted to
5 achieve in that I got his attention and I thought that
6 would allow me then to start communicating with him, but
7 he wasn't saying anything, he still wasn't responding,
8 he was now just looking, and basically I thought we were
9 going to get attacked.

10 Q. You used the word "sizing us up".

11 A. Mm-hm.

12 Q. And then you said "Me". What do you mean by that?

13 A. Like, if somebody's going to have a fight or going to
14 get close to somebody, you kind of like look them up and
15 down and almost take in, I think, to your mind,
16 you know, how maybe big a person is, how -- you know,
17 what am I up against, almost. I don't know if that's --
18 that's what I kind of mean by the phrase, like, sizing
19 up, so taking in who I am as a person now.

20 Q. And you say you got his attention and you thought that
21 might allow you to communicate. At that stage when you
22 say it might allow you to communicate, were you still
23 thinking about the possibility that you could converse
24 with him or speak to him?

25 A. That's always on your mind throughout, kind of running

- 1 through this: if there's a way to end this by
2 conversation then absolutely, that's what I want.
- 3 Q. What would you have needed his response to be to allow
4 you to engage in that communication?
- 5 A. Just anything. You know, he could have said anything to
6 me or it could have just been him just standing there
7 for an extended period of time allowing me then to,
8 you know, try and build some sort of rapport with him,
9 "Is there anything I can do to help you? What's going
10 on?" Things like that would have been probably my go-to
11 phrases, but I wasn't afforded that opportunity because
12 he then decided to charge.
- 13 Q. So even at that stage, after you had used your CS spray,
14 you still would have been willing to communicate?
- 15 A. Yes.
- 16 Q. You then say he decided to charge.
- 17 A. Mm-hm.
- 18 Q. Tell us what happened then.
- 19 A. He basically ran from his position at 3 to my position
20 at 1, and I actually thought he was running at me so
21 because I -- fearing that I was going to be attacked
22 I put my PAVA back in its holder. I must have got quite
23 lucky because it's only a small clip to get your PAVA to
24 slide on back to its holder and then I drew my baton
25 initially as a defensive kind of mechanism, but

1 I remember being confused because he seemed to veer off
2 to my right and I was a bit confused as to what was
3 going on and the fact that he hadn't attacked me and
4 I basically pivoted 180 on my feet, so basically instead
5 of looking north, as you look at the image, I was then
6 kind of looking almost south or in a general south
7 direction and I seen him basically running after
8 PC Short.

9 Q. When you withdrew your baton, were you still in
10 position 1?

11 A. Yes, I would have been.

12 Q. Where do you keep your baton?

13 A. On my left side, so on -- basically you wear a utility
14 belt and it's just like a thicker belt that you would
15 wear on jeans or suit trousers and that has attachments,
16 so my baton is kept on my left side because I'm
17 right-handed, so it allows you to draw across the body.

18 Q. And you have said you pivoted 180. I wonder, looking at
19 the image again, what direction -- you could maybe
20 indicate what direction you were facing?

21 A. Has it got circles --

22 Q. You could just describe it, if you wish.

23 A. Oh, right. So initially, like, facing from 1 facing to
24 3, so looking at 3, and then as the circle 3 moves
25 past --

1 Q. We will provide you with a purple line and you can show
2 us where Mr Bayoh -- which direction he went in. Thank
3 you. And describe where you pivoted to?

4 A. Like --

5 Q. You have told us you were facing towards the number 3
6 red circle.

7 A. Yes, so it would have been facing the tip of the arrow
8 now.

9 Q. So pivoting round to the direction in which you have
10 drawn the arrow?

11 A. Yes.

12 Q. So was that towards the middle of Hayfield Road?

13 A. Yes, yes, towards the middle of the road.

14 Q. And when you pivoted, describe what you saw?

15 A. What I saw was Mr Bayoh strike PC Short with his fist to
16 the back of her head. She wasn't wearing a hat, so that
17 impact would be fist on head, so it was the back of her
18 head and that action caused her to fall, or lose balance
19 and she fell forward onto the road.

20 Q. When you say the back of the head, where do you mean?

21 A. So, like, that area (indicating).

22 Q. You're pointing to the back of your head?

23 A. Yes.

24 Q. It seems to be in the middle, is that right or --

25 A. Aye, just that kind of general area. I couldn't

- 1 pinpoint a specific area, but, like, from what
2 I remember, it's the back of the head.
- 3 Q. Where was PC Short when this happened? Could you put
4 a red circle on the screen. That's number 5.
- 5 A. Yes.
- 6 Q. What force did he use?
- 7 A. From where I was standing, a lot, because it knocked
8 her, like, so off-balance that she has fallen forward,
9 so I would imagine to do that would require a lot of
10 force.
- 11 Q. And you have talked about her falling forward; how did
12 she fall forward, are you able to describe that?
- 13 A. Full length, basically. If you imagine, like, a child
14 going down a slip and slide -- I'm just trying to think
15 of things that would be similar in terms of movement.
16 Like that (indicating), kind of putting her arms out and
17 taking, basically, a dive towards the road.
- 18 Q. And what position did she fall into?
- 19 A. Like, flat on the road, so, like, it would have been --
20 so the front of her body and face and that on the side
21 of her arms would have been touching the road.
- 22 Q. Right. And are you able to indicate on this image,
23 image 5, where she fell?
- 24 A. From where she was hit, I don't know how far she has
25 gone, but it would have been kind of -- I don't know if

1 it would -- I don't know which side it was, I don't
2 remember the cars but ... I don't know if it was either
3 6 or 7, but kind of, like, it wasn't forward, it was
4 kind of -- I don't know, I felt like she fell at an
5 angle, if that makes sense, so it wasn't, like,
6 perpendicular to the road. I felt like she fell at
7 an angle.

8 Q. Can you describe the angle, or could you show us with
9 a purple line?

10 A. Yes, I can show it with a purple line.

11 Q. Give us a moment to get the lines onto the screen.

12 A. It's not helpful with the number 8, but that kind of
13 like, slanty angle.

14 Q. So angled further down Hayfield Road from where you
15 were?

16 A. Yes.

17 Q. How long did she remain in that position?

18 A. She remained in that position until I became involved in
19 the restraint of Mr Bayoh.

20 Q. How long was that?

21 A. I don't know how long that would have been. It felt
22 like forever but I know it -- I know obviously it wasn't
23 forever. It was all happening so fast that I couldn't
24 accurately say how long it was from that point to the
25 point of restraint.

- 1 Q. You have said you became involved. Tell us what you
2 did?
- 3 A. When Mr Bayoh had punched PC Short, she has fallen down
4 on the floor. What I remember is she has tried to push
5 herself up, but then he stamped on her back, which has
6 caused her to basically ... I thought he'd killed her.
- 7 Q. Tell us how she tried to push herself up?
- 8 A. Using her hands.
- 9 Q. Did she succeed in doing that?
- 10 A. No.
- 11 Q. What happened when she tried to do that?
- 12 A. He stamped on her again.
- 13 Q. At any time at that point, were you aware of her being
14 curled up in a foetal position?
- 15 A. No.
- 16 Q. Holding the back of her head, the bun on her hair?
- 17 A. I can't remember that.
- 18 Q. Right. Where was Mr Bayoh when Nicole Short was flat on
19 the ground?
- 20 A. He was directly behind her, stamping on her.
- 21 Q. Was that closer to you or closer to the other side of
22 Hayfield Road?
- 23 A. Probably closer to the other side of Hayfield Road,
24 I would say.
- 25 Q. It might be easier if we get another clean image of

1 this. Thank you. So again, would you just put a red
2 circle round the position where Nicole Short was on the
3 ground. Thank you. Is that where she was on the
4 ground?

5 A. I think so. It was there or thereabouts.

6 Q. Okay, and point to -- or indicate the position where
7 Mr Bayoh was. So that's just beside her. Her head is
8 to the other pavement on Hayfield Road?

9 A. Yes, so her head would be pointing towards -- as I say,
10 I don't remember the cars, but her head would have been
11 like that direction (indicating).

12 Q. That direction. And what direction was Mr Bayoh facing?

13 A. As you look at this picture, to the right, so
14 Hayfield Road. Sorry, Kirkcaldy Hospital, down
15 Hayfield Road.

16 Q. Down Hayfield Road to the right as we look at the
17 screen. And where were you when you saw this? How far
18 away were you?

19 A. I don't know, maybe that's not as accurate as I thought.
20 Could I move that down a little bit.

21 Q. You can move those around. If you touch them, you can
22 move them around, or we can remove 3 and you can --

23 A. Maybe probably more towards the kerb line, so from the
24 distance to the kerb line to the centre of the road
25 would have been the distance I would have been away when

1 I seen that.

2 Q. So you're number 3, you're in that general area.

3 How was Mr Bayoh positioned when he stamped on
4 Ms Short?

5 A. Like, at the -- not directly over her, but at the side
6 of her, so he could use her foot to stamp her back.

7 Q. Where on her back did he make contact?

8 A. Like, the centre, so when you've got a body armour, it's
9 got the word "Police" written on it, and I remember it
10 being somewhere below the word "Police". I can't say
11 specifically where on the body armour, but it wasn't
12 above the word "Police" and it wasn't at the side, it
13 was on -- the way the panels are and the way they bend
14 around the body, they form flat points, or it looks as
15 though they form flat points, and it was on basically
16 the large flat section of her back.

17 Q. We actually have a model vest and it may be easier if we
18 just hand that to you. If you could hold that up and
19 demonstrate to the Chair and to the Assessors what area
20 you're describing there.

21 A. Sort of this (indicating). You can kind of see the
22 stitching creates like a flat patch, so somewhere in
23 this, this area.

24 Q. So beneath the "Police" badge on the back --

25 A. Yeah, mid-back.

- 1 Q. -- in the centre --
- 2 A. (inaudible overspeaking) in that area.
- 3 Q. -- somewhere in that area. Thank you. Can you describe
- 4 how Mr Bayoh was standing when he stamped on PC Short?
- 5 A. The movement or the --
- 6 Q. Yes. I'm going to ask you to demonstrate.
- 7 A. Yes.
- 8 Q. Would you find that easier?
- 9 A. Probably, aye.
- 10 Q. Right, again, I'm not going to ask you to speak when you
- 11 do it, but what I would like you to do is come out and
- 12 then demonstrate how he was standing, and I would like
- 13 you to demonstrate the force that he used and the number
- 14 of times he stamped.
- 15 A. Okay.
- 16 Q. Thank you. And then I will bring you back to the
- 17 microphone, thank you.
- 18 First of all, I would like you to demonstrate how he
- 19 was standing, please.
- 20 A. (Indicating).
- 21 Q. Thank you. And that's your right leg that's lifted, and
- 22 I would like you to demonstrate the force, please?
- 23 A. I don't know if it was right or left but (Inaudible -
- 24 too far from microphone) if that makes sense.
- 25 Q. Right, well, I will get you to demonstrate the force,

1 please.

2 A. (Indicating).

3 Q. Thank you. Please go back to the microphone.

4 Now, you said there you weren't sure if it was
5 Mr Bayoh's right or left leg?

6 A. No, not -- like I can't recall that now. Probably at
7 the time I would have been able to recall but I'm
8 right -- like -- my right side is my dominant side so,
9 like, that's how I would like --

10 Q. That's how you would replicate the force used?

11 A. Aye. I don't think I could do it on my left foot, even
12 if I tried.

13 Q. All right. Thinking back now, do you have any
14 recollection about whether it was his right or left leg?

15 A. At the present time, no, I couldn't say that. Unless it
16 is contained in my original statement.

17 Q. Okay. We will come on to that in a moment.

18 Right, let's look at your original statement, so
19 that's PIRC 263, and this is your statement dated
20 4 June 2015, and we will look at page 3. There should
21 be paragraph 3. We looked at this a short while ago and
22 it starts:

23 "He ran past me ..."

24 It is coming on to the screen now:

25 "He ran past me ..."

1 Do you see that?

2 A. Yes, I've got that, yes.

3 Q. "... and I turned round right about 180 degrees to see
4 him chasing Nicole. She was running across the road
5 away from the bus stop. He caught up with her and
6 punched the back of her head. She didn't have her
7 police hat on and neither did I. She fell to ground
8 face down when he punched her and she tried to protect
9 her head and push herself up with her hands at the same
10 time. I ran over to assist her, but before I got there,
11 he stomped on her back with his foot with a great deal
12 of force. He put his full body weight into the stomp
13 and used his arms to gain leverage. After he did this,
14 she went back to the floor and never moved. I thought
15 he had killed her. He stomped on her back again with
16 the same force and she wasn't moving."

17 And is that the -- that's the description you gave
18 to PIRC on 4 June.

19 A. Yes.

20 Q. And where you say:

21 "She fell to ground face down when he punched her
22 and she tried to protect her head and push herself up
23 with her hands at the same time."

24 What did you mean when you said that?

25 A. To be honest, I'm not quite sure. From obviously

1 reading that, I'm going to assume that she was on the
2 floor, she's tried -- like that (indicating).

3 Q. But you don't have any recollection of that?

4 A. I don't have any recollection, no, not at the present
5 time.

6 Q. So if there's any difference between this statement and
7 what you have said today, what do you think the Chair
8 should prefer?

9 A. The statement, because it was fresh in my mind at the
10 time.

11 Q. Right, thank you.

12 Do you remember now how long -- you have described
13 the stamping -- do you remember how long that took?

14 A. Again, because it was all happening so quickly,
15 I couldn't say with any accuracy like how long that
16 would have taken. There's obviously a stamp and then
17 what I would say is a reload, and by that what I mean is
18 getting your body back in the same position to stamp
19 again, so it's whatever time it would have taken to
20 stamp and then reload and stamp again.

21 Q. Would it be similar to the time it took you to
22 demonstrate?

23 A. Yes, I think so.

24 Q. What did you do?

25 A. I honestly thought he had killed her, or was in the

1 process of killing her, so -- because I had my baton out
2 I used my baton to deliver a blow. The only -- I deemed
3 that the only option I had was to use my baton because
4 if I'd have ran (inaudible) ended up -- my fear was if
5 I had fallen I'm on the floor as well and the floor is
6 not a safe place to be when you're dealing with
7 something like that, you know, you can't run away, and
8 trying to strike a leg isn't an option because that's
9 moving about again, the arms are moving about and I want
10 him to stop, so I struck him in the head area.

11 Q. Right. And you struck him with your baton?

12 A. Yes.

13 Q. Where in the head area did you strike him?

14 A. I remember initially the first blow was from back of
15 head to what would be, if you imagine drawing a line
16 through someone's head, it would have been from the back
17 to the jawline area.

18 Q. Do you want to show us on your own head?

19 A. Yes, so sort of from that to kind of jawline
20 (indicating).

21 Q. So that's behind your left ear towards your jaw?

22 A. Yes, somewhere in that area, but the reason I say
23 diagonally is because that would have been, like, the
24 way my body would have moved, do you know, it would have
25 been a natural diagonal sort of down.

- 1 Q. And once you had done that, what happened?
- 2 A. It didn't stop him, so I delivered two more baton
3 strikes to that general area, but I don't know where
4 they would have connected, or if they did connect,
5 I couldn't say. I would have to rely on my original
6 statement, but that stopped him.
- 7 Q. When you say the first strike didn't stop him, what was
8 he doing at that point?
- 9 A. Well, I think the first strike obviously it was timed so
10 that -- just a coincidental timing that he wasn't
11 actually stomping on her, but it didn't move him away
12 from her, it didn't cause him to fall, it didn't cause
13 him to turn around and my fear was that he was going to
14 do it again, so I didn't want to gamble on the "What
15 if", so I delivered two more strikes and that was enough
16 to cause him to basically turn around and look at me and
17 do that (indicating).
- 18 Q. So he turned towards you?
- 19 A. Yes.
- 20 Q. What was PC Short doing at that moment?
- 21 A. She wasn't moving.
- 22 Q. Was she -- had she remained on the ground?
- 23 A. Yes.
- 24 Q. Are you able to help the Chair and the Assessors
25 understand the force that you used when you were

- 1 delivering those strikes?
- 2 A. I couldn't say with any, you know, huge accuracy how
3 much force would have been used. The first blow
4 certainly would have been probably my strongest blow
5 because the subsequent two blows you -- you know, I have
6 been shouting, I have sprayed, I have had to run across,
7 so, you know, the subsequent two blows are probably
8 softer than the first initial blow, but it certainly
9 wasn't enough to stop him from what he was doing.
- 10 Q. And I wonder if you could have a look at a baton for me,
11 please. Now, we have had a demonstration with the baton
12 yesterday, but we understand it's extendable.
- 13 A. Yes.
- 14 Q. So what I would like you to do, first of all -- and not
15 to use it at the witness table -- I would like you to
16 come out and show the Chair and the Assessors how it
17 extends and then I would like you to demonstrate the
18 force you used with the strikes.
- 19 A. Okay.
- 20 Q. Thank you. So first of all, if you could demonstrate
21 how it becomes an extendable?
- 22 A. (Indicating) (Inaudible - too far from microphone).
- 23 Q. Thank you.
- 24 A. I've extended down and into what I would call a high
25 carry; it's high because (Inaudible - too far from

- 1 microphone).
- 2 Q. Okay. And then I would like you to demonstrate the
- 3 strikes that you used?
- 4 A. (Inaudible - too far from microphone) (indicating).
- 5 Q. Right. And do you remember or can you demonstrate the
- 6 second and third strike?
- 7 A. No, it would be -- at the present time it would be
- 8 guess-work.
- 9 Q. If you could come back to the microphone, please.
- 10 LORD BRACADALE: Ms Grahame, just for the transcript, if you
- 11 could just sum up what he did there, what he said
- 12 because the microphone didn't pick up what he said about
- 13 not being able to demonstrate the second and third.
- 14 MS GRAHAME: Yes, yes.
- 15 So just to sum up there, PC Tomlinson, we have --
- 16 you initially demonstrated how the baton can be extended
- 17 by a sharp movement with your right hand down to your
- 18 right side?
- 19 A. Yes, it's not the only way it can be extended, there are
- 20 other ways, but that would be --
- 21 Q. That's the way you extended it that day?
- 22 A. That would be the way that I would prefer to extend
- 23 things, yes.
- 24 Q. And then I asked you to demonstrate the strikes that you
- 25 used on the day and you were able to demonstrate the

1 first, but at the moment you're unable to recall the
2 second and third strike?

3 A. Yes, I don't want to guess so, aye, right now I couldn't
4 say so I would have to kind of fall back on my original
5 statement.

6 Q. But do you feel that the demonstration that you have
7 given of the first strike --

8 A. Yes.

9 Q. -- is the level of force that you used on the day?

10 A. Yes.

11 Q. Thank you. Then I would like to go back to the
12 statement, the PIRC statement that we have in front of
13 us, which is still on the screen. This was the
14 statement that you gave to PIRC on 4 June 2015. If we
15 could look at page 3, paragraph 4, and we can just see
16 at the bottom of the screen -- so if we move up
17 slightly, thank you. I will just read this out:

18 "I struck him with my baton once to his head. It
19 was to the left-hand side to his head, diagonally from
20 the back of the head to his jaw."

21 And that's actually what you have told us today:

22 "He stopped stomping on Nicole at that point.
23 I think I hit him again which was about 2 or 3 times in
24 total to the head area. He turned around and took up
25 a boxing sort of stance, with both fists clenched in at

1 his chest."

2 And again, that's what you have described to us
3 today:

4 "I thought he was going to attack me again so
5 I struck him two or three times with my baton to his
6 arms. At that time I thought he was trying to kill me
7 now after killing Nicole."

8 Now, can I ask you about those two sentences.

9 A. Yes.

10 Q. "I thought he was going to attack me again so I struck
11 him two or three times with my baton to his arms."

12 Did you strike him with the baton two or three times
13 to his arms?

14 A. I don't know if it would have been his arms but I was
15 going for like his -- because he was like that, what
16 I was trying to go for was like -- because if I was
17 going to get punched I'm hoping that actually connecting
18 the baton with Mr Bayoh's hands or arms might take the
19 power out of it, if it comes to me getting punched.

20 Q. Right. So you had again used your baton towards his
21 arms but you're pointing also to the hands area?

22 A. (Nods).

23 Q. Do you remember now where, or if you connected with him?
24 I mean you have said there "I struck him two or three
25 times with my baton to his arms"?

1 A. I think if I have said I have struck him I must have
2 connected, but, as I say, right now I can't remember if
3 the baton actually connected or if it did, what portion
4 of the baton connected, but if I have said in my
5 original statement I have struck him, I would take it
6 from that that I have connected.

7 Q. So again, if there's a difference, the Chair should
8 prefer this statement?

9 A. Yes.

10 Q. And where you say "I thought he was going to attack me
11 again", can I ask you, had there been an attack
12 previously?

13 A. No, I think --

14 Q. What do you mean by that?

15 A. So the initial thought of him attacking me was when he
16 charged and ran past, so again I have had that same
17 recurring thought, "I think I'm going to get attacked".

18 Q. But he hadn't attacked you at that point?

19 A. No, he hadn't attacked me but that thought had obviously
20 entered my mind now twice.

21 Q. So again you thought he was going to attack you. Did he
22 make any contact with you at this moment?

23 A. No, no.

24 Q. And you say:

25 "At that time I thought he was trying to kill me now

1 after killing Nicole."

2 Is that what your thought process was at the time?

3 A. Yes, the -- if I was to put it professionally,

4 I thought, you know, "This is it, I'm not going home".

5 Q. Right. I want to go back over some of the information
6 that you have given us before I move on from here. Was
7 there any -- I should say was there anything else at
8 that stage that Mr Bayoh did because you have not given
9 us any information about this in your statement?

10 A. No.

11 Q. Well, I would like to go back over a few things about
12 this section of events.

13 Can I ask you, first of all, to think back to your
14 use of the CS spray.

15 A. Yes.

16 Q. Were you aware, or did you consider that the use of
17 spray can make someone react more aggressively?

18 A. There is obviously that potential that it could make
19 somebody obviously have an increased amount of anger,
20 but it wouldn't be something that would deter me from
21 spraying it, because to have that consideration and
22 doubt in your mind, you know, that would probably be
23 enough time for somebody to close down that gap on you
24 that you've got for safety, so no, I mean I would have
25 considered it, but it's not something that would have

1 stopped me spraying.

2 Q. Okay. And it didn't stop you spraying that day?

3 A. No.

4 Q. And then in paragraphs 13 and 14 of your statement, you
5 talk about assessing if a person is suffering from
6 a mental health crisis, or if they are under the
7 influence of drink or drugs.

8 A. Mm-hm.

9 Q. Now, you have described how Mr Bayoh was not reacting to
10 your use of the spray?

11 A. Yes.

12 Q. He wasn't reacting to your verbal commands, or your
13 shouting, and you had mentioned earlier that you are
14 aware of people being under the influence of drink or
15 drugs. Did you think at any point up until the incident
16 you have described with Nicole Short that this was a man
17 who was under the influence of drink or drugs?

18 A. I wasn't with him long enough to obviously make
19 a lengthy assessment. It was obviously something that
20 would go through my mind, he is potentially under the
21 influence of something, but the fact that spray didn't
22 work doesn't necessarily mean that. As well it could
23 just be that the person doesn't -- because, you know --
24 and there was one guy when I went to the college who
25 didn't actually have any effects by the spray, so it's

1 not -- it could have not had that effect because it
2 might just not have had any effects. All military
3 personnel I think train -- I don't think, I know, or
4 I have been made aware, that they train through the
5 effects of CS, so again, taking that into account you
6 have maybe potentially got somebody with military
7 experience, but again, I wasn't with him long enough to
8 establish that either.

9 Q. And when you talk about not being with him long enough
10 to carry out a lengthy assessment --

11 A. Yes.

12 Q. -- how long would you consider it necessary to spend
13 with someone to assess whether they were under the
14 influence?

15 A. I would need to kind of see them sort of walking about
16 normally rather than aggressively. I would need to try
17 and speak to them. You know, like, if someone is under
18 the influence of drink or drugs there's little giveaway
19 signs like slurring speech or being unsteady on their
20 feet, so that assessment, like -- because the incident
21 was happening so fast and I didn't have enough time --
22 I wasn't afforded the opportunity to speak to him
23 normally, you know, without his level of aggression,
24 I couldn't form an opinion.

25 Q. So did you see any signs that he may have been under the

1 influence of drink or drugs when you were with him?

2 A. Again, because it happened so quickly, like, I wouldn't
3 have been able to tell, and also I was at a distance as
4 well, so do you know like I'm not able to see close-up-
5 eyes and things like that because again, eyes -- your
6 know, your pupils can dilate and things.

7 Q. So you had some information from the Airwaves
8 transmissions about his behaviour --

9 A. Mm-hm.

10 Q. -- in advance of the police arriving, and you know that
11 you have tried to spray him twice and that's not had
12 a reaction, and he has not reacted, he has been quiet or
13 not been speaking to you. Did you consider at any point
14 that that may be a sort of red flag of someone in
15 a mental health crisis?

16 A. Yes, I mean the thought would have crossed my mind that
17 it would have been sort of an indicator that somebody is
18 maybe suffering from a mental health problem, but
19 I didn't solely hone in on that either because it would
20 then -- you know, you don't want to become blinkered to
21 potentially other reasons why he has maybe not reacted
22 to CS the way in which we would have expected.

23 Q. And having considered that as a possibility, that
24 someone was maybe under the influence or suffering from
25 a mental health crisis, at any stage, did you consider

1 treating it as a medical emergency and perhaps
2 requesting an ambulance?

3 A. I wasn't afforded enough time to do that and again, the
4 danger and risk that he posed to himself, Nicole -- or
5 PC Short, sorry, and myself was still such that I wasn't
6 afforded any time to get on the radio, or, you know, try
7 anything else.

8 Q. And you had had some training in these sorts of issues.
9 I think at paragraph 21 actually you mention training.
10 I think you say that none of your training had prepared
11 you to deal with someone who was likely suffering from
12 a combination of mental health crisis or acute
13 behavioural disorder and drug intoxication?

14 A. Yes, and I specifically kind of -- I was specifically
15 referring to this incident, so, like, what I mean by
16 that is you do training, you know, you do skills
17 training, so you do, like, your resuscitation, you do
18 your PAVA training, you do your baton training, you do
19 your handcuff training, they're all quite individual,
20 and what you don't train for is a scenario whereby you
21 turn up and a male is not responding to you, he is not
22 responding to TAC comms, he is not responding to CS.
23 You don't train in a scenario whereby a member of your
24 team is incapacitated or potentially worse, so this
25 situation -- training in large does prepare you to be

1 a police officer, but training can't prepare you for
2 a situation like this. There's a limitation to how
3 realistic training can be and none of our training
4 prepared us for a failure of repeated uses of tactical
5 options, such as communication, PAVA, baton, and also
6 the position that I was left in with reduced officer
7 support because at that point when Nicole was on the
8 floor, I was the only officer -- to my awareness, I was
9 the only officer left.

10 Q. Right. If you had had training in this type of
11 scenario, where someone is not engaging with you, would
12 you have found that to be of assistance?

13 A. It would more than likely be of assistance but again,
14 training's limited to a training scenario. You don't
15 train to injure officers. There's a limitation on the
16 level of resistance and force used. You would never
17 train to -- this is a dangerous situation and you
18 wouldn't train in dangerous conditions, if that makes
19 sense.

20 Q. So there's not -- it's not real life in the sense that
21 you're --

22 A. No.

23 Q. -- put at risk --

24 A. No.

25 Q. -- of serious injury?

1 A. No, you're never put at risk of serious injury or harm
2 in training.

3 Q. Would you have found it helpful to have some sort of
4 training in maybe situations such as this, more
5 realistic training?

6 A. I think the training has developed so it is a little bit
7 more scenario-based, but, yes, I think training to
8 include situations whereby officers become injured or
9 incapacitated would be obviously beneficial. I don't
10 think -- I don't know how obviously the syllabus for OST
11 works so I couldn't answer obviously what's on the
12 horizon for that.

13 Q. We will no doubt hear from others about that in due
14 course.

15 Is it fair to say that you would treat someone
16 differently if they were having a mental health crisis
17 than -- or suffering, or under the influence, rather
18 than someone who wasn't?

19 A. It's difficult to answer because, you know, I would
20 almost be sort of guessing, but if a person is
21 presenting you with a knife, you know, there's still
22 a need to control that person, regardless of whether or
23 not that person is intent on hurting you, or hurting
24 members of the public or suffering a mental health
25 crisis. You know, there's still a need to control that

1 situation, so no.

2 Q. All right. I would like to move on. You said at the
3 point you were using your baton, you weren't aware of
4 any other officers; what was the first moment you became
5 aware that there was another officer?

6 A. It was when I was -- basically when Mr Bayoh was facing
7 me with his fists like that.

8 Q. Is this before or after you have struck him?

9 A. So after I have struck him and he has turned around. At
10 this point I'm still under the impression and belief
11 that I'm the only officer left.

12 Q. And that's after you have struck him to the head area?

13 A. Yes.

14 Q. Before you struck him to the arm area?

15 A. So -- sorry, I struck him to the head and then he has
16 turned to me like that (indicating) and I have struck
17 him to the arms and that's when I was aware then
18 obviously another officer was there because, like, the
19 point at which he has faced me and had his arms raised,
20 like, in my mind I thought, for want of a better phrase,
21 "Fucking hell, this is like -- this is it". And the
22 next thing I remember is PC Walker coming into my view
23 from my left and I don't know how to describe it other
24 than, like, some sort of, like, bear hug, like wrestle
25 thing, to basically knock Mr Bayoh off-balance and take

1 him to the floor, but that was moving, so it wasn't
2 like -- it wasn't a come in and we go to the floor right
3 where we stood, it was quite dynamic, so it felt like it
4 travelled some distance from where Nicole was.

5 Q. Right, I'm going to ask you to look at an image again.
6 I think we will use a different image this time.

7 Now, let's select that image. It may be that image
8 6 is a useful image. This is the one which was more of
9 an aerial shot of Hayfield Road, but if not, there are
10 others. I think I have accidently left my hard copy of
11 my images on my desk, so what we will do is if we can
12 scroll through, please, and if you stop that for
13 a second. Yes, so if we could -- do you see the image
14 on the far left-hand side, second row of images, so
15 image -- if you were counting from the left, image 3?

16 (Pause).

17 So if we're counting from the top left, image 3. Go
18 back one, please. And could you go forward two, please,
19 and carry on, and I will tell you when to stop, please.
20 Right. Stop, please, at image number 8. Sorry about
21 that.

22 So this is an aerial image of Hayfield Road and the
23 vehicles, other than the row of vehicles on the south of
24 Hayfield Road have been removed. So it may be better if
25 we can find one -- a similar one where the vehicles are

1 in position.

2 I think what we will do is actually wait until my
3 copy comes, it is on its way, and I will just move on to
4 something else at the moment.

5 Right, you have talked about PC Walker.

6 A. Yes.

7 Q. And you have described a bear hug, so could you tell us
8 a little bit more in terms of the description of what
9 his contact with Mr Bayoh was.

10 A. So if I was obviously facing Mr Bayoh, what would have
11 been available to -- the view that would have been
12 closest to PC Walker would have been Mr Bayoh's right
13 side because he was obviously facing back, kind of in
14 a north-ward direction.

15 Q. You told us earlier that he was facing to the right,
16 down Hayfield Road?

17 A. Yes, but when he has turned like that (indicating), he
18 has turned as well to where I was standing.

19 Q. Was that back towards the tree-lined area of --

20 A. Yes, so, like, I was facing the houses and he was facing
21 the tree line -- when I say "he", sorry, Mr Bayoh was
22 facing the tree line and the contact that PC Walker that
23 I seen was that he came -- I just remember him appearing
24 out of nowhere from my left-hand side and what I would
25 describe as a bear hug is probably just my best attempt

1 at trying to verbalise what I seen. It was kind of like
2 a grab or something like that, it appeared to be a grab,
3 but something that would cause Mr Bayoh to be
4 off-balance and push him from where he was standing and
5 cause like a stumbling sort of motion basically along
6 the road, further away from where Nicole was lying.

7 Q. Where was PC Short at that time?

8 A. She was still lying on the floor and I hadn't seen her
9 move.

10 Q. Right. And he came from your left?

11 A. Yes.

12 Q. So as you're describing, that would have been the area
13 where the police vans were parked?

14 A. Yes, so I don't know what area specifically, but
15 somewhere from that general area of the big 19 van or
16 the fish van. He just seemed to appear for me out of
17 nowhere, because I remember the instant feeling of
18 "You've just saved my life".

19 Q. And when you describe them falling to the ground -- oh,
20 thank you very much.

21 When you describe them falling to the ground, do you
22 remember where they fell?

23 A. It was near the kerb-line on the -- if you look at the
24 picture it would be the south side, so what appears to
25 be closest to the bottom of the screen, but I don't

1 remember ever being on the kerb-line, like, there wasn't
2 a difference in height, if that makes sense.

3 Q. Well, what I'm going to do is ask you to look at image
4 15, please. So this is a scene of Hayfield Road. Can
5 you indicate on this image where you think Nicole Short
6 was. We will clear those from the previous picture.
7 And you have said that Mr Bayoh was facing you, you were
8 standing with your back to the tree area?

9 A. Yes.

10 Q. And he would have been -- as we look at this screen --
11 on the left?

12 A. So, yes, he would have been just to, like, the left of
13 where the 1 is.

14 Q. And your recollection is that Nicole Short was still
15 flat on the ground at that time?

16 A. Yes.

17 Q. And PC Walker came from your left?

18 A. Yes.

19 Q. And tell us where they landed on the ground?

20 A. I can't remember exactly, but I know I don't remember
21 cars, so the only area it could have been was in and
22 around there. As I say, I don't know if they reached as
23 far as the kerb-line because obviously with the road and
24 the kerb there's a difference in height as you would
25 step off the kerb onto the road, or off the road onto

1 the kerb. I don't remember that being the case, I just
2 remember it being flat.

3 Q. We have heard that the pavement was quite low, the kerb
4 was quite low near to the ground.

5 A. Okay.

6 Q. You have said you don't remember cars. We're looking
7 there at a row of cars. The one closest opposite
8 number 1 is a sort of silvery grey colour. You say you
9 don't remember that being anywhere near where you were?

10 A. No, which then makes sense as to where number 2 is
11 placed -- because if he had gone anywhere else we would
12 have ended up, like, hitting a car.

13 Q. So do you think number 1 is maybe in the wrong position?
14 Feel free to adjust it.

15 A. It's a little bit more difficult because the vans aren't
16 in position.

17 Q. Let's move those circles, away, and if you wish to
18 replace number 1 where Nicole Short was. So maybe
19 closer to the island in the road than you had
20 previously?

21 A. Yeah. I just -- I can't remember any cars, like I don't
22 remember ever seeing any like cars on the roadway.
23 I don't know if I would have paid attention to the grey
24 car because it's not on the roadway, but -- aye.

25 Q. But you don't remember any cars --

- 1 A. No.
- 2 Q. -- being on that side of the road?
- 3 A. No.
- 4 Q. So we now have position 1, that's where you have now
5 positioned Nicole Short?
- 6 A. Yeah.
- 7 Q. And you have described you and Mr Bayoh -- as we look at
8 this you would have been on the left of that red circle
9 number 1.
- 10 A. Yeah, aye, I would have been slightly to the left of it,
11 yes.
- 12 Q. Just as we look at this screen?
- 13 A. Yes.
- 14 Q. And number 2, that's where you think that PC Walker and
15 Sheku Bayoh landed on the ground?
- 16 A. I couldn't say exactly, but that generally I think would
17 be the general area. Like I say, I can't remember there
18 being a height difference between the roadway and the
19 pavement.
- 20 Q. We can fine-tune this later?
- 21 A. Okay.
- 22 Q. When PC Walker did the bear hugging and landed with
23 Sheku Bayoh, how did they land?
- 24 A. Just in a heap. Like, Mr Bayoh was obviously still
25 struggling so, like, there was no set, like, position,

1 if that -- it was kind of like a struggle basically and
2 body positions were changing all the time, so, like,
3 I couldn't like -- I don't know how to describe sort of
4 how they landed but they both obviously landed on the
5 floor.

6 Q. Who was on top?

7 A. I don't think anybody. I don't know. I don't know.
8 I couldn't say -- without guessing, I couldn't say.

9 Q. Where was PC Short at this time?

10 A. Still lying in the roadway.

11 Q. How had PC Walker avoided PC Short?

12 A. I don't know.

13 Q. When you were standing with Mr Bayoh, how far were you
14 from PC Short?

15 A. Probably within about 10 feet, something like that, 10
16 to 15 feet something. Again, I would have been
17 positioned kind of at the kerb line or just on the
18 roadway and from my memory I think they were in the
19 middle of the road, so I would have been like the width
20 of a carriageway -- width of one of the lanes on the
21 roadway.

22 Q. Could you point to where you're describing. Right.

23 How did Mr Bayoh get from being over Nicole Short
24 and stamping on her to that distance away from her?

25 A. Because when Craig has -- when PC Walker's came in from

1 the side -- so Mr Bayoh was actually to the left of
2 PC Short anyway, so any push of Mr Bayoh wouldn't have
3 caused him to trip over her body, it would have actually
4 sent him further away from PC Short. I don't know how
5 PC Walker got over PC Short, I can't remember that.

6 Q. Thank you. So when PC Walker made contact with Mr Bayoh
7 in the bear hug, how far was Mr Bayoh from PC Short at
8 that moment?

9 A. Just a couple of feet, because his position -- when he
10 turned to me, it was, again, like a pivot.

11 Q. Mr Bayoh turned to you?

12 A. So when he has turned to me and done that (indicating),
13 like, his position would still have been very, very
14 close to PC Short, so he can't have been anything more
15 than a couple of feet away, certainly within the
16 distance -- it would have been the length of when you
17 stand up to do a stomp, that sort of distance, so the
18 length of like -- I don't know, maybe an arm, if that,
19 because he still was in range to continue stamping.

20 Q. Can you point out on this image what direction PC Walker
21 came from?

22 A. Yes.

23 Q. We will maybe use a line, an arrow. I wonder if you can
24 explain then again how PC Walker avoided PC Short if she
25 is lying on the ground in the red circle, number 1.

1 A. I don't know. I wasn't -- all I have seen -- I was
2 focused on Mr Bayoh, so, like, my attention wasn't on
3 PC Walker and it only became on PC Walker when, like,
4 I'm aware that he is now like bear hugging Mr Bayoh and
5 the two of them are travelling across, like, the rest of
6 the road, so I don't know how he has managed to get
7 over -- I don't know if he has stood on her, I don't
8 know, I don't know what he has done.

9 Q. But that's not something you have a recollection of?

10 A. No. I wouldn't have thought he would have stood on her
11 because -- well, he would have fallen over her, you
12 know.

13 Q. All right, but you didn't see what he did and you
14 don't -- you can't comment on that --

15 A. I can't, no, no, I can't.

16 Q. -- from your recollection. And you have placed the red
17 circle at number 2. That's where they fell to the
18 ground.

19 A. Mm-hm.

20 Q. Now, can you -- you have said that initially you
21 couldn't -- you can't describe their positions, but
22 could you tell us which direction Mr Bayoh was lying in
23 on the ground?

24 A. Yes, so you see where you've got number 2, and you've
25 got the green hedge directly below it so --

- 1 Q. Do you want to point to that?
- 2 A. Yes, sorry.
- 3 Q. We will maybe have a red circle. There you go.
- 4 A. There we go.
- 5 Q. That's a hedge --
- 6 A. Yes, that's the hedge, so Mr Bayoh's head would have
- 7 been facing towards the hedge direction.
- 8 Q. Right, so that's the south of Hayfield Road?
- 9 A. Yes, to the south.
- 10 Q. And which direction were his legs in?
- 11 A. So pointing back, towards, like the tree line, or the
- 12 north.
- 13 Q. Towards the island and then the trees on the other side?
- 14 A. Yes, I don't necessarily know if they were pointing
- 15 directly at the island, but in that general direction.
- 16 Q. That general -- right. And was he lying completely on
- 17 the pavement, or straddling the pavement and the road?
- 18 A. I don't know. I -- all I remember is it was flat so
- 19 I don't know if there's any dips in the kerb, or whether
- 20 or not he was totally on the road, I don't know, but
- 21 I just know there wasn't, like, a difference in height.
- 22 Q. Where was PC Walker? What position was he lying in on
- 23 the ground?
- 24 A. I don't know if he was lying, but PC Walker had taken up
- 25 trying to control Mr Bayoh. I'm assuming it's his hands

1 or his upper body, I don't know, but that, like, it was
2 towards like the upper part of his kind of -- his
3 figure.

4 Q. Would it be easier if you demonstrated to us the
5 position?

6 A. I couldn't -- like, I couldn't specifically say what
7 position, other than just to say --

8 Q. Right.

9 A. So you have seen for yourself obviously PC Walker is
10 quite a large officer.

11 Q. We have heard he was 6 foot 4 and 25 stone.

12 A. So when I have arrived at the point at which the
13 restraint is taking place, I have largely just seen
14 PC Walker's back, and like, the reverse of his body
15 armour.

16 Q. You mean the back of the vest?

17 A. The back of the vest, yes. So I couldn't say what arm
18 or what area, you know, PC Walker took up that restraint
19 because my view was actually blocked by his back, so
20 I couldn't, like, I couldn't see that.

21 Q. So you couldn't see Mr Bayoh under him at that point?

22 A. No, I don't think Mr Bayoh was under him, but certainly,
23 like, my view of, like, Mr Bayoh's upper part of his
24 body was obstructed by PC Walker, so I couldn't see --
25 I couldn't see kind of around that, if it that makes

- 1 sense.
- 2 Q. I see. So you could see the back of PC Walker, but you
3 couldn't see Mr Bayoh?
- 4 A. No.
- 5 Q. So you couldn't say what position --
- 6 A. Well, I could see his legs, aye, but I couldn't see, as
7 I said, the upper portion of Mr Bayoh.
- 8 Q. When you could see his legs, Mr Bayoh's legs, where were
9 they in relation to PC Walker?
- 10 A. So they would have been on PC Walker's right-hand side.
- 11 Q. Right. So how was PC Walker -- how was he positioned
12 when you saw his back?
- 13 A. It would have been -- I think it's maybe just easier if
14 I try and -- it's maybe not as accurate but, aye, I can
15 try and demonstrate it.
- 16 Q. Thank you, that would be good.
- 17 A. It's probably easier than trying to do it in words.
- 18 Q. So again remember that the audio won't catch up things
19 that you say, so I would like first of all for to you
20 demonstrate how -- demonstrate PC Walker and his
21 position first please.
- 22 A. You imagine I'm stood kind of here (inaudible - too far
23 from microphone) my viewpoint, so all I can see is that
24 portion (indicating).
- 25 Q. Right.

- 1 A. (Inaudible - too far from microphone) portion of his
2 back.
- 3 Q. Thank you. Can you show us what you could see of
4 Sheku Bayoh's position.
- 5 A. Ignore this part of my body. I'm lying down (inaudible
6 - too far from microphone) so what I could see is this
7 (indicating), so ignore all the left part of my body.
- 8 Q. Right.
- 9 LORD BRACADALE: Ms Grahame, could you describe --
- 10 MS GRAHAME: I will. I'm taking notes.
- 11 So as you're lying there, we have to ignore the
12 left-hand side of your body?
- 13 A. Yes. All I can see is basically Mr Bayoh's right hand
14 like that (indicating).
- 15 Q. And you have your right hand on the ground and your
16 right elbow bent?
- 17 A. Yes, but I don't know (Inaudible - too far from
18 microphone) elbow is bent so like that (indicating).
- 19 Q. Yes. And you have your legs -- you are lying on your
20 left-hand side and your right leg is in front.
- 21 A. (Inaudible overspeaking) basically kicking out like that
22 (indicating) if that makes sense so it wouldn't have
23 been just a stable position like this.
- 24 Q. Right, so the legs are moving backwards and forwards.
25 And when you were demonstrating PC Walker's position you

- 1 were actually on your knees with your hands down?
- 2 A. Yes, because the only part of PC Walker I could see was,
3 as I said, like the back of his body armour. I couldn't
4 see any other part of him. I just remember (inaudible -
5 too far from microphone).
- 6 Q. Yes, come back and we will get you in front of the
7 microphone, but with PC Walker you -- the position you
8 were demonstrating was you were on your knees, your
9 hands were down on the ground, leaning over, and you
10 gestured, when you were on your knees, to the back of
11 the vest --
- 12 A. Yes.
- 13 Q. -- that you could see and that was PC Walker's vest.
- 14 A. Basically I don't know -- as I say, I can't comment on
15 where PC Walker's hands, or like knees or anything were,
16 but from what I can see is this portion of the vest --
- 17 Q. The back of the vest?
- 18 A. The back of the vest, aye.
- 19 Q. Could you see his legs?
- 20 A. No.
- 21 Q. How did you know he was on his knees?
- 22 A. If I can't see his legs then he wouldn't -- like so if
23 he was lying down, I would expect to see legs.
- 24 Q. Could you see his feet?
- 25 A. Not that I could -- again, if they were tucked under him

- 1 I wouldn't see them.
- 2 Q. Okay, so it really was the back of his vest that your
3 attention was drawn to?
- 4 A. My attention is drawn to that, aye, and I can't see
5 through it.
- 6 Q. All right. And you have described this as a dynamic
7 movement, they're on the ground --
- 8 A. Yes.
- 9 Q. -- there continues to be movement, you've described.
10 Tell us what you saw -- how long you watched that.
- 11 A. I was already making my way from -- as soon as I had
12 seen basically Craig come in and move Mr Bayoh with his
13 bear hug, I had already started making my way towards
14 where they were going to land, so that's -- I've
15 basically kind of almost followed them, so I've been
16 maybe a second or two behind from where I was, like it's
17 taken me that amount of time to get over to kind of
18 their position.
- 19 Q. And what did you do?
- 20 A. So my fear was that the legs -- Mr Bayoh's legs would
21 have came up and been used as leverage to get up off the
22 floor again, so what I've done when I've gone over is
23 I've used my baton to deliver I think two or three
24 strikes to the Achilles area, so the heel area, with the
25 intention that that might elicit some sort of pain

1 compliance and what I mean by that is to get a person to
2 comply to instruction through the use of pain and that
3 is a technique -- pain compliance is a technique that's
4 taught in OST, so that was -- you know, I'm working
5 through my NDM again to assess the risk of if Mr Bayoh
6 gets up, it's significant, again a risk to us and again
7 with reduced numbers we were trying to bring him under
8 control.

9 After I've delivered those strikes, they have not
10 been effective, so I changed my kind of approach.

11 Q. Right. Let me take you through that again. You have
12 used your baton two or three times to the Achilles area.

13 A. Yes.

14 Q. Is that the Achilles tendon on both legs?

15 A. I don't know which -- I don't know if it would have been
16 on both legs or what, but I went for the Achilles
17 because having hit that area myself I know it's quite
18 painful and if a person was to then obviously have
19 a strike delivered to that area and stand up again, it
20 would maybe prevent them from running around so fast, or
21 prevent them from stomping with as much force.

22 Q. And did you get any reaction to that?

23 A. No.

24 Q. So you were at Mr Bayoh's feet at that moment?

25 A. Yes.

- 1 Q. And was PC Walker towards the upper half of Mr Bayoh's
2 body?
- 3 A. Yes.
- 4 Q. Could you demonstrate the force you used for the strikes
5 to the Achilles area using the baton? Have you still
6 got that?
- 7 A. I've got that, aye.
- 8 Q. Thanks. So if you want to come out and ... if you can
9 demonstrate how it was that you struck with the baton to
10 the Achilles?
- 11 A. Like that (indicating).
- 12 Q. And as you're doing that you're crouching -- you're not
13 kneeling but you're crouching down --
- 14 A. No because, if I was crouching I wouldn't have like, I
15 wouldn't have any movement really in my arm.
- 16 Q. So your right knee is not on the ground but you're
17 crouching?
- 18 A. No (inaudible - too far from microphone) to try and get
19 some sort of response.
- 20 Q. And that looks like less force than --
- 21 A. Yeah. I wouldn't have used a lot of force for that.
- 22 Q. And that was to Mr Bayoh's leg area -- Achilles area?
- 23 A. So this area (indicating).
- 24 Q. Thank you, if you want to come back to the microphone.
25 Was anyone else there at that moment in time? You

1 have talked about PC Walker and his position.

2 A. Yes.

3 Q. You have talked about yourself and what you were doing.

4 A. Yes.

5 Q. Anyone else there at that moment?

6 A. I don't remember anyone else being there. I just
7 remember it being me and Craig.

8 Q. And after you struck with your baton to the Achilles
9 area and there wasn't a reaction, what did you do then?

10 A. I basically -- from that position I just -- I think
11 I either dropped or just threw my baton to one side. As
12 an option it wasn't just -- it didn't seem to be having
13 any effect and what I did was I took up a position
14 whereby I was straddling Mr Bayoh's legs, so if you
15 imagine mounting a horse and Mr Bayoh's legs being the
16 horse, so I would use my knees to balance on the road,
17 so his legs would have been running under my bum and
18 from there I basically remained kneeling on the roadway
19 and tried to -- because, as I have described it,
20 Mr Bayoh obviously had his right-hand like that
21 (indicating), so I have tried to at that point apply
22 a single cuff, so a single handcuff, and again that's
23 a technique used because, as I mentioned earlier, my
24 preference would always be in relation to males -- or
25 anybody, males/females, in possession of a knife or

1 a weapon, would be to cuff to the rear, so from that
2 position I could get my hand and effectively use my left
3 hand to control the wrist and my right hand to reach
4 around, get my cuffs and apply, so apply a single cuff
5 to Mr Bayoh's wrist. That was basically my attention.

6 As I'm kneeling, I have grabbed control of the wrist
7 and I have gone in like that (indicating), but as I'm
8 trying to do that Mr Bayoh was basically pulling his
9 hand forward or lifting up. Whatever he was doing with
10 his hand, it was dragging me towards him, like further
11 in towards like his arm, so I just -- I was thinking
12 I need to get the cuff on and as I've gone to get my
13 cuff he's flicked his legs so it's been a judd(?) to me,
14 which has caused me to lose control of my cuffs and
15 they've bounced out of my reach. At which point
16 I thought "This is like" -- I now don't have my
17 handcuffs so I moved from a position where I was
18 straddling with Mr Bayoh's legs between my legs and
19 under my bum, I basically then moved to a lying position
20 across diagonally which -- it is probably easier if
21 I again demonstrate probably both moves.

22 Q. Yes, I'm going to take you through all of this if I can
23 and then I will get you to demonstrate all of this
24 again.

25 So you have not got the reaction you wanted to the

- 1 baton to the Achilles?
- 2 A. No.
- 3 Q. You're then on top of Mr Bayoh's legs.
- 4 A. So his legs --
- 5 Q. Straddling them?
- 6 A. Straddling them. So my weight would have been primarily
- 7 on my knees, which were on the roadway, and then his
- 8 legs under me, so between my legs.
- 9 Q. So he is under you with both legs between your legs?
- 10 A. Yes.
- 11 Q. And you're putting your weight on your knees at that
- 12 point?
- 13 A. Yes, because that's the most stable surface.
- 14 Q. The ground is the most --
- 15 A. The ground is the most stable surface, aye.
- 16 Q. Is he still struggling at that point?
- 17 A. Yeah.
- 18 Q. So his legs are moving, but are you maintaining your
- 19 position at that stage?
- 20 A. Yeah, for a very short time I maintained that position.
- 21 Q. And then you have described Mr Bayoh's right wrist or
- 22 hand being on the ground and you were trying to secure
- 23 that with a view to applying a handcuff, a single cuff.
- 24 A. Yeah.
- 25 Q. But you weren't able to secure that and the cuffs

1 bounced away.

2 A. Yes. Basically Mr Bayoh flicked his legs, or did
3 something with his legs that caused me to lose balance
4 and I lost the grip on my handcuffs, but the way they
5 fell meant that they bounced, so then I couldn't -- they
6 were too far for me to reach, or I was scared that if
7 I got off to try and collect them that we would have
8 lost total control.

9 Q. Right. So when he moved his legs, that caused you to
10 move your body as well?

11 A. Aye. Again, I reassessed -- based upon now the fact
12 that I don't have my handcuffs, the only option I had
13 left was obviously my leg restraints, but that's
14 a two-person technique and I would need someone else to
15 help me with that so ...

16 Q. And when you moved, because he had moved his legs, did
17 your knees come off the ground or did one come off the
18 ground?

19 A. It was kind of like a motion that -- if you imagine
20 somebody vaulting a fence, so what I've done is I've
21 basically used my hand to basically support myself on
22 the roadway and then I've basically flicked what would
23 effectively be my right leg from under me and across,
24 and then taken a position -- so instead of Mr Bayoh's
25 legs being under my legs and through under my bum, his

- 1 legs would now be under here (indicating).
- 2 Q. I think I will ask you to demonstrate that now, if you
3 don't mind.
- 4 A. Yes. Do you want me to demonstrate how I was originally
5 and then into --
- 6 Q. Yes, please. So if you could demonstrate how you were
7 originally please, so you're kneeling down and you're --
- 8 A. The difference being obviously I've got my police boots
9 on as opposed to a pair of brogues, but (indicating)
10 considering it's impossible for me to go down any more
11 than that so my weight is on my knees. His legs through
12 there and as we've seen in the presentation, his wrist
13 like that, that's an opportunity for me to try and gain
14 control so I've locked on.
- 15 Q. And you're using your left hand --
- 16 A. So that would be -- so like that (indicating).
- 17 Q. Right, so you're now gesturing with your right hand, as
18 if that was Mr Bayoh's hand, and you're using your left
19 hand to wrap it round the wrist.
- 20 A. Yes, pulling it back basically so I could reach
21 around -- my handcuffs are positioned here (indicating),
22 so my view was to go like that (indicating), handcuffs
23 around and (inaudible - too far from microphone).
- 24 Q. And that would have brought his right arm round his back
25 so you could have then gained some control.

- 1 A. Some control. We would then have needed obviously to
2 gain control of the other arm which (inaudible - too far
3 from microphone).
- 4 Q. So PC Walker was in front of you at that point, still
5 over Sheku Bayoh?
- 6 A. He can't have been over Sheku, Mr Bayoh, if I had been
7 able to like get the wrist, like, he must have been at
8 the side because I had a clear opportunity to secure the
9 wrist and pull in, so he must have been towards the side
10 but in a position whereby I could see his back.
- 11 Q. Right. I will need you to come back and say that again
12 into the microphone, sorry, because it doesn't pick up
13 what you're saying. So you have demonstrated how you
14 were straddling Mr Bayoh's legs.
- 15 A. Yes.
- 16 Q. Which part of his legs were under your bum?
- 17 A. So it would have been -- I don't know. It would have
18 been the middle portion of his legs but I don't know if
19 it was the thigh, the knee or, like, the calf.
- 20 Q. So when you say the middle part of his legs, what are
21 you meaning?
- 22 A. So like, if you were to look at a person, like, that
23 middle section where the knees are so what would have
24 been under me would have been sort of knees.
- 25 Q. So his knees would have been under your bottom?

- 1 A. I think so. That's the -- that would give me enough
2 reach at least mechanically to allow me to try and cuff
3 the wrist.
- 4 Q. And you have described PC Walker; what was PC Walker
5 doing?
- 6 A. So -- I don't know what PC Walker was doing. He was
7 trying to obviously gain control. From his position
8 I can assume only that he was trying to gain control of
9 his left arm because I could quite clearly see
10 Mr Bayoh's right arm and that's how I was able to have
11 an opportunity to take a hold and secure the rest, so
12 from his position, like, I can only assume that he was
13 trying to gain control of his left arm but, as I say, my
14 view of that was blocked because all I could see was the
15 back of PC Walker's vest.
- 16 Q. Could you see where PC Walker's hands were or arms?
- 17 A. No.
- 18 Q. No. Could you see Mr Bayoh's left arm?
- 19 A. No, because it was blocked by the back of -- well, by
20 PC Walker.
- 21 Q. Could you see PC Walker's legs?
- 22 A. No.
- 23 Q. Did you have any sense of where PC Walker's legs were?
- 24 A. No, they can't, like, they can't have been in my way
25 because I was able to basically rest at the side of

1 Mr Bayoh's legs with my knees, so, like, I don't know
2 where they would have been, but they must have been
3 tucked out of my way because, like, I didn't ever
4 interfere with his legs, I didn't get unbalanced by
5 PC Walker's legs, like, I didn't see them sticking out
6 or flailing about.

7 Q. And PC Walker's legs weren't under your -- between your
8 legs?

9 A. No, no, they wouldn't have been -- there wouldn't have
10 been enough space for three legs to get under.

11 Q. And then you described moving your position which was
12 from straddling --

13 A. Yes.

14 Q. -- Mr Bayoh's legs, and you talked about lying
15 diagonally.

16 A. Yes.

17 Q. So can you tell us about that -- and if it is easier to
18 demonstrate that position, please --

19 A. Aye, I think it's probably easier to demonstrate and
20 then I can always speak through it.

21 Q. And then we can come back and get the description.

22 Thank you. Please come back.

23 A. So from this position (inaudible - too far from
24 microphone) so what I've done is I've basically used
25 this part of my arm (inaudible - too far from

- 1 microphone) support me.
- 2 Q. Right, let me just describe that in the microphones, so
3 you're sitting in the position you described as
4 straddling Mr Bayoh's legs, you previously spoke about
5 being unbalanced and you're using your right hand?
- 6 A. (Inaudible overspeaking) --
- 7 Q. And you have put your palm flat on the ground, and you
8 have described -- you have gestured to the forearm area
9 using to regain your balance.
- 10 A. (Inaudible - too far from microphone) what I've done is
11 I've done this (indicating) (inaudible - too far from
12 microphone).
- 13 Q. Right, so let me just try and describe that. So you
14 have moved quickly, using your right arm on the ground
15 from the palm to the elbow, and you have effectively
16 very quickly moved your legs, both of your legs to your
17 side, the left side, and Mr Bayoh's legs are now between
18 your right arm and your torso?
- 19 A. Basically (inaudible - too far from microphone).
- 20 Q. Right, and you're basically lying -- when you say
21 "diagonally", you're lying across both of Mr Bayoh's
22 legs?
- 23 A. Yes.
- 24 Q. And they're underneath the area of your right armpit
25 really.

1 A. Yeah.

2 Q. Right. Thank you. If you could come back to the
3 microphone.

4 So you have moved from that straddling position to
5 the diagonal across his legs.

6 A. Yes.

7 Q. Where was PC Walker?

8 A. Still in the same kind of position.

9 Q. Is Mr Bayoh still struggling?

10 A. Yes.

11 Q. Were you aware of how PC Walker was getting on? Was he
12 still -- you have suggested he was trying to secure
13 Mr Bayoh's left arm?

14 A. That's only what I could assume from his position.

15 Q. Where was Mr Bayoh's right arm at this point?

16 A. It was still like that (indicating), like he was still
17 able to move himself around and like that, because at
18 this point I'm now not in a position to take a hold of
19 any arms, because as I'm on the floor like that, I would
20 use, kind of, another hand to stabilise myself but it's
21 at this point I have pressed my emergency button so
22 before I have gone into this kind of like press to stop
23 myself falling face-first on the concrete I have managed
24 to press my emergency button and try and shout "We're
25 struggling to control, we need more units".

1 Q. Right. Well, let's just look at this, again, then,
2 please. So if we could go back to the evidence video
3 timeline and we will play 7.20.30 or thereabouts to
4 7.20.42, or thereabouts. So start with 7.20.30. This
5 is on page 3 of the spreadsheet, if you wanted to follow
6 that. So the real time is at 7.20.29 and if we carry on
7 and play that to just after 7.20.42.

8 You can watch the CCTV. This is -- you have told us
9 that's your van arriving.

10 (Video played)

11 Thank you. So that's just gone a second beyond
12 42 seconds. You will see on the spreadsheet it says
13 "PC Paton's emergency status is turned on", 7.20.42, and
14 then we will carry on playing until just after 7.21.21.

15 (Video played)

16 Can you just play that just for another second or --
17 thanks.

18 (Video played)

19 And could you perhaps rewind that and just play it
20 until the end of -- thank you, that will be fine, just
21 play from ...

22 (Video played)

23 Thank you. So you will see on the footage there
24 that an emergency status red button has appeared and it
25 says "Tomlinson", and you will see on the page 4 of the

1 spreadsheet that it says it is 7.21.19,
2 "PC Ashley Tomlinson's emergency status is turned to
3 on."

4 And would that be when you have turned on your
5 emergency status button?

6 A. Yes.

7 Q. Right. And did you have the chance to watch the CCTV
8 during those -- I played it twice, the footage, or were
9 you looking at the spreadsheet?

10 A. I was probably more looking at the spreadsheet than
11 the ...

12 MS GRAHAME: Okay. Well, I would quite like to go back over
13 the footage and I will maybe talk you through that as we
14 go, so if we could go back to 7.20.39, so this is --

15 LORD BRACADALE: Ms Grahame, I'm just looking at the time.
16 This could perhaps take a little time and I'm wondering,
17 this might be a convenient time to stop now.

18 MS GRAHAME: Yes, I'm very happy to do that.

19 LORD BRACADALE: I think we will stop now and we will start
20 again at 10 o'clock tomorrow morning, so back to normal
21 time tomorrow. 10.00 am. Thank you.

22 (4.56 pm)

23 (The Inquiry adjourned until 10.00 am on
24 Thursday, 26 May 2022)

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