

Transcript of the Sheku Bayoh Inquiry

Friday, 27 May 2022

(9.59 am)

LORD BRACADALE: Good morning. Now, Ms Grahame, today's witness is Alan Smith, is that right?

MS GRAHAME: Yes, that's correct.

LORD BRACADALE: Good morning, Constable Smith.

THE WITNESS: Good morning, sir.

LORD BRACADALE: Would you raise your hand and say the words of the oath please.

PC ALAN SMITH (sworn)

LORD BRACADALE: Ms Grahame.

Questions from MS GRAHAME

MS GRAHAME: Thank you.

Good morning, PC Smith. Your full name is

Alan Smith, is that right?

A. Yes.

Q. And what age are you?

A. 45.

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

A. 17.

Q. And we have all your contact details in the Inquiry so I won't be asking you to say those at the outset.

First of all, I understand you have watched some of our proceedings on the channel, so you will understand that I would like to make sure, first of all, that you

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1 have everything that you need and you should see a black
2 folder in front of you on the desk.

3 A. Yes.

4 Q. Do you want to have a look inside that. Now, you may be
5 aware that if I want to refer you to a statement it
6 will -- the paragraph will come up on the screen in
7 front of you, but as well as that you've got hard copies
8 of any statements that you have given and you can refer
9 to them at any time that you wish to do so.

10 Let me have, first of all, the PIRC statement 278,
11 and you will see this coming up on the screen, and you
12 will see it is dated 11 June 2015 at 7.20 in the morning
13 and it was taken by Investigator James Bonner at
14 Kirkcaldy Police Office, in the presence of Investigator
15 John Ferguson. Do you see that?

16 A. Yes.

17 Q. Do you remember giving that statement?

18 A. Yes, I do.

19 Q. Right. Were you doing your best at that time to give
20 a true and accurate record of what had happened on
21 3 May 2015?

22 A. Yes, I was.

23 Q. Thanks. And as part of that, will you also look at
24 another document, COPFS on 05962, and this should be
25 a satellite image of an area of Kirkcaldy, a satellite

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1 view of Hayfield Road and Hendry Road. You will see
2 that on the screen now.

3 A. Yes.

4 Q. And then the next page is a map of the area which has
5 your name on it in the bottom left and it's dated the
6 same day as your PIRC statement, 11 June 2015.

7 A. Yes.

8 Q. And that was prepared by you when you gave your PIRC
9 statement, is that right?

10 A. I can't recall preparing that to be honest, but I'm sure
11 it would be.

12 Q. All right, thank you. Well, we will be moving on from
13 that anyway.

14 Then in addition to the PIRC statement, you have
15 also prepared a statement which you have sent in to the
16 Inquiry team and we would like that on the screen
17 please, SBPI42, and this is your statement -- do you see
18 that one?

19 A. Yes, I do.

20 Q. And can we look at the final page. And as Ms Drury is
21 getting that I will just explain you were sent nearly
22 100 questions by the Inquiry team and it is formally
23 called a Rule 8 request, and you then responded to all
24 of those questions and you prepared a statement assisted
25 by your solicitors and then you sent it into the Inquiry

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1 team.

2 A. That's correct.

3 Q. And do we see on the final page of your statement
4 there's a paragraph we asked you to include which says:

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

9 Do you see that?

10 A. That's correct, yes.

11 Q. And then further down, if we can, we should see an area
12 dated 13 April this year and although it is redacted on
13 the screen, the copy you have you had actually signed
14 that.

15 A. Yes, I have.

16 Q. That's great. Thank you very much. And again you were
17 doing your best to give a true and complete record of
18 what happened on 3 May 2015?

19 A. That's correct.

20 Q. Well, you've got both of those statements in front of
21 you and if you want to refer to any passages, just let
22 me know, and we will make sure we can get them up on the
23 screen as well. All right?

24 A. Yes.

25 Q. In addition, you will see to your left a spreadsheet and

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1 it's a combined audio and video timeline. I don't know
2 if you have had sight of this previously, or you may
3 have seen me refer to it in other parts of the hearing.
4 You will see on the far left there's a column that gives
5 timings and it is -- you will see on page 1 that it's
6 070920, for example, in the top left-hand corner.

7 A. Yes.

8 Q. And that means it's 9 minutes past 7 in the morning and
9 20 seconds past that minute and it's in the 24-hour
10 clock.

11 Then you will see that there are -- just to left of
12 centre there are timings and mention of Airwaves
13 transmissions by officers and a description of what the
14 Airwaves transmission was, what was said on that
15 transmission. Do you see that?

16 A. Yes, I do.

17 Q. And then to the right of centre it says:

18 "Description of visible events in the video."

19 And that's a sort of thumbnail sketch of what we may
20 see in the CCTV footage. Have you seen the footage on
21 the screen when you have watched it before?

22 A. Yes, some of it.

23 Q. So that is a short -- a very short description of what
24 can be seen. And then on the far right it indicates the
25 source of that footage and if you have seen it on the

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1 screen you will see that there's different windowpanes,
2 if you like, showing different pieces of footage, all
3 combined, cross-checked with a real time clock. All
4 right? Great. So you can also refer to the spreadsheet
5 when we look at the footage. So normally I will bring
6 the footage up, play it maybe once or twice if you would
7 like me to, and you can also refer to the spreadsheet if
8 you wish.

9 A. Okay.

10 Q. Great. Right. When Mr Jackson, your QC, gave an
11 opening statement he explained that you are a qualified
12 officer safety trainer.

13 A. That's correct.

14 Q. And that you went to Hayfield Road with
15 PC Kayleigh Good.

16 A. Yes.

17 Q. And she was a probationer at the time, is that correct?

18 A. Yes, that's correct.

19 Q. And she had completed her first shift on 6 April 2015,
20 the month prior to these events?

21 A. That sounds about right.

22 Q. Right. And she was under your supervision on that day.

23 A. Yes.

24 Q. We have heard about probationers having a mentor or
25 a supervisor and is that the arrangement that you had

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1 with Kayleigh Good?

2 A. Yes, it would be referred to as a tutor constable.

3 Q. All right, a tutor constable. Is that the equivalent of

4 a supervisor or a mentor?

5 A. Yes.

6 Q. But that's the formal name for it?

7 A. Yes.

8 Q. And do you want to give us a little bit more information

9 about that role and ...

10 A. Basically --

11 Q. Is that something --

12 A. -- working with someone who has just finished their

13 police college and they would generally be paired up

14 with a tutor constable which is usually somebody with

15 a little bit more service and experience for generally

16 the first three months of their service, in order to

17 teach them aspects of the job that maybe aren't covered

18 at the college, so at the college they will get an awful

19 lot of theoretical input and it is just literally

20 teaching them how to do the job.

21 Q. So they're shadowing someone more experienced --

22 A. Yes.

23 Q. -- in the actual day-to-day work?

24 A. Yes, it also gives them the opportunity to have

25 continuity with who they work with, you've got

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1 continuity of being able to keep an eye on their
2 workload and how they're doing, rather than move them
3 between different people.

4 Q. And your role is to help them develop their own
5 abilities to work independently, is that --

6 A. Yes, yes.

7 Q. So had you been working with PC Good for her first month
8 of her probation?

9 A. Yes, I think so.

10 Q. And we also understand from paragraph 4 of your Inquiry
11 statement -- and that will come up on the screen --
12 that -- there it is -- that you actually were
13 an authorised firearms officer?

14 A. Not at the time.

15 Q. Oh, right. So the additional training you have had
16 wasn't in May 2015, but you are now an authorised
17 firearms officer?

18 A. No, prior to May 2015 I was an authorised firearms
19 officer and I stopped that role a few years prior to
20 that.

21 Q. Oh, I see. So you had been trained and been
22 an authorised firearms officer but had actually stopped
23 doing that role?

24 A. Yes, that's correct.

25 Q. Right. So you had had -- in your statement in

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1 paragraph 4 you had had the training, you were aware of
2 that additional training and you had gone through that.
3 Had you had practice/experience as an authorised
4 firearms officer prior to 2015?

5 A. Yes. I was a firearms officer for I think maybe two,
6 two and a half years during which time I worked for
7 several months as an ARV officer, armed response vehicle
8 officer, and as a firearms officer within a response
9 team who would get called away to do firearms operations
10 if required.

11 Q. Right. So that had been part of your role prior to
12 2015?

13 A. Yes. It was a number of years prior to that.

14 Q. Sorry, remind me what you just said. How many years?

15 A. I think I probably stopped doing that around 2010.

16 Q. All right. So roughly five years prior.

17 A. Yes.

18 Q. You say there a public order officer, so what was that?

19 A. Public order officers are provided to carry out public
20 order operations, be it potentially policing of
21 large-scale disorder all the way down to demonstrations
22 where there needs to be a police presence, football
23 matches, those type of large-scale events and it can be
24 anything from something which is completely peaceful up
25 to something where, as I said, it has developed into

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1 disorder.

2 They also carry out roles to do with method of entry
3 on houses so if there's some sort of pre-planned role
4 where you've forced entry to houses or executing for
5 example drug search warrants, it would quite often be
6 public order officers who would force entry in, carry
7 out the initial actions in a house, or dealing with
8 potentially very violent and dangerous subjects usually
9 contained within a building, you would use public order
10 tactics and enhanced PPE and enhanced protective
11 equipment to carry out those sort of operations.

12 Q. And that would involve additional training as well?

13 A. Yes, it did.

14 Q. And what was the position then in May 2015?

15 A. I was a qualified public order officer but that wasn't
16 the role I was employed in --

17 Q. No, no.

18 A. -- at that time. That would be something that would
19 be -- not quite part-time but you would be pulled away
20 from your role as a response officer to fulfil a public
21 order duty, for example if there's a football match or
22 something, you would be pulled away to carry out that
23 role.

24 Q. So that's more ad hoc --

25 A. Yes.

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1 Q. -- as and when required?

2 A. Yes.

3 Q. But that was something you were involved in?

4 A. Yes, I would have been qualified at that time.

5 Q. At that time, right. And it was also said on your

6 behalf in the opening statement that you had -- by the

7 time you arrived, you had heard the emergency wave

8 button and had heard Nicole Short's voice and it was

9 said on your behalf that it was rare for that button to

10 be used, and you had heard a further activation and

11 a voice saying "Officer injured", so by the time you

12 arrived you had heard those messages?

13 A. Yes. I'm not certain I heard PC Short's voice, but

14 everything else about that is correct.

15 Q. Okay, that's great. So you weren't at Hayfield Road at

16 the time -- or if an officer was injured, you weren't

17 there at that time?

18 A. Yes, that's correct.

19 Q. You arrived later?

20 A. Yes, shortly thereafter but ...

21 Q. Shortly thereafter?

22 A. Yes.

23 Q. Great. Now, the first thing I wanted to do with you was

24 to look at the Airwaves transmissions that were being

25 made, or transmitted in the period prior to your arrival

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1 at Hayfield Road, but before I do play those, I noticed
2 in your Inquiry statement that you said you had actually
3 reviewed them prior to preparing your statement, so
4 I suppose my question is would you like to listen to
5 them again now? In which case I will play the footage
6 and you will hear the Airwaves transmissions, or are you
7 happy just simply to move straight to your statement?

8 A. Yes, just move straight to the statement.

9 Q. Straight to the statement, right. In that case, can we
10 look at paragraph 1 please.

11 You say in paragraph 1 you were:

12 "... made aware by PC Good [that's Kayleigh Good]
13 that there was an ongoing incident involving a male
14 person with a knife. I am not sure why but I had not
15 been aware of the initial transmission."

16 Tell us when you became aware of the transmission,
17 was it just when Kayleigh Good gave you that
18 information?

19 A. Yes. She didn't specifically say there was
20 a transmission or anything like that, but she told me
21 there was an incident we needed to attend in relation to
22 somebody with a knife.

23 Q. So where were you when she told you that?

24 A. I was within a cleaner's cupboard in Kirkcaldy Police
25 Station washing a cup.

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1 Q. And what did you do as soon as you heard that from
2 PC Good?

3 A. Stopped what I was doing. Myself and PC Good
4 immediately made our way down to our vehicle.

5 Q. And was that at Kirkcaldy Police Office?

6 A. That's correct, yes.

7 Q. With a view to travelling to Hayfield Road?

8 A. Yes. I don't know if I was aware of the location yet at
9 that time, I was still trying to almost catch up with
10 the information, but it was with a view to leaving the
11 station and attending to the call.

12 Q. To attend that incident?

13 A. Yes.

14 Q. Wherever that incident was you were on your way to
15 attend?

16 A. Yes.

17 Q. And at that time were you aware -- at the time you
18 became aware of that incident, were you aware that there
19 had been a request for all units to attend?

20 A. I can't recall hearing that.

21 Q. Okay. Is it normal or was it normal at that time for
22 you to attend all the incidents where there's
23 an allegation of someone with a knife?

24 A. Not necessarily absolutely all of them, but yes, as
25 a general rule if it's something with a knife you would

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1 want as many resources to attend as possible.

2 Q. Okay. Can we look at paragraph 3 please. And you tell
3 us in your Inquiry statement about risk assessments and
4 I think you said:

5 "... it was only possible to carry out the most
6 general of risk assessments."

7 Could you maybe explain what you mean by that.

8 A. Just given the limited nature of the information
9 intelligence we have, that it's simply a person with
10 a knife in the street -- if you had more specific
11 information your risk assessment could then be factored
12 into that. If you had what they were doing, what they
13 had been doing, if you had some idea of what their
14 reason for that was, it would allow it to be more
15 specific, but just due to the limited information and
16 intelligence, the risk assessment's got to be fairly
17 broad in what you're thinking about.

18 Q. Do you remember now what limited information you had
19 available to you when you were en route to
20 Hayfield Road?

21 A. All I had -- and I can't recall if it's specifically
22 things I have picked up from the radio transmissions, or
23 by asking PC Good what she has heard, but it was a male
24 in the street with a knife. I can't recall getting any
25 other further information than that -- and the location,

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1 possibly Victoria Road. And then further information
2 developed that there were further calls for
3 Hayfield Road which led you to believe it's almost
4 certainly going to be there.

5 Q. And when you say "further calls", was there anything
6 unusual about the fact there were further calls?

7 A. I wouldn't say unusual as such, but it's something you
8 can use to then -- it corroborates the fact that
9 something's happening potentially. If it's just one
10 call it could be a mistake, it could be a hoax, but
11 several calls just they add to the information
12 intelligence that's coming from different sources. It
13 makes it more credible.

14 Q. Okay, thank you. Then the second paragraph of number 3
15 you talk about an initial risk assessment and what do
16 you mean by that?

17 A. Not as any specific process as opposed to any other risk
18 assessment, but literally just the first risk assessment
19 I carried out in relation to these ongoing
20 circumstances.

21 Q. Is that the risk assessment you do when you arrive at
22 the scene? Is that an initial risk assessment?

23 A. No, I would suggest the initial risk assessment is as
24 soon as you start thinking about the risks, you're
25 beginning to carry out a risk assessment. That's what

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1 I would mean by that.

2 Q. And when you arrive at a scene, do you call that by
3 something else, or is that still a risk assessment?

4 A. No, I would just say it's continuing with the risk
5 assessment.

6 Q. We have heard about the National Decision-Making
7 Model --

8 A. Yes.

9 Q. -- where additional information or new information
10 coming in constantly goes into that model and it's
11 a cycle of review based on whatever the up-to-date
12 information is. Does that -- is that something you're
13 aware of and doing?

14 A. Yes, I am --

15 Q. And -- sorry.

16 A. Possibly not -- when something's happening very fast
17 you're possibly not consciously following every single
18 step of the National Decision Model. You know, if
19 you're having to make a decision in one or two seconds,
20 you're not going to take the time to go through all the
21 various boxes, but the utility of the National Decision
22 Model is that your decision-making process will mimic
23 that, it will follow that general route, and you stop
24 and think about it. Your decision-making process has
25 been that general thing you're thinking about, your

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1 information intelligence, your risk, your strategies,
2 your powers and policies and what's going on and even if
3 you're not consciously stopping and deliberately putting
4 it into the NDM format, you will follow that general
5 process.

6 Q. So it's an unconscious use of that. Is that something
7 you're using on a daily basis of doing?

8 A. Yes, yes.

9 Q. And by the time you had -- by May 2015 that's something
10 you had been using as part of your daily --

11 A. Yes, absolutely and if it's something you have time to
12 do, it's a pre-planned thing or you've got a long time
13 to think about making a decision, absolutely you will
14 sit down and potentially write it down and use that and
15 that's all the way up to an absolute split-second
16 decision where you're not actually consciously going
17 through all this decision-making process but actually
18 you are, if that makes sense.

19 Q. You're just going automatically into that unconscious --

20 A. Yes.

21 Q. -- use of that model.

22 And you talk about the risk posed by a subject with
23 a knife. Would you like to say a little more about
24 that?

25 A. The risk with a knife is very significant, particularly

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1 when you don't have sort of specific information and
2 intelligence and you're having to think about what all
3 the types of things could be, but knives are incredibly
4 dangerous, knives kill very easily, they can cause
5 grievous injuries, they're very easy to use, they're
6 very easy to obtain, they're easy to conceal, they're
7 reasonably easy to explain away if stopped by the
8 police, so the risk posed by somebody with a knife is
9 extremely significant, extremely high.

10 Q. And who is that risk to?

11 A. It could be to themselves, so thinking about
12 self-harming which I would suggest is the -- is a very
13 common type of knife call we will attend; it could be
14 a risk to the public, be that the public in general or
15 a specific person, which would be driven by the
16 information intelligence; or a risk to the police,
17 whereby they want to resist arrest, their aggression for
18 somebody else is transferred to the police when
19 the police arrive. Something along those lines.

20 Q. All right. And when you mentioned the public there did
21 you -- you knew Hayfield Road, did you?

22 A. Yes.

23 Q. And was it an area where members of the public were
24 likely to be?

25 A. Yes. Given that it's 7 o'clock on Sunday morning or

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1 thereabouts it's going to be quieter than it would be at
2 other times, but Hayfield Road is a busy thoroughfare,
3 so it's not thronged with people, it's not a high street
4 but it's a main route through the town, it's a main
5 route to the hospital which was approaching a shift
6 change -- I think it changes shift at 7.45 or
7 something -- there's churches on that road and it's
8 Sunday morning, so it's not -- yes, there's going to be
9 people about. At any time of the day or night, there
10 will be people walking up and down there. Maybe not
11 lots and lots, but it's not going to be free of public.

12 Q. Thank you. Could we look at paragraphs 7 and 8 please.

13 Now, you say here:

14 "Supporting my recollection and as per the
15 transcript of the calls."

16 Did you have a transcript of the Airwaves messages?

17 A. I did, yes.

18 Q. And you make some comments:

19 "There was no message that an ARV had been deployed,
20 but simply a message from a controller that one was
21 being organised. This is not the same thing. If an ARV
22 has been deployed to an incident it would be normal
23 practice that a clear and concise message would be
24 passed detailing how many ARVs, from where, and for what
25 purpose (eg a tactical relocation). No such message was

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1 ever passed and I am unaware of ever seeing anything
2 indicating that an ARV was ever on route to the
3 incident. Other than another vague message from the ACR
4 inspector that he was monitoring from an ARV point of
5 view I am not aware of any other mention of ARVs in
6 relation to the call. Unlike the deployed dog handler
7 who spoke on the channel several times. Also there was
8 no message indicating that a deployed ARV had been stood
9 down - although such a message may have been redundant,
10 it would still be common practice for this to be
11 passed."

12 I would like to ask you a few questions about that
13 paragraph and in particular about the messages in
14 relation to the ARV. Can I ask you to look, first of
15 all, at 7.20.13 which is on the spreadsheet at page 3 --
16 well, actually can I start at the bottom of page 2 and
17 just to draw them to your attention. There's
18 a request -- a request made from -- for an ARV or dog
19 unit and then at 7.19.17 we see Con 1 "I believe a dog
20 unit is en route" and then 7.19.23 Con 2 "411 be aware
21 organising an ARV as well, stand by". So there's those
22 two messages.

23 A. Yes.

24 Q. And then at 7.20.13 on page 3 of the spreadsheet do we
25 see the message:

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1 "ACR Inspector Stewart: Inspector Stewart area
2 control room to the set attending and monitoring this
3 obviously from an ARV perspective and if you get
4 sightings of the male you need to make an initial
5 assessment yourself and feed back through straight away
6 and I will listen out on the channel."

7 So in paragraph 7 of your statement which remains on
8 the screen you have talked about vague messages about
9 the ARV and you see the messages that I'm referring you
10 to on the spreadsheet?

11 A. Yes, I do.

12 Q. Could you explain to the Chair a little more about what
13 you meant there in that paragraph?

14 A. In that the message was vague?

15 Q. Yes. Twice you have said there were vague messages, so
16 let's go through it.

17 "There was no message that an ARV had been deployed,
18 but simply a message from a controller that one was
19 being organised. This is not the same thing. If an ARV
20 has been deployed to an incident it would be normal
21 practice that a clear and concise message would be
22 passed detailing how many ARVs, from where, and for what
23 purpose (eg a tactical relocation). No such message was
24 ever passed and I am unaware of ever seeing anything
25 indicating that an ARV was ever on route to the

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1 incident."

2 So that's the first part of paragraph 7.

3 A. Yes, so in respect of the first part where they're
4 saying an ARV is being organised, that's them stating
5 an intent as to what they're going to do. It's not
6 information coming to me that one's coming or one's not
7 coming. That's -- there's nothing firm in that and
8 I can't then factor that into any planning I'm making
9 about how far away that support is going to be. Is it
10 coming from Glenrothes, is it coming from North
11 Queensferry, is it coming from Edinburgh, that type of
12 thing.

13 So it's of no -- it's lovely to know they're
14 thinking about it, but you need harder information.
15 "One's coming, one's not coming; one's been deployed,
16 one's not been deployed yet and we're reviewing it" is
17 what you really need to know. And again talking about
18 the vague messages from the ACR inspector, again there's
19 none of that information. He has not said "I have not
20 deployed an ARV yet", he has not said "I have". He said
21 "I'm monitoring from an ARV perspective" which could be
22 applied to one that's en route, it could be applied to
23 one that's still sitting in the station in Edinburgh or
24 Glenrothes.

25 Q. I'm going to go through that again. So when those calls

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1 are transmitted on the Airwaves officers are en route?

2 A. Yes.

3 Q. And you have said that in relation to being told that an

4 ARV is being organised isn't hard information. Is

5 that -- you're saying that's not information that allows

6 you to factor that into your -- effectively your risk

7 assessment process?

8 A. Yes, that's correct.

9 Q. And the sort of information that you would have found

10 helpful, that you could have factored into that risk

11 assessment process, would have been the location,

12 perhaps how far away or how much time it would take for

13 an ARV to be in place in Hayfield Road?

14 A. Yes.

15 Q. And that's the sort of information you would have wanted

16 from the control room?

17 A. Yes, that would have been more helpful than --

18 Q. Than what was sent here.

19 A. -- the information that was passed.

20 Q. And is that the sort of information that you would have

21 expected to be shared with you as an officer travelling

22 en route to Hayfield Road?

23 A. If they have that information, yes. It certainly

24 significantly helps.

25 Q. And is that the type of approach that you would expect

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1 when you're attending a knife incident?

2 A. It's the type of approach I would like to get. It's

3 certainly -- it's difficult to think back what it was

4 generally like then. Certainly these days you would get

5 a more formal sort of communication than that.

6 Q. Right. Do you think that the practice has evolved and

7 maybe improved since 2015?

8 A. Yes.

9 Q. So although it was the type of approach you said you

10 would like to get, in May of 2015 was it the type of

11 approach that you would commonly get at that time?

12 A. I wouldn't like to say. I'm struggling to think of any

13 other specific incidents, so I wouldn't like to guess.

14 Q. Had you been involved in any other incidents by May 2015

15 that the ARVs were even being organised or considered?

16 A. It was -- by 2015? I would imagine I must have.

17 I can't remember any specific ones and it was certainly

18 very rare for ARVs to be deployed in support of

19 officers.

20 Q. And when you say "very rare", would you be able to

21 assist the Chair by understanding the sort of context of

22 that? How rare is rare?

23 A. I was on an ARV for about six months and I deployed six

24 times I think.

25 Q. In six months?

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1 A. Yes.

2 Q. And how often are you on shift at that -- were you on
3 shift at that time?

4 A. You're working 40 hours a week.

5 Q. Right, okay, thank you. So it's not a common occurrence
6 to have an ARV being considered to support officers
7 attending a knife incident?

8 A. Not at that time.

9 Q. Not at that time. Coming on to the next part of
10 paragraph 7 -- no, sorry, the same paragraph on the
11 screen, but you say that there was:

12 "... another vague message from the ACR inspector
13 that he was monitoring from an ARV point of view I am
14 not aware of any other mention of ARVs in relation to
15 the call. Unlike the deployed dog handler who spoke on
16 the channel several times. Also there was no message
17 indicating that a deployed ARV had been stood
18 down - although such a message may have been redundant,
19 it would still be common practice for this to be
20 passed."

21 So in relation to this message on page 3 of the
22 spreadsheet from Inspector Stewart, is this the message
23 that you were referring to at 7.20.13?

24 A. Yes.

25 Q. When you gave that part of your --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, that's correct.

2 Q. -- paragraph 7. So can you explain a little bit more
3 about what you mean when you said that was a vague
4 message?

5 A. Certainly the first part -- as it progresses I think
6 that's relevant, where he talks about what his
7 expectations are of the officers --

8 Q. As his message progresses?

9 A. Yes, but the first part again "I'm monitoring from an
10 ARV point of view" has given me no information about
11 whether an ARV is coming or it's not, or it's been --
12 you know, if it's still sitting in Edinburgh waiting to
13 go, if it's en route, which again it's the same thing.
14 It would have been helpful to know what that means
15 because "I'm monitoring from an ARV point of view", he
16 could have deployed them already and we don't know.

17 Q. So you didn't have the information you would have wanted
18 again about how far away they were, how much time it
19 might take to get them at Hayfield Road?

20 A. Yes. Again, that said, my recollection of this actual
21 message is -- it's difficult to say because I have now
22 read it and heard it several times, but my recollection
23 on the day -- I can't remember whether I heard that or
24 not, or in what detail I recollected it or not.

25 Q. And then you talk about as the message continues

Transcript of the Sheku Bayoh Inquiry

1 Inspector Stewart talks about needing to make an initial
2 assessment yourself and feed back through straight away
3 and he will listen out on the channel. You said the
4 message moved on and continued. What was your
5 impression of that part of the message?

6 A. It's sensible. It's a sensible instruction. Ideally
7 when you're dealing with something where there's a very
8 high risk and the situation allows you to do it, then
9 holding back and carrying out observations is a very
10 sensible and useful option to have. Again, it's going
11 to be completely dependent on how the situation plays
12 out when you get there, but that's -- certainly from the
13 safety of officers point of view, that is something
14 that's going to be a useful thing to do.

15 Q. So sitting back, waiting and observing --

16 A. Yes.

17 Q. -- what's happening. And getting more information which
18 can then be factored into that model?

19 A. Yes, if the situation allows you to do it.

20 Q. If the situation allows. And what sort of things would
21 allow that situation to develop?

22 A. In this set of circumstances it's going to be quite
23 difficult, I would imagine, to be able to do that
24 effectively for any period of time. You've got
25 a subject who is outside, they're in -- it's an

Transcript of the Sheku Bayoh Inquiry

1 interesting area because it is built up, it's definitely
2 a residential area, but there is quite a lot of open
3 space, they've got a lot of freedom of movement as to
4 where they can go particularly -- well, from where it
5 actually ended up happening because it's difficult not
6 to focus on that although we didn't necessarily know
7 that at the time, but yes, in general it was a built up
8 area with a lot of space around, there's going to be
9 lots of freedom of movement, you've got a subject with
10 a knife, you've got public who are going to be coming
11 and going, although it's not going to be incredibly
12 busy, there's definitely going to be public about the
13 place, there's definitely going to be vehicles about the
14 place.

15 When you turn up to observe somebody in that
16 situation and again thinking to that subject's state of
17 mind, it's not necessarily a mental health issue but
18 walking about the streets with a knife in your hand
19 doesn't speak to rational thought at that time, so is it
20 potentially mental health, or is it potentially somebody
21 who is in a state of extreme anger, a state of extreme
22 fear? Just somebody who is not maybe thinking entirely
23 rationally. The chances are when a police vehicle
24 arrives the subject is going to react to that vehicle in
25 some way.

Transcript of the Sheku Bayoh Inquiry

1 Now, it may well be they're going to stay where they
2 are, do nothing, stay in the same area and allow you to
3 observe it and no other public or anything are going to
4 go anywhere near them, right, and that's going to allow
5 observations nice and safely. However, I would suggest
6 in my experience there's going to be a different
7 reaction. They're going to run away, they're going to
8 try and brazenly walk away and get away with it.
9 They're maybe going to become aggressive towards
10 the police. The chances of them just standing still --
11 yes, absolutely it can happen, if it's somebody who's
12 seeking police intervention, seeking to speak to the
13 police about their actions, again potentially about
14 their health or something, it might be somebody who is
15 quite happy to stand there and let the police engage
16 with them, let the police watch them. But there's
17 a very significant chance something else is going to
18 happen when you turn up and you may have to react to
19 that to protect the public, to protect the subject, to
20 keep your observations on the subject.

21 Where are you going to observe from? How close are
22 you going to be prepared to go? If you have a subject
23 with a knife and there's a lot of public about, is it
24 safe for me, is it safe for me in the perspective of the
25 public to sit back 100 metres and observe them, which

Transcript of the Sheku Bayoh Inquiry

1 keeps me safe. However, I'm not doing anything there to
2 mitigate the risk to the public. There's every chance
3 the public could come in between myself and the person
4 with the knife. So am I going to have to go closer? If
5 I go closer is that likely to provoke more of a reaction
6 from them?

7 So it's an ideal thing -- well, ideal thing to do --
8 it's going to be a good option if you can possibly do
9 it, hold off and observe, however it's going to be
10 dictated by the circumstances and in my experience the
11 circumstances will probably make that a difficult thing
12 to do.

13 Q. So what circumstances do you think would be required
14 before it would allow an officer to take that step, sit
15 back and observe? What would be the optimum conditions
16 that would allow that to take place?

17 A. The subject is literally standing still and there are no
18 public anywhere near them, or -- and there's no
19 potential the public are going to go anywhere near them,
20 or realistic chance the public are going to go anywhere
21 near them.

22 Q. Is that ever a possibility in Kirkcaldy?

23 A. Yes, it can happen. I have attended knife incidents
24 whereby the person is seeking contact from the police.
25 I have attended, they have had a knife to their throat

Transcript of the Sheku Bayoh Inquiry

1 and I have stood for hours negotiating with that person,
2 so yes, it can happen, absolutely. Every set of
3 circumstances is different from the other.

4 Q. And is that in an area where there's no other members of
5 the public possible?

6 A. Yes, it was a -- not possible, the circumstances were
7 slightly different, we had to approach closer than maybe
8 would have been perfectly safe for us, but you're having
9 to balance the safety of the officers against like I say
10 the bigger concern of safety for the public. It was in
11 the middle of the night so there's less chance of that
12 type of thing. It was an easier -- it was an easier
13 area to sort of contain and cordon off so the public
14 wouldn't approach, but similar.

15 Q. We have heard about containment, you are now mentioning
16 cordoning off.

17 A. Mm-hm.

18 Q. How much support do you need to be able to contain or
19 cordon off an area?

20 A. Lots. So going back to the example I just gave, the
21 cordon you're putting in there isn't on the subject,
22 it's around the area to stop the public coming in.

23 If you want to try and cordon a subject that's not
24 going to be an ideal thing to do with somebody with
25 a knife with response officers. That's going to be

Transcript of the Sheku Bayoh Inquiry

1 a difficult thing to do, given the level of equipment
2 and things we have. If you want to put officers around
3 the person, how close are you going to put them? Are
4 you going to leave them enough of a reaction gap to
5 protect themselves, is their equipment going to be
6 sufficient to protect themselves, do they have the
7 tactics to use? Because when we talk about the training
8 we do, the CUT principles, that tells somebody to move
9 out of the way if somebody comes at them with a knife.
10 So it becomes difficult to cordon if your tactic is to
11 move back, it's going to be a very difficult thing to do
12 to effectively put a cordon on somebody who is intent on
13 moving about the place.

14 If they're playing the game and they want to stand
15 still, it becomes easier.

16 Q. You mentioned there the CUT principles. Can you explain
17 what that is?

18 A. So the general principles that would be taught to
19 somebody facing an attack from somebody with a knife, so
20 the subject is endangering a police officer, CUT being:

21 Create distance. Right, knives are very dangerous,
22 however you literally have to be a couple of feet away
23 and they can't harm you with it, that's maybe easier
24 said than done if the subject is intent on following
25 that up and closing the distance, that becomes very,

Transcript of the Sheku Bayoh Inquiry

1 very difficult to do because you're going to be walking
2 backwards, they're going to be walking forwards.
3 However, the situation may well allow it. If the
4 subject is in a room and they want to stay in that room
5 with a knife then creating distance becomes easier. But
6 again every set of circumstances is different.

7 Using cover. Right, shield yourself in some way.
8 That's generally going to be some sort of improvisation
9 from a response officer. Is it -- can I lift a bit of
10 furniture up and protect myself? Can I get myself in
11 a police vehicle and lock the doors? Can I -- do the
12 circumstances allow me to close the door of the room the
13 subject is in and leave them in there, dependent on the
14 risks to other people and that sort of thing. So using
15 some sort of cover.

16 And transmit, using the radio, transmit -- pressing
17 the red button if you can, getting a clear message out
18 that there is a knife in play. If all you can say is
19 "Knife", that's fine because radio messages -- long
20 descriptive messages in these type of situations are
21 effectively impossible. Radio messages are going to at
22 best be one or two words to try and get some information
23 out to try and let people have an idea of what's going
24 on.

25 We also -- training changes very regularly. I think

Transcript of the Sheku Bayoh Inquiry

1 the CUT principles now talk about tactical options.

2 I don't think that was in the training in 2015 but

3 I can't be certain.

4 Q. So CUT in 2015 was create distance, use cover and
5 transmit.

6 A. That's correct.

7 Q. And what do you mean by tactical options?

8 A. What can you do. So it's not tactical options that
9 somebody is going to be able to come, so it's not
10 sending ARVs, it's not sending public order officers,
11 it's what can I do to protect myself? What pieces of
12 equipment can I use? Can I -- do I need to use a baton
13 strike, do I need to use my spray, do I need to use an
14 empty hand strike, can I run away.

15 Q. Tactical retreat I have been told that's called.

16 A. Yes.

17 Q. Can I go back to look at your Inquiry statement and you
18 say -- it will be further down -- that the dog or ARV
19 played no part in the process you were carrying out,
20 unless they were very close by, unless there was
21 a stand-off or cordon situation, where more leeway to
22 allow specialist units to arrive.

23 So you said that the information you had about the
24 dog unit or the ARV, none of that played any part in
25 your process of considering the risk and it wouldn't

Transcript of the Sheku Bayoh Inquiry

1 have unless they had been very close by?

2 A. Yes, effectively.

3 Q. Yes. And by very close by, what do you mean?

4 A. In Kirkcaldy.

5 Q. Right. So unless the dog and the ARV had been in

6 Kirkcaldy --

7 A. Yes.

8 Q. -- deployed to Hayfield Road?

9 A. Possibly. Possibly if they were imminently going to get

10 into Kirkcaldy, so anything more than a few minutes

11 away.

12 Q. Right, so it's a few minutes until their arrival, beyond

13 that that isn't really part of the resources you're

14 considering when you're considering the risk.

15 A. Yes, that's correct. Well, you certainly can't count on

16 them being there.

17 Q. Right. Can we look at paragraph 8 please. You have

18 said that your recollection of the exact message was not

19 exactly accurate, but now that you have reviewed the

20 transcripts it doesn't -- insofar as it was different

21 from the reality, it's not made any difference to your

22 decision-making. So was there anything -- what you have

23 said there is:

24 "As covered above there was no confirmation that an

25 ARV or dog had been deployed."

Transcript of the Sheku Bayoh Inquiry

1 And:

2 "Both the messages as exactly passed or as I later
3 recollected them would have led me to the same
4 conclusion that there would be no immediate or short
5 term support from specialist resources. As covered
6 above unless the specialist units were imminently
7 arriving there was no effect on my immediate risk
8 assessment."

9 And that's really just confirming what you have said
10 before.

11 A. Yes.

12 Q. And you're talking about within minutes?

13 A. Yes.

14 Q. So immediate or short-term --

15 A. Yes.

16 Q. -- is within minutes really?

17 A. Yes. If you -- as we talked about, if it's something
18 that does develop into, and there's potential for that,
19 into a cordon type situation or a stand-off situation,
20 that's going to change and it maybe is going to
21 become -- but for the actual risk that something's going
22 to go wrong and it's going to become a dangerous
23 situation, if you can't count on them arriving you can't
24 really factor them into your risk assessment.

25 Q. Thank you. Then you mention the dog unit and you say:

Transcript of the Sheku Bayoh Inquiry

1 "Any inconsistencies are a result of me taking in
2 a huge amount of information over a short period of
3 time, from various sources and relation to various risks
4 while also being put under a significant amount of
5 physical, mental and emotional stress."

6 So you're talking about your journey to
7 Hayfield Road?

8 A. Yes.

9 Q. Could you explain your state of mind as you approached
10 Hayfield Road?

11 A. Yes. Obviously physical stress may not be quite
12 appropriate for that point, but you're trying to take in
13 a lot of information, you're trying to do a lot of
14 things. First and foremost you're concentrating on
15 response driving which is a risky thing to be doing in
16 the first place.

17 Q. You were driving?

18 A. Yes. So that takes -- that's something that requires
19 a lot of thought and a lot of concentration as well
20 as --

21 Q. Why is that?

22 A. PC Good wouldn't have been trained to -- I don't know if
23 she would be trained to drive any police vehicles at the
24 time actually but she certainly wouldn't have been
25 trained to drive in a response role under blue lights.

Transcript of the Sheku Bayoh Inquiry

1 Q. So you had your blue lights on?

2 A. Yes.

3 Q. And is that the sort of response driving you're talking
4 about?

5 A. Yes.

6 Q. Where you're using your lights?

7 A. Yes.

8 Q. And what is it about that type of driving that needs
9 more concentration, or --

10 A. You're driving faster.

11 Q. Fast, speed.

12 A. You're driving at speed. You are -- if you were
13 speaking to somebody who was involved in police driver
14 training they would tell you you should be concentrating
15 on nothing but your driving when you're driving to an
16 incident. You're driving at high speeds on residential
17 streets potentially, you want to be very, very focused
18 on that.

19 Q. So your driving -- I think you mention later in your
20 statement -- is causing an increased risk to people
21 using the streets. But you take that into account --

22 A. Yes, so you're diminishing that by applying a great deal
23 of thought and concentration to your driving.

24 Q. So your focus was on driving as safely as you possibly
25 could at the speed you were doing?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes and realistically you are also thinking about the
2 risk assessment, the call you're going to. I think it's
3 impossible not to. But a great deal of your
4 concentration is put on that, that's split between again
5 trying to monitor what's happening on the radio, I don't
6 know if you've got it but there's emergency activations
7 happening, you're trying to plan is it Victoria Road, is
8 it Hayfield Road, can I take a route that's going to
9 allow me to get a look at each of them, where do I think
10 the other units are going to be coming from, can I pick
11 a route that's going to be suitable to sort of enhance
12 or maximise our efficiency as we're getting there if we
13 need to start searching for a person, so there's lots
14 and lots of things you're going to be considering.

15 Q. So that's all going through your head on the way there?

16 A. Yes.

17 Q. Is that the mental and emotional stress that you were
18 describing in paragraph 8?

19 A. Yes and it's -- I wouldn't say it's terrifying, but if
20 you're going to somebody with a knife you have a degree
21 of fear. You have a recognition that there's potential
22 here that something could go wrong. It's probably not
23 likely to, but there's always that -- I think it's not
24 an overwhelming -- it's not your overwhelming emotion,
25 but there's a little tension there.

Transcript of the Sheku Bayoh Inquiry

1 Q. And what makes it not likely? You have said it wasn't
2 likely to --

3 A. Statistically.

4 Q. So statistically it's not likely for an officer to be
5 injured?

6 A. Not at a knife crime -- I wouldn't --

7 Q. In that type of --

8 A. -- quote these statistics, but in my experience I deal
9 with an awful lot of knife calls, not all with that
10 level of information intelligence, so that would push
11 the level of -- every situation is different and you
12 interpret things differently and it will cause
13 a different level of fear and a different level of risk
14 assessment. However, the vast, vast number of knife
15 calls you go to have a good outcome.

16 Q. Okay. Now, we have talked about the risk assessment and
17 the National Decision-Making Model. In terms of feeding
18 back, feedback to the control room or on the Airwaves
19 transmission, you have mentioned the message from
20 Inspector Stewart in ACR. We may have heard that
21 there's a responsibility on officers at the scene to
22 feed back information to the control room when they
23 arrive to allow the control room to have effectively
24 eyes on the ground. Is that your understanding?

25 A. Yes, generally. I wouldn't quite say "responsibility".

Transcript of the Sheku Bayoh Inquiry

1 It's ideally what you're going to do. It's always good
2 to be able to feed information back. However, the
3 circumstances can take over. If you have something that
4 becomes a higher priority than transmitting on the radio
5 back to the ACR, then you have to do that. If you're
6 engaged -- like I said before, if you're engaged in
7 something where you have literally got -- you're needing
8 to use your hands for something else, or you're under
9 a great deal of duress, it might become difficult to.
10 It might become difficult to pass any message at all.
11 You might only get a couple of words shouted out or
12 something like that.

13 So yes, if you possibly can, yes, you would be
14 looking to pass a message back. However, every set of
15 circumstances is different and the circumstances can
16 sometimes make that impossible.

17 Q. And did you understand the message about giving feedback
18 to apply to an officer such as yourself, who wasn't
19 necessarily first on the scene?

20 A. Yes. As I said, I don't have a great recollection of
21 receiving that message, but reading it that's what
22 I would interpret it as.

23 Q. All right. Do you remember who was in charge of this
24 incident at Hayfield Road?

25 A. Our supervisor at Kirkcaldy Police Station was PS --

Transcript of the Sheku Bayoh Inquiry

1 Acting PS Scott Maxwell.

2 Q. And so as far as you were aware, was it Acting Police
3 Sergeant Maxwell that would have been in charge of this
4 call?

5 A. Overall, yes. However, he is not necessarily making
6 every single decision that happens during the call.
7 Being in charge is delegating to people to go and carry
8 out tasks. He is delegating officers to go up there
9 and -- not quite deal with it as they see fit, but carry
10 out the things they need to do. So it's not a case of
11 sort of micro-managing and the sergeant makes every
12 decision that needs to be made --

13 Q. So each individual --

14 A. So he has supervision of it.

15 Q. So each individual officer has a certain amount of
16 autonomy, they can act independently?

17 A. Yes, and that can change dependent upon the call. Some
18 circumstances dictate that it absolutely has to be
19 rigidly dictated from the ACR or from a sergeant, down
20 to again the vast majority of calls I go to, knife or
21 otherwise, yes I have autonomy, I make the decisions and
22 I deal with the call as I see fit. I might run it past
23 my sergeant, I might have to run decisions past my
24 sergeant, or it might be entirely down to my own
25 decision-making, dependent on all the circumstances.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we have heard that the area control room wouldn't
2 take control unless they declared a firearms incident?

3 A. I believe that to be correct, yes.

4 Q. Right. Now, just to go back, before we move on from
5 here, as you were leaving -- you have mentioned as you
6 were leaving Kirkcaldy Police Office --

7 A. Yes.

8 Q. -- I understand from your statement you noticed
9 PC Daniel Gibson and PC James McDonough were also
10 leaving in their car?

11 A. I can't recall that, but yes, I believe it to be true.

12 Q. Right. Can I ask you about the knife incidents that you
13 had attended prior to May 2015. Did any of those
14 involve a black man?

15 A. Not that I can recall.

16 Q. Had any involved -- it sounds like you did mention
17 this -- someone suffering from a mental health crisis?

18 A. Yes, a great many. Not all of them by any manner of
19 means, but yes.

20 Q. When you say "a great many", can you give us an
21 indication?

22 A. It's rare to deal with -- we deal with an awful lot of
23 knife incidents. Actual knife crime is pretty rare.
24 I would say the majority of incidents where I'm involved
25 in some way with somebody with a knife or sharp article

Transcript of the Sheku Bayoh Inquiry

1 are mental health related. I would say just over half
2 as a ballpark figure.

3 Q. Can I ask you to explain what the distinction is in your
4 mind between a knife incident and a knife crime?

5 A. A knife crime being -- to my distinction would be
6 somebody who has a knife in their person for a purely
7 criminal end, so that could just be, you know, people
8 who decide they want to carry knives for self-defence
9 when they shouldn't be and have a knife in the street,
10 it could be somebody carrying out a robbery, it could be
11 somebody using that to assault somebody, to murder
12 somebody. However, I would distinguish that from where
13 there's no criminal intent, which would generally be
14 somebody self-harming, or intending to harm themselves
15 with a knife.

16 Q. And how many of those incidents that you had attended
17 involved someone under the influence of drink or drugs?

18 A. A few. It's not -- with an awful lot of the pattern of
19 behaviour for self-harming, which is an awful lot of
20 these calls, it's not necessarily drink or drugs.
21 I know that can affect mental health issues. Certainly
22 not all of them. I wouldn't like to guess a figure.
23 You go to plenty where they're drink or drugs and you go
24 to plenty where it's not a factor at all.

25 Q. Okay. And of those incidents that you had previously

Transcript of the Sheku Bayoh Inquiry

1 attended prior to May 2015, how many had involved the
2 use of CS spray or PAVA spray?

3 A. I can recall using CS spray once at a knife incident
4 like that. Another time at a similar incident where --
5 okay, they weren't using a knife, but they were
6 self-harming with another -- a blunt implement, so
7 a similar sort of level of threaten of risk to them
8 where CS spray was used. That's by myself.

9 I can't recall any others, but I couldn't say for
10 definite that there hadn't been.

11 Q. Can you give us a little bit more information about the
12 PAVA spray with the one knife incident that you
13 mentioned.

14 A. Yes, sorry, it would be CS spray.

15 Q. Sorry, CS spray.

16 A. I cannot remember the full circumstances. It was
17 a person in the process of harming themselves with
18 broken glass, which you would count as the same category
19 as a knife, something that's sharp and dangerous that
20 can cause you injury. On entering the room that they
21 were in, I can't remember what the chain of
22 circumstances were but the glass immediately became
23 a threat to myself and just due to all the factors there
24 I determined that use of CS spray was the best option,
25 so I deployed CS spray.

Transcript of the Sheku Bayoh Inquiry

1 Q. When you say "the glass immediately became a threat to
2 myself", what do you mean by that?

3 A. I'm struggling to remember. This would have been,
4 you know, well over ten years ago. Whether the person
5 has advanced on me or swung for me with the glass, or
6 something like that, I'm sort of a little bit vague in
7 my recollection. I remember the person having the glass
8 in their hands. Parts of the decision-making process
9 the option is to spray and deploying the spray.

10 Q. Right. And what happened after you used the spray on
11 that occasion?

12 A. Nothing -- nothing that massively sticks in my mind.
13 I can remember deploying the spray and immediately going
14 in and taking control of the hand with the glass. The
15 person was arrested I think. Certainly brought into
16 some sort of custody by the police.

17 Q. Did the spray have an effect on them?

18 A. Yes, yes.

19 Q. Were they under the influence of drink or drugs at that
20 time?

21 A. I cannot remember.

22 Q. Or having mental health problems?

23 A. I would suggest a mental health problem.

24 Q. You also mention another one where CS spray was used.
25 You said it was a similar incident with a blunt

Transcript of the Sheku Bayoh Inquiry

1 instrument?

2 A. Yes.

3 Q. Tell us about that.

4 A. So a person intent on harming themselves. Again I'm

5 making a long story short, but all the other tactical

6 options had failed. I had reached the point in my

7 decision-making where use of CS spray is appropriate.

8 The action they were taking was they had two terracotta

9 plant pots, one in each hand. One is held up -- sort of

10 yon size. One is held up threatening to keep me back so

11 I would be struck if I approached them and the other one

12 he is smashing himself on the head with. So the only

13 option being we need to take control of that person,

14 it's not safe to approach them, deploy CS spray.

15 Q. And were they suffering from a mental health crisis?

16 A. I would assume so.

17 Q. Drink or drugs?

18 A. I don't believe so.

19 Q. And you said all other tactical options had failed. Can

20 you describe what those tactical options were?

21 A. The other things we would be considering. Police

22 presence --

23 Q. Just the fact you're there in your uniform?

24 A. Simply the fact you're there can cause people to stop

25 what they're doing, people to run away, so police

Transcript of the Sheku Bayoh Inquiry

1 presence can be effective. Communications, be it
2 starting at the low level and engaging in
3 a conversational way, or if it's more pressing and
4 that's starting to fail it could potentially be more
5 forceful type communications. Again, that's going to be
6 dependent upon the situation.

7 Thinking about using your control skills or
8 defensive tactics, so going in and taking hold of the
9 person, putting a strike into a person or something like
10 that, but when there's a weapon in play that's going to
11 strike you if you do that, all those options are really
12 precluded immediately, so you're moving on to the
13 defensive tactics of doing something you can stand off
14 with and the only option we had at that time was spray.

15 Q. Can I ask you about empty hand techniques. They can be
16 used against a person with a knife, can't they?

17 A. Yes, however it would be inadvisable generally -- not
18 necessarily inadvisable. There's a significant risk
19 there. Dependent upon what the circumstances are, going
20 and trying to take hold of somebody with a knife, put
21 somebody with a knife in an armlock or something, has
22 obvious risk. You're going close to them, you're going
23 into a point where that knife can be used against you.
24 Yes, some circumstances are different. Sometimes it is
25 just the best option.

Transcript of the Sheku Bayoh Inquiry

1 However, you would need to be aware of the very
2 significant risk to yourself if you were going to go and
3 try some sort of empty hand technique, which could also
4 be a strike, it could be a palm heel strike, or a kick,
5 or a knee strike or something, but any of these things
6 you're going to have to be confident -- you're going to
7 have to be very aware of the risk that that poses you,
8 so it's probably not advisable.

9 Q. And does that risk remain even if a knife is not
10 visible?

11 A. It would depend upon the information intelligence.

12 Q. And if the information or intelligence is that a person
13 has had a knife and has perhaps chased cars?

14 A. Yes, if you've got -- again, back to this incident,
15 you've got quite clear evidence from a number of
16 different sources, all very similar, that a person has
17 been in possession of a knife. You have no absolute
18 information that they're no longer in possession of that
19 knife. Even if you cannot see it, I would -- it's not
20 about assuming they have it, because you can be well
21 aware that they might not, but the risk you allocate to
22 them, as it were, is that they've got that knife
23 concealed and you take it that they've got that knife
24 concealed until you have controlled them and searched
25 them and confirmed that they do not.

Transcript of the Sheku Bayoh Inquiry

1 Q. So it's only once you have confirmed that they do not
2 have the knife that you can remove that risk from your
3 thought processes?

4 A. Yes.

5 Q. Right.

6 A. That's certainly how I would do it.

7 Q. Now, when you were talking about this similar incident,
8 you talked about communication with the person with the
9 terracotta pot.

10 A. Yes.

11 Q. Can you give us some more information about the type of
12 communication techniques that you adopted or attempted
13 with that person?

14 A. That specific incident I can't actually remember. I can
15 remember reaching that point where I'm happy that that's
16 failed, but in general the ideal, the starting point you
17 would like to go for if the situation is safe enough and
18 there is not some other pressing need to use a high
19 level of force is as we're talking, a conversation. If
20 that's failing, it could potentially be -- and again
21 dependent upon the circumstances, it could be loud, more
22 aggressive type commands. The situation -- you might
23 read the situation and decide that I am going to be able
24 to effectively exert a degree of dominance here,
25 shouting, loud verbal commands and get control of the

Transcript of the Sheku Bayoh Inquiry

1 person, you know, short loud commands. That's not going
2 to be applicable in every case. It's not quite -- it's
3 certainly not a guess but you're having to try and judge
4 whether that's going to be suitable in the circumstances
5 you're in.

6 It certainly doesn't mean that you're going to move
7 on from conversational talking to that, it's just
8 another type of option. I would say it's a higher sort
9 of level of force option that's available. It's not
10 going to be applicable in every circumstance but
11 sometimes if the threat is there, it's an imminent
12 threat, I'm viewing that, the conversational type
13 approach is just going to put me at risk, I do not have
14 time to do it. If the person is advancing on me, if the
15 person is moving to a place where they're going to risk
16 the public, risk to themselves, yes it may well be that
17 you're going to start at that higher level of tactical
18 communications.

19 Q. To what extent do you need a response or a reaction from
20 the subject before you can engage in that communication?

21 A. How do you mean? Do you mean you would be looking for
22 them to engage with you first or ...?

23 Q. You compared it to the conversation we're having. I'm
24 obviously responding and asking questions. To what
25 extent do you need that response from a subject in order

Transcript of the Sheku Bayoh Inquiry

1 to engage in the tactical communication techniques that
2 you have talked about?

3 A. It would depend entirely upon the circumstances.

4 A response can be non-verbal. It can be -- you can tell
5 somebody is listening to you potentially as you're
6 sitting nodding your head and you're not saying
7 anything, but I can tell you're taking in what I'm
8 saying, so that's a level of response.

9 Alternatively, if somebody is just absolutely not
10 responding to you -- it would depend upon the
11 circumstances. They could be absolutely not responding
12 to you and yet there's no other threat, the threat is
13 not increasing, so I could maybe persist with that, or
14 if they're absolutely not responding to you and there's
15 some other behaviour or there's other circumstances that
16 preclude that really quickly, then you might move on to
17 something else. So it's entirely dependent upon the
18 circumstances.

19 Q. So the response could be non-verbal. Could it be as
20 simple as them looking at you and listening to you?

21 A. Yes, potentially.

22 Q. We have heard some evidence about perhaps the training
23 that's given to officers not encompassing a situation
24 where there's a lack of response, or a verbal response
25 from the person, or a lack of reaction. Is that

Transcript of the Sheku Bayoh Inquiry

1 something you're aware of?

2 A. I don't think -- and an issue we talk about in training
3 is that training has changed and it's not just sort of
4 changed between then and now, it's changed to some
5 degree every year between then and now so it's difficult
6 for me to say with absolute clarity what the training
7 was at that time.

8 However, my best recollection is at that time we
9 weren't doing any situational training as part of OST
10 refreshers. It's talked about, it talked about that
11 sort of communications, but I don't think there was
12 practical training in it. I could be wrong about that.
13 There would be practical training I believe at the
14 Scottish Police College when people are doing their
15 initial training. Again, I wouldn't like to absolutely
16 say there was no situational training.

17 Q. We may hear other evidence about this in the future.

18 Can I ask you prior to May 2015 how often you had
19 used your baton in relation to a knife incident?

20 A. I'm fairly certain I never struck anybody with my baton
21 in relation to a knife incident. I may -- I can't
22 recall any specific incident. I may well have drawn it
23 as, again, a tactical option and that in effect is
24 a piece of tactical communication and potentially going
25 to use it as use of force. So it wouldn't be unusual to

Transcript of the Sheku Bayoh Inquiry

1 draw a baton.

2 Q. That's a sort of visible reaction that you're --

3 A. Yes, or draw it and have it down by my side where I'm

4 not wanting to affect the situation but I want to have

5 a baton available just due to the significant level of

6 threat from a knife. I don't believe I have ever

7 actually struck anybody with a baton at a knife call.

8 Q. How often in the knife incidents you had attended prior

9 to May 2015 had you even drawn your baton?

10 A. I wouldn't like to say.

11 Q. Can you give any indication?

12 A. It's not regular. It's very, very rare. Again, when

13 you're doing it as an overt use of force, drawing it and

14 just having it down in a little low profile sort of

15 carrier position would be reasonably regular, which is

16 just a -- what's the word, it's a contingency.

17 Q. So drawing it and having it at your side you say is

18 regular?

19 A. Reasonably regular. Not a daily occurrence, but ...

20 Q. Can you give a better indication?

21 A. Maybe, I don't know, once every couple of months at any

22 time -- you know, covering all types of call.

23 Q. Not just knife incidents?

24 A. Yes.

25 Q. And then earlier in your response there you said it was

Transcript of the Sheku Bayoh Inquiry

1 very, very rare, so you have never struck anyone and you
2 said it was very, very rare to use the baton. Can you
3 explain -- can you help me understand the difference
4 between regularly drawing your baton and having it at
5 your side in all sorts of incidents and then saying it
6 was very, very rare. Was that very, very rare in
7 a knife incident?

8 A. In any incident.

9 Q. Oh, in any incident.

10 A. If you carry a baton at a low profile as a contingency
11 in case a situation develops, yes that's to me good
12 decision-making because if it does develop, the
13 intelligence is there and the situation is there, it can
14 develop very, very quickly and you're not going to have
15 time to get it out. However, in the majority of
16 instances it's resolved in some other way. It's
17 resolved by communication, it's resolved by the fact
18 that it was -- the information intelligence was never
19 correct in the first place and the person is not there
20 with a knife, or something like that.

21 Q. I'm just trying to understand how something can be
22 regular on one side and very, very rare and I'm just
23 wanting to try and understand the distinction and what
24 it is that's regular and what it is that's very, very
25 rare, sorry.

Transcript of the Sheku Bayoh Inquiry

1 A. Okay, sorry. It would be more common for me to draw my
2 baton and have it available for use, so drawn and
3 extended but not used in any effective way during the
4 call, not used to affect the behaviour of any other
5 person and not shown. So --

6 Q. And that's for any incident?

7 A. Not literally -- if the threat and risk is there.

8 Q. Yes.

9 A. So not limited to knife incidents.

10 Q. No.

11 A. Using the baton, as in presenting it as a use of force,
12 so having it up on the shoulder, shouting a challenge
13 about the baton, letting somebody see it or striking
14 somebody with a baton would be very, very rare.

15 Q. Okay, thank you. So it's a distinction between having
16 it down by your side, having drawn it --

17 A. Yes.

18 Q. -- or saying that there's a baton you could use, or
19 having it on your shoulder in a defensive stance and
20 maybe striking it; that element would be very, very
21 rare?

22 A. Yes.

23 Q. And in fact I think you said you had never struck
24 anyone?

25 A. Not at a knife incident and no, not before 2015

Transcript of the Sheku Bayoh Inquiry

1 I wouldn't say either.

2 Q. Not before 2015.

3 Then you said avoiding using any of your equipment
4 in a knife incident would be resolved by communication
5 and is that the tactical communications that you have
6 been talking about?

7 A. Yes.

8 Q. Right. I would like to ask a little bit about you
9 yourself. You have talked about having ten years'
10 police service at that time, in May 2015. You were OST
11 trained and you were also an OST trainer.

12 A. Yes.

13 Q. You have talked in your statement that officers had
14 refresher training once a year?

15 A. Yes.

16 Q. So that's in addition to the training they have at
17 Tulliallan?

18 A. Yes.

19 Q. You were personally delivering refresher training to
20 officers about two or three times a month at that point?

21 A. Yes, that sounds right.

22 Q. So your skills, your training was up-to-date and very
23 sharp at that time?

24 A. Yes. I certainly had a good working knowledge of all
25 the OST source --

Transcript of the Sheku Bayoh Inquiry

1 Q. Techniques and OST training?

2 A. Yes.

3 Q. And we have also heard that there are standard operating
4 procedures which provide information and guidance to
5 police officers in their daily work?

6 A. Yes.

7 Q. And that's something that's also trained as part of the
8 officer safety training?

9 A. How do you mean? Referring to SOPs during the training
10 or ..?

11 Q. Well, as part of your training in Tulliallan and it's
12 also available for police officers in their police
13 office through the computer system?

14 A. Yes, it is.

15 Q. Is that right? And in addition in May 2015 am I right
16 in thinking you had all your equipment with you?

17 A. Yes.

18 Q. Your spray -- what type of spray was it?

19 A. CS.

20 Q. CS. And handcuffs, baton, stab vest, radio.

21 A. Yes.

22 Q. And what difference did it make, if any, to your state
23 of mind as you approached Hayfield Road that you had
24 also had significant experience of dealing with knife
25 incidents?

Transcript of the Sheku Bayoh Inquiry

1 A. I don't know any as such. You're certainly not thinking
2 back about your own experience. It's difficult to say.
3 I don't know what my level of confidence would have been
4 if I hadn't had any of that experience so I really
5 couldn't say.

6 Q. Okay. But that did give you a level of confidence as
7 you approached Hayfield Road?

8 A. Yes, I would say so.

9 Q. And then I understand that you are 5 foot 10?

10 A. Yes.

11 Q. And in May 2015 you were 14 and a half stone.

12 A. Yes.

13 Q. And is that the same as your weight today or --

14 A. Probably about a couple of stone heavier now.

15 Q. Right, okay. Did you know from the Airwaves that PCs
16 Walker and Paton had arrived at Hayfield Road before
17 you?

18 A. Not before the emergency activations.

19 Q. Right, okay. Was that the first point at which you
20 became aware that officers had arrived?

21 A. Yes, yes.

22 Q. We have heard that when an emergency button is pressed
23 the radio vibrates.

24 A. Yes.

25 Q. Is that something you were conscious of?

Transcript of the Sheku Bayoh Inquiry

1 A. I can recall there being two emergency activations, so
2 I would assume I was aware the radio was vibrating.
3 I knew it was an emergency activation.

4 Q. Where do you normally keep your radio?

5 A. Attached to my vest, just here (indicating) at my left
6 shoulder.

7 Q. Just on your left shoulder. Did you at that stage know
8 PC Paton and PC Walker?

9 A. Yes.

10 Q. They were part of the response team?

11 A. Yes, I worked with them, yes.

12 Q. You worked with them. We have heard that they were very
13 experienced officers.

14 A. Yes.

15 Q. And what difference, if any, did it make to you to know
16 that experienced officers were attending Hayfield Road?

17 A. I didn't specifically know what officers were going to
18 get there first. It probably leaves a slight level of
19 increased confidence. Not so much that it is
20 experienced officers, if you had two brand new officers
21 out you maybe potentially would have a concern, but
22 beyond that, once somebody has a level of experience it
23 doesn't necessarily affect it up the way, if that makes
24 sense.

25 Q. When you say brand new, are you thinking probationers or

Transcript of the Sheku Bayoh Inquiry

1 are you thinking something else?

2 A. Yes, if you had for example somebody with six months
3 service and somebody with nine months service out
4 together or something like that, then you might prick
5 your ears up when you hear they're going to a knife call
6 and think -- you're going to go and assist anyway but it
7 might increase the sort of level of concern -- the level
8 that you're going to keep an eye on it.

9 Q. It's a factor you're going to put into that process with
10 the National Decision-Making Model, is it?

11 A. Yes, I would say so. Again maybe not necessarily
12 consciously, but you're going to be aware of it.

13 Q. And what about the fact you were with PC Good, who was
14 a probationer who had started the month before? What
15 difference, if any, did that make to you?

16 A. You're aware of a sort of level of responsibility for
17 her safety, or making sure she's -- not necessarily
18 delivering correct -- her safety effectively.

19 Q. And that's an added responsibility onto you --

20 A. Yes.

21 Q. -- as you attend Hayfield Road?

22 A. Yes.

23 Q. And what difference, if any, did it make for you to know
24 that there had been a request for all units to attend?

25 A. I don't know if I did hear a request for all units to

Transcript of the Sheku Bayoh Inquiry

1 attend. I would expect something like that in that type
2 of call and I was aware -- I was aware we were going,
3 I was aware PCs Gibson and McDonough were going, I was
4 aware another unit was already out so I effectively knew
5 everybody was attending anyway and you would expect
6 that.

7 Q. So you don't remember seeing -- hearing the Maxwell
8 transmission at 7.17.23 which we see on page 2 "I want
9 all units to attend, there's an ARV and a dog as well"?

10 A. I can't recall him saying that, but I don't know if
11 I heard it or not.

12 Q. You have described earlier that you didn't hear the
13 initial transmissions, it was PC Good that brought those
14 to your attention.

15 A. Yes.

16 Q. So you don't remember exactly when you started listening
17 in to the Airwaves transmissions, do you?

18 A. No.

19 Q. Right. I would like to turn to the footage now please
20 and this is phase 3 of the events, so start with page 4
21 of the spreadsheet and I'm going to ask that we play
22 from 7.21.28 and if it's just prior to that, that's
23 absolutely fine. 7.21.28, or thereabouts.

24 Right, what we're going to do now -- if we can pause
25 it there for a second please and just rewind. We're

Transcript of the Sheku Bayoh Inquiry

1 going to play a very short clip of footage, 10 seconds
2 effectively, so from 7.21.26 as it is now, to 7.21.38 to
3 40. We have heard evidence previously that these
4 recordings are within an accuracy of one second and I'm
5 going to ask you if you recognise a vehicle approaching,
6 so I'm going to ask you to focus first of all on the
7 CCTV that you can see at the bottom of the screen, all
8 right? And you will see the real time clock is in the
9 top left. You will see a reconstruction tile in the
10 middle at the top, but at the moment for these initial
11 seconds I'm going to ask you to look at the CCTV. Are
12 you happy to do that?

13 A. Yes.

14 Q. And we will probably play this more than once, so we
15 will just play the next ...

16 (Video played)

17 That's fine. Then I'm going to ask that it be
18 played again, the same sort of period of footage, so
19 that's from 7.21.28, and you will see in the
20 reconstruction tile that there's already two white
21 vehicles shown on that 3D reconstruction. Do you see
22 those?

23 A. Yes, I do.

24 Q. We have heard that the large one near the bus stop is
25 a Transit van.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And that the smaller vehicle behind that was known as
3 the fish van and you will see that there's another white
4 van comes in from Hayfield Road travelling in the
5 direction of the roundabout with Hendry Road. Let's
6 play that part of the ...

7 (Video played)

8 Thank you. So hopefully, Constable Smith, you were
9 able to see in the CCTV, first of all, the blue lights
10 of a vehicle travelling on --

11 A. Yes.

12 Q. -- Hayfield Road towards the roundabout and then you
13 would see in the reconstruction tile a white vehicle
14 coming in.

15 A. Yes.

16 Q. Did you recognise that vehicle?

17 A. That will be my vehicle. I can't say I recognised it
18 from the footage, but that will be my vehicle.

19 Q. And the position where it stops in Hayfield Road, is
20 that effectively the position you were in when you
21 arrived?

22 A. Yes, it is. My recollection would be that it would be
23 a little bit further back, but I'm satisfied that's
24 correct.

25 Q. So you have arrived in that vehicle on Hayfield Road and

Transcript of the Sheku Bayoh Inquiry

1 your van is near the centre of that road, opposite the
2 bus stop, close to the Transit van.

3 A. Yes.

4 Q. What I would like to do now is just confirm looking at
5 the spreadsheet -- you will see that by the time that
6 you arrived -- you have told us that you were aware that
7 two emergency buttons had been pressed so if you could
8 look at page 3 of the spreadsheet, we see this at the
9 bottom, 7.20.42, Alan Paton's emergency status is turned
10 on, that's the first emergency button, do you see that?

11 A. Yes.

12 Q. And then at 7.21.19 we see PC Ashley Tomlinson's
13 emergency status is turned to on and that's on page 4 of
14 the spreadsheet, just beyond halfway down. It's in red.

15 A. Page 4, sorry?

16 Q. Sorry, that's 7.21.19.

17 A. Yes, sorry, yes.

18 Q. So we have already heard evidence that there were two
19 emergency transmissions, Paton and Tomlinson. You
20 weren't actually at Hayfield Road when you became aware
21 of those.

22 A. No.

23 Q. And we have heard and you have confirmed your radio
24 vibrates, but is it the case that you can't tell who has
25 pressed the button, you can just tell that a button has

Transcript of the Sheku Bayoh Inquiry

1 been pressed?

2 A. I don't know if it would display it on the screen of the

3 radio. I think it might, but you would have to be

4 looking at the screen.

5 Q. But you were driving --

6 A. Yes.

7 Q. -- en route to Hayfield Road, so that's not something

8 you were aware of?

9 A. No.

10 Q. So they have been pressed prior to your arriving and the

11 van that you have confirmed was yours we see on the

12 spreadsheet that arrives with -- "another police vehicle

13 with flashing lights arrives", 7.21.28 to 7.21.31, at

14 the bottom of page 4 of the spreadsheet.

15 A. Yes.

16 Q. And it says:

17 "Another police vehicle with flashing lights arrives

18 at the scene, approaching from Hayfield Road towards the

19 roundabout and stops beyond the other police vehicles

20 further up Hayfield Road."

21 A. Yes.

22 Q. And that was you?

23 A. Yes.

24 Q. Right, thank you. Then the next entry is 7.21.35 at the

25 bottom of page 4:

Transcript of the Sheku Bayoh Inquiry

1 "The light coloured vehicle that had moved from the
2 roundabout stops at the entrance to Hendry Road."

3 We can actually see that on the screen at the
4 moment, that there's a light coloured vehicle at the
5 roundabout at Hendry Road and Hayfield Road.

6 A. The van?

7 Q. We see it on the CCTV footage. Actually they both look
8 quite light to me.

9 A. Yes.

10 Q. There's a van on the roundabout and there's a pale
11 coloured car --

12 A. Yes, I see that.

13 Q. -- just beyond that. Then 7.21.38 at the top of page 5,
14 there's an Airwaves transmission recorded there which
15 says:

16 "Control Bravo 1 officer's been punched to the back
17 of the head. No obvious serious injuries. Male secure
18 on the ground."

19 A. Yes.

20 Q. And that was your Airwaves transmission at that time?

21 A. Yes, it was.

22 Q. Right. I'm going to be asking you some further
23 questions about when you arrived at Hayfield Road.

24 Are you happy for me to move on now, or would you
25 prefer to --

Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: I think this is a convenient point to take
2 a break, we will take a break now. So a 15-minute
3 break.

4 (11.25 am)

5 (Short Break)

6 (11.50 am)

7 LORD BRACADALE: Yes, Ms Grahame.

8 MS GRAHAME: Thank you. I would like to ask you some
9 questions about what was happening at the time you
10 arrived at Hayfield Road and what you saw and what
11 I would like to do, first of all, is just briefly look
12 at paragraphs 10 and 15 of your Inquiry statement.
13 I will just read these out:

14 "On my arrival at the locus I could not see
15 Mr Bayoh, just PC Short. As such my risk assessment had
16 not changed. Race played no part."

17 And then you say:

18 "There was at least one police vehicle stopped in
19 the road and I saw PC Short moving across the road in
20 front of my vehicle fully detailed in paragraphs points
21 21 to 24."

22 So I'm going to go through those paragraphs in
23 detail, but what I would like you to do is look at a 3D
24 image for me. These are still images too and we have
25 number 4 I think will hopefully be of use. You will see

Transcript of the Sheku Bayoh Inquiry

1 that this is an image which shows Hayfield Road and it
2 shows the Transit van in the position at the bus stop,
3 the fish van behind on Hayfield Road, and then the van
4 you described as your van sort of in the middle of
5 Hayfield Road.

6 A. Yes.

7 Q. Facing in the direction of the roundabout with
8 Hendry Road. We can ignore the other van on the left at
9 the moment, but when you arrived on Hayfield Road in
10 your van -- did it have a special name your van --

11 A. No.

12 Q. -- or a call number or anything you make to it?

13 A. It would have had some sort of unique identifier but
14 I wouldn't have used it.

15 Q. But nothing --

16 A. No.

17 Q. Right. So when you arrived, you have said in your
18 statement you saw PC Short moving across the road in
19 front of your vehicle?

20 A. Yes.

21 Q. So you have told us you're driving, you're on the
22 driver's side --

23 A. Yes.

24 Q. -- of your van, so you're on the far side as we look at
25 this picture of the van?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Where was PC Short? Now, you will be able to touch the
3 screen. Have you seen that done?

4 A. Yes.

5 Q. So you can touch the screen and a red circle will
6 appear, but we will be able to fine tune these things at
7 some point maybe in the future, not today.

8 A. So before I do it, as I have been -- I have initially
9 seen PC Short literally as I'm on the last sort of bit
10 of roadway before I arrive, so I have still been driving
11 straight towards the locus, I have seen her which has
12 made me brake and that's where the van has ended up.

13 Q. Do you want to point --

14 A. So it's not that I've stopped and seen her.

15 Q. So point where she was when you first saw her in
16 Hayfield Road?

17 A. I think about here (indicating).

18 Q. That's a big red circle. Maybe delete that and have
19 something slightly smaller.

20 A. I will try now?

21 Q. If you give Ms Drury a moment.

22 A. Sorry.

23 (Pause).

24 Q. That looks like that's working, right. We've got
25 slightly smaller red circles now if you want to press --

Transcript of the Sheku Bayoh Inquiry

1 A. Round about there (indicating).

2 Q. So that's quite close to the front of the Transit van?

3 A. Yes, I can't be 100 -- generally in that area.

4 I couldn't say exactly, exactly where.

5 Q. So you saw her and you have said that's what caused you

6 to stop your van --

7 A. Yes.

8 Q. -- in the position it was stopped in?

9 A. Yes.

10 Q. Tell us how PC Short looked when you saw her.

11 A. She was staggering, so looking like she was about to

12 lose her legs from underneath her as she is moving

13 across the road.

14 Q. What direction was she moving?

15 A. Towards the houses.

16 Q. I wonder, we have these lines, purple lines with arrows.

17 I wonder if you could indicate the direction in which

18 she was moving?

19 A. So, yes, my recollection is that she was moving --

20 Q. That's maybe in the circle.

21 A. Drag it?

22 (Pause).

23 Q. Well, if you want to use -- oh, try again.

24 A. There we go.

25 Q. Oh, right. So you just have to put your finger on the

Transcript of the Sheku Bayoh Inquiry

1 screen and move it and then it should replicate a line.

2 A. I think it was because it was already touching the thing

3 that was already there that ...

4 Q. Right. Are you comfortable with that line or do you

5 want to adjust it?

6 A. Yes. I couldn't say exactly where it was so that's

7 a good estimation.

8 Q. So she was moving from the Transit van towards that

9 yellow coloured vehicle?

10 A. Yes.

11 Q. Which I think was a mini. Right. Was she crossing in

12 front of your van?

13 A. That was the direction she was heading in. I don't know

14 if she had got to the point of actually crossing in

15 front of us by the time we stopped, but I think she

16 probably would have done.

17 Q. And you did what?

18 A. Stopped. Stopped and got straight out, yes.

19 Q. And how long did it take to you get out and exit the

20 vehicle?

21 A. Very quickly. It was like executing an emergency stop

22 and then straight out, as quickly as you possibly could.

23 Q. Where did you go?

24 A. Straight to PC Short.

25 Q. Right. Did you say anything to her?

Transcript of the Sheku Bayoh Inquiry

1 A. I had a brief conversation with her. I can't remember
2 what words I used.

3 Q. Do you remember what she said to you?

4 A. I can't remember the exact wording but she conveyed that
5 she had been hit to the back of the head and I asked
6 where the other officers were and she has indicated down
7 Hayfield Road towards the roundabout. I can't remember
8 if she pointed as she said, but she got that information
9 across.

10 Q. Where was PC Good?

11 A. Pretty much with me. She got out of the passenger side
12 and joined me. I couldn't say exactly where she was
13 stood in relation to me, but we were both with PC Short.

14 Q. So she had got out of the front passenger side of the
15 van --

16 A. Yes.

17 Q. -- and come round to join you --

18 A. Yes.

19 Q. -- with PC Short?

20 A. Yes.

21 Q. How long did you spend with PC Short?

22 A. Seconds. As quickly as I could get that information,
23 I had a quick check -- I don't know if I used my hands
24 or just visually to satisfy myself she was -- my concern
25 had been when it was passed that an officer was injured

Transcript of the Sheku Bayoh Inquiry

1 that that meant somebody had been stabbed or injured
2 with the knife, just given the context of the call, so
3 I satisfied myself that that didn't appear to be the
4 case for her and then moved on down the road.

5 Q. So just as you say, to put it into context, if we look
6 at page 4 of the spreadsheet you will see at 7.21.02
7 there's an airwaves transmission from PC Paton, so
8 that's page 4, 7.21.02, "Officers injured PC Short
9 male"?

10 A. Yes.

11 Q. You had heard that transmission?

12 A. Yes.

13 Q. And then you arrived at 7.21.28 to 31 down towards the
14 bottom of page 4 --

15 A. Yes.

16 Q. -- and that's your police vehicle with flashing lights
17 arriving, do you see that?

18 A. Yes.

19 Q. When you say you did a quick check --

20 A. Yes.

21 Q. -- describe to us what you did.

22 A. I really can't remember. It was either just a visual
23 check or it was maybe even just -- because she was
24 clutching her right-hand side, so I think possibly
25 I have just literally put my hand underneath her vest

Transcript of the Sheku Bayoh Inquiry

1 and pulled it out to see if there was any bleeding or
2 anything like that and just -- so mostly a visual check
3 but it has been very, very quick.

4 Q. So you put your -- you're gesturing with your right
5 hand. You put your right hand underneath her vest?

6 A. I can't remember. It would have been ... yeah, a hand.
7 I wouldn't like to say.

8 Q. Was she facing you at that time?

9 A. I don't know.

10 Q. But you remember putting your hand under her vest?

11 A. Yes.

12 Q. She may not have described that happening. Are you sure
13 about -- you have not mentioned that in your statement.
14 Are you sure that happened?

15 A. I'm not positive. I think I have maybe done that.

16 Q. But not positive?

17 A. Not positive.

18 Q. So from that position, once you have done a quick check,
19 you realised she is not bleeding --

20 A. Yes.

21 Q. -- and did you check her head? Because you said she
22 mentioned she had been hit at the back of her --

23 A. No.

24 Q. You didn't check her head?

25 A. No.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can I ask you, when you made your transmission we looked
2 at a moment ago about the male on the ground, 7.21.38,
3 where were you when you made that transmission?

4 A. Somewhere between where I was then and the point where
5 we ended up restraining the male on the ground and
6 I think I was running.

7 Q. Right. So when you left PC Short, after you had done
8 your check --

9 A. Yes.

10 Q. -- which direction did you run in?

11 A. Towards the roundabout generally.

12 Q. Do you want to draw it on the -- again with an arrow if
13 possible.

14 Right, and when you made the transmission that we
15 have seen about "Officer's been punched to the back of
16 the head. No obvious serious injuries. Male secure on
17 the ground", where on Hayfield Road were you when you
18 were making that transmission?

19 A. I can't recall exactly. The best of my recollection
20 it's probably where the tip of the arrow is that I have
21 just drawn, but obviously I have been moving, so along
22 that line.

23 Q. You made that transmission as you were running?

24 A. I think so, yes.

25 Q. Could you see the events taking place further down

Transcript of the Sheku Bayoh Inquiry

1 Hayfield Road by the time you were running in that
2 direction?

3 A. Not when I initially started. The other people weren't
4 clear to me. I don't know -- I think they may well have
5 been obscured by one of the parked vehicles. I also
6 remember having in my head I was looking for people who
7 were standing up. I can't necessarily explain why that
8 was, so maybe my focus wasn't down on the ground, but
9 I certainly wasn't aware of the other people when
10 I started moving down the road.

11 Q. When did you become aware of the people?

12 A. Probably halfway between me and them.

13 Q. Right. And when you say "halfway", can you indicate on
14 this image what you mean?

15 A. Again I would imagine roughly the same, sort of where
16 the tip of the arrow would be, I imagine, where
17 I started to make the radio broadcast.

18 Q. And by the time you have finished the radio broadcast
19 how far were you from the people?

20 A. I can't remember. I think I was pretty much just
21 arriving. It's not taken very long at all to run down
22 the road.

23 Q. So as you have been running along Hayfield Road,
24 describe to us what you could see.

25 A. There's obviously two police vehicles on the other side

Transcript of the Sheku Bayoh Inquiry

1 of the road, pointing in the direction from which I had
2 come, and a number of other officers restraining a male
3 on the ground further up towards the roundabout.

4 Q. Do you want to point on this image where you saw the
5 males restraining -- the officers restraining the male?

6 A. Again it's to the best of my recollection, but I think
7 it was probably around about here (indicating).

8 Q. How many officers were restraining the male?

9 A. Three.

10 Q. Did you -- were you able to identify those?

11 A. Not when I first saw them, only once I had actually got
12 to them.

13 Q. Tell us who they were?

14 A. It was PCs Paton, Tomlinson and Walker.

15 Q. Tell us how the man on the ground was lying.

16 A. Again initially I couldn't see. The impression I got
17 when I first saw them was they were just restraining
18 a person on the ground and I have passed on the radio
19 that the person has been restrained on the ground --

20 Q. "Male secure on the ground".

21 A. Yes. As I've got there that's become clear that's not
22 entirely accurate and the male was still struggling with
23 them. He was moving and trying to basically resist
24 their restraint, so he was moving sort of between being
25 face down on the ground and up onto his right-hand side

Transcript of the Sheku Bayoh Inquiry

1 is my best recollection of it, and moving about quite
2 a lot.

3 Q. So when the message was transmitted "Male secure on the
4 ground", at that time you could still see him moving and
5 struggling at that stage?

6 A. I can't remember if -- what I saw of him when I was
7 literally passing that message. I think I probably had
8 the impression more that there was a greater level of
9 security than there was, so possibly I wasn't aware of
10 the degree of movement. It was only once I had
11 literally got there and was standing besides them
12 looking down at what was happening that it became clear
13 that he was moving a lot.

14 Q. So as you got closer the information that you had, or
15 that you were processing became clearer?

16 A. Yes, yes.

17 Q. Where was PC Paton?

18 A. To the best of my recollection he was up towards the
19 gentleman's head, or the upper part of his body, to say
20 the rear of him or to the left-hand side if the male was
21 down in the prone position.

22 Q. Looking at this image can you maybe give us a better
23 description of how the male was lying?

24 A. He was lying -- I can't remember exactly where --

25 Q. Where his head was.

Transcript of the Sheku Bayoh Inquiry

1 A. -- in relation to the kerb, but his head was -- he was
2 basically at right angles to the line of the hedge with
3 his head on the same side as the houses.

4 Q. Right. So if we -- could you point to the hedge that
5 you're referring to?

6 A. There (indicating).

7 Q. And he was at right angles to that?

8 A. Yes.

9 Q. So could you maybe draw an arrow indicating the
10 position?

11 A. How's that?

12 Q. We can take that away if you want to have another
13 attempt at it.

14 A. Yes.

15 Q. So let's take away 6.

16 A. So I would say roughly that, probably a little bit more
17 of a right angle but --

18 Q. So straight on effectively?

19 A. Yes.

20 Q. Where was his head in relation to the hedge?

21 A. Still pretty much -- I think there would have been the
22 whole width of the footpath before you got to it but at
23 the same end as the arrow.

24 Q. Same end of the arrow?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And his legs at the other end of the arrow?

2 A. Yes.

3 Q. Slightly more at a right angle than you have drawn?

4 A. Yes, I think so.

5 Q. So when you said that PC Paton was up to the head was he

6 closer to the hedge than the other officers?

7 A. Yes.

8 Q. And you have said he was on the left-hand side. Is that

9 the left-hand side of the male?

10 A. Yes.

11 Q. And then you mentioned he was at the upper body. Can

12 you describe what you mean by the upper body?

13 A. Near the head.

14 Q. Near the head. What was PC Paton doing?

15 A. To the best of my recollection he was reaching over him

16 and trying to control the man's arms, so if the man was

17 on his side, which he was, moving from his side and

18 prone, PC Paton was almost leaning over and trying to

19 get control of the arms.

20 Q. How was PC Paton positioned himself?

21 A. I think -- again my recollection is not perfect, but

22 I think he was kneeling.

23 Q. Kneeling?

24 A. Kneeling on the ground.

25 Q. Kneeling on the ground?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And leaning over the male's upper body?

3 A. I think so, yes.

4 Q. And reaching for his ..?

5 A. Arms.

6 Q. Arms. Where were the male's arms?

7 A. Again, he was moving, so he seemed to be trying to free

8 himself by getting himself in the prone position, maybe

9 pushing himself up, so there at some points and then

10 other points when he was further over onto his side

11 again up to his front with PC Paton trying to get

12 control of them.

13 Q. So as you were approaching, how was the male on the

14 ground positioned? You have described it --

15 A. I couldn't say. He was --

16 Q. You couldn't say.

17 A. No.

18 Q. And as PC Paton was reaching for his arms, were his arms

19 on the other side as you approached, the other side of

20 his body from where you were approaching?

21 A. They could well have been. As I said, there was a lot

22 of movement. It wasn't just sort of one move between,

23 there was continual movement and struggling, so ...

24 Q. So it wasn't -- it wasn't a static scene?

25 A. No he wasn't being held in a fixed position. He was

Transcript of the Sheku Bayoh Inquiry

1 moving and PC Paton was trying to adapt I think and
2 trying to keep control of him.

3 Q. Where was PC Walker?

4 A. Further down, so the -- next to PC Paton effectively.

5 Q. PC Paton at the head?

6 A. PC Paton at the head, PC Walker a little bit further
7 down so level with the chest area.

8 Q. You're pointing to your right side there?

9 A. Yeah, okay, it would be the right side if he was in the
10 position where he was leaning up, yes.

11 Q. So you're talking about Mr Bayoh's right side, are you?

12 A. Yes, yes.

13 Q. So PC Paton was in that position. How was PC Paton
14 positioned when you approached?

15 A. Sorry, PC Walker?

16 Q. Sorry, yes, PC Walker, sorry.

17 A. He was leaning over Mr Bayoh. I can't recall exactly
18 what he was doing with his hands. I think he was trying
19 to keep him in position, prevent him from getting onto
20 his front and lifting himself up.

21 Q. And when you say he was leaning over, over what?

22 A. Over Mr Bayoh.

23 Q. Right. Were you able to tell at that point if he was
24 putting weight on Mr Bayoh?

25 A. No, it's difficult to tell. He could well have been,

Transcript of the Sheku Bayoh Inquiry

1 but I couldn't tell. It certainly wasn't a case of he
2 had all his weight just on top of the man. I would
3 think he was trying to use his weight to --

4 Q. I don't need you to speculate about that. So you see
5 PC Walker as you approach. Is it the back of PC Walker
6 that you can see?

7 A. Yes.

8 Q. And he is leaning over and then where was PC Tomlinson?

9 A. Down at Mr Bayoh's legs.

10 Q. Where at his legs?

11 A. I really can't remember now. I know he was down --
12 that's the end of the body he was at, but my
13 recollection now is I couldn't say whether he was beside
14 him or on him or what have you.

15 Q. So he was furthest right as you approached?

16 A. Yes.

17 Q. And what of PC Tomlinson could you see?

18 A. I really can't remember. I remember being aware that
19 that's where he was, but ...

20 Q. Right. How far were you from this point when you
21 started to recognise the officers?

22 A. I don't know. I suppose I wouldn't have been certain
23 who was who until I got round to the other side and was
24 facing them.

25 Q. We have heard that at one point PC Tomlinson may have

Transcript of the Sheku Bayoh Inquiry

1 been straddling Mr Bayoh's legs, so knee on either side
2 of his legs and his legs underneath, towards
3 PC Tomlinson's bottom. When you saw PC Tomlinson what
4 position was he in?

5 A. I can't recall. I just remember him being down at that
6 end of the body.

7 Q. What did you do?

8 A. I moved round to the front --

9 Q. When you say the front, what do you mean?

10 A. To the side the other officers weren't on.

11 Q. And what did you do?

12 A. Quickly had a look at the situation to try and figure
13 out what's happening, or improve the amount of
14 information I've got because obviously I have come into
15 this really not knowing what's occurred. I have seen
16 the fact he has not been handcuffed so his hands are
17 still free, he is struggling with the other officers,
18 trying to sort of pull his arms away from them, push
19 himself up. It looked very much to me like he was
20 imminently going to break free from their control just
21 because of the difficulty they were having in keeping
22 control of his arms, keeping him from pushing himself up
23 et cetera.

24 At that point again to me the most significant risk
25 there is the fact that there is a knife unaccounted for,

Transcript of the Sheku Bayoh Inquiry

1 so I couldn't see a knife. However, the knife's still
2 unaccounted for. It could be easily within reach and
3 the absolute priority is to get control of the person on
4 the ground, a major risk being that if I go and close in
5 towards where his hands are, that puts me at very
6 significant risk if there is a knife produced and it's
7 not an ideal place for me to be.

8 I have considered the option of use of CS spray at
9 that point, possibly disengaging from him -- sorry, not
10 CS spray, PAVA spray -- disengaging from him and
11 deploying the spray to try and get a level of control.
12 Again, that's not been a firm plan or anything we've got
13 to the point of doing. I asked any officers if they had
14 PAVA, that being a more suitable agent to use rather
15 than CS which is what I had. Somebody said -- I think
16 PC Walker said he has been PAVAed or PAVA had been used.
17 I can't recall the exact words. He told me PAVA had
18 been used and it was ineffective.

19 I have then drawn my CS and PC Walker said CS
20 doesn't work either or words to that effect and he has
21 pushed my hand back with the spray in it, so that's
22 effectively stopped that train of thought that that's
23 a potential option. It's been tried, it's been found
24 ineffective, that's been precluded so I didn't go down
25 any further decision-making in respect of potentially

Transcript of the Sheku Bayoh Inquiry

1 doing that.

2 The options then are becoming more limited and
3 I have decided just to go and try and take control of
4 his hands and see if we can get a set of handcuffs on
5 him just through effectively controlling the hands,
6 getting them into a handcuffing position and applying
7 the handcuffs, which is what we did.

8 Q. That's a lot of information you have given me, thank
9 you. But I would like to go back over it that a little
10 more slowly, if you don't mind.

11 You have described when you came around to the
12 front.

13 A. Mm-hm.

14 Q. When you came around to that position what position was
15 the male in on the ground?

16 A. As I have described and moving about, sort of between
17 a prone position and a position on his side.

18 Q. And that's his left-hand side?

19 A. Yes.

20 Q. And what about the view you had of what the officers
21 were doing? Can I ask you -- having come round to the
22 front, what further view did you have of PC Paton first
23 of all?

24 A. I was aware PC Paton was trying to control his hands,
25 that's my recollection, and again just trying to get

Transcript of the Sheku Bayoh Inquiry

1 a firm grip on his hands, stop him trying to push
2 himself up, stop him -- I don't know what he was trying
3 to do. He was trying to control his hands. I can't
4 remember exactly what PC Walker was doing and I can't
5 remember exactly what PC Tomlinson was doing and again
6 at that point my focus has been on his hands, almost as
7 a -- not quite tunnel vision but very, very focused on
8 his hands because that's where the threat is for me.
9 The main threat is a knife. I'm zoned in completely on
10 his hands.

11 Q. So are you able to help us in any way with the weight
12 that was on the male on the ground from any of the
13 officers?

14 A. I'm not sure. As I said, PC Walker was leaning over
15 him, so he may well have been putting weight on but
16 I couldn't say for definite how much he was.

17 Q. And Tomlinson?

18 A. Tomlinson is down at the legs and again I can't remember
19 if he's got his weight on the legs or he is kneeling
20 beside him. I'm aware he is down there, I'm aware
21 there's a lot of movement in my peripheral vision but
22 I wouldn't like to say I saw him lying on his legs or
23 otherwise.

24 Q. And PC Paton?

25 A. I don't think PC Paton had any weight on him. I think

Transcript of the Sheku Bayoh Inquiry

1 PC Paton was kneeling and just -- there may have been
2 a little weight if he's trying to lean over him, but I'm
3 almost starting to speculate there I think.

4 Q. All right. And you have talked about tunnel vision in
5 relation to trying to secure his hands?

6 A. Yes.

7 Q. How long were you engaged in that process of trying to
8 secure his hands?

9 A. I don't think very long. I think it was a few seconds.
10 We have managed to apply a set of handcuffs. I don't
11 know where they came from. I was under the impression
12 at that point it was really just myself and I think
13 PC Paton attempting to do that, so I can't recall any
14 other officers being there.

15 Q. You don't recall officers being there?

16 A. As in other than the three at the back and myself.

17 Q. Right. So the four of you at that time?

18 A. I wasn't aware of anybody else -- yes, I wasn't aware of
19 anybody else turning up by that point.

20 Q. When you were trying to secure his hands, what was the
21 man doing on the ground?

22 A. Trying to move his hands out of the way. Trying to pull
23 his hands out of our grasp.

24 Q. Right. And then you mentioned a moment ago you asked if
25 anyone had PAVA spray.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And you said that was more suitable than CS.

3 A. Yes.

4 Q. Could you explain what you meant by that?

5 A. There's less cross-contamination risk. So the option

6 I was potentially considering would be to discharge PAVA

7 whilst potentially an officer is still in contact with

8 the subject or very close to the subject, or we're going

9 to have to go in straight away, otherwise -- so there's

10 risk to officers of cross-contamination. PAVA has

11 significantly less cross-contamination than CS, so it

12 seemed to me to be a better option.

13 Q. How far should you be from someone if you're going to

14 use PAVA spray?

15 A. 3 feet.

16 Q. So when you were considering that as an option would you

17 have had to have removed yourself from the --

18 A. I don't think so because I don't recall moving right

19 close into his hands until that point and if it had

20 been, it would have been -- you can make that distance

21 quite easily simply by moving your arm back if you have

22 to, so potentially move back a little way, but I will

23 suggest I was pretty much in the right position.

24 Q. So when you're talking about the distance you were away

25 from the man on the ground --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- how far away were you from him?

3 A. I would say 2 or 3 feet, just far enough so I wasn't at

4 risk if -- the risk was diminished if a knife came into

5 play.

6 Q. And what position were you adopting?

7 A. I think I was kneeling down or crouching down.

8 Q. Do you remember which?

9 A. No.

10 Q. And then you mentioned that PC Walker had said PAVA had

11 been used?

12 A. Yes.

13 Q. So at that stage you knew PAVA had been used previously,

14 prior to you --

15 A. Yes.

16 Q. -- suggesting it and it had been ineffective?

17 A. Yes.

18 Q. And once you knew that, that PAVA had been used and was

19 ineffective, did that -- did you factor that into your

20 assessment of the situation?

21 A. Only in that we were trying to find an option to get him

22 secure at that time, so it affected that, but overall,

23 no, your train of thought is going very, very quickly

24 and there's an absolute priority there of getting the

25 subject secured, so that was how I was factoring it in

Transcript of the Sheku Bayoh Inquiry

1 at that point.

2 Q. And when you heard that PAVA was ineffective, is that
3 normal that PAVA would be ineffective?

4 A. I had never been around the use of PAVA up to that point
5 because it was in the process of getting rolled out.
6 This was the first few months.

7 Q. We may have heard that it was being rolled out at around
8 about that time.

9 A. Yes.

10 Q. All right. So had you been trained in PAVA?

11 A. Yes.

12 Q. So you knew that it was more suitable than CS spray?

13 A. Yes.

14 Q. But did you have any PAVA yourself?

15 A. No.

16 Q. And were you aware that it is ineffective with some
17 people?

18 A. Yes.

19 Q. And what are the circumstances where it's ineffective?

20 A. It's been incorrectly used, so you have not got the
21 subject directly in the eyes. It could be intoxication
22 through drink or drugs. State of mind, being very, very
23 focused and able to work through the fact it produces
24 a lot of pain. Mental health issues again around your
25 state of mind to do with dealing with the pain.

Transcript of the Sheku Bayoh Inquiry

1 Q. So any of those --

2 A. Or a natural immunity.

3 Q. Or a natural immunity. So any of those factors could be

4 the reason why it's ineffective?

5 A. Yes.

6 Q. And is that something you were aware of at the time?

7 A. Yes.

8 Q. And then you suggested, or you -- you took your hand out

9 and said -- and was told, again I think you said by

10 PC Walker, when you took your hand out with your

11 CS spray he said "CS doesn't work either"?

12 A. Words to that effect.

13 Q. Yes. So again, were you under the impression at that

14 time that CS had been tried but it had been ineffective?

15 A. When PC Walker said that, yes.

16 Q. So that was information that was conveyed to you?

17 A. Yes.

18 Q. And once you knew that was ineffective as well, what

19 impact did that have on you?

20 A. It completely stopped that train of thought that that

21 was a viable option.

22 Q. And are you aware of reasons why CS spray may be

23 ineffective?

24 A. The same as with PAVA essentially.

25 Q. So that was also information you knew at the time?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. So would you have considered those two sort of potential
3 red flags for possible medical emergency or a mental
4 health crisis?

5 A. Yes, potentially, if you had had the opportunity to give
6 that a level of consideration. However, the focus was
7 on the very serious risk directly in front of me.

8 Q. Right. And then you talked about -- you used the words
9 "the options were limited", once you were aware of that
10 information.

11 A. Yes.

12 Q. And you were trying to take control of his hands and
13 then you mentioned handcuffs.

14 A. Yes.

15 Q. Can you explain what you were -- what your thought
16 processes were then?

17 A. The very, very pressing need to get control of his
18 hands. As I have said, to me at that point the greatest
19 risk factor in that was still the presence of an
20 unaccounted for knife, in addition to the information we
21 have already got about him having the knife out in
22 public and, as I said, not behaving in a normal rational
23 way prior to arrival, in that he was walking about with
24 a knife plainly in sight.

25 There's then been -- I don't have specific

Transcript of the Sheku Bayoh Inquiry

1 information as to what's happened before I arrived but
2 the circumstances are very indicative that there has
3 been some sort of violent confrontation that the
4 officers have struggled to contain. That's -- it's
5 unusual. There's repeated emergency buttons getting
6 activated, there's items of kit and equipment --
7 equipment lying on the ground, there's some sort of
8 violent encounter has happened which --

9 Q. What was lying on the ground?

10 A. I can't remember when I saw what, but during the course
11 of it I have picked up I think a PAVA spray, irritant
12 spray, I think I have picked up a radio and I think
13 there's been a baton lying on the ground. I don't know
14 if I picked that up or not.

15 Q. So items of officer equipment?

16 A. Yes. I would say I was only aware of one thing at that
17 point and I couldn't tell you which one it was, but
18 during the course of it.

19 Q. So tell us how you went about trying to secure the
20 handcuffs onto the man's hands.

21 A. Literally -- firstly I don't know whose handcuffs,
22 I don't think it was mine. I'm fairly sure it wasn't
23 mine. No particular technique as such. It's a case of
24 getting control of the hands through strength.

25 Q. How did you do that?

Transcript of the Sheku Bayoh Inquiry

1 A. Grabbing the wrist, taking control of the wrist and
2 moving it to a position where handcuffs can be applied.

3 Q. Was that both wrists?

4 A. Between us, both wrists, yes.

5 Q. Between you and PC Paton?

6 A. I think so, yes.

7 Q. Who secured the handcuffs on?

8 A. I cannot remember. It was effectively a joint effort,
9 a case of getting the cuff on one wrist. As soon as
10 you've got the other wrist in a position where you can
11 get the other cuff applied, getting them on and securing
12 it.

13 Q. Who got the first cuff on?

14 A. I can't remember.

15 Q. And how long did that process take?

16 A. I don't know. Seconds. Maybe 20, 30 seconds.

17 Q. What was the man doing during the time you were trying
18 to secure the handcuffs?

19 A. Still struggling. Trying to pull his hands away so they
20 wouldn't be in a handcuffing position.

21 Q. Were they double-locked?

22 A. I can't recall double-locking them at the time but
23 I believe they were double-locked from a check I did
24 much later on. The double-locking pins were applied
25 when I came to take them off later on.

Transcript of the Sheku Bayoh Inquiry

1 Q. So when you checked them later?

2 A. Yes -- well, not checked, when I took them off I became
3 aware that the double-locking pins were engaged.

4 Q. So you don't know exactly when they were double-locked.
5 Can you explain how handcuffs are double-locked?

6 A. Okay. So the handcuffs work as basically a ratchet.
7 There's a single bar with a ratchet on it that will go
8 round the person's wrist, attach back on to the handcuff
9 and can be tightened up so that's the level of
10 restraint, the cuffs secured around the wrist.

11 Q. I wonder if -- I don't know if we have the handcuffs
12 available but it might --

13 A. That's fine, that's okay.

14 Q. You might find it easier to use these to demonstrate.

15 A. Yes, okay.

16 Q. You will have to hold them up so we can see.

17 A. As I said, the way the handcuff works is, as I said, the
18 wrist is between there, the cuff comes round and the
19 wrist is secured in between, and then it's tightened up
20 until you have the appropriate level of control that you
21 need.

22 Q. Depending on the size of the wrist?

23 A. Yes, depending -- yes. The problem then is -- well,
24 obviously then, yes, they can't come back that way so
25 you've got the level of restraint, however it can

Transcript of the Sheku Bayoh Inquiry

1 continue to become tighter which obviously if there's an
2 accident or the person continues to struggle, that can
3 become an issue because it can become tighter and cause
4 an injury. So to stop that, when we're satisfied the
5 level -- the cuff is in the correct place you can engage
6 a double-locking pin, which is a little pin just in
7 there which you push in with a little nib on the end of
8 the cuff key or a pen, and it applies. And what that
9 does is it stops the cuff tightening up any, still can't
10 move that way, so the cuffs are locked in place.

11 Q. Can you do that when a person is struggling?

12 A. You would have to have a level of control. It wouldn't
13 be impossible to do it with somebody struggling.

14 Q. Did you double lock the cuffs?

15 A. I can't recall doing them. It's something I would
16 naturally -- it's almost a muscle memory sort of thing.
17 I have applied handcuffs thousands of times and it's
18 something I would automatically do. I can't -- I don't
19 have a recollection of doing it.

20 Q. Right, but in any event you later discovered that they
21 had been double-locked?

22 A. Yes.

23 Q. And once the handcuffs were applied, what was the man
24 doing?

25 A. Continuing to struggle and try and pull his hands away,

Transcript of the Sheku Bayoh Inquiry

1 et cetera. My recollection is sort of immediately the
2 handcuffs were applied -- I think it was PC Paton said
3 there was a need to apply leg restraints or fast straps
4 so I have immediately moved down and assisted in doing
5 that.

6 Q. Tell us how you applied the fast straps.

7 A. It was between myself -- there were other officers had
8 arrived at this point. Another officer, I think
9 PC McDonough, has taken his fast straps out -- excuse
10 me.

11 Q. So was he the only other officer that had arrived at
12 that stage?

13 A. He is the only one I can remember. He was with
14 PC Gibson so PC Gibson must have arrived, but I don't
15 recall seeing him.

16 Q. You don't recall seeing him on the ground?

17 A. Yes, immediately there.

18 Q. So tell us about the fast straps.

19 A. Got control of the man's legs, got them --

20 Q. How did you do that?

21 A. Again, I can't recall exactly every single movement
22 during the course of it but it's moving down the body,
23 securing the legs, I think somebody put their weight on
24 his legs which is exactly how we teach to apply leg
25 restraints.

Transcript of the Sheku Bayoh Inquiry

1 Q. Where was PC Tomlinson?

2 A. Down on his legs at that time.

3 Q. So when you say someone was applying weight to his legs,
4 was that an additional someone or PC Tomlinson?

5 A. I don't recall. PC Tomlinson was definitely down there
6 so he would have been doing that.

7 Get the legs straightened out into as good
8 a position as we can to apply them --

9 Q. What's a good position?

10 A. Perfectly straight, but that's -- yes, in training we
11 aim for that, however in the real world if somebody is
12 resisting, if somebody is struggling you maybe don't
13 have that done perfectly if they've got a level of
14 strength, but as far as I can recall his legs were
15 fairly straight, toes pointed towards the roundabout.

16 Q. Toes pointed towards the roundabout?

17 A. Yes.

18 Q. How was he lying?

19 A. I'm not sure.

20 Q. At the stage you were applying the fast straps?

21 A. I really can't remember. I can remember PC Paton and
22 PC Walker still restraining the top half of his body but
23 again it comes down to being focused on the job I was
24 doing. My eyes were down at his legs, at his feet where
25 my hands were getting the straps applied.

Transcript of the Sheku Bayoh Inquiry

1 Q. So when you say his feet were pointing towards the
2 roundabout --

3 A. Yes.

4 Q. -- is that the roundabout with Hendry Road and
5 Hayfield Road?

6 A. Yes.

7 Q. And when you say pointing towards, how was the man lying
8 at that stage?

9 A. I can't remember. That could be either on his side or
10 prone.

11 Q. Right, so either on his side or prone?

12 A. Yes.

13 Q. And describe the way his legs were at the stage you were
14 trying to apply the fast straps.

15 A. I can recall some degree of resistance and legs being
16 bent, et cetera, to try and again move out of our
17 control. To the best of my recollection we've got them
18 like straightened out and I think that was due to
19 downward pressure on his legs, not from myself. Any
20 pressure from myself has been -- I don't think I've ever
21 been actually on his legs, there would have been some
22 coming down through my arms when I've been pushing.
23 Again as we teach, not exactly as per the drill, but
24 feet are tipped to the side, pointing at right angles to
25 him. I have put some pressure down literally directly

Transcript of the Sheku Bayoh Inquiry

1 through the side of his foot onto the ground to pin his
2 feet onto the ground which will prevent him moving his
3 legs. I don't know if somebody else has taken over from
4 me at that point but I can remember doing that. It was
5 very much a collaborative effort between other officers
6 there to try and get the restraints on.

7 Q. So when you talk about downward pressure, can you give
8 us a description of how much pressure you were applying?

9 A. It would be me on my knees leaning some of my body
10 weight forward on his foot. So not all the body weight.
11 Enough to control them down at the ground.

12 Q. So what part of your body was being used by you to apply
13 that downward pressure?

14 A. My hand.

15 Q. Your hand. Just one hand?

16 A. I wouldn't like to say. Yeah, I would think so.

17 Q. Your dominant hand or not?

18 A. I don't know. Probably my dominant hand.

19 Q. And you're moving your right hand?

20 A. Yes.

21 Q. Are you right-handed?

22 A. Sorry, left-handed, sorry.

23 Q. You're left-handed are you?

24 A. Yes. So at some point I've got the legs into that
25 position and controlled them on the ground.

Transcript of the Sheku Bayoh Inquiry

1 Q. And then where on his legs was your left hand?

2 A. I can't remember. Sorry, my left hand is what I would

3 have been using to control. My right hand would have

4 been spare.

5 Q. Sorry. Describe how you were using each hand.

6 A. My left hand would have been used to apply the pressure

7 down on his foot. I don't know what I would have been

8 doing with the other one.

9 Q. And which foot was it that you were touching with your

10 left hand?

11 A. It must have been his right foot.

12 Q. His right foot?

13 A. Yes, must have been.

14 Q. And you were using your left hand?

15 A. Yes.

16 Q. And you say his feet were to be pinned to the ground?

17 A. Yes.

18 Q. And how would his feet be pinned to the ground?

19 A. By doing that.

20 Q. With one hand?

21 A. That's what I can recall doing, yes. It could be

22 somebody -- in training you have a person leaning their

23 weight onto the foot, so a person would be in a lying

24 position across the feet holding them in that position.

25 Q. Is there a special technique that you use to pin feet to

Transcript of the Sheku Bayoh Inquiry

1 the ground?

2 A. As I said, in training it's that, it would be a person

3 lying across the bottom of the person's legs using their

4 body weight to pin the feet into the ground.

5 Q. So in training it's a body weight --

6 A. Yes.

7 Q. -- position but in this occasion on 3 May --

8 A. In reality you have to be adaptive to the situation.

9 Q. And you used your left hand?

10 A. Yeah, so it's a -- yes and again I don't know how

11 long -- or if somebody else took over that level of

12 restraint and they used their body weight. At some

13 point I've got his feet over and I have applied pressure

14 down through his foot.

15 Q. So there were other officers there at the time?

16 A. Yes.

17 Q. So tell us how the fast straps were applied. We've got

18 some fast straps actually to let you see.

19 A. Thank you.

20 Q. I think they're together.

21 A. Yes, that's fine.

22 Q. So one -- were these, did you say Constable McDonough?

23 A. I think so, yes.

24 Q. So it was his fast straps?

25 A. Yes I believe so.

Transcript of the Sheku Bayoh Inquiry

1 Q. Show us how you used them.

2 A. So basically put around both legs at the ankle, so

3 you've got both legs in-between, straps go round,

4 tightened up, and it Velcros on itself, so it's wrapped

5 tightly around, wrapping both the legs together at the

6 ankles and the same at just above the knees.

7 Q. So two fast straps applied --

8 A. Yes.

9 Q. -- at different points of the leg --

10 A. Yes.

11 Q. -- of Mr Bayoh?

12 A. Yes.

13 Q. Right. You have described how you were using your left

14 hand --

15 A. Yes.

16 Q. -- your dominant hand to pin the feet to the ground?

17 A. At one point.

18 Q. So how do you actually apply the fast straps at the same

19 time that you're using your left hand --

20 A. I didn't apply it at the same time as using my left

21 hand. I said at one point I have had his feet pinned to

22 the ground. Other officers have also been assisting and

23 thereafter I have been able to, with the assistance of

24 the other officers as well, put the straps round.

25 Q. Right. So what other officers assisted in terms of

Transcript of the Sheku Bayoh Inquiry

1 applying the fast straps?

2 A. I think it was PC McDonough and PC Gibson.

3 Q. So the three of you were applying them?

4 A. Yes, but again I'm not needing to look up and see who is

5 there. There's a set of hands coming in and assisting

6 me in applying these things, so --

7 Q. So two other officers helped?

8 A. Yes, I think so.

9 Q. And how is it they helped apply those straps?

10 A. Again, I wouldn't -- I wouldn't be able to say exactly

11 every action every single person has taken all the way

12 through that. You're having to, you know, move these

13 underneath somebody's legs so it's a case of forcing it

14 through and another person takes it from the other side

15 and manages to wrap it over or something like that, so

16 it's just a team effort to manage to move them into the

17 correct position, given you've got the person's weight

18 is on the ground as well.

19 Q. So multiple officers helping?

20 A. Yes.

21 Q. And are the fast straps put underneath the person's legs

22 and then tied over the top?

23 A. Yes.

24 Q. Right. And are -- so does that require one officer on

25 one side, one officer on the other?

Transcript of the Sheku Bayoh Inquiry

1 A. Not necessarily. I can't recall if we needed that or
2 not. Ordinarily when you're training it, one person
3 will do it themselves.

4 Q. Is that when a person in training is not struggling on
5 the ground?

6 A. Yes.

7 Q. But when a person is struggling --

8 A. Yes and again you teach that in training with one
9 person, but in reality if you have two people to make it
10 easier, there is absolutely nothing to mean you can't do
11 that. It's not going to have any effect safety-wise or
12 anything like that.

13 Q. And we have heard that those can stick to material, so
14 stick to maybe trousers or clothing?

15 A. Yes.

16 Q. And is that something that assists with getting them
17 into position?

18 A. No, that would hinder you getting them into position
19 because you wouldn't be able to move them.

20 Q. Right. But as far as you're aware, other officers
21 assisted with actually applying those fast straps?

22 A. Yes.

23 Q. And they were secured with your assistance. And can you
24 remind me, what did you say the positions were that they
25 were secured on the legs?

Transcript of the Sheku Bayoh Inquiry

1 A. So at the ankle, or maybe very slightly above the ankle,
2 and slightly above the knee.

3 Q. Right. And the process that was followed in terms of
4 applying those straps, was that the same for each of the
5 straps, or did it change?

6 A. That's the same, yeah. It's going to be broadly the
7 same. You're doing the same thing.

8 Q. Same thing?

9 A. Yes.

10 Q. And was PC Tomlinson still there lying over the legs?

11 A. He was still there. I can't remember exactly what
12 degree of force he was using.

13 Q. And --

14 A. There would have been some requirement to move about.
15 If he is lying on the legs there's going to be people
16 needing to move around to allow us to -- again I can't
17 remember exactly who was where, when, but people are
18 having to move around to get the straps on, to get out
19 of the way.

20 Q. And throughout that time that the fast straps were being
21 applied, did you remain pinning the feet to the ground
22 with your left hand?

23 A. No.

24 Q. Tell us what you did.

25 A. At some point during that I've got the feet into the

Transcript of the Sheku Bayoh Inquiry

1 KF(?) position and pinned them to the ground. That's
2 not been for a prolonged period. Somebody else has also
3 assisted so maybe they have continued, I can't remember.
4 I have then -- I can remember assisting getting the
5 straps correctly applied and things like that.

6 Q. What was the first strap that was applied? What
7 position was that in?

8 A. I think it was round the ankles.

9 Q. Did that allow more control over the legs?

10 A. I don't think there was any special -- it did -- yes,
11 having it on allowed more control over the legs but
12 I don't think there was any particular reason why that
13 was done first.

14 Q. No.

15 A. If that makes sense.

16 Q. So the ankle area is first?

17 A. Yes.

18 Q. And then above the knees?

19 A. Yes.

20 Q. Right.

21 A. That's certainly the order in which we did it.

22 Q. That's the order you did it?

23 A. Yes.

24 Q. By this time what's the man doing?

25 A. I'm not sure. I have been down at his legs. There's

Transcript of the Sheku Bayoh Inquiry

1 been some movement in his legs, there's been some
2 resistance during that but I can't really recall.
3 Again, there's other officers dealing with the upper
4 half of his body.

5 Q. By the time the second set of leg straps were being
6 applied what position were you in then?

7 A. I think I was close to him -- as we finished applying
8 them I was close to him, I can't remember exactly where,
9 either kneeling -- yes, it would have been kneeling on
10 the ground.

11 Q. And what -- where in relation to the man were you
12 kneeling on the ground?

13 A. I'm not sure.

14 Q. Were you still at the legs?

15 A. Yes, that half of the body.

16 Q. So still down at the bottom half?

17 A. Yes.

18 Q. Right. Can I ask you just very briefly to look at your
19 PIRC statement, 278, page 6. So that's page 6, we will
20 look at paragraphs 4, 5 and 6, and so just below the
21 paragraph "I cannot recall what was being said", let me
22 just read that out to you:

23 "PC Paton was closest to the man's head, he was
24 trying to control his arms leaning across the top of the
25 man's shoulders and trying to get control of his arms.

Transcript of the Sheku Bayoh Inquiry

1 I do not know how much pressure he was using but he was
2 over the shoulder of the male and the point of contact
3 was at the top of the torso, male's right shoulder. He
4 was not lying on the man's head or neck area."

5 Is that what you have really told us today?

6 A. I would say so, yes.

7 Q. And then:

8 "PC Walker was in the middle of the three officers
9 at the back of the male, he was leaning across the male
10 but further down his torso trying to get control of his
11 arms. He was leaning over him face down. I do not know
12 what level of pressure he was putting on the male, he
13 was going from a kneeling position to lying flat."

14 A. Yes.

15 Q. Now, when you say he was leaning over him face down, is
16 that you referring to PC Walker being face down?

17 A. Yes, that's how I would interpret that.

18 Q. And then you don't know what level of pressure he was
19 putting on the male but you say he was going from
20 a kneeling position to lying flat?

21 A. Yes.

22 Q. And how did -- do you recognise that now from your PIRC
23 statement? When you say "lying flat" what do you mean?

24 A. As in he wasn't -- somewhere between kneeling all the
25 way up and being all the way down flat, that's -- again

Transcript of the Sheku Bayoh Inquiry

1 I'm sort of having a --

2 Q. Lying flat over the man who was on the ground?

3 A. Yes.

4 Q. And then:

5 "PC Tomlinson was further down the male's body at

6 the top of the thighs/hips trying to control the male's

7 legs. I know PC Tomlinson ..."

8 If we could move the screen up slightly.

9 "I know PC Tomlinson was having to move about a lot

10 at the bottom of the body but I do not know what exactly

11 he was doing."

12 And is that again roughly where you recollected, at

13 least when you gave your PIRC statement --

14 A. Yes.

15 Q. -- where PC Tomlinson was?

16 A. Yes, it would be.

17 Q. And:

18 "I was more forward on the top of the male's body at

19 his hands because of the knife threat, I had no idea

20 what had happened to the alleged knife and I was coming

21 round to the front of him."

22 And that's what you have told us earlier?

23 A. Yes.

24 Q. Thank you. So insofar as there's any differences

25 between what you have told us today and what appears in

Transcript of the Sheku Bayoh Inquiry

1 your PIRC statement -- this is the statement from
2 11 June 2015 -- can you help the Chair, should he prefer
3 this version or the version you have given today?

4 A. Certainly in respect of what we're talking about at the
5 moment, this version.

6 Q. That version, thank you.

7 I wonder if I could ask you to do a demonstration of
8 the various positions that you have described for me
9 please, so -- and we will go through it in stages. So
10 I will ask you, first of all, to demonstrate the
11 positions that you have described of the male on the
12 ground, Mr Bayoh, and then we will go through the
13 individual officers, if we can. The audio isn't strong
14 in that area, so I will talk through what I'm seeing as
15 you're in the middle of the area demonstrating.

16 A. Okay.

17 Q. All right? Thank you very much.

18 (Pause).

19 If you can show us first of all the position the
20 male was in on the ground.

21 A. So sort of between this sort of position --

22 Q. And that's prone with his arms -- both arms hands palm
23 to the ground on both sides?

24 A. (Inaudible - too far from microphone).

25 Q. Okay.

Transcript of the Sheku Bayoh Inquiry

1 A. That's as close as I can remember.

2 Q. All right, so that's prone. And you said between that
3 position and what is the --

4 A. (Inaudible - too far from microphone).

5 Q. And that's left-hand side with the left elbow on the
6 ground and the right elbow up?

7 A. I couldn't tell you. Or that, something like that
8 (indicating).

9 Q. And your legs are on top of each other?

10 A. (Inaudible - too far from microphone) PC Tomlinson was
11 down there I don't know (Inaudible - too far from
12 microphone).

13 Q. All right, thank you. Then if we can turn to PC Paton,
14 first of all. If you could demonstrate --

15 A. Still in this position, he would be somewhere around
16 here (indicating), either kneeling or something along
17 these lines.

18 Q. Let me just get that mentioned because I've got the
19 audio here. So at the moment you're kneeling?

20 A. Yes.

21 Q. And you would be -- if the person was on their left-hand
22 side you would be behind them but in the head area?

23 A. Yes.

24 Q. Right and how was he struggling to -- you have talked
25 about struggling to secure the hands?

Transcript of the Sheku Bayoh Inquiry

1 A. Again reaching over like this.

2 Q. Reaching over touching the hands?

3 A. Yes.

4 Q. And you have moved your left leg round at different

5 points.

6 A. Yes.

7 Q. And then can we turn to PC Walker?

8 A. Yes, so further down.

9 Q. To PC Paton's right?

10 A. Yes.

11 Q. And again can you demonstrate how PC Walker was leaning

12 over the person on the ground.

13 A. Again something along the lines of this. There was a

14 person in the way as well, so (Inaudible - too far from

15 microphone).

16 Q. Yes, we will have to imagine a person there, but leaning

17 over --

18 A. Yes.

19 Q. -- that person and again trying to secure hands?

20 A. I can't remember. I know I said in the PIRC statement,

21 I can't remember what he was doing with his hands.

22 Q. So you can't remember at the moment. Can you then

23 demonstrate what PC Tomlinson was doing?

24 A. He has been down here somewhere but I couldn't tell you

25 the exact position.

Transcript of the Sheku Bayoh Inquiry

1 Q. So PC Tomlinson you have moved to the right of where
2 PC Walker would have been and again bending down,
3 bending over?

4 A. I wouldn't like to say exactly bending down or bending
5 over or (Inaudible - too far from microphone).

6 Q. You don't have a clear recollection of that. Thank you
7 very much. That's great.

8 If you come back to the microphone please.

9 (Pause).

10 Then if we can maybe go back to your Inquiry
11 statement for the moment and if we can look at
12 paragraphs 27 onwards. 27 please. You say:

13 "It became apparent that the officers were
14 struggling to fully control the subject. He was
15 struggling with them and they were trying to bring his
16 arms under control."

17 And you mention your concern about the knife.

18 A. Mm-hm.

19 Q. And moving to his front or right-hand side and knelt on
20 the ground in front of him and tried to get control of
21 his hands, and he remained in generally the same
22 position.

23 A. Yes.

24 Q. And then paragraph 28:

25 "The general circumstances of the restraint were

Transcript of the Sheku Bayoh Inquiry

1 that on my arrival he was on the ground generally on his
2 left hand side with the officers at his back. PCs Paton
3 and Walker trying to get control of his arms.
4 PC Tomlinson was trying to control his legs. It seemed
5 that the officers were not being successful in this, he
6 was managing to free his arms and was trying to push
7 himself up, he was not as yet successful as the other
8 officers kept managing to stop him but it looked to me
9 that there was a significant risk that he would break
10 free of their control."

11 And at that point you mention considering using the
12 sprays. So certainly in your Inquiry statement in
13 paragraph 20 you say that PCs Paton and Walker were
14 trying to get control of his arms.

15 A. Mm-hm.

16 Q. Was that your recollection when you did this statement?

17 A. Yes, it must have been.

18 Q. And then further down you say:

19 "It seemed to me ... the ... priority was to gain
20 control of his arms as the knife was not accounted
21 for ..."

22 And you're physically trying to get control of his
23 hands and you comment on the risk of the knife not being
24 accounted for.

25 And then can we turn over the page, so we're still

Transcript of the Sheku Bayoh Inquiry

1 on paragraph 28 but just over the page. And then you
2 start to talk about handcuffing and fast straps which
3 you say you will come onto in more detail below. Then
4 you say:

5 "His position during this did not deviate greatly."

6 And that is a reference to the man on the ground.

7 "At times he moved closer to the prone position and
8 at times he was fully on his side. This was a result of
9 him moving in an effort to free himself. The other
10 officers were at times having to exert some direct
11 downward force onto his body with theirs as he was in
12 danger of managing to free himself. I do not think he
13 was ever close to the prone position for more than a few
14 seconds. Any such movement was a direct result of his
15 resistance."

16 Can I ask you about the comment "the other officers
17 were at times having to exert some direct downwards
18 force onto his body with theirs". So that was a direct
19 downward force, using their bodies?

20 A. Yes.

21 Q. Not just their hands?

22 A. No.

23 Q. And are you able to give us any assistance with that
24 level of downward force that was being used?

25 A. Sufficient to stop him pushing himself up and able to

Transcript of the Sheku Bayoh Inquiry

1 get him back into a safer position, not like a prolonged
2 level of downward force with some -- as far as I could
3 tell all of somebody's body weight. It was to stop the
4 person managing to push himself up and free himself, so
5 to match the level of force he is pushing back with.

6 Q. So was that downward force being applied when the man
7 was struggling to push himself up?

8 A. Yes.

9 Q. Right. And then in paragraph 29 you do talk about:

10 "Once the fast straps were applied I can recall
11 moving away slightly and standing up at one point."

12 A. Yes.

13 Q. That's what you have mentioned previously, moving away
14 slightly. And then at paragraph 30 you say when you
15 were applying the handcuffs:

16 "I applied no weight directly onto him. Any force
17 used was taking hold of his arms and using the strength
18 of my arms against the strength of his to move his
19 wrists into a position where handcuffs could be applied.
20 When applying fast straps I applied weight to his lower
21 legs, ankles and feet."

22 And I think that's what you have said already today?

23 A. Yes.

24 Q. Thank you. Can I ask you to look please at some other
25 footage. So this is the enhanced Snapchat footage and

Transcript of the Sheku Bayoh Inquiry

1 you may have already seen this on the -- so what -- it's
2 a short piece of footage. The first piece is Snapchat
3 footage that's been extracted from earlier footage.

4 A. Mm-hm.

5 Q. And you will see a number of officers and you will see
6 a close-up and then it will be played again, this time
7 it is played at 25% speed and 400% zoom.

8 A. Yes.

9 Q. So we will just watch the whole thing through once and
10 then we can watch it again if that would assist and
11 I will ask you some questions about who is there, so if
12 we could do that please.

13 (Video played)

14 Now, just to give you some context because
15 I appreciate this might be the first time you have
16 watched this, this is a period after Tomlinson has
17 pressed his emergency button which you have talked about
18 hearing, that was at 7.21.19 -- please feel free to use
19 the spreadsheet if you wish. It is after your Airwaves
20 transmission "Male secure on ground" at 7.21.38, so this
21 is enhanced Snapchat from 7.21.38 to 7.22.17.

22 A. Right.

23 Q. And I would like to go back into it please and look at
24 it again and you may find -- we may find it is actually
25 easier to look at the second footage. Can we stop it

Transcript of the Sheku Bayoh Inquiry

1 there for a moment. Are you -- looking at that now, are
2 you able to identify who is where?

3 A. Some people.

4 Q. Okay. Can you tell us -- so let's look first of all --
5 right-hand side there's an officer standing up with
6 a hi-vis vest.

7 A. I think that's PC Gibson. Again it's quite difficult to
8 identify anybody from this footage.

9 Q. We will play it again and let you see -- because
10 sometimes it is easier when we see movement.

11 A. Yes.

12 Q. But you think that's PC Gibson standing?

13 A. Yes.

14 Q. And you said earlier today you weren't sure about -- you
15 mentioned PC McDonough.

16 A. Mm-hm.

17 Q. But you knew that Gibson had arrived with McDonough but
18 you didn't know where Gibson was?

19 A. Yes, he must have arrived with him, yes.

20 Q. You think that's PC Gibson?

21 A. I think so, yes.

22 Q. See on the far left-hand side as we look at that image,
23 do you know who that is?

24 A. That's myself.

25 Q. That's you. So that's you -- you've got your glasses on

Transcript of the Sheku Bayoh Inquiry

1 there, have you?

2 A. No, I wouldn't have done.

3 Q. You've got a black -- you can see part of a high
4 visibility vest there?

5 A. Yes.

6 Q. And then to your -- so is this at -- where were you when
7 you were there and what part of the process -- what part
8 of the restraint was this?

9 A. I think that was around about when we were putting the
10 handcuffs on, I would think.

11 Q. Where was the male's head?

12 A. Down in the area of where my arms are sort of extending
13 towards, maybe not exactly there, but that's where his
14 head would be facing I think.

15 Q. So his head was there, we can see legs on the right-hand
16 side?

17 A. Yes.

18 Q. So where was -- what direction was his back facing?

19 A. I'm not sure.

20 Q. All right, well, maybe we could play this footage again,
21 just to let you see it again so you can maybe -- we can
22 maybe play the whole thing again so that PC Smith can
23 look at it.

24 (Video played)

25 If we can go back to the beginning of that 25% speed

Transcript of the Sheku Bayoh Inquiry

1 footage. Right, so what we will do is just come on to
2 that footage and then pause it when we see it on the
3 screen, so looking at the person on the far left -- so
4 we're looking at the tile on the right-hand side which
5 is 400% zoom on the right-hand side.

6 A. Yes.

7 Q. 400% zoom and looking at the officer who is crouched
8 down or kneeling or sitting on the left-hand side.

9 A. Yes.

10 Q. And you said before you thought that was you?

11 A. Yes.

12 Q. Right. So what are you doing at that moment in time?

13 A. I'm not sure. I think it might be to do with the
14 handcuffs.

15 Q. But you don't recollect at that stage?

16 A. I couldn't tell you exactly what I was doing at that
17 point.

18 Q. There seems to be an officer standing to your left with
19 dark hair.

20 A. I think that's PC McDonough.

21 Q. PC McDonough. And then there's an officer what would be
22 in front of PC McDonough with their back to the person
23 with the camera.

24 A. I think that will be PC Paton.

25 Q. PC Paton. And then to the right, immediately to the

Transcript of the Sheku Bayoh Inquiry

1 right of PC Paton, who was that?

2 A. Standing up?

3 Q. Yes. I think that's the person that walks round to the

4 legs.

5 A. That's PC Gibson I think.

6 Q. You think that's PC Gibson?

7 A. I think so.

8 Q. Could we move on slightly. And then do we see

9 an officer facing the camera who has now come into view?

10 A. Yes.

11 Q. Crouched down on the other side of the person.

12 A. Yes.

13 Q. And who do you think that is -- do you recognise that

14 person?

15 A. I don't. It could be PC Tomlinson but I would be -- no,

16 I would be guessing.

17 Q. What's going on at this stage?

18 A. I don't know. Some part of that, the restraint of this

19 guy, but ...

20 Q. Thank you. We will leave that. Can we just play this

21 to the end, so if Gibson and McDonough are there, was

22 this before or after the leg straps have been applied?

23 A. Before I think.

24 Q. Before?

25 A. I'm not sure.

Transcript of the Sheku Bayoh Inquiry

1 Q. I get the sense you're not --

2 A. I'm not --

3 Q. -- comfortable with recalling what was happening there?

4 A. Yes.

5 Q. We will leave that, thank you.

6 LORD BRACADALE: It is 1 o'clock, Ms Grahame. Would that be

7 a convenient point to stop?

8 MS GRAHAME: Yes, that would be. I'm about to move on.

9 LORD BRACADALE: Very well. We will sit again at 2 o'clock.

10 (1.00 pm)

11 (The luncheon adjournment)

12 (2.00 pm)

13 LORD BRACADALE: Now, Ms Grahame, when you're ready.

14 MS GRAHAME: I'm so sorry.

15 LORD BRACADALE: That's all right.

16 MS GRAHAME: PC Smith, I would like to go back to the

17 evidence video timeline and just show you one minute of

18 that. It incorporates part of the Snapchat footage and

19 we're going to play from 7.21.28, or thereabouts, to

20 7.22.29, and if you have the spreadsheet in front of you

21 you will see that 7.21.28 is the time at which your van

22 arrives, so it's really from the minute your van arrives

23 at Hayfield Road and then it's for a full minute after

24 that. And as part of that footage you should see the

25 Snapchat footage that we have also looked at. So here

Transcript of the Sheku Bayoh Inquiry

1 we are, 7.21.28, and if we could play that for a minute
2 please, or just over a minute.

3 (Video played)

4 Thank you. Were you able to see the CCTV initially
5 and then the Snapchat --

6 A. Yes.

7 Q. -- that comes on? Could you actually see yourself
8 joining the people on the ground in the CCTV footage?

9 A. Not very well.

10 Q. Not very well. And then looking at the Snapchat
11 footage -- and perhaps we could get that back on the
12 screen, so just rewind if possible slightly. You will
13 see this enhanced Snapchat footage was taken, extracted
14 from the footage that we have just watched. Can we have
15 the right-hand tile on the screen please. You will
16 maybe need to rewind slightly. We will just take
17 a moment there to get it back onto the screen.

18 (Pause).

19 All right, well ... so it was 7.21 to 22. If you
20 want to play from there, that's fine. If you play from
21 there, that's fine, and we can pause it when we reach
22 the Snapchat.

23 (Video played)

24 Then can we pause it.

25 Do you see the movement of someone running towards

Transcript of the Sheku Bayoh Inquiry

1 the area of the restraint?

2 A. Yes.

3 Q. Would that be you?

4 A. It would have to be.

5 Q. And then we will play again and we will see that person

6 coming round to the front of where the officers are on

7 the ground, so carry on.

8 (Video played)

9 Do you see that person coming round --

10 A. Yes.

11 Q. And he has now got his back to us as we look at the

12 footage and that was you?

13 A. Yes.

14 Q. Thank you, keep going.

15 (Video played)

16 And then does it appear that other officers appear

17 to be moving around in that area?

18 A. Yes, it does.

19 (Video played)

20 Q. And then pause that please. So now we see the enhanced

21 Snapchat footage -- well, this is the Snapchat footage,

22 it's not the separate footage that I have shown you

23 earlier before lunch, and I think you said you were on

24 the left-hand side?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Far left and that was at the head area near the hands?

2 A. Yes.

3 Q. And the person with their back to us -- to your right,

4 I think you said that was PC Paton?

5 A. Yes, I think so.

6 Q. And where was PC Walker?

7 A. He should be next to PC Paton. I can't really make him

8 out, but --

9 Q. Could it be that PC Walker is lying there and part of

10 his clothing can be seen?

11 A. Yes, possibly.

12 Q. Yes.

13 A. That would be the general area he was in.

14 Q. Is that the general area?

15 A. Yes.

16 Q. And then the person standing I think before lunch you

17 said was PC Gibson?

18 A. With his back to us?

19 Q. Yes.

20 A. Yes.

21 Q. So he has joined by this stage?

22 A. Yes.

23 Q. And then the person opposite where you had pointed out

24 PC Paton facing the person with the camera with the dark

25 hair, who was that?

Transcript of the Sheku Bayoh Inquiry

1 A. PC McDonough.

2 Q. So Gibson and McDonough have joined by this stage?

3 A. Yes.

4 Q. And then the person facing, crouched down on the other

5 side of the people on the ground you said was

6 PC Tomlinson?

7 A. Yes, it would have to be.

8 Q. So that's who we can see there at that stage?

9 A. Yes.

10 Q. At this moment in time were the handcuffs on?

11 A. They were either on or very, very close to being on.

12 Q. So by the time Gibson and McDonough have arrived were

13 the handcuffs on or just about to be on?

14 A. I don't know.

15 Q. Right. And then after the handcuffs go on, where did

16 you move to?

17 A. Down towards his legs.

18 Q. So at the moment we can see PC Gibson down towards his

19 legs?

20 A. Yes.

21 Q. And that's the area that you then moved to --

22 A. Yes.

23 Q. -- after the handcuffs were on?

24 A. Yes.

25 Q. To assist with putting on the fast straps?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Right, thank you. Can I ask you to look at PIRC 278.

3 This is your PIRC statement, page 8 please, and the
4 first three paragraphs. You see:

5 "I moved down to the male's lower body (legs),
6 that's when I became aware PC McDonough was there, he
7 had his leg restraints in his hands, I think he was
8 standing up at that point. PC Tomlinson was attempting
9 to control the legs, he was lying across the male's
10 legs, the male's legs were lying in the prone position
11 flat to the ground, knees to the ground by this time.
12 I wasn't aware of any other officer being present at
13 that point."

14 So at the point that PC Tomlinson is attempting to
15 control the male's legs, his legs were lying in the
16 prone position flat to the ground, knees to the ground
17 by this time. Is that when PC Tomlinson is over his
18 legs?

19 A. Yes, I would think so.

20 Q. Do you remember this being part of your PIRC statement?

21 A. No, I can't remember.

22 Q. But your memory was fresher when you gave this?

23 A. Yes, it was.

24 Q. And then:

25 "I then attempted to get the male's legs

Transcript of the Sheku Bayoh Inquiry

1 straightened out to apply the fast straps, in the
2 confusion I took hold of PC Tomlinson's boot and started
3 to pull his leg to straighten it out, I immediately
4 realised it was not the male and let his boot go.
5 I then took a hold of the subject's ankles and pulled
6 his legs towards me to straighten the legs and get them
7 together, all the while the subject resisted this, and
8 tried to curl his legs up and move them to prevent me
9 straightening them. I succeeded in keeping both his
10 ankles together and turning his feet sideways, so they
11 were facing down towards Hendry Road, preventing him
12 from bending the legs at the knees and getting more
13 control."

14 Do you remember saying that to PIRC?

15 A. I don't remember saying it but --

16 Q. That would be right?

17 A. Yes.

18 Q. Do you remember now looking at that paragraph that you
19 grabbed or took a hold of PC Tomlinson's boot?

20 A. It rings a bell. I can't remember it specifically
21 but ...

22 Q. Okay, all right. But you said that ultimately you
23 succeeded in keeping his ankles together and you turned
24 his feet so they were facing down towards Hendry Road
25 and is that the area near the roundabout?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Thank you. In doing so you prevented him, the male,
3 from bending his legs at the knees?

4 A. Yes.

5 Q. And then can I look at the third paragraph please:

6 "Myself and PC McDonough then succeeded in applying
7 fast straps round the ankles, subject was still
8 attempting to move its legs about, causing my hands to
9 be trapped underneath his feet causing cuts to my
10 fingers on my right hand."

11 And you then got examined. So it appears from this
12 paragraph that it was you and PC McDonough that applied
13 the fast straps round the ankles. Do you remember that?

14 A. Again, not exactly, but if that's what I remembered when
15 I gave that statement, that will be correct.

16 Q. Your memory was fresher then?

17 A. Yes.

18 Q. Thank you. Can I ask you to look at an SOP, PS10933,
19 use of force SOP, paragraph 20.5. 20.5, thank you.

20 This says:

21 "Ideally the leg restraints need at least two
22 Police Officers/Staff working together to correctly
23 apply them. The subject should be handcuffed to the
24 rear and placed in the prone (lying face down) position
25 before the leg restraints are applied."

Transcript of the Sheku Bayoh Inquiry

1 Do you know of that SOP? Do you recognise that?

2 A. Not specifically. I'm aware there's a SOP that covers

3 these matters.

4 Q. Right. His -- as I understand the position, the man was

5 not handcuffed to the rear, he was handcuffed to the

6 front, palm to palm, is that right?

7 A. Yes.

8 Q. That's your recollection as well?

9 A. Yes.

10 Q. So this SOP in -- well, that paragraph of the SOP wasn't

11 strictly adhered to in the sense he wasn't handcuffed to

12 the rear, but am I correct in understanding that there

13 was a lot of movement at the time?

14 A. Yes, it was driven by the circumstances we were facing.

15 It seemed absolutely appropriate to then move on and

16 apply the fast straps at that point.

17 Q. Thank you. But once the handcuffs and the fast straps

18 were applied, effectively the male on the ground was

19 under control?

20 A. Yes.

21 Q. So I would like to move on to that moment when he was

22 under control and I would like to look at PIRC 278

23 please, page 8. I'm interested in paragraph 8, which is

24 the final paragraph on that page and I will just read

25 this out:

Transcript of the Sheku Bayoh Inquiry

1 "Once the restraints were applied I stood up ..."

2 And I think that's -- you told us earlier you moved
3 and stood up?

4 A. Yes.

5 Q. "... and checked the injuries to my hand, and was
6 satisfied that they were superficial. I had a look at
7 the male from where I was standing, he was tilted over
8 to his front, I'm not sure that he was completely
9 prone."

10 Could you tell us what you meant by that, "I'm not
11 sure that he was completely prone"?

12 A. I can't recall exactly what I saw but I would interpret
13 that to be he was lying mostly on his front but slightly
14 over to his side.

15 Q. Right, okay.

16 "PC Walker said that we would have to get the male
17 onto his side and I think PC Paton ... Tomlinson and ...
18 Walker moved him onto his side. I didn't hear the male
19 say anything throughout this but he was moaning. I
20 would say that from arriving in Hayfield Road, speaking
21 to PC Short to the point that the male was effectively
22 under control in handcuffs and fast straps that a period
23 of 3-4 minutes had elapsed, it was not a long period of
24 time."

25 And so this is the point at which handcuffs are

Transcript of the Sheku Bayoh Inquiry

1 applied, leg restraints are in place, you have stood up
2 and started to move away and PC Walker says you will
3 have to get the male onto his side. Now, I understand
4 that he was moved onto his left-hand side. Is that your
5 recollection?

6 A. Yes.

7 Q. Yes. And you didn't ever hear him say anything, but you
8 did hear him moaning?

9 A. Yes.

10 Q. And when you say throughout this he was moaning, do you
11 mean during the restraint he was moaning or at any later
12 time?

13 A. I think during the restraint.

14 Q. During the restraint.

15 A. I'm having difficulty recalling exactly what noises he
16 was making now but I believe that means during the
17 restraint.

18 Q. When he was turned onto his left-hand side do you
19 remember him saying anything or making any noises?

20 A. I don't recall.

21 Q. When did you notice that the male had stopped
22 struggling?

23 A. I'm not sure. I'm aware that the level of resistance
24 was much lower, but other officers still had good
25 control of him so it wasn't really easy for me to see,

Transcript of the Sheku Bayoh Inquiry

1 not having any physical contact, whether there was any
2 struggling happening or not. There was certainly no
3 obvious resistance at that point, or very shortly after
4 he was turned on his side.

5 Q. So matters had changed from -- you have talked about
6 struggling and movement --

7 A. Yes.

8 Q. -- prior to that but you say there's no obvious
9 resistance at that point?

10 A. Not to me from where I was.

11 Q. You have stood up and moved away?

12 A. Yes, moved away and to a small degree turned my
13 attention elsewhere as well.

14 Q. Right. How long did it take you to turn your attention
15 elsewhere and move away?

16 A. I'm not sure, maybe 30 seconds to a minute but again
17 I couldn't -- passage of time is difficult to be sure of
18 in those circumstances, but that would be my best
19 estimate.

20 Q. You have said that other officers had good control.
21 What were the other officers doing?

22 A. Again, my focus wasn't entirely on them, but I believe
23 there were officers kneeling down close to him,
24 basically holding him in that position. I don't know
25 whether that was against resistance or otherwise, or

Transcript of the Sheku Bayoh Inquiry

1 whether it was just keeping him from moving, as you
2 would do with someone you were restraining on the
3 ground.

4 Q. Still putting weight on him?

5 A. No, I don't think so, no.

6 Q. So you were able to see that?

7 A. I don't recall anybody putting weight on him at that
8 point.

9 Q. You don't recall what they were doing or you don't
10 recall them putting weight on him?

11 A. I don't recall them putting weight on him. I'm not
12 entirely sure what they were doing. I know they were
13 kneeling down with their hands on him, holding him in
14 position.

15 Q. Had they moved at all? You have told us you stood up.
16 Had they moved?

17 A. I don't think so.

18 Q. Right. Can I ask you to look at your Inquiry statement
19 please. It's just immediately above paragraph 43, so
20 it's actually paragraph 42, but that spans three pages,
21 so it's immediately above paragraph 43. You say:

22 "I then began to consider the subject and was
23 considering the issue of excited delirium, thus far he
24 had shown considerable strength and that irritant spray
25 was not effective although up to this point he has shown

Transcript of the Sheku Bayoh Inquiry

1 no signs of ill health. I was still unaware of any
2 earlier behaviour. As stated above the training at this
3 time was fairly limited and I had never been exposed to
4 excited delirium operationally and as such I did not
5 immediately come to any conclusion. This thought
6 process still only lasted a few seconds and prompted me
7 to have a closer examination of the subject. At this
8 point he appeared to me to be unconscious. An ambulance
9 was contacted immediately."

10 So it was at this point where he has been turned to
11 his left-hand side that you appreciate then that he has
12 become unconscious, is that correct?

13 A. Yes, when I go to check on him.

14 Q. So when you have checked on him, he is unconscious?

15 A. Yes.

16 Q. And at the moment that he was unconscious, so this is
17 just after -- is this just after he has been moved onto
18 his left-hand side, you check and he is unconscious at
19 that point?

20 A. Quite shortly afterwards, yes.

21 Q. When you say quite shortly afterwards, what do you mean?

22 A. As we said, where we asked how long was my attention
23 slightly elsewhere, around about that -- within a minute
24 of me standing up, him being turned on his side, around
25 about that time and me going back to look at him, so ...

Transcript of the Sheku Bayoh Inquiry

1 Q. So you moved away and then went back to look at him?

2 A. Yeah, that's my recollection. Stood up, checked my

3 hands, started to try and figure out what was going on

4 basically, started to concern about the excited delirium

5 thing and then started -- had a close look at him.

6 Q. Did you move back down towards him on the ground?

7 A. To have a closer look at him?

8 Q. From your standing position?

9 A. Yes.

10 Q. So you stood up, checked your hands and moved back down

11 to the ground?

12 A. Yes. Like I said, I'm not sure quite how quickly that

13 was.

14 Q. But you didn't move away from the area or anything of

15 that sort?

16 A. No, I was still very much in the vicinity of him and the

17 other officers.

18 Q. Right. What were the other officers doing when you

19 noticed that he had become unconscious?

20 A. I'm not entirely sure. I think they were still kneeling

21 down beside him.

22 Q. Did it appear to you they had moved at all?

23 A. I don't think so, but I couldn't say with any certainty.

24 Q. Okay. Can we look at paragraph 43 now please. It says:

25 "He was lying on his left hand side with his

Transcript of the Sheku Bayoh Inquiry

1 handcuffed hands to the front, other officers had hands
2 on him I am not sure of the level of force being used
3 but I do not recall having any concerns about it. I do
4 not think I was in physical contact with him but was
5 very close. Once I established he was breathing
6 I closely monitored him. I was not restraining him at
7 this time. At this point PC Tomlinson made me aware he
8 had struck the subject to the head with a baton.
9 I checked his head for signs of any serious injury but
10 could not find any."

11 I would like to ask you some questions about this.
12 When you say you checked his head for signs of any
13 serious injury, how did you do that?

14 A. Visually having a look and just running my hands over
15 his head.

16 Q. So you have told us that you had been standing?

17 A. Yes.

18 Q. You had been at his feet area?

19 A. Yes.

20 Q. Where did you move to in order to allow you to check his
21 head?

22 A. Directly in front of him.

23 Q. To his front?

24 A. Yes, to his front, so the way he was facing and close to
25 his head.

Transcript of the Sheku Bayoh Inquiry

1 Q. So we have heard he is on his left-hand side?

2 A. Yes.

3 Q. And his head is nearer to the hedge on Hayfield Road

4 that you pointed out earlier?

5 A. Yes.

6 Q. So you went to his head. Round the officers or round

7 the front?

8 A. I can't remember.

9 Q. And you have said:

10 "Once I established he was breathing I closely

11 monitored him."

12 What does that mean?

13 A. Just kept an eye on him, just watched him.

14 Q. What were you looking for?

15 A. Changes in his pattern of breathing.

16 Q. So you could see he was breathing?

17 A. Yes.

18 Q. Could you see his chest moving?

19 A. Yes.

20 Q. Could you see his breath -- his mouth open or closed?

21 A. I can't remember if his mouth was open or not.

22 Q. And was there at that stage, or at any stage,

23 a nominated safety officer to monitor breathing?

24 A. I wouldn't say nominated but I had taken on that role.

25 Q. Or appointed?

Transcript of the Sheku Bayoh Inquiry

1 A. I think it would be clear that I was doing that to any
2 person that was there, so I wouldn't say nominated as
3 such but ...

4 Q. You had adopted that role?

5 A. Yes.

6 Q. Would you explain what that role is?

7 A. I'm not familiar with that phrase, to be honest.

8 I would suggest it's somebody whose sole role is to
9 monitor somebody's breathing.

10 Q. But whatever the title, you were the person there
11 monitoring breathing?

12 A. Yes.

13 Q. Thank you. And then paragraph 44, if we can have that
14 on the screen, of your Inquiry statement:

15 "A few minutes later it appeared to me he had
16 stopped breathing. I had been continually monitoring
17 him during this period and nothing else of note had
18 happened. He was still in the same position, on his
19 side, and while I was watching it appeared his chest had
20 stopped moving, prompting me to voice my concern and
21 look closer."

22 You say "a few minutes later" you noticed this.

23 A. Yes.

24 Q. Can you give us an indication of the duration of that
25 period?

Transcript of the Sheku Bayoh Inquiry

1 A. Maybe 3 or 4 minutes.

2 Q. And you said you looked closer. Describe what you did.

3 A. Sorry ...

4 Q. That's the last sort of line of paragraph 44:

5 "... prompting me to voice my concern and look

6 closer."

7 A. So that would have been -- what I did do was say --

8 I don't know if I said "He stopped breathing" or "Is he

9 breathing?" but I said something along those lines and

10 I have turned him onto his back and carried out

11 a thorough check to confirm whether he is breathing or

12 not.

13 Q. So how long was it that he was on his side before you

14 turned him on his back?

15 A. Maybe five minutes. Again, it's difficult to gauge time

16 but that would be my best guess.

17 Q. Okay and then in paragraph 45, which we will have on the

18 screen just in the next page, you talk about other

19 officers kneeling and standing close to Mr Bayoh and not

20 recalling any real level of restraint, but:

21 "... there may have been hands on him there was no

22 physical force being used. I was closely monitoring him

23 there was no real requirement for any direct assistance

24 in this."

25 What do you mean by "direct assistance"?

Transcript of the Sheku Bayoh Inquiry

1 A. As in -- I think that's possibly a response to how the
2 question has been phrased that I have answered, whether
3 anybody was helping me or not, but I was satisfied I was
4 doing it myself and there was nobody else required.

5 Q. You were comfortable doing it yourself?

6 A. Yes.

7 Q. Without any other officer helping?

8 A. Yes.

9 Q. "This said, my main focus was Mr Bayoh and I was not
10 really aware of what other officers were doing."

11 Other officers remained around at that time, as you
12 have told us so.

13 "As I became concerned that breathing had stopped
14 and was going forward check I heard another officer,
15 I believe it was DS Davidson also voice a concern that
16 he had stopped breathing, and as such I assume she was
17 observing him closely in a similar manner to myself."

18 So I'm quite interested, you say -- this sentence:

19 "As I became concerned that breathing had stopped
20 and was going forward check ..."

21 Was that "going forward to check"?

22 A. Yes.

23 Q. "... I heard another officer, I believe it was
24 DS Davidson also voice a concern that he had stopped
25 breathing ..."

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. We have heard about DS Davidson, so she had also arrived
3 on the scene --

4 A. Yes.

5 Q. -- at some point and that's when you heard her also
6 voicing a concern?

7 A. Yes.

8 Q. And you say you were assuming she was observing Mr Bayoh
9 closely in a similar manner to yourself?

10 A. Yes.

11 Q. Was she near to you at that point?

12 A. I'm not really aware. She might have been back over my
13 shoulder or something like that. She sounded close to
14 me.

15 Q. Leaving your Inquiry statement for a moment, I would
16 like to go back to your PIRC statement, 278, page 9 this
17 time. I'm interested in paragraph 7 to 9 and that will
18 begin "When I went down to the male I saw ...", there we
19 are:

20 "When I went down to the male I saw that his eyes
21 were closed. I've initially tried to get a response to
22 verbal stimulus, saying 'Are you all right, can you hear
23 me?' I think PC Paton also tried to speak to him. That
24 produced no response. I then tried physical stimulus,
25 putting my knuckles in the bone in the top of his chest

Transcript of the Sheku Bayoh Inquiry

1 to see if I got a response but I didn't get a response.
2 At that point the male appeared to be unconscious.
3 I checked his breathing by putting my face towards his
4 mouth and heard and felt breath and could see his chest
5 move consistent with normal breathing."
6 So at this stage you have gone down -- you see his
7 eyes are closed, you have tried to speak to him and you
8 realised that he is breathing at that point?
9 A. And unconscious, yes -- well.
10 Q. But unconscious. This is the point you realise he is
11 unconscious?
12 A. Yes.
13 Q. His eyes are closed but he is breathing?
14 A. Yes.
15 Q. So this is the initial moment when you realise he is
16 unconscious. Can I ask you about "PC Paton also tried
17 to speak to him". Did anyone try and slap his face?
18 A. Not that I recall.
19 Q. Do you recall PC Paton doing anything like that?
20 A. No.
21 Q. Did you try and slap his face at all?
22 A. Not that I recall, I don't --
23 Q. Would you have done that?
24 A. No, I wouldn't.
25 Q. You talk about physical stimulus, putting your knuckles

Transcript of the Sheku Bayoh Inquiry

1 in the bone in the top of his chest. Is that what you
2 attempted to do --

3 A. Yes.

4 Q. -- to see if you could get a reaction?

5 A. Yes.

6 Q. And did you get a reaction?

7 A. No.

8 Q. Was there any sort of reaction or movement or sound?

9 A. No, I don't -- no.

10 Q. So you realised he was unconscious but breathing and you
11 have said he is breathing and PC Paton concurred. You
12 then say:

13 "I immediately passed a radio message stating that
14 the male is controlled highlighting the fact that the
15 male appeared to be unconscious but breathing, and an
16 ambulance was requested."

17 So as soon as you realise he is unconscious, you
18 call for an ambulance to be requested.

19 A. Yes.

20 Q. And was that through an Airwaves transmission?

21 A. Yes.

22 Q. And would you look at the Airwaves message 7.25.17.

23 That's on page 7. 7.25.17 and there's an Airwaves
24 transmission halfway down page 7 of the spreadsheet
25 saying:

Transcript of the Sheku Bayoh Inquiry

1 "PC Alan Smith: Roger this male now certainly
2 appears to be unconscious, breathing not responsive, get
3 an ambulance for him."

4 Do you see that?

5 A. Yes.

6 Q. That's the message that you just referred to?

7 A. Yes, it is.

8 Q. And then can we look at PIRC 278 please again, page 10
9 this time, and paragraph 2:

10 "I was fully concentrated on the male at this point.
11 I continued to observe him for about 3 minutes, at which
12 point I became concerned that he wasn't breathing
13 normally and his chest was not moving."

14 So you have noticed he is unconscious, you have made
15 your Airwaves transmission and then you concentrate on
16 the male at that point.

17 A. Yes.

18 Q. You continued to observe him for about three minutes:

19 "... concerned that he wasn't breathing normally and
20 his chest was not moving."

21 How long did it take you to notice that his chest
22 was not moving?

23 A. From what point, where I became concerned that --

24 Q. After you made the call, the Airwaves transmission.

25 A. About three minutes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Oh, three minutes.

2 "I remember asking someone (I do not recall who) to

3 take control of the male's head so I could go down and

4 listen for breathing again."

5 What do you mean "take control of the male's head"?

6 A. Just hold it in position.

7 Q. Right.

8 "I went down to listen for ..."

9 Do you know who that was that took hold of his head?

10 A. No.

11 Q. "I went down to listen for breathing again and there was

12 nothing obvious. Due to my concern I moved the male

13 onto his back so I could check more thoroughly."

14 So until you have noticed he is not breathing, he

15 has remained on his left-hand side?

16 A. Yes.

17 Q. It was only after you noticed he wasn't breathing --

18 A. Yes.

19 Q. -- that you move him onto his back?

20 A. Yes.

21 Q. "Due to my concern I moved the male onto his back so

22 I could check more thoroughly. I put my ear over his

23 mouth, looking down the line of his chest, and within

24 a few seconds determined that I couldn't feel, see or

25 hear breathing."

Transcript of the Sheku Bayoh Inquiry

1 Is that the sort of technique that you used to
2 determine whether he was breathing?

3 A. Yes.

4 Q. And is that something you have learned in first aid
5 training?

6 A. Yes.

7 Q. "I immediately said we need to start CPR and PC Walker
8 immediately started carrying out chest compressions."

9 So PC Walker was the first officer to start the
10 chest compressions?

11 A. Yes.

12 Q. How long after you noticed that he wasn't breathing and
13 you turned him on his back and -- did PC Walker start
14 the chest compressions?

15 A. Inside 10 seconds.

16 Q. Is there a reason that when he was unconscious you
17 hadn't turned him onto his back?

18 A. I was concerned about a head injury -- well --

19 Q. Sorry, I didn't hear you there.

20 A. There's two points. That's the correct position for
21 someone to be in if they're unconscious, is on their
22 side, they would normally be in the recovery position
23 which is very close to that but that's the position you
24 would have an unconscious casualty. You wouldn't leave
25 them lying on their back.

Transcript of the Sheku Bayoh Inquiry

1 Further to that I was concerned at the potential for
2 a head injury as well so I really wasn't wanting to move
3 him unless I absolutely had to.

4 Q. What sort of head injury you were concerned about?

5 A. I don't know, I'm not an expert but he has been struck
6 over the head with a baton so ...

7 Q. You were concerned because you had heard from
8 PC Tomlinson?

9 A. Yes.

10 Q. Right, sorry, I thought you meant an injury could have
11 occurred then.

12 A. No, I hadn't established one, but that doesn't mean
13 there's not one.

14 Q. Sorry, that was my mistake. Right. So you knew by that
15 point about PC Tomlinson having struck him on the head?

16 A. Yes, he told me.

17 Q. So I would like to just look at that timing please. You
18 have talked about him being on the ground, being turned
19 onto his left-hand side. You notice then that he is
20 unconscious and can you remind me how long between you
21 noticing he is unconscious and you making that Airwaves
22 transmission that he was unconscious and calling for an
23 ambulance?

24 A. I think that would be fairly quickly after I have
25 realised he is unconscious.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can you give us an indication?

2 A. A few seconds.

3 Q. Few seconds. So that Airwave is at 7.25.17 and you call
4 the ambulance and then when you have noticed he is not
5 breathing and CPR commencing, would you look at 7.29.30.
6 Now, this is on page 11 of the spreadsheet and it is
7 towards the top and there's an Airwaves -- sorry.

8 So it's the top of page 11 of the spreadsheet. You
9 see 7.29.30, Acting Police Sergeant Scott Maxwell makes
10 an Airwaves transmission:

11 "Control can you get a move on with the ambulance.
12 This accused is now not breathing. CPR is commencing.
13 Over."

14 How long after CPR commenced with PC Walker starting
15 the CPR did Scott Maxwell make that transmission? Do
16 you know?

17 A. I can't even remember him making it. I'm vaguely aware
18 that he has made one but --

19 Q. That's not something you can remember?

20 A. No.

21 Q. But by the time Sergeant Maxwell makes the transmission,
22 the male on the ground, Mr Bayoh, is not breathing?

23 A. Yes, you would have to assume so if he's passed that at
24 that point.

25 Q. So somehow the information -- the awareness you have

Transcript of the Sheku Bayoh Inquiry

1 that he is no longer breathing --

2 A. Yes.

3 Q. -- and CPR needs to start, that information has been

4 transmitted somehow to Sergeant Maxwell and he has made

5 that Airwaves transmission?

6 A. Yes.

7 Q. So that would be the chain of that?

8 A. Yes, I think so, yes.

9 Q. So from the moment he is unconscious but breathing,

10 which is 7.25.17, there's an Airwave "Unconscious,

11 breathing, not responsive, get an ambulance" --

12 A. Yes.

13 Q. -- to Sergeant Maxwell and his Airwave transmission,

14 7.29.30, that he is now not breathing and CPR is

15 commencing, so that's a period of around -- well, over

16 four minutes, I would like to know what's happening

17 during that four minute period. So he is unconscious

18 but breathing, you have told us you're monitoring, but

19 for that four minutes what's happening?

20 A. I'm keeping an eye on him and watching his breathing

21 and, as I said, that -- that's my sole focus, so other

22 than that I don't know.

23 Q. What's everyone else doing?

24 A. I don't know.

25 Q. Right, okay. We have heard that day that it had been

Transcript of the Sheku Bayoh Inquiry

1 raining, it's 3 May, he is in a T-shirt. He has been
2 restrained, he has had PAVA spray and CS spray and
3 a head strike with a baton and to his body. Was there
4 any attempt during that period to perform any first aid,
5 or to make him more comfortable?

6 A. No.

7 Q. Was there any attempt during that period to remove his
8 handcuffs?

9 A. No.

10 Q. Was there any attempt to remove his leg restraints after
11 he was unconscious --

12 A. No.

13 Q. -- before he stops breathing?

14 A. No.

15 Q. Why would these leg restraints not be removed at that
16 point?

17 A. Because somebody is unconscious or apparently
18 unconscious does not necessarily diminish the risk they
19 pose, so people can make a sudden recovery and continue
20 with the behaviour they have had before. People -- and
21 I don't -- no reflection on Mr Bayoh, people can feign
22 unconsciousness, which absolutely happens, and can
23 attack police officers when their guard is down, so it's
24 required to keep that level of restraint.

25 If it is somebody suffering from ABD or some other

Transcript of the Sheku Bayoh Inquiry

1 medical issue --

2 Q. We have heard that's called acute behavioural disorder.

3 A. Or excited delirium, sorry.

4 Q. Or excited delirium and these are conditions you had
5 been trained on?

6 A. Yes.

7 Q. I think there may have been -- education may have
8 improved since 2015 about these conditions. We will no
9 doubt hear more information in the future, but you're
10 thinking about ABD at that time?

11 A. Excited delirium at that time, sorry. If they are
12 suffering from that and you have the situation where
13 they recover and the behaviour returns, the aggressive
14 and violent behaviour returns, you have done that person
15 no favours by removing the restraint because all that's
16 going to happen is they're going to have to be
17 resecured, re-restrained and subject to another use of
18 force.

19 The presence of the restraints were not having any
20 detrimental effects to his health, so they remained on.

21 Q. As far as you were concerned, they weren't having any
22 detrimental effects?

23 A. Not that I could see, no.

24 Q. Then there was another call for an ambulance at 7.26.41
25 by Sergeant Maxwell, so that's shortly after. 7.26 --

Transcript of the Sheku Bayoh Inquiry

1 let me see, 41. I think by this time Sergeant Maxwell
2 is saying:

3 "I'm just looking to clarify, has an ambulance been
4 contacted for this accused?"

5 Then ACR confirm they had asked for two ambulances
6 so by this time I think a number of calls had been made
7 about Nicole Short and getting an ambulance for her, so
8 this was the second call to get a call for Mr Bayoh?

9 A. Yes, it appears that way.

10 Q. And was there anything going through your head at that
11 time during that four-minute period about the impact of
12 the CS spray or the PAVA spray, or the head strike with
13 the baton?

14 A. That could affect anything I could do?

15 Q. That could affect anything you could have done at the
16 time?

17 A. No, there's nothing -- I'm not a paramedic. My first
18 aid qualification is first aid at work, same as somebody
19 working in an office who has a first aid qualification
20 to deal with their workplace. The only treatment -- the
21 only thing we could do is what we were doing: keeping
22 him in recovery position, closely monitoring him. There
23 was no sort of intervention we could do to deal with any
24 medical issues he may have and there were no obvious
25 ones -- no obvious injuries or anything apparent.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right, and then after he became unconscious and stopped
2 breathing, you moved him onto his back at that point?

3 A. Yes.

4 Q. Can I ask you about paragraph 48 of your Inquiry
5 statement please. And then there's mention in this
6 paragraph 48 "difficulties administering breaths" and
7 I would like a little bit more information -- 48 please,
8 that's it:

9 "There were difficulties in administering breaths to
10 [Mr] Bayoh. It was initially very difficult to fit the
11 valve into his mouth and once this was done the breaths
12 did not appear to be going in. PC Walker carried out
13 further chest compressions while I tried to ensure the
14 airway was not obstructed and re-fitted the mask.
15 I tried further breaths but these too seemed not to be
16 working. Air seemed to be escaping around the side of
17 the mask and the chest was not rising. I made similar
18 attempts with the same result. It seemed to me that the
19 breaths were not being effective and were preventing
20 chest compressions from being carried out. As such
21 I made the decision that we would continue to carry out
22 chest compressions only."

23 So if we could go back to the beginning of
24 paragraph 48. Can you explain to us -- you talk about
25 a valve and a mask, and explain what was happening at

Transcript of the Sheku Bayoh Inquiry

1 that point?

2 A. So what we were trying to fit was a face shield that can

3 be used to safely administer breaths during CPR. That's

4 a piece of thick see-through plastic around the size of

5 a handkerchief with a non-return valve in the centre of

6 it. It can be placed in the mouth of the subject and it

7 allows you to safely deliver breaths into them through

8 the non-return valve, reducing the risk of contamination

9 for yourself for anything coming back out of their mouth

10 into yours.

11 Q. So it allows you to assist the person but protect

12 yourself at the same time?

13 A. Yes.

14 Q. And is that -- we have heard from other officers that

15 they had a pouch that attached to their utility belt

16 with a safety -- first aid kit.

17 A. Yes.

18 Q. Was that contained in that?

19 A. Yes.

20 Q. Right. Is that something that all officers have?

21 A. They're certainly all issued it.

22 Q. Sorry?

23 A. They're all issued one, yes.

24 Q. They're all issued?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And you used yours that day?

2 A. I think so.

3 Q. But you seem to be having difficulty trying to apply

4 the -- administering the breaths?

5 A. Yes, initially fitting the valve and then administering

6 breaths once we have successfully done that.

7 Q. What caused the difficulty for you trying to do that?

8 A. Initially trying to get into his mouth. His mouth was

9 clenched shut or tightly shut to the point where I had

10 to put my fingers into the mouth and open it up and

11 thereafter the difficulty -- I could feel the valve was

12 working correctly because there's air escaping out of

13 the sides, but it didn't seem to be going into his body.

14 You would expect to feel almost -- you can feel the air

15 going out and expand in the chest and that didn't seem

16 to be happening.

17 Q. So normally if the valve's working do you feel the chest

18 rising as the lungs expand?

19 A. Yes, you're aware of the chest rising. You will be

20 looking down the line of the chest and you will be able

21 to see the chest --

22 Q. So what position are you in --

23 A. Kneeling down.

24 Q. -- when you were trying to use --

25 A. Kneeling down beside his head.

Transcript of the Sheku Bayoh Inquiry

1 Q. So you're not lying over him at that stage?

2 A. Kneeling over him.

3 Q. Kneeling over him?

4 A. Yes.

5 Q. How were you kneeling over him in relation to his --

6 were you at the side or --

7 A. At the side of his head.

8 Q. At the side of his head?

9 A. Side of his head and shoulders.

10 Q. So he is on his back by this stage?

11 A. Yes.

12 Q. And is PC Walker applying CPR?

13 A. Yes.

14 Q. And you're at the side of his head?

15 A. Yes, I'm on his right-hand side.

16 Q. You were on his right-hand side?

17 A. Yes.

18 Q. Using the valve?

19 A. Yes.

20 Q. And the mask?

21 A. Yes.

22 Q. And you could -- when you felt his jaw clenched --

23 A. Yes.

24 Q. -- his jaw clenched shut, was that of any significance

25 to you in terms of your first aid training?

Transcript of the Sheku Bayoh Inquiry

1 A. It didn't mean anything to me, no.

2 Q. But you were able to open his mouth manually?

3 A. Yes.

4 Q. But the breaths that you were administering through the

5 valve were escaping?

6 A. Yes.

7 Q. And you didn't notice them going through the chest?

8 A. No.

9 Q. Would you have been able to tell if they were going into

10 the chest with PC Walker doing CPR?

11 A. He is not doing compressions at the exact moment I'm

12 trying to administer breaths. So one person would --

13 the compressions are administered, once you have done 30

14 of them then you try to deliver two breaths and then you

15 do the compressions again.

16 Q. So the timing is synchronised --

17 A. Yes.

18 Q. -- with your companion PC Walker --

19 A. Yes.

20 Q. -- in the sense that you're working together --

21 A. Yes.

22 Q. -- to process that. Thank you. Now, I understand

23 that -- we have looked at the Airwaves where Maxwell

24 called an ambulance and then can we look at paragraph 54

25 and I think at that point you're being asked about the

Transcript of the Sheku Bayoh Inquiry

1 ambulance. You say you didn't see them arrive:
2 "... they initially started some form of more
3 advanced care for the subject ..."

4 Are you talking about the ambulance crew at that
5 point?

6 A. Yes.

7 Q. So when they arrived did they take over?

8 A. Yes. I would -- I think I had stepped away at the exact
9 moment they arrived but ...

10 Q. Right. I think we see on this spreadsheet reference to
11 when the ambulance arrived and that's on page 13 of the
12 spreadsheet. I won't take you to the footage at this
13 stage, but you will see it's 7.33.35 that an ambulance
14 arrives on Hayfield Road approaching the roundabout and
15 stops next to the large marked police van?

16 A. Yes.

17 Q. And near the group of people on the pavement area at
18 Hayfield Road and the officers were the group of people
19 at Hayfield Road?

20 A. Yes. I think I was probably slightly away from them at
21 that point.

22 Q. So you had maybe moved slightly away?

23 A. Yes.

24 Q. Where had you moved to?

25 A. I had become contaminated with bodily fluids in my

Transcript of the Sheku Bayoh Inquiry

1 mouth.

2 Q. This is through using the valve --

3 A. Through trying to use the valve and it failing and
4 material out of his mouth and nose et cetera ended up on
5 the wrong side and in my mouth and what have you. So
6 I'd -- when we moved to compressions only, there's
7 enough people there to carry that out who know what
8 they're doing, so I stepped away to address that.

9 Q. When you talk about material contamination can you
10 describe that material?

11 A. Saliva, mucus out of the nose.

12 Q. What colour was it?

13 A. I have no idea. It was in my mouth.

14 Q. All right, okay. When you became contaminated in that
15 way what steps did you take?

16 A. I used -- I had a little tub of liquid hand -- I stepped
17 away, ensured the CPR was continuing. I had alcohol
18 hand sanitiser so I washed my mouth out with that and
19 spat it on the ground, which seemed a reasonably
20 sensible thing to do. I have then gone to a member of
21 the public who was in his garden and asked for a glass
22 of water and rinsed my mouth out and spat that out on
23 the ground.

24 Q. Can I ask you to look at some footage. We will just
25 pause it and I'm going to ask you to look at somebody

Transcript of the Sheku Bayoh Inquiry

1 through venetian blinds in the Snapchat footage so that
2 would be around 7.21.21 I think. We should see the
3 Snapchat footage come up.

4 (Video played)

5 Sorry, I'm on the wrong point. It's 7.22, sorry.
6 7.22.10. So you should see the Snapchat footage coming
7 up shortly.

8 (Video played)

9 And allow that to keep playing please and then at
10 some point I think you will see it pans round and can we
11 pause it there. Do you see in the right-hand pane,
12 through the venetian blinds --

13 A. Yes.

14 Q. -- there's somebody standing besides the hedge with
15 a grey T-shirt on?

16 A. Oh, yes.

17 Q. Was that the person that you dealt with?

18 A. I can't recognise him. It would be roughly the right
19 position.

20 Q. So it was somebody from the houses on that side of
21 Hayfield Road?

22 A. Yes.

23 Q. Thank you. That's lovely. How long did the ambulance
24 crew spend with the man on the ground?

25 A. It would be a general estimate maybe another five

Transcript of the Sheku Bayoh Inquiry

1 minutes.

2 Q. And then what did you do when they left?

3 A. I went with them.

4 Q. Why?

5 A. I was driving the ambulance.

6 Q. And why did you drive the ambulance?

7 A. They asked me to. The impression I got was they were

8 both wanting to go into the rear of the ambulance to

9 continue the care for the subject.

10 Q. So they continued to work on the man themselves in the

11 rear of the ambulance --

12 A. Yes, that would --

13 Q. And you drove to the hospital?

14 A. Yes.

15 Q. And we have heard that was Victoria Hospital and that's

16 quite nearby?

17 A. Yes.

18 Q. How long did it take you to get there?

19 A. Probably three or four minutes.

20 Q. Right. And did you go straight to A&E?

21 A. Yes.

22 Q. And then once you had arrived at the hospital -- you

23 mentioned earlier that you had removed handcuffs.

24 A. Yes.

25 Q. Can you tell us what you did when you arrived?

Transcript of the Sheku Bayoh Inquiry

1 A. My memory is quite vague. We went quite quickly into
2 the A&E department --

3 Q. Were you with another officer or were you just on your
4 own?

5 A. DC Connell was in the back -- I think it was DC Connell,
6 yes, was in the back with the ambulance crew. There was
7 a request to take the handcuffs off around about that
8 point.

9 Q. Who made that request?

10 A. I think -- I don't know. It was either the ambulance
11 crew or a doctor.

12 Q. Right. Did you remove the handcuffs yourself?

13 A. I did, yes.

14 Q. And that's when you noticed they were double-locked?

15 A. Yes.

16 Q. So you removed those. What about the leg straps?

17 A. The same. There was a request for one of the medical
18 personnel to remove them, so we removed them.

19 Q. A different person or the same person?

20 A. I don't know.

21 Q. Can't remember. So they hadn't been removed in the
22 ambulance?

23 A. No.

24 Q. You removed them when you were actually in the hospital?

25 A. Yes, definitely removed the handcuffs and I was there

Transcript of the Sheku Bayoh Inquiry

1 when the restraints were coming off but I can't even
2 remember whether that was definitely me or not.

3 Q. Prior to leaving Hayfield Road had anybody spoken to you
4 and said -- given you any advice about maybe not
5 speaking to anyone about the incident or anything along
6 those lines?

7 A. No.

8 Q. And can I ask you about when you went back to Kirkcaldy
9 Police Office. What time did you get back there?

10 A. I have no idea.

11 Q. No idea. Did you go straight from Victoria Hospital to
12 Kirkcaldy Police Office?

13 A. Yes. I was maybe at the hospital for half an hour and
14 then directly back to Kirkcaldy Police Station but ...

15 Q. And I think you say in your statement 61, 62, 63, that's
16 the number of the questions you have been asked by the
17 Inquiry team:

18 "I went straight to the canteen and sat at a table.
19 The other non-CID officers who had been at the locus
20 were there. I think it is DI Robson was either there or
21 came in a very short time later."

22 A. Yes.

23 Q. So you go straight to the canteen?

24 A. Yes.

25 Q. Thank you. You say at paragraph 80 of your statement:

Transcript of the Sheku Bayoh Inquiry

1 "There were several senior officers through the
2 canteen area during the day."

3 Do you see that?

4 A. Yes.

5 Q. "The only specific instruction I can recall was from DI
6 Robson shortly after my arrival that the matter was not
7 to be discussed."

8 Do you remember when DI Robson gave you that
9 specific instruction?

10 A. I think it was quite shortly after I arrived. I think
11 that was when he spoke to us. My recollection back in
12 the canteen isn't great but --

13 Q. But was the instruction given in the canteen by
14 DI Robson do you know?

15 A. Yes, that's my recollection.

16 Q. And why was your recollection not great when you got
17 back?

18 A. Just because I was completely stunned, exhausted,
19 mentally exhausted, in a state of shock.

20 Q. And then you say you recall "similar instructions from
21 other senior officers whose identities I am no longer
22 sure of and from Amanda Givan".

23 A. Yes.

24 Q. Do you remember how many other senior officers gave you
25 those similar instructions?

Transcript of the Sheku Bayoh Inquiry

1 A. I don't know. There was -- during the course of the day
2 there was various senior officers came and went. They
3 were all giving roughly the same sort of talk, but
4 without being very specific on anything at all. I think
5 there was another time somebody said not to discuss
6 anything but I don't know who I could attribute what
7 statement to. It was all very similar and it all sort
8 of blurred into one and nothing they said was
9 particularly memorable, in all honesty.

10 Q. And did you comply with that instruction not to talk
11 with anyone about the incident?

12 A. Yes.

13 Q. We have heard mention of -- I will just give you these
14 names and see if you recognise them: Conrad Trickett,
15 Pat Campbell and Stephen Kay?

16 A. I have no idea who Pat Campbell was. Conrad Trickett
17 was the PIM manager.

18 Q. Post-incident manager?

19 A. Yes.

20 Q. And Stephen Kay?

21 A. Was the duty inspector.

22 Q. For the area?

23 A. Yes.

24 Q. And then you mention Amanda Givan. We have heard she
25 was a Scottish Police Federation representative.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Do you remember any advice or instructions she gave you?

3 A. No. She provided me with, as all officers, contact
4 details for the SPF's legal advice line or something
5 similar to that but I can't recall any specific advice
6 she gave.

7 Q. Okay. And did anyone give you advice in relation to
8 your status, so -- and when I say that I mean as
9 a witness or as a suspect?

10 A. No. I think as I -- one of the senior officers coming
11 in trying to offer reassurance I think said something
12 about not being suspects but there was never any clear
13 communication as to what your status was or what that
14 meant.

15 Q. And in terms of what you would have expected, or what
16 you would have wanted in terms of clear instruction,
17 what would you have been looking for?

18 A. Clear guidance as to exactly what the process was,
19 exactly what our status was, exactly what that meant --
20 although we're police officers, however this is a very
21 confusing situation in itself and you're in a state of
22 extreme shock and confusion and worry and some of the
23 other officers were clearly deeply traumatised, so
24 a clear explanation of exactly what the status is,
25 exactly what that means, exactly what you're obliged to

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1 do, exactly what you're not obliged to do, but there was
2 nothing of that sort.

3 Q. And would you have felt it better to have gotten that
4 clear guidance verbally or orally, or in writing?

5 A. Both would be handy.

6 Q. Both. And in terms of giving statements, operational
7 statements, do you remember any of the senior officers
8 giving you advice or guidance or instruction in relation
9 to that?

10 A. I think something was said at one point about nobody
11 would be looking for statements that day.

12 Q. Do you remember who said that?

13 A. I think it was Chief Inspector Trickett.

14 Q. Do you remember when?

15 A. No.

16 Q. But you think he gave you some advice that day about
17 statements?

18 A. I think so.

19 Q. Right. What about the other senior officers? Do you
20 remember any of them discussing statements?

21 A. No, I don't, but again I don't -- I don't have
22 a complete recall of everything that all of them said,
23 so -- but I don't remember it.

24 Q. All right. Can I ask you about your equipment that you
25 had that day. You mention this in paragraph 74 of your

Transcript of the Sheku Bayoh Inquiry

1 Inquiry statement. And you say you remained wearing
2 your uniform:

3 "... and my vest and cover containing my other PPE
4 was I think placed on the floor in the canteen. This
5 remained the case for several hours until my equipment
6 was recovered from me in a separate room (as per points
7 75 and 76). I brought items of PPE and a radio that
8 I recovered from the hospital and the locus, I asked
9 [Chief Inspector] Trickett and Inspector Combe what
10 I should do with them. I stated that I thought I should
11 retain them until they were seized, however I was
12 instructed to leave them on the table in the canteen for
13 the officers who were issued them to recover."

14 So can you tell us a little bit more about what you
15 were doing with the equipment please?

16 A. In -- as in how it came to be in my possession?

17 Q. Yes.

18 A. So the handcuffs and the leg restraints which were
19 removed from Mr Bayoh by myself --

20 Q. In the hospital?

21 A. In the hospital.

22 Q. And you had kept those?

23 A. Yes, where I was at locus --

24 Q. I think you said earlier they weren't actually your
25 equipment?

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1 A. I'm fairly sure they're not. The leg restraints
2 definitely weren't. I'm reasonably sure the handcuffs
3 weren't. There were other equipment -- I can't say for
4 sure now what they were. I know it says a radio there.
5 I think it was maybe a radio, maybe a spray. When -- at
6 some point when we were either during the restraint or
7 during the CPR I have seen these items of equipment
8 lying on the ground and just instinctively you pick them
9 up, you secure them. You can't have police issued
10 equipment --

11 Q. So you mean on the ground at Hayfield Road?

12 A. Yes. I couldn't tell you exactly where they were. It
13 would be somewhere where Mr Bayoh was because that's
14 when I was down on my knees. So I have picked them up,
15 put them in my pocket or whatever and hung onto them.

16 Q. Was that before you left the scene in the ambulance?

17 A. Yes.

18 Q. You didn't take photographs of them or secure them in
19 the area?

20 A. No, at the time it wasn't clear that this was going to
21 be an incident that would have that level of
22 investigation and it's just an intuitive thing to do
23 when there's a piece of police equipment and there's
24 a situation ongoing and it's lying about, you get the
25 opportunity to secure it so you just secure it.

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1 Q. So did you pick those off the ground prior to leaving in
2 the ambulance?

3 A. Yes.

4 Q. Prior to the ambulance arriving?

5 A. I would think -- yes, yes.

6 Q. And tell us what you had with you. Sorry, you went
7 through a list but can you --

8 A. In relation to the additional equipment I have ended up
9 with?

10 Q. Yes.

11 A. It was definitely leg restraints and handcuffs, a radio
12 and possibly a PAVA spray or a CS spray.

13 Q. So the radio and the PAVA spray were from Hayfield Road?

14 A. Yes.

15 Q. And the handcuffs and the leg straps were from Victoria
16 Hospital?

17 A. Yes.

18 Q. And that was four items in addition to what you normally
19 carry yourself?

20 A. Yes, that's what I can definitely remember. There might
21 have been one more but I wouldn't be able to be specific
22 about it.

23 Q. Did you mention spray and a baton -- can you have a look
24 at paragraph 75. I don't want to get this wrong:

25 "... several hours later all of the items described

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1 in point 73 as well as my baton, CS Spray, Handcuffs and
2 radio were taken possession of ..."

3 So those were actually yours, your items?

4 A. Those ones referred to there, yes.

5 Q. You still had those items?

6 A. Yes.

7 Q. And that was in addition to the other items you have
8 mentioned?

9 A. Yes.

10 Q. Right. So were the items -- we have heard that some
11 items of equipment and clothing were on the floor in the
12 canteen, or leaning up against the wall --

13 A. Yes.

14 Q. -- in the canteen. Do you remember that?

15 A. Yes, I do.

16 Q. And we have also heard that certain people would come
17 into the canteen who weren't part of the response team.
18 Do you remember anybody coming in and out, other than
19 the senior officers?

20 A. PC Mark Kay for Glenrothes was there. I have no idea
21 why or what he was doing there, if he had been given
22 some sort of role or what have you. PC Barrett was
23 there as SPF representative for a time. I don't think
24 he was there all day. That's all I can recall.

25 Q. Okay, thank you. You mention in your statement that

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1 there was a distinction made between the way DS Davidson
2 and DC Connell were treated or handled after the
3 incident and the way other officers were. Do you want
4 to give us a little bit more information about that?

5 A. All the uniformed officers present were taken back to
6 the canteen and --

7 Q. That includes yourself?

8 A. Yes. All the officers of the response team were taken
9 back to the canteen and at some point told they weren't
10 allowed to leave and subjected to eventually a medical
11 examination and seizure of clothing, et cetera. The CID
12 officers, who as far as I was aware had had a very, very
13 similar level of involvement in the incident, did not
14 and as far as I'm aware went back to their own office
15 and did whatever they did.

16 Q. And who were those CID officers?

17 A. DS Davidson and DC Connell.

18 Q. So they were allowed to move more freely in Kirkcaldy
19 Police Office?

20 A. As far as I was aware, yes.

21 Q. And was it explained to you why there was a distinction
22 between the way they were treated and --

23 A. No.

24 Q. -- the way the uniformed officers were? You said no.

25 A. No.

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1 Q. Can I ask you to look at the paragraphs 82 to 85. It's
2 actually one section of your statement, 82/83/84/85. So
3 this is in response to some questions primarily about
4 paperwork, if I can put it that way:

5 "In normal circumstances notebook entries would be
6 made following any incident of note - this is standard
7 procedure although I am unsure of the exact regulation
8 requiring this. It is part of the standard operating
9 procedures relating to use of force that for each
10 incident where force is used above compliant handcuffing
11 or taking [I think hold] of a subject's arm ..."

12 Is that right?

13 A. Yes, that would be right.

14 Q. "... one use of force form should be submitted per
15 incident prior to terminating duty. Where an officer
16 discharges their PAVA/CS spray a discharge form should
17 be submitted prior to terminating duty. I believe this
18 is a legal obligation."

19 So you're talking there about a use of force form?

20 A. Yes.

21 Q. One per incident?

22 A. Yes, I think that's incorrect and I have --

23 Q. Oh, right.

24 A. -- applied the standard use of force form that came into
25 force subsequent to 2015. I think the requirement for

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1 that was lower at that time actually.

2 Q. Lower than one form per incident?

3 A. No, the level of force required.

4 Q. I see. So as your understanding in May 2015, did one

5 use of force form have to be completed per incident or

6 was it one use of force form per any officer who had

7 used the force?

8 A. I can't recall now.

9 Q. And then you think that you have maybe confused how much

10 force was required --

11 A. Yes.

12 Q. -- before that form -- the requirement to complete that

13 form was triggered?

14 A. The procedure for it has changed in the interim and ...

15 Q. Right, so this may not be entirely correct for May 2015?

16 A. Yes.

17 Q. Right. And then in relation to discharge of PAVA or

18 CS spray, you mention a form -- a discharge or use of

19 spray form "should be submitted prior to terminating

20 duty" and you thought at the time that was a legal

21 obligation?

22 A. Yes.

23 Q. And that's where you're discharging your spray?

24 A. Yes.

25 Q. Right and that's by the individual officer who has

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1 discharged the spray?

2 A. That's correct.

3 Q. Thank you. If we could -- can I ask you about

4 operational statements. You were told I think -- and

5 you said a moment ago no statements were being sought.

6 A. Yes.

7 Q. What was your understanding of the requirement in

8 relation to producing operational statements?

9 A. It would be done -- normally you would be requested to

10 provide a statement for something if an officer

11 investigating something required it from you.

12 Q. Right. We have heard from another officer, or maybe

13 two, that the forms that you have mentioned were only

14 capable of being obtained through the computer system --

15 A. Yes.

16 Q. -- that's in place. Do you remember if that's correct

17 in 2015?

18 A. I believe so, yes.

19 Q. So did you have any access to a computer --

20 A. No.

21 Q. -- in the canteen? No. Were you offered access to

22 a computer --

23 A. No.

24 Q. -- that day? You say that normally you personally are

25 proactive in preparing notes and completing paperwork

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1 but you felt mentally stunned that day. Can you tell us
2 a little bit more about how you were feeling when you
3 were in the canteen?

4 A. Just absolutely exhausted, completely drained, mentally
5 drained as far as making decisions, just not capable of
6 having a reasonable thought process, just ... I don't
7 know how to describe it other than exhausted, sort of
8 inner fog mentally.

9 Q. And after you left duty that day did you return to work
10 the next morning?

11 A. Next afternoon I think.

12 Q. Next afternoon. Was that your next shift?

13 A. Yes.

14 Q. Did you at any stage complete your notebook in relation
15 to this?

16 A. No.

17 Q. And can you explain why?

18 A. Shortly thereafter I was given legal advice to not do
19 so.

20 Q. Do you remember at all maybe noting the names of the
21 paramedics in your notebook?

22 A. Yes, I did.

23 Q. So you had limited information --

24 A. Yes.

25 Q. -- in regard to the paramedics and who they were?

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1 A. Yes.

2 Q. But nothing about the incident though?

3 A. No.

4 Q. So in relation to the incident you were given legal
5 advice?

6 A. Yes.

7 Q. And when did you receive that advice?

8 A. Oh, I can't remember. Shortly after the incident,
9 within a day or so.

10 Q. Was that through the route you mentioned a moment ago,
11 with Amanda Givan and the advice through SPF?

12 A. Yes. It wasn't directly through that.

13 Q. No.

14 A. Through their legal advice line, another --

15 Q. Another firm?

16 A. Yes.

17 Q. Right. And can I ask you about something you mention in
18 your PIRC statement 278, page 14 please. It is the
19 penultimate paragraph, so right near the bottom:

20 "I did provide an account of what happened to an
21 Investigator acting on behalf of Prof Watson."

22 We know that Professor Watson is a solicitor.

23 "That was provided the week following the incident
24 but I do not know the exact date. It was noted down
25 from me. I have seen a copy of that electronically.

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1 I still have a copy of that account. I have been asked
2 to provide a copy of that account but wish to seek
3 advice before providing that to PIRC."

4 So this is what you said in your PIRC statement --

5 A. Yes.

6 Q. -- that you gave on 11 June 2015. Now, do you still
7 have access to that account of what happened at
8 Hayfield Road?

9 A. I don't think so. I have not looked for it in a very
10 long time.

11 Q. Would you be in a position to look for it and to provide
12 it to the Inquiry?

13 A. I would have to take legal advice on that.

14 Q. So you would rather seek legal advice?

15 A. Yes, it's something I have provided directly to my
16 solicitor so I would run that by them prior to --

17 Q. So your solicitor may have access to that account?

18 A. They may do.

19 Q. We have heard from another officer who had received
20 similar advice to you at the time but has provided
21 a copy of the statement, so would you be willing to ask
22 your solicitor for that advice and consider providing
23 that statement to the Inquiry?

24 A. Yes, I will certainly ask.

25 Q. Thank you. That would be excellent.

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1 Can I ask you finally some questions about race
2 please.

3 A. Yes.

4 Q. You have obviously had -- you are an OST trainer, you
5 have had a lot of training yourself and you have been
6 trained to become a trainer.

7 A. Yes.

8 Q. Have you received training in relation to race yourself?

9 A. Under the OST training or ..?

10 Q. Yes.

11 A. No.

12 Q. Not under OST training?

13 A. No.

14 Q. What about -- but it sounded like you were going to say
15 you have had training, just not --

16 A. Yes.

17 Q. What training -- how did you access that other training?

18 A. It's the first week of training at the Scottish Police
19 College when you join the Police Service.

20 Q. Right, so that's at Tulliallan?

21 A. Yes.

22 Q. Any other types of training in relation to equality and
23 diversity that you have had?

24 A. Not that I can recall.

25 Q. So the equality and diversity training was when you

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1 started at Tulliallan?

2 A. Yes.

3 Q. None since then?

4 A. Not that I can recall.

5 Q. And was that prior to 2015, or to date?

6 A. To date I think.

7 Q. To date. Do you remember the training you received at

8 Tulliallan?

9 A. Not every detail but I can remember receiving it.

10 Q. Did you learn much about unconscious bias?

11 A. I don't think so.

12 Q. Do you know what unconscious bias is?

13 A. Vaguely.

14 Q. Right. Do you want to tell us what you --

15 A. Having opinions about people that affect your treatment

16 of them without making conscious decisions. Yes.

17 Q. So subconscious --

18 A. Yes.

19 Q. And were you ever able to identify any unconscious bias

20 in your own perceptions or beliefs?

21 A. No.

22 Q. And in terms of the training you received at Tulliallan

23 were you able to implement any learning points from that

24 into your own everyday practice?

25 A. I think broadly in respect of these things you try and

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1 treat everybody fairly and not treat them differently in
2 respect of any differences they might have from you or
3 might have from other people, absolutely you implement
4 that into daily practice, but I would like to think
5 I was doing that prior to being trained in it at
6 Tulliallan in any case.

7 Q. Right. And were you aware in Kirkcaldy Police Office in
8 2015 of any examples of racial discrimination?

9 A. No.

10 Q. Or any racist jokes or racist comments being made at
11 that time?

12 A. No.

13 Q. And did any of your colleagues exhibit that type of
14 behaviour as far as you were aware?

15 A. No.

16 Q. If you had seen or heard any behaviour along those
17 lines, how would you have responded?

18 A. It would depend upon the behaviour, but it would
19 certainly be addressed, be that having -- giving
20 somebody some advice or reporting it up the line
21 management.

22 Q. So if there was any racist behaviour exhibited, there
23 would be a range of options for you in terms of how you
24 would respond?

25 A. Yes.

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1 Q. And how -- thinking back to 2015 now, how do you think
2 senior officers would have responded if there had been
3 any racist comments or behaviour?

4 A. I don't think they would have tolerated it.

5 Q. What do you think their reaction would have been?

6 A. Again, I would imagine it would be along the lines of
7 what I said. It would depend upon the exact
8 circumstances of it, but I feel sure they would have
9 taken disciplinary action if it was required.

10 Q. Were you aware at that time about any public concern
11 about the use of force by police officers particularly
12 in relation to black men?

13 A. No.

14 Q. Were you aware of any wider concerns, not just in
15 Scotland or in Kirkcaldy, but down south or abroad?

16 A. Just through keeping up with the news about issues from
17 parts of England, you know primarily London but that's
18 the one that seemed to make it to the papers.

19 Q. So was that issue one of concern for officers in
20 Kirkcaldy or in Police Scotland --

21 A. No.

22 Q. -- more particularly? No. Were you aware at that time
23 of any high profile cases in the UK where a person had
24 died as a result of restraint, or a restraint in the
25 prone position?

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1 A. No.

2 Q. No. Was there much information sharing, as far as you
3 were aware, in 2015 between forces around the UK in
4 relation to problems arising with restraints or use of
5 force?

6 A. I really wouldn't know. If there was information
7 sharing like that it would be done by people who work
8 separately from me, so --

9 Q. So as a trainer -- you were a trainer at that time.
10 That's not something you were conscious of or aware of?

11 A. No.

12 Q. Okay. What was your understanding in 2015, or awareness
13 of the black community in Kirkcaldy?

14 A. Very little contact with the black community in
15 Kirkcaldy.

16 Q. Had you been involved in any community relation work at
17 all?

18 A. No. That wasn't part of my role.

19 Q. Did you have any concerns about policing of the black
20 community in terms of the use of force?

21 A. No.

22 Q. And did you have much experience of the black community
23 either as witnesses, as suspects, or as victims of
24 crime?

25 A. No, very little.

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1 Q. Very little. Were you aware of stereotypes about black
2 people, specifically in the context of criminal justice,
3 perhaps being perceived as more likely to resist, to be
4 less compliant, to be more violent, or to have
5 superhuman strength or size?

6 A. No.

7 Q. No. Do you have any assumptions along these lines?

8 A. No.

9 Q. We have heard a number of descriptions during the
10 hearings here, one of which was that Mr Bayoh was the
11 size of a house. Is that the type of view that you held
12 in 2015?

13 A. No.

14 Q. Is it possible that any stereotypes or assumptions
15 influenced your approach to the events in Hayfield Road
16 in 2015?

17 A. No.

18 Q. Had you been faced with a white man who was 5 foot 10,
19 I think the same as yourself, 12 stone 10 in weight,
20 with the suggestion that he had had a knife or had
21 a knife, although that wasn't visible, and you were
22 there with a number of officers with the equipment that
23 you had had, would you have treated that person
24 differently to the way you treated the events in
25 Hayfield Road that day?

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1 A. No.

2 Q. If he had been white, would you have called for an
3 ambulance sooner?

4 A. No.

5 Q. Would you have done more for him if he had been white
6 after he became unconscious?

7 A. No.

8 Q. If he had been white would you have been more likely to
9 assume he was under the influence of drink or drugs or
10 had a mental health crisis, or that excited delirium was
11 more of a factor?

12 A. It wouldn't have made any difference.

13 Q. You seem quite definite in that?

14 A. Yes.

15 Q. Looking back now, do you think his race may have played
16 any role in any of your actions --

17 A. No.

18 Q. -- or the actions of other officers?

19 A. No.

20 Q. If you could just give me a moment please.

21 Subject to any further issues that you or the
22 Assessors may wish me to raise or explore further,
23 I have no further questions.

24 LORD BRACADALE: Thank you, Ms Grahame.

25 Questions from LORD BRACADALE

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1 Constable Smith, there is one thing I would like to
2 clarify with you please. After you realised that
3 Mr Bayoh was unconscious, did you start monitoring his
4 breathing?

5 A. Yes.

6 LORD BRACADALE: And at that stage he was on his side, is
7 that right?

8 A. Yes.

9 LORD BRACADALE: But before that, while he was in the prone
10 position, was anybody monitoring his breathing?

11 A. I don't know.

12 LORD BRACADALE: As a general proposition, in a restraint
13 involving someone in a prone position would you expect
14 one of the officers to monitor the breathing of the
15 subject?

16 A. If it's something where they're going to be in a prone
17 position for a prolonged period of time, it would
18 certainly be beneficial if you were in a position to do
19 that.

20 LORD BRACADALE: Thank you.

21 Now, are there any Rule 9 applications at this stage
22 apart from Mr Jackson? No.

23 Mr Jackson, do you have an application?

24 MR JACKSON: I do not, thank you.

25 LORD BRACADALE: Well, thank you very much, Constable Smith,

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for coming to give evidence at the Inquiry. When the Inquiry rises you will be free to go.

Now, we will rise there and sit again on Tuesday at 10 o'clock.

(3.21 pm)

(The Inquiry adjourned until 10.00 am on Tuesday,
31 May 2022)

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