

1 (In the presence of the jury)
 2 DEPUTY CORONER MS MONAGHAN: Good morning, members of the
 3 jury. I hope you had a restful break. As I mentioned
 4 to you at the end of last week, this week we're going to
 5 hear evidence from British Airways staff, including the
 6 cabin crew and the pilot, the captain, and they will
 7 answer some of the questions that you already flagged up
 8 at a very early stage in this hearing.
 9 Our first witness is going to be Mr Upton, who is
 10 the turnaround manager, and he'll tell us about his job
 11 in due course. Sorry, I beg your pardon, we have
 12 a short statement to be read to you first.
 13 MR PETER JONES (statement read)
 14 MR LEESE: This is the statement of Peter Jones dated
 18 20 July 2011:
 19 "I make this statement in relation to risk
 20 assessments provided to British Airways by
 21 United Kingdom Border Authority (UKBA). I have held the
 22 position of head of aviation security since 2006. I set
 23 the aviation security policy for British Airways and
 24 report how well it is carried out, and I also provide
 25 a 24/7 operational response capability. Prior

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1 12 October 2010 British Airways did not receive risk
 2 assessments from the UKBA in relation to passengers
 3 being deported using British Airways flights. Since
 4 12 October 2010 and the incident regarding Mr Mubenga
 5 British Airways now receive a risk assessment for all
 6 escorted deportees. This risk assessment is sent to the
 7 British Airways security duty manager by the contractor
 8 employed by UKBA to carry out the deportations."
 9 DEPUTY CORONER MS MONAGHAN: Thank you. We haven't heard
 10 from Mr Jones because unfortunately he has died in the
 11 meantime, so that's why you have heard the statement,
 12 but it's a very short statement and some of those issues
 13 we will be able to follow up with other witnesses.
 14 Thank you.
 15 MR CARL UPTON (sworn)
 16 Examined by THE CORONER
 17 DEPUTY CORONER MS MONAGHAN: First of all, can you give us
 18 your full name, please.
 19 A. Good morning, madam. It's Carl Sefton Upton.
 20 DEPUTY CORONER MS MONAGHAN: Thank you. We see from your
 21 witness statement that you were employed at the time
 22 we're concerned with as a turn round manager, is that
 23 right?
 24 A. Yes, that's correct.
 25 DEPUTY CORONER MS MONAGHAN: How long, by October 2010, had

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1 you been employed by British Airways?
 2 A. Approximately 25 years.
 3 DEPUTY CORONER MS MONAGHAN: For the whole of that 25 years
 4 were you employed as a turn round manager?
 5 A. No. The job definition actually changed. The title
 6 changed from dispatcher to turn round manager, but for
 7 that combined position it was approximately 22 years.
 8 DEPUTY CORONER MS MONAGHAN: For the three years that you
 9 weren't a turn round manager, what capacity were you
 10 employed in?
 11 A. I started off in operations on the ramp and then
 12 I became a supervisor aircraft services looking after
 13 ramp staff, loading baggage.
 14 DEPUTY CORONER MS MONAGHAN: That was at the beginning of
 15 your employment with BA, was it?
 16 A. After my spell on the ramp so to speak, yes.
 17 DEPUTY CORONER MS MONAGHAN: So you have had a continuous
 18 period of 22 years or thereabouts as a dispatcher/turn
 19 round manager?
 20 A. With no breaks, yes, that's correct, madam.
 21 DEPUTY CORONER MS MONAGHAN: Can you tell us, please, what
 22 a turn round manager is, what your job role was?
 23 A. A turn round manager is basically a co-ordinator to try
 24 and ensure punctuality of the aircraft, to monitor the
 25 events, to look out for any problems and try and stop

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1 them developing into something more radical, to liaise
 2 with the various parties connected with a departure,
 3 going from ramp staff to cabin crew, to passenger
 4 service staff, check-in, to Airport Authority people if
 5 need be, including the captain.
 6 DEPUTY CORONER MS MONAGHAN: Looking first of all then,
 7 please, if we may, so far as your duties are concerned
 8 about the issues of deportees. You know from time to
 9 time of course that BA would carry deportees?
 10 A. Yes, that's correct.
 11 DEPUTY CORONER MS MONAGHAN: Would you be informed that
 12 a deportee was going to be carried at any particular
 13 time?
 14 A. Yes, I would.
 15 DEPUTY CORONER MS MONAGHAN: How would you be notified?
 16 A. The normal procedure is I get given a flight by our
 17 allocator. I would do my homework, my preparation for
 18 that flight, looking at all aspects of it, from loading
 19 baggage, et cetera; but part of that function would be
 20 to look down the passenger list and look at what's
 21 special types of passengers, if I can use that term,
 22 that I might have, including young people, wheelchairs
 23 and deportees.
 24 DEPUTY CORONER MS MONAGHAN: Can you please be given
 25 volume 1 green, page 1. Just take a moment to

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1 familiarise yourself with that. It probably looks
2 familiar to you.
3 **A. Yes, I am aware of this.**
4 DEPUTY CORONER MS MONAGHAN: First of all, just a general
5 question, please. What is the Joint Procedures Manual?
6 **A. The Joint Procedures Manual, as far as I understand it,**
7 **is the new term given for the flight crew orders.**
8 **That's my understanding.**
9 DEPUTY CORONER MS MONAGHAN: What's their purpose or
10 function?
11 **A. To lay down the requirements for handling, if I can use**
12 **that term, special types of passengers, including**
13 **possibly deportees, prisoners, et cetera.**
14 DEPUTY CORONER MS MONAGHAN: Would these procedures be
15 something you were familiar with at the time?
16 **A. My operating procedure would be my own SOP, standard**
17 **operating procedure. I wouldn't necessarily refer to**
18 **this because it's not directly in my domain.**
19 DEPUTY CORONER MS MONAGHAN: So there is a different
20 document, is there, that contains procedures applicable
21 to your job?
22 **A. There is, indeed yes.**
23 DEPUTY CORONER MS MONAGHAN: I would like to see those,
24 please, Mr Antrobus. Just then in general terms, using
25 this document as an aid for us. Turning, please, to

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1 page 3, you have told us something about this in your
2 witness statement so I don't think this will be
3 a surprise to you. This describes to us the various
4 types of deportee that might be carried. Do you see
5 that at page 3 in the bottom right-hand corner?
6 **A. Yes, I see that.**
7 DEPUTY CORONER MS MONAGHAN: You will see at
8 paragraph 2.223, headed, "deportees"?
9 **A. Yes.**
10 DEPUTY CORONER MS MONAGHAN: There are, I think, three types
11 of deportees identified there, do you see?
12 **A. Yes, I see that.**
13 DEPUTY CORONER MS MONAGHAN: DEPAs, DEPUs and then there are
14 DEPOs.
15 **A. Well, if I could just say, madam, I think the DEPO is**
16 **a general term given for deportees. I understood the**
17 **three types of deportees were INAD, DEPU and DEPA.**
18 DEPUTY CORONER MS MONAGHAN: INAD are the people who are
19 turned around immediately, is that right?
20 **A. Well, they're more a benign type, if I can use that**
21 **word.**
22 DEPUTY CORONER MS MONAGHAN: If you turn back to page 2,
23 just to help you again locate yourself, is that the
24 reference to the INADs?
25 **A. It is indeed under, "Note".**

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1 DEPUTY CORONER MS MONAGHAN: Can you then summarise for us
2 what an INAD is?
3 **A. For example, an INAD is somebody whose paperwork doesn't**
4 **necessarily fit the criteria for entering the country,**
5 **an ESTA perhaps for America, a visa for another country.**
6 **So the receiving state would automatically normally put**
7 **them straight on the carrier if it was turning round and**
8 **send them back to the origin.**
9 DEPUTY CORONER MS MONAGHAN: So they wouldn't enter the
10 country at all essentially, they would just be sent
11 straight back on the next plane out?
12 **A. That is not my normal part of my duty but that's how**
13 **I understand it, yes.**
14 DEPUTY CORONER MS MONAGHAN: Then there are the two
15 categories of deportees that you have identified for us
16 or helped us identify by reference to page 3 and they
17 are escorted and unescorted?
18 **A. That's correct.**
19 DEPUTY CORONER MS MONAGHAN: Were you given any guidance as
20 to the circumstances in which a deportee might be
21 escorted as opposed to unescorted?
22 **A. In terms of guidance, my understanding in my position**
23 **was that if there was a necessity to escort a deportee,**
24 **there was a probability that there were certain criteria**
25 **that required that escort.**

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1 DEPUTY CORONER MS MONAGHAN: Were you given any indication
2 as to what those criteria were?
3 **A. The Customer Service Manual that I should be familiar**
4 **with, that my standard operating procedure is probably**
5 **partly based on, does list those criteria for escorted**
6 **deportees.**
7 DEPUTY CORONER MS MONAGHAN: Can you summarise them for us.
8 Are you able to tell us now what they are?
9 **A. I can, not verbatim.**
10 DEPUTY CORONER MS MONAGHAN: I quite understand. It's
11 unfortunate we don't have the document here, but if you
12 could help us as best you can.
13 **A. As far as I understand it, madam, it's six different**
14 **criteria, from what I believe. Firstly it's if you**
15 **consider the deportee's conduct to be potentially**
16 **disruptive and a conflict with the aircraft in some**
17 **manner. The second one is if the deportee's appearance**
18 **or behaviour is likely to be a conflict with the**
19 **passengers on the aircraft. The third one is, as far as**
20 **I remember, the emotional and physical state of the**
21 **deportee. The fourth one is if the deportee is a drug**
22 **addict. The fifth one is if the police in the receiving**
23 **state want the deportee for some other -- for something**
24 **or if indeed the deportee already has a criminal record.**
25 **The sixth one, I believe, is if the deportee has already**

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1 **shown and demonstrated some sort of resistance to being**
2 **deported.**
3 DEPUTY CORONER MS MONAGHAN: Just in relation to those
4 matters then -- that's very helpful -- would you be told
5 when you were notified that a deportee was to be on the
6 plane with escorts which of those criteria applied in
7 his or her case?
8 **A. No, I would not.**
9 DEPUTY CORONER MS MONAGHAN: So you wouldn't know whether
10 they had an issue with drug addiction, whether they were
11 potentially disruptive or their behaviour could cause
12 some problems?
13 **A. No.**
14 DEPUTY CORONER MS MONAGHAN: You would know nothing about
15 that?
16 **A. No.**
17 DEPUTY CORONER MS MONAGHAN: As we understand it from the
18 statement that we've just heard read from Mr Jones, you
19 weren't provided with a risk assessment either?
20 **A. It wouldn't be my position to receive a risk assessment.**
21 DEPUTY CORONER MS MONAGHAN: Whose position would it be?
22 **A. I don't know, ma'am.**
23 DEPUTY CORONER MS MONAGHAN: So far as you're concerned, you
24 would not have received a risk assessment, is that
25 right?

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1 **A. No.**
2 DEPUTY CORONER MS MONAGHAN: Just looking again at page 3,
3 if we can, the same heading, do you have that, Mr Upton?
4 **A. Yes, I have.**
5 DEPUTY CORONER MS MONAGHAN: Under, "Deportees", the third
6 paragraph down, last sentence, it says:
7 "If escorts are deemed necessary, a minimum of two
8 should be provided."
9 Do you see that?
10 **A. Yes, I do.**
11 DEPUTY CORONER MS MONAGHAN: Was that your understanding of
12 the position?
13 **A. I didn't know that, no.**
14 DEPUTY CORONER MS MONAGHAN: You didn't know that. You
15 worked for BA for a long time by the time we're
16 concerned with. Had you during that period experienced
17 a large number of deportees being carried on BA aircraft
18 or a small number?
19 **A. It's difficult to define large, sorry, but I think --**
20 **well, I have said in my statement that earlier on in my**
21 **career with British Airways there seemed to be more**
22 **frequent examples of deportees, either DEPU, DEPA,**
23 **travelling on board our aircraft. As I said in the**
24 **statement, it seemed to have quietened down quite a lot.**
25 DEPUTY CORONER MS MONAGHAN: Just in terms of recent years,

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1 the last ten years or so, doing the best you can, and
2 I realise you're just going from recollection here, was
3 it common or uncommon in your experience to have
4 escorted deportees escorted with two escorts alone, so
5 as opposed to three escorts that we have heard about
6 here?
7 **A. Sorry, could you repeat that?**
8 DEPUTY CORONER MS MONAGHAN: That wasn't very well put. In
9 your experience was it common to see escorted deportees
10 with two escorts only?
11 **A. More common than three.**
12 DEPUTY CORONER MS MONAGHAN: More common than three, thank
13 you. As to offloading, you have made a reference to
14 this in one of your statements. I don't think we have
15 the standard operating procedures that applied at the
16 time in relation to this, but are you able to tell us
17 whether there was any guidance given about offloading
18 deportees before take-off in the event of trouble?
19 **A. My SOP that I operated to basically said not in so many**
20 **words -- in so many words, rather, that if you consider**
21 **the passenger to be disruptive, then don't allow them to**
22 **board.**
23 DEPUTY CORONER MS MONAGHAN: Once they have boarded but
24 before take-off, would you have any further role?
25 **A. My role as a general TRM is to give advice and look at**

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1 **events and try and be around if there's a problem.**
2 DEPUTY CORONER MS MONAGHAN: So if there was a deportee
3 being disruptive on a plane before take-off but having
4 boarded, was there any guidance about offloading at that
5 stage?
6 **A. Before the aircraft doors are closed, then I would**
7 **obviously have access to the aircraft. Sorry, but**
8 **I would have to get off after the doors are closed**
9 **obviously.**
10 DEPUTY CORONER MS MONAGHAN: I beg your pardon, I should
11 have made it clear before the doors are closed.
12 **A. Sorry, can you repeat the second part?**
13 DEPUTY CORONER MS MONAGHAN: Was there any guidance about
14 offloading deportees before the doors had closed, once
15 boarded, in the event that they were disruptive?
16 **A. Not written in my standard operating procedure, no.**
17 DEPUTY CORONER MS MONAGHAN: So far as you are concerned,
18 and if you don't know the answer to this question then
19 please say you don't know, would the ordinary standard
20 operating procedure apply just as it would if he had
21 been disruptive before boarding?
22 **A. I can't answer that.**
23 DEPUTY CORONER MS MONAGHAN: You don't know. So far as the
24 pre-boarding disruption is concerned, the offloading
25 test was one of disruption?

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1 **A. That's correct.**
2 DEPUTY CORONER MS MONAGHAN: Was there any defining or
3 guidance about what was meant by disruption?
4 **A. No.**
5 DEPUTY CORONER MS MONAGHAN: Thank you. Now, if you can
6 turn, please, in the same document to page 4. Again,
7 I recognise that this is not the document that you
8 worked to so it's really just an aid. If you can't help
9 us, then you must tell us.
10 **A. Okay.**
11 DEPUTY CORONER MS MONAGHAN: Page 4, the last full
12 paragraph, it says:
13 "If the deportee is under restraint then the rules
14 relating to prisoners apply, otherwise they are pretty
15 much treated as normal passengers."
16 **A. That's correct.**
17 DEPUTY CORONER MS MONAGHAN: Were you familiar with the
18 rules in relation to prisoners on board?
19 **A. Not directly, only through custom and practice and my**
20 **experience as a dispatcher primarily, but turn round**
21 **manager as well, and what had happened when I happened**
22 **to observe a prisoner being taken on board the aircraft.**
23 DEPUTY CORONER MS MONAGHAN: Were there any special rules so
24 far as you were concerned about prisoners on board?
25 **A. Not that I'm familiar with, no.**

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1 DEPUTY CORONER MS MONAGHAN: Just taking you back to finish
2 off the offloading points, if I can. In your
3 experience, was offloading of a deportee, that is before
4 doors were closed and so on, common or uncommon?
5 **A. Very uncommon.**
6 DEPUTY CORONER MS MONAGHAN: Did the position change at any
7 stage?
8 **A. As I said earlier, in my earlier days as**
9 **a dispatcher/turn round manager I saw more occasions**
10 **where there would be problems with the behaviour of**
11 **a deportee either necessitating an offload situation or**
12 **further observance.**
13 DEPUTY CORONER MS MONAGHAN: Can you explain -- we'll just
14 break that down a bit. In terms of offloading, is that
15 because there were more deportees creating a fuss and
16 being disruptive than occurred later on or because the
17 practice changed?
18 **A. The practice referring to --**
19 DEPUTY CORONER MS MONAGHAN: Of offloading.
20 **A. I would say that the pattern of behaviour had changed.**
21 **I have indicated that in my statement and also when**
22 **I was talking to the policeman on board the aircraft,**
23 **which I'm -- you probably don't have, that it seemed**
24 **that deportees were told to misbehave, to kick up**
25 **a fuss, to actually try and encourage the captain or the**

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1 **staff beforehand to actually offload that deportee. For**
2 **some reason, and I don't know that reason, I can only**
3 **speculate, things have changed in the last whatever**
4 **period, and I can't be specific, and as I said in my**
5 **statements it is uncommon for me to see examples of**
6 **misbehaviour with deportees.**
7 DEPUTY CORONER MS MONAGHAN: There hasn't been any greater
8 pressure placed on BA or its staff to ensure that
9 deportees aren't offloaded?
10 **A. If there's been any greater pressure put on the company,**
11 **then I wouldn't be party to that, other than if it had**
12 **reflected somehow in the changing of that standard**
13 **operating procedure or any other form of training**
14 **I would receive say in that last ten-year period.**
15 **I haven't perceived any change in that.**
16 DEPUTY CORONER MS MONAGHAN: So far as you are concerned in
17 relation to your position, you haven't felt any pressure
18 of that sort?
19 **A. No, I have not.**
20 DEPUTY CORONER MS MONAGHAN: Were you aware of the rules
21 governing restraint on a plane by BA staff? Perhaps not
22 because by that stage it would have left.
23 **A. By the crew?**
24 DEPUTY CORONER MS MONAGHAN: Yes.
25 **A. Obviously -- it's part of my job to listen to people.**

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1 **I would hear that they have restraint packs on board.**
2 **I would hear people relate stories about what had**
3 **happened on board. I understand that prisoners may have**
4 **had handcuffs at some stage but I don't know when they**
5 **would be taken off.**
6 DEPUTY CORONER MS MONAGHAN: You would have had no training
7 of that sort, given your role?
8 **A. No, I would not.**
9 DEPUTY CORONER MS MONAGHAN: Would you have had any first
10 aid training?
11 **A. At the time through my own initiative I requested that**
12 **I had the four-day St John's Ambulance first aid**
13 **training in accordance with BA's requirement to satisfy,**
14 **I believe, the Health and Safety Act at Work where they**
15 **have to have a required number of people in a given area**
16 **who are able to be first responders. I thought it would**
17 **be a useful skill to have and so I opted to go for that**
18 **training. I also had the defibrillator training but it**
19 **had lapsed at the time of this incident and my first aid**
20 **training has lapsed since.**
21 DEPUTY CORONER MS MONAGHAN: At the time of the incident, in
22 October 2010, was your first aid training up-to-date?
23 **A. Yes, it was.**
24 DEPUTY CORONER MS MONAGHAN: Except for the defibrillator
25 training?

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1 **A. Except for the defibrillator.**
2 DEPUTY CORONER MS MONAGHAN: How far out-of-date was the
3 defibrillator training?
4 **A. I can't recall, madam.**
5 DEPUTY CORONER MS MONAGHAN: In relation to the first aid
6 training that you had, when was the last set of training
7 or the last training day that you had before
8 October 2010?
9 **A. I can't recall exactly. I believe it was a three-year**
10 **requirement. I do remember requesting a refresher two**
11 **or four-day course at the beginning of 2012 for my Games**
12 **Maker volunteering for the Olympics.**
13 DEPUTY CORONER MS MONAGHAN: Just in relation to that
14 training, were you given guidance as to how to manage
15 a person who appeared to be unconscious?
16 **A. Yes, I was.**
17 DEPUTY CORONER MS MONAGHAN: Can you tell us briefly what
18 you were told about that.
19 **A. From what I recall, it was -- at the time the basic**
20 **response was something similar to DR ABC, danger,**
21 **response, airways, breathing, circulation, but**
22 **I understand that may have since changed, and also the**
23 **all important position of the recovery position.**
24 DEPUTY CORONER MS MONAGHAN: So the all important position
25 of the recovery position and would you be given any

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1 guidance about what to do in the event that a person
2 appeared not to be breathing or not to be breathing
3 properly or normally?
4 **A. At the time, yes. I would have been given guidance for**
5 **that, yes.**
6 DEPUTY CORONER MS MONAGHAN: Do you recall what that
7 guidance was now? We'll look at this more closely in
8 due course, but were you given --
9 **A. My general training was that you have to establish**
10 **whether they're breathing or not.**
11 DEPUTY CORONER MS MONAGHAN: If they're not or you're unsure
12 as to whether they are, what would be the consequence of
13 that?
14 **A. I can't remember exactly, but it was something similar**
15 **to -- it changed from giving -- if they weren't**
16 **breathing, giving them compressions to -- I believe,**
17 **from what I remember, to giving them two breaths**
18 **immediately because I understood the understanding was**
19 **you couldn't tell how long it was before some -- since**
20 **somebody had actually assisted them with breathing.**
21 DEPUTY CORONER MS MONAGHAN: So you would learn about CPR or
22 you did learn about CPR?
23 **A. Yes, I did.**
24 DEPUTY CORONER MS MONAGHAN: You learnt presumably about how
25 to identify vital signs, identify pulse and so on?

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1 **A. Yes.**
2 DEPUTY CORONER MS MONAGHAN: I know your defibrillator
3 training was of date at the time, but in relation to
4 defibrillators in use at that stage, I have read
5 somewhere in the documents -- and I'll have this
6 explained to me no doubt in due course -- that automatic
7 defibrillators were in use at that time. Is that
8 something you're familiar with?
9 **A. No.**
10 DEPUTY CORONER MS MONAGHAN: Well, as I understand it,
11 an automatic defibrillator is one which tells the user
12 whether or not it's appropriate to use on a particular
13 patient. So the patient has the pads put on and so on
14 and then the machine will say "yes" or "no". It doesn't
15 have to be the judgment of the person applying the first
16 aid, it tells that person. Is that something --
17 **A. I understood, yes, that's -- sorry, that's how we were**
18 **instructed and that period where it diagnosed whether**
19 **assistance was required or not was a good thinking time.**
20 DEPUTY CORONER MS MONAGHAN: That's helpful. Thank you very
21 much. If we can just then, please, move on to
22 10 October --
23 **A. The 12th.**
24 DEPUTY CORONER MS MONAGHAN: I beg your pardon, 12 October.
25 Thank you. Just in relation then to 12 October, your

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1 responsibilities on that day, please, can you tell us
2 what your responsibilities were.
3 **A. I was the turn round manager allocated the flight. At**
4 **approximately -- I'm talking local time because the**
5 **flight departed at 20.00. So I believe I received it at**
6 **about 18.45 local time.**
7 DEPUTY CORONER MS MONAGHAN: You have prepared a witness
8 statement, more than one witness statement, during the
9 course of the police investigation.
10 **A. I have.**
11 DEPUTY CORONER MS MONAGHAN: Have you had the opportunity to
12 refresh your memory from those statements this morning?
13 **A. Yes, I have -- not this morning, but, yes, I have.**
14 DEPUTY CORONER MS MONAGHAN: Before giving evidence?
15 **A. Yes.**
16 DEPUTY CORONER MS MONAGHAN: Good. You made a statement on
17 12 October and you say in that statement that you were
18 responsible for the health and safety aspect as part of
19 your general duties of the aircraft and passengers prior
20 to departure?
21 **A. Yes.**
22 DEPUTY CORONER MS MONAGHAN: Is that so?
23 **A. That's correct.**
24 DEPUTY CORONER MS MONAGHAN: In terms of the health and
25 safety aspects so far as it impacted on passengers, can

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1 you tell us what your duties would have been?

2 **A. I have a general responsibility as an airport employee,**

3 **as a turn round manager and as a citizen to go to**

4 **someone's aid within my training if I consider that**

5 **there is a problem. My company makes my responsibility**

6 **to look for dangerous occurrences, report on them so**

7 **that the necessary areas can then act to try and stop**

8 **those occurrences happening again.**

9 DEPUTY CORONER MS MONAGHAN: Thank you. Was the safety of

10 passengers something that was emphasised or a priority,

11 can you help us with that?

12 **A. The safety of passengers isn't my direct concern, other**

13 **than as a person that happens to be there and**

14 **an employee of British Airways. If I can offer some**

15 **assistance or advice, then that is part of my**

16 **responsibility.**

17 DEPUTY CORONER MS MONAGHAN: I am asking you about this

18 because in your statement you refer to that yourself.

19 **A. Right.**

20 DEPUTY CORONER MS MONAGHAN: So I am trying to judge in

21 terms of your duties as a turn round manager what would

22 be expected of you.

23 **A. Okay. If I saw something that was wrong, I would be**

24 **expected to say something.**

25 DEPUTY CORONER MS MONAGHAN: In terms of the training that

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1 you had and the general policies in place at BA at that

2 time, was the safety of passengers something that was

3 regarded as important?

4 **A. It depends. I'd not trained in the safety of passengers**

5 **once on board the aircraft, in terms of I don't know how**

6 **to evacuate them, I don't know how to administer aid**

7 **within the cabin because I don't know where things are.**

8 DEPUTY CORONER MS MONAGHAN: All right. Just then, please,

9 in relation to what you did on 12 October. You learnt

10 that you had been allocated that flight. Can you just

11 talk us through your role thereafter.

12 **A. Okay. I have some concerns that I have provided three**

13 **fairly substantial statements and the events were two**

14 **and a half years ago. And whilst I can remember details**

15 **and sequences if prompted, I'm concerned that I might**

16 **miss out some details and it might give the wrong**

17 **meaning.**

18 DEPUTY CORONER MS MONAGHAN: That I completely understand

19 which is why I think we were all keen to make sure that

20 you had had the opportunity to refresh your memory.

21 It's not a memory test. If you need help with your

22 memory, then I can ask you to refer to your statement or

23 you can refresh your memory from your statement.

24 **A. Thank you.**

25 DEPUTY CORONER MS MONAGHAN: But it's helpful to us, first

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1 of all, to hear in your own words what happened.

2 **A. Sure.**

3 DEPUTY CORONER MS MONAGHAN: It's not to try and catch you

4 out.

5 **A. That's fine.**

6 DEPUTY CORONER MS MONAGHAN: Nobody wants to do that because

7 we're here to find out what happened.

8 **A. Okay.**

9 DEPUTY CORONER MS MONAGHAN: So if you can just tell us

10 first from your recollection, having refreshed your

11 memory, what your involvement was and what happened

12 during the course of that evening. If I need to ask you

13 some questions to prompt your memory, then I can do

14 that.

15 **A. Thank you. I received the flight, as I said, at**

16 **approximately from what I recall 18.45. I don't recall**

17 **where I was at the time but I would then have to go to**

18 **the location of that particular service which was**

19 **stand 536. That's in Terminal 5, in the long-haul area**

20 **of Terminal 5. It's a jetty served stand. I then went**

21 **to a little pod, we call it the POD. It's like**

22 **a portacabin office at the head of stand which has**

23 **various computers where I can interrogate the system and**

24 **have a look, as I explained earlier, about what's**

25 **actually travelling on that flight. So, in effect, I'm**

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1 **briefed so that if people ask me things I know what they**

2 **are and I don't have to look them up. There is**

3 **obviously a sequence of events in trying to achieve**

4 **an on time departure safely with everybody on board and**

5 **hopefully their baggage. I would then commence a sort**

6 **of fairly routine procedure where I would look through,**

7 **as I said, you know, the baggage, the loading, the**

8 **cargo, the special passengers, et cetera, and whilst**

9 **I was doing that I did note that there was a deportee,**

10 **DEPA, D-E-P-A, with three escorts.**

11 DEPUTY CORONER MS MONAGHAN: Pause there. I think we know

12 the answer to this from the questions that I asked you

13 earlier, but just so we have it in respect of this day.

14 I assume you hadn't had a risk assessment in respect of

15 him?

16 **A. No, I had not.**

17 DEPUTY CORONER MS MONAGHAN: Thank you. I interrupted you.

18 You said that you noticed he was to be escorted by three

19 guards.

20 **A. Yes, I did. It was written in the passenger comments**

21 **that I always check.**

22 DEPUTY CORONER MS MONAGHAN: Was that something that was --

23 again we, have touched upon this earlier -- usual or

24 unusual, three guards?

25 **A. Unusual.**

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1 DEPUTY CORONER MS MONAGHAN: Did that ring any alarm bells
 2 with you?
 3 **A. I wouldn't say it rang alarm bells. As I said in my**
 4 **statement, it made me make a particular note and what**
 5 **went through my mind at the time was I must make sure**
 6 **that I speak to the escorts before the passenger boards**
 7 **the aircraft and certainly before any other passengers**
 8 **board the aircraft.**
 9 DEPUTY CORONER MS MONAGHAN: So talk us through what
 10 happened next then, please.
 11 **A. Well, I made this note. I finished off. I spoke to my**
 12 **colleagues on the ramp so that everybody knew the plan**
 13 **for this particular departure which is standard. I then**
 14 **went upstairs to complete my briefing with the crew.**
 15 **When I went on board I expected --**
 16 DEPUTY CORONER MS MONAGHAN: Pausing there. You had
 17 a briefing with crew, did you?
 18 **A. That's correct.**
 19 DEPUTY CORONER MS MONAGHAN: Where would that have taken
 20 place?
 21 **A. It took place at door 2 left which is -- sorry, the 777**
 22 **has four doors on either side. Most 777s there are some**
 23 **larger ones and the jetty happened to be on door 2 left.**
 24 DEPUTY CORONER MS MONAGHAN: So you had a briefing with the
 25 cabin crew. What would that have involved in broad

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1 terms?
 2 **A. I went to the door of the aircraft and the cabin crew**
 3 **were there, and the pilot was there from what I recall,**
 4 **and we discussed the situation regarding the fact that**
 5 **there was a deportee on board and that there were three**
 6 **escorts which, as I said, was unusual.**
 7 DEPUTY CORONER MS MONAGHAN: What was the contents of that
 8 discussion, just notifying people or was there some
 9 further discussion?
 10 **A. I can't remember the exact conversation, but it would**
 11 **have been along the lines of, "Did you know there was**
 12 **going to be a deportee on board?" And I do remember the**
 13 **answer was affirmative because the crew are notified by**
 14 **a separate -- in a separate way beforehand. I don't**
 15 **know by who. I believe it's by the security department**
 16 **at British Airways. And so that we were all talking on**
 17 **the same level as such. The next question I would ask**
 18 **is, "I'm going to obviously speak to G4S and make sure**
 19 **that the passenger isn't, you know, going to be a risk**
 20 **to the aircraft".**
 21 DEPUTY CORONER MS MONAGHAN: So then what happened?
 22 **A. From what I recall, the lead G4S gentleman came down to**
 23 **the aircraft door and in the presence of the crew**
 24 **I asked him if Mr Mubenga had any history of problems,**
 25 **was likely to be a problem and had -- if they had any**

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1 **worries about him at all and he said no.**
 2 DEPUTY CORONER MS MONAGHAN: Then what happened?
 3 **A. Then a short time elapsed. I can't be specific, but it**
 4 **wasn't very long, and then I saw that another two G4S**
 5 **escorts came down with Mr Mubenga down the air bridge**
 6 **jetty towards the aircraft door.**
 7 DEPUTY CORONER MS MONAGHAN: I think we have heard about
 8 this before, but just to be clear. I think he wasn't
 9 handcuffed, was he?
 10 **A. From what I could see one of the G4S gentleman was**
 11 **holding him by the hand but I couldn't see any evidence**
 12 **of handcuffs.**
 13 DEPUTY CORONER MS MONAGHAN: Holding him by the hand,
 14 hand-to-hand or round his arm or --
 15 **A. I can't recall exactly, but there was physical contact.**
 16 DEPUTY CORONER MS MONAGHAN: So you saw the other two guards
 17 come up with Mr Mubenga and what happened then?
 18 **A. They paused momentarily the aircraft door and then they**
 19 **turned right to go down to their allocated seats.**
 20 DEPUTY CORONER MS MONAGHAN: They would have boarded first,
 21 I think, is that right?
 22 **A. Yes, indeed.**
 23 DEPUTY CORONER MS MONAGHAN: Where were their allocated
 24 seats?
 25 **A. 39D/E/F for Mr Mubenga and one escort either side, which**

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1 **is standard, and from what I recall the other G4S**
 2 **gentleman was allocated 38D or E.**
 3 DEPUTY CORONER MS MONAGHAN: Thank you. Then what happened
 4 so far as you're concerned?
 5 **A. As I said in my statement, I do not wish -- it's just my**
 6 **own actions -- to aggravate the situation. So I stand**
 7 **a fair way back just to observe what's actually**
 8 **happening in these situations. I watched them sit down.**
 9 **I could see that there were no problems whatsoever, no**
 10 **resistance, and I just lingered at the front of the**
 11 **economy cabin near one of the emergency exits which is**
 12 **near to the wing that's on the J/K side of the cabin.**
 13 **And I just looked at the trio, plus one, and looked for,**
 14 **as I said, any signs of disturbance.**
 15 DEPUTY CORONER MS MONAGHAN: You saw none?
 16 **A. I saw none.**
 17 DEPUTY CORONER MS MONAGHAN: So what did you do next?
 18 **A. Obviously looking at my timetable to get my flight out**
 19 **on time I went upstairs to the top of the jetty where**
 20 **I had a colleague and also a computer set to initiate**
 21 **the general boarding.**
 22 DEPUTY CORONER MS MONAGHAN: When you say you initiated it,
 23 how does that work?
 24 **A. I basically just -- I can't recall if I rang them or if**
 25 **I asked my colleague to ring them and say, "Yeah, we've**

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1 **got the deportee on board and the escorts, you can start**
2 **boarding."**
3 DEPUTY CORONER MS MONAGHAN: Okay. I think you said in your
4 witness statement -- I'm sure there's nothing in this
5 but to be clear -- that you had to complete some final
6 checks. Was that at that stage or after the passengers
7 had boarded?
8 **A. Well, I do checks all the time. I'm just looking for**
9 **any problems. My final checks are just before I close**
10 **the door. But I just wanted to see what the final**
11 **checked in figure was, if everything was okay.**
12 DEPUTY CORONER MS MONAGHAN: So boarding commenced?
13 **A. Yes, it did.**
14 DEPUTY CORONER MS MONAGHAN: Then what happened?
15 **A. Before the first -- well, not the first passenger,**
16 **before the rest of the passengers came on the aircraft,**
17 **I returned to the aircraft to have another look at**
18 **Mr Mubenga and the escorts, just to reassure myself that**
19 **the status quo was still okay because I could still have**
20 **stopped the boarding at that stage if something had**
21 **changed. That is the standard thing that I do,**
22 **especially when I see escorted deportees.**
23 DEPUTY CORONER MS MONAGHAN: Did you see anything that
24 caused you concern at that stage?
25 **A. No, I did not.**

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1 DEPUTY CORONER MS MONAGHAN: So what happened then?
2 **A. Happy that general boarding had started, I then moved my**
3 **attention to what's going on downstairs with the holds.**
4 **I went down the jetty stairs and then to my POD, my**
5 **office, to then monitor and talk to my colleagues in**
6 **baggage and loading. I was in the office when**
7 **approximately some time later, and I can't be exactly**
8 **specific but it was possibly about five minutes,**
9 **I received a call, a slightly panicky call, from the A4,**
10 **the lead passenger agent upstairs in the gate room, not**
11 **at the top of the jetty, saying that the CSD, cabin**
12 **service director, head cabin crew person, had asked that**
13 **the boarding be stopped via the node person, that's the**
14 **person at the top of the jetty who I'd already spoken to**
15 **earlier, because there was an incident on board with the**
16 **deportee.**
17 DEPUTY CORONER MS MONAGHAN: Pausing there. The customer
18 service director, CSD, was Peter Walsham, I think, is
19 that right?
20 **A. I believe so, yes.**
21 DEPUTY CORONER MS MONAGHAN: Did you know Peter Walsham?
22 **A. I might have seen him once or twice. That's the airline**
23 **world.**
24 DEPUTY CORONER MS MONAGHAN: He wasn't somebody you were
25 very well-acquainted with?

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1 **A. No.**
2 DEPUTY CORONER MS MONAGHAN: So you hear that boarding --
3 you have been asked to stop boarding. What happens
4 then?
5 **A. I was naturally worried. I immediately stopped what**
6 **I was doing downstairs and I went up the jetty stairs**
7 **quite quickly, swiped the door to gain entrance to the**
8 **head of the jetty by the aircraft door, whereupon**
9 **I noticed that the passengers were all backing up the**
10 **jetty. There were one or two crew members at the door**
11 **and I cannot recall who they were, but I do recall that**
12 **they looked a little shocked. And I can't recall my**
13 **conversation but they confirmed that there was some sort**
14 **of ruckus going on at the back of the aircraft.**
15 DEPUTY CORONER MS MONAGHAN: Were those cabin crew, so far
16 as you remember, men or women?
17 **A. I can't remember.**
18 DEPUTY CORONER MS MONAGHAN: So they tell you there's some
19 sort of ruckus going on. What do you do next?
20 **A. I went down to the rear of the aircraft to observe it**
21 **for myself, down the J/K side, which as you look forward**
22 **from the tail of the aircraft to the nose is the**
23 **right-hand side.**
24 DEPUTY CORONER MS MONAGHAN: So we have the aircraft -- we
25 have the economy cabin there.

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1 **A. It's the top.**
2 DEPUTY CORONER MS MONAGHAN: You are coming through?
3 **A. Yes.**
4 DEPUTY CORONER MS MONAGHAN: What do you see or what do you
5 do?
6 **A. I walked down that aisle, looking at those rear seats to**
7 **see what was happening. This is where my memory fades**
8 **somewhat about the sequence, madam, but -- I might have**
9 **the sequence wrong here, but I remember seeing not**
10 **completely Mr Mubenga in the middle seat with the two**
11 **escorts either side. At that particular moment I could**
12 **not see -- I did not see where the third G4S gentleman**
13 **was, but I do remember a stewardess coming up to speak**
14 **to me and saying that she was a little frightened and**
15 **she wanted to get off the aircraft.**
16 DEPUTY CORONER MS MONAGHAN: Pause there. I will come to
17 that in one moment. Just in terms of what you initially
18 saw, you saw the two guards that you remember -- you
19 don't remember the third. As to the two guards, they
20 are sitting side by side with Mr Mubenga in between?
21 **A. Correct.**
22 DEPUTY CORONER MS MONAGHAN: I think you said you didn't see
23 Mr Mubenga completely or something of that sort. Can
24 you explain what you did see of Mr Mubenga?
25 **A. From what I can recall, I didn't see any of the three**

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<p>1 very clearly because they were bending forwards towards 2 the seats in front.</p> <p>3 DEPUTY CORONER MS MONAGHAN: So just so I am clear, does 4 that mean -- so they were bending forward. Were they 5 all at the same level or were some further up than the 6 others?</p> <p>7 A. I can't be specific but they were all bending forward.</p> <p>8 DEPUTY CORONER MS MONAGHAN: Were they loaing outwards or 9 inwards?</p> <p>10 A. I can't be specific.</p> <p>11 DEPUTY CORONER MS MONAGHAN: Could you see Mr Mubenga's 12 face?</p> <p>13 A. Not from what I can recall, no.</p> <p>14 DEPUTY CORONER MS MONAGHAN: Could you see the faces of the 15 two guards?</p> <p>16 A. No.</p> <p>17 DEPUTY CORONER MS MONAGHAN: Are you able to tell us whether 18 they were putting any pressure on Mr Mubenga, their 19 hands or anything else that you could see visibly?</p> <p>20 A. I could not see their hands. I saw they were in close 21 contact with Mr Mubenga. My immediate impression, based 22 on looking at the trio, was that they were holding him 23 in some manner.</p> <p>24 DEPUTY CORONER MS MONAGHAN: Can the witness be given, 25 please, volume 4 blue. You will have looked at this</p> <p style="text-align: center;">Page 49</p>	<p>1 A. They're handwritten notes. I could send them to you, 2 yes.</p> <p>3 DEPUTY CORONER MS MONAGHAN: That would be very helpful. 4 We'll provide you with some assistance insofar as 5 getting that to us. I think it would be helpful for us 6 to see those as well.</p> <p>7 A. Okay.</p> <p>8 DEPUTY CORONER MS MONAGHAN: Just in relation to the typed 9 note that you did, at page 24, if you could look 10 five paragraphs down -- ignore the top half paragraph -- 11 it says: 12 "Mr Mubenga was in seat 39E..."</p> <p>13 A. Yes.</p> <p>14 DEPUTY CORONER MS MONAGHAN: If you want to look at the 15 paragraph above just to see where you are, it seems to 16 be this bit of the story or the narrative that you're 17 dealing with at the moment.</p> <p>18 A. Sorry, paragraph 4?</p> <p>19 DEPUTY CORONER MS MONAGHAN: It begins: 20 "Mr Mubenga was in seat 39E ..." 21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 DEPUTY CORONER MS MONAGHAN: If you look above it appears 24 that you're dealing with this part that you're just 25 telling us about a moment ago, that is the telephone</p> <p style="text-align: center;">Page 51</p>
<p>1 before today but I want to help you with your memory, if 2 I can. Go to page 22 first of all. This will help you 3 with another question as well. Just to locate yourself, 4 that's, if you remember --</p> <p>5 A. I remember this.</p> <p>6 DEPUTY CORONER MS MONAGHAN: You referred to it a moment 7 ago.</p> <p>8 A. Yes.</p> <p>9 DEPUTY CORONER MS MONAGHAN: That's a cover letter to the 10 officer in the case. At page 23 onwards you enclose, 11 just over the page -- I am using the bottom right-hand 12 page numbers -- a typed note recording your recollection 13 of events.</p> <p>14 A. Yes, I do.</p> <p>15 DEPUTY CORONER MS MONAGHAN: At page 22, to Mr Baldwin, you 16 tell him that they were compiled on 20 October.</p> <p>17 A. Yes.</p> <p>18 DEPUTY CORONER MS MONAGHAN: It was based on notes made in 19 the following days after 12 October?</p> <p>20 A. That's correct, yes.</p> <p>21 DEPUTY CORONER MS MONAGHAN: The notes that you made in the 22 following days, do you have those?</p> <p>23 A. I do somewhere, yes, not with me.</p> <p>24 DEPUTY CORONER MS MONAGHAN: Right. Would you be able to 25 arrange to have them sent to us?</p> <p style="text-align: center;">Page 50</p>	<p>1 call, stop boarding, you get on?</p> <p>2 A. Yes.</p> <p>3 DEPUTY CORONER MS MONAGHAN: You see Mr Mubenga?</p> <p>4 A. Yes, that's right.</p> <p>5 DEPUTY CORONER MS MONAGHAN: Do you see that?</p> <p>6 A. Yes.</p> <p>7 DEPUTY CORONER MS MONAGHAN: You say he was in seat 39E.</p> <p>8 A. Yes.</p> <p>9 DEPUTY CORONER MS MONAGHAN: I think from the evidence we 10 have heard it was like to be 40E but I needn't --</p> <p>11 A. I made a mistake.</p> <p>12 DEPUTY CORONER MS MONAGHAN: That's fine. We have heard 13 about that so I needn't trouble you with that. You say 14 there that the guards were restraining Mr Mubenga by 15 holding him from the sides and leaning or pushing him 16 slightly forward.</p> <p>17 A. Correct.</p> <p>18 DEPUTY CORONER MS MONAGHAN: Does that help with your 19 memory?</p> <p>20 A. Yes.</p> <p>21 DEPUTY CORONER MS MONAGHAN: So do we deduce from that that 22 there was, so far as you could tell, some pressure being 23 put on him or can you help us with what that should 24 convey to us?</p> <p>25 A. In terms of the interaction between them as such?</p> <p style="text-align: center;">Page 52</p>

1 DEPUTY CORONER MS MONAGHAN: Yes.

2 **A. I -- thinking about this, from what I recall the only**

3 **thing I can say with that is that apart from the**

4 **physical proximity of each escort was the fact that if**

5 **one person would move, another person would counter**

6 **move. It was clear to me that by the sort of action**

7 **between them that they seemed to be holding him in some**

8 **manner so that there was little opportunity for him to**

9 **break loose.**

10 DEPUTY CORONER MS MONAGHAN: Okay. That's helpful. Thank

11 you. Again, just to help you with your memory, if it is

12 helpful to you, you say there as well that there was

13 some noise coming from Mr Mubenga.

14 **A. That's correct.**

15 DEPUTY CORONER MS MONAGHAN: Can you describe that for us,

16 please.

17 **A. I have said in my statement it was a wailing. It was**

18 **almost a crying noise rather than -- at that stage**

19 **rather than shouting and screaming.**

20 DEPUTY CORONER MS MONAGHAN: You were telling us about

21 a conversation you had with one of the cabin crew. Can

22 we just go back to that because I interrupted you and

23 I want to follow the scheme. Can you describe that.

24 Are you able to identify that person to us first of all?

25 **A. With difficulty now, after two and a half years.**

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1 DEPUTY CORONER MS MONAGHAN: Sure. You didn't know her name

2 at the time?

3 **A. I do, Ann-Marie.**

4 DEPUTY CORONER MS MONAGHAN: That's fine. I thought it was

5 Ann-Marie. I wanted to check that with you. You had

6 a conversation with Ann-Marie and how did that go?

7 **A. From what I recall, she looked naturally upset. She**

8 **said to me that there had been an incident and it was**

9 **quite frightening and that she wanted to get off the**

10 **aircraft because she didn't want to go with the service.**

11 DEPUTY CORONER MS MONAGHAN: Did that cause you any -- what

12 was your response to that? Were you alarmed by that

13 or --

14 **A. I was concerned. It confirmed what I knew already from**

15 **what the A4 had said to me what, the little conversation**

16 **I had getting on board the aircraft, and she confirmed**

17 **that there had been some major problem at the back of**

18 **the aircraft.**

19 DEPUTY CORONER MS MONAGHAN: Can tell you us what happened

20 then, please?

21 **A. I said to her that I didn't have the authority to**

22 **sanction her getting off the aircraft and getting**

23 **a replacement and that she would have to talk to the**

24 **captain and CSD.**

25 DEPUTY CORONER MS MONAGHAN: Was that the end of your

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1 conversation with her at that stage?

2 **A. No, it wasn't. Again it's in my statement and the**

3 **sequence might be wrong, but it was something along the**

4 **lines of it was really frightening and he'd been to the**

5 **toilet and he'd been allowed to make a mobile phone**

6 **call.**

7 DEPUTY CORONER MS MONAGHAN: Did she say anything else to

8 you that you are able to remember at the moment?

9 **A. At moment I can't recall, no.**

10 DEPUTY CORONER MS MONAGHAN: That's fine. You have told us

11 about Mr Mubenga making a wailing noise. How long did

12 this go on for? How long were you there for at that

13 stage?

14 **A. At that stage I then became aware of -- with the**

15 **assistance of the crew that there was a lady and child**

16 **standing in that J/K area and I was obviously concerned**

17 **about -- even more so about the child witnessing what**

18 **was going on. So between us I suggested because I knew**

19 **that there were only six or seven passengers in the next**

20 **cabin, there's a bulkhead and then you have another**

21 **cabin, the economy plus cabin, which is ahead of that**

22 **diagram to the left, it would be an appropriate and**

23 **a suitable way -- area for them to sit so they were**

24 **completely away from what was going on in the rear of**

25 **the aircraft.**

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1 DEPUTY CORONER MS MONAGHAN: So did you move those down

2 there?

3 **A. With the help of the crew, we moved them up into the**

4 **economy plus cabin, yes.**

5 DEPUTY CORONER MS MONAGHAN: Then did you move back to

6 Mr Mubenga or did you get off or what happened?

7 **A. I then moved back down to that area and, if my sequence**

8 **memory is correct, I moved round the rear galley to the**

9 **other side of the aircraft and stood in the area of seat**

10 **39 but, as we now know, it was seat row 40.**

11 DEPUTY CORONER MS MONAGHAN: So you just moved round and

12 were on the other side of the aisle effectively?

13 **A. Yes, just between that -- where you see that green in**

14 **the 40 -- 39A/B, that twin seat, and that area between**

15 **there and 40D/E/F where Mr Mubenga and the two escorts**

16 **were.**

17 DEPUTY CORONER MS MONAGHAN: So the green and pink sticker,

18 the two seats?

19 **A. Yeah, just above that, the green and pink, in the aisle.**

20 DEPUTY CORONER MS MONAGHAN: So you come round there. So

21 you're right close to where they're sitting at that

22 stage?

23 **A. Yes, correct.**

24 DEPUTY CORONER MS MONAGHAN: Are they in the same position?

25 Have they moved? Has anything happened?

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1 **A. They were in the same position from what I recall.**
2 DEPUTY CORONER MS MONAGHAN: Did you hear Mr Mubenga saying
3 anything?
4 **A. He was still wailing, but at some stage I heard him say,**
5 **"I can't breathe. I can't breathe".**
6 DEPUTY CORONER MS MONAGHAN: Did the guards, so far as you
7 I recall or you heard, say anything to him in response?
8 **A. I don't know which guard it was, but I did hear the**
9 **response, "Yes, you can. Yes, you can".**
10 DEPUTY CORONER MS MONAGHAN: The fact that he was shouting
11 he couldn't breathe, and I am mindful in particular of
12 your first aid training, did that cause you any
13 particular anxiety or to take any steps?
14 **A. It caused me greater concern, as I have said in my**
15 **statement. I naturally would go to anybody's assistance**
16 **if they couldn't breathe. So I listened very, very**
17 **carefully and paid particular attention to what was**
18 **happening at this stage and my deduction was that he**
19 **wasn't saying, "I can't breathe". My own lay opinion of**
20 **it, in a manner to indicate that he genuinely couldn't**
21 **breathe. He wasn't rasping, he wasn't gasping, he**
22 **wasn't sort of talking like that. And I made**
23 **an assessment that I felt he was saying it to draw**
24 **attention to himself or possibly a pretence to try and**
25 **encourage an offload situation.**

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1 DEPUTY CORONER MS MONAGHAN: I don't want to put words into
2 your mouth, but can we assume that you didn't believe he
3 was in difficulty -- in any real difficulty -- at that
4 stage?
5 **A. Other than the fact that he was being restrained, I felt**
6 **at the time that he could breathe.**
7 DEPUTY CORONER MS MONAGHAN: Did you know at that stage that
8 a person is capable of speaking whilst not being able to
9 breathe?
10 **A. No, I did not. I have no training in that whatsoever.**
11 DEPUTY CORONER MS MONAGHAN: That's helpful for us to know.
12 Again, just for completeness -- I suspect I know the
13 answer to this but we do need to have it for the
14 record -- had you had any training in positional
15 asphyxia, as it's known?
16 **A. I didn't know it existed, madam. None whatsoever.**
17 DEPUTY CORONER MS MONAGHAN: So this is going on. You have
18 told us about the position Mr Mubenga is in and what
19 he's saying and so on. What happened then?
20 **A. In my statement I have given some indication of time,**
21 **that it was approximately ten minutes. I'd noticed at**
22 **that stage that -- I believe I made a call to request**
23 **that the boarding recommence and I noticed that the**
24 **boarding had in fact recommenced at that stage and that**
25 **other passengers were coming down. Again, the sequence**

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1 **might be incorrect but I was also concerned that there**
2 **might be other passengers who wished to move and in fact**
3 **we moved several passengers, I believe it was six in**
4 **total, from that area of the cabin to the economy plus**
5 **cabin. I think there was one other lady there. I can't**
6 **recall exactly.**
7 DEPUTY CORONER MS MONAGHAN: Did you speak to the captain at
8 that stage?
9 **A. Not directly, no, because the only way I could talk to**
10 **the captain would be for the intercom -- through the**
11 **intercom.**
12 DEPUTY CORONER MS MONAGHAN: Was any guidance taken from the
13 captain at that stage that you remember?
14 **A. For me?**
15 DEPUTY CORONER MS MONAGHAN: Or through somebody else,
16 through Peter Walsham, for example? Were you given any
17 feedback about --
18 **A. I can't recall if there was any.**
19 DEPUTY CORONER MS MONAGHAN: So boarding recommences; yes?
20 **A. Yes.**
21 DEPUTY CORONER MS MONAGHAN: Do you give any consideration
22 at that stage to the possibility of offloading
23 Mr Mubenga?
24 **A. It was always at the back of my mind, yes.**
25 DEPUTY CORONER MS MONAGHAN: Tell us what your thought

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1 process was then in relation to that, please.
2 **A. Well, first of all, it's always a difficult situation to**
3 **try and offload somebody once they're boarded on the**
4 **aircraft. I looked at the two escorts and the third G4S**
5 **gentleman who was actually in the row in front but also**
6 **came to speak to me for some sort of guidance.**
7 DEPUTY CORONER MS MONAGHAN: Pause there. I think you told
8 us you didn't see the third G4S?
9 **A. That's correct.**
10 DEPUTY CORONER MS MONAGHAN: At some point he came back onto
11 the scene, did he?
12 **A. I had moved from the J/K side round to the A/B side and**
13 **I became aware of the G4S gentleman there, yes.**
14 DEPUTY CORONER MS MONAGHAN: What was he doing?
15 **A. He was in the row in front sometimes. Sometimes he was**
16 **leaning over the seat and assisting the restraint of**
17 **Mr Mubenga by -- with both his hands.**
18 DEPUTY CORONER MS MONAGHAN: Can you tell us what he was
19 doing with both his hands?
20 **A. From what I can recall, it seemed to me to be**
21 **restraining Mr Mubenga. Whether he was pushing him down**
22 **or just holding him in that position, I can't be sure.**
23 DEPUTY CORONER MS MONAGHAN: If you don't remember this,
24 just tell me you don't remember, but do you remember or
25 did you see where the position of his hands were in

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<p>1 relation to Mr Mubenga?</p> <p>2 A. It would have been the upper part of his body and head.</p> <p>3 DEPUTY CORONER MS MONAGHAN: Mr Mubenga's?</p> <p>4 A. Correct.</p> <p>5 DEPUTY CORONER MS MONAGHAN: And the back or the front?</p> <p>6 A. His back.</p> <p>7 DEPUTY CORONER MS MONAGHAN: So Mr Mubenga's leaning down?</p> <p>8 A. Yes, he was.</p> <p>9 DEPUTY CORONER MS MONAGHAN: The third G4S guard has his</p> <p>10 hands over the seat?</p> <p>11 A. At times.</p> <p>12 DEPUTY CORONER MS MONAGHAN: And so is making contact with</p> <p>13 the head and the back of Mr Mubenga?</p> <p>14 A. Head and upper body, yes.</p> <p>15 DEPUTY CORONER MS MONAGHAN: You said you can't be sure if</p> <p>16 he was pushing him down I think you said. Are you able</p> <p>17 to help us any more with that?</p> <p>18 A. No, I can't.</p> <p>19 DEPUTY CORONER MS MONAGHAN: I think you said that you</p> <p>20 didn't speak to the captain yourself or get any message</p> <p>21 from the captain, is that right?</p> <p>22 A. At that stage, I can't recall, no.</p> <p>23 DEPUTY CORONER MS MONAGHAN: Again, this is not a trick</p> <p>24 question but just to help remind you, if it does. Turn</p> <p>25 to page 16 of that bundle.</p> <p style="text-align: center;">Page 61</p>	<p>1 DEPUTY CORONER MS MONAGHAN: What was he saying to you?</p> <p>2 A. He said, "Don't worry". Words to the effect of, "Don't</p> <p>3 worry, we have the situation under control. He'll be</p> <p>4 fine as soon as the aircraft pushes back". Not verbatim</p> <p>5 but that's what the meaning was and it was clear.</p> <p>6 DEPUTY CORONER MS MONAGHAN: So you took it from him</p> <p>7 essentially?</p> <p>8 A. I did.</p> <p>9 DEPUTY CORONER MS MONAGHAN: Then at the top of the next</p> <p>10 page, page 17, you say:</p> <p>11 "I then made my way to the front of the aircraft..."</p> <p>12 Do you see that?</p> <p>13 A. Yes, I do.</p> <p>14 DEPUTY CORONER MS MONAGHAN: "I then made my way to the</p> <p>15 front of the aircraft and spoke to the CSD ..."</p> <p>16 Whom we know to be Mr Walsham?</p> <p>17 A. Yes.</p> <p>18 DEPUTY CORONER MS MONAGHAN: "... to confirm that he was</p> <p>19 happy to shut the door and to confirm with the captain</p> <p>20 that he was happy to continue with the flight."</p> <p>21 A. That's correct.</p> <p>22 DEPUTY CORONER MS MONAGHAN: So there was some involvement</p> <p>23 with the captain at that stage?</p> <p>24 A. At the end, yes, as there always is.</p> <p>25 DEPUTY CORONER MS MONAGHAN: I see, this was at a later</p> <p style="text-align: center;">Page 63</p>
<p>1 A. Yes.</p> <p>2 DEPUTY CORONER MS MONAGHAN: At the top of the page -- in</p> <p>3 fact start at the bottom, just so I'm sure that I have</p> <p>4 you in the right place and you're sure that we're in the</p> <p>5 right place.</p> <p>6 A. Okay.</p> <p>7 DEPUTY CORONER MS MONAGHAN: You say:</p> <p>8 "From previous experience with deportees who have</p> <p>9 caused problems prior to departure, I've found that once</p> <p>10 the plane starts to move they calm down and resign</p> <p>11 themselves."</p> <p>12 A. Yes.</p> <p>13 DEPUTY CORONER MS MONAGHAN: Is that --</p> <p>14 A. That's correct.</p> <p>15 DEPUTY CORONER MS MONAGHAN: That's your experience?</p> <p>16 A. Yes, not always but mostly in previous years, yes.</p> <p>17 DEPUTY CORONER MS MONAGHAN: Did that affect, do you think,</p> <p>18 your judgment of what was happening on this occasion?</p> <p>19 A. It was a consideration, yes.</p> <p>20 DEPUTY CORONER MS MONAGHAN: Well, did it affect, do you</p> <p>21 think, the way you responded in this case to Mr Mubenga?</p> <p>22 A. No. The primary cause of my actions at the time was</p> <p>23 what the lead I believed to be the G4S agent said to me</p> <p>24 when he was moving from the row in front holding</p> <p>25 Mr Mubenga to standing in front of me.</p> <p style="text-align: center;">Page 62</p>	<p>1 stage?</p> <p>2 A. Yes.</p> <p>3 DEPUTY CORONER MS MONAGHAN: I think I have probably jumped</p> <p>4 ahead then.</p> <p>5 So tell us what happens then. You have had some</p> <p>6 interaction with the third guard and what happens then?</p> <p>7 A. As I said, he said to me, "Don't worry, as soon as the</p> <p>8 aircraft pushes back it will be fine". I couldn't</p> <p>9 detect any change in the noises coming from Mr Mubenga.</p> <p>10 There didn't seem to be any change in the position of</p> <p>11 the three in 40D/E/F and I at some stage asked for some</p> <p>12 indication from my colleagues as to whether boarding was</p> <p>13 complete or not because I had remained at the rear of</p> <p>14 the aircraft when normally I'm elsewhere getting</p> <p>15 confirmation of all the checks.</p> <p>16 DEPUTY CORONER MS MONAGHAN: What happened then?</p> <p>17 A. I can't remember exactly, sorry. Again, the sequence</p> <p>18 loses me slightly, but at some stage I spoke to the CSD</p> <p>19 and it was confirmed to me that everybody was on board,</p> <p>20 which is mandatory before I shut the door. It's then my</p> <p>21 duty to go to the flight deck because I have to receive</p> <p>22 the legal paperwork for the flight that was presented</p> <p>23 earlier which is basically a load sheet which is signed</p> <p>24 by myself at the time, the captain, a NOTOC, which is</p> <p>25 a notification of special load, any hazardous chemicals,</p> <p style="text-align: center;">Page 64</p>

1 et cetera, in the hold. Sometimes I receive a tech log,
 2 not always. That's the aircraft technical log
 3 describing the faults, it's copies, but not always on
 4 a long-haul. It's normally on shorter, smaller
 5 aircraft, and I also have a dialogue with the captain
 6 and crew -- first officer to confirm the number of souls
 7 on board the aircraft and also any other problems with
 8 the aircraft, problems that I've had, any concerns that
 9 have arisen during the process of that departure.
 10 DEPUTY CORONER MS MONAGHAN: Okay. In the statement at
 11 page 17, at the top, as we were just looking at, you
 12 say:
 13 "I then made my way to the front of the aircraft and
 14 spoke to the CSD to confirm he was happy to shut the
 15 door and to confirm with the captain that he was happy
 16 to continue with the flight."
 17 **A. That's correct.**
 18 DEPUTY CORONER MS MONAGHAN: Did that conversation happen?
 19 **A. Yes, it did.**
 20 DEPUTY CORONER MS MONAGHAN: When you say "confirm with the
 21 captain that he was happy to continue with the flight",
 22 that's by reference to the disturbance with Mr Mubenga,
 23 is it?
 24 **A. Yes.**
 25 DEPUTY CORONER MS MONAGHAN: The feedback was ...?

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1 **A. I can't remember the exact words, but I do remember**
 2 **speaking about the fact that I had known of faking to go**
 3 **on in the past. I had a lot of experience in that years**
 4 **ago. I also remember saying it was a long time since**
 5 **I'd seen a situation like this. I do remember saying**
 6 **that the lead G4S man had assured me that everything was**
 7 **under control and I do remember saying, "Are you happy**
 8 **to proceed with the aircraft?" because obviously there**
 9 **had been quite a significant disturbance at the rear of**
 10 **the aircraft.**
 11 DEPUTY CORONER MS MONAGHAN: Sure. When you say, "Were you
 12 happy?", was that to Peter Walsham or did you say it
 13 directly to the captain?
 14 **A. Directly to the captain and also the CSD.**
 15 DEPUTY CORONER MS MONAGHAN: You told him there had been
 16 this disturbance?
 17 **A. Yes.**
 18 DEPUTY CORONER MS MONAGHAN: Did you tell him that you had
 19 heard Mr Mubenga say he couldn't breathe?
 20 **A. No, I can't recall that.**
 21 DEPUTY CORONER MS MONAGHAN: Did you tell him that he was
 22 still being restrained?
 23 **A. I can't recall that.**
 24 DEPUTY CORONER MS MONAGHAN: Would they be important things
 25 to say to the captain or not?

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1 **A. The general restraint situation would have been under**
 2 **the umbrella of what the G4S lead agent had said to me,**
 3 **that everything was under control.**
 4 DEPUTY CORONER MS MONAGHAN: But you wouldn't have discussed
 5 the detail with the captain?
 6 **A. In terms of he can't breathe and the wailing noise?**
 7 DEPUTY CORONER MS MONAGHAN: And he's still under restraint?
 8 **A. No. I would have said, "There's a situation but he's**
 9 **under restraint. Are you happy to go?" but not all the**
 10 **detail, no.**
 11 DEPUTY CORONER MS MONAGHAN: Ultimately it's for the captain
 12 to decide, isn't it, whether to offload a passenger?
 13 **A. At that stage once boarding -- once the passenger has**
 14 **crossed the threshold of the aircraft, from my**
 15 **understanding it is the crew's responsibility. That's**
 16 **under the KO and the Customer Service Manual.**
 17 DEPUTY CORONER MS MONAGHAN: Not the captain's?
 18 **A. No, sorry, the captain.**
 19 DEPUTY CORONER MS MONAGHAN: But you just had a very brief
 20 conversation about what was happening at that stage?
 21 **A. Well, brief. I wouldn't say it was brief. Normally my**
 22 **conversation with the captain on a normal flight where**
 23 **nothing happens is fairly brief because we're anxious to**
 24 **close the door on the aircraft, depart on time. In**
 25 **terms of that, it wouldn't have been brief, no.**

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1 DEPUTY CORONER MS MONAGHAN: Can you tell us in minutes
 2 or --
 3 **A. No, I can't.**
 4 DEPUTY CORONER MS MONAGHAN: Would it have been five minutes
 5 or half an hour? Are you able to give us any --
 6 **A. It wouldn't have been half an hour, no.**
 7 DEPUTY CORONER MS MONAGHAN: More than five minutes?
 8 **A. I can't say.**
 9 DEPUTY CORONER MS MONAGHAN: Okay. So the captain says he's
 10 happy to go and what happens then?
 11 **A. Then I collect the paperwork. I proceed to door 2 left,**
 12 **check that crew were happy to close the door. I step**
 13 **off the aircraft. They close the door from the inside.**
 14 **I then shut the concertina door at the end of the jetty,**
 15 **put the key in to activate the jetty and pull the jetty**
 16 **off.**
 17 DEPUTY CORONER MS MONAGHAN: The plane, I think, at some
 18 time afterwards then began to taxi to the runway?
 19 **A. Yes. From what I recall, madam, I closed the doors at**
 20 **19.54 local time. The aircraft pushed at 20.11 local**
 21 **time so it lingered on the stand for a reason and**
 22 **I believe that was something to do with the tower and**
 23 **airfield congestion.**
 24 DEPUTY CORONER MS MONAGHAN: I think, just for completeness
 25 on that, there was some issue that meant it was slightly

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1 delayed?

2 **A. It was slightly delayed, yes.**

3 DEPUTY CORONER MS MONAGHAN: I am now going to move on to

4 the next part of the events. We'll take a break now,

5 members of the jury, so that the stenographer can have

6 a rest and we'll move on to what happened next. If we

7 can have ten minutes, please.

8 Mr Upton, you are now giving evidence so it's

9 very -- I say this to all witnesses -- important that

10 you do not discuss this case with anybody during the

11 short break.

12 **A. I understand.**

13 DEPUTY CORONER MS MONAGHAN: We'll take about ten minutes so

14 you can stretch your legs and so on and we'll start

15 again afterwards.

16 (11.40 am)

17 (Break taken)

18 (12.30 pm)

19 DEPUTY CORONER MS MONAGHAN: Thank you very much, members of

20 the jury. Sorry to have kept you. We had a technical

21 hitch, as you probably learned.

22 (A note was received from the jury)

23 DEPUTY CORONER MS MONAGHAN: Thank you. I'll ask that now.

24 Just before we move on to the next stage, the jury have

25 asked a couple of questions which you may be able to

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1 help us with. If a deportee had to be removed before

2 push back, would this cause a delay to the flight?

3 **A. May I ask "before push back", do you mean before they**

4 **cross the threshold of the aircraft or once they're on**

5 **the aircraft?**

6 DEPUTY CORONER MS MONAGHAN: Once they're on the aircraft,

7 before the aircraft leaves the stand, if the deportee

8 has to be removed, boarding having taken place, would

9 that cause any delay?

10 **A. It's highly probable.**

11 DEPUTY CORONER MS MONAGHAN: Highly probable. If the doors

12 had been closed and the jetty, or whatever it's called,

13 removed but taxiing hadn't been commenced or at least it

14 hadn't got to the runway and a deportee had to be

15 removed, would that cause a delay?

16 **A. Well, with the BA systems once the door closes it**

17 **registers automatically the time of that door closure if**

18 **the aircraft subsequently pushes. If we then re-open**

19 **the door, it re-registers the new time for the second**

20 **door closing. But to answer your question, yes, it**

21 **would almost certainly cause a delay to that service.**

22 DEPUTY CORONER MS MONAGHAN: Would that result in any

23 financial penalty, so far as BA is concerned?

24 **A. In my capacity as a TRM I understand that all delays**

25 **result in financial penalties, but I can't be specific**

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1 **because that's not my area.**

2 DEPUTY CORONER MS MONAGHAN: Thank you very much.

3 Just moving back to the chronology then. So the

4 captain says, "We're off", he's happy to go with

5 deportee on. You then leave the plane.

6 **A. Correct.**

7 DEPUTY CORONER MS MONAGHAN: You, I think, tell us in your

8 statement that you advised Heathrow Airport Centre of

9 the position in relation to the plane, that it was ready

10 to go?

11 **A. Yes. There's various things I have to say. If the**

12 **aircraft is pushing back on time, i.e. if the tractor at**

13 **the front of the aircraft has to push the aircraft back**

14 **in reverse so it can turn to then taxi out into the taxi**

15 **way -- if that happens on time and I have the doors**

16 **closed at three minutes before departure time, 20.00**

17 **local, then I wouldn't have to actually say much to the**

18 **airport centre because I have to report delays. In this**

19 **example because the aircraft actually pushed at 20.11**

20 **local time, even though the doors were closed before**

21 **minus three minutes to 20.00, I felt obligated, as is my**

22 **duty, to actually explain that the aircraft was still on**

23 **stand so that the HAC could actually keep track of which**

24 **aircraft were where and how long it was going to be.**

25 DEPUTY CORONER MS MONAGHAN: Can you explain what HAC,

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1 Heathrow Airport Centre, is?

2 **A. It used to be called Terminal Control. It's in the main**

3 **part of Terminal 5 and it's a co-ordinating centre where**

4 **there are various people looking at stand allocation,**

5 **departure times, arrival times. They work with other**

6 **colleagues who are looking after the allocation of**

7 **loading, TRMs, myself, baggage staff, et cetera, so that**

8 **it can be a co-ordinating centre.**

9 DEPUTY CORONER MS MONAGHAN: When you telephoned HAC in

10 relation to your responsibilities, did you tell them

11 anything in particular?

12 **A. Yes, I did. I would have said -- and I can't remember**

13 **the exact words, but, as I have said in my statement,**

14 **I said the aircraft is either on stand or it's just**

15 **pushed at that stage and I did indicate to them that**

16 **there was a deportee on board and there was**

17 **a possibility of the aircraft returning in case there**

18 **was an incident on board.**

19 DEPUTY CORONER MS MONAGHAN: What led you to say that there

20 was a possibility it would return to stand?

21 **A. The history of what I'd seen.**

22 DEPUTY CORONER MS MONAGHAN: What particularly about the

23 history?

24 **A. The fact that my experience said that we'd had, much**

25 **earlier, quite a few examples of deportees creating**

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1 a commotion up to boarding or continuing to create
 2 a commotion on board and in certain rarer examples
 3 continuing to create a commotion so that the captain had
 4 to bring the aircraft back.

5 DEPUTY CORONER MS MONAGHAN: So did you think it was the
 6 fact that there might be a continuing commotion that
 7 would cause to it come back or did you anticipate that
 8 Mr Mubenga might fall ill?

9 **A. No, that didn't enter my mind whatsoever. It was
 10 a continuing commotion. The worst case scenario in my
 11 mind at all times was -- until further events happened
 12 was an offload situation.**

13 DEPUTY CORONER MS MONAGHAN: Can you tell us what happened
 14 then, please?

15 **A. I relayed the information to terminal. I then have
 16 various formalities to complete as far as making sure
 17 that I send -- I transmit the information to a load
 18 control department via a magic pen. It's like a pen
 19 with a camera in the nib. I have to do that so that
 20 they know an accurate picture of what has happened on
 21 that aircraft so they then finalise all the statistics
 22 so that the captain can then receive via satellite, we
 23 call it Acars, the information regarding the take-off
 24 and landing weights, number of souls on board, where he
 25 fixes his trim so that the aircraft takes off in**

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1 a stable manner. I completed that. As I said I spoke
 2 to terminal. Normally when the doors are closed before
 3 minus three it's not my responsibility to allocate
 4 a delay code. We have codes for all the various reasons
 5 you can imagine as to why an aircraft has been delayed.
 6 If the doors are closed prior to minus three, normally
 7 the flight deck would then relay to the HAC, the airport
 8 centre, as to the reasons as to why that aircraft was
 9 delayed on stand, in this example 11 minutes. I then
 10 proceeded to fill out and complete my record card which
 11 is an exhibit and just make sure I crossed all the Ts
 12 and dotted the Is as far as our own formalities are
 13 concerned.

14 **Whilst I was finishing that, my phone rang and it
 15 was the airport centre informing me that the aircraft
 16 was in fact going to return to that stand.**

17 DEPUTY CORONER MS MONAGHAN: Did you have any clue at that
 18 stage why it was going to be returning?

19 **A. I cannot recall exactly and I've indicated that in my
 20 statement. I believe one statement says possibly, yes,
 21 it was the fact but on reflection --**

22 DEPUTY CORONER MS MONAGHAN: Pause there. What was the
 23 fact?

24 **A. That it was returning to stand because of an issue with
 25 the deportee, but what was relayed to me was that it was**

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1 returning to stand with a medical emergency, the
 2 emergency services had been called and I confirmed that.
 3 As I say, I can't recall if they actually said it's the
 4 deportee or if they were unclear as to that fact.

5 DEPUTY CORONER MS MONAGHAN: Did you make any calls yourself
 6 to any other agency?

7 **A. No. My direct line of contact --**

8 DEPUTY CORONER MS MONAGHAN: Let me take you to page 26
 9 because it may just be you've forgotten this. I want to
 10 make sure you can refresh your memory. Page 26, in the
 11 first paragraph, about three lines down:

12 "I cannot remember if they said it was the deportee
 13 but as well as the paramedics I requested that the
 14 police attend."

15 **A. That's correct. I did that through the HAC.**

16 DEPUTY CORONER MS MONAGHAN: Why did you request that police
 17 attend?

18 **A. In my mind I'd seen Mr Mubenga. I made an assessment
 19 when I first saw Mr Mubenga, when he first came down the
 20 air bridge jetty, that he was of quite a fit and strong
 21 looking gentleman, quite capable. I'd seen what had
 22 happen after I returned to the aircraft. I'd heard
 23 there was an incident prior to that and in the back of
 24 my mind was the fact that if there was any continued
 25 pretence involved, as to try and get offloaded, I didn't**

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1 want Mr Mubenga running amok in the aircraft cabin or in
 2 fact gaining access to the terminal without having the
 3 police there. So I asked the airport centre if they
 4 could make sure the police were in attendance when the
 5 aircraft returned to stand and they confirmed that they
 6 would do that.

7 DEPUTY CORONER MS MONAGHAN: So in your mind then, Mr Upton,
 8 at that stage, did you still have it that this was
 9 probably a pretence on Mr Mubenga's part?

10 **A. It was, yes. That would be in my mind.**

11 DEPUTY CORONER MS MONAGHAN: Then can you tell us what
 12 happened then, please.

13 **A. A few minutes later I heard an aircraft offstand. Even
 14 though the door of my office is quite sound-proofed, you
 15 can still hear it and I heard the aircraft offstand.
 16 I wasn't sure if it was my aircraft returning so
 17 I grabbed my ear defenders and I went outside and it was
 18 then quite apparent that it was a 777 Boeing trying to
 19 return to stand.**

20 DEPUTY CORONER MS MONAGHAN: Carry on.

21 **A. With the system that we have at Heathrow, and I believe
 22 at many other airports, we have a guidance system to
 23 help the captain or first officer bring the aircraft on
 24 stand so that it's parked in the correct position and on
 25 the correct line so that we can service it and there's**

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<p>1 no incidents. That requires me to go to the head of 2 stand and to activate that, which takes several moments, 3 and the system would automatically then recognise where 4 the aircraft is and start giving the flight deck 5 a countdown in metres so that -- and also if they are 6 offline or online as to whether they can actually park 7 the aircraft on stand.</p> <p>8 DEPUTY CORONER MS MONAGHAN: So the aircraft was parked? 9 A. Right.</p> <p>10 DEPUTY CORONER MS MONAGHAN: At some point; yes? 11 A. Yes.</p> <p>12 DEPUTY CORONER MS MONAGHAN: What did you do? 13 A. The aircraft powers on under its own power. I cannot 14 approach the aircraft for safety reasons until those 15 engines are switched off and the other checks I have to 16 look at are there is normally a nose indicator light 17 that's on the nose wheel just above the tyres. There's 18 a little light that comes on which if it's working, and 19 it normally is, tells me that the flight deck have 20 actually activated the foot brake. It's a bit like your 21 car brake pedal. When that comes on and also 22 importantly when the beacon, the flashing beacon, on the 23 underside of the aircraft actually goes off, it 24 indicates to me then that it's all clear to approach the 25 aircraft.</p> <p style="text-align: center;">Page 77</p>	<p>1 point and that allowed you access to the plane? 2 A. That allowed me access to the plane. I also looked 3 behind me and I saw that I had a colleague, who was 4 a passenger service duty manager, and a paramedic 5 arrived on a mountain bike, complete with the panniers 6 containing the medical kits. I bang on the door and 7 wait -- we wait ten seconds and then the crew then open 8 the door for me.</p> <p>9 DEPUTY CORONER MS MONAGHAN: So you enter the plane at the 10 same time as the paramedic? 11 A. That is a little bit of a blur and I cannot recall the 12 exact details, but, yes --</p> <p>13 DEPUTY CORONER MS MONAGHAN: Roughly the same time? 14 A. Roughly the same time.</p> <p>15 DEPUTY CORONER MS MONAGHAN: Can you remember what you saw 16 when you went in? 17 A. I remember speaking to one of the crew, and I can't 18 recall which one, as to what's actually happened rather 19 than just charging off down the rear of the aircraft. 20 I wasn't sure what the paramedic was doing at that 21 stage.</p> <p>22 DEPUTY CORONER MS MONAGHAN: So the paramedic had gone ahead 23 of you? 24 A. I wasn't sure.</p> <p>25 DEPUTY CORONER MS MONAGHAN: Did you at some point come</p> <p style="text-align: center;">Page 79</p>
<p>1 DEPUTY CORONER MS MONAGHAN: Did you approach the aircraft? 2 A. Yes, I did.</p> <p>3 DEPUTY CORONER MS MONAGHAN: On foot? 4 A. Yes.</p> <p>5 DEPUTY CORONER MS MONAGHAN: So on the tarmac? 6 A. Correct.</p> <p>7 DEPUTY CORONER MS MONAGHAN: You got onto the plane? 8 A. The sequence of events was on that particular occasion 9 I looked around for a ramp team which I hope -- I hoped 10 would be there, but I couldn't see anybody evident. So 11 normally we would put chocks, wood or rubber, under the 12 main tyres which are under the sort of middle of the 13 aircraft, under the wings. I'm also allowed to 14 actually, for expedience sake, put chocks under the nose 15 wheel of the aircraft and that's just in case there's 16 a problem with the braking system in the aircraft and, 17 again, a safety factor. That's what I did. As soon as 18 I finished putting the chocks there, I then had to go up 19 the jetty stairs, which are immediately by the side of 20 the jetty, open the doors, swipe, go up to the control 21 panel, put my key in, wait a couple of seconds for the 22 systems to activate and then using a joy stick and 23 a remote control camera via TV I then steer the jetty 24 back on to door 2 left.</p> <p>25 DEPUTY CORONER MS MONAGHAN: It was fixed there at some</p> <p style="text-align: center;">Page 78</p>	<p>1 across Mr Mubenga? 2 A. I did.</p> <p>3 DEPUTY CORONER MS MONAGHAN: What happened? 4 A. I went down the J/K side of the aircraft, the topside 5 looking at that diagram, and as I approached rear of the 6 aircraft I noticed that Mr Mubenga was on the floor. He 7 seemed to be on the floor. My view was partially 8 obscured obviously by the middle seats.</p> <p>9 DEPUTY CORONER MS MONAGHAN: When you say he was on the 10 floor, was he on the floor -- whereabouts did you think 11 he was on the floor? 12 A. May I just look at my statement, madam, please?</p> <p>13 DEPUTY CORONER MS MONAGHAN: Certainly. 14 A. He was lying face up on the aircraft floor with his head 15 towards the rear of the aircraft in the area of seat 16 rows 39 or 40, as I've admitted to.</p> <p>17 DEPUTY CORONER MS MONAGHAN: You have told us. Does that 18 mean he was in the aisle? 19 A. He was in the aisle.</p> <p>20 DEPUTY CORONER MS MONAGHAN: At that stage was he being 21 attended to by a paramedic? 22 A. I can't remember exactly, but it was very soon after 23 a paramedic seemed to be giving him CPR.</p> <p>24 DEPUTY CORONER MS MONAGHAN: Did you have some time to look 25 around the area? Did you notice anything? Was the</p> <p style="text-align: center;">Page 80</p>

1 table tray up, for example, or down?
2 **A. I didn't notice that.**
3 DEPUTY CORONER MS MONAGHAN: Did you notice anything else
4 that stuck in your mind at that time?
5 **A. What I did notice was there was an atmosphere of almost**
6 **deference still on board. There seemed to be some**
7 **hostility between the G4S gentlemen and the paramedic or**
8 **paramedics who had arrived by then. The G4S people**
9 **seemed to still be in control and there seemed to be**
10 **a deference to that as such, that they were the people**
11 **in charge.**
12 DEPUTY CORONER MS MONAGHAN: A deference from whom?
13 **A. From the crew.**
14 DEPUTY CORONER MS MONAGHAN: So the crew were treating the
15 G4S guards as though they were the people in charge and
16 not the crew?
17 **A. And the G4S guards were acting accordingly, yes.**
18 DEPUTY CORONER MS MONAGHAN: I see. You have said in your
19 statement, your notes, typed notes, that you noticed
20 some blood deposits. Does that ring a bell?
21 **A. Not at that stage, no. That came a little later. They**
22 **moved Mr Mubenga into the rear galley which I assume was**
23 **for a number of reasons, one because it offers more room**
24 **than the restricted aisle between those sets of seats,**
25 **but also I would imagine because it wasn't a very pretty**

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1 **scene and there were passengers still in that area.**
2 DEPUTY CORONER MS MONAGHAN: I think in your statement, just
3 to conclude, you hear a reference at some point to flat
4 lining, is that right?
5 **A. Yes. That was moments -- well, minutes later. I was by**
6 **then standing, and I can recall this exactly, in the J/K**
7 **area and I was looking through a number of people and**
8 **I saw Mr Mubenga lying in the rear galley. I noticed,**
9 **which I have said in my second statement, that his belt**
10 **was very, very tight around his waist. I also saw some**
11 **medical apparatus attached to him. I saw some sort of**
12 **intravenous action going on and I saw tissues or swabs**
13 **or something similar with blood on.**
14 DEPUTY CORONER MS MONAGHAN: I'm not sure whether you had
15 any further involvement really, did you? I think that
16 was about the end of your involvement, is that right?
17 **A. I heard a medic say, and I can't recall which one, "He's**
18 **flat lining" and I presumed that meant Mr Mubenga had**
19 **passed away.**
20 DEPUTY CORONER MS MONAGHAN: Did you have any further
21 involvement at that stage?
22 **A. I had to stay -- it was my departure in the sense that**
23 **it was my departure that I was in control of up to that**
24 **point and I felt a responsibility to remain on the**
25 **aircraft, to report what I'd seen and although my**

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1 **supervisor eventually came out, and I asked for**
2 **a replacement battery for my phone because of the number**
3 **of calls I was receiving, he suggested I go home, which**
4 **was approximately 22.00 local time, but I felt obligated**
5 **to stay behind. And soon after that scenes of crime**
6 **arrived and impounded everybody, including myself, and**
7 **I stayed on the aircraft until two in the morning and**
8 **gave a statement at the time in seat 1K in first class.**
9 DEPUTY CORONER MS MONAGHAN: Thank you very much, Mr Upton.
10 That was very helpful. If you would just stay there
11 because some of the representatives may have some
12 questions to ask you.
13 **A. May just request one thing, please, madam. On that**
14 **letter to Mr Baldwin, my home address is there. Is that**
15 **confidential, please?**
16 DEPUTY CORONER MS MONAGHAN: It has not been read out. It
17 is in the bundle that parties will have seen, but it has
18 not been read out to anybody else and it won't be
19 disclosed to anybody else.
20 **A. Thank you very much.**
21 **Examined by MR BLAXLAND**
22 MR BLAXLAND: Mr Upton, I represent the family of
23 Mr Mubenga. You have been referring to the various
24 statements that you made. Just so that we all
25 understand, is this right, that the police took a long

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1 statement from you not so very long after this incident
2 happened?
3 **A. Which statement are you referring to, sir?**
4 MR BLAXLAND: Can I ask you to take the bundle that we all
5 have. The members of the jury don't have it but
6 everybody else does. You may have looked at it
7 already --
8 DEPUTY CORONER MS MONAGHAN: I think Mr Upton has it in
9 front of him in fact.
10 MR BLAXLAND: Good. If you go to page 14, you'll see
11 a statement which bears the date 12 October?
12 **A. That's correct.**
13 Q. So this is the very same day that this happened, that
14 evening?
15 **A. It's the same evening, yes.**
16 Q. So you spoke to the police, did you, that evening?
17 **A. As I explained, scenes of crime arrived. It took a wee**
18 **while for them to establish I think what had actually**
19 **happened and for the senior officer to come to the**
20 **aircraft and decide who he was going to interview there**
21 **and then.**
22 Q. Right. So this is a statement that was taken from you
23 actually still at the airport?
24 **A. That's correct. I'd been on duty since 2 o'clock and**
25 **I was there until 2 o'clock in the morning.**

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<p>1 Q. Just so that we all understand it, you provided 2 a further statement about some of the background detail 3 which, if you look at the bundle, is at page 18. That's 4 27 January 2011.</p> <p>5 A. Yes.</p> <p>6 Q. At that point you produced a document called the Flight 7 Record Card which was given an exhibit number by the 8 officer, is that right?</p> <p>9 A. No, it's not.</p> <p>10 Q. Sorry?</p> <p>11 A. No, it's not. No. I didn't produce that document. 12 I believe that document was taken some time, but 13 I wasn't party to that.</p> <p>14 Q. The only point I was making is that the police gave it 15 an exhibit number. That Flight Record Card, this was 16 your own document, was it, the document which you had 17 created?</p> <p>18 A. It's a company card that I compile and complete for 19 every flight.</p> <p>20 Q. Right. If you go to our red volume, page 53, is that 21 the document?</p> <p>22 A. That is the document, yes.</p> <p>23 Q. It is?</p> <p>24 A. Yes.</p> <p>25 Q. All right. I might come back to that. Could you put Page 85</p>	<p>1 offloading of disruptive passengers." 2 This, again, is a point you were asked about?</p> <p>3 A. That's correct.</p> <p>4 Q. The document which we don't have. You continue by 5 saying this: 6 "I am also acutely aware of our obligations to try 7 to carry out my responsibilities to the Home Office and 8 immigration services." 9 A. That's correct.</p> <p>10 Q. Now, I would just like you, if you could, to explain to 11 us what you meant by that. Did you see it as part of 12 British Airways' responsibility to assist in the 13 deportation of people who were flying with the company?</p> <p>14 A. I saw it as my responsibility as an employee of 15 British Airways to comply with British Airways' rules 16 and regulations.</p> <p>17 Q. The way you expressed it in your report was that you 18 were aware of your obligations to try to carry out your 19 responsibilities to the Home Office and immigration 20 services, which is rather different.</p> <p>21 A. No, I disagree, sir. If you look at the British Airways 22 customer service manual, it actually states in that, 23 which is -- I should have that knowledge, that it's 24 a criminal offence for the captain or other party to 25 offload a deportee without valid justification and, if Page 87</p>
<p>1 that to one side.</p> <p>2 A. Okay.</p> <p>3 Q. In the statement dated 27 January 2011 you refer to 4 that. In addition, is this right, and this is what you 5 just referred to, you sent a letter to the investigating 6 officer, Sergeant Baldwin, dated 28 October 2011, in 7 which you produced your own written report, is that 8 right?</p> <p>9 A. That's correct.</p> <p>10 Q. You said that this report was based on your notes and 11 the learned coroner asked you about your notes and 12 whether you would be able to produce them.</p> <p>13 A. That's correct.</p> <p>14 Q. After that rather long introduction and build-up, I want 15 to take you, if I can, please, to page 25 of this last 16 document. This is your own document, the document you 17 provided to Mr Baldwin. Can I ask you, please, to go to 18 the middle of page 25, the paragraph which starts: 19 "I deal with several deportee situations every 20 week ..."</p> <p>21 A. Yes.</p> <p>22 Q. I am going to read: 23 "I deal with several deportee situations every week 24 either as accompanied or unaccompanied and am aware of 25 the standard operating procedures regarding the Page 86</p>	<p>1 that does in fact happen, you have to provide a written 2 security report to your company and the State to justify 3 your actions.</p> <p>4 Q. Thank you. So you saw it as part of your responsibility 5 to ensure wherever possible that deportations went 6 ahead?</p> <p>7 A. No, sir. I saw it as my responsibility to comply with 8 my company's regulations as far as my duties concerning 9 deportees are concerned.</p> <p>10 DEPUTY CORONER MS MONAGHAN: Were you ever anxious that 11 a premature offloading could result in a criminal 12 sanction?</p> <p>13 A. I was anxious that if I offloaded somebody I would have 14 to justify my actions, yes.</p> <p>15 DEPUTY CORONER MS MONAGHAN: So if it was a bit dicey, you 16 weren't sure which way to go, would you err on the side 17 of caution, perhaps, and leave them on the plane?</p> <p>18 A. I would perhaps ask for some assistance.</p> <p>19 MR BLAXLAND: Can I, in this context, just ask you about how 20 you perceived your own responsibilities. We know that 21 ultimately it is the captain's decision as to whether or 22 not a person stays on board the aircraft.</p> <p>23 A. After boarding, yes.</p> <p>24 Q. Yes. So the example which is obviously directly 25 relevant to what we're all considering is if a person Page 88</p>

1 who is being deported becomes disruptive, the captain
 2 has the responsibility for deciding whether or not
 3 disruption has to got such an extent that the person
 4 needs to be removed from the aircraft.
 5 **A. As far as I understand, yes.**
 6 Q. Well, that's right, isn't it? It's the captain's
 7 decision. He's the person who's in charge of the plane.
 8 **A. From my position as a TRM, yes, I'm not a captain.**
 9 DEPUTY CORONER MS MONAGHAN: No, but do you know whether or
 10 not ultimately it's the captain's decision or not? If
 11 you don't know, then tell Mr Blaxland you don't know.
 12 **A. I have a knowledge of the Joint Procedures Manual which,**
 13 **as I explained earlier, is the former flight crew orders**
 14 **and I believe it says in the Joint Procedures Manual**
 15 **that it is the captain's ultimate responsibility to**
 16 **offload a disruptive deportee.**
 17 MR BLAXLAND: Right. Did you consider it to be part of your
 18 responsibility to make a decision as to whether or not
 19 a deportee should be removed from an aeroplane?
 20 **A. At that stage I considered it my responsibility to make**
 21 **sure the captain was aware of the situation, not to**
 22 **offload the passenger.**
 23 Q. So it's not your decision, it's the captain's decision,
 24 but the captain, is this right, may be guided by your
 25 opinion?

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1 **A. Captains are always guided by my opinion.**
 2 Q. So just to put it in simple terms. If something
 3 untoward happened and the deportee became disruptive, if
 4 you took the decision that it was going to be in
 5 everybody's best interests for the person to be removed
 6 from the aircraft, you would see it as your
 7 responsibility to tell the captain that in order that
 8 the captain could make an informed decision?
 9 **A. Can you repeat that, please?**
 10 Q. Yes. I will put it simply: did you consider it part of
 11 your responsibility to give the captain the benefit of
 12 your opinion as to whether or not a deportee should be
 13 removed from an aircraft?
 14 **A. Yes, I did.**
 15 Q. Right. How many times have you witnessed deportees
 16 becoming disruptive on an aircraft?
 17 **A. Excuse me, madam, that's an unfair question. I can't**
 18 **recall that information.**
 19 DEPUTY CORONER MS MONAGHAN: I don't think it's an unfair
 20 question. If you can't answer with precision you, can
 21 say, "I don't remember", but could you give us an idea?
 22 Is it ten times, is it 100 times, is it 1,000 times, is
 23 it five times? Just give a broad feel. Was it very
 24 unusual or --
 25 **A. I've been a dispatcher for, as I said, at that**

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1 **particular time for 22 years. I cannot say with any**
 2 **degree of accuracy how many times I'd seen a passenger,**
 3 **a deportee, travel and how many times I'd seen one**
 4 **disruptive, other than some time previous to this**
 5 **occasion I had seen it more frequently than now, but**
 6 **I cannot be more specific than that.**
 7 DEPUTY CORONER MS MONAGHAN: So you couldn't tell us once
 8 every three months or anything like that on average?
 9 **A. Absolutely not.**
 10 MR BLAXLAND: You couldn't give us -- I'm not being critical
 11 here. I am just trying to find out whether or not you
 12 could give us some idea of on how many occasions -- and
 13 it may be difficult, I know -- you have witnessed
 14 somebody, a deportee, becoming disruptive once they're
 15 inside the plane?
 16 **A. I can't give you that indication. I'm seen it quite**
 17 **a few times and that's all I can actually say. I can't**
 18 **be more specific than that.**
 19 MR BLAXLAND: All right. Let's go to what you remember of
 20 what you saw happening and what you heard happening.
 21 You have already given evidence about this, but could
 22 you possibly have in front of you page 16 of the bundle
 23 which is the third page of the very first statement that
 24 you provided.
 25 DEPUTY CORONER MS MONAGHAN: Just keep an eye on the time

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1 for a convenient moment. If this is going to move on to
 2 a different topic, this might be a convenient moment.
 3 MR BLAXLAND: It is.
 4 DEPUTY CORONER MS MONAGHAN: We're going to break for lunch
 5 then, members of the jury. We'll come back with
 6 Mr Upton after lunch. Mr Upton, as with the warning
 7 before, now you are giving evidence, please don't
 8 discuss this case with anybody. We'll come back at
 9 2.00, Mr Upton.
 10 **A. Thank you very much.**
 11

<p>11 (1.05 pm) 12 (Luncheon Adjournment)</p>	<p>1 DEPUTY CORONER MS MONAGHAN: Carry on then, please, 2 Mr Blaxland. 3 MR BLAXLAND: Mr Upton, just before we broke for lunch, 4 I was about to ask you some questions about crucially 5 the important passages from your very first statement to 6 the police which, as we have established, was made that 7 very evening. 8 Could you go to page 16 in the bundle which in fact 9 is page 3 of that statement. I am going to go through 10 this with you and just ask you some further questions 11 for clarification. I am going to ask you about what 12 happened when you went back onto the plane after you had 13 heard that something had happened. You have given 14 evidence about that. I just want to see how you 15 recorded this in your statement. 16 You said this, and I am looking at about ten lines 17 down the page: 18 "I was walking along the left-hand aisles [that's as 19 you have showed us the top aisle as we look at it on the 20 picture that we have there]. At this time I didn't know 21 what the problem was but as I got closer I could see the 22 deportee and guards number 2 and number 3 still sat in 23 their original seats." 24 I think you now realise that that's a mistake and in 25 fact they were in the very back row, is that right? Page 95</p>
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	<p>1 A. Yes, sir, I've admitted to that. 2 MR BLAXLAND: It's not a criticism. 3 DEPUTY CORONER MS MONAGHAN: It's not an admission. You're 4 not on trial. It's quite understandable that you might 5 misremember whether it's 39 or 40. You're not on trial 6 here, Mr Upton. You're here to help us. 7 MR BLAXLAND: I hope it's not something about the way I'm 8 asking the questions, Mr Upton. 9 A. I'm sorry. 10 DEPUTY CORONER MS MONAGHAN: Don't worry. I know it's 11 a difficult thing to be standing there. 12 MR BLAXLAND: "... still sat in their original seats." 13 Can you help us, it's very difficult but as best as 14 you can tell how far up the aisle had you got when you 15 were first able to see this? 16 A. Sir, I must just say that when I refer to the left-hand 17 aisle, I am actually referring to the aisle the opposite 18 way round. The left-hand aisle normally in airline 19 speak is the A/B/C side of it. It's always as you look 20 forward and I actually came down on the J/K aisle which 21 technically is the right-hand aisle if you're looking 22 towards the nose of the aircraft. 23 Q. As you were walking down it was on the left? 24 A. That correct, yes. 25 Q. That's all we need to know. Anyway, just whereabouts Page 96</p>
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<p>1 were you, in the middle, toward the far end?</p> <p>2 A. I started off obviously at the far left-hand side and</p> <p>3 I walked down that aisle towards the rear.</p> <p>4 Q. It may be difficult, but at what point do you remember</p> <p>5 first seeing what was going on in the back seats? First</p> <p>6 of all, were you looking out for it?</p> <p>7 A. Yes, I was.</p> <p>8 Q. You knew there was a problem and therefore you were</p> <p>9 looking to see what was going on?</p> <p>10 A. Yes, correct.</p> <p>11 Q. Right. Did you get right up alongside them?</p> <p>12 A. Eventually, yes, I did.</p> <p>13 Q. Right. What you have recorded in your statement is</p> <p>14 this. You said:</p> <p>15 "I couldn't see their faces as they were all bent</p> <p>16 forwards into the rear of the seat in front of them."</p> <p>17 A. Yes, correct.</p> <p>18 Q. Right. And at no point, as you were walking up that</p> <p>19 aisle, did you ever see the faces of either the two</p> <p>20 guards or the man in the middle whom we know is</p> <p>21 Mr Mubenga?</p> <p>22 A. I don't recall seeing their faces, no, sir.</p> <p>23 Q. Even though you were at one point right alongside it, is</p> <p>24 that right?</p> <p>25 A. That's correct, sir, yes.</p> <p style="text-align: center;">Page 97</p>	<p>1 Q. Again, difficult though it may be, if you could just</p> <p>2 tell us with reference to the plan whereabouts you were</p> <p>3 when you spoke to Ann-Marie?</p> <p>4 A. Nearer the rear of the aircraft than the middle.</p> <p>5 Q. So you're still in the aisle at that point?</p> <p>6 A. I am.</p> <p>7 Q. Before you have actually got up alongside where, row 40?</p> <p>8 A. I can't recall that, sir.</p> <p>9 Q. No. Did you from there then continue to walk up to the</p> <p>10 very end of the aisle and into the galley at the back?</p> <p>11 A. At some point I would have done in order to cross round</p> <p>12 to the other side.</p> <p>13 Q. Yes. In your statement you said:</p> <p>14 "She told me she wanted to get off the plane. She</p> <p>15 appeared very shocked. She said the incident had been</p> <p>16 very aggressive ..."</p> <p>17 Then you went on to say:</p> <p>18 "Several passengers who had been sitting near to the</p> <p>19 deportee requested other seats. So I understandably</p> <p>20 began to relocate them to other parts of the aircraft."</p> <p>21 A. Yes, that's correct.</p> <p>22 Q. So you were then first of all distracted by talking to</p> <p>23 the air hostess, the stewardess, however you describe</p> <p>24 her, and then you were distracted by having to deal with</p> <p>25 the passengers?</p> <p style="text-align: center;">Page 99</p>
<p>1 Q. Okay. Were they bent right down?</p> <p>2 A. They were bent forwards, sir.</p> <p>3 Q. Right. All three?</p> <p>4 A. Yes.</p> <p>5 Q. You said this:</p> <p>6 "I could see the guards were holding the deportee</p> <p>7 probably by his arms, although my view was partially</p> <p>8 obscured by the seats in front."</p> <p>9 A. Correct.</p> <p>10 Q. So you're describing a view presumably as you're still</p> <p>11 walking up the aisle, would that be right?</p> <p>12 A. That's correct.</p> <p>13 Q. "They were struggling with each other but the guards</p> <p>14 appeared to have the situation under control. So at</p> <p>15 this time was not unduly alarmed."</p> <p>16 A. That's correct.</p> <p>17 Q. Then you said:</p> <p>18 "I was then approached by a stewardess who was</p> <p>19 standing near to me. Her name is Ann-Marie."</p> <p>20 So at that point effectively you were distracted by</p> <p>21 talking to Ann-Marie?</p> <p>22 A. Yes, I was.</p> <p>23 Q. Did you in fact talk to any of the other stewardesses as</p> <p>24 well at that point?</p> <p>25 A. I can't recall exactly. I may have done.</p> <p style="text-align: center;">Page 98</p>	<p>1 A. Yes, I was.</p> <p>2 Q. Is this right, that you only had the guards and</p> <p>3 Mr Mubenga under view for quite a short time at that</p> <p>4 point?</p> <p>5 A. At that point, yes.</p> <p>6 Q. Right. You dealt with the other passengers. Did you</p> <p>7 actually take people back and off the -- did you</p> <p>8 yourself usher people further back up the plane at that</p> <p>9 point?</p> <p>10 A. I liaised with the crew but I didn't leave that section</p> <p>11 of the aircraft.</p> <p>12 Q. Okay.</p> <p>13 A. To take them in to the economy plus cabin.</p> <p>14 Q. So you stayed put and you made sure that other people</p> <p>15 did that?</p> <p>16 A. That's correct.</p> <p>17 Q. Just going on with your statement:</p> <p>18 "I then walked to the galley at the rear of the</p> <p>19 plane and stood just to the rear of seat 39D where the</p> <p>20 deportee and guards were."</p> <p>21 Again, 39D I think should read 40D?</p> <p>22 A. That's correct.</p> <p>23 Q. So, again, just spelling it out, so you have walked --</p> <p>24 is this right, as we understand -- through the galley</p> <p>25 and down to the C/B/A aisle?</p> <p style="text-align: center;">Page 100</p>

1 **A. That's correct, yes.**
2 Q. Is that right?
3 **A. Yes, sir.**
4 Q. From this point your position was more or less alongside
5 seat 40 at that point, would that be right?
6 **A. And possibly slightly just angled to the rear.**
7 Q. So sort of nearer the galley but with an unobstructed
8 view of row 40?
9 **A. That's correct. My thinking was I didn't want to get**
10 **too close in case something else happened.**
11 Q. But there's nobody else between you and row 40?
12 **A. Correct.**
13 Q. Okay. This is how you described it in your statement.
14 You said:
15 "I was moving more passengers but kept turning the
16 above galley area."
17 I think "returning" that may be. I'm just looking
18 at your statement.
19 **A. I have the point, yes.**
20 Q. I'm not quite sure what that sentence means, but it
21 appears to suggest even at that point you still have
22 some concern with the passengers. You said this of what
23 you could see:
24 "I could see that the guards and deportee were still
25 leaning forwards and were still restraining him."
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1 **A. Yes.**
2 Q. "The deportee was making incoherent wailing noises."
3 **A. Yes.**
4 Q. That is the way you described it:
5 "He could be quiet but then start again and this
6 went on for about ten minutes."
7 That is what you recorded?
8 **A. Yes.**
9 Q. All of that time he's down, is he?
10 **A. Yes.**
11 Q. You never saw him sitting up?
12 **A. No.**
13 Q. Did that itself concern you?
14 **A. Yes.**
15 Q. Had you ever seen that being done before?
16 **A. Yes.**
17 Q. How many times?
18 **A. I can't say.**
19 Q. Roughly?
20 **A. I can't say roughly.**
21 DEPUTY CORONER MS MONAGHAN: More than one other time?
22 **A. At least more than one other time.**
23 MR BLAXLAND: Was this the normal way in which disruptive
24 deportees were restrained in your experience?
25 **A. They were restrained in other manners sometimes but**
Page 102

1 **I had seen examples of that type of restraint before.**
2 Q. What, people being forced down while they're sitting in
3 the seat?
4 **A. Yes.**
5 Q. The statement continues:
6 "I then heard the deportee say, I can't breathe,
7 I can't breathe."
8 Had you ever previously heard a deportee who was
9 being restrained in that way say that?
10 **A. I don't recall that, no.**
11 Q. "He didn't sound like he was struggling for breath or
12 gasping but he did sound mildly distressed."
13 That was your expression.
14 **A. Yes.**
15 Q. "I heard one of the guards reply, 'Yes, you can. Yes
16 you can'."
17 **A. That's correct.**
18 Q. You have told us about that. That's clear in your mind,
19 you heard that?
20 **A. Absolutely.**
21 Q. Thank you. You then said:
22 "I became more concerned when I heard the deportee
23 say that he couldn't breathe but not alarmed as the
24 guards had the situation under control and the deportee
25 did not appear overly stressed."
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1 **A. Correct.**
2 Q. You went on later to say in evidence that the person who
3 was in charge, the detention officer who was in charge,
4 specifically told you that he had the situation or they
5 had the situation under control, is that right?
6 **A. Yes.**
7 Q. And that once the plane got going he would be okay?
8 **A. That's correct.**
9 Q. Effectively. That was your experience, was it?
10 **A. Sometimes. As I said, it hadn't happened for quite some**
11 **time, but, yes, I had seen that in the past in the sense**
12 **that I obviously wasn't on the aircraft when it pushed**
13 **back because I wasn't going to where the aircraft was**
14 **going, but I heard it through my experiences with my**
15 **colleagues and from reports that I'd heard afterwards.**
16 Q. This is right, isn't it, I think, Mr Upton, that it was
17 open to you to make a decision that the deportation
18 should be abandoned?
19 **A. No, it wasn't open to me to make a decision at that**
20 **point. It was open to me to perhaps offer advice as to**
21 **what my opinion was regarding the deportee situation,**
22 **but it certainly wasn't my decision.**
23 Q. I wonder if you can go back to a passage that we have
24 looked at previously at page 25 of the bundle.
25 **A. The same section?**
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<p>1 Q. It's in fact your own personal statement that you wrote 2 and supplied to the officer. It's the middle paragraph 3 again. I asked you about first part of this paragraph 4 and you said: 5 "I deal with several deportee situations every week" 6 and so on? 7 A. Yes. 8 Q. But the paragraph continues, after the passage 9 I previously read out: 10 "Some years ago there seemed to me more frequent 11 examples of deportees being offloaded due to disruptive 12 behaviour including taking off their clothing either 13 before or after boarding. This has changed and for me 14 [you said] it has been years since I have had cause to 15 offload a disruptive passenger." 16 A. Yes. 17 Q. What did you mean by that? 18 A. I'm talking in the company sense where if a captain 19 decided to offload a deportee, I would be responsible 20 for calling the services and staying around, correcting 21 the paperwork for the load sheet so that everything was 22 correct. 23 Q. All right. So by that, by "I have had cause to offload 24 a disruptive passenger", you mean me having 25 responsibility after the captain had given the order?</p> <p style="text-align: center;">Page 105</p>	<p>1 spoke to the cabin services director and the captain." 2 Can I just go back. I think that was really more or 3 less the last that you personally saw of what was going 4 on? 5 A. After I'd been up to see the captain, yes, that's 6 correct. 7 Q. Just to summarise it, there was a brief glimpse when 8 you're in row J/K? 9 A. I would describe it more as brief -- more than brief 10 rather. 11 Q. More than brief? 12 A. Yes. 13 Q. It wasn't a very long -- it didn't have a very long 14 view? 15 A. Not in terms in relation to the later part where I said 16 I saw it for approximately ten minutes, no. That would 17 be fair. 18 Q. The first part of this, at all times all of the men's 19 heads were down? 20 A. Yes. 21 Q. That remained the case, your entire sight of the 22 incident, their heads were down? 23 A. When I was in sight of them, yes, that's correct. 24 Q. Did you ever see a pillow anywhere? 25 A. I don't recall seeing a pillow.</p> <p style="text-align: center;">Page 107</p>
<p>1 A. Yes. 2 Q. All right. In fact, if you just finish off the last 3 sentence of that paragraph, you said: 4 "I remarked on this to the captain prior to 5 departure and the policeman when I was giving my 6 statement after the event." 7 So did you say to the captain -- you reported back 8 to the captain about the incident going on, did you? 9 A. And other things about the flight, yes, sir. 10 Q. As you have told us. One of the things you said to him 11 was that it had been many years since you had had to 12 offload somebody from the aeroplane, is that right? 13 A. That's correct. 14 Q. If I can just go back to page 16 which is your first 15 statement to the police. You yourself made the point in 16 this statement that from previous experience -- and this 17 is the bottom of the last but one sentence: 18 "From previous experience of the deportees who have 19 caused problems prior to departure I have found that 20 once the plane starts to move they quickly calm down and 21 resign themselves to the fact that they are being 22 deported." 23 A. That's correct. 24 Q. Then you went on to say: 25 "I then made my way to the front of the aircraft and</p> <p style="text-align: center;">Page 106</p>	<p>1 Q. Underneath the head of the man who was being held down? 2 A. Mr Mubenga? 3 Q. Yes. 4 A. I don't recall seeing a pillow and I probably would not 5 have seen it if it had been there because I couldn't see 6 underneath the head of Mr Mubenga. 7 Q. No. But you were looking straight down? 8 A. And from the side. 9 MR BLAXLAND: Thank you very much. 10 DEPUTY CORONER MS MONAGHAN: Ms Hewitt, before you start, 11 I just have a couple of questions and it might be 12 helpful for me to ask them now in case anybody wants to 13 deal with them. 14 Just a couple of questions that it might be helpful 15 to ask you, Mr Upton. Did you have any responsibility 16 for ensuring that there was a functioning defibrillator 17 on the plane? 18 A. Only in the sense, madam, that if the defibrillator seal 19 had been broken or if there was any fault with it, the 20 crew would possibly ask me to get in contact with the 21 relevant department to get it replaced, but personally, 22 as far as direct action is concerned, no. 23 DEPUTY CORONER MS MONAGHAN: So you weren't given 24 responsibility for before each flight checking it was 25 there, checking it was working or anything of that sort?</p> <p style="text-align: center;">Page 108</p>

<p>1 A. It's not one of my required checks, no.</p> <p>2 DEPUTY CORONER MS MONAGHAN: Do you know if anybody was?</p> <p>3 A. I believe on fairly good authority that it is a crew</p> <p>4 check, yes.</p> <p>5 DEPUTY CORONER MS MONAGHAN: So it would have been the cabin</p> <p>6 crew?</p> <p>7 A. Yes, but I believe, and this is the extent of my</p> <p>8 knowledge, that they would look at the seal on the</p> <p>9 defibrillator but I might be mistaken with that.</p> <p>10 DEPUTY CORONER MS MONAGHAN: I'll ask them. That's fine.</p> <p>11 Just two further matters. So far as you're aware, was</p> <p>12 there any internal enquiry, that is BA enquiry, into the</p> <p>13 events that occurred on the 12th after Mr Mubenga died?</p> <p>14 A. One of the reasons why I wrote notes in Dorking library</p> <p>15 at the time -- rather just two or three days later</p> <p>16 I spent four hours in Dorking library, was because I was</p> <p>17 concerned (i) I'd given a statement on the evening but</p> <p>18 (ii) I expressed my concerns at work that nobody had</p> <p>19 asked me for my version of events. A man had died. It</p> <p>20 severely affected me and still does. I feel very sad</p> <p>21 about what happened that evening and as far as I was</p> <p>22 concerned it was a release for me to write those things</p> <p>23 down, but I also wanted my company to know it and that</p> <p>24 statement that Mr Baldwin has from me that you require</p> <p>25 the notes for was directly as a result of those notes</p> <p style="text-align: center;">Page 109</p>	<p>1 DEPUTY CORONER MS MONAGHAN: Yes.</p> <p>2 A. No, I was not.</p> <p>3 DEPUTY CORONER MS MONAGHAN: Just in relation to that, you</p> <p>4 have told us about the risk assessment. Apart from</p> <p>5 that, were you given any further guidance pertaining to</p> <p>6 the situation that occurred on that night; in other</p> <p>7 words, what to do if a deportee is disruptive or</p> <p>8 apparently unwell or anything of that sort?</p> <p>9 A. Not as a general guidance, no, but, as I say, I did</p> <p>10 e-mail somebody in the company for my own personal</p> <p>11 knowledge so that I could know if that situation was</p> <p>12 going to arise again.</p> <p>13 DEPUTY CORONER MS MONAGHAN: Did they give you any advice or</p> <p>14 guidance?</p> <p>15 A. They did, yes.</p> <p>16 DEPUTY CORONER MS MONAGHAN: Who was that?</p> <p>17 A. Can I say in court?</p> <p>18 DEPUTY CORONER MS MONAGHAN: Yes, please do.</p> <p>19 A. It was the director of safety and security for</p> <p>20 British Airways.</p> <p>21 DEPUTY CORONER MS MONAGHAN: Who is that?</p> <p>22 A. Tim Steeds.</p> <p>23 DEPUTY CORONER MS MONAGHAN: Thank you very much. Sorry</p> <p>24 about that, Ms Hewitt. I just wanted to clear that up</p> <p>25 before I -- Ms Hewitt is now going to ask you some</p> <p style="text-align: center;">Page 111</p>
<p>1 that weekend and was written at the time, and was on my</p> <p>2 computer at the time, and it was a year later that</p> <p>3 I actually volunteered it to him because I wanted some</p> <p>4 points that I saw to be made available to the police.</p> <p>5 DEPUTY CORONER MS MONAGHAN: Did you give it to BA?</p> <p>6 A. Yes -- no, I spent some time in the British Airways</p> <p>7 business centre in company time writing that report but</p> <p>8 I did not give it to BA, no.</p> <p>9 DEPUTY CORONER MS MONAGHAN: I completely hear all that and</p> <p>10 understand all that. To be clear, so far as you're</p> <p>11 aware then there was no BA internal enquiry into what</p> <p>12 happened on that day?</p> <p>13 A. I think it would be fair to say that as far as I was</p> <p>14 aware in terms of how it affected me I was not party to</p> <p>15 any enquiry. I'm sure and I feel qualified to say this</p> <p>16 there was an enquiry as such because I did enter into</p> <p>17 correspondence at a later stage and was informed that --</p> <p>18 about the risk assessment side of the procedures which</p> <p>19 I know has been mentioned in court already.</p> <p>20 DEPUTY CORONER MS MONAGHAN: So there was some form of</p> <p>21 enquiry but you weren't involved in that?</p> <p>22 A. No.</p> <p>23 DEPUTY CORONER MS MONAGHAN: Were you ever given an enquiry</p> <p>24 report or anything of that sort?</p> <p>25 A. The results of the enquiry on what I'd seen?</p> <p style="text-align: center;">Page 110</p>	<p>1 questions.</p> <p>2 Examined by MS HEWITT</p> <p>3 MS HEWITT: In fact that was helpful, madam, and thank you</p> <p>4 for that explanation, Mr Upton, because I wanted to ask</p> <p>5 you a few questions clarifying what had happened after</p> <p>6 you made your first statement and why it was you came to</p> <p>7 write the report you did a few days later. To be very</p> <p>8 clear, the first statement was your account given</p> <p>9 effectively immediately to the police?</p> <p>10 A. That's correct.</p> <p>11 Q. At the scene. Then a few days later you went to Dorking</p> <p>12 library, did you, to sit down to write notes about what</p> <p>13 you could remember of the incident then?</p> <p>14 A. I took notes all the time. When things come to me,</p> <p>15 I write them down. It was the end result of taking</p> <p>16 notes over those days after that I felt I needed to</p> <p>17 write it and for a number of reasons. (i) that night</p> <p>18 was a very traumatic night for me, as I'm sure you can</p> <p>19 understand.</p> <p>20 Q. Yes.</p> <p>21 A. I'd been on duty for a long time. I drove home on the</p> <p>22 M25 on my own. My wife was on business in Canada and</p> <p>23 I went home to an empty house. I went into work the</p> <p>24 next day. I felt affected by it, as I said. It was</p> <p>25 a release for me as well to write things down.</p> <p style="text-align: center;">Page 112</p>

<p>1 I contacted north side police who were dealing with it 2 at the time and asked them for a copy of my original 3 statement but because I think it was a criminal trial 4 potential at the time they wouldn't release it to me. 5 I felt slightly bereft that I had no other written 6 record as far as the company was concerned. It's the 7 nature of my job to report things and it's the nature of 8 me as a person and, as I say, it was a release for me to 9 write it down so I could try and let go.</p> <p>10 Q. I understand. So between the 12th, when it happened, 11 and the 20th, when you finalised that process, you were 12 making notes, things were in your mind and you were 13 wanting to get them down on paper?</p> <p>14 A. It was pretty much done at that weekend when I went to 15 the library.</p> <p>16 Q. None of what I want to ask you is intended to be 17 critical of that process or your recollection of events. 18 On that basis then would it be right and correct to get 19 a picture that you were clearly very upset about what 20 you learnt had happened to Mr Mubenga and the fact that 21 he had died, that that affected you to some extent?</p> <p>22 A. It affected me naturally as another person. I was very 23 upset that a man had died. In terms of are you asking 24 me if it affected my recollection --</p> <p>25 Q. No, let me put it more bluntly then, and this isn't</p> <p style="text-align: center;">Page 113</p>	<p>1 thought back as to what had happened and made your notes 2 subsequently?</p> <p>3 A. It naturally occurred to me, yes.</p> <p>4 Q. Can I ask you then, first of all, about what you said at 5 the time. So it's the first account that you gave 6 immediately that I want to take you to. You have it in 7 front of you I hope.</p> <p>8 A. Which page, please?</p> <p>9 MS HEWITT: It starts at page 14. It's a small-ish point 10 but I can ask you about this on page 2. You record --</p> <p>11 DEPUTY CORONER MS MONAGHAN: Page 2 internal, is that?</p> <p>12 MS HEWITT: Yes, of the report. Page 15 of the bundle. You 13 record that initial contact with one of the G4S guards 14 before anyone had got on the plane?</p> <p>15 A. Yes.</p> <p>16 Q. Where you had a conversation with one of the guards to 17 find out whether any problems were expected?</p> <p>18 A. That's correct.</p> <p>19 Q. You say you asked about that, asked him if there were 20 going to be any problems and he replied no?</p> <p>21 A. That's correct.</p> <p>22 Q. Others suggest he may have said words, "He's been as 23 good as gold, we're not expecting any trouble", 24 something like that?</p> <p>25 A. I can't remember the exact words but the meaning was,</p> <p style="text-align: center;">Page 115</p>
<p>1 meant critically at all, would it be fair to say that 2 as -- I suggest you give the impression of being very 3 conscientious about your duties and such like, that in 4 the wake of that as those things went over and over in 5 your mind did you have some degree of going over, 6 soul-searching, thinking: was there something I should 7 have done differently, could have done differently? Was 8 that part of what you were looking to explore when you 9 went back over what had happened?</p> <p>10 A. I don't completely understand. I think it would be fair 11 to say it's a normal reaction of any normal person 12 because I have discussed it with my wife and my family 13 that one naturally looks at any traumatic incident like 14 that and says to oneself, "Could I have done something 15 differently?" I think we all do that in every stage of 16 life.</p> <p>17 Q. That's why I say I don't ask the question critically at 18 all, it would be a natural reaction to go back over.</p> <p>19 A. But the second part of your question, could you repeat 20 that?</p> <p>21 Q. That was the question, whether part of what you were 22 going over was: how did that all happen, could I have 23 done something differently?</p> <p>24 A. So --</p> <p>25 Q. Is that part of what you were asking yourself as you</p> <p style="text-align: center;">Page 114</p>	<p>1 "No, there won't be a problem".</p> <p>2 Q. You must have understood, didn't you, that in saying 3 "no" to that question that wasn't a guarantee or 4 an assurance that there wouldn't be a problem; it was 5 an indication that we're not expecting any problems 6 because he's been fine so far?</p> <p>7 A. At the back of my mind the very fact that he has escorts 8 means potentially there has been a problem or there 9 could be a problem.</p> <p>10 Q. So your answer really is yes, you agree, it was not 11 a guarantee, just an indication that we're not expecting 12 any problems?</p> <p>13 A. My jobs is such that I have to ask many people for 14 reports about situations regarding many factors of that 15 flight departure and one of them is I have to rely on 16 an accurate statement made by the leading G4S gentleman 17 as to whether that gentleman is going to be a problem or 18 not.</p> <p>19 Q. You have described watching the four men get onto the 20 plane, having no concerns at that time, but subsequently 21 being called back on the plane once a commotion had 22 started?</p> <p>23 A. That's correct.</p> <p>24 Q. A few moments ago, Mr Blaxland was asking you about 25 precisely what you saw. Looking at page 16, the third</p> <p style="text-align: center;">Page 116</p>

<p>1 page of your statement, if I can go back to these words 2 again. You describe walking along the upper aisle, as 3 we see it on the plan? 4 A. Yes. 5 Q. You say you could not see the faces, that's the faces of 6 either Mr Mubenga or the two guards either side? 7 A. That's correct. 8 Q. As they were all bent forwards into the rear of the seat 9 in front of them? 10 A. It looked that way, yes. 11 Q. You could see that they were holding -- the guards were 12 holding the deportee, probably by his arms, but your 13 view was partially obscured? 14 A. That's correct. 15 Q. Then you say they were struggling with each other? 16 A. That's correct. 17 Q. "But the guards appeared to have the situation under 18 control. So I wasn't unduly alarmed." 19 Struggling in what way? 20 A. They were very close. They were touching. 21 Q. Yes. 22 A. As I said before, if Mr Mubenga would move, they would 23 counter move and it was almost like, you know, they were 24 moving together. I could clearly see that there was 25 some sort of restraint happening at the time.</p> <p style="text-align: center;">Page 117</p>	<p>1 A. No. 2 Q. Or what was going to happen next? 3 A. No, I had not. 4 MS HEWITT: Can I ask you this then: in the witness 5 statement made by Ann-Marie McMillan -- and I can take 6 you to it if it helps you to see it. 7 DEPUTY CORONER MS MONAGHAN: Can you give me the page 8 reference. 9 MS HEWITT: Yes, madam, it's page 110. 10 DEPUTY CORONER MS MONAGHAN: Do carry on. 11 MS HEWITT: Do turn to it if it helps you and you can see 12 it. 13 A. I've got it, thanks. 14 Q. It's page 110 of the bundle. The top paragraph, two 15 paragraphs on that page, towards the bottom, can you see 16 she's referred to the incident previously. She says: 17 "Boarding was still continuing I presume at this 18 time. I told Peter [that's a reference to Peter Walsham 19 I think we will hear] words similar to that the guy had 20 kicked off and I wanted to know if he was going to be 21 removed from the flight." 22 Then she says this, "The turn round manager", so 23 that would be you? 24 A. Yes. 25 Q. "... or Peter explained to me that this was quite normal</p> <p style="text-align: center;">Page 119</p>
<p>1 Q. Yes. When Mr Blaxland was asking you questions he used 2 the expression "head down". That doesn't appear in your 3 statement, does it? 4 A. No. 5 Q. Your description was that they were all bent forwards 6 into the rear of the seat in front? 7 A. Leaning or pushing. 8 Q. Is that right? 9 A. That's correct. 10 Q. In your statement the next thing you record then is then 11 being approached by the stewardess Ann-Marie who said to 12 you, "I've seen something very upsetting and frightening 13 and I want to get off"? 14 A. That's correct. 15 Q. You said, I think in answer to the learned coroner's 16 questions, that you said to her that you hadn't 17 authority to allow that, is that right? 18 A. That's correct. 19 Q. Did you say anything else to her, can you remember? 20 A. I said words to the effect of, "You have to go and talk 21 to the CSD and the captain or the captain". 22 Q. You hadn't had any conversation with the guards at this 23 point? 24 A. No, I had not. 25 Q. About the restraint?</p> <p style="text-align: center;">Page 118</p>	<p>1 behaviour for a deportee and they calm down when the 2 door closes and they try everything whilst the door was 3 open." 4 A. I don't recall that. 5 Q. You don't remember saying that to her? 6 A. No, it's possible but I don't recall it. 7 Q. The next stage in your narrative of what happened was 8 that you say you went around the back of the galley and 9 took up a position in the other aisle? 10 A. Yes. 11 Q. You say: 12 "I could see that the guards and the deportee were 13 still leaning forwards and were still restraining him." 14 A. Yes. 15 Q. A similar picture to what you had seen before? 16 A. Similar, yes. 17 Q. The reference to what you recall hearing the guard say, 18 are you sure about that? 19 A. Positive. 20 Q. Yes? 21 A. Because it had such a bearing on my appraisal of the 22 situation. 23 Q. Well, your appraisal of the situation at the time was 24 that you didn't need to take any action, wasn't it? 25 A. I said in my statement that I felt that they had the</p> <p style="text-align: center;">Page 120</p>

30 (Pages 117 to 120)

<p>1 situation under control. I had at the back of my mind 2 what advice I was going to give to the captain when 3 I spoke to the captain. When the G4S gentleman said to 4 me, "Don't worry, as soon as the aircraft pushes back", 5 it tied in with my experience in the past a long time 6 ago where normally in many occasions deportees quieten 7 down when they see a lost cause and they are going to 8 actually travel. And for me because he was the main G4S 9 gentleman, not immediately involved with the restraint, 10 other than holding down with his hands occasionally, 11 I had to defer to that. I took his advice.</p> <p>12 Q. That was the very next thing I wanted to ask you about 13 in fact against this background because when the learned 14 coroner asked you this morning whether you had 15 considered whether removal was necessary on the basis of 16 what you saw, your answer was that you took your lead 17 from the guard?</p> <p>18 A. Yes.</p> <p>19 Q. And that guard had said, "Don't worry, it's all under 20 control. He'll be fine as soon as we're airborne"?</p> <p>21 A. That's correct, yes.</p> <p>22 Q. You say it was for that reason that you accepted that 23 and conveyed that to the captain?</p> <p>24 A. That's correct, yes.</p> <p>25 Q. If we have a look at your statement made at the time on</p> <p style="text-align: center;">Page 121</p>	<p>1 A. Yes.</p> <p>2 Q. Because what you appear to be saying now is describing 3 a situation where you had some concern but you were, if 4 you like, reassured by what the guard said to you?</p> <p>5 A. That's correct, yes.</p> <p>6 Q. But at the time your description of what you were 7 thinking was simply that, from your own experience, you 8 thought deportees always calm down once the plane takes 9 off and there's no mention at all of the guards saying 10 that to you?</p> <p>11 A. No, because, as I say, that is a general experience 12 comment regarding many occasions about deportee 13 situations.</p> <p>14 Q. It was only in the subsequent notes that you wrote that 15 you then included a comment about the guard told me that 16 would happen?</p> <p>17 A. That's correct, and the reason for that is because, as 18 I said to you, I was tired. It was 2 o'clock in the 19 morning and I don't think you can reasonably expect me 20 to remember every detail before I have slept on it and 21 reflected on it some more.</p> <p>22 Q. Do you think what may in fact be the case is that your 23 own view, maybe that of Peter Walsham as well, as 24 expressed to Ann-Marie at the time, was the general view 25 of the crew and of yourself that from your experience</p> <p style="text-align: center;">Page 123</p>
<p>1 this point, so this is at the bottom of page 16 over to 2 page 17, we see you say you were contacting the gate 3 room to find out what is happening to the rest of the 4 boarding passengers. You were informed that the last 5 passengers had left. Then you say this: 6 "From previous experience with deportees who have 7 caused problems prior to departure I have found that 8 once the plane starts to move they quickly calm down and 9 resign themselves to the fact they're being deported."</p> <p>10 A. On the whole, yes.</p> <p>11 Q. Then you go on to say: 12 "I then made my way to the front of the 13 aircraft...", et cetera?</p> <p>14 A. That's correct.</p> <p>15 Q. There's no mention at the time that it was because of 16 something that the guard said to you that you had made 17 an assessment that this that would be all right and 18 deportees calm down as soon as they are airborne?</p> <p>19 A. Sorry, from this sentence are you saying no mention at 20 the time? It's more a general comment, rather than 21 a specific comment referring to any particular 22 occasion: from previous experience I have found.</p> <p>23 Q. Yes. What I am asking you really is this: this is, as 24 far as your involvement in this situation is concerned, 25 quite an important point, isn't it?</p> <p style="text-align: center;">Page 122</p>	<p>1 you thought we've seen all this before, it will calm 2 down once we're in the air?</p> <p>3 A. Absolutely not. I clearly categorically remember the 4 G4S gentleman saying to me, "Don't worry, as soon as the 5 aircraft pushes back or moves he will calm down".</p> <p>6 Q. At the start of your evidence to the learned coroner you 7 accepted that you -- your general responsibility for 8 keeping an eye on what's happening. The particular 9 sentence I wrote down was you said: 10 "If I saw something that was wrong I would be 11 expected to say something."</p> <p>12 A. That applies to a lot of people, yes. Yes, that's 13 correct.</p> <p>14 Q. Really what I'm getting to is this, that on the basis of 15 what you saw on 12 October on the plane, at that time, 16 you didn't see anything that concerned you, otherwise 17 you would have said something and done something about 18 it?</p> <p>19 A. No, that's not accurate because I say in my statement 20 that when Mr Mubenga said, "I can't breathe", I say that 21 I was concerned.</p> <p>22 Q. You say that in your notes subsequently?</p> <p>23 A. Right.</p> <p>24 MS HEWITT: But what I am asking you is about at the time -- 25 DEPUTY CORONER MS MONAGHAN: He did refer to not being able</p> <p style="text-align: center;">Page 124</p>

31 (Pages 121 to 124)

1 to breathe in his first statement, Ms Hewitt. It is on
 2 page 16. I was just checking my own copy, Mr Upton. He
 3 does say, to be fair, five lines up from the bottom or
 4 thereabouts.
 5 MS HEWITT: Yes:
 6 "I became concerned that the deportee could not
 7 breathe but not alarmed as the guards had the situation
 8 under control and the deportee did not appear overly
 9 stressed."
 10 **A. That's correct.**
 11 DEPUTY CORONER MS MONAGHAN: He said he was concerned and
 12 referred to the non-breathing.
 13 MS HEWITT: What I'm getting it and these aren't intended to
 14 be trick questions, is that you, as you said, moments
 15 after this went to see the captain, spoke to the captain
 16 about what was happening back in the plane?
 17 **A. Correct.**
 18 Q. If you had had a real concern about what you had seen or
 19 Mr Mubenga's welfare, that is something you would have
 20 conveyed to the captain?
 21 **A. I would have done, yes.**
 22 Q. So really I am coming back to what I put to you
 23 originally, that what you saw at the time did not cause
 24 you any great concern, did it?
 25 **A. Referring to the gentleman that said to me, "Don't**

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1 **worry, as soon as the aircraft pushes back it will be**
 2 **fine", that was part of my thinking when I spoke to the**
 3 **captain and said what I said to him.**
 4 Q. Because when we look then at the record, the notes that
 5 you made subsequently in your report -- sorry, before
 6 I do, you were asked a little bit earlier about the
 7 record you made at the time. In fact I don't think
 8 Mr Blaxland went back to it, but that document at
 9 page 53 of the red bundle.
 10 **A. The dispatcher's card -- the TRM's card, sorry?**
 11 DEPUTY CORONER MS MONAGHAN: It's the red bundle there.
 12 It's page 53.
 13 **A. I have it. Thank you.**
 14 MS HEWITT: This is a standard form document you're required
 15 to fill in in relation to every flight, I assume?
 16 **A. That's correct, yes.**
 17 Q. With a lot of technical entries, including timings and
 18 such like?
 19 **A. Yes.**
 20 Q. You have made, is this right, one entry relating to
 21 Mr Mubenga?
 22 **A. In the delay allocation box at the bottom, the**
 23 **handwritten scrawl?**
 24 Q. Yes. Is that your writing?
 25 **A. It is, yes.**

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1 Q. Can you read what you have put there?
 2 **A. I can.**
 3 Q. Could you tell the jury what you have put there.
 4 **A. "DEPU shouting and screaming. Moved six plus passengers**
 5 **M to W."**
 6 **That's economy to economy plus. W stands for**
 7 **economy plus.**
 8 **"Last minute due passenger anxious."**
 9 **CRC [refers to central load control, the department**
 10 **I explained, that sends the message finally to the**
 11 **captain] informed plus moved in DCS."**
 12 **DCS refers to departure control system. It's the**
 13 **whole departure operating system that we use.**
 14 Q. Can you remember now when you made that note, in other
 15 words at what stage during the course of events?
 16 **A. Yes, I can. That was after the aircraft had actually**
 17 **pushed back.**
 18 Q. So after what you had seen of the restraint?
 19 **A. Yes.**
 20 Q. After speaking to the captain you went back to the POD?
 21 **A. Yes, correct.**
 22 Q. And would have made it at that point?
 23 **A. Yes at some time between that time and when the aircraft**
 24 **returned, possibly, yes.**
 25 Q. Why were you making a note at all about this?

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1 **A. Because we keep a dispatcher's TRM card for every**
 2 **departure, or we should do, and it's a little**
 3 **explanation as to what had happened on board.**
 4 Q. Can I ask you that again and ask you to break that down
 5 a little bit because I didn't quite understand that
 6 answer.
 7 **A. Sorry.**
 8 Q. Why was it that you were making a note about the
 9 deportee?
 10 **A. Because there had been an incident on board and at that**
 11 **stage I naturally wanted to record a short, brief**
 12 **explanation about what had happened.**
 13 Q. Well, from what you have written, your short, brief
 14 explanation about what happened was simply DEPU, that
 15 would be the reference to the deportee?
 16 **A. Yes.**
 17 Q. Shouting and screaming?
 18 **A. Yes, that's correct.**
 19 Q. Then the consequences of that were that you moved six
 20 passengers?
 21 **A. That's correct.**
 22 Q. Is that a record of what happened?
 23 **A. Not exactly, no.**
 24 Q. So, again, can I suggest to you that if you had had
 25 a concern of any sort about what you had seen in the way

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<p>1 in which Mr Mubenga was being handled, you might have 2 noted it there?</p> <p>3 A. No, because this a very brief summary and it normally 4 relates to a delay reason which, as I explained earlier, 5 I did not have to allocate on this occasion because the 6 doors were closed by the required time that I have to 7 close them, i.e. minus six. It's normally minus three. 8 My responsibilities as far as reporting that incident 9 extended to actually writing a report in Dorking library 10 and then submitting it or trying to submit it to my 11 boss.</p> <p>12 Q. Why is it that all you say about the incident and 13 Mr Mubenga was that he was shouting and screaming?</p> <p>14 A. I don't understand the question then. What should 15 I have -- I won't ask, sorry. Would you have liked me 16 to put more down?</p> <p>17 DEPUTY CORONER MS MONAGHAN: I think Ms Hewitt is asking you 18 the question why didn't you put more down, I suppose, 19 putting it like that?</p> <p>20 A. Because I simply don't have the time. I work in 21 a highly pressurised environment and the area that 22 I actually have to record anything, as you can see from 23 this card which is from what I can tell a one-to-one 24 size copy, is not very much. So a considerable amount 25 of things that actually happened and it's just pointless</p> <p style="text-align: center;">Page 129</p>	<p>1 would that have led you to have submitted a report?</p> <p>2 A. Yes, it would.</p> <p>3 DEPUTY CORONER MS MONAGHAN: Would that have been a more 4 detailed account of what happened?</p> <p>5 A. Absolutely.</p> <p>6 DEPUTY CORONER MS MONAGHAN: I hadn't appreciated there was 7 that system. Thank you.</p> <p>8 MS HEWITT: If I can turn, with a few more questions, to the 9 report that you wrote subsequently and ask you these few 10 questions. Page 23 then of the bundle you have before 11 you. In the introduction, the third and fourth 12 paragraphs, you say this: 13 "The security firm G4S accompanying Mr Mubenga had 14 informed me that there had been neither problems nor 15 history of disruptive behaviour prior to being asked to 16 board the aircraft. They assured me that there would be 17 no incidents and I checked everything conformed to 18 BA requirements prior to the passenger boarding taking 19 place."</p> <p>20 A. That's correct.</p> <p>21 Q. I touched on this a bit earlier, but here now when 22 you're referring back to the conversation you're putting 23 the in slight more emphatic language, aren't you, that 24 you were given an assurance by them that there wouldn't 25 be any problem?</p> <p style="text-align: center;">Page 131</p>
<p>1 me trying to write it all down there because you can see 2 from my scrawl that no one would understand it anyway.</p> <p>3 MS HEWITT: It's not meant critically.</p> <p>4 A. No, I don't take it critically.</p> <p>5 Q. What I am suggesting to you is that at the time, as you 6 saw it at the time, this was something you had seen 7 before, a deportee who was shouting and screaming, you 8 had to move some passengers and that was really all you 9 thought necessary to note down?</p> <p>10 A. No, it's not the case at all. What I would have done, 11 had the subsequent events not happened, is raise the 12 more formal report after that flight had gone which is 13 part of my duty as a TRM.</p> <p>14 DEPUTY CORONER MS MONAGHAN: Would you have done that? 15 I hadn't appreciated there was that process.</p> <p>16 A. There is a process called a ground handling report which 17 is my main sort of format for submitting report. 18 It's under a system called E-basis where I submit it on 19 line, press enter and it goes to all the relevant 20 departments who would then subsequently deal with the 21 situations like Mr Mubenga and the sad things that 22 happened.</p> <p>23 DEPUTY CORONER MS MONAGHAN: So if Mr Mubenga had not died, 24 if the flight had gone as-planned but there had been 25 this commotion, as you are describing it at the moment,</p> <p style="text-align: center;">Page 130</p>	<p>1 A. I was seeking assurance because, as I said earlier 2 I noticed that they had three escorts which was unusual 3 and I made a mental note to make sure that I was 4 satisfied according to the Customer Service Manual and 5 my standard operating procedures that there would be no 6 chance of any problems prior to boarding.</p> <p>7 Q. The next paragraph, you go on to say, and I wanted to 8 ask you about this in particular: 9 "The worst case scenario in my mind would have been 10 an offload situation." 11 A. That's correct.</p> <p>12 Q. Do you mean by an offload situation you or the captain 13 having to ask the G4S guards to remove Mr Mubenga from 14 the plane?</p> <p>15 A. Or the police.</p> <p>16 Q. Or the police to remove him?</p> <p>17 A. That's correct.</p> <p>18 Q. Why was that the worst case scenario in your mind?</p> <p>19 A. With respect, I didn't think that someone was going to 20 die.</p> <p>21 Q. You're here writing your own report about what had 22 happen?</p> <p>23 A. Yes.</p> <p>24 Q. You write the sentence: 25 "The worst case scenario in my mind would have been</p> <p style="text-align: center;">Page 132</p>

1 an offload situation."
 2 **A. That's correct.**
 3 Q. A removal from the plane?
 4 **A. That's correct.**
 5 Q. Why was that in your mind then the worst case scenario?
 6 **A. Because my job is to try and consider all scenarios and**
 7 **to pre-empt problems and to make decisions to try and**
 8 **stop those problems occurring.**
 9 Q. Yes, but presumably in your job all sorts of events
 10 happen all the time, passengers becoming ill, any number
 11 of problems?
 12 **A. That's correct.**
 13 Q. You have to react to that?
 14 **A. Or pre-empt it.**
 15 Q. I am trying to understand, out of all the scenarios that
 16 one can imagine, why was the worst case scenario having
 17 to ask the G4S guards and Mr Mubenga to leave the plane?
 18 **A. With the help of the police, because that's what I've**
 19 **seen in the past. I have never seen a death involving**
 20 **a deportee or similar circumstances in my whole**
 21 **experience in British Airways.**
 22 DEPUTY CORONER MS MONAGHAN: I don't think that's quite the
 23 question Ms Hewitt is getting at, if I may.
 24 **A. Sorry.**
 25 DEPUTY CORONER MS MONAGHAN: Obviously when you were

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1 deciding what to do on that night you didn't anticipate
 2 that Mr Mubenga would die?
 3 **A. No, that's correct.**
 4 DEPUTY CORONER MS MONAGHAN: Everybody knows that.
 5 **A. That's correct.**
 6 DEPUTY CORONER MS MONAGHAN: But at the time, so before
 7 Mr Mubenga had tied, when you were thinking what to do
 8 at the time, that is when there had been the
 9 altercation, the commotion, you have told us in your
 10 statement that at that time, before you knew what
 11 actually happened, in your mind the worst case scenario
 12 was an offload?
 13 **A. That's correct.**
 14 DEPUTY CORONER MS MONAGHAN: Ms Hewitt is asking you --
 15 forget about what happened afterwards for the moment --
 16 at that time why was that the worst case scenario? What
 17 was it about an offload that made it the worst case
 18 scenario?
 19 **A. Because of the disruption it causes to British Airways,**
 20 **the service, importantly the passengers, to all the**
 21 **staff, including the deportee and G4S. It's not a nice**
 22 **situation to happen because it normally involves**
 23 **a degree of not violence but a degree of forced action.**
 24 **I've seen all sorts of examples of removal from**
 25 **aircraft, other occasions where deportees have taken**

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1 **their clothes off, kicked and screamed, masturbated in**
 2 **the lounge, all in order not to travel. And this was**
 3 **all running through my mind and at the time the worst**
 4 **case scenario, as I say, was an offload situation which**
 5 **was why I asked for the police to be in attendance when**
 6 **the aircraft returned.**
 7 MS HEWITT: I understand that. I'll come back to that. You
 8 say after that in your introduction to the notes and let
 9 me read it:
 10 "I could not believe the events as they unfolded in
 11 front of me."
 12 **A. That's correct.**
 13 Q. What was that a reference to?
 14 **A. The state of what was happening. Mr Mubenga, the call**
 15 **for help, all the emergency services being there, it was**
 16 **a natural reaction, especially when I was slightly**
 17 **tired, that these things were unfolding in front of me.**
 18 Q. That was the reference, if you like, to the eventual
 19 outcome of this incident?
 20 **A. That's correct.**
 21 Q. When you describe in your subsequent report what you saw
 22 of Mr Mubenga and the guards when you're walking down
 23 this top aisle on the plane, your words were slightly
 24 different to how they had been at the time.
 25 **A. Okay.**

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1 Q. I'm looking at page 24 --
 2 **A. What, in the subsequent --**
 3 Q. Yes, in your report.
 4 **A. Right.**
 5 Q. Not very different but just slightly and it's just that
 6 slight difference I do want to ask you about.
 7 **A. Okay.**
 8 Q. You say, and this is on page 24, the sixth main
 9 paragraph down, starting:
 10 "Mr Mubenga was in seat 39E..."
 11 **A. Sorry, yes, I have it.**
 12 Q. About halfway down.
 13 **A. Which we know was 40E, yes.**
 14 Q. Don't worry about that:
 15 "Mr Mubenga was in seat 39E with the security G4S
 16 agent sitting either side of him. They were restraining
 17 him by holding him from the sides."
 18 Then these words:
 19 "And leaning or pushing him slightly forward."
 20 **A. Yes.**
 21 Q. Now, the "leaning slightly forward" is the same as what
 22 you said at the time?
 23 **A. Yes.**
 24 Q. But the words "or pushing" appear for the first time in
 25 the report?

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1 **A. That's correct.**
2 Q. Is that right?
3 **A. Yes.**
4 Q. Why was the "or pushing" not mentioned at the time?
5 **A. Because, as I explained, it was 2 o'clock in the morning**
6 **ultimately and I couldn't recall all the detail at the**
7 **time, sitting 1K, after having witnessed and also dealt**
8 **with the flight and been on duty since 2 o'clock.**
9 Q. That's a detail that came to you later, is it?
10 **A. It is, indeed yes.**
11 Q. Did you, if not on the night itself but in the days that
12 followed, discuss what had happened with anyone else?
13 I think you mentioned your wife and family?
14 **A. My wife wasn't there immediately.**
15 Q. No, but at some stage?
16 **A. Yes.**
17 Q. Anyone else who had been present, any other member of
18 the crew?
19 **A. I didn't see the crew, other than as they were making me**
20 **a cup of tea as they were going to their hotel on that**
21 **evening.**
22 Q. Were you on duty the next day?
23 **A. I was, but I went home early because I didn't feel very**
24 **well.**
25 Q. What about after that?

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1 **A. I went in the following morning and then I spoke to the**
2 **British Airways confidential helpline because I still**
3 **didn't feel very well. Then I was on my rest days?**
4 DEPUTY CORONER MS MONAGHAN: Did you have some time off,
5 Mr Upton?
6 **A. Not immediately, but because it affected me I went and**
7 **saw my doctor and I did have some absence from work,**
8 **yes.**
9 DEPUTY CORONER MS MONAGHAN: I think the point Ms Hewitt was
10 asking you about was did you discuss this, the events,
11 with any of the other crew members that were there on
12 that night?
13 **A. I did go out the following evening to see that flight,**
14 **because it was operating that evening, out of curiosity.**
15 **I might have exchanged one or two words with some of the**
16 **crew, I cannot recall them, but I do remember that the**
17 **police were there in numbers interviewing as many people**
18 **as they could or getting details from them.**
19 DEPUTY CORONER MS MONAGHAN: I suspect what Ms Hewitt might
20 be getting at is: do you think you were affected in
21 making your report by anything you heard other crew
22 members say about it?
23 **A. No, I was not.**
24 MS HEWITT: You made the point later in your report about
25 your calling the police?

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1 **A. That's correct.**
2 Q. When you learned that paramedics were being called and
3 that there was a problem of some sort, you decided to
4 say to your centre: could you arrange for the police to
5 come as well?
6 **A. That's correct.**
7 Q. You have said this already. Your reasoning was that you
8 were concerned that Mr Mubenga may be faking or feigning
9 an illness and that there would be difficulty when he
10 had to be removed from the plane?
11 **A. No, I also say I did not want him running -- I believe**
12 **it's words to the effect of running around or running**
13 **amok in the terminal.**
14 Q. Yes. The only reason I am clarifying that with you is
15 for this -- again, not critical, that is something that
16 came from you. It wasn't the G4S guards asking for the
17 police?
18 **A. I think to be fair there is a procedure where whenever**
19 **any emergency call is made there might be a procedure**
20 **with the Airport Authority where the other services are**
21 **called as a matter of course because the fire brigade**
22 **turned up on the aircraft as well as the police. I'm**
23 **not party to that decision-making, but I did**
24 **specifically ask for the police to come because of my**
25 **concerns as we we've just discussed. I wasn't aware**

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1 **there was any call from G4S because I didn't talk to**
2 **them about that subject.**
3 Q. Just two final points then and, again, they're from your
4 report. If you have a look at page 26, page 4 of your
5 report, towards the bottom, you're describing here when
6 you yourself went back on the plane after you had been
7 told that it wasn't leaving and there was an emergency.
8 **A. Sorry, page 24?**
9 Q. Page 26.
10 **A. Yes.**
11 Q. You're describing what you saw when you went to or
12 looked towards the rear of the plane, Mr Mubenga
13 receiving first aid from the paramedics by this point?
14 **A. Yes.**
15 Q. Two things. First of all, you record that the G4S
16 officers were standing in the A/B/C aisle, as you put
17 it, the lower of the two aisles?
18 **A. That's correct.**
19 Q. Your view was that they looked, the words you used,
20 shocked and subdued?
21 **A. Yes.**
22 Q. Is that right? The second thing was that -- you have
23 mentioned this earlier and I wanted to ask you a little
24 bit more about it. You say:
25 "In relation to Mr Mubenga I noticed that there was

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<p>1 something unusual about the belt around Mr Mubenga's 2 waist. It was very tight." 3 A. That's correct. 4 Q. Do you mean a belt on his trousers? 5 A. That's correct. 6 Q. What could you see that gave you the impression that it 7 was very tight? 8 A. Well, you know, if you wear a belt that's too tight, the 9 clothing and possibly flesh tends to slightly come round 10 the belt. I noticed that was the case. I thought to 11 myself at the time that belt looks very tight and then 12 I moved on from there. And I did in fact mention that 13 on the evening when I was giving evidence in seat 1K to 14 the policeman but I know it does not appear in my first 15 statement. 16 Q. But you remember that? 17 A. I do specifically remember that. 18 Q. The absolutely final point. Over the page, page 27, 19 toward the bottom. I just wanted to ask you about this. 20 You say, towards the bottom, that about 2 o'clock in the 21 morning you spoke to the captain and the crew and 22 queried whether the press office had been informed 23 because you say, "I recognised the implications of the 24 incident". 25 A. That's correct.</p> <p style="text-align: center;">Page 141</p>	<p>1 like to deal with and then we'll have the jury back in 2 and I hope the last questions. 3 (The witness withdrew) 4 (In the absence of the jury)</p>
<p>1 Q. Was that a conversation with the captain and all members 2 of the crew altogether at that time, 2 o'clock in the 3 morning? 4 A. I can't remember if it was all the crew but I certainly 5 remember talking to the captain about it. 6 Q. What were your concerns about implications of the 7 incident? 8 A. I deal with all sorts of problems, as I explained 9 before. One recently was a fuel leak. It is a natural 10 thought of mine to try and, if you like, protect the 11 company so that the various departments know that there 12 has been an incident that's occurred so they're 13 forewarned, not necessarily on the defensive-type basis 14 but just so my responsibilities as the first reporter 15 are covered and that no one can come back to me and say, 16 "Why didn't you tell us?" 17 MS HEWITT: Thank you very much. Thank you, Mr Upton. 18 DEPUTY CORONER MS MONAGHAN: Thank you. You'll have some 19 more questions. We're going to take our afternoon break 20 now, members of the jury. Mr Upton, as before, you're 21 still giving evidence. I hope this will be the last 22 chunk and the last time I'll have to give you this 23 warning, but you are still giving evidence so please 24 don't discuss the case with anybody. If you just pop 25 outside, there's just a few bits of housekeeping I would</p> <p style="text-align: center;">Page 142</p>	

<p>21 (In the presence of the jury)</p> <p>22 DEPUTY CORONER MS MONAGHAN: Thank you. Who would like to</p> <p>23 ask questions next?</p> <p>24 MR MATTHEWSON: I have no questions.</p>	<p>1 MR SANDERS: No, thank you, madam.</p> <p>2 MS BALLARD: No, thank you, madam.</p> <p>3 Examined by MR ANTROBUS</p> <p>4 MR ANTROBUS: Just a few questions, Mr Upton. When</p> <p>5 a deportee comes on to the plane escorted by security</p> <p>6 guards, as here, that individual is under the custody</p> <p>7 and control of those guards, isn't he?</p> <p>8 A. Yes, that's correct.</p> <p>9 Q. So the guards have the immediate care and conduct of</p> <p>10 that individual?</p> <p>11 A. That's correct, yes.</p> <p>12 Q. On this occasion there were two separate instances where</p> <p>13 you saw Mr Mubenga with those guards, actually on the</p> <p>14 plane, and you describe the first one being a shorter</p> <p>15 view, walking up the aisle, and then the second, the</p> <p>16 longer, 10 minutes or, so from the galley?</p> <p>17 A. That's correct, yes.</p> <p>18 Q. In relation to both of those occasions, you're a turn</p> <p>19 round manager. You have no prior experience, I presume,</p> <p>20 in escorting individuals under deportation orders or</p> <p>21 otherwise?</p> <p>22 A. In the sense that I don't personally escort deportees,</p> <p>23 no, but I have seen plenty of occasions where deportees</p> <p>24 are escorted onto an aircraft.</p> <p>25 Q. By others?</p> <p style="text-align: right;">Page 147</p>
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	<p>1 A. By others.</p> <p>2 Q. You gave your opinion, in terms of the assessments that</p> <p>3 you carried out, that it was very much a lay opinion is</p> <p>4 how you described it in evidence today. It's what</p> <p>5 you're observing just based on your own experience?</p> <p>6 A. That's correct, and whatever is said to me. Obviously</p> <p>7 I use that too --</p> <p>8 MR ANTROBUS: In terms of an assessment that is being</p> <p>9 carried out or a medical situation that applies on</p> <p>10 a flight, you have been trained in terms of</p> <p>11 British Airways first aid procedure?</p> <p>12 DEPUTY CORONER MS MONAGHAN: I think he said he underwent</p> <p>13 a four-day St John's ambulance course?</p> <p>14 A. I did.</p> <p>15 DEPUTY CORONER MS MONAGHAN: That me very well be identical</p> <p>16 to the BA one, I don't know, but we haven't worked that</p> <p>17 at yet. Did BA arrange it or did you do it through your</p> <p>18 own --</p> <p>19 A. It was through BA, originally through</p> <p>20 St John's Ambulance and I think later it was harnessed</p> <p>21 by British Airways and done at their training centre.</p> <p>22 MR ANTROBUS: But in terms of the second assessment, the</p> <p>23 longer period of time in which you saw Mr Mubenga and</p> <p>24 the guards, on that occasion you heard him shouting and,</p> <p>25 as you described, wailing?</p> <p style="text-align: right;">Page 148</p>
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<p>1 A. That's correct.</p> <p>2 Q. You were then carrying out on that occasion a remote</p> <p>3 assessment from your own observations, is that fair to</p> <p>4 say?</p> <p>5 A. Remote in terms of what, sir, sorry?</p> <p>6 Q. Remote in the sense that the guards were initially</p> <p>7 there, they were the ones who were primarily assessing</p> <p>8 Mr Mubenga and you were stood back observing what was</p> <p>9 happening?</p> <p>10 A. That's correct, yes.</p> <p>11 Q. When you carried out that assessment, you were listening</p> <p>12 carefully to what he was saying and what he was doing</p> <p>13 because you heard, as you describe, the words, "I can't</p> <p>14 breathe. I can't breathe".</p> <p>15 A. That's correct.</p> <p>16 Q. What you describe and the evidence you have given and</p> <p>17 also in your statements is that you didn't hear when he</p> <p>18 was making -- when he was saying those things that he</p> <p>19 was rasping or he was gasping for breath?</p> <p>20 A. That's correct.</p> <p>21 Q. Is that right?</p> <p>22 A. Yes.</p> <p>23 Q. Did this shouting and wailing continue for the entirety</p> <p>24 of those ten minutes?</p> <p>25 A. No, I said in my statement at times he would be quiet.</p> <p style="text-align: center;">Page 149</p>	<p>1 A. That's correct.</p> <p>2 Q. You have been referred to your statement, your original</p> <p>3 statement taken that night, but in terms of the report</p> <p>4 that you had typed-up or that you typed-up yourself,</p> <p>5 that was a document that was done only a matter of days</p> <p>6 afterwards. It was 20 October, is that right?</p> <p>7 A. That's when it was formalised but notes were taken</p> <p>8 before that.</p> <p>9 DEPUTY CORONER MS MONAGHAN: I think you say the notes were</p> <p>10 taken --</p> <p>11 A. Over the weekend.</p> <p>12 MR ANTROBUS: We don't have the notes before us but in terms</p> <p>13 of the report that you produced, could I just refer you</p> <p>14 to it very briefly. It's at page 25 in that bundle</p> <p>15 that's before you. Do you see the top paragraph</p> <p>16 starting:</p> <p>17 "... cannot recall ..."</p> <p>18 A. Yes, I do, sir.</p> <p>19 Q. Could you read out the final sentence, please.</p> <p>20 A. "The escorts seemed to have the situation under control</p> <p>21 and one of them, I think it was the third escort, stated</p> <p>22 that he would be fine as soon as he felt the aircraft</p> <p>23 starting to push back."</p> <p>24 Q. So this report, whenever the notes were compiled upon</p> <p>25 which it was based, a matter of days after this</p> <p style="text-align: center;">Page 151</p>
<p>1 Q. But start up again?</p> <p>2 A. Yes.</p> <p>3 Q. So it was intermittent over that period?</p> <p>4 A. That's correct.</p> <p>5 Q. Throughout that period the way in which he was sounding</p> <p>6 or the voice was sounding, the rasping, the absence of</p> <p>7 rasping or gasping, that didn't change throughout that</p> <p>8 period of time?</p> <p>9 A. No.</p> <p>10 Q. You said that the primary factor when it came to</p> <p>11 assessing the situation and whether it was a situation</p> <p>12 that required an offload or not was what was said to you</p> <p>13 by the guard in question, the third guard that you</p> <p>14 describe?</p> <p>15 A. It was a considerable factor for me, yes.</p> <p>16 Q. That's because, is it not, Mr Mubenga was under that</p> <p>17 guard and the other two guards' direct custody and</p> <p>18 control?</p> <p>19 A. And had been since he came on the aircraft, yes, sir.</p> <p>20 Q. They were the best people able to assess the situation</p> <p>21 and whether they still had control of the situation?</p> <p>22 A. That's correct, sir. I've had no training other than</p> <p>23 that.</p> <p>24 Q. What they were saying to you was that they were in</p> <p>25 control of the situation?</p> <p style="text-align: center;">Page 150</p>	<p>1 incident, you were recording quite clearly there what</p> <p>2 you had been told by this, the third escort, as you</p> <p>3 described?</p> <p>4 A. That's correct.</p> <p>5 Q. That was vivid in your recollection at that time?</p> <p>6 A. It was.</p> <p>7 Q. It also accorded with your on observations, in the sense</p> <p>8 that you describe in your statements -- I needn't take</p> <p>9 you to it, but you described the guards having the</p> <p>10 situation under control. So as you were observing, is</p> <p>11 that right?</p> <p>12 A. Yes.</p> <p>13 Q. Because you mention on numerous occasions that you</p> <p>14 perceived, from the time that you were looking, the</p> <p>15 guards to have control over what was going on, is</p> <p>16 that --</p> <p>17 A. I think I said it three times in my initial statement</p> <p>18 taken on the night.</p> <p>19 Q. If you had observed that the guards had lost control or</p> <p>20 there was something that contradicted that which you had</p> <p>21 been told by this third escort, would you have acted</p> <p>22 differently?</p> <p>23 A. I would have called the police.</p> <p>24 Q. When you described or passed on this information,</p> <p>25 relayed this information to the captain, did you make it</p> <p style="text-align: center;">Page 152</p>

1 clear to him your belief that the guards had the matter
2 under control?
3 **A. I did.**
4 Q. Was that a conversation that was held at which
5 Mr Walsham was also present?
6 **A. I believe at some stage he was, but not when I was in**
7 **the flight deck talking to the flight crew.**
8 Q. So that was a separate occasion. He wasn't there when
9 you were speaking to the captain?
10 **A. From what I can recall, that's correct.**
11 Q. Can I just ask you, an issue was raised or a question
12 was raised about financial penalties on delayed flights.
13 When you were assessing the situation and when you were
14 reporting your observations to the captain, did the
15 concept of a financial penalty have any impact or
16 bearing on the information you were relaying?
17 **A. Not at all.**
18 Q. Did it have any impact on the decision that was made to
19 the best of your knowledge?
20 **A. No.**
21 Q. What was the primary factor that was influencing this
22 situation so far as you were concerned?
23 **A. Whether the aircraft would push back as it was or not.**
24 Q. What was the primary factor influencing whether the
25 deportee, Mr Mubenga, could stay on the flight or not?

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1 **A. Sorry, can you say that again?**
2 Q. What was the primary factor in your mind as to whether
3 Mr Mubenga could stay on the flight or not in light of
4 the situation?
5 **A. One whether G4S had it under control and, two, if the**
6 **captain was happy with that.**
7 Q. Was the answer yes to both of those?
8 **A. Yes, it was.**
9 MR ANTROBUS: Thank you. No further questions.
10 DEPUTY CORONER MS MONAGHAN: Thank you very much,
11 Mr Antrobus. Presumably this witness can be released.
12 Thank you very much, Mr Upton. That's your evidence
13 concluded. You're now free to leave or to stay as you
14 choose.
15 **A. May I stay for a minute?**
16 DEPUTY CORONER MS MONAGHAN: Certainly. Please do. Take
17 a seat and you're welcome to stay for as long as you
18 like.
19 **A. Thank you very much.**
20 **(The witness withdrew)**
21 DEPUTY CORONER MS MONAGHAN: We're okay now, are we, to call
22 Mr Fenech-Soler?
23 MR MICHAEL FENECH-SOLER (sworn)
24 Examined by THE CORONER
25 DEPUTY CORONER MS MONAGHAN: Can you give us your full name,

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1 please?
2 **A. Michael Joseph Fenech-Soler.**
3 DEPUTY CORONER MS MONAGHAN: It is pronounced Fenech-Soler.
4 I was hoping I'd got it right.
5 **A. Yeah, you did.**
6 DEPUTY CORONER MS MONAGHAN: Before we get down to the
7 events of 12 October, can you tell us, please, what were
8 you employed as at that time?
9 **A. Captain.**
10 DEPUTY CORONER MS MONAGHAN: That's a pilot role?
11 **A. Yes.**
12 DEPUTY CORONER MS MONAGHAN: How long had you had that role
13 for?
14 **A. As a captain?**
15 DEPUTY CORONER MS MONAGHAN: Yes.
16 **A. Six and a half years.**
17 DEPUTY CORONER MS MONAGHAN: All with BA?
18 **A. Yes.**
19 DEPUTY CORONER MS MONAGHAN: Before that?
20 **A. I was a co-pilot with British Airways for 16 years.**
21 DEPUTY CORONER MS MONAGHAN: So you've been at
22 British Airways for how long?
23 **A. At that particular moment 21 years.**
24 DEPUTY CORONER MS MONAGHAN: Apart from flying a plane or
25 supervising the flying of the plane, as a captain what

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1 were your responsibilities?
2 **A. Well, the safety of everybody on the aircraft, everybody**
3 **on it, contents, and the proper running of the**
4 **operation.**
5 DEPUTY CORONER MS MONAGHAN: In terms of the safety of the
6 aeroplane and everybody on it, is that every passenger
7 on it?
8 **A. Yes.**
9 DEPUTY CORONER MS MONAGHAN: Including deportees?
10 **A. Yes.**
11 DEPUTY CORONER MS MONAGHAN: Are you ultimately responsible
12 for the safety of a deportee on your plane?
13 **A. Yes, I guess I am.**
14 DEPUTY CORONER MS MONAGHAN: Whether or not they're
15 escorted?
16 **A. Well, if they're escorted, then we would accept the**
17 **control of the people that were with him.**
18 DEPUTY CORONER MS MONAGHAN: When you say you would accept
19 the control, what I'm looking at at the moment is you
20 have said that you have responsibility for the safety of
21 all your passengers. The fact that a deportee may be
22 escorted, presumably that doesn't mean that that
23 responsibility is delegated to the escorts, does it?
24 **A. Well, a certain amount is. I have to -- because I'm not**
25 **physically there with every single passenger, holding**

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1 **their hand, I do have to rely on reports that I receive.**

2 DEPUTY CORONER MS MONAGHAN: Right. Did you receive or do

3 you conventionally receive reports from escorts?

4 **A. I met the escorts when we arrived at the gate.**

5 DEPUTY CORONER MS MONAGHAN: Then we'll come to that in one

6 moment. Just looking then at the procedures manual.

7 Can this witness please be given volume 1 green. We

8 have looked at this. Have you been here all day,

9 Mr Fenech-Soler?

10 **A. (The witness nodded).**

11 DEPUTY CORONER MS MONAGHAN: Then you'll be up to speed. We

12 have looked at this already. If you turn to page 3,

13 this is the Joint Procedures Manual as it addresses

14 deportees.

15 **A. Hmm, hmm.**

16 DEPUTY CORONER MS MONAGHAN: Was this manual something you

17 worked to or did you have a separate set of operating

18 procedures?

19 **A. No, no, I worked to this.**

20 DEPUTY CORONER MS MONAGHAN: You worked to this. This tells

21 us about the different categories of deportees.

22 **A. Hmm, hmm.**

23 DEPUTY CORONER MS MONAGHAN: The ones we're concerned with

24 here of course escorted deportees. It says, at

25 paragraph 3 under there:

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1 "If escorts are deemed necessary a minimum of two

2 will be required."

3 Was it your experience that two escorts commonly

4 escorted a deportee or three, or one, or can you give us

5 an idea of the range?

6 **A. I have never seen a deportee escorted by one. Most of**

7 **the deportees I see are unescorted. It's not unusual to**

8 **see escorted ones but usually there's two escorts with**

9 **them. I don't often see three.**

10 DEPUTY CORONER MS MONAGHAN: So usually two, sometimes

11 three?

12 **A. Sometimes three.**

13 DEPUTY CORONER MS MONAGHAN: In relation to escorts

14 restraint, if you could just turn up, please, page 4.

15 We see there at the bottom paragraph, just before the

16 (a), (b), do you see that?

17 **A. Yeah.**

18 DEPUTY CORONER MS MONAGHAN: "Where a deportee is under

19 restraint, the rules relating to prisoners apply."

20 **A. Hmm, hmm.**

21 DEPUTY CORONER MS MONAGHAN: Are you able to tell us -- we

22 see the prisoners rules at page 1.

23 **A. Yes.**

24 DEPUTY CORONER MS MONAGHAN: I'm not quite clear what

25 bearing they have on the restrained deportees, but can

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1 you help us with that?

2 **A. Right, which particular bit of it are we talking about?**

3 **All of it?**

4 DEPUTY CORONER MS MONAGHAN: I am looking at page 4. If the

5 deportee --

6 **A. I am looking at page 1.**

7 DEPUTY CORONER MS MONAGHAN: If the deportee is under

8 restraint, then the rules relating to prisoners apply.

9 The only reference to prisoners that I can see, and I'll

10 be corrected if I'm looking at wrong thing, is at

11 page 1. I'm not entirely clear how this would affect

12 a deportee under restraint.

13 **A. Well, I'm not quite sure what the difference between him**

14 **being restraint or not because most of these apply**

15 **whether they're under restraint or not.**

16 DEPUTY CORONER MS MONAGHAN: I suppose, for example, (i):

17 "Prisoners should be boarded first and disembarked

18 last."

19 That would be something that would apply to

20 an escorted deportee?

21 **A. Yes.**

22 DEPUTY CORONER MS MONAGHAN: (j):

23 "Prisoners should be seated off the aisle near

24 a toilet and if handcuffed away from emergency exits."

25 **A. Mmm.**

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1 DEPUTY CORONER MS MONAGHAN: Is that something that would

2 apply to a deportee as well?

3 **A. Yes.**

4 DEPUTY CORONER MS MONAGHAN: Are you able to tell us why

5 they should be seated off the aisle near a toilet?

6 **A. I suppose so that they don't interfere with the crew,**

7 **I guess.**

8 DEPUTY CORONER MS MONAGHAN: You don't know?

9 **A. No.**

10 DEPUTY CORONER MS MONAGHAN: Had you had training on this?

11 **A. No.**

12 DEPUTY CORONER MS MONAGHAN: These manuals?

13 **A. No, we read them. We get given them.**

14 DEPUTY CORONER MS MONAGHAN: Do you have training on them?

15 **A. Yeah, most of it, but not this particular bit. It's**

16 **rather general.**

17 DEPUTY CORONER MS MONAGHAN: Before I go on, just so that

18 I am not barking up the wrong tree, you have these

19 procedures as a pilot and captain?

20 **A. Yes.**

21 DEPUTY CORONER MS MONAGHAN: They're provided to you, are

22 they, at the outset of your roles when you take up your

23 job?

24 **A. Yes. When we first join British Airways, yeah.**

25 DEPUTY CORONER MS MONAGHAN: Are they updated periodically?

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1 **A. Yes.**
2 DEPUTY CORONER MS MONAGHAN: And you're sent updates and
3 notified of them?
4 **A. Yeah.**
5 DEPUTY CORONER MS MONAGHAN: Do you read them?
6 **A. Yes.**
7 DEPUTY CORONER MS MONAGHAN: You are familiar with the
8 manual?
9 **A. Reasonably.**
10 DEPUTY CORONER MS MONAGHAN: Do they give you training -- do
11 BA give you training or is it just something you
12 self-learn?
13 **A. Self-learn and when you get the command obviously they**
14 **ask you lots of questions about the procedures and where**
15 **you might find stuff. And also we have an annual**
16 **technical quiz which asks -- it goes through every**
17 **single manual, various questions, and it's a requirement**
18 **by the CAA to answer -- you have to achieve a certain**
19 **pass mark.**
20 DEPUTY CORONER MS MONAGHAN: In relation to prisoners or
21 deportees, particularly those under restraint, you have
22 ultimate decision-making authority insofar as offloading
23 them is concerned?
24 **A. Yes, correct.**
25 DEPUTY CORONER MS MONAGHAN: Are you able to tell us the

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1 circumstances in which you would offload a deportee in
2 this case?
3 **A. Well, if he was going to prove a danger to the crew,**
4 **passengers and the aircraft. That would be the overall**
5 **concern.**
6 DEPUTY CORONER MS MONAGHAN: Are there any fixed criteria
7 against which you measure your decision or is that just
8 the broad test?
9 **A. Well, I would rely on my cabin service director as to**
10 **how he feels keeping them on board would affect the**
11 **service. He's the man direct -- I'm upfront, locked**
12 **away to a large extent. So if he was to say to me, "I'm**
13 **not happy to take him for these reasons", I would**
14 **support him.**
15 DEPUTY CORONER MS MONAGHAN: Right. I'll come back to that,
16 but, first of all, you have told us that you would
17 offload where you considered that he might prove
18 a danger overall to crew or passengers. I was asking
19 you the question: are there any fixed criteria against
20 which you measure that judgment?
21 **A. I guess if he attacked a passenger or a member of the**
22 **crew.**
23 DEPUTY CORONER MS MONAGHAN: So it's just a broad
24 over-arching test and you exercise judgment based on
25 what you're told by your crew?

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1 **A. Exactly, correct.**
2 DEPUTY CORONER MS MONAGHAN: Have you had to offload
3 detainees in the past?
4 **A. Not detainees, no.**
5 DEPUTY CORONER MS MONAGHAN: Prisoners?
6 **A. No.**
7 DEPUTY CORONER MS MONAGHAN: Who have you -- I take it that
8 you have had to offload somebody?
9 **A. Recalcitrant passengers who kick off on some reason or**
10 **another and become very unreasonable, and also we can**
11 **refuse people who are obviously inebriated.**
12 DEPUTY CORONER MS MONAGHAN: So in your many years --
13 21 years or thereabouts -- by the time of this incident,
14 you have never had cause to offload a deportee?
15 **A. No.**
16 DEPUTY CORONER MS MONAGHAN: We have heard evidence that
17 deportees could often be very disruptive?
18 **A. Correct.**
19 DEPUTY CORONER MS MONAGHAN: You have heard the evidence,
20 some remarkably imaginative things done by deportees
21 sometimes.
22 **A. Hmm, hmm.**
23 DEPUTY CORONER MS MONAGHAN: But notwithstanding that, you
24 have never had cause to offload?
25 **A. No.**

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1 DEPUTY CORONER MS MONAGHAN: Have you experienced seriously
2 disruptive deportees?
3 **A. I would say that Mr Mubenga was probably the most**
4 **disruptive.**
5 DEPUTY CORONER MS MONAGHAN: Really? Okay. So compared to
6 what Mr Upton described, you have had --
7 **A. I've not had that. I've had people complaining and**
8 **shouting and yelling, trying to get up, but that's the**
9 **extent of it.**
10 DEPUTY CORONER MS MONAGHAN: Have you had deportees that
11 have had to be restrained?
12 **A. No.**
13 DEPUTY CORONER MS MONAGHAN: Not in --
14 **A. Not --**
15 DEPUTY CORONER MS MONAGHAN: Not in 21 years?
16 **A. They might have been pulled back into their seat but not**
17 **to what happened to Mr Mubenga. They're normally**
18 **reasonably acquiescent once a certain amount of**
19 **restraint is used.**
20 DEPUTY CORONER MS MONAGHAN: Have you had deportees in your
21 craft that have been restrained before take-off so far
22 as you know?
23 **A. Yes.**
24 DEPUTY CORONER MS MONAGHAN: Have you witnessed that
25 restraint or is that something you have just learnt from

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1 your crew?

2 **A. That's what my crew have told me.**

3 DEPUTY CORONER MS MONAGHAN: You have never been given any

4 indication from them that there's a need to offload?

5 **A. No.**

6 DEPUTY CORONER MS MONAGHAN: Is there a pressure on you as

7 captain, and perhaps the rest of the crew, to avoid

8 an offload?

9 **A. Not at all.**

10 DEPUTY CORONER MS MONAGHAN: We have heard about financial

11 penalties. Would that be something in your mind?

12 **A. As far as I'm concerned, a 15-minute delay to offload**

13 **someone wouldn't incur much of a financial penalty.**

14 DEPUTY CORONER MS MONAGHAN: Just looking at, please, the

15 rules on restraint so far as applicable to crew, because

16 I want to draw out a couple of points. The same bundle,

17 if you could turn to page 5.

18 **A. Yeah.**

19 DEPUTY CORONER MS MONAGHAN: I know we're in different

20 territory here. We're in the territory of an ordinary

21 passenger generally.

22 **A. Hmm, hmm.**

23 DEPUTY CORONER MS MONAGHAN: Who misbehaves and you're

24 30,000 feet up in the air or whatever it is and you need

25 to restrain them for the safety of other passengers and

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1 crew and the flights. Ultimately you have

2 responsibility for deciding whether restraint should

3 take place?

4 **A. Exactly.**

5 DEPUTY CORONER MS MONAGHAN: Have you ever had to direct

6 that a passenger be restrained?

7 **A. No.**

8 DEPUTY CORONER MS MONAGHAN: Are you familiar with the rules

9 in relation to restraint, what methods might be used and

10 so on?

11 **A. Yes.**

12 DEPUTY CORONER MS MONAGHAN: Can you turn to page 9. If you

13 need to locate yourself, do flick back. The top of the

14 page concerns handcuffing.

15 **A. Yep.**

16 DEPUTY CORONER MS MONAGHAN: And they're quick cuffs.

17 **A. Hmm, hmm.**

18 DEPUTY CORONER MS MONAGHAN: What are they made of?

19 **A. Plastic.**

20 DEPUTY CORONER MS MONAGHAN: So they can be cut very quickly

21 in the event of needing a release?

22 **A. Yes.**

23 DEPUTY CORONER MS MONAGHAN: For example, if there was

24 an emergency on the plane, so as to permit the detained

25 person to get off?

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1 **A. Exactly.**

2 DEPUTY CORONER MS MONAGHAN: The note at the top of the

3 page, page 9, there's a note, do you see that?

4 **A. Yeah.**

5 DEPUTY CORONER MS MONAGHAN: "Cuffs must not be applied with

6 the subject's hands behind their back."

7 **A. Yeah.**

8 DEPUTY CORONER MS MONAGHAN: Do you know why that is?

9 **A. I'm guessing it must apply to what's happened to**

10 **Mr Mubenga.**

11 DEPUTY CORONER MS MONAGHAN: Let's just take a step back.

12 Do you know why the procedures manual directs you or

13 your staff, your crew, not to apply handcuffs behind

14 a person's back?

15 **A. Not specifically.**

16 DEPUTY CORONER MS MONAGHAN: You didn't know at the time?

17 **A. I don't know why that particular rule is there. I just**

18 **know it's there.**

19 DEPUTY CORONER MS MONAGHAN: Fine. Have you been given any

20 guidance about that since Mr Mubenga died?

21 **A. No.**

22 DEPUTY CORONER MS MONAGHAN: Just so we're clear, again it

23 may have no relevance to this but I just want to know

24 because there may be some lessons learned issues. In

25 terms of the strapping procedure, there's something

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1 called a passenger strapping procedure which means that:

2 "Passengers must be handcuffed in the front stack

3 [that is not behind their back] and strapped into

4 a passenger seat with their limbs in alignment."

5 What does that mean?

6 **A. I'm assuming so they're sort of sitting down normally.**

7 DEPUTY CORONER MS MONAGHAN: Sitting down, straight up, with

8 their legs in a normal position, is that right?

9 **A. Yes.**

10 DEPUTY CORONER MS MONAGHAN: "Maintain control of the

11 handcuffs until secure and then tie the two-inch body

12 strap with a single knot around the handcuffed handle."

13 Can you tell us what the body strap is?

14 **A. No, I can't.**

15 DEPUTY CORONER MS MONAGHAN: Thank you. Just leaving that

16 aside then -- well, in fact, we don't need to leave it

17 aside because I think this did apply to you. At

18 page 11, we have a first aid handbook.

19 **A. Hmm, hmm.**

20 DEPUTY CORONER MS MONAGHAN: This is part of the Joint

21 Procedures Manual.

22 **A. Correct.**

23 DEPUTY CORONER MS MONAGHAN: That you have told us you were

24 subject to, for want of a better expression.

25 **A. Yes.**

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<p>1 DEPUTY CORONER MS MONAGHAN: This is the section that deals 2 with first aid. Did you have first aid training? 3 A. Me personally? 4 DEPUTY CORONER MS MONAGHAN: Yes. 5 A. A long time ago, yes. 6 DEPUTY CORONER MS MONAGHAN: Did you have any refresher 7 training during the course of your -- 8 A. We did, but I believe they stopped giving to it pilots 9 some years back. 10 DEPUTY CORONER MS MONAGHAN: When was the last time you had 11 first aid training, are you able to give us a clue? 12 A. A good question. Ten years ago. 13 DEPUTY CORONER MS MONAGHAN: Were you expected to be 14 familiar with the contents of the Joint Procedures 15 Manual insofar as it addressed first aid? 16 A. Yeah, we get an annual test on it. 17 DEPUTY CORONER MS MONAGHAN: You get an annual test on the 18 first aid? 19 A. Well, on lots of other things and that's just one part 20 of it. 21 DEPUTY CORONER MS MONAGHAN: This is described as a quick 22 guide to assist when managing an onboard medical 23 incident? 24 A. Yeah. 25 DEPUTY CORONER MS MONAGHAN: It is said to complement your</p> <p style="text-align: center;">Page 169</p>	<p>1 under, "Remember", you see the dotted box, the last 2 bullet point: 3 "With any onboard medical incident you always start 4 the primary survey. If you find the casualty to be 5 conscious or unconscious but breathing normally, then 6 you start your secondary survey." 7 A. Yes. 8 DEPUTY CORONER MS MONAGHAN: So the state of consciousness 9 and the breathing status of a casualty are both 10 important matters so far as moving on to the next step 11 are concerned? 12 A. Correct. 13 DEPUTY CORONER MS MONAGHAN: If you can then turn, please, 14 to page 17. This is a page headed up, "Basic life 15 support". There's a series of boxes that you go down, 16 yes, no, yes, no, and it tracks down the page. The top 17 is, "remove danger" and then, "response, shake and 18 shout, 'Are you all right?'" If yes, you conduct 19 a secondary survey. If no, you send for the 20 defibrillator, the oxygen and resuscitation kit; yes? 21 A. Yes. 22 DEPUTY CORONER MS MONAGHAN: So if you shake a person, 23 a passenger, and they are non-responsive, in other words 24 they appear unconscious, your next step, according to 25 this, is to go and get resuscitation equipment, the life</p> <p style="text-align: center;">Page 171</p>
<p>1 training. It describes the objectives as to assess 2 a situation quickly, safely and summon help? 3 A. Yes. 4 DEPUTY CORONER MS MONAGHAN: Protect a casualty and others 5 at the scene from danger, give the casualty early and 6 appropriate help, arrange the casualty's removal, 7 presumably where necessary, to appropriate medical help. 8 A. Yeah. 9 DEPUTY CORONER MS MONAGHAN: Are you familiar with that? 10 A. I am and, in addition to that, we also use a company 11 called Medicare that we call on the satellite and that 12 gives us direct access to a doctor. 13 DEPUTY CORONER MS MONAGHAN: I've seen that so there is -- 14 you have, as I understand it, a first aid handbook? 15 A. Yeah, and then we have a proper medical kit which they 16 then authorise us to use. 17 DEPUTY CORONER MS MONAGHAN: You can ring up and they can 18 say, "Open the bag" or whatever it is and give them 19 medicines that are prescription only, that you need 20 authorisation for, or give you immediate medical advice 21 in the case of a patient that you're struggling to -- 22 passenger you're struggling to deal with? 23 A. Yes, that it. 24 DEPUTY CORONER MS MONAGHAN: Just in relation to the 25 guidance first of all from your handbook. The same page</p> <p style="text-align: center;">Page 170</p>	<p>1 saving equipment? 2 A. Yeah. 3 DEPUTY CORONER MS MONAGHAN: Then you airway head tilt chin 4 lift? 5 A. Clear the airway. 6 DEPUTY CORONER MS MONAGHAN: So you're opening the airways. 7 Then you're checking for breathing? 8 A. Yes. 9 DEPUTY CORONER MS MONAGHAN: Look, listening and feeling? 10 A. Hmm, hmm. 11 DEPUTY CORONER MS MONAGHAN: If they're fine for breathing, 12 you do a secondary survey and if they're not fine for 13 breathing, you do CPR? 14 A. Yes. 15 DEPUTY CORONER MS MONAGHAN: Is that right? 16 A. Hmm, hmm. 17 DEPUTY CORONER MS MONAGHAN: Then you move on to 18 defibrillation and follow the prompts given by the 19 defibrillator? 20 A. Correct. 21 DEPUTY CORONER MS MONAGHAN: So you have a series of steps, 22 particularly where a patient appears unconscious, moving 23 down a number of steps thereafter to take? 24 A. Yes. 25 DEPUTY CORONER MS MONAGHAN: Were you familiar with this in</p> <p style="text-align: center;">Page 172</p>

1 October 2010?

2 **A. Yes.**

3 DEPUTY CORONER MS MONAGHAN: Then at page 42 it describes

4 the recovery position. We have heard a lot about this

5 already, but of course, as it says there and we probably

6 all now know, it's used for an unconscious casualty

7 who's breathing normally so far as you can deduce, to

8 keep them safe in terms of breathing?

9 **A. Correct.**

10 DEPUTY CORONER MS MONAGHAN: And maintain their airways

11 open?

12 **A. Yes.**

13 DEPUTY CORONER MS MONAGHAN: Then at page 47, this deals

14 with the medical action plan. We'll come back to this

15 with other witnesses because it appears in pretty much

16 all of BA's first aid documents, but it describes a plan

17 that must be adapted or adopted, forgive me, in any case

18 where there's a medical emergency or medical need of

19 some sort?

20 **A. Hmm, hmm.**

21 DEPUTY CORONER MS MONAGHAN: Yes?

22 **A. Yeah.**

23 DEPUTY CORONER MS MONAGHAN: As I understand it, what

24 happens is a number of people need to be identified with

25 different roles so as to ensure that everybody works

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1 together to do what's necessary?

2 **A. Correct.**

3 DEPUTY CORONER MS MONAGHAN: So you have an assessor?

4 **A. Yes.**

5 DEPUTY CORONER MS MONAGHAN: Who is the first person on the

6 scene and undertakes the check, assesses the patient,

7 passenger, you have the collector who runs off to get

8 any equipment so the assessor can stay with the

9 passenger?

10 **A. Yeah.**

11 DEPUTY CORONER MS MONAGHAN: You have a supporter who

12 assists the assessor to do anything that might be

13 required and then you have the communicator who keeps in

14 contact with you, makes sure you know what's happening

15 and deals with anybody else that they need to liaise

16 with?

17 **A. That's right.**

18 DEPUTY CORONER MS MONAGHAN: As you understood it at that

19 time, was that a plan that needed to be adopted in any

20 case where there appeared to be a medical emergency?

21 **A. Well, initially there didn't appear to be a medical**

22 **emergency.**

23 DEPUTY CORONER MS MONAGHAN: I am not asking you that

24 question at the moment, Mr Fenech-Soler. We'll come to

25 that in a moment. As you understood it at that time,

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1 was that a plan that had to be adopted in any case where

2 there was a medical emergency? We'll come to what

3 happened to Mr Mubenga --

4 **A. Assuming there was no other support, yes.**

5 DEPUTY CORONER MS MONAGHAN: When you say "other support",

6 what does that mean?

7 **A. Paramedics.**

8 DEPUTY CORONER MS MONAGHAN: I see. Of course. So if

9 this --

10 **A. They're much better qualified and with better equipment.**

11 DEPUTY CORONER MS MONAGHAN: Of course. Obviously if there

12 is a paramedic that's arrived, one can see that would

13 be -- but in terms of a medical emergency on the plane

14 where there is not yet any paramedic or other support,

15 then this would be the function of the cabin crew?

16 **A. Provided there's no other overriding concerns.**

17 DEPUTY CORONER MS MONAGHAN: It says here:

18 "The captain is responsible and accountable for the

19 welfare of the passengers and crew and they must be

20 informed at the start and conclusion of this plan."

21 Is that as you understood it?

22 **A. That's correct, yes.**

23 DEPUTY CORONER MS MONAGHAN: Okay. Finally, on this --

24 I think I said that was finally. Forgive me, finally on

25 this document, page 52, this refers to an automated

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1 external defibrillator. Was that something that was

2 present on all flights?

3 **A. Yes. I believe only on -- I might be wrong but I think**

4 **it's only on long-haul aeroplanes.**

5 DEPUTY CORONER MS MONAGHAN: The Luanda was one obviously

6 a long-haul?

7 **A. Yes.**

8 DEPUTY CORONER MS MONAGHAN: Who was responsible or is

9 responsible for checking whether there is

10 a defibrillator and whether it's functioning properly?

11 **A. A particular member of the cabin crew. They all get**

12 **assigned positions, numbers, and one of them it's their**

13 **specific responsibility to check that.**

14 DEPUTY CORONER MS MONAGHAN: So they have all been allocated

15 a cabin crew member?

16 **A. Correct, yes.**

17 DEPUTY CORONER MS MONAGHAN: It describes it -- you may have

18 heard me asking Mr Upton this question earlier -- as

19 an automated defibrillator.

20 **A. Yes.**

21 DEPUTY CORONER MS MONAGHAN: As I understand it, that means

22 that machine tells you what to do. So it tells you

23 whether --

24 **A. I haven't had training on it.**

25 DEPUTY CORONER MS MONAGHAN: So you can't help us with that?

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1 **A. I wouldn't like to comment.**
2 DEPUTY CORONER MS MONAGHAN: Okay. Can we then deal with
3 the position on 12 October. Just moving back slightly
4 where we started a moment ago, in relation to the
5 allocation of responsibilities as between the guards and
6 cabin crew and indeed ultimately you, were there any
7 guidelines or guidance promulgated on that issue?
8 **A. Not specific, but we feel that if they're being escorted**
9 **then they are under the care and guidance of the**
10 **escorts.**
11 DEPUTY CORONER MS MONAGHAN: When you say "we feel", can you
12 offer us a little bit more precision about that?
13 **A. Well, I haven't seen it written down conclusively that**
14 **it is their responsibility, but --**
15 DEPUTY CORONER MS MONAGHAN: Have you seen it written down
16 at all?
17 **A. No.**
18 DEPUTY CORONER MS MONAGHAN: Right. So is that
19 an assumption you have made or is it something that is
20 fed back to you informally --
21 **A. Informally, yes.**
22 DEPUTY CORONER MS MONAGHAN: From who?
23 **A. The fact that they -- that somebody requires an escort**
24 **means that the escort would be taking responsibility for**
25 **them.**

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1 DEPUTY CORONER MS MONAGHAN: Have you been given -- I asked
2 you about written guidance and you have said no, but
3 there was some informal guidance. Did that come from
4 senior management or was it something that you just
5 picked up with other pilots?
6 **A. Picked up with other pilots.**
7 DEPUTY CORONER MS MONAGHAN: So there wasn't any formal
8 guidance given from above --
9 **A. Not on that specific question.**
10 DEPUTY CORONER MS MONAGHAN: Just in relation to the day,
11 then, I'll just start off with a couple of introductory
12 questions. You were of course in overall charge as the
13 captain.
14 **A. Hmm, hmm.**
15 DEPUTY CORONER MS MONAGHAN: Insofar as the other crew, you
16 had co-pilots I think?
17 **A. Yes.**
18 DEPUTY CORONER MS MONAGHAN: Can you tell us who they were?
19 **A. Yes, I had Frederick Wellander and Richard Barker.**
20 DEPUTY CORONER MS MONAGHAN: They were co-pilots?
21 **A. Yes.**
22 DEPUTY CORONER MS MONAGHAN: In terms of the flying of the
23 plane, excuse my ignorance, but, as I understood it from
24 the statements, they essentially flew the plane, taking
25 it in terms, and you had general overall responsibility?

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1 **A. No, it doesn't work like that. Basically we have**
2 **a handling pilot and a non-handling pilot. The extra**
3 **pilot was because of the length of the sector so that we**
4 **could take rest. So one of us becomes the handling**
5 **pilot which is up to me to decide. I offered it to Fred**
6 **so he was the handling pilot that day so he basically**
7 **flies the aeroplane and I do the radios to support him**
8 **and then when I go on rest, Richard will sit in my seat**
9 **and then when Fred goes on rest, I'll sit back in my**
10 **seat and he'll sit in Fred's seat.**
11 DEPUTY CORONER MS MONAGHAN: I see. Apart from the pilots
12 then, there were obviously other crew members. The
13 person we have heard of most so far is Peter Walsham.
14 **A. Yes, he would be my point of contact.**
15 DEPUTY CORONER MS MONAGHAN: His job? His role?
16 **A. He's role is to supervise and manage the crew in the**
17 **cabin.**
18 DEPUTY CORONER MS MONAGHAN: He was --
19 **A. He would contact me and relay to me.**
20 DEPUTY CORONER MS MONAGHAN: I think his job description was
21 cabin services director or cabin service director?
22 **A. Correct, yes.**
23 DEPUTY CORONER MS MONAGHAN: He would be your point of
24 contact, would he, within the cabin itself?
25 **A. That's right.**

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1 DEPUTY CORONER MS MONAGHAN: The start of the evening then,
2 how does it go? What's your first engagement with the
3 crew or with your co-pilots, or what happens?
4 **A. We all arrive an hour and a half before departure and as**
5 **pilots we will print off the briefing material which**
6 **tells us the route we're flying, the fuel that the**
7 **computer thinks is the minimum required, the weather.**
8 **We then make a decision how much extra fuel we're going**
9 **to take, if any, and then we'll go and say hello to the**
10 **cabin crew who are in an adjoining room, introduce**
11 **ourselves and give them a brief overview of the flight.**
12 DEPUTY CORONER MS MONAGHAN: The overview of the flight
13 would just as you told us, the weather?
14 **A. How long it's going to be, whether there's some nasty**
15 **weather on the way, what it's like at the other end.**
16 DEPUTY CORONER MS MONAGHAN: Would you have been informed by
17 somebody in that group, the crew, or would you be
18 informing them of the presence of a deportee?
19 **A. Well, Peter already knew but I was informed by our fleet**
20 **management. When I arrived there was a message saying,**
21 **"Please contact" and they said there's a deportee.**
22 DEPUTY CORONER MS MONAGHAN: Did you feed back that to the
23 crew or did Peter do that?
24 **A. I think Peter did it because when I mentioned it to him,**
25 **he said, "I already know".**

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1 DEPUTY CORONER MS MONAGHAN: Did you meet with the cabin
2 crew yourself?
3 **A. Yes, we all met.**
4 DEPUTY CORONER MS MONAGHAN: You all met together?
5 **A. Yes.**
6 DEPUTY CORONER MS MONAGHAN: Was there a discussion about
7 the deportee or was it just notifying them?
8 **A. Just notifying them.**
9 DEPUTY CORONER MS MONAGHAN: I know the answer to this
10 question I'm sure but I need to ask you so we have the
11 answer from you. Did you receive any risk assessment in
12 relation to Mr Mubenga?
13 **A. No, I didn't.**
14 DEPUTY CORONER MS MONAGHAN: Then what happened? Can you
15 tell us.
16 **A. Then we proceeded to the aircraft, to the gate. At the**
17 **gate I met the head of the escort detachment. He came**
18 **up and introduced himself.**
19 DEPUTY CORONER MS MONAGHAN: That was a G4S guard?
20 **A. Yes.**
21 DEPUTY CORONER MS MONAGHAN: Do you know his name now?
22 **A. I don't.**
23 DEPUTY CORONER MS MONAGHAN: That's fine. Just before we
24 move on, he was a G4S guard. Did you know he was a G4S
25 guard or did you just know he was an escort or --

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1 **A. Well, I just knew he was an escort.**
2 DEPUTY CORONER MS MONAGHAN: So far as you were aware, was
3 G4S responsible for all of these deportations or were
4 you just completely out of the picture?
5 **A. I had no idea.**
6 DEPUTY CORONER MS MONAGHAN: So he introduces himself and
7 says ...?
8 **A. That, "I'm the lead escort. My colleagues are over**
9 **there with the deportee". He said that, "He's calm.**
10 **He's quiet. He's as good as gold. Don't expect any**
11 **trouble", something like that he said.**
12 DEPUTY CORONER MS MONAGHAN: Okay. Did you see Mr Mubenga
13 yourself?
14 **A. Yes, he was sitting between the two escorts.**
15 DEPUTY CORONER MS MONAGHAN: So they were on the plane
16 already?
17 **A. No, they were at the gate.**
18 DEPUTY CORONER MS MONAGHAN: At the gate.
19 **A. Because they were early. There was nobody else around.**
20 DEPUTY CORONER MS MONAGHAN: He was sitting with the two
21 escorts. The senior one came up to you, told you there
22 was no problem and that was that?
23 **A. That's right.**
24 DEPUTY CORONER MS MONAGHAN: Then what happened?
25 **A. We boarded the aircraft and started our pre-departure**

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1 **check.**
2 DEPUTY CORONER MS MONAGHAN: I think we'll stop there --
3 it's nearly 4.20 -- before we come to the main incident
4 tomorrow. I noticed you were very keen to get on today.
5 Are you in difficulties tomorrow?
6 **A. No, I think we can change my travel.**
7 DEPUTY CORONER MS MONAGHAN: Would you be willing and able
8 to sit at 9.45 tomorrow? Is that going to cause
9 problems for you? Would that assist a bit?
10 **A. That would be great.**
11 DEPUTY CORONER MS MONAGHAN: It may be that you'll have to
12 change your arrangements anyway; I don't know.
13 **A. I would think so.**
14 DEPUTY CORONER MS MONAGHAN: If we start 15 minutes earlier,
15 perhaps you'll have a better run at it anyway.
16 **A. Thank you.**
17 DEPUTY CORONER MS MONAGHAN: Thank you very much, members of
18 the jury. You're giving evidence, Mr Fenech-Soler. You
19 will have heard me say already to Mr Upton that means
20 you mustn't discuss your evidence with anybody overnight
21 and you'll come back and recommence your evidence
22 tomorrow at 9.45. If you would just like to take a seat
23 while I deal with some matters.

