

TRANSCRIPT OF THE INQUIRY

Tuesday, 14 June 2022

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(10.00 am)

LORD BRACADALE: Well, good morning.

Ms Grahame, who is the witness this morning?

MS GRAHAME: The witness this morning is Amanda Givan.

LORD BRACADALE: Good morning, Ms Givan.

A. Good morning.

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

Ms Grahame, whom you have already met, but before that

I will put you on oath, so if you raise your hand,

please.

PC AMANDA GIVAN (sworn)

LORD BRACADALE: Ms Grahame.

Questions from MS GRAHAME

MS GRAHAME: Good morning.

A. Morning.

Q. You are Amanda Givan?

A. I am, yes.

Q. What age are you, Ms Givan?

A. I'm 49.

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

A. Just about to complete 30 years' service.

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- 1 Q. And you're going to retire later this year?
- 2 A. Friday is my last working day, yes.
- 3 Q. Oh my goodness, I'm glad we got you here today.
- 4 A. Just in time.
- 5 Q. You have given an Inquiry statement to us?
- 6 A. I have, yes.
- 7 Q. And it's very detailed.
- 8 A. Yes.
- 9 Q. And you have given a lot of details for the Chair to
10 consider about your police career and your SPF career.
- 11 A. Yes.
- 12 Q. So we will be able to come to that, but can I refer you
13 to the black folder in front of you.
- 14 A. Yes.
- 15 Q. And I want to make sure you've got everything you need.
- 16 A. Okay.
- 17 Q. So let's look at that Inquiry statement for a moment.
18 It is SBPI 00072. You will see -- sorry, the first
19 page. You will see that's your statement, Tuesday
20 31 March and 12 April 2022 it was taken?
- 21 A. Yes.
- 22 Q. And that was by a member of the Inquiry's team?

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1 A. Yes.

2 Q. And then if we can look at the final paragraph, 220.

3 A. Yes.

4 Q. You're getting there quicker than we are. And you will
5 see that the final paragraph says:
6 "I believe the facts stated in this witness
7 statement are true. I understand that this statement
8 may form part of the evidence before the Inquiry and be
9 published on the Inquiry's website."

10 A. That's right, yes.

11 Q. And you understand that that's the case?

12 A. Yes.

13 Q. And then you have signed all the pages of your
14 statement.

15 A. Yes, signed every page.

16 Q. Now, we don't have your signature on the screen, it's
17 been redacted --

18 A. Yes.

19 Q. -- but your hard copy has the signature?

20 A. It's on every page, yes.

21 Q. And that was signed on 2 May?

22 A. It was, yes.

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1 Q. Thank you. And let me look also at PIRC 000237. You
2 will see that this is a statement and it was prepared by
3 you, as I understand it. It's not dated, but if we look
4 at paragraphs 105 and 107 of your Inquiry statement --
5 there's going to be a little bit of juggling around, 105
6 and 107. You say that --

7 A. Yes, I provide the dates there.

8 Q. 107, please, and you talk about preparing your
9 statement.

10 A. Yes.

11 Q. And then at 108, you talk about DI Wilson contacting you
12 by email as PIRC had approached -- so can you just
13 explain it maybe quite simply to the Chair, how these
14 statements came to be prepared?

15 A. So -- yes, the initial statement, the PIRC --

16 Q. The undated one?

17 A. -- (inaudible overspeaking) 237, I was asked to prepare
18 that by a detective inspector who I think had -- in turn
19 had been asked by PIRC to contact me to provide that, so
20 I created a statement. I had never been asked for
21 a statement for this kind of thing before so I really
22 wasn't sure, having not been involved in the incident,

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1 what they were looking for, so I provided a -- I typed
2 up a statement and I emailed it to him and quite clearly
3 I have not put the date on the actual document but I had
4 the date that I had sent it, if that makes sense so
5 that --

6 Q. Do you remember when you prepared that first statement?

7 A. So on the day that he asked me for it, I --

8 Q. Do you remember when that was?

9 A. -- typed it. Do you know actually it was about 9.00 or
10 10 o'clock at night that I sent it away that -- whatever
11 date that I have said.

12 Q. Right. And then can you look at 238. This is another
13 statement prepared -- now, this one was prepared on
14 22 June 2015.

15 A. Yes. So I was interviewed by PIRC in respect to this
16 statement. So this statement is put together from
17 questions that they specifically asked me --

18 Q. And that was in the offices of PBW Law in Glasgow?

19 A. It was, yes.

20 Q. And it was Senior Investigator John McSporrان who
21 interviewed you?

22 A. It was.

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- 1 Q. In the presence of DSI Brian Dodds and Peter Watson who
2 is a solicitor?
- 3 A. Yes, that's correct.
- 4 Q. So the first statement I think you said was about
5 29 May?
- 6 A. May, yes.
- 7 Q. And you said that in your Inquiry statement, and that
8 was prepared by you by email?
- 9 A. Yes.
- 10 Q. And sent by email?
- 11 A. Yes.
- 12 Q. And the second statement that we have, 238, was dated
13 22 June 2015?
- 14 A. Yes.
- 15 Q. And that was in response to questions from PIRC
16 investigators?
- 17 A. That's right, yes.
- 18 Q. Thank you. And then we have looked at your Inquiry
19 statement and that was taken by a member of the Inquiry
20 team?
- 21 A. Yes, by Euan.
- 22 Q. The person sitting next to you.

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1 A. Yes.

2 Q. And in all of these statements, is it fair to say you
3 have tried to give your best recollection --

4 A. Yes.

5 Q. -- and true and accurate account --

6 A. As best I could, yes.

7 Q. -- as best you could? And you have signed your Inquiry
8 statement, you already told us.

9 A. Yes.

10 Q. You won't have signed the email version; do you remember
11 if you signed the PIRC statement?

12 A. I think I will have signed the original, yes. Obviously
13 not the typed copy that you have here, but the original
14 manuscript copy I will have signed that.

15 Q. And was that after you had either it read over or been
16 given a chance to -- or had it read over to you?

17 A. I think it was read over to me and I signed it at that
18 point.

19 Q. And you were happy with it and signed it.

20 A. Yes.

21 Q. And I think in paragraph 116 of your Inquiry statement
22 you say that:

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1 "My memory would be better when I gave those
2 statements than it is now."

3 Is that the PIRC and the email statement that you
4 did?

5 A. Yes. I mean I think any statement that you give closer
6 to the incident is bound to be more accurate than seven
7 years later.

8 Q. And you say:

9 "If there's a discrepancy between my statements and
10 my Inquiry statement I would prefer to know what the
11 discrepancy is in order to give a view on that. It
12 depends what it is."

13 A. Yes. I was asked specifically whether I would prefer
14 the earlier versions to be taken as the accepted --
15 well, it depends what -- it depends what the discrepancy
16 would be.

17 Q. Yes. But generally you think your memory was probably
18 better?

19 A. Probably better, absolutely.

20 Q. Thank you. Well, we will go through a few things today.
21 Can I ask you first of all about SPF, Scottish Police
22 Federation.

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- 1 A. Yes.
- 2 Q. And the -- as I said earlier, in terms of your role
3 within the SPF you -- and I will take -- this is
4 paragraphs 3 to 7 of your Inquiry statement, but I will
5 just run through this quite quickly. You have been
6 a member since you joined the police in 1992?
- 7 A. Yes.
- 8 Q. That's at paragraph 3.
- 9 A. Yes.
- 10 Q. And is it right that all constables are automatically
11 members of the SPF?
- 12 A. Yes.
- 13 Q. And then you were elected as a local SPF representative
14 after about ten years.
- 15 A. That's right.
- 16 Q. Paragraph 4. And then you were elected as a full-time
17 office-bearer in 2012.
- 18 A. That's correct.
- 19 Q. And you have been in that role -- you were in that role
20 in May 2015?
- 21 A. I was, yes.
- 22 Q. So you were a local representative for the SPF?

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1 A. I was a full-time office-bearer in 2015 at the time of
2 this incident.

3 Q. Right. And you are on a full-time secondment and
4 originally it was with Fife Constabulary, but then
5 in April 2013 it became Police Scotland?

6 A. That's right.

7 Q. And after it became Police Scotland, you became the East
8 Area representative?

9 A. Yes, so after the amalgamations and we became
10 Police Scotland, the previous structure that the SPF had
11 was based on the old legacy forces, so the SPF had to
12 change its structure as well, so I initially took up
13 a role with Fife Constabulary, Fife Constabulary was no
14 more, so when Police Scotland became the structure as it
15 remains today was kind of north of Scotland, the east of
16 Scotland and the west of Scotland, so my position
17 changed from being solely responsible for Fife to having
18 responsibility for the former forces that were based in
19 the east of Scotland.

20 Q. And what were they?

21 A. So they were formerly Fife Constabulary, formerly
22 Lothian and Borders Police and formerly Central Scotland

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1 Police.

2 Q. So a much bigger area --

3 A. Much bigger area, yes.

4 Q. -- your remit covered?

5 A. Yes.

6 Q. And paragraph 7 of your Inquiry statement, since 2017

7 you have been assistant to the general secretary.

8 A. Yes, since 2017 I have responsibility for conduct

9 matters for the SPF.

10 Q. Right. And can you tell us what do you mean when you

11 say "Conduct matters"?

12 A. So police officers' disciplinary matters are covered by

13 regulation, so they're very different to normal

14 employees, and I had responsibility for overseeing all

15 of the conduct matters within Scotland, ensuring

16 consistency, that what was happening in the north of

17 Scotland was the same as the east and the west, making

18 sure that the advice we gave followed the regulations,

19 so really any police officers that found themselves the

20 subject of complaints and disciplinary matters and

21 sought advice from the SPF, it would have been

22 ultimately my responsibility to make sure that they got

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- 1 the right advice.
- 2 Q. Thank you. But to be clear, you remain a police
3 officer?
- 4 A. Yes, yes. I remain a police officer, but I'm seconded
5 from the Police Service of Scotland to the Scottish
6 Police Federation.
- 7 Q. So you are full-time with the Scottish Police
8 Federation?
- 9 A. Yes.
- 10 Q. But you still remain a police officer?
- 11 A. Yes, I remain a constable, albeit I'm not necessarily
12 doing the traditional role that everyone would expect
13 a response police officer to be carrying out.
- 14 Q. And presumably you're not wearing a uniform?
- 15 A. No.
- 16 Q. Or using equipment or anything of that sort?
- 17 A. No, no.
- 18 Q. And you work in the SPF offices full-time?
- 19 A. Yes.
- 20 Q. Who is the general secretary?
- 21 A. Calum Steele.
- 22 Q. And you're his assistant?

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- 1 A. One -- yes, so there's a number of people who are
2 assistants to the general secretary. My role
3 specifically is conduct. There's another individual
4 that looks after health and safety matters, there's
5 another individual that has responsibility for equality,
6 so the three -- I mean there's lots of other things that
7 the SPF are involved in, but the three main subjects
8 are -- have full-time officials looking after that
9 particular portfolio.
- 10 Q. So he has three full-time officials?
- 11 A. Yes.
- 12 Q. You personally deal with conduct?
- 13 A. Yes.
- 14 Q. Someone else deals with health and safety?
- 15 A. Health and safety.
- 16 Q. And then someone else deals with equality?
- 17 A. Equality and people, I think is the job title for that.
- 18 Q. Could you tell us who the equality and people assistant
19 is?
- 20 A. So currently it's James Thomson.
- 21 Q. And does his remit involve things like equality and
22 diversity, racial discrimination, that type of thing?

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- 1 A. Yes, absolutely. All kind of employment, diversity
2 issues would probably fall into that portfolio, whether
3 it's him personally that would deal with it, but he
4 would have responsibility for engaging with the service
5 in relation to those matters.
- 6 Q. So he would be the person to speak to if we wanted more
7 information about that?
- 8 A. Probably, yes, yes.
- 9 Q. And then just for completeness, who is the health and
10 safety assistant?
- 11 A. Health and safety is Gordon Forsyth.
- 12 Q. And what does his remit cover?
- 13 A. I mean it's all things, you know, all things health and
14 safety: trips, slips and falls, equipment, he has a say
15 in things like shift patterns and -- you know, there's
16 much more to health and safety than the usual -- what
17 initially springs to mind, but he would have certainly
18 an involvement in all aspects of safety for our members
19 whilst they're working.
- 20 Q. So the SPF cover a wide variety of areas?
- 21 A. Yes.
- 22 Q. And how many members does the SPF have?

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- 1 A. Well, it's probably -- I mean every officer up to the
2 rank of chief inspector is effectively automatically
3 a member, so that's probably sitting -- I know the
4 numbers have dropped recently, but they're maybe sitting
5 about the high 16 -- 16,000 or thereabouts. It
6 obviously fluctuates depending on --
- 7 Q. And those officers can contact the SPF at any time?
- 8 A. Yes.
- 9 Q. I think in one of your paragraphs you say the closest
10 equivalent would be a trade union, although you're not
11 a trade union --
- 12 A. Yes.
- 13 Q. -- you're more of a member organisation?
- 14 A. Yes, we don't have the same rights as unions. Obviously
15 police officers can't strike, so we're not a trade
16 union, but if you were looking for an equivalent, yes,
17 the SPF is a statutory staff association probably most
18 akin to a union.
- 19 Q. And all officers who are members can seek advice from
20 you, or we have heard that can seek access to legal
21 advice through the SPF, is that correct?
- 22 A. That's right, yes.

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- 1 Q. And then your motto is "Welfare and efficiency"?
- 2 A. It is, yes.
- 3 Q. And so are these really the areas that are covered by
- 4 the SPF?
- 5 A. Yes, I mean it's welfare and efficiency of the service,
- 6 so anything that -- you know, any consultation about
- 7 changes that Police Scotland are looking to make the SPF
- 8 would be involved in that, given the numbers and our
- 9 membership.
- 10 Q. Right. And you have said in your statement there are
- 11 four office-bearers, or four senior --
- 12 A. National, yes, yes, yes.
- 13 Q. National, sorry, national office-bearers.
- 14 A. Yes.
- 15 Q. And national as in for the whole of Police Scotland?
- 16 A. Yes.
- 17 Q. Or the whole of Scotland?
- 18 A. Yes.
- 19 Q. And one is the general secretary, Calum Steele?
- 20 A. Calum Steele, yes.
- 21 Q. There's a deputy general secretary?
- 22 A. That's right, yes.

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1 Q. What's his name?

2 A. David Kennedy.

3 Q. And then is there a chairman?

4 A. There's a chairman and there's a vice chairman.

5 Q. What's the chairman's name?

6 A. David Hamilton.

7 Q. And the vice chairman?

8 A. Brian Jones.

9 Q. Vice chairman or deputy chairman, sorry?

10 A. No, he is a vice --

11 Q. Vice chairman.

12 A. Vice chair. No, he is vice chair.

13 Q. He's vice. So it's a deputy general secretary and a

14 vice chair.

15 A. And a vice chair.

16 Q. I'm sure I will get that wrong.

17 Can you explain to our Chair what the sort of remit

18 of -- what the role of each of these positions

19 encompasses?

20 A. Well -- yes, I mean there's -- you know, under the --

21 I hate to hark back to the old structure but it was

22 probably easier under the old structure because we had

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1 eight separate forces, you had eight chief constables,
2 so each Federation joint managed board dealt with the
3 police managers from their force. When we became
4 Police Scotland, we have one chief constable; we have
5 a number of senior deputy chief constables and ACCs so
6 the four officials that you have -- the national
7 officials, they tend to deal with the chief constable
8 and with the deputy chief constables on kind of
9 strategic matters and they are certainly -- that would
10 be their role leaving the areas to deal with much more
11 of the day-to-day, the day-to-day matters, but with the
12 direct contact with the members for consultation and
13 raising issues when things are not working as they
14 should do.

15 Q. What does the general secretary do?

16 A. That's probably -- that's probably a question for him,
17 but Calum leads on many of the, you know, pension
18 matters, pay matters. He is the leader of the SPF, so,
19 you know, his name goes on much of the documents that
20 are circulated. He effectively manages the
21 organisation.

22 Q. So you have described him as the leader of the SPF. Is

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1 he the most senior office-bearer?

2 A. Yes.

3 Q. And in terms -- you have talked about having three
4 assistants: yourself on conduct and Mr Thompson on
5 equality.

6 A. Yes.

7 Q. Do you speak to Calum Steele as general secretary and
8 seek his approval or his authority for major decisions
9 that you're making in your role?

10 A. No. So I suppose that's one clarification: the
11 decision-making of the SPF is the responsibility of
12 a Joint Central Committee, so clearly recommendations or
13 suggestions would be made to the Joint Central Committee
14 and the Joint Central Committee is made up of -- I'm
15 trying to think how many people are on it, maybe about
16 24, 25 people from around the country that are -- some
17 of them will be local representatives and some of them
18 will be full-time representatives and it's -- that's the
19 decision-making body of the SPF, not Calum Steele, but
20 many of the recommendations and suggestions that are put
21 to the Joint Central Committee might come from him or
22 might have come through myself or any of the other

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- 1 portfolio holders.
- 2 Q. Wherever the ideas or the projects or suggestions come
3 from, are they filtered through the leader of the SPF,
4 Calum Steele?
- 5 A. Yes, I mean it is a committee, but Calum is at the top
6 of that committee, yes.
- 7 Q. So he is at the top of that committee?
- 8 A. Yes.
- 9 Q. And there's about 24 or 25 people on the committee and
10 you said there was lay people as well. Are they
11 appointed to that role?
- 12 A. Yes, you get elected to that, to the Joint Central
13 Committee, so yes, there are set numbers that represent
14 the east of the country, the west and the north to make
15 sure that it's fair and equitable around the country.
- 16 Q. And they're the governing body, so formal decisions that
17 are taken have to be approved by the committee?
- 18 A. Absolutely, yes.
- 19 Q. But the general secretary is on the chair of the
20 Committee, is he?
- 21 A. Yes.
- 22 Q. And the other office bearers, are they also on the

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- 1 committee?
- 2 A. Again, only if they're elected, so not all the office
- 3 bearers are there. They get elected by their area
- 4 committee.
- 5 Q. Okay. Now, so can I ask you whether there are any
- 6 issues -- we have -- obviously it's a matter of public
- 7 knowledge that Calum Steele has been involved in
- 8 potential misconduct proceedings from Police Scotland in
- 9 relation to tweets connected with this Inquiry, and the
- 10 events in Hayfield Road on 3 May, and I'm interested in
- 11 whether that causes any conflicts or issues to arrive in
- 12 relation to the Joint Central Committee and his position
- 13 as general secretary?
- 14 A. I -- I'm trying to think whether there's ever been any
- 15 discussion about that at the Joint Central Committee and
- 16 I don't think there has been. I think, you know, Calum
- 17 is tweeting as an individual, he wasn't tweeting from
- 18 the SPF account. I don't -- I don't remember being part
- 19 of any discussion about that, if I'm being honest.
- 20 Q. So that's not been raised at any of the Committee
- 21 meetings, or discussed at any of the Committee meetings?
- 22 A. I don't think so, no.

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- 1 Q. Right. And then in relation to engagement with the
2 media, who is in charge of that in SPF?
- 3 A. Do you know, I got asked this question specifically
4 prior to this and I -- I believe that that's probably
5 the role of the chair, but that's just because what
6 I have seen go out from the SPF tends to be in
7 David Hamilton's name currently. I'm not sure that
8 I have been part of any discussions about particularly
9 who is responsible for that. I would expect that it
10 would depend on what the media matter is about and who
11 is probably best placed to speak about it, but it's not
12 something that I have ever been involved in personally.
- 13 Q. But if we wanted to try and find out more information
14 about that in the future David Hamilton might be the --
- 15 A. Probably -- David Hamilton or Calum Steele would
16 probably be the best people to ask about who -- how
17 that's dealt with in the office, I'm not sure.
- 18 Q. So either the general secretary Calum Steele --
- 19 A. Calum Steele.
- 20 Q. -- or the chair, David Hamilton?
- 21 A. Yes, I think so.
- 22 Q. Thank you. Can I ask you, when you became

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1 a representative for the SPF and also when you got your
2 new role in the SPF and became elected, did you have any
3 particular training for that role?

4 A. So no, not to become a kind of local representative, and
5 if I'm being honest, when I first became involved with
6 the Scottish Police Federation it was with a view to
7 trying to get information, you know. It's difficult
8 sometimes particularly -- everybody is interested in
9 their pay and when your pay rise -- if you're going to
10 get one -- is coming out, and I suppose I got involved
11 with that because it was frustrating that information
12 didn't seem to be coming out quite quickly enough and
13 spreading through my colleagues, so that's why I became
14 involved to find out information and to share it with
15 colleagues.

16 So initially it was just an interest in the workings
17 of the organisation and being involved in helping
18 colleagues, so to begin with, absolutely no training
19 other than having been a police officer for a set period
20 of time.

21 Q. So you have mentioned in paragraph 4 of your Inquiry
22 statement, you were elected as a local rep after about

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1 ten years.

2 A. Yes.

3 Q. So would that be about 2002?

4 A. That -- yes, that would be about right, yes.

5 Q. And that was roughly the time you wanted to become more
6 involved with the SPF?

7 A. Yes, yes.

8 Q. And then you were elected as a full-time office-bearer
9 in 2012 which would be another ten years?

10 A. Yes, so during that time when you're first elected as
11 a local rep, you get sent on some local -- or basic
12 training courses that the SPF arrange which are
13 generally roundabout the kind of police regulations,
14 rights in terms of, you know, the questions that people
15 want to ask you, which is, you know, "How much am
16 I entitled to claim if I get held -- if I have to work
17 a rest day, or if I have to work on a public holiday?"
18 so there was training provided, but not until I was an
19 elected local representative because that training was
20 provided by the SPF.

21 Q. All right. Was there any particular training at that
22 time on situations where there may be potential criminal

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1 allegations against the police?

2 A. I think at the time when I was a local rep, no.

3 Q. No.

4 A. I wasn't trained early doors in kind of conduct, or

5 legal matters.

6 Q. Well, when you were elected as a full-time office-bearer

7 in 2012, was there any additional training provided to

8 you at that time?

9 A. Yes, yes, I received training in respect of health and

10 safety matters and training on the conduct regulations

11 which had changed in 2014.

12 Q. And you received that after 2014, after the change?

13 A. Yes, just when they were introduced, yes.

14 Q. Did that training include considering situations where

15 there were potential criminal allegations against

16 the police?

17 A. Yes, yes.

18 Q. And had you had any training by May 2015 in relation to

19 post-incident procedures, post-incident management?

20 A. No. I attended post-incident training at the end

21 of May 2015, so after this incident. I was aware of the

22 process but I wasn't -- I wasn't trained in it.

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1 Q. Right. And when you said that you had had training in
2 relation to potential criminal allegations against
3 the police, what did that training involve?

4 A. Well, it involved the SPF explaining our legal advice
5 and assistance scheme and how -- you know, and how that
6 worked for police officers who were members of that and
7 were seeking to access legal advice and it covered
8 the -- you know, very -- it's not in any way, shape or
9 form legal training, but it -- providing a bit of advice
10 in respect of providing statements, probably more for
11 complaints against the police as opposed to criminality.

12 Q. Right. Can I ask you to look at paragraph 33, please,
13 just to clear something up for me. This is your Inquiry
14 statement:

15 "I don't know of any training particularly related
16 to criminal allegations about the police."

17 A. Yes.

18 Q. I'm wondering -- that sounds a little bit different to
19 what you have just told us.

20 A. Yes, so I think what I was saying there is I think I'm
21 talking about Police Scotland training.

22 Q. Oh, I see.

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1 A. What I'm saying is I don't know if Police Scotland
2 provide any training in respect of that because I then
3 go on to say "Between 2013 and 2018 I didn't have access
4 to Police Scotland", so I wasn't able to -- you know, to
5 access the internet and to see what information
6 Police Scotland was necessarily putting out to its staff
7 and to its officers, so I think that -- I think
8 paragraph 33 might be in relation to training provided
9 by Police Scotland.

10 Q. As opposed to the SPF?

11 A. As opposed to the SPF.

12 Q. And you say there between 2013 and 2018 you didn't have
13 IT access to anything to do with Police Scotland. Why
14 was that?

15 A. I think mainly because in 2013 the SPF -- certainly the
16 office that I worked in -- moved out of a police
17 building and moved into our own accommodation and
18 previously I had been able to access Police Scotland's
19 computer system because I was based in a police station,
20 so it was very easy just to go down the stairs and
21 access the internet and see what information -- once
22 I had moved out and was based at an office in

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1 Livingston, we didn't have any police computers, the IT
2 was all SPF IT, and I didn't have -- I lost my --
3 I don't know, my log-on information, if you like, it
4 expired and it took until about 2018 to get that back
5 again and get a kind of laptop that we could access it,
6 so for about a five-year period I didn't have access to
7 my email, my Police Scotland email or the intranet.
8 People could still contact me because I had SPF contact
9 details, but it did make it a bit difficult when new
10 guidance came out. You were relying on members making
11 me aware of that, if that was something that we needed
12 to know.

13 Q. We have heard a bit of evidence that, as you say, people
14 get emails, they get guidance, they get information sent
15 to them through Police Scotland. We have heard about
16 SOPs being available online --

17 A. Yes.

18 Q. -- and forms being available online and things changing
19 on a regular basis, so during that five-year period you
20 didn't have any access to that at all?

21 A. No. I mean I would be aware of many of the SOPs because
22 they would be sent to the SPF for consultation. I just

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1 wouldn't necessarily have ready access to be able to go
2 in and access that document but I would be aware of them
3 because the SPF were a -- there's a statutory -- they
4 have to be consulted for the introduction of SOPs, but
5 at that time there were hundreds of them and, you know,
6 many of them had hundreds of pages, so the only way that
7 you could keep up-to-date would be going in regularly
8 and reading them.

9 Q. But you weren't -- you didn't have access to that?

10 A. I didn't have access to that, no.

11 Q. And although you were consulted in them, obviously with
12 these processes you will be consulted in maybe a draft
13 version --

14 A. Yes.

15 Q. -- but when the final approved version was created, that
16 would be on the Police Scotland's website?

17 A. Absolutely.

18 Q. And you don't have immediate access to that?

19 A. No, I wouldn't.

20 Q. So unless someone was sending that to you specifically,
21 you wouldn't have access to that?

22 A. No, and there were occasions where I did ask for an

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1 up-to-date version of a SOP because I was perhaps using
2 it or looking to seek information from it to make sure
3 that I had the right version, if I was assisting someone
4 with a conduct matter. There was a way to get that
5 emailed to me, but I didn't have -- personally I didn't
6 have ready access to get it myself.

7 Q. Thank you. Can we look at paragraph 34, please. So it
8 says:

9 "In May 2015 I was aware of post-incident procedures
10 but I hadn't been trained. I attended the
11 Police Scotland post-incident training at the end of May
12 following Sheku Bayoh's death but at the time I wasn't
13 trained. I was aware of the process, but I hadn't
14 formally attended any training on it."

15 What do you mean you were aware of the process?

16 A. So I was aware of post-incident -- the post-incident
17 process, I just had never attended -- I had never
18 received any formal training, so I was aware that the
19 process existed, I was aware that it was used, probably
20 at that time mainly for firearms offences, but I had
21 never been called out in respect of a firearms incident
22 and I had -- probably because I wasn't trained and

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1 I didn't go on the training until the end of May, which
2 was a Police Scotland training.

3 Q. So you were aware that there was a firearms process --

4 A. Yes.

5 Q. -- and post-incident management?

6 A. Yes.

7 Q. But you had not had any formal training?

8 A. No, I mean I was aware of what the SPF's role in that
9 process was, but I had never received the -- I had never
10 attended the training.

11 Q. And then paragraph 37, if we could look at that, you
12 say:

13 "The incident on 3 May 2015 was the first time that
14 I had attended at a police station where there could
15 have been a death in custody, a death in contact if you
16 like. I suppose the main source of my advice would be
17 people either coming into my office to see me after the
18 fact or it would be over the phone. So, no, this was
19 different, absolutely. This was the first time that
20 I had called [or I had been called] out for that type of
21 incident. It was the first time I was called out when
22 something was happening spontaneously and it wasn't

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1 after the fact."

2 A. Yes.

3 Q. So this was in fact -- on 3 May this was in fact the
4 first time you had ever been involved in something like
5 this?

6 A. Yes, I mean it wasn't the first time I had been called
7 out, but it was the first time I had been called out in
8 respect of something like this. You know, we get called
9 out at the weekends and evenings unfortunately when
10 there's a death of a police officer, so I had been out
11 dealing unfortunately with more of them than I would
12 have liked, but this was the first time that I attended
13 in respect of something that had happened spontaneously.

14 Q. And the first time there had been a death in custody --

15 A. Yes.

16 Q. -- of a suspect or a person who --

17 A. Yes, yes.

18 Q. -- was involved in an incident. And then paragraph 38:
19 "So I suppose since that particular incident on
20 3 May 2015, and the position that I've now taken up with
21 SPF ..."

22 Is that you are assistant to the general secretary?

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1 A. Yes, yes.

2 Q. "... I coordinate for the SPF who would attend at deaths
3 in custody. We have a process now which we perhaps
4 didn't have at the time. I deal with that with the SPF,
5 so I've got probably a fair bit of experience now in
6 attending deaths in custody, deaths in contact,
7 post-incident procedures."

8 So it sounds like things have changed since
9 3 May 2015?

10 A. Yes, no, I -- yes, absolutely. Since 2015,
11 Police Scotland have a process now to deal with deaths
12 or serious injuries that are not connected to a firearms
13 incident. There was always a post-incident procedure in
14 respect of firearms --

15 Q. Firearms.

16 A. -- or discharge of a firearm, but there wasn't for
17 everything else, or anything else.

18 Q. A non-firearm matter?

19 A. Yes. So they have now -- they have now adapted the
20 process that was in place for the firearms staff to take
21 cognisance of all other -- I think we call it DSI, so
22 deaths or serious injury, and there's a process in place

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1 now if that happens that a -- yes, I mean I'll say it's
2 not identical because they are different, if a firearm
3 is used, it is different, but they're very, very similar
4 processes now that would be put into action if there was
5 a death or serious injury.

6 Q. And that's been formalised by Police Scotland?

7 A. Yes.

8 Q. And have you had training on that from Police Scotland
9 or from SPF?

10 A. So I have now attended the -- I have attended the
11 post-incident training and I have been involved in the
12 creation of the SOP in respect of that and the guidance,
13 so was very much involved in that process being put
14 together for death and serious injury.

15 Q. Right, thank you. Then can I ask you about the morning
16 of 3 May 2015. So if we could look at paragraph 49,
17 please. You say you received a call from
18 Austin Barratt, a local representative at Kirkcaldy
19 Police Office.

20 A. Yes.

21 Q. And do you remember much about the call?

22 A. Yes. I mean all I remember is it woke me up, I was

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1 still in bed, I wasn't expecting to be working that day.

2 Q. It was your day off?

3 A. Yes, it was my day off and I wasn't actually on call for
4 the East Area, I wasn't responsible for the out of hours
5 calls, but again, because I was a Fife officer,
6 you know, I joined Fife Constabulary, lots of
7 individuals in Fife still have my telephone number, so
8 I got a direct call from Austin basically making me
9 aware that something had happened and that he really
10 wasn't very sure what he should be doing, or whether he
11 should be doing anything and seeking me to come and
12 help.

13 Q. Did you know Austin Barratt at that time?

14 A. Yes. I didn't know him well. He was one of the local
15 reps. I knew who he was, he had my number, so he is not
16 someone that I know well but I knew him.

17 Q. How experienced was he at that time?

18 A. Do you know, not very experienced. I mean I think he
19 had a bit of police service, so he wasn't -- you know,
20 he wasn't brand new, but he hadn't -- I don't think he
21 had been a rep for very long at that point, so certainly
22 the impression I got was that he genuinely wasn't sure.

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- 1 Q. But by then you had had some considerable experience --
- 2 A. Yes.
- 3 Q. -- and so he reached out to you --
- 4 A. Absolutely.
- 5 Q. -- to get you to help?
- 6 A. Yes.
- 7 Q. And as a result of that call, you then decided to attend
- 8 Kirkcaldy Police Office?
- 9 A. Yes. Well, I made some calls to colleagues because
- 10 I wasn't the person that was on call and I just wanted
- 11 to make sure that there hadn't been an official phone
- 12 call from Police Scotland calling someone else out and
- 13 then we both turn up, but as it transpired, that was the
- 14 only call that the SPF got in respect of this matter, so
- 15 no one else was -- no one else was aware of the
- 16 incident.
- 17 Q. So at no time did SPF actually receive an official call
- 18 from Police Scotland --
- 19 A. No.
- 20 Q. -- to seek the assistance of SPF for their officers?
- 21 A. That's correct, yes, no call.
- 22 Q. At any time on 3 May?

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- 1 A. No.
- 2 Q. So if Austin Barratt hadn't taken the initiative to
3 phone you, there hadn't been any approach?
- 4 A. No. Well, there might -- I mean I don't know whether my
5 attending and introducing myself meant that that was
6 you know like ticking the box that someone could put
7 later, we will never know, but yes, I think he
8 absolutely did the right thing by phoning me at that
9 point, yes.
- 10 Q. Who was the person on call? Who should have been
11 contacted at the SPF?
- 12 A. It was Brian Jones, who is the vice chair, he was
13 on call that weekend.
- 14 Q. That day, right. And then in paragraph 54, you say that
15 at that time you lived 10 to 15 minutes from Kirkcaldy
16 and you went along and you have had cause to maybe
17 regret going along --
- 18 A. Yes, yes.
- 19 Q. -- on that day, but as you drove to Kirkcaldy you
20 remembered various news articles, things on the radio?
- 21 A. Yes. Well, I suppose I -- Fife is an odd location in
22 that in my car at that time I only got Radio Forth or

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1 Kingdom FM were the two radio stations that you got
2 clearly wherever you were in Fife, so that would have
3 been the radio stations I was listening to. I probably
4 preferred Radio Forth, so I think it was a Radio Forth
5 news bulletin that had something on the news about
6 a police incident, so I heard that travelling in.

7 Q. And apart from hearing some information on the radio,
8 what had Austin Barratt told you?

9 A. He -- again, I'm trying to remember, I think he just
10 told me that something had happened, that the man had
11 died and that the police officers involved had been
12 taken back to Kirkcaldy Police Station and they were in
13 the canteen area.

14 He didn't -- he was a bit concerned because they
15 appeared to be there kind of on their own, nobody really
16 taking responsibility for looking after them, and he was
17 looking for me to come along and assist him with that.

18 Q. What time was it that you got the call from
19 Austin Barratt?

20 A. Do you know, I think I got there the back of 9.00, so
21 I think he probably phoned me about the back of 8.00,
22 about 8.30ish.

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- 1 Q. Your recollection now is that he told you the man had
2 died?
- 3 A. Yes. Again, I think he said that he -- there was an
4 expectation that he wasn't going to survive. I'm not
5 sure -- I think we were certainly -- after I arrived
6 there was confirmation that Mr Bayoh had died, but that
7 came much later. I think Austin just told me that there
8 was an expectation that it might not be survivable.
- 9 Q. Okay, thank you. And when you travelled to Kirkcaldy,
10 you have said you arrived just after 9.00, what were you
11 expecting your role that day to be?
- 12 A. Really just the welfare of the police officers and
13 looking to make sure that the police treated them
14 fairly, you know. They don't always, they don't always
15 treat police officers with the same courtesy and respect
16 that they do with members of the public, so I suppose
17 I was just there to make sure that they had all the
18 information that they needed in order to get through
19 whatever was going to take place that day.
- 20 Q. Right. Can you help the Chair understand what you mean
21 when you say Police Scotland don't always treat their
22 officers with courtesy and respect?

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1 A. Well, so -- yes, well, Police Scotland don't always give
2 cognisance that police officers have rights, have legal
3 rights, and often look for them to provide statements to
4 things where their status is perhaps unclear and I think
5 there's an expectation that police officers will be --
6 will absolutely be truthful and will give as much
7 information that they can, but when there's a suggestion
8 of possible criminality, I think it can sometimes be
9 forgotten by police officers, and police officers treat
10 police officers sometimes differently.

11 Q. Is that something you had experienced previously in
12 Kirkcaldy?

13 A. It's something that I have -- not just in Kirkcaldy.
14 I mean much of my experience was in -- I was a Fife
15 officer, so yes, I have experienced it in Fife, but it
16 is something that's -- that affects all of
17 Police Scotland. You know, there are some individuals
18 that seek police officers to provide statements about
19 matters where quite clearly there's evidence that they
20 are a suspect in a crime, with the expectation that
21 "Well, you're a serving police officer and you should be
22 providing this information regardless", when they would

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- 1 never ask a member of the public the same question.
- 2 Q. So a tension there between what the police expect of
3 their officers and maybe the officers' rights --
- 4 A. Yes --
- 5 Q. -- not to incriminate themselves?
- 6 A. -- I mean, I'm not suggesting that this is -- you know,
7 it happens every single day, but there have been
8 occasions previously where police officers have been
9 asked -- in fact, does a senior officer ever ask you for
10 anything, you know, we're a disciplined service, so if
11 a supervisor asks you for a statement then most officers
12 will do what they're told, and will then realise after
13 they have perhaps submitted something that -- yes,
14 "I was a suspect then, I'm not sure that that was
15 entirely lawful, and I'm not sure it was entirely right
16 that I've been asked that", but it happens
17 unfortunately.
- 18 Q. We have heard some evidence about the hierarchy in the
19 police and the different ranks and senior officers
20 giving instructions or commands or whatever?
- 21 A. Yes, and, you know, there sometimes can be a, you know,
22 a bit of a blood line there of around what is -- am

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1 I asking you for it, am I requiring it, you know,
2 police officers deal with legislation which is normally,
3 you know, unambiguous, you know, it's very clear, but
4 dealing with some senior officers who -- for all of the
5 right reasons, you know, trying to get hold of
6 information, don't always consider that police officers
7 have the same rights as members of the public.

8 Q. And in considering that experience that you have had in
9 Fife, had you had that prior to 2015, or is this
10 experience that you have had since?

11 A. Oh, no, it's still -- it continues to this day, but yes,
12 at that time, particularly in Fife we were in an unusual
13 set of circumstances. Believe it or not, if
14 an allegation was made about a police officer --
15 a criminal allegation was made about a police officer,
16 Fife Constabulary would contact that officer, make them
17 aware that there was a criminal complaint and give them
18 the option of whether they should provide a statement.
19 That's -- I know I'm -- the lawyers in the room, I will
20 be blowing your mind here that that happened, but it
21 did, and that was still ongoing round about that time,
22 or perhaps had just been changed just shortly before

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1 that. You know, Fife Constabulary was one of the areas
2 that employed that particular process as the --
3 you know, you were asked whether you wanted to provide
4 it, knowing full well that you were a suspect and that
5 anything you said would absolutely be used in evidence
6 and that didn't change until round about -- I'm not sure
7 exactly when that changed, but it was -- you know, it
8 was still ongoing in Police Scotland --

9 Q. In 2015?

10 A. It might have changed around about 2014. I know that
11 there was correspondence sent out to rectify that
12 because it wasn't just ongoing in Fife, it happened in
13 other areas of Scotland, so clearly Police Scotland
14 sought to ensure that it was the same national process
15 throughout the country.

16 Q. And when -- do you have any recollection of when that
17 correspondence was sent out?

18 A. Yes. It was maybe just before this actually.

19 Q. Before May 2015?

20 A. Yes, but in 2015, yes.

21 Q. And where -- you have obviously told us you were aware
22 of that; were officers, constables, aware of that?

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- 1 A. Well, I suppose only those that had fallen into that --
2 you know, fallen into having a complaint made about them
3 and perhaps been asked, so no, not everybody would have
4 been aware of that unless they had been caught up in the
5 process.
- 6 Q. Caught up in some manner?
- 7 A. Yes, you know, if there had been a complaint, or if
8 there had been -- you know, they might have been asked
9 for this and then sought some advice. It might have
10 been, you know, news to some of them that they were
11 being asked. I mean there's no pressure put on them to
12 provide it, but again, when it's an inspector in
13 the police contacting you and asking you, "Am I being
14 asked or am I being instructed?" that's always the
15 question.
- 16 Q. And I suppose some officers will be more susceptible to
17 pressure, that pressure than others?
- 18 A. Yes.
- 19 Q. So your role that day on 3 May was, aware of that
20 situation, to provide some support to those individual
21 officers?
- 22 A. Yes, and it was also to help, you know, if there was

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1 going to be some post-incident procedure -- and I didn't
2 know that at the time -- then it would be to do whatever
3 I could to make the day go a bit -- you know, I'm not
4 there to rock the boat or to cause any problems, I was
5 there to help, primarily to help our members but,
6 you know, I remain a serving police officer, so I was
7 happy to do whatever needed to be -- whatever needed to
8 be done, given the incident that they were dealing with.

9 Q. So you were there to help the officers?

10 A. Yes.

11 Q. And to support them?

12 A. Yes.

13 Q. On behalf of SPF?

14 A. Absolutely, yes.

15 Q. And was their welfare more of a priority to you?

16 A. That was my -- yes, it was absolutely my primary
17 concern, making sure that they were okay, and if they
18 needed anything, to try and facilitate that through the
19 service, if need be.

20 Q. Okay. And then we see at paragraph 57 of your Inquiry
21 statement that Austin Barratt let you into Kirkcaldy
22 Police Office when you arrived?

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1 A. Yes. Kirkcaldy Police Station has got keypads on the
2 back door and I don't -- I didn't work there so I didn't
3 know the code. Austin let me in the back, the back
4 door.

5 Q. And you went to the canteen?

6 A. Yes.

7 Q. And there were eight out of the nine officers who had
8 attended Hayfield Road in the canteen at the time you
9 arrived?

10 A. Yes, that's right.

11 Q. I think Nicole Short was still at the hospital?

12 A. Yes. Well, I'm not sure that I knew she was at the
13 hospital but yes, she wasn't there at that point.

14 Q. We have heard evidence that she was.

15 So would you be able to just at that moment when you
16 arrive at the canteen explain to the Chair the mood in
17 the canteen, the way the officers were at that time?

18 A. Yes. I mean they were all -- they were all really
19 anxious, they were worried. Again, from my
20 recollections, I don't think they had had any update
21 about what had happened, or what was ongoing. That they
22 had been in the canteen with kind of no feedback, no new

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1 information, so they were all a bit anxious, didn't
2 really know what lay ahead of them for the rest of the
3 day. I think they felt -- they felt -- they were
4 worried, you know, all being grouped together like that
5 and not getting much information, so it was quite an
6 anxious environment to walk into. They were all quite
7 worried.

8 Q. Did you have a sense at that time when you first arrived
9 who was in charge of the situation?

10 A. Yes, there was nobody in charge of the situation.

11 Q. Nobody. Was there any senior officers there present?

12 A. No, no. I think the most senior officer present was at
13 that time Scott Maxwell who I think was a constable but
14 was the acting sergeant on that particular day. He was
15 the only individual above the rank of constable that
16 I recall seeing, which is why I immediately went
17 upstairs to try and find out what was going on.

18 Q. Before we do that, can we look at paragraphs 50 and 59.
19 You talk about going in and asking how they were and
20 then at 59 you say:

21 "I remember telling them on arrival that I had heard
22 the incident be reported on Forth News and my concern

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1 was that members of their families and loved ones would
2 be worried. I don't remember the specifics beyond what
3 I've noted in my statement to PIRC. That's pretty much
4 my recollection."

5 So again, were you trying to get them to contact
6 their family members?

7 A. Yes -- no -- so that was probably the first thing that
8 I encouraged them all to do, was to make a phone call
9 home and tell their significant others that they were
10 okay, you know, it's such a ridiculous question to ask
11 someone "How are you?" but that's what I did, but I told
12 them to phone, not to give any details about what was
13 ongoing, but because I was aware that there was
14 information on the news -- you know, my family would
15 worry about me if they had heard that, so I thought tell
16 them that you're okay and that in all likelihood you
17 will be late home, you know, not to expect you any time
18 soon.

19 Q. Were you aware at that time about a story about a female
20 police officer having been stabbed?

21 A. Do you know, I -- that -- that was mentioned at some
22 point, but I don't know where it came -- I can't

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1 remember where it came from.

2 Q. Right.

3 A. I don't remember if it was on the -- I think the news
4 item was just about there was a police incident, it
5 didn't give any more information than that, so I don't
6 know whether that -- I have been asked that question
7 before; I don't recall being concerned about that at the
8 time. I don't know whether that came later when --
9 I think when we were updated that there were -- much
10 later on in the day that there were news items about
11 someone being injured or stabbed, but I don't think
12 I knew that at that early point.

13 Q. Okay. And then you have said you had a conversation
14 with Scott Maxwell.

15 A. Yes.

16 Q. And you mention that at 60, 61 and 62, and he gave you
17 a brief summary of what had happened at that time.

18 A. Mm-hm.

19 Q. And then can I ask you to look at paragraph 66, please.
20 You talk there about:
21 "The officers hadn't been updated, they had been
22 left within that canteen --

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1 A. Yes.

2 Q. "-- only with Austin Barratt kind of hanging around.
3 It's not a secure part of the building. It is
4 a thoroughfare, so people were coming and going. I left
5 there to go and try and find out what was happening."

6 And you then go on to say you went from the canteen
7 up to the CID part of the building to try and find out
8 what was happening:

9 "I remember Colin Robson, he was someone that I knew
10 from my time within the CID, I think he was maybe the DI
11 at the time. Colin Robson was there along with
12 Pat Campbell, I think that was his name, said he was in
13 charge."

14 So that's Colin Robson said he was in charge?

15 A. No, sorry, Pat Campbell said he was in charge.

16 Q. Sorry, Pat Campbell said he was in charge. Did you know
17 what Pat Campbell's rank was at that time?

18 A. I think he was a detective super at the time, but he's
19 not someone -- I had never met him before. He's not
20 someone that I knew.

21 Q. But they were both in the CID area?

22 A. Yes, yes.

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1 Q. And you say at paragraph 68:

2 "I remember feeling that I was in the way. I think
3 they were in the throes of trying to identify
4 Sheku Bayoh, so I left my business card with him and ...
5 that my intention was to go back and sit with the staff
6 but at that point I asked him whether the intention was
7 to do post-incident procedures. My impression was that
8 that hadn't been considered, hadn't been thought about,
9 which I suppose is understandable when they were in the
10 very early stages of trying to deal with whatever had
11 gone on, I left and went back downstairs and spent the
12 rest of the time with the individuals on the ground
13 floor."

14 I'm interested in your contact with Robson and
15 Campbell.

16 A. Yes.

17 Q. And you have told us just a moment ago that no one was
18 in charge, so was this the first time that you had heard
19 that Pat Campbell was in charge?

20 A. Yes -- well, when I say there was no one -- there was
21 no one in control of the canteen area, which I would
22 have expected if you had brought a number of

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1 police officers back to sit together, I would have
2 expected someone to be there, even just to check on
3 their welfare and make sure they were okay, but yes,
4 Pat Campbell, the superintendent as he was at the time,
5 said that he was -- he was the investigating officer.

6 Q. Right. And they were trying to identify Mr Bayoh?

7 A. Yes. That was the impression that I got. It was all
8 a bit chaotic and I just generally got the impression
9 that I was in the way and I absolutely didn't want to be
10 slowing anything down or hampering their investigation,
11 so I -- but I left my business card, I told them that my
12 intention was to go back downstairs and make sure the
13 cops were okay.

14 Q. And what were you hoping would happen in relation to
15 your involvement with the officers?

16 A. So -- well, I suppose telling him that I was going down
17 to look after them, or to remain with them, I was hoping
18 that he would send along someone from Police Scotland
19 that would do that job. It's absolutely their
20 responsibility, so I was hoping that that would be the
21 case. I asked about post-incident procedures, given the
22 nature of what we were -- what the police were dealing

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1 with, and he said he would get -- he would get back to
2 me.

3 Q. Right. So you have said "My impression was that that
4 hadn't been considered", post-incident procedures; what
5 do you mean by that?

6 A. When I asked -- when I asked if that was
7 a consideration, you know, I got a kind of -- not
8 a startled look, but, you know, the impression I got was
9 that was the first of him considering that that might be
10 suitable.

11 Q. Who gave that you startled look?

12 A. Superintendent Campbell.

13 Q. Right. So you got the impression you were the first
14 person to mention post-incident procedures?

15 A. Yes. That was the impression I got. Whether that was
16 the case or not, I don't know, but that's certainly what
17 I felt.

18 Q. And when you mentioned it and he gave you that look,
19 what did he say about your suggestion, if anything?

20 A. I don't think -- I don't think he said anything.

21 I think he said just he would get back to me.

22 Q. And did he ever get back to you?

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- 1 A. Well, yes, I mean -- he didn't get back to me, but he
2 got -- he came -- he got back to the group by updating
3 us later.
- 4 Q. Right. And when did that later update take place?
- 5 A. Again, I'm not -- I wasn't recording times, which
6 obviously I perhaps should have been, but that was a bit
7 later on in the morning, maybe about mid-morning. That
8 was the update where he came in and confirmed that
9 Mr Bayoh was deceased.
- 10 Q. Was he on his own when he came in?
- 11 A. I think so, yes. I don't remember anyone else being
12 with him.
- 13 Q. Right. And he confirmed that Mr Bayoh had died.
- 14 A. Died, yes.
- 15 Q. And was there anything else he confirmed at that time?
- 16 A. Now I -- yes, so I don't know whether then
17 chief inspector that was responsible for the
18 post-incident procedures later on had arrived by then,
19 so I'm not sure whether we were updated that that was
20 going to happen, or whether he was already there.
- 21 Q. Was that confused -- your memory of that is confused?
- 22 A. Yes, yes, I'm not sure whether he updated us that

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1 post-incident procedures were going to happen and then
2 the chief inspector arrived, or whether the chief
3 inspector had arrived and he confirmed we're going to do
4 post-incident procedures.

5 Q. So you have told us about Pat Campbell, you have
6 mentioned the chief inspector; what was his name?

7 A. You know, that's when I have a complete blank of what
8 his name is.

9 Q. You might remember later?

10 A. Yes. Conrad Trickett, sorry.

11 Q. Conrad Trickett.

12 A. Yes.

13 Q. So Conrad Trickett was the chief inspector?

14 A. He was the chief inspector at the time.

15 Q. He came in after Pat Campbell or before?

16 A. Not sure.

17 Q. What did the chief inspector Conrad Trickett say to the
18 officers?

19 A. Conrad, as I recall, introduced himself as the
20 post-incident manager. He -- on his arrival, he --
21 provided them with the conferring warning that he
22 I think was reading from a -- you know, a kind of

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1 aide memoire that he had with him and explained that it
2 was probably going to be quite a long process and that
3 he would need to go and find out what was happening and
4 he would come back and update them.

5 Q. Do you remember the time, or roughly what time
6 Conrad Trickett arrived at the canteen?

7 A. I mean I -- my recollection is about mid-morning, so he
8 was there -- so some time between 10.00 and 11.00, it
9 might have been a wee bit later than that.

10 Q. You've mentioned, and you mention it in your Inquiry
11 statement a conferral warning.

12 A. Yes.

13 Q. What was that?

14 A. So it's a -- it's part of the process. Indeed,
15 generally post-incident -- post-incident managers
16 generally read it verbatim off a kind of laminated sheet
17 that they have, and it effectively tells those that are
18 involved in the process that, you know, the whole point
19 of this process is to establish your recollection of
20 what's just happened, so warn against conferring with
21 your colleagues, because actually we will get their
22 version of events, what we're looking for is what you

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1 honestly -- I think they call it your honestly held
2 belief at the time.

3 So it's just clarifying to them: the reason we're
4 looking for you not to speak about the incident is
5 because we're looking to get what you recall as opposed
6 to a mixture of what other people might have said to
7 you.

8 Q. And prior to Conrad Trickett coming in, you thought
9 about mid-morning, had anyone spoken to the officers and
10 given them a conferral warning or a conferring warning?

11 A. So I don't believe that that had happened prior to my
12 arrival. Now, I didn't provide the proper conferring
13 warning, but on my arrival I just sort of made sure that
14 there was -- I didn't give them a warning, but
15 I explained to them that the whole point of this process
16 is about: What they're looking for is your
17 recollection, so please don't talk about what happened,
18 I don't need to know, but I don't think that they had --
19 I don't believe that they had had that from anyone else,
20 certainly nobody mentioned that they had already had it
21 from somebody else and that's probably because there
22 hadn't been a decision made on post-incident procedures,

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- 1 I expect.
- 2 Q. So you didn't have the laminated aide memoire?
- 3 A. No, but I understood the --
- 4 Q. Is that from previous experience?
- 5 A. No, well again -- no, just around about going: let's not
6 talk about anything that's happened until the process
7 has kicked off.
- 8 Q. Okay. And did you have concerns in the morning about
9 the way things were being handled with the officers in
10 the canteen, from an SPF perspective?
- 11 A. Concerns? No, I wouldn't put it as concerns. I suppose
12 I was -- it's always a bit disappointing when
13 information is really slow in coming forward, but it's
14 absolutely to be expected when there's an ongoing
15 spontaneous investigation, so I wasn't worried about it,
16 no. I suppose I had a specific job to do and I was just
17 keen that I did that, despite perhaps Police Scotland
18 not looking after them themselves.
- 19 Q. And you said earlier that Police Scotland absolutely had
20 a responsibility; was that a responsibility to consider
21 the welfare of the officers, or some other
22 responsibility?

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- 1 A. No, I mean -- yes, I think that they are serving
2 police officers, they're only involved in this incident
3 because they turned up for their work that morning.
4 I just think it's right and proper that Police Scotland
5 look after and provide them with all of the information
6 that they might need, and if you're not there, how do
7 you know what anybody needs.
- 8 Q. So what would you have liked Police Scotland to have put
9 in place in the morning to support those officers?
- 10 A. So someone should have been with these officers from the
11 minute that they come back to the police station.
- 12 Q. And when you say "someone", what sort of person are you
13 thinking?
- 14 A. Well, do you know, anyone -- anyone not connected to the
15 incident, preferably a supervisor because that holds
16 some gravitas in the police, you know, rank matters,
17 whether we like it or not, so I would have preferred
18 that. That isn't always possible when things are
19 ongoing and people need to be seen, but I'm not sure
20 that them coming back to the police station and sitting
21 in a room where there can be a suggestion that they have
22 spoken about this is looking after them.

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1 Q. And what could that supervisor have done for the
2 officers? If someone had been there, what could they
3 have done?

4 A. Just ensured that the kind of principles of the
5 post-incident procedure, even before it started have
6 been -- have been maintained from the outset, if that
7 makes sense.

8 Q. Maintained and observed?

9 A. Yes.

10 Q. Right. Can we move on to paragraphs 72 to 81 in
11 relation to Nicole Short.

12 A. Yes.

13 Q. You describe her arriving, and you have been referred to
14 your previous statement 237. It is quoted in
15 paragraph 73, so I won't go to that immediately, and you
16 say:

17 "Around mid-morning, Constable Short returned to the
18 police station from the hospital."

19 And then on to the next page, please:

20 "About half past 10 she arrived back mid-morning.

21 That seems right to me."

22 Was that before or after Pat Campbell came in?

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1 A. I don't know.

2 Q. Okay. And you said there:

3 "I don't know if she was wearing her body armour or
4 officer safety equipment, but she had it with her when
5 she came back. I didn't see her wearing it."

6 A. Yes.

7 Q. So in the canteen she wasn't wearing it?

8 A. I don't remember seeing Nicole wearing her body armour.

9 Q. Right. And then:

10 "There was a bit of a huddle around her."

11 You say in 75. And then you describe her at 76:

12 "She was a poor wee soul."

13 A. Yes.

14 Q. And you say:

15 "She was very stiff on her upper body. When she was
16 turning round to see you her whole upper body was
17 moving. She was white as a sheet, not really taking
18 anything in. It was a wee shame. I was quite worried
19 about her. Everybody else seemed to be well, just a bit
20 not really sure what was going on."

21 And then you're asked at paragraph 77 about your
22 previous statement which said:

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1 "'I enquired as to how she was feeling and she
2 complained of feeling sore around her head and neck.
3 I was [presumably it was obvious] from what I could see
4 that she was not comfortable and in pain' ... I didn't
5 know what injuries [she] had suffered."

6 And you asked how she was. At 78 you say:

7 "She wasn't able to move her head to the side so
8 when she moved her head she was having to move from the
9 waist, if that makes sense. She was moving her entire
10 upper body, so it looked like she was uncomfortable."

11 And then at 79 you are referred to your later PIRC
12 statement which was 22 June, and you describe her there
13 and you say:

14 "She was very stiff about the chest and neck."

15 And appeared to lack focus, appeared shocked and you
16 thought she might have been medicated but she wasn't:

17 "When I spoke to her I gave her the same advice
18 I gave to the other officers about status and
19 statements. I think I had to explain this a couple of
20 times as it wasn't registering or sinking in."

21 And that's what's written down in the statement.

22 Now, we will come back to the injuries side of things in

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1 a moment, but looking at paragraph 79, you have said you
2 gave her the same advice you gave the other officers
3 about status and statements. What advice did you give
4 the other officers?

5 A. So the advice that I gave to the officers: was at some
6 point someone who is investigating may come along and
7 ask you for a statement. What you should be enquiring
8 is what your status is, am I a witness or am
9 I a suspect? If you're a suspect then you probably want
10 to seek some legal advice before you do that because
11 they really shouldn't be asking you for a statement if
12 you're a suspect, and if they confirm that you're
13 a witness, then -- I suppose -- we never got to that
14 part but the next part might have been: are we doing
15 that today? Is today the best day for that to be done
16 given what had gone on earlier? But yes, it was as
17 straightforward as that, of going: if you're asked for
18 a statement, you should be asking -- because they will
19 not ask me for that, I wasn't there, you should be
20 ascertaining whether you're a witness or a suspect.

21 Q. And depending on the answer to that question, there's
22 different --

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1 A. Absolutely.

2 Q. -- a different approach recommended?

3 A. Yes.

4 Q. And that's the advice you had given the other officers
5 in the morning?

6 A. Yes.

7 Q. Before Nicole Short arrived?

8 A. Yes.

9 Q. And you repeated that --

10 A. I repeated that as Nicole had missed it.

11 Q. -- for Nicole Short?

12 A. Yes.

13 Q. Thank you. And then paragraph 80:

14 "It has been suggested to me that my account to PIRC
15 is different to what I wrote in the statement
16 I produced..."

17 That was the original one:

18 "... Specifically in the first statement I said she
19 complained of feeling sore around her head and neck and
20 in the PIRC statement said she was very stiff about the
21 chest and neck."

22 And you say:

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1 "It is more detailed because I was asked about more
2 detail in the PIRC interview. In my first statement
3 I was asked to provide a very general statement. Could
4 I have given more detail? Quite clearly."

5 And then paragraph 81:

6 "Perhaps if I had been provided at the time with
7 a bit more guidance. I had never been asked to provide
8 a statement about my involvement. I believed they were
9 investigating the death of an individual. I'm not sure
10 that I would have gone into the level of detail that
11 I was asked later. I answered questions when I was
12 asked specifically about them. Could I have added it at
13 the start if I believed it was relevant or helpful?
14 Then I could have done, yeah."

15 So the first statement says head and neck --

16 A. Yes.

17 Q. -- the second statement says chest.

18 A. Yes.

19 Q. Thinking back now, can you tell us what your impression
20 was of the difficulties that Nicole Short had when she
21 came back to the canteen?

22 A. Yes. So when Nicole arrived back, my recollection is

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1 that if she was going to speak to someone she entirely
2 moved her body from her waist. She was -- she didn't
3 turn her head, she didn't turn -- she turned her entire
4 body, that's what I remember, you know, and it was the
5 same if she was turning that side, or if she was
6 turning -- obviously I'm on a swivel chair, she wasn't
7 on a swivel chair, I think she was sitting on the sofa,
8 so my recollection is she was turning from her waist.

9 Q. So avoiding turning her neck?

10 A. Yes, yes, yes.

11 Q. And is that the area where she appeared to you at least
12 to have some difficulties?

13 A. Yes, yes, she appeared to have discomfort in her kind of
14 upper body which is why she was moving, I thought, the
15 way she was moving.

16 Q. And she was avoiding turning --

17 A. Yes.

18 Q. -- moving her neck left to right?

19 A. Yes, absolutely.

20 Q. And then in paragraphs 86 and 87 -- sorry, I should have
21 maybe just confirmed with you there, Ms Givan, do you
22 remember earlier we talked about the paragraph that

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1 said: I'm not accepting everything in my original
2 statement" --

3 A. Yes.

4 Q. -- I want to be clear what it is, so if there's an
5 apparent discrepancy there, what would you suggest the
6 Chair should prefer between your first and your second?

7 A. I mean, there isn't much time between the first and
8 second. I was asked in more detail at the second one,
9 so perhaps the second one.

10 Q. But generally your evidence today is your best
11 recollection today?

12 A. Yes, it's my best recollection, yes.

13 Q. Thank you. Paragraphs 86 and 87, you talk about the
14 officers in the canteen being a bit fed up, I think,
15 with the delay and the time things were taking. Tell us
16 what impact that was having on people?

17 A. So -- yes. They were absolutely aware that there was
18 a need for them to be there, you know, there was an
19 ongoing investigation, but they were there all day and
20 there were times in that day where with lack of
21 information people were a bit frustrated and, you know,
22 couldn't understand "Why am I sitting here when I could

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1 go home?" you know, "What purpose -- what purpose are we
2 serving by remaining here if nobody is coming and asking
3 us anything, or nobody's telling us what's happening?
4 Could we do this elsewhere?"

5 So it wasn't all day, but there were times when --
6 you know, there were nine police officers, myself and
7 the two individuals that were doing the post-incident
8 procedures, there were times where, yes -- you know, it
9 was a bit tense.

10 Q. What information would have assisted the officers at
11 that time?

12 A. Being told whether they were witnesses or suspects might
13 have helped greatly.

14 Q. Can we look at paragraph 88, first of all, to give it
15 some context. You talk about Conrad Trickett coming in,
16 and then at 89 you say:

17 "Inspector Jane Combe joined us at some point late
18 morning, I think. Jane was an inspector with
19 Police Scotland that I know from my Fife days. I don't
20 know whether she worked at Kirkcaldy or was brought in
21 from [somewhere else], but she was clearly asked to come
22 along to help out Conrad Trickett with some local

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1 knowledge and I think she knew some of the individuals
2 that were there."

3 How long was Jane Combe there?

4 A. So, again, I don't know when she arrived because
5 I wasn't keeping a log when -- you know, but that -- it
6 should be in the log when Jane arrived, but she was
7 there until the end, so Jane remained with us until
8 everyone was effectively sent home much later on in the
9 evening.

10 Q. So if the Chair had heard evidence that she only was in
11 the canteen twice, the first time for five minutes and
12 the second time with Conrad Trickett but she stood
13 behind him and said nothing, does that accord with your
14 recollection?

15 A. She -- first of all, Jane Combe wasn't someone who was
16 trained in post incident procedures. My impression was
17 very much that she was there to provide a helping hand
18 and I think she did leave on a number of occasions to
19 attend the meetings that were ongoing, or the updates
20 that were happening elsewhere, but certainly my
21 recollection is that Jane was there throughout and,
22 you know, the post-incident procedures often work where

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1 there's -- you know, there's a post-incident manager,
2 then there are other individuals involved in that
3 process and the whole point of that is if someone needs
4 to leave and go to a meeting, or to find something out,
5 then someone from that process remains and I very much
6 had the impression that Jane was carrying out the role
7 of the appointed officer, which is a role within the
8 post-incident procedures, albeit perhaps she shouldn't
9 have been, but she was someone that was there when
10 Mr Trickett needed to attend a meeting or go to
11 a briefing.

12 Q. So she was the officer who remained while
13 Conrad Trickett maybe left the canteen?

14 A. Yes, yes. If one of them left, the other one --

15 Q. Would be present?

16 A. -- would be present. That's certainly my recollection
17 of what happened that day.

18 Q. And is that designed to provide that continuity?

19 A. Absolutely, yes.

20 Q. I would like to ask you some questions about equipment.
21 We have heard that at some point a decision was taken to
22 recover equipment or clothing from the officers. Do you

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1 remember when that was?

2 A. My recollection is it was very late in the day, it was
3 actually one of the very last things that happened.
4 Their equipment was seized, they were then all to see
5 a doctor.

6 Q. We have heard that was an FME?

7 A. FME, and then they went home after that, so I think they
8 went up the stairs to get their equipment and their
9 uniform seized. When they came back down they went in
10 to see the doctor, and then after that they could go
11 home, so it was very -- it was one of the last things
12 that happened.

13 Q. Right. Can we look at paragraphs 90 to 92. You say at
14 90, the decision was taken that PIRC wanted to seize
15 clothing and equipment. And then 91 and 92 you say at
16 the end of the day they were getting their uniform,
17 clothing seized and then they came down after that and
18 they were examined by a doctor:

19 "There was a ridiculous wait on all of the
20 police officers being examined by a doctor, so we had to
21 wait for that doctor to come along and then each of them
22 went in, had a chat with the doctor, came out, and at

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1 that point they were able to go home."

2 Did you feel that the delay in securing the doctor
3 was unacceptable?

4 A. Yes -- yes, I mean it had been a really long day for
5 them, yes, and I thought if this is going to happen, it
6 could all have happened a bit quicker. It seemed an
7 unnecessary delay and we certainly weren't expecting
8 clothing to be seized either. That was a --

9 Q. And what concerns, if any, did you have about the
10 welfare of the officers as a result of the delay and
11 this happening?

12 A. Yes, I mean I -- I was just really keen to get them
13 home. It was quite clear at that point that they
14 weren't going to get confirmation of whether they were
15 witnesses or suspects at that point, so I was -- I was
16 keen to get them home as quickly as possible because it
17 had been -- you know, they had started at 7 o'clock in
18 the morning and they were now -- you know, it was dark
19 outside.

20 Q. Did you feel by the end of the day that they had not had
21 clarification of their status as witness or suspect?

22 A. They absolutely didn't have clarification of their

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1 status.

2 Q. You're quite sure about that?

3 A. Absolute -- yes, I'm certain.

4 Q. And then can I ask you briefly, just before we move on,
5 about the layout of the canteen. Now, there's different
6 comments about this in your statement, so let's look,
7 first of all, at 94 and 95, which are just coming up
8 "Layout of the canteen":

9 "The back door comes into the car park, brings you
10 into a corridor ... male and a female toilet ...
11 a flight of stairs which took you upstairs. You then
12 entered the canteen area."

13 Which would have been "a bit of an assembly hall".

14 Then:

15 "That open space was split into two by a kind of
16 wooden partition wall, snooker table, dart board ... on
17 the other side ... a formal table, dining table ...
18 chairs ... leather sofas with a TV on the wall."

19 And then can we look at paragraph 42 and then the
20 canteen was off the back yard:

21 "You accessed it from the parking area at the back
22 yard ..."

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1 And you walked through the canteen to get to other
2 parts of the building:

3 "I've walked through it but it's the first time
4 I sat down on a seat or a chair and actually was in the
5 canteen area."

6 Then can we look at paragraph 138, please, and do we
7 see that this says:

8 "The only people that I know who came in were people
9 passing through, I have no idea who they were. I don't
10 work there, I don't even know if they work there, they
11 were just there for that day, so there was people coming
12 in the back door from outside coming into the canteen
13 and then going out the double doors. That happened
14 throughout the day, so people were using it as
15 a thoroughfare continuously throughout the day."

16 I just want -- could you give the Chair an
17 impression of what was happening in that canteen? We
18 may have heard some evidence that this was designed as
19 a sterile area and I think -- the Chair would be
20 interested to know your impressions?

21 A. Yes. So ordinarily for a room that's being used for
22 a post-incident procedure it would be exactly that, it

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1 would be a sterile room where only those that came
2 into it had been allowed in by the post-incident
3 manager. This was, I suppose, a bit of an ad hoc
4 arrangement in respect of the location, in that it
5 had -- you know, there were two doors, one that led in
6 from outside, so if people didn't know that the canteen
7 area was being used for this particular purpose, there
8 was nothing to stop them, if they knew the keypad, to
9 come in, come through the canteen and then go out the
10 double doors to other parts of the building. I think it
11 takes you -- if you go that way it takes you through
12 into where, for example, the custody area is, or to
13 other parts of the building.

14 So my recollection is that throughout the day there
15 were individuals coming either in from outside and using
16 that as their way into the building, or were coming
17 through from the building to go outside -- you know,
18 obviously once they come through those double doors and
19 they realised that we were there, there was a bit of
20 a "sorry" and out quickly, but there wasn't anybody
21 controlling who come in and come out because the doors
22 weren't -- the outside door could have been locked

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1 I suppose, but the internal, wooden swing doors were not
2 locked.

3 Q. I was going to ask, was anyone in charge of who entered
4 the canteen or who left the canteen?

5 A. That should have been the job of the post-incident
6 manager.

7 Q. Right. So Conrad Trickett should have been responsible
8 for --

9 A. Yes, he would be responsible for that, yes.

10 Q. -- organising that. And when you say "responsible", do
11 you mean he would have appointed someone to --

12 A. Yes, absolutely, yes. I don't expect for a minute that
13 he would have been escorting people, but if someone was,
14 for example, looking to go to the toilet, he would be
15 looking to make sure that they went and came back.

16 Q. And you have described that in a number of paragraphs as
17 a "thoroughfare"?

18 A. Yes.

19 Q. So people were walking through the canteen from who
20 knows where?

21 A. Yes. I mean -- yes, so I don't work at Kirkcaldy so
22 I don't know many of the people that were based there.

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1 They could well have been people that worked there every
2 day and that was just the normal route they took, or
3 they could have been -- you know, there were -- although
4 we didn't meet them, there were individuals from the
5 PIRC that had turned up at Kirkcaldy and would perhaps
6 be less familiar with other routes to take to get into
7 the building, so they may well have been -- been them,
8 but I didn't know anyone.

9 Q. And you say that was continuously happening throughout
10 the day. Was that through the whole day, from the
11 minute you arrived to when you left?

12 A. Yes. I suppose it got a bit less frequent as the day
13 went on but certainly in the morning probably to --
14 you know, between the kind of 9 to 5 hours when there's
15 people there working, my recollection is that that was
16 fairly regular.

17 Q. And we have heard that when the officers were in the
18 canteen, that they left their equipment and clothing
19 sometimes leaning against a wall --

20 A. Yes.

21 Q. -- sometimes on the floor, sometimes on a table; is that
22 your recollection?

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1 A. Yes, yes, so my recollection is when I arrived nobody --
2 I mean it's really cumbersome and uncomfortable, so most
3 people had taken it off and it was kind of round the
4 edge of the room. Your body armour often falls over, so
5 most people prop it up against a wall, or a piece of
6 furniture, clearly within their eye-line, but once you
7 have taken it off they had put it to the side and
8 I think everybody had pretty much done that.

9 MS GRAHAME: Thank you.

10 I'm conscious of the time.

11 LORD BRACADALE: Very well. We will have a break for
12 20 minutes at this point.

13 (11.33 am)

14 (Short Break)

15 (12.00 pm)

16 LORD BRACADALE: Yes, Ms Grahame.

17 MS GRAHAME: Thank you. I was just about to move on to ask
18 you some questions about equipment and in particular
19 Nicole Short's vest.

20 Can we look at paragraphs 148 to 157 of your Inquiry
21 statement, please. You have been asked a series of
22 questions by the Inquiry team about this and you explain

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1 you can't remember when you first saw Nicole Short's
2 vest and when we say "vest" we're talking about the --

3 A. The body armour.

4 Q. The body armour with the high visibility vest attached
5 to it.

6 A. Yes.

7 Q. And you rightly point out you don't remember if she was
8 wearing it when she walked into the canteen.

9 And then you have indicated that you are going to
10 struggle to remember what the mark looked like:

11 "I remember there being a mark."

12 A. Yes.

13 Q. "I remember being quite satisfied that it was sitting
14 where it was sitting because it was not rubbing up
15 against anything."

16 Is that the vest you're talking about?

17 A. Yes.

18 Q. Where was the vest sitting?

19 A. So the vest was propped up against the wall, the wall
20 that -- on the other side of that would be the kitchen
21 area.

22 Q. Right.

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1 A. So it was -- it was zip into the wall, with the back
2 panel --

3 Q. Exposed?

4 A. Yes, visible.

5 Q. So the zip side, the front of the vest leaning against
6 the wall with the back exposed?

7 A. Yes, and it may have been leaning against -- the front
8 of it may have been leaning against somebody else's body
9 armour, but the back of it wasn't touching anything
10 else.

11 Q. Right. And where was Nicole Short in relation to her
12 vest?

13 A. So I think Nicole was sitting on the sofa which would
14 be, you know, 10, 12 feet away.

15 Q. And it wasn't covered, so it wasn't being preserved,
16 so -- but:

17 "There wasn't any likelihood that it was going to be
18 damaged or rubbed off."

19 A. Yes.

20 Q. "The mark first came to my attention at some point
21 during that day."

22 Do you remember when you noticed it?

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1 A. I -- no, I don't. I don't think I noticed it, I think
2 it was pointed out, but I -- I honestly can't remember
3 how that came about.

4 Q. Do you remember who pointed it out?

5 A. I think Nicole, but --

6 Q. Are you not certain?

7 A. -- I'm not certain.

8 Q. And then you say, 150:

9 "What I need to be very clear is that none of this
10 was my job to preserve anything. I wasn't doing an
11 investigation but I can remember thinking at some point
12 someone is going to be interested in that and it's
13 probably sitting in not the best location but not the
14 worst location. That's really all I can remember.
15 That's my lasting recollection of it. I don't have my
16 investigator's head on. I wasn't planning to do
17 anything with it other than being satisfied that where
18 it was wasn't risking any evidence being lost."

19 Tell us what you were thinking at this time?

20 A. Yes, so I -- I suppose I had an expectation that the
21 mark that was on the vest may have been important, so
22 had -- if at the end of the day there was an expectation

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1 that Nicole was going to pick that up and put it in her
2 locker, I would probably have raised it at that point to
3 make sure that somebody was showing an interest in it,
4 or at least looking to examine it, or take possession of
5 it, but where it was sitting it wasn't doing any harm,
6 it wasn't -- there wasn't any evidence being lost. It
7 was within the room that someone was in all of the time,
8 so it was unlikely that anything would happen to it, so
9 I suppose I was satisfied that where it was -- it was
10 fine for the time being, but if it at the end of the day
11 they hadn't had their uniform seized, I would probably
12 have been looking to speak to someone to say "Someone
13 might want to have a look at this", because nobody --
14 you know, other than the couple of occasions where
15 individuals came in to update them on certain things,
16 there wasn't any ongoing dialogue with the
17 investigators, if that makes sense.

18 Q. Okay. So you have said you would have spoken to
19 someone -- who would that someone have been?

20 A. Probably -- yes, probably I would have spoken to
21 Conrad Trickett because that absolutely would have been
22 his job to then facilitate what happened with that.

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- 1 Q. He was the post-incident manager?
- 2 A. He was the post-incident manager.
- 3 Q. Would you have spoken to the SIO, the senior
4 investigating officer at all?
- 5 A. I don't know that necessarily I would have done that
6 because that wouldn't necessarily have been my place.
7 Conrad Trickett was the post-incident manager, so
8 I would have raised it with him with an absolute
9 expectation that he did that.
- 10 Q. Did you raise it with him?
- 11 A. No, no, I didn't because the items were seized, so I was
12 satisfied that it had been taken possession of.
- 13 Q. So in terms of the timing between you noticing the mark
14 and the items being seized, do you have any recollection
15 of how long that was?
- 16 A. It would have been quite a while because, as I say, the
17 items weren't seized until much later on in the evening,
18 so it was probably -- it would have been sitting there
19 for hours.
- 20 Q. So you noticed it hours before the item was seized?
- 21 A. Yes.
- 22 Q. And then the someone who would have looked at it, who

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1 are you thinking?

2 A. Whoever was investigating it, whether that was someone
3 at Kirkcaldy, you know, someone in Pat Campbell's team,
4 or whether that was the PIRC who would have already been
5 made aware were investigating the matter.

6 Q. So either a police officer of some description --

7 A. Yes.

8 Q. -- or someone from PIRC --

9 A. Yes.

10 Q. -- would have looked at it?

11 A. Yes.

12 Q. And why did you think it might be important?

13 A. Well, there was a -- I was aware that Nicole had been
14 assaulted. I don't know if I knew at that time much
15 more about what had taken place, so I felt that that was
16 perhaps a relevant consideration and, if not, then no
17 harm done, but better to have had it than not have it.

18 Q. And then if we can look at the next paragraph, please.
19 You say:

20 "It looked like a dirty mark. [It] looked like dirt
21 or dust. It wasn't paint or anything, it was a dirty
22 mark, so it looks like that's what it had been made

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1 from. If I'm being asked to speculate, it looked like
2 it was roughly the shape of a shoe mark. Albeit you
3 couldn't see specific tread detail, but it looked to be
4 roughly the size and shape. It was a kind of long, thin
5 mark, roughly in the shape of a shoe."

6 And then 152:

7 "I might have spoken to Nicole Short about it. But
8 I can't remember going into any detail."

9 A. Yes.

10 Q. So in terms of where the mark was, can you tell us?

11 A. So -- yes. So again --

12 Q. Would it help if I gave you a demo vest because you
13 could maybe see the back and point at it?

14 A. Yes, it looked like it was on the luminous yellow part,
15 below the "Police" sign. Sorry, so --

16 Q. This is just a demo vest.

17 A. -- the (inaudible) are falling out of this. So my
18 recollection is it was roughly along here (indicating),
19 so below --

20 Q. Below the police badge?

21 A. Below the police sign and here (indicating).

22 Q. And you're pointing to the sort of middle?

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1 A. Yes.

2 Q. Is that between the two strips of --

3 A. Yes, I'm going to be honest and say I don't know if this
4 vest is -- if you're telling me it's identical to --

5 Q. It's the same size.

6 A. I couldn't tell you whether these reflective strips were
7 there at the time because my recollection is that it was
8 on the yellow part, so I don't remember the shiny bits.

9 Q. Thank you. That's fine, thank you.

10 Then if we can go down on the Inquiry statement,
11 Ms Drury will -- when Ms Drury is back at her seat. You
12 talk about making a presumption about it and then you
13 have watched the BBC documentary regarding Sheku Bayoh?

14 A. Yes.

15 Q. And that's when you first became aware that the stomp,
16 or the stamp was an issue and you say:

17 "I would be lying if I said that that was when
18 I first became aware, but I certainly got a lot more
19 information following that documentary."

20 A. Yes. I'm not sure when I first became aware that anyone
21 had saw Nicole be stamped on or stomped on, but I do
22 remember the documentary covering that part of it.

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- 1 Q. Is your memory of the documentary clearer than your
2 memory of when you would have become aware?
- 3 A. Yes -- well, I suppose it's really difficult, they have
4 all kind of started to -- I suppose that's one of --
5 you know, an issue that there was that information out
6 there and I'm not sure whether I got it from the
7 documentary or whether I knew about it beforehand.
- 8 Q. Is it possible that the documentary was the first time
9 you realised it was an issue?
- 10 A. No, absolutely, it could have been, it could have been.
11 I'm not aware of any discussion on the day that Nicole
12 was stamped on because I had already said "Look, let's
13 not talk about this", so I don't -- I don't recall that
14 happening on the day. Whether I heard later on, or
15 whether I saw it on the documentary, I'm honestly --
16 I can't be clear on that.
- 17 Q. Did you watch that documentary on the telly --
- 18 A. Yes.
- 19 Q. -- when it was playing live, if you like, rather than
20 iPlayer?
- 21 A. Yes.
- 22 Q. And with when was that? Do you have any recollection?

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1 A. Oh, no, I don't actually. Again, it's been seven years,
2 but it was some time after the incident.

3 Q. Right.

4 A. I'm not sure when that was first shown.

5 Q. Okay. Then 155:

6 "I think the only conversation I had about the vest
7 was when Nicole was going up to have her clothing
8 seized. It was to make sure that she identified the
9 mark to them. I believe that was the only conversation
10 I had. I didn't see who seized it. Nicole went
11 upstairs on her own to have that done. So I wanted to
12 make sure that she pointed it out."

13 Tell us about the conversation you had with
14 Nicole Short.

15 A. So, as I have already said, Nicole was a bit --
16 you know, a bit confused generally that whole day, so
17 I -- I suppose I performed the role of the bossy
18 Federation rep where I -- when it was Nicole's turn to
19 go up and she was collecting all of her equipment to go
20 up and have that seized I was saying to her "Remember
21 and point out this mark on your body armour". Again,
22 I'm not there to carry out an investigation, but I am

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1 a serving police officer, so in my head I was thinking
2 you would want to know that there was something to be
3 preserved because that might impact on how you package
4 it, or look after it, whether you arrange for it to be
5 photographed before you put it in a bag, I wanted Nicole
6 to make sure that that information went to those that
7 were seizing it, who I understood to be detectives from
8 the Major Investigation Team from Police Scotland.

9 Q. Right. And how long prior to Nicole going up the stairs
10 did you have that conversation with her?

11 A. Oh, I think it's as she was picking up her equipment to
12 go -- to go up the stairs, I'm saying to her "Remember,
13 when you get up the stairs" -- she wasn't filling me
14 with confidence in her ability to retain information or
15 remember it, so it was probably the last thing she heard
16 from me when she was going up the stairs. I was as
17 confident as I could be, without accompanying her, which
18 didn't appear to be an option, but I wanted it to be the
19 last thing that she heard when she went upstairs.

20 Q. And as well as speaking to Nicole, did you consider
21 speaking to Conrad Trickett about it, if you weren't
22 confident?

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1 A. No -- well, I suppose I was confident that it was being
2 seized, so I didn't mention that to him. Perhaps
3 I should have done, but I didn't.

4 Q. Thank you. And then going further down, please, 156,
5 you then sent the Inquiry an email you had sent to your
6 legal representative, I think who was Peter Watson?

7 A. Yes.

8 Q. And that was dated 11 March 2022 and a copy of the email
9 is attached to the statement, but also the content of
10 that email is then transcribed in detail there at
11 paragraph 156. So you talk about seeing Nicole on the
12 sofa.

13 A. Yes.

14 Q. She wasn't wearing her body armour and then if we could
15 continue up:

16 "... not long after she was back, a 'shoe or boot
17 mark' was seen by someone and pointed out to me.
18 I recall it looking very like the same of a shoe or boot
19 sole."

20 Is that correct what's said there?

21 A. Sorry, I think it should be "the shape" --

22 Q. "The shape of a shoe" --

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1 A. -- "the shape", so it was a kind of long shape, as
2 opposed to, you know, narrower.

3 Q. Right:

4 "... and there wasn't enough detail to see tread or
5 anything but it was more than just a dark mark. It was
6 left to the side along with everyone else's equipment."

7 When you say "It was left to the side", what are you
8 referring to?

9 A. I mean the body armour.

10 Q. The vest?

11 A. The vest, yes.

12 Q. "And I recall thinking this was clearly better than it
13 being worn and possibly rubbing off. Near the end of
14 the day when each person went up the stairs to have
15 their clothing seized, I ..."

16 What that reminded?

17 A. Reminded, yes.

18 Q. "... Nicole to point this out to whoever was bagging
19 their clothing as it probably needed to be
20 photographed."

21 A. Yes.

22 Q. So at the time, is your recollection that you thought it

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- 1 should be photographed?
- 2 A. Yes. I would have expected something like that, that if
- 3 it was put in a bag, it might rub off, that it would be
- 4 photographed either then, or shortly thereafter.
- 5 Q. So not photographed by forensic staff later, but
- 6 photographed in advance of it being recovered?
- 7 A. No, I would have expected that to be done by the
- 8 forensics.
- 9 Q. By the forensic people?
- 10 A. Yes, I'm not meaning that someone just take a picture of
- 11 it on their mobile phone or something for confirmation
- 12 it's there. I suppose it's an evidential process, so
- 13 I had an expectation that that would be part of the
- 14 investigation.
- 15 Q. And as far as you know, no one took photographs of it
- 16 prior to --
- 17 A. I've got no idea -- no, I don't think anyone took
- 18 a picture of it certainly in situ when we were in the
- 19 canteen, and I don't know whether someone took
- 20 a photograph of it later.
- 21 Q. All right. Thank you.
- 22 You have been asked at paragraph 157 why this mark

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1 and the vest -- the mark on the vest were not mentioned
2 in your original statement or your PIRC statement and
3 you have said:

4 "I didn't include it in the first statement because
5 I only included the information I thought was relevant
6 to my part ..."

7 A. Yes.

8 Q. "I absolutely wasn't asked about the footmark by PIRC
9 and I assume that's why it's not in it because what's
10 covered in that statement is information they asked for.
11 I was asked specific questions about certain things. If
12 they'd had asked me about it, it would have been
13 included."

14 A. Yes.

15 Q. So PIRC did not ask you any questions about a mark or
16 having seen a mark in the canteen on Nicole Short's
17 vest?

18 A. No. I had no reason to believe that it hadn't been
19 successfully -- I suppose I still don't know whether it
20 has been successfully maintained on the vest. She took
21 it upstairs, handed it over, I expected that that would
22 be -- would be looked after.

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- 1 Q. And in terms of why it has never been mentioned in your
2 earlier statements and it wasn't mentioned until the
3 email --
- 4 A. Yes.
- 5 Q. -- that's just because no one asked you about it?
- 6 A. I suppose no one asked me about it and I have to say it
7 was -- probably kind of another hundred things that
8 happened that day that have turned out to be of no
9 value. I had no idea that that was going to be relevant
10 and I suppose I don't know why it's relevant now,
11 probably because -- perhaps we don't have it, I'm only
12 assuming.
- 13 Q. Don't worry about that, we will hear other evidence
14 about that.
- 15 A. I had every expectation that because that had been
16 pointed out, that it would be available.
- 17 Q. So between you watching the documentary and the email,
18 sending the email to Mr Watson, how much time passed?
- 19 A. Years probably.
- 20 Q. Why did you wait years to send the email to Mr Watson?
- 21 A. I was asked specifically about that.
- 22 Q. Who by?

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- 1 A. Again, was it perhaps Mr Watson asked me about the shoe,
2 the mark?
- 3 Q. What did he ask you about?
- 4 A. Did I recall seeing a mark on Nicole's body armour and
5 I said yes.
- 6 Q. Why would he have asked you that question?
- 7 A. I have no idea. I don't know whether he has spoken to
8 some of the other witnesses, I don't -- I didn't ask,
9 I don't know.
- 10 Q. And he didn't volunteer why he was asking you or
11 speaking to you?
- 12 A. No. Well, he was representing the police officers, so
13 I assumed it was to confirm whether there was anyone
14 else -- there weren't many of us in the canteen on that
15 day.
- 16 Q. So the email was from 11 March 2022, is that right?
- 17 A. Yes, because it was quite recently I got asked that,
18 I think. I don't know whether that would be the start
19 of precognitions or --
- 20 Q. So your Inquiry statement began on 31 March and it was
21 11 March that he approached you to ask you about this?
- 22 A. Yes, it would be.

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1 Q. Prior to that date?

2 A. 11th, yes. Yes.

3 Q. Prior to 11 March. And how long after he approached you

4 did you then send the email?

5 A. No, I think when he has spoken to me I have sent the

6 email that -- at that moment.

7 Q. That day?

8 A. I have just responded.

9 Q. Did he phone you about this, or did he speak to you

10 personally, or did he email you?

11 A. I don't ...

12 Q. Right.

13 A. I don't know. It probably has been either -- yeah,

14 I ... it's actually not even that long ago and

15 I can't -- I'm not. I don't think it will have been in

16 person. He's not someone that I see.

17 Q. Your paths don't cross?

18 A. Yes, so it's either been on email or a telephone call.

19 Q. All right.

20 A. I'm honestly not sure.

21 Q. Okay, thank you. Can I ask you about paragraph 139, so

22 we're going back slightly. I would like to ask you

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1 about Chief Inspector Nicola Shepherd and what contact
2 you had with her in the canteen?

3 A. So -- yes, so my recollection is that at the time,
4 Chief Inspector Nicola Shepherd was probably the senior
5 officer at Kirkcaldy. She was the kind of Divisional
6 Commander at that -- at Kirkcaldy Police Station, and my
7 recollection is that quite clearly because this incident
8 had happened, she had been called and was returning to
9 work, I don't think she was expecting to work that day,
10 I could be wrong, but that was my impression, and that
11 Chief Inspector Shepherd came in to the police station
12 and she accessed the building the same way that I did,
13 she came in that same back door and came into the
14 canteen and rather than walk straight through and go up
15 the stairs to wherever her office would be, she stopped
16 to speak to the officers, who are effectively her --
17 you know, her officers, she was in overall
18 responsibility for Kirkcaldy and my recollection is that
19 Chief Inspector Shepherd still had her coat and her bag
20 on, you know, she had literally just come into the
21 station and the first thing she did was go in to check
22 that everybody was okay, but as she was leaving she --

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1 and she was only there for a brief period of time, she
2 wasn't there long, but as she was leaving she made
3 a comment similar to -- just as I was alluding to
4 earlier, you know, "We will get statements from everyone
5 and then you can all go home", and I just felt that that
6 was entirely inappropriate, that she had just arrived,
7 probably wouldn't know all of the information and that
8 again, as a senior officer, as a chief inspector,
9 I thought it was inappropriate that she would make
10 a comment like that to some officers who, as I'm sure
11 you have heard in your evidence, were very, very young
12 in service and I don't think that senior officers
13 appreciate that they are a chief inspector and perhaps
14 some of the comments that they make can be taken exactly
15 as they are said, so I was a bit frustrated that what
16 I think was an offhand comment might have been perceived
17 by those to go "Well, I have been told by
18 a chief inspector that I should provide a statement".

19 Q. You have talked earlier about sort of subtle pressures
20 being applied --

21 A. Yes.

22 Q. -- because of the rank of the person making the comment;

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- 1 is that what you're talking about here?
- 2 A. Yes, I mean I honestly don't think -- because I know
3 Nicola Shepherd, I don't think that that's what her
4 intention was, but I think the unintended consequence of
5 that -- it could have applied pressure to people saying
6 "There is an expectation that I do this", and I didn't
7 think under the circumstances that she was just in the
8 door that it was entirely appropriate, and I made
9 comment of that to say "Well, let's just wait, let's
10 just wait and see because these officers are all waiting
11 to find out whether they're witnesses or whether they're
12 suspects".
- 13 Q. And did you say that when she was in the canteen?
- 14 A. Yes, I have said something -- I'm paraphrasing, but
15 I have said something along the lines of going "Yes,
16 chief inspector, can we just hold the bus, can we just
17 wait until we find out what's happening." I felt it
18 was -- it was appropriate that I challenge the comment
19 so that those who might have felt pressured realised
20 that it was inappropriate.
- 21 Q. And what would you have preferred the approach to be at
22 that stage from Chief Inspector Shepherd?

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1 A. Yes, I mean I -- I still on to this day have no issue
2 with her coming in and saying hello to effectively her
3 staff who she has -- she has a responsibility for their
4 wellbeing and their care, so it was right that she let
5 them know she was there and introduce themselves, but --
6 and I do think that it was an offhand comment, perhaps,
7 you know "We will get statements from you and we will
8 get everybody home", and then she was going to leave and
9 it just didn't sit comfortably with me that that was the
10 tone of how it ended. So yes, come in, explain that you
11 have been called out and that you're going to find out
12 what's happening, and perhaps say something along the
13 lines of "We will find out what's going on and we will
14 get the ball rolling", or "We will get an update for
15 you". Really what these officers needed to know was
16 whether they were witnesses or whether they were
17 suspects.

18 Q. And when she came and spoke to the officers, did she say
19 something about getting statements from everyone because
20 the family of the deceased would want to know what
21 happened?

22 A. Yeah, absolutely. Again, I -- everybody was very aware

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1 that family members would be looking for this
2 investigation to move on and get somewhere, so,
3 you know, I have absolutely no issue with that being the
4 case, but I just felt that there was an added --
5 pressure is probably the right terminology that you use,
6 of going -- it was an offhand comment, I think, but
7 I don't think that all senior officers quite realise
8 that their offhand comments actually carry quite
9 a significant amount of weight with officers much junior
10 in service or in rank.

11 Q. Can I move on and ask you about some paperwork. Let's
12 look at paragraph 164, first of all, which deals with
13 notebooks, but before I go into the detail of that type
14 of paperwork, can I ask you about your own note-taking?
15 You mentioned earlier you weren't there as an
16 investigating officer and what notes did you take, if
17 any, that day?

18 A. Do you know, I really -- I didn't take any notes. The
19 information that I left with that day was it was
20 everyone's name, their mobile telephone number and
21 an email address. I didn't have -- I didn't write
22 anything else. You know, I didn't write times down

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1 because that wasn't my role, that's the post-incident
2 manager keeps a log and all of that information should
3 be there, so I -- I didn't keep a log, or keep
4 a notebook. I left with a -- you know, a single piece
5 of paper that I wrote on -- I think I actually handed it
6 round and asked them to write their -- their name, their
7 contact details on it, because I had every expectation
8 that in the days that followed I would need that
9 information in order to arrange legal advice and
10 assistance for them.

11 Q. Right. And once you had -- what did you do with that
12 bit of paper?

13 A. Yes, so I updated our computer system, made sure that
14 all the information that I had was updated for the nine
15 individuals and then I -- I shredded it. I didn't keep
16 it anymore. It was a loose piece of paper. There wasn't
17 anything else on it, other than perhaps
18 Conrad Trickett's name, number and confirmation of his
19 email address, along with Jane Combe was on it, but once
20 I had that information in my phone I just disposed of
21 it.

22 Q. And that's the people who were in the canteen?

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1 A. Yes, the post-incident team effectively.

2 Q. Post-incident team.

3 A. Yes.

4 Q. There's been some evidence before the Chair that

5 Inspector Combe was a deputy post-incident manager. We

6 heard evidence from her that she resisted that

7 suggestion and felt she was there as a support to

8 Inspector -- Chief Inspector Trickett.

9 A. Yes.

10 Q. Did you have any impression of her role that day?

11 A. Yes, I mean the -- the process is that you would have

12 a post-incident manager and you would have as many other

13 appointed officers who are effectively -- they're all

14 trained as post-incident managers, but they effectively

15 deputise for the post-incident manager, so yes, I mean

16 I expected anyone in that room -- whilst she is not

17 trained to do that role, but that effectively was the

18 role, so deputy post-incident manager or appointed

19 officer is actually the role within the process.

20 I expect -- that's what I thought she was doing.

21 Perhaps she didn't realise she was doing it because she

22 is not trained, but --

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1 Q. That was your impression?

2 A. That was my impression.

3 Q. Let's look at paragraph 164, you say:

4 "I don't think I gave any advice regarding the

5 completion of notebooks. Don't remember specifically

6 speaking about notebooks."

7 Is that in relation to the officers in the canteen?

8 A. Yes, I think so, yes.

9 Q. And then regarding use of force forms:

10 "I advised them that there were other supervisors

11 who were on duty who could fill out that information who

12 already had that information, so until they were advised

13 whether they were suspects or witnesses that they

14 probably shouldn't complete that form. I did do that."

15 A. Yes.

16 Q. And that's consistent with what you have said?

17 A. Yes, I mean it's -- had they been told that they were

18 witnesses, clearly any information that they provide in

19 forms or documents -- it would all be relevant.

20 Q. And you are saying there, there were other supervisors

21 who were on duty who could fill out that information.

22 Was it your understanding at that time that one use of

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1 force form could be completed per incident and
2 a supervisor could complete that?

3 A. I'm not sure whether one would have sufficed for the
4 whole incident, but certainly, you know, there's lots of
5 occasions where these forms are required to be filled
6 in, but perhaps the officer involved has had to go home
7 because they are either unwell or they have become
8 injured, so there's flexibility within that process that
9 allows someone else to fill the form in, so I had every
10 expectation that these officers that were involved in
11 this process, that they wouldn't be required to fill out
12 this information when probably sufficient detail was
13 available by other supervisors.

14 Q. And when you say "Other supervisors", who are you
15 referring to?

16 A. Well, I mean, I suppose any -- everyone that was on duty
17 that day when this happened was involved to some degree
18 in this, so everyone -- anyone that was on could have
19 taken over that role, I suppose.

20 Q. So anyone who felt able --

21 A. Yes.

22 Q. -- could have taken it on?

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1 A. Yes.

2 Q. Or could it have been a more senior officer, senior to
3 a constable?

4 A. Absolutely. I would have an expectation that if these
5 officers were involved in something traumatic or
6 dramatic and they needed to be sent home, that someone
7 else could fill that document, if it was necessary to be
8 done there and then, but they shouldn't be required to
9 fill out a form when their status is uncertain.

10 Q. And then 166:

11 "I have no idea about CS or PAVA forms. That's
12 something you would need to ask people in
13 Police Scotland. I think there's perhaps a form to fill
14 in if you have used it in order to get a new, fresh
15 bottle, but I've never filled any of that in so I don't
16 know what the process is for that and I certainly
17 wouldn't be the one to give advice on that."

18 A. Yes.

19 Q. So that's not something you had experience of?

20 A. No, I mean obviously before I took up this job I have
21 used, or had been issued with PAVA. I've never used it,
22 so I -- like everything, there are processes for

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1 absolutely everything in Police Scotland, so I have no
2 doubt that there is a process and a procedure to fill in
3 a form if you have discharged your PAVA or CS spray in
4 order to get a replacement bottle. I just have never
5 filled that form in. I wouldn't know where it would be
6 and I probably wouldn't be the best person. Had I been
7 asked that question, I would have suggested that they
8 perhaps speak to Scott Maxwell, or another sergeant on
9 a team if they needed more information -- they would
10 actually have more information about how to do that than
11 me.

12 Q. Did any of the senior officers that you came into
13 contact with that day in the canteen give advice to the
14 individual officers about forms to do with CS or PAVA
15 discharge?

16 A. No. My recollection is there was no discussion about
17 notebooks, PAVA, use of violence forms, there was no
18 guidance given by them that I'm aware of.

19 Q. When you say "Use of violence forms", do you mean a use
20 of force form?

21 A. Sorry, yes. If there's any violence or any use of force
22 form -- I think somebody -- it used to be called a baton

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1 report, that's what it was called years ago, so yes,
2 it's got lots of different names.

3 Q. Okay. So when you say "I don't believe there's any
4 requirements to fill out statements, notebooks or use of
5 force forms", that was your understanding in relation to
6 the events in May 2015?

7 A. Yes. I don't believe there was any request or
8 requirement made by anyone to do that before they left,
9 or before they were updated with what their status was.

10 Q. Not as far as you are aware?

11 A. Not as far as I was aware, yes.

12 Q. Right. And then can I ask you about statements. We
13 have heard about operational statements, witness
14 statements. Did you have -- you say there you don't
15 believe there's any requirements to fill out statements.
16 Can you distinguish between operational statements and
17 witness statements and any obligations on officers as to
18 those?

19 A. Yes, there's not really any difference -- I mean the
20 only difference between a statement and an operational
21 statement is an operational statement is something
22 that's happened when you are on duty, when you have been

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1 operational, you would provide a statement and -- yes,
2 there was no request. I mean, that's the whole point of
3 this post-incident procedure is to balance the
4 requirement -- the clear requirement for an
5 investigation with the welfare of those people that are
6 involved in it, and I would have expected that at some
7 point there was some clarity about where they sat in all
8 of this. That, to my knowledge, didn't come.

9 Q. Okay. You have been asked a number of questions and
10 answered a number of questions in relation to perhaps
11 differences between what some of the officers have said
12 about the advice you gave --

13 A. Yes.

14 Q. -- and what you have told us today. Can we look at
15 paragraph 177, first of all, and I think you -- very
16 fairly, you have gone through every single possible
17 discrepancy and 177 relates to PC Walker's account, and
18 what you have done is you have been asked about specific
19 references from PIRC statements by individual officers
20 and you have been asked if they differ from the advice
21 you gave and you have given an explanation.

22 Now, I think largely your position on these is very

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1 clear for the Chair, but I'm interested in particular
2 about Pat Campbell. Can I ask you to look at 198, first
3 of all. This is Detective Superintendent Patrick
4 Campbell's account and at 198 you say that you have been
5 told that his account:

6 "... includes the following: 'Shortly before
7 1130 hours, the exact time I do not recall, I remember
8 having a conversation with Constable Givan, the
9 Federation Rep, she expressed to me that the
10 Police Officers were distressed. I informed Constable
11 Givan that all of the officers were being treated as
12 witnesses and she should reassure them'."

13 And at 199 you say:

14 "That absolutely did not happen. I have been saying
15 the whole point was to try and establish whether they
16 were witnesses or suspects. If I had been told by
17 someone that they were one or the other that would have
18 clarified that question, but there was no clarity
19 provided to me or, as far as I was aware, to any of the
20 individual officers by anyone. That was why we were
21 left in the kind of position of waiting. I was
22 thinking: 'at some point, someone will declare whether

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1 they are witnesses or suspects', and that never
2 happened. Had Pat Campbell told me that they were
3 witnesses then that would've moved me on to make a phone
4 call to clarify that and we would have moved on to
5 whatever the next step of the process was. That did not
6 happen."

7 So I think you have been very clear today: you did
8 not get that clarity throughout the whole of 3 May 2015?

9 A. Yes.

10 Q. And you say if you had had that information:

11 "... that would've moved me on to make a phone call
12 to clarify that..."

13 Tell us about what phone call you would have made?

14 A. Yes, so I would probably have -- had there been clarity
15 that they were witnesses then I would probably have made
16 a phone call to colleagues within the SPF round about
17 whether -- you know, depending on where -- when these
18 statements were going to be asked to be provided,
19 whether there was a need or a requirement for legal
20 advice from anyone. That phone call never happened
21 because we never got to that point, if that makes sense.

22 Q. And what colleagues would you have spoken to in SPF?

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- 1 A. Yes, well probably David Kennedy, because David Kennedy
2 is the deputy general secretary, has responsibility on
3 behalf of the JCC for the legal advice and assistance
4 scheme.
- 5 Q. That's the committee?
- 6 A. Yes. So I would have sought to speak to him round about
7 who might have been the most suitable person if that was
8 necessary. That would have been probably the first
9 phone call that I would have made, you know, I don't --
10 I do now, but my phone didn't have contact details of
11 any of the solicitors because David facilitated that, if
12 necessary.
- 13 Q. And you have mentioned a few points today about when
14 statements would have been taken.
- 15 A. Yes.
- 16 Q. What sort of factors would be going through your mind
17 when you're thinking about when?
- 18 A. So the process that we now have is that police officers
19 will provide -- on the day, police officers that are
20 involved in the post-incident procedure will provide
21 a very brief outline of their involvement and be given
22 some time, up to, you know, kind of 48 hours in order

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1 to, you know, get their heads straight having been
2 involved in something that's quite traumatic, and then
3 a full statement would be provided. So I had no
4 expectation that, you know, these lengthy statements
5 would be taken that day, given what had happened. My
6 expectation was they would have been taken in the days
7 to come, but I would have expected some clarity before
8 we left roundabout what the plans were for that.

9 Q. We may hear evidence at some point that there's
10 a balance to be achieved --

11 A. Absolutely, yes.

12 Q. -- between getting the statement noted early --

13 A. Yes.

14 Q. -- close to the events, but also the officers being well
15 enough and mentally fit to give those statements?

16 A. Yes, absolutely.

17 Q. Is that correct?

18 A. Yes, I mean, we had already been there for a really long
19 time. You know, people were tired, they were worried.
20 Perhaps not the best environment to be sitting down and
21 starting what might be a really lengthy statement to
22 note from them.

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1 Q. And you would also have -- you say when you spoke to
2 colleagues at SPF, that would have been about securing
3 legal advice if required?

4 A. Yes, and probably, you know -- there's no doubt, and
5 I have been in a lot of these since then, but that was
6 the first one, so I would have been looking for some
7 reassurance that what I was saying and what I was doing
8 was absolutely correct.

9 Q. Was correct. And then can we look at 201, please:

10 "I have been told that [Detective Superintendent]
11 Patrick Campbell's account also includes the
12 following ... 'prior to entering the room
13 Constable Givan informed me that they would not be
14 providing operational statements. I informed her at
15 this time that that may be the case, however, I was
16 still going to ask them to provide'."

17 And at 202 you say:

18 "That didn't happen. I don't remember speaking with
19 Mr Campbell outside the room at all. I'm surprised by
20 this account."

21 Tell us about your recollection of what happened?

22 A. Yes, I suppose I -- I don't understand why Mr Campbell

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1 would be having that conversation with me. He should
2 perhaps be having that conversation with Chief Inspector
3 Trickett. He was responsible for the --

4 Q. Post-incident management.

5 A. The post-incident manager. You know, I'm surprised that
6 there's a suggestion that I have spoken to him prior to
7 him coming in, and I -- I don't recall there being any
8 announcement to anybody.

9 Q. Do you remember having a conversation, any conversation
10 with Detective Superintendent Campbell prior to entering
11 the room?

12 A. No, the only conversation that I had with Mr Campbell
13 was in the morning when I introduced myself. The next
14 time I saw him was in the room. I didn't speak to --
15 I don't know him, I didn't speak to him on my own.

16 Q. So you have told us earlier you went up to the CID room
17 when you arrived --

18 A. Yes.

19 Q. -- and you saw DI Robson and Pat Campbell?

20 A. Yes.

21 Q. And then you have talked previously about Pat Campbell
22 coming into the canteen when you were there?

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1 A. Yes.

2 Q. So do you remember any occasion when you were speaking
3 to him prior to entering the canteen?

4 A. No, and I'm struggling to think of a reason why I would
5 speak to him on my own.

6 Q. Right. And then can we look at paragraph 203:

7 "I have been told that Detective Superintendent
8 Patrick Campbell's account also includes the following
9 which may be a short time after 1130 ... 'I then entered
10 the break room all the officers were in and I spoke with
11 the officers as a general group'."

12 Is that the canteen?

13 A. Yes, that was the only location we were.

14 Q. "... 'present at this time were the PIM and
15 Constable Givan. I explained that in consultation with
16 PIRC their status was that of witness. I told them that
17 my intention was to obtain statements from them, their
18 clothing, footwear and officer safety equipment'."

19 And then at 204 you say:

20 "That absolutely was not said to the officers at
21 that time, it came much later. The whole taking of
22 their clothes came much later on in the day, and that

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1 came as a real surprise to the officers. They were not
2 expecting their footwear, their uniform clothing to be
3 seized because that very much changed the tone. So had
4 that been said much earlier in the day then they
5 probably wouldn't have had that awkwardness and
6 difficulty in trying to explain why it was seen as being
7 necessary."

8 Can you explain that paragraph?

9 A. Yes, so the -- there was no discussion or mention that
10 footwear, uniform, clothing, equipment was going to be
11 seized until it was going to be seized. That came much
12 later on in the day and that -- I wouldn't call it
13 a request, but, you know, it's Police Scotland's
14 equipment so they absolutely can take possession of it
15 if they want, but the footwear at that time
16 police officers bought themselves. Most police officers
17 only have one set of footwear, so taking that
18 effectively meant that they -- you know, Police Scotland
19 may be able to provide them with new body armour and
20 trousers and they would have other sets of uniform, but
21 the footwear meant that they would need to go and buy
22 new footwear and seizing of clothing very much -- when

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1 I say changed the tone of it, it's -- it very much fell
2 into the suspect area, which upset a number of the
3 officers by going "We haven't been told whether we're
4 suspects or witnesses, we are clearly suspects otherwise
5 why are they taking our -- why are they taking our
6 uniform, clothing and all our equipment?"

7 So if that had come, as it is suggested, that
8 conversation would have been had much earlier in the day
9 and it didn't, it came as a surprise, it came as an
10 unpleasant surprise at the end of the day, and trying to
11 explain to police officers that regardless of how you
12 feel about this, that is what's happening, you know:
13 your clothing and your uniform and your equipment will
14 be seized and we will worry about footwear and how
15 you're able to perform your duties thereafter.

16 Q. So regardless of what may or may not have been said, the
17 taking of their personal footwear changed the tone and
18 made it more like they were a suspect?

19 A. I mean it wasn't just the footwear, it was the fact
20 that -- yes, it was the seizing of all of their
21 equipment. It did, it changed the tone and it hadn't
22 been mentioned in any way, shape or form throughout the

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1 day until we were told "There are two teams up the
2 stairs from the major investigation team and you will go
3 up individually and you will change out of your uniform
4 and put on whatever clothing you have brought with you".

5 Q. And when did that happen?

6 A. That was very late on in the day, certainly in the
7 evening, just before the -- because when they came
8 downstairs they then went to see the doctor and they
9 went home after that, so it was one of the last things
10 to happen.

11 Q. So any suggestion that it was part of a conversation, or
12 a discussion at 11.30 in the morning, that's not your
13 recollection?

14 A. Absolutely. It may well have been part of conversations
15 that happened outwith that room, but it certainly wasn't
16 part of a conversation that happened with myself and the
17 officers being present.

18 Q. And that was the canteen?

19 A. That was the canteen, yes.

20 Q. Can we look at 205 and 206. You talk about it being the
21 last thing --

22 A. Yes.

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- 1 Q. -- before they went home and then at 206 you said:
- 2 "I have been asked why [Detective Superintendent]
- 3 Patrick Campbell has put this in his statement. My
- 4 reason why is nothing that I want to put in this
- 5 statement."
- 6 But obviously we would like to get as much evidence
- 7 to help the Chair as possible and I wondered if you
- 8 would be willing to explain why you think there would be
- 9 such differences between your recollection and that of
- 10 Detective Superintendent Campbell.
- 11 A. Yes, I can't -- I can't tell you why there's different
- 12 explanations. You know, the whole point of us being
- 13 there that day was to get to the point of providing
- 14 information that would help in the investigation and all
- 15 that was required was confirmation of whether people
- 16 were witnesses or suspects. If that was so easy, why
- 17 weren't the officers told?
- 18 Q. What is the reason why there's the differences?
- 19 A. I've got no idea. That's perhaps a question you may
- 20 have for Mr Campbell. I can't explain why he is saying
- 21 that that happened and ... no, I don't recall it.
- 22 Q. It's that you don't have an explanation, rather than you

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1 have an explanation you're not prepared to say?

2 A. Yes, I don't know why he is saying that happened.

3 Q. Right. There's nothing else you want to add about that?

4 A. No, I don't think so.

5 Q. Can we look at paragraph 207, please. This relates to
6 Gold Group meetings:

7 "I have been told that the Gold Group meetings were
8 informed that I had advised the officers not to provide
9 statements. No, I can't be any clearer. I absolutely
10 advised the police officers at the point when they were
11 asked to provide statements to establish whether they
12 were a witness or a suspect. In the event that that
13 information wasn't forthcoming, then they shouldn't be
14 providing statements until they knew what their status
15 was. I wasn't at the Gold Group so I don't know what
16 was said and whether it was taken out of context."

17 So if we do hear in the future that meetings were
18 told that you had advised officers not to provide
19 statements, that's just not the -- not a correct or
20 accurate reflection of the advice you were giving?

21 A. Yes. I cannot be clearer in that it was about

22 clarifying what their status was, that was the advice

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1 that I gave, is that, you know, "Until they tell you
2 you're a witness they shouldn't be asking you for
3 a statement and if you're a suspect, there are other
4 ways to obtain that information from you and they
5 shouldn't be doing it by way of looking to get
6 a statement from you", that -- yes.

7 Q. And then 208, we see:

8 "I have been asked if I know of any new guidance in
9 respect of officers not having to provide statements
10 with regards 'on duty criminal allegations'. I think
11 this probably relates to the two memos the Inquiry sent
12 to me."

13 And then:

14 "I have been asked how I became aware of this. It
15 certainly wasn't within the Police Scotland circles,
16 because I didn't have access to that."

17 I think that's what you said earlier today, you
18 didn't have access to the IT?

19 A. Yes, so as I recall, there are two Police Scotland memos
20 that clarify the Police Scotland position, in that we're
21 not going to ask -- you know, if someone is considered
22 to be a suspect, we're not going to ask them for

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1 a statement. I hadn't seen the memos before, but I was
2 absolutely aware of that change in process. The reason
3 I didn't see the memos is for the reasons that I told
4 you earlier, that I didn't have access to the system.

5 Q. And then 211. You mention the practice in Fife up until
6 31 March 2013 and:

7 "... even after they became Police Scotland, they
8 would let police officers know that they were a suspect
9 but give them the option of whether they wanted to
10 provide a statement or not, which didn't happen in the
11 rest of the country."

12 I think you mentioned that earlier in the evidence?

13 A. Yes, I think it was an issue, if you want, in Fife, but
14 there were other locations in Scotland where that was
15 also the case, so the sending out of these memos
16 effectively put every location in Police Scotland on the
17 same -- on the same footing, so we had the same process
18 happening everywhere, rather than some of the legacy
19 forces still operating as they had been up until that
20 point.

21 Q. And then at 213 you were asked some questions about the
22 contact you had had with the officers and you have told

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1 us about taking their email and --

2 A. Yes.

3 Q. -- contact details. What actual contact did you have

4 with these individual officers, between 3 May 2015 and

5 4 June 2015? Now, 4 June is the date that we have heard

6 they gave statements to PIRC, so it's in that month

7 after the events and prior to the officers giving

8 statements to PIRC.

9 A. Yes, so they -- again, I don't know what dates they came

10 in, but they were -- they all attended the Kirkcaldy

11 Police Station in the days afterwards. I attended also

12 for that. There were some administrative processes that

13 I -- that I had had them fill out -- you know, the

14 longer we got away from 3 May and there appeared to be

15 no clarity roundabout their status, the SPF provided

16 them with legal advice and assistance, and all of that

17 was then passed over to solicitors, so my contact with

18 them was, you know, was roundabout those that were fit

19 and able to return to work, how do they do that without

20 any footwear. Some of them were unable to get

21 replacement body armour, so just some of the

22 practicalities around about whether they could or should

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1 be back at work. Some of them -- many of them actually
2 went sick following it because they were unable to
3 resume duties.

4 So it became -- afterwards it became much more --
5 much more routine assistance about how they got back to
6 work and whether they would actually come back and work
7 at Kirkcaldy, or whether they would be perhaps
8 redeployed elsewhere. It was really the kind of contact
9 that I had with them.

10 Q. Looking back now, do you remember when they received
11 clarity about their status?

12 A. No. I mean my recollection is that came much, much
13 later and roundabout the time where they then went --
14 I think the vast majority of them attended at the
15 Scottish Police College and they had their statements
16 noted by PIRC at the date -- the date in June.

17 Q. 4 June.

18 A. Yes.

19 Q. And what would you have expected in terms of providing
20 that clarity to officers? So some have mentioned
21 expecting something more formal, some have given
22 evidence to the Chair they expected it in writing; what

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- 1 would you have expected?
- 2 A. Just, you know, just -- probably a verbal reassurance
3 would have sufficed if it was me, but I don't think --
4 I'm trying to think whether there was any discussion
5 about whether it should come in writing. I don't think
6 I was involved in that.
- 7 Q. So that wasn't part of your role at that stage?
- 8 A. No, no, not really, but would I accept from a senior
9 officer them telling me that I was a -- confirming that
10 I was a witness or I was a suspect, yes, that would have
11 been good enough for me, but they perhaps had different
12 conversations with other people.
- 13 Q. All right. Now, we may hear evidence in the future to
14 the Inquiry about media engagement, but while I have you
15 here, I just want to confirm did you say earlier it was
16 the chair who takes the lead on media engagement for the
17 SPF?
- 18 A. Yes. I think that's the case, but I think it's very
19 much -- it depends on what the topic is. There might be
20 someone within the organisation that's better placed,
21 but I think everything is funneled through the chair or
22 the general secretary.

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- 1 Q. So if there are media announcements to be made, are they
2 on behalf of the SPF as the body or --
- 3 A. Yes.
- 4 Q. -- or are they, as you say, funneled through
5 Calum Steele?
- 6 A. Yes, I mean, they will definitely come out from the SPF,
7 but they wouldn't necessarily all have Calum Steele's
8 name on it. They may have -- they could have anyone's
9 name on it, you know, I suppose for conduct matters that
10 I'm dealing with I could -- I just have never been
11 particularly confident or sure about that side of the
12 role, so I've never been involved in that, so I just
13 know that it's done by other people.
- 14 Q. In deciding the approach to media engagement on behalf
15 of the SPF, is that funneled through the committee?
- 16 A. Probably not for specifics, for specific things like
17 this, for -- you know, for pension or pay, yes, the
18 committee will drive that. I -- I'm not sure who was
19 involved in the discussions about what would or wouldn't
20 have been issued. I wasn't. You know, I saw them at
21 the same time as everybody else did.
- 22 Q. Let's look at paragraph 70 actually. We're going to go

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1 way back, just to be fair to you. I think you said in
2 paragraph 70 -- you made a phone call to David
3 Kennedy --

4 A. Yes.

5 Q. -- who is the deputy general secretary:

6 "... to make him aware that this incident had
7 happened, primarily because the press might seek some
8 comment, and to be honest I didn't want to be criticised
9 that I hadn't told senior members of the SPF. So
10 I spoke to David and made him aware where I was."

11 This was when you were at Kirkcaldy Police Office on
12 3 May?

13 A. Yes.

14 Q. "I told him I was there, and I was waiting to find out
15 whether there were going to be post-incident procedures
16 in place."

17 So on that occasion it was the deputy general
18 secretary that you contacted?

19 A. Yes.

20 Q. So it was an option for you, at least in May 2015, as
21 long as you spoke to one of the office-bearers --

22 A. Yes, I mean I chose David Kennedy because he had the

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1 responsibility for the legal advice and assistance and
2 is more involved in this kind of area that we deal with.
3 I could easily have made Brian Jones or -- I'm trying to
4 think, Brian Jones wasn't even in post at the time. I'm
5 trying to think back in 2015.

6 Q. Calum -- you could have phoned Calum Steele if you had
7 wanted?

8 A. Yes, I could have phoned Calum Steele, but I contacted
9 David Kennedy because I knew that he would be the person
10 that I would need to contact in the event that we
11 required solicitors.

12 MS GRAHAME: Right. I've got a few more questions about
13 that, but I'm conscious it's just after 1.00.

14 LORD BRACADALE: We will stop for lunch at that time.
15 2 o'clock.

16 (1.02 pm)

17 (The luncheon adjournment)

18 (2.00 pm)

19 (Technical issues - no video feed)

20 (2.04 pm)

21 (Short break)

22 (2.21 pm)

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1 LORD BRACADALE: Well, I'm hopeful that what has been done
2 in the interim will allow us to proceed and I see
3 something coming up on the transcription, which is
4 a good sign.

5 I'm told there's a possibility that it might not
6 work. If it doesn't, then we will have to stop for
7 a longer period, but let's carry on in the meantime,
8 Ms Grahame.

9 MS GRAHAME: Thank you. I don't believe any of my questions
10 were recorded, so I will go quickly again through what
11 we covered after lunch.

12 The document I was asking you about was the FTOB
13 circular. This one is number 5 of 2020 and you had told
14 us what this document is. What does it do?

15 A. Yes, it's effectively, you know, the equivalent of
16 a kind of internal memo to the full-time office-bearers.
17 This particular one is asking for it to be disseminated
18 further to the local representatives, but it was
19 initially sent out to all those within the east, the
20 west, the north and the national officials for their
21 information to then forward on.

22 Q. And they then absorb the information contained in this

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- 1 and disseminate it further to the membership?
- 2 A. Absolutely, yes, yes, that's correct.
- 3 Q. And this type of document, a circular such as this,
- 4 would this be funneled through -- or the content of it
- 5 be funneled through or approved by the committee that
- 6 you told us about?
- 7 A. No, not necessarily. I don't remember any discussion.
- 8 The first of me seeing this document was when it arrived
- 9 in my inbox so I think it has been -- if it's been
- 10 discussed by anyone, it's not been discussed in my
- 11 presence, but it is certainly signed by Calum Steele, so
- 12 it looks like the general secretary has sent this out.
- 13 Q. And I think before we stopped, you said that because
- 14 it's Calum Steele's reference and he has signed the
- 15 document --
- 16 A. Yes.
- 17 Q. -- if the Inquiry want more information about it, he is
- 18 probably the best person to ask?
- 19 A. Yes, I would expect -- the fact that he has signed it,
- 20 yes, Calum is the best person to speak to, yes.
- 21 Q. So you didn't see it until it was actually circulated to
- 22 you, some time around 9 June 2020?

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1 A. Yes. If it was sent out on 9 June then they normally
2 come out the same day that they're dated, I will have
3 read that. I am not on an area committee so it wouldn't
4 be my responsibility to disseminate that, so other than
5 reading it, I have not really had any further
6 responsibility to share it with anyone.

7 Q. And you didn't have any personal involvement in
8 preparing the document, or --

9 A. No.

10 Q. -- deciding what it said?

11 A. No.

12 Q. Thank you. And then can I ask you some questions about
13 SPF's involvement with consultation documents that are
14 maybe released by the Scottish Government --

15 A. Yes.

16 Q. -- and the approach to those. Now, again, we may hear
17 evidence about this later, about a report prepared by
18 Dame Elish Angiolini.

19 A. Yes.

20 Q. And that related to her independent review of complaints
21 handling, investigations and misconduct issues.

22 A. That's right, yes.

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1 Q. And I'm wondering whether you personally had any
2 involvement in preparing the written submissions for the
3 SPF in response to the Government consultation document?

4 A. Yes, for that particular document, it falls -- much of
5 it falls within my remit of the conduct portfolio, so
6 I was involved in contributing to the document that was
7 returned, yes, as were many other full-time
8 office-bearers.

9 Q. Right. And you can take it from me, this was signed by
10 Calum Steele --

11 A. Yes.

12 Q. -- general secretary, on 30 November 2020, but you have
13 said you contributed --

14 A. Yes, I think -- yes, again from memory, I think we had
15 a gathering of full-time office-bearers who were
16 familiar with the content, who were involved in that
17 area of work, and we went through every recommendation
18 and came to a kind of collective view -- not all of the
19 time, you know, sometimes there are differing views, but
20 that was all provided to assist in the preparation of
21 the document, which would be Calum's responsibility as
22 the general secretary to send that back.

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- 1 Q. Would he approve the final version --
- 2 A. Yes.
- 3 Q. -- final response?
- 4 A. Yes, most likely.
- 5 Q. With contributions from the other office-bearers?
- 6 A. Absolutely, yes.
- 7 Q. Right. There was mention in that document of the SPF
- 8 having an excellent working relationship with diversity
- 9 staff associations. Do you know anything about who
- 10 those associations are?
- 11 A. Yes, they're -- well, there's a number of diversity
- 12 associations. James Thomson would probably be the best
- 13 person because he would probably be the SPF point of
- 14 contact for that but I obviously know who they are: they
- 15 will be the Disability Association, there will be
- 16 Semper, there will be the Women's Development Forum and
- 17 there will be the -- I'm trying to think who I have
- 18 missed ... yes, there's maybe about six or seven in
- 19 total.
- 20 Q. Is James Thomson the best person to -- you have told us
- 21 he dealt with equality.
- 22 A. Equality and people.

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1 Q. He is in the same role as you?

2 A. Yes.

3 Q. He deals with equality and people?

4 A. Yes.

5 Q. Would he be better placed to...?

6 A. Yes, I suppose depending on what information you're

7 looking from, but yes, he would know all the individuals

8 within these organisations that the SPF deal with on

9 a regular basis.

10 Q. Thank you. And then there was mention in this response

11 of dedicated officials in all areas of the country

12 working on equality issues. Do you know who they would

13 be?

14 A. At the time -- I might struggle to tell you in 2015 who

15 they were but you know --

16 Q. This is a response from November 2020?

17 A. Yes, so -- okay, so the -- as I have explained earlier,

18 the SPF is split into east, west and north and in each

19 of these areas, there's a full-time office-bearer in

20 that area that leads on equality, health and safety and

21 conduct matters within their area, so if there's

22 a divisional issue then they don't -- it doesn't

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1 necessarily have to be a national issue, if there's
2 something local to that particular area then the
3 full-time office bearer who has -- who kind of leads on
4 these things, who has a bit more knowledge than everyone
5 else will be the single point of contact for that, so,
6 yes, I don't know who -- I don't know who that would
7 have been at that time. I can tell you who they are
8 now, but I'm not sure who that would have been back in
9 2015, or at the time --

10 Q. In 2020?

11 A. 2020.

12 Q. Who is it now?

13 A. So for equality matters?

14 Q. "... dedicated officials in all areas of the country
15 working on equality issues"?

16 A. So in -- so there are some current changes ongoing, so
17 at the moment I believe in the north it's
18 Caroline Macnaughton that covers the north area of the
19 country. In the east it's Andy Malcolm. Andy Malcolm
20 is in a bit the same boat as myself in that he retires
21 at the end of the month. And in the west -- you're
22 making me think here -- it's Adam Peppard who has

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1 responsibility for it currently.

2 Q. He is not retiring?

3 A. No, he is not, no.

4 Q. And then can you tell me what training is given to

5 full-time office-bearers on diversity?

6 A. We have an external -- we have external assistance in

7 respect of equality matters, so that training comes

8 from -- sorry, I'm trying to think of her name,

9 Jayne Monkhouse, I think, as I understand it, on a kind

10 of consultancy basis and she provides equality training,

11 whether that -- what the component parts of that are,

12 I'm --

13 Q. She could tell us?

14 A. Yes, she could tell you.

15 Q. And she is an independent contractor effectively?

16 A. Yes.

17 Q. She is not employed by SPF?

18 A. No, no, she is not. She is not a full-time employee of

19 us, but she comes in and provides any equality training

20 that we're needing.

21 Q. Okay. And then there was also mention of:

22 "... retained access to specialists in their field,

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1 including former senior members of the Equality and
2 Human Rights Commission and legal experts who specialise
3 in employment law."

4 So let's look at "access to specialists in their
5 field, including former senior members of the Equality
6 and Human Rights Commission"?

7 A. I don't know whether that might be Jayne Monkhouse. I'm
8 not sure -- I'm not sure about her -- personally I'm not
9 sure what her background is. That might be her.

10 Q. We can explore that with her?

11 A. Yes. I'm not sure who any of the other individuals.

12 Q. The legal experts in employment law?

13 A. Yes, I mean we do have legal experts that we deal with
14 but I'm not going to be able to tell you who that is.

15 Q. No, that's fine. Thank you, you have been helpful.

16 Can I ask you about discussions which were ongoing
17 in the canteen.

18 A. Yes.

19 Q. Can we look at paragraph 102 of your Inquiry statement,
20 please. You were asked about the update and whether
21 "black" was mentioned and you said:

22 "... yes it was ... the basis of the police being

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1 called, that there was a black man and whether they want
2 to accept it or not, that would be relatively unusual in
3 Kirkcaldy. That was how the individuals that witnessed
4 it described him, so that's the only reason that I knew
5 he was black. I don't recall there being any other
6 discussion about it because I was avoiding encouraging
7 any discussion about it because being aware of the
8 process. It is about getting information from each
9 individual about what they recall, not about getting
10 a group view back, so it was avoided."

11 So can I ask you, first of all, on line 3 you say it
12 "would be relatively unusual in Kirkcaldy". Can you
13 give me some context to that?

14 A. Yes. I've never worked in Kirkcaldy on a full-time
15 basis, but I have gone along there for certain
16 investigations that were ongoing and I suppose it would
17 be my perception, having lived in Kirkcaldy for a short
18 period of time when I first joined the police that,
19 you know, I'm not familiar with the black community in
20 Kirkcaldy, so it was based on my perception of the
21 make-up of the community.

22 Q. And does that include the make-up of Kirkcaldy Police

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1 Office itself?

2 A. Oh, now I -- I don't work there, so I'm not sure what
3 the make-up of the officers is that work there, but,
4 you know, black officers are very much in the minority,
5 certainly within -- certainly within Fife.

6 Q. Thank you. And then you talk about the -- am I right in
7 thinking the discussion that you are talking about
8 there, this was you in the canteen, you were avoiding
9 encouraging any discussion because you were aware of the
10 process and what was you were meaning?

11 A. So when -- when I make reference to black being
12 mentioned, I'm specifically meaning in relation to the
13 update that I got from Scott Maxwell who provided me the
14 brief resumé. Within that update he told me that the
15 man involved was a black man. Thereafter I didn't
16 really need to know any more specifics about what had
17 happened, so because the process is about knowing your
18 belief, or your recollections of it, it's not about
19 getting a collective view, I didn't want -- I didn't
20 want to encourage that and in fact I discouraged it, so
21 we -- the subject would have been changed, so there was
22 no further discussion about the incident really.

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- 1 Q. So do you remember any discussion in the canteen about
2 Mr Bayoh being black, or the possible implications of
3 him being black?
- 4 A. No, I don't. My recollection is that black was
5 mentioned during the brief introduction that I was given
6 on my arrival. That was the only reason I knew that
7 fact and that it wasn't a factor. It didn't appear to
8 be a factor thereafter.
- 9 Q. Do you remember any discussions at all in the canteen
10 amongst the officers about the potential for racism or
11 allegations of racism to rear its head?
- 12 A. Not at that time in the canteen. I think that --
13 you know, these worries came later in the days following
14 when things didn't seem to progress.
- 15 Q. When you say they came later, where did they come later?
- 16 A. Just during discussion of -- there had been no
17 clarification on whether they were suspects or witnesses
18 and the longer that came, people were assuming that they
19 were going to be suspects and there was a worry about
20 whether that would -- that that might be connected to
21 the fact that he was a minority.
- 22 Q. And was that a discussion ongoing in SPF, or was that

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- 1 a discussion going on more widely with the police?
- 2 A. I think it was more widely with the police, yeah. It
3 certainly wasn't something that was widely discussed
4 within the SPF.
- 5 Q. Do you remember who was having those discussions in
6 the police?
- 7 A. It would have been in the group. You know, we didn't
8 meet individually, they met collectively as a group
9 because Police Scotland were looking to check up on them
10 and check that they were okay, so they would have come
11 in a group setting of, you know, "I'm worried about
12 this", or "What's likely to happen?"
- 13 Q. When did they meet in a group?
- 14 A. So that was in the days that followed, they met at
15 Kirkcaldy Police Station.
- 16 Q. Did that happen once or more than once?
- 17 A. I think it perhaps happened more than once. I think
18 I was only there once.
- 19 Q. When were you there?
- 20 A. Either the next day or the next again day, I can't be
21 certain.
- 22 Q. So within two days of the events?

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- 1 A. Within two days.
- 2 Q. Where did you meet?
- 3 A. We met in a conference room at Kirkcaldy Police Station.
- 4 Q. And what was the purpose of that meeting?
- 5 A. It was -- well, the purpose and the reason they were
6 asked to get together was to update them on what was
7 happening.
- 8 Q. Who arranged that meeting?
- 9 A. That would have been -- that would have been the
10 management at Kirkcaldy, so I ... I'm trying to think
11 who ... yes, I'm not 100% sure who physically contacted
12 the officers. It wasn't done through me. It might
13 even -- it should have been done through Conrad Trickett
14 so perhaps it was him, I'm just not clear on that.
- 15 Q. When did that meeting take place?
- 16 A. Either the day -- the next day, so the Monday, or the
17 Tuesday.
- 18 Q. Was it the morning, afternoon, later, do you remember
19 the time?
- 20 A. No, no.
- 21 Q. What was your role in attending that meeting?
- 22 A. Just accompanying the police officers, for nothing more

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1 than having been there on the Sunday all day, again,
2 a continuity of care, effectively, welfare.

3 Q. What was discussed at that meeting?

4 A. Again, I -- from recollection it was about updating on
5 post mortem information and checking how they were.

6 Q. How the officers were?

7 A. How the officers were, yes.

8 Q. Anything else?

9 A. No, just a -- yes, just a general gathering of staff and
10 senior officers looking to ensure that they were okay.

11 Q. Which senior officers were there?

12 A. I am fairly certain that that was the first time that
13 I saw Garry McEwan who was the chief inspector. He was
14 the kind of Divisional Commander of Fife Division. I'm
15 fairly certain that he was there.

16 Q. Anyone else that you remember?

17 A. There will have been other individuals, inspectors and
18 chief inspectors. Again, when the Chief Superintendent
19 is there I'm not sure that it -- I'm not sure that
20 anybody is really paying attention to anybody else.
21 I remember Garry McEwan being there. I don't recall
22 anybody else being there.

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- 1 Q. And the officers who attended at Hayfield Road?
- 2 A. And again, I'm not certain that all of them had
3 attended. I seem to recall that perhaps Nicole Short
4 and Alan Paton might not have been present due to just
5 being unwell, but I think everyone else was there.
- 6 Q. Thank you. Going back to SPF as an organisation, you
7 have told us about your membership?
- 8 A. Yes.
- 9 Q. And how many office-bearers, if any, are black or from
10 an ethnic minority?
- 11 A. Now?
- 12 Q. Now, yes.
- 13 A. None that I'm aware of.
- 14 Q. In 2015?
- 15 A. None, I don't think.
- 16 Q. How many local representatives are black or ethnic
17 minority?
- 18 A. No idea. I mean there will be -- when it gets to the
19 local representatives you're talking -- you know,
20 there's kind of 40 in each area and I -- I honestly
21 couldn't -- I couldn't tell you.
- 22 Q. You have talked about your membership being at upwards

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- 1 of 16,000.
- 2 A. There or thereabouts, yes.
- 3 Q. How many are black or from an ethnic minority?
- 4 A. However many black or ethnic minority police officers we
- 5 have that are in the rank of constable to
- 6 chief inspector? I'm not sure what that number is, but
- 7 I'm quite sure Police Scotland could give you that.
- 8 Q. And do you think James Thomson might be able to help us
- 9 with that?
- 10 A. I think if he knows you're going to ask him that
- 11 question when he comes here, I'm sure he will come armed
- 12 with that information.
- 13 Q. Right. In the roles that you have held within SPF in
- 14 the past 20 years, how many occasions have you been
- 15 contacted by officers who were black?
- 16 A. Probably about -- again I'm guessing, about half
- 17 a dozen, somewhere between half a dozen and a dozen, for
- 18 conduct matters mainly.
- 19 Q. So if it was a conduct matter, maybe a complaint that
- 20 had been received?
- 21 A. Yes.
- 22 Q. They could come to you for advice or guidance?

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1 A. Yes.

2 Q. And have you been contacted in your time with SPF about
3 any allegations of racism within Police Scotland?

4 A. Yes.

5 Q. How many times?

6 A. A couple.

7 Q. Can you give us some details of those?

8 A. They all fall within the conduct area where there was
9 a perception that the conduct allegations, the conduct
10 process, had been brought about by the race, so that was
11 my involvement.

12 Q. Right. So the officer themselves were concerned --

13 A. Yes.

14 Q. -- about the disciplinary proceedings --

15 A. Yes.

16 Q. -- being racially motivated?

17 A. Yes, absolutely, yes.

18 Q. And were you involved in dealing -- in handling with
19 those matters?

20 A. I was to the point where they were then allocated to
21 someone else and they dealt with them.

22 Q. Right. Do you know the outcome of those concerns that

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- 1 were expressed, or was that dealt with by the other
2 person?
- 3 A. Yes, it was dealt with by other people and there
4 obviously were ongoing misconduct matters to be dealt
5 with, but -- so I wouldn't ...
- 6 Q. Between you starting as an officer in 1992 and 2015 --
- 7 A. Yes.
- 8 Q. -- when these events took place, what training had you
9 had in equality and diversity matters?
- 10 A. Again, don't ask me when it was but I attended when it
11 was first introduced and certainly in -- I think that
12 was when it was still part of Fife Constabulary.
- 13 Q. When was that?
- 14 A. Yeah, I'm ... I'm guessing it's some time in the 20s,
15 you know, the 2000s and --
- 16 Q. 2000 plus?
- 17 A. Yes, I couldn't be certain on that, but I attended
18 I think it was a three-day course at Glenrothes in
19 respect of all diversity training.
- 20 Q. In the noughties?
- 21 A. Yes, at some point -- yes, I don't know when.
- 22 Q. Anything apart from that?

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- 1 A. No, I mean there's been more -- more recently when
2 our Professional Standards Department provide training
3 for those senior officers that carry out the role of
4 a chair or an assessor at a misconduct hearing and
5 I have been present when the training on unconscious
6 bias is included in that training, but that's a more
7 recent development.
- 8 Q. Tell me about the training you have had on unconscious
9 bias?
- 10 A. As I recall, it was about -- it was an hour's input and
11 it was an external trainer that came in and did it so it
12 wasn't --
- 13 Q. Like Jayne Monkhouse?
- 14 A. No -- yes, a bit like -- it wasn't Jayne Monkhouse.
15 I can't remember the chap's name, but he come in and
16 spoke about unconscious bias and I actually think there
17 was a couple of kind of exercises involved in that.
18 I can't really give you any more detail on it, but it
19 covered more than just the race aspect of it. It was,
20 you know, all kind of diversity issues and I have to
21 say, it was the first training that I can recall of
22 unconscious bias.

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- 1 Q. When was that?
- 2 A. So that would have been probably in the past couple --
3 certainly since this incident, so in the last three
4 years probably.
- 5 Q. Were you -- as part of that training, were you asked to
6 identify your own unconscious bias?
- 7 A. Yes, yes. Yes.
- 8 Q. Were you able to do that?
- 9 A. It was a kind of group scenario, so whilst it was all
10 contributing to it, so yes.
- 11 Q. What sort of unconscious bias was identified?
- 12 A. God, I can't remember. Sort of -- it covered kind of
13 racism, it covered sexism, homophobic, and people were
14 quite honest in saying where they didn't -- you know,
15 they didn't feel that they had a lot of knowledge and
16 information of it and that, you know, to ask questions
17 was much better than to have a perception and keep that.
- 18 Q. So it encouraged an open mindset?
- 19 A. Yes, I suppose it was all about -- it was specifically
20 in respect of chairing a misconduct hearing where, you
21 know, information or evidence may be presented
22 suggesting that an officer had behaved in a particular

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1 way, but there might be other information to hear in
2 respect of that, so please don't come in with a closed
3 mind, that was pretty much what I took away from the
4 training.

5 Q. And in terms of guarding against your own unconscious
6 bias, was that something that they thought was a good
7 thing to do, to keep an open mind?

8 A. Yes, absolutely. It was all about keeping an open mind,
9 yes.

10 Q. And asking questions?

11 A. Absolutely.

12 Q. And if you weren't sure, ask more questions.

13 A. Yes, yes.

14 Q. Right. Thank you.

15 Are you aware of any negative views being held by
16 colleagues in the SPF in relation to black people?

17 A. Am I ...

18 Q. Aware of that?

19 A. No, not -- no.

20 Q. Have you ever -- you have obviously been a police
21 officer for a long time; have you ever encountered
22 racist comments or jokes?

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- 1 A. By police officers?
- 2 Q. By police officers.
- 3 A. No.
- 4 Q. Have you ever seen colleagues display that type of
5 behaviour, where they have made racist comments?
- 6 A. No. No.
- 7 Q. If you did come across that type of behaviour, how would
8 you react?
- 9 A. I think the -- I think Police Scotland's advice on this
10 is that you challenge the behaviour and you report it,
11 so I -- I'm not one that would sit back and, you know --
12 I joined the police in 1992, I am very aware that we're
13 not all treated equally. When I joined the police,
14 policewomen weren't issued with trousers, we wore skirts
15 and had a handbag, so I am -- you know, I'm very aware
16 that not everyone has always been treated fairly, so
17 I wouldn't sit back and not challenge something that
18 I believed was wrong, or was racist, or homophobic, or
19 sexist. I would absolutely speak my mind.
- 20 Q. I have to ask, what did you keep in the handbag?
- 21 A. Your notebook, your ridiculously small baton that women
22 were issued because we didn't get the same baton as our

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1 male colleagues, a spare pair of tights because you were
2 required to wear 20 denier tights in those days, and
3 a little tin that had your yellow chalk if you went
4 to -- yellow crayon if you went to a road accident
5 because you had to mark the car. That's what you kept
6 in your handbag.

7 Q. It's fair to say Police Scotland wouldn't issue you with
8 a handbag now?

9 A. Thankfully -- you had a waterproof skirt as well so
10 thankfully we have moved on considerably in the 30 years
11 that I have been in the police.

12 Q. Good. In terms of the Joint Central Committee that you
13 have talked about, can I ask what would their attitude
14 be if anyone within SPF demonstrated an intolerant
15 attitude or a racist attitude in the work they were
16 doing for SPF?

17 A. Do you mean if one of the full-time office-bearers
18 displayed that behaviour?

19 Q. Yes, and members of the joint committee. You said it
20 wasn't just office-bearers, it was lay persons.

21 A. So yes, I think if there was -- the SPF has its own
22 rules, as you would expect any committee to have, so if

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1 there were concerns about an individual's behaviour or
2 comments, that there are processes in place to deal with
3 that.

4 Q. And that would be -- would that involve not just overt
5 racism, but covert or --

6 A. Yes.

7 Q. -- implied racism?

8 A. Absolutely, yes, yes.

9 MS GRAHAME: Could you just give me a moment, please.

10 (Pause).

11 I have no further questions. Thank you.

12 LORD BRACADALE: Thank you.

13 Are there any Rule 9 applications? Now, just give
14 me a moment. Ms Mitchell, Dean of Faculty, Mr Moir.

15 Dean of Faculty, am I right in thinking that you
16 represent Ms Givan?

17 DEAN OF FACULTY: Indeed so, my Lord.

18 LORD BRACADALE: I will come back to you then at the end.

19 Now, Constable Givan, I wonder if you would withdraw
20 to the witness room while I hear submissions.

21 (Pause).

22 Now, Ms Mitchell, perhaps you come up first.

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1 Application by MS MITCHELL

2 MS MITCHELL: Yes, sir. A number of issues. The first one
3 is what my learned friend has talked about as immediate
4 post-incident management, ie the return to the police
5 station, and I would like to ask some questions about
6 her understanding of when PIRC became involved, so
7 I would like to ask questions about this based on the
8 fact that she said at [draft] page 73 "The PIRC" and
9 then something inaudible "Made aware that they were
10 investigating the matter", so she became aware of that
11 circumstance and I was going to ask her: Do you remember
12 when she heard that PIRC was investigating the matter?
13 Do you remember when a representative from PIRC arrived?
14 Did she speak to them, and if so, what was said.

15 She has touched upon the fact that the most senior
16 officer present at that time was Scott Maxwell in the
17 room, who she said "I think was a constable", and I wish
18 to ask her did she know Scott Maxwell was involved with
19 the incident and how did she know this. Given that he
20 was the most senior officer back at the canteen for some
21 time, asking whether or not he was the appropriate
22 person, in her view, to be in charge of the situation

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1 and, if not, why not? And that's because of her
2 evidence that there seemed to be no one in charge.

3 She also -- when she explained that there was no one
4 in control of the canteen area it appears to be
5 approximately between about 8 o'clock in the morning and
6 10.00 or 11.00, asking whether or not she expressed any
7 concerns to anyone about the lack of senior police
8 presence for that period of time.

9 Moving then on to collusion, or the appearance of
10 collusion, I wanted to ask her questions in relation to
11 a number of things. Firstly, given the fact that she
12 realised for the potential for officers to be witnesses
13 or suspects, whether or not she had any concerns that
14 officers were all being kept together, which may result
15 in the appearance or the potential of appearance for
16 collusion and to ask whether or not she took any steps
17 in that regard, or thought of flagging that up with
18 anyone.

19 Moving on under the same vein she indicated that she
20 flagged up the issue of post-incident management with
21 Superintendent Pat Campbell. The Inquiry might have
22 heard that her evidence was that he seemed surprised by

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1 that and she indicated that if a supervisor had been
2 present, they could have done something, for example,
3 just ensure that the kind of principles of post-incident
4 procedure have been maintained and she was asked by the
5 Senior Counsel to the Inquiry "Maintained and observed?"
6 and she said yes, and it is to ask against that
7 background whether or not she considered raising with
8 someone that officers should, to protect against
9 allegations of collusion, actual collusion or the
10 perception of it, be separated, to be put in separate
11 places.

12 She gave evidence, when asked by the Inquiry, about
13 how the process had now changed for obtaining
14 information. Now, I appreciate the Inquiry will come to
15 hear no doubt in much greater detail about the practices
16 and procedures of post-incident management, but she was
17 asked about the process that was now in place and she
18 indicated that police officers who are involved
19 in post-incident procedure will provide a brief outline
20 of their involvement and then given 40 hours in order to
21 give a longer statement, and what I wish to explore with
22 this witness is in the new post-incident procedures, are

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1 police officers separated from each other to ensure that
2 their evidence is not contaminated, either intentionally
3 or unintentionally. I wouldn't ask to go any further
4 with that, just to provide giving that statement and
5 that form of context.

6 Moving on to the next issue in relation to the
7 canteen, she indicated that she had said "Look, let's
8 not talk about this", and that was in particular in
9 relation to Nicole Short's vest, and I wanted to ask her
10 what talking was going on "about this", and whether or
11 not she recalled what was being said.

12 LORD BRACADALE: Have you got a transcript reference to
13 that?

14 MS MITCHELL: Yes, certainly, that's [draft] page 76. She
15 said "Look, let's not talk about this".

16 On the issue of race, she was in the canteen for
17 a number of hours. This Inquiry has heard evidence that
18 there was an apprehension of media attention and
19 possible public response in relation to the death of
20 a black man in custody and I wish to ask whether or not
21 anyone discussed this possibility in the canteen.

22 The witness also gave evidence, at page 18, in

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1 relation to Calum Steele and the potential misconduct
2 proceedings from Police Scotland in relation to tweets
3 connected with the Inquiry and the events in
4 Hayfield Road on 3 May, and Senior Counsel to the
5 Inquiry said:

6 "I'm interested in whether that causes any conflicts
7 or issues to arise in relation to the Joint Central
8 Committee and his position."

9 And her response was she was trying to think whether
10 or not there had been any discussion about that at the
11 Joint Central Committee and she didn't think there had
12 been and she further gave the response:

13 "I think, you know, Calum was tweeting as an
14 individual, he wasn't tweeting from the SPF account ...
15 I don't remember that being part of any discussion ...
16 if I'm being honest."

17 And what I would like to ask this witness is whether
18 or not she recalled any discussion about Calum Steele
19 changing his Twitter name and whether or not she was
20 aware that he was tweeting as "Calum Steele SPF" and
21 that changed to "Calum A Steele". So -- to see whether
22 or not she was aware of that.

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1 The next issue was that this witness gave evidence
2 at the start of the afternoon, at [draft] page 113/114
3 in relation to an FTOB circular. This is the one headed
4 "Black Lives Matter. The death of Sheku Bayoh, Aamer
5 Anwar", and she indicated it's effectively an equivalent
6 of an internal memo to the full-time office-bearers, but
7 this particular one is asking for it to be disseminated
8 further to the local representatives.

9 What I was wanting to ask her was how many
10 representatives there are, are there circumstances in
11 which these memos are circulated to all members, and
12 whether or not she is aware if this memo was sent to all
13 members.

14 The next issue is that this witness explained to us
15 about a meeting that took place days after the event.
16 This was at a time, of course, when the status of the
17 police was not yet decided and the witness has given
18 evidence that there was discussion about the
19 post mortem, so I would like to ask this witness if they
20 can remember what the issues were about the post mortem
21 and also does this witness have any information in
22 relation to what this Inquiry might come to hear of as

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1 being described as a welfare meeting taking place with
2 the Chief Constable, Sir Stephen House and
3 police officers involved in the incident, was she
4 present, who else was present and what was said.

5 Finally, she indicated that she had been given
6 training in respect of unconscious bias, but that was in
7 particular to carry out the role of a chair or an
8 assessor at misconduct hearings and to ask whether or
9 not she knows if there is any training outwith this
10 context more generally to police officers.

11 LORD BRACADALE: These are your issues?

12 MS MITCHELL: Yes.

13 LORD BRACADALE: Thank you. If you just perhaps return to
14 your seat please.

15 Mr Moir.

16 Application by MR MOIR

17 MR MOIR: Sir, I have one question that I would wish to put
18 to this witness and it relates to the meeting a day or
19 so after the actual incident. Indeed, my learned friend
20 Ms Mitchell has already mentioned that and the question
21 I would have: was there any discussion at the meeting at
22 Kirkcaldy Police Office a day or so later regarding

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1 Mr Bayoh's race by either the officers in attendance or
2 any of the senior officers.

3 The Chair will remember that Senior Counsel to the
4 Inquiry asked about that and the reply was it was
5 post mortem information that was discussed and checking
6 how they were, but I would like to ask whether or not
7 race was raised by any of the officers, whether they be
8 senior officers or the actual junior officers involved.

9 LORD BRACADALE: Thank you. Can you return to your seat.

10 Dean of Faculty, would you come then?

11 DEAN OF FACULTY: My Lord, I wonder if I might reserve my
12 position until the others have questioned, as I did with
13 previous witnesses. It might make more sense if
14 I respond once I have heard everything.

15 LORD BRACADALE: Very well. There is quite a lot of
16 material there, so I will adjourn to consider these
17 submissions.

18 (3.04 pm)

19 (Short Break)

20 (3.25 pm)

21 Ruling

22 LORD BRACADALE: Well, I'm conscious that the Inquiry will

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1 be thoroughly examining the issue of post-incident
2 management and the issue of media engagement at later
3 hearings.

4 I am therefore minded to restrict questioning of
5 this witness to issues that are within her knowledge, so
6 I shall allow questioning as to her knowledge of the
7 stage at which PIRC became involved on 3 May.

8 I shall allow further questioning in relation to who
9 was in charge in the canteen.

10 I do not consider that the Inquiry would be assisted
11 further by further exploration of the issue of collusion
12 with this witness, so I shall not allow any questioning
13 on that issue. That, of course, is clearly an issue in
14 which the Inquiry will have an interest in due course.

15 In relation to Nicole Short's vest and the
16 conversation, I consider that this is simply a reference
17 to her earlier approach to discouraging discussion and
18 need not be further elaborated, so I shall not permit
19 any further questioning on that.

20 In relation to discussion of race in the canteen,
21 I do not think that that issue can be taken further
22 forward with this witness, so I shall not allow further

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1 questioning on that.

2 In relation to the use of Twitter by Calum Steele
3 and the Calum Steele circular, I think these are both
4 matters that are better left to be explored further in
5 detail in the hearing on media issues.

6 In relation to the meeting which this witness
7 attended in the days after 3 May, I shall allow the
8 proposed questioning.

9 In relation to the meeting with the then chief
10 constable, that is a matter which should be properly
11 explored in the hearing on post-incident management.

12 I shall allow the questioning in relation to more
13 general training on unconscious bias.

14 I shall allow Mr Moir to ask his question.

15 So, Ms Mitchell, if you would come to the table and
16 we can have the witness back. Sorry, are you --

17 MS MITCHELL: I wonder if I could just clarify one matter --

18 LORD BRACADALE: Certainly. You had better come up so the
19 microphone picks you up.

20 MS MITCHELL: Just so I can get it correctly, I will be
21 asking the PIRC questions. I wonder whether or not
22 the Inquiry can remind me whether or not I shall be able

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1 to ask questions in relation to Scott Maxwell being the
2 most senior person there and whether or not he was the
3 appropriate person in her view to be in charge of the
4 situation.

5 LORD BRACADALE: Yes. I said I will allow questioning in
6 relation to who was in charge in the canteen.

7 MS MITCHELL: I'm obliged, and whether or not she expressed
8 any concerns to anyone about the lack of senior
9 police officers present.

10 LORD BRACADALE: Yes. I'm just taking an umbrella approach.

11 MS MITCHELL: As a whole. Okay, I'm obliged.

12 LORD BRACADALE: You understand at least -- whether you are
13 content or not, you understand the --

14 MS MITCHELL: I understand, my Lord.

15 LORD BRACADALE: Thank you. Can we have the witness back,
16 please.

17 (Pause).

18 Constable Givan, you're going to be asked some
19 questions by Ms Mitchell, senior counsel for the Bayoh
20 families.

21 Ms Mitchell.

22 PC AMANDA GIVAN (continued)

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1 Questions from MS MITCHELL

2 MS MITCHELL: I'm obliged.

3 You spoke in your evidence about becoming aware that
4 PIRC was involved on the day of the incident, is that
5 correct?

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

7 Q. Do you remember when you became aware that PIRC was
8 investigating the matter during the course of that day?

9 A. They were -- we were updated, so whenever
10 Superintendent Campbell came in, he made us aware that
11 it would be a PIRC investigation. Whether they were
12 there at that point, I'm not sure, I didn't see anyone
13 from -- or anyone that I know from PIRC now. I'm not
14 aware of seeing them, if that makes sense.

15 Q. So we would take from that that that would be some time
16 after 11.00 am?

17 A. Yes, yes.

18 Q. And I take it then from what you have said you don't
19 remember a representative from PIRC arriving or speak to
20 them?

21 A. My recollection is that no one from PIRC came in and
22 spoke to anyone that was within that canteen area.

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- 1 Q. You have indicated in your evidence earlier also that
2 the most senior officer present by your recollection for
3 some time was Scott Maxwell, is that correct?
- 4 A. Yes.
- 5 Q. And you would have presumably been aware that
6 Scott Maxwell was part of the group of people who had
7 been at Hayfield Road?
- 8 A. Absolutely, yes.
- 9 Q. How did you come to know that?
- 10 A. Sorry, how did I --
- 11 Q. How did you know that?
- 12 A. That he was at Hayfield Road?
- 13 Q. Yes.
- 14 A. Because he was the person that gave me the update on
15 what had happened and had provided information, so he
16 would have -- did he tell me he was there? Yes, he must
17 have done. He must have said "Then I turned up
18 afterwards".
- 19 Q. So do you recall him giving you a précis of the whole
20 incident?
- 21 A. Yes, he gave me a very brief resumé of what had
22 happened.

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- 1 Q. And is it your evidence to this Inquiry that he was
2 effectively the person "In charge" for the period of
3 time between when you arrived and when Pat Campbell
4 arrived?
- 5 A. No, no, no, sorry. I don't think he was -- he was the
6 most senior officer that was present. He remained the
7 sergeant of that shift, so he effectively would be in
8 charge, but I'm not sure that he was in a position to be
9 managing anything. He was in the same boat as everyone
10 else within that -- I would have expected someone else
11 who hadn't been involved to come in and take
12 responsibility for whatever needed to be done.
- 13 Q. You perhaps preempted my next question. So although he
14 was the most senior officer there --
- 15 A. Yes.
- 16 Q. -- your evidence to this Inquiry is that he wasn't
17 actually in charge of anything?
- 18 A. No. He just so happened to be the most senior officer.
19 I don't know what had happened prior to my arrival,
20 whether he had given instructions, but he most certainly
21 wasn't managing anything, he was very much one of the
22 nine officers.

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- 1 Q. Between the time that you arrived and the time when we
2 got to half past 10/11 o'clock when Pat Campbell
3 arrived, did you express concern to anybody about the
4 lack of senior police presence for those first couple of
5 hours?
- 6 A. No, I don't think I will have done that to the officers.
7 I think they might -- you know, they were potentially
8 already worried. I'm not sure that I would have raised
9 my personal concerns with them at that time.
- 10 Q. Would you have expressed, or did you express your
11 personal concerns with anyone outwith those group of
12 people?
- 13 A. Not at that time, I don't think, no.
- 14 Q. And when you say "Not at that time", does that lead us
15 to believe that you did at a later stage?
- 16 A. Had no one turned up to take charge, ie Chief Inspector
17 Trickett, I would have -- I probably would have raised
18 it at that point to go "How much time needs to pass ..."
19 but he came round about -- I don't know, 10.30,
20 11 o'clock.
- 21 Q. You have told us in your evidence about a meeting taking
22 place days after the incident. Now, if we can just get

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1 the timeline clear: this was still at a time when in
2 your evidence at least it wasn't clear whether or not
3 people were witnesses or suspects?

4 A. That's correct, yes.

5 Q. And you have given evidence to this Inquiry that there
6 was a discussion about the post mortem.

7 A. I -- well, discussion is probably pushing it a bit.
8 There was I think an update that the post mortem had
9 been carried out. I think that was the sum total of
10 that.

11 Q. Was it explained why they were giving that information?

12 A. No.

13 Q. And was there anything discussed in that meeting about
14 any of the findings of the post mortem?

15 A. No.

16 Q. So is your evidence simply that they were told a post
17 mortem had taken place?

18 A. Yes. It was an update on that.

19 Q. Can you remember anything else that they were updated
20 on?

21 A. They were -- they were updated on things like the
22 efforts to provide them with alternative uniform

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1 clothing and clearly some of those present, as I had
2 said earlier, their footwear at that time was purchased
3 by them, most police officers have only got one set of
4 boots that they use, so those being seized was
5 problematic and there were plans put in place for
6 alternative footwear by Police Scotland providing that.

7 Q. Other than those sorts of administrative things, was
8 anything else said about anything that had happened the
9 day before?

10 A. No, no. It wasn't about the investigation or anything
11 that had happened the day before. It was a welfare,
12 wellbeing check. That was certainly -- that certainly
13 seemed to be the focus of the get-together.

14 Q. Can you tell us how long that meeting lasted?

15 A. Not long, about an hour in total. I say not -- I can't
16 say that everyone was present. There were some that
17 were unwell.

18 Q. Can you recall who was unwell?

19 A. I don't recall Nicole being there, Nicole Short being
20 there, and I don't recall Alan Paton being there.
21 I think everyone else was present.

22 Q. And you have said that you recall Garry McEwan being

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1 present?

2 A. Yes, yes.

3 Q. Can you remember any more senior officers?

4 A. I want to say that Nicola Shepherd was there because

5 I would expect Nicola Shepherd to be present because she

6 was the chief inspector of that station, but I don't --

7 I don't actually know for certain. I would have

8 expected her to be there and I can't -- I can't think of

9 anyone else.

10 Q. Moving on, you were giving evidence earlier on and you

11 explained that in terms of the issue of unconscious

12 bias, training has been given more recently to senior

13 officers in a particular context --

14 A. Yes.

15 Q. -- and you said that context is if you're a chair or an

16 assessor at a misconduct hearing.

17 A. Yes.

18 Q. Can you tell the Inquiry do you know if there is any

19 training outwith this context given to police officers?

20 A. I'm not aware of -- I don't know if there is training,

21 I have certainly never attended it. The only training

22 that I'm aware of was part of that chair and assessor

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1 training that I attended. I don't know personally.

2 LORD BRACADALE: Thank you.

3 Mr Moir.

4 Constable Givan, you're now going to be asked
5 questions by Mr Moir, senior counsel for the Coalition
6 for Racial Equality and Rights.

7 Questions from MR MOIR

8 MR MOIR: Thank you, sir.

9 Constable Givan, all I want to ask you about is the
10 meeting that occurred a day or so after the incident and
11 what I would like to ask you about was there any
12 discussion at Kirkcaldy Police Office, at that meeting
13 regarding Mr Bayoh's race, by either junior officers in
14 attendance or indeed any of the senior officers in
15 attendance?

16 A. No. I mean it was a -- it was a welfare meeting, so it
17 was more about them than what had happened. It wasn't
18 part of the investigation side of things, so I don't
19 recall any discussion about Mr Bayoh, other than
20 confirmation that there had been a post mortem
21 examination.

22 Q. So in respect of Mr Bayoh, other than the reference to

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1 the post mortem there was no discussion about him or his
2 race at all?

3 A. No, it was a meeting about the police officers.

4 MR MOIR: Thank you.

5 Thank you, sir.

6 LORD BRACADALE: Thank you.

7 Now, Dean of Faculty, do you have a matter?

8 DEAN OF FACULTY: Indeed, my Lord.

9 LORD BRACADALE: Now, do you think the constable should
10 withdraw while we discuss this?

11 DEAN OF FACULTY: It's a matter for your Lordship. It's
12 only one matter I want to clarify.

13 LORD BRACADALE: What's the area of it?

14 DEAN OF FACULTY: It's regarding the vest and the markings
15 on the vest.

16 LORD BRACADALE: Yes, very well. I shall allow you to ask.

17 Questions from DEAN OF FACULTY

18 DEAN OF FACULTY: I'm obliged.

19 Constable Givan, you will recall being asked by
20 counsel for the Inquiry about markings that you saw on
21 the vest of Nicole Short in the canteen when you met
22 with the officers afterwards. Can I just clarify that,

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1 please, under reference to some photographs and I wonder
2 please if we're able to have on screen PIRC 0117.

3 LORD BRACADALE: Is that possible?

4 DEAN OF FACULTY: 1176, I'm obliged. And page 47, yes,
5 thank you. That's it there.

6 If you look at the label on that, Constable Givan,
7 you will see that the label indicates it was taken from
8 PC Nicole Short --

9 A. Yes.

10 Q. -- at Kirkcaldy Police Station, 3 May 2015 at 18.08 to
11 18.12 hours, do you see that?

12 A. Yes.

13 Q. Now, that's maybe not that helpful, but it comes out of
14 the bag if we turn on to page 48, and again, you will
15 see the same label there and I wonder if for the Chair
16 you could identify, if indeed it's there, the mark of
17 which you spoke when you gave evidence earlier?

18 A. Yes, so the way it was sitting or standing I've not
19 particularly saw the side part of it, but the mark on
20 the back is the dirty mark I was referring to, so just
21 below the silver, in the sort of centre panel.

22 Q. Okay. So do you remember seeing the sort of more dirty

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1 mark further to the right?

2 A. I don't remember seeing the part that would have been to
3 the side, but I do remember seeing the part in the
4 middle panel below the police sign.

5 Q. And I don't know if it's possible, are you able -- does
6 the screen respond? No. So just looking then and so we
7 can orientate ourselves, there is a horizontal stripe --
8 two horizontal stripes and there are two vertical
9 stripes.

10 A. Yes.

11 Q. And you are referring to -- if we were to imagine the
12 vest as it would have been worn, you are talking about
13 the mark immediately under the top horizontal stripe and
14 its junction with the right most vertical stripe, is
15 that right? Sorry, it has gone --

16 A. Sorry, it's gone -- yes, yes. So the -- yes, exactly
17 what you have said there, yes. I'm -- the mark that
18 I recall seeing was the part that's in the middle panel
19 where the silver reflective -- I don't know what you
20 call that -- band is, but the part that is -- not the
21 part that's below the -- on the screen, the horizontal
22 line.

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1 Q. Yes, okay.

2 A. Does that make sense?

3 Q. That's helpful, thanks. So if we envisage that being
4 worn by Ms Short, that would be, what, the lower right
5 of her back?

6 A. Yes, that would be her right side and my recollection is
7 that this vest was zipped up and standing and my
8 recollection is seeing the back of it --

9 Q. Okay.

10 A. -- clearly.

11 Q. Thank you. And just for clarity, if we go on to
12 page 50, please. Now, slightly confusing -- keep going
13 please, it's the close-up, page 50 of the PDF. Now,
14 that's I think in a different orientation.

15 A. Yes.

16 Q. But again, are we talking -- or are you talking about
17 the marking again below the junction of the two lines --

18 A. Yes.

19 Q. -- that's what you remember seeing?

20 A. Yes, so there's a less reflective part of that, so it's
21 the -- it's what's to the right of that that I remember
22 seeing. I think that's -- it looks like it might be

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1 upside down because I think the black mark on the bottom
2 right is a clip where you would attach something, so
3 it's a bit confusing whether that's the right way up or
4 upside down.

5 DEAN OF FACULTY: Okay. Thank you, constable.

6 Obligated, my Lord.

7 LORD BRACADALE: Constable Givan, thank you very much for
8 coming to give evidence to the Inquiry. You're now free
9 to go.

10 A. Thank you.

11 LORD BRACADALE: Now, Ms Grahame.

12 MS GRAHAME: We have no further witnesses for the remainder
13 of the day.

14 LORD BRACADALE: Thank you. We will adjourn. Now, am
15 I right in thinking then that the Inquiry will sit again
16 on Friday morning?

17 A. That's correct, yes.

18 LORD BRACADALE: Well, we will sit again on Friday morning
19 at 10 o'clock.

20 (3.46 pm)

21 (The Inquiry adjourned until 10.00 am on
22 Friday, 17 June 2022)

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